

Table 57

GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANTS¹
Fiscal Year 2001

GUIDELINE	Number	Percent	Affirmance Rate²
TOTAL	7,563	100.0	91.8
2D1.1 (Drug Trafficking)	823	10.9	88.8
2L1.2 (Unlawfully Entering or Remaining in the United States)	803	10.6	96.6
5K2.0 (Departures)	340	4.5	96.8
3E1.1 (Acceptance of Responsibility)	250	3.3	95.2
3B1.2 (Mitigating Role)	223	2.9	96.0
3B1.1 (Aggravating Role)	187	2.5	94.6
3C1.1 (Obstruction of Justice)	183	2.4	96.2
2K2.1 (Firearms)	148	2.0	91.2
2F1.1 (Fraud)	143	1.9	93.7
6A1.3 (Resolution of Disputed Factors)	112	1.5	83.0
5E1.1 (Restitution)	108	1.4	65.7
4A1.1 (Criminal History Category)	95	1.3	93.7
4A1.2 (Definitions and Instructions of Criminal History)	93	1.2	85.0
5K1.1 (Substantial Assistance to Authorities)	92	1.2	96.7
7B1.3 (Revocation of Probation or Supervised Release)	87	1.2	94.2
1B1.3 (Relevant Conduct)	86	1.1	82.6
7B1.4 (Term of Imprisonment)	83	1.1	94.0
4A1.3 (Adequacy of Criminal History)	82	1.1	93.9
4B1.1 (Career Offender)	82	1.1	91.5
5C1.2 (Limitation on Applicability of Statutory Minimums)	75	1.0	96.0
5G1.3 (Defendant Subject to Undischarged Term of Imprisonment)	60	0.8	91.7
2B3.1 (Robbery)	59	0.8	83.0
1B1.0 (Part B - General Application Principles)	42	0.6	92.9
4B1.4 (Armed Career Criminal)	41	0.5	82.9
3B1.3 (Abuse of Position of Trust or Use of Special Skill)	38	0.5	86.8
2S1.1 (Laundering of Monetary Instruments)	38	0.5	84.2
5D1.2 (Term of Supervised Release)	36	0.5	66.7
4B1.2 (Definitions for Career Offender)	36	0.5	83.3
2G2.2 (Trafficking in Material Involving Sexual Exploitation of a Minor)	31	0.4	93.6
2B1.1 (Larceny, Embezzlement, and Theft)	30	0.4	100.0
5E1.2 (Fines for Individual Defendants)	30	0.4	80.0
5K2.13 (Diminished Capacity)	28	0.4	100.0
1B1.2 (Applicable Guidelines)	25	0.3	76.0
Constitutional Issues	291	3.8	96.6
Other Guidelines	618	8.2	88.5
Other Non-guideline Issues	2,065	27.3	90.6

¹Based on 4,275 appeals defendants with sentencing as at least one of the reasons for appeal. Information on issues was available in 4,275 of these cases which cited 7,657 issues. Often more than one issue was appealed; consequently, the number of issues is more than the number of defendants. The "Other" category includes all issues appealed fewer than 25 times among relevant cases.

²Affirmance Rate includes all appeals cases not reversed by the circuit court.

SOURCE: U.S. Sentencing Commission, 2001 Appeals Datafile, APPFY01.