

**Table 58****GUIDELINE INVOLVED IN ISSUES APPEALED BY THE GOVERNMENT<sup>1</sup>  
Fiscal Year 2011**

<b>GUIDELINE</b>	<b>N</b>	<b>%</b>	<b>Affirmance Rate<sup>2</sup></b>
<b>TOTAL</b>	<b>92</b>	<b>100.0</b>	<b>29.4</b>
18 U.S.C. § 3553(a) Factors	11	12.0	36.4
4B1.4 (Armed Career Criminal)	9	9.8	0.0
1B1.10 (Retroactivity of Amended Guideline Ranges)	7	7.6	28.6
2D1.1 (Drug Trafficking)	7	7.6	14.3
5E1.1 (Restitution)	7	7.6	0.0
1B1.2 (Applicable Guidelines)	4	4.3	0.0
2B1.1 (Larceny, Embezzlement, and Theft)	4	4.3	25.0
5C1.2 (Limitation on Applicability of Statutory Minimums)	4	4.3	50.0
4B1.2 (Definitions for Career Offender)	3	3.3	33.3
2B3.3 (Blackmail and Similar Forms of Extortion)	2	2.2	0.0
Reasonableness Issues	15	16.3	33.3
Constitutional Issues	3	3.3	66.7
Other Guidelines	8	8.7	50.0
Other Non-guideline Issues	8	8.7	75.0

<sup>1</sup> Based on 53 appeals by the government 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 Guidelines" category includes all issues appealed one time.

<sup>2</sup> Affirmance Rate includes all appeals cases not reversed or directly remanded by the courts of appeal.

SOURCE: U.S. Sentencing Commission, 2011 Appeals Datafile, APPFY11.