

**Table 51**

**GUIDELINE INVOLVED IN ISSUES APPEALED BY THE GOVERNMENT<sup>1</sup>  
(October 1, 1995, through September 30, 1996)**

<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>38.1</b>
5K2.0 (Departures)	32	18.2	15.4
2D1.1 (Drug Trafficking)	16	9.1	31.2
2F1.1 (Fraud)	8	4.8	33.3
3C1.1 (Obstruction of Justice)	8	4.6	62.5
5C1.2 (Limitations on Applicability of Statutory Minimums)	7	4.0	71.4
4B1.1 (Career Offender)	6	3.4	33.3
3B1.1 (Aggravating Role)	5	2.8	40.0
3B1.2 (Mitigating Role)	5	2.8	100.0
3E1.1 (Acceptance of Responsibility)	5	2.8	80.0
4A1.3 (Adequacy of Criminal History)	5	2.8	80.0
1B1.11 (Use of Guideline Manual in Effect at Time of Sentencing)	4	2.3	25.0
1B1.2 (Applicable Guidelines)	3	1.7	33.3
5E1.4 (Forfeiture)	3	1.7	33.3
5H1.4 (Physical Condition)	3	1.7	33.3
5H1.6 (Family Ties and Responsibilities)	3	1.7	33.3
5K2.10 (Victim's Conduct)	3	1.7	0.0
5K2.13 (Diminished Capacity)	3	1.7	0.0
1B1.0 (Part B - General Application Principles)	2	1.1	50.0
2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors)	2	1.1	100.0
2S1.1 (Money Laundering)	2	1.1	100.0
2T1.1 (Tax Evasion)	2	1.1	0.0
3B1.3 (Abuse of a Position of Trust or Use of Special Skill)	2	1.1	50.0
4B1.2 (Definitions for Career Offender)	2	1.1	0.0
5E1.2 (Fines for Individual Defendants)	2	1.1	100.0
5G1.2 (Sentencing on Multiple Counts of Conviction)	2	1.1	0.0
5K2.11 (Lesser Harms)	2	1.1	100.0
5K2.12 (Coercion and Duress)	2	1.1	50.0
6A1.3 (Resolution of Disputed Factors)	2	1.1	0.0
Other Guidelines	21	11.9	42.9
Other Non-guideline Issues	9	5.1	22.2
Constitutional Issues	5	2.8	20.0

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<sup>1</sup>Based on 4,262 appeals defendants with sentencing as at least one of the reasons for appeal. Information on issues was unavailable in two cases and one disposition of the issue was unavailable in one case. 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 provided fewer than two times among relevant cases.

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

SOURCE: U.S. Sentencing Commission, 1996 Appeals Datafile, APPFY96.