

Table 58**GUIDELINE INVOLVED IN ISSUES APPEALED BY THE GOVERNMENT¹
Fiscal Year 2007**

GUIDELINE	Number	Percent	Affirmance Rate²
TOTAL	350	100.0	30.0
18 U.S.C. §3553(a) Factors	127	36.3	25.2
2D1.1 (Drug Trafficking)	22	6.3	40.9
5K2.0 (Departures)	18	5.1	27.8
5K1.1 (Substantial Assistance to Authorities)	13	3.7	30.8
5C1.1 (Imposition of a Term of Imprisonment)	6	1.7	50.0
2K2.1 (Firearms)	5	1.4	20.0
3E1.1 (Acceptance of Responsibility)	5	1.4	40.0
4B1.4 (Armed Career Criminal)	5	1.4	80.0
1B1.3 (Relevant Conduct)	4	1.1	0.0
4A1.3 (Adequacy of Criminal History)	4	1.1	25.0
4B1.1 (Career Offender)	4	1.1	0.0
5H1.1 (Age)	4	1.1	0.0
1B1.0 (Part B - General Application Principles)	3	0.9	66.7
2B1.1 (Larceny, Embezzlement and Theft)	3	0.9	66.7
2F1.1 (Fraud)	3	0.9	0.0
2G2.2 (Trafficking in Material Involving Sexual Exploitation of a Minor)	3	0.9	0.0
2K2.4 (Use of Firearms During or in Relation to Certain Crimes)	3	0.9	0.0
5H1.4 (Physical Condition)	3	0.9	0.0
5H1.6 (Family Ties and Responsibilities)	3	0.9	66.7
Constitutional Issues	46	13.1	37.0
Other Guidelines	44	12.6	29.5
Other Non-guideline Issues	22	6.3	36.4

¹Based on 6,639 appeals with sentencing as at least one of the reasons for appeal. 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. An additional six cases were appealed by the district court: 18 U.S.C. § 3553(a) factors were appealed twice with a 0.0 percent affirmance rate; 1B1.3 (Relevant conduct) and 5K1.1 (Substantial Assistance to Authorities) were appealed once and the issues were affirmed; and "Other Non-guideline Issues", and 5H1.1 (Age) were appealed once and the issue was not affirmed.

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