

**Table 58****GUIDELINE INVOLVED IN ISSUES APPEALED BY THE GOVERNMENT<sup>1</sup>  
Fiscal Year 2003**

<b>GUIDELINE</b>	<b>Number</b>	<b>Percent</b>	<b>Affirmance Rate<sup>2</sup></b>
<b>TOTAL</b>	<b>176</b>	<b>100.0</b>	<b>27.8</b>
5K2.0 (Departures)	37	21.0	29.7
2D1.1 (Drug Trafficking)	10	5.7	50.0
3E1.1 (Acceptance of Responsibility)	10	5.7	30.0
2L1.2 (Unlawfully Entering or Remaining in the United States)	7	4.0	14.3
5H1.6 (Family Ties and Responsibilities)	7	4.0	14.3
2F1.1 (Fraud)	6	3.4	33.3
4A1.3 (Adequacy of Criminal History)	5	2.8	20.0
5K2.13 (Diminished Capacity)	5	2.8	60.0
3C1.1 (Obstruction of Justice)	4	2.3	50.0
5G1.2 (Sentencing in Multiple Counts of Conviction)	4	2.3	0.0
2A4.1 (Kidnapping, Abduction, Unlawful Restraint)	3	1.7	0.0
2G2.2 (Trafficking in Material Involving Sexual Exploitation of a Minor)	3	1.7	0.0
5H1.4 (Physical Condition)	3	1.7	33.3
5H1.10 (Race, Sex, National Origin, Creed, Religion and Socio-Economic Status)	3	1.7	0.0
5K2.11 (Lesser Harms)	3	1.7	0.0
Constitutional Issues	7	4.0	57.1
Other Guidelines	44	25.0	29.5
Other Non-guideline Issues	15	8.5	13.3

<sup>1</sup>Based 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 three times among relevant cases.

<sup>2</sup>Affirmance Rate includes all appeals cases not reversed by the circuit court.