

Table 57

**GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANTS¹
Fiscal Year 2003**

GUIDELINE	Number	Percent	Affirmance Rate²
TOTAL	7,719	100.0	93.3
2D1.1 (Drug Trafficking)	728	9.4	96.3
2L1.2 (Unlawfully Entering or Remaining in the United States)	686	8.9	96.4
5K2.0 (Departures)	346	4.5	95.1
3E1.1 (Acceptance of Responsibility)	225	2.9	92.4
3B1.2 (Mitigating Role)	185	2.4	95.7
3C1.1 (Obstruction of Justice)	184	2.4	93.5
3B1.1 (Aggravating Role)	176	2.3	94.3
4A1.3 (Adequacy of Criminal History)	155	2.0	90.3
2K2.1 (Firearms)	153	2.0	88.9
5E1.1 (Restitution)	120	1.6	72.5
7B1.3 (Revocation of Probation or Supervised Release)	118	1.5	94.9
4A1.2 (Definitions and Instructions of Criminal History)	114	1.5	94.7
1B1.3 (Relevant Conduct)	112	1.5	92.0
2F1.1 (Fraud)	112	1.5	88.4
5K1.1 (Substantial Assistance to Authorities)	112	1.5	97.3
6A1.3 (Resolution of Disputed Factors)	111	1.4	82.0
7B1.4 (Term of Imprisonment)	109	1.4	92.7
4B1.1 (Career Offender)	106	1.4	95.3
5C1.2 (Limitation on Applicability of Statutory Minimums)	98	1.3	91.8
4A1.1 (Criminal History Category)	76	1.0	90.8
2B1.1 (Larceny, Embezzlement, and Theft)	66	0.9	87.9
2B3.1 (Robbery)	55	0.7	98.2
5G1.3 (Defendant Subject to Undischarged Term of Imprisonment)	54	0.7	87.0
5D1.3 (Conditions of Supervised Release)	52	0.7	73.1
1B1.10 (Retroactivity of Amended Guideline Ranges)	48	0.6	97.9
4B1.2 (Definitions for Career Offender)	44	0.6	86.4
3B1.3 (Abuse of Position of Trust or Use of Special Skill)	39	0.5	84.6
5G1.2 (Sentencing in Multiple Counts of Conviction)	34	0.4	85.3
4B1.4 (Armed Career Criminal)	33	0.4	97.0
5E1.2 (Fines for Individual Defendants)	33	0.4	78.8
3D1.2 (Groups of Closely Related Counts)	32	0.4	84.4
2K2.4 (Use of Firearms During or in Relation to Certain Crimes)	28	0.4	85.7
5D1.2 (Term of Supervised Release)	25	0.3	72.0
Constitutional Issues	508	6.6	95.3
Other Guidelines	742	9.6	88.4
Other Non-guideline Issues	1,900	24.6	96.4

¹Based on 4,393 appeals defendants with sentencing as at least one of the reasons for appeal. Information on issues was available in 4,392 of these cases which cited 7,895 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, 2003 Appeals Datafile, APPFY03.