

Table 57

GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANTS¹
Fiscal Year 1999

GUIDELINE	Number	Percent	Affirmance Rate²
TOTAL	6,749	100.0	90.5
2D1.1 (Drug Trafficking)	1,015	15.0	94.1
5K2.0 (Departures)	456	6.8	89.2
3B1.2 (Mitigating Role)	343	5.1	96.8
3E1.1 (Acceptance of Responsibility)	321	4.8	95.0
3B1.1 (Aggravating Role)	313	4.6	93.0
3C1.1 (Obstruction of Justice)	286	4.2	92.3
2F1.1 (Fraud)	221	3.3	86.4
6A1.3 (Resolution of Disputed Factors)	191	2.8	94.2
5E1.1 (Restitution)	158	2.3	74.0
4A1.2 (Definitions and Instructions of Criminal History)	150	2.2	90.7
5C1.2 (Limitation on Applicability of Statutory Minimums)	138	2.0	92.0
4A1.3 (Adequacy of Criminal History)	129	1.9	96.9
5K1.1 (Substantial Assistance to Authorities)	129	1.9	93.8
1B1.3 (Relevant Conduct)	118	1.7	86.4
7B1.4 (Term of Imprisonment)	109	1.6	90.8
1B1.0 (Part B - General Application Issues)	105	1.6	96.2
2B3.1 (Robbery)	102	1.5	97.1
2K2.1 (Firearms)	86	1.3	82.6
2L1.2 (Unlawfully Entering or Remaining in the United States)	85	1.3	91.8
7B1.3 (Revocation of Probation or Supervised Release)	82	1.2	91.5
3B1.3 (Abuse of Position of Trust or Use of Special Skill)	66	1.0	93.9
4B1.1 (Career Offender)	65	1.0	84.6
5G1.3 (Defendant Subject to Undischarged Term of Imprisonment)	62	0.9	85.5
4A1.1 (Criminal History Category)	61	0.9	86.9
1B1.2 (Applicable Guidelines)	57	0.8	80.7
1B1.10 (Retroactivity of Amended Guideline Ranges)	53	0.8	84.9
4B1.4 (Armed Career Criminal)	53	0.8	83.0
5E1.2 (Fines for Individual Defendants)	52	0.8	71.2
5D1.3 (Conditions of Supervised Release)	45	0.7	64.4
3D1.2 (Groups of Closely Related Counts)	43	0.6	88.4
2B1.1 (Larceny, Embezzlement, and Theft)	41	0.6	92.7
3A1.1 (Vulnerable Victim)	39	0.6	92.3
4B1.2 (Definitions for Career Offender)	38	0.6	81.6
5K2.13 (Diminished Capacity)	33	0.5	93.9
5C1.1 (Imposition of a Term of Imprisonment)	25	0.4	100.0
Constitutional Issues	388	5.7	92.8
Other Guidelines	726	10.8	87.3
Other Non-guideline Issues	365	5.4	86.3

¹Based on 4,068 appeals defendants with sentencing as at least one of the reasons for appeal. Information on issues was available in 4,056 of these cases which cited 6,816 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, 1999 Appeals Datafile, APPFY99.