

Table 55

**GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANTS¹
Fiscal Year 1998**

GUIDELINE	Numb	Per c	Affirmance
TOTAL	5,389	100.0	93.4
2D1.1 (Drug Trafficking)	941	17.5	96.4
5K2.0 (Departures)	316	5.9	92.4
3E1.1 (Acceptance of Responsibility)	275	5.1	95.6
3B1.1 (Aggravating Role)	232	4.3	95.3
2F1.1 (Fraud)	227	4.2	93.4
3B1.2 (Mitigating Role)	213	4.0	96.7
6A1.3 (Resolution of Disputed Factors)	206	3.8	87.9
3C1.1 (Obstruction of Justice)	178	3.3	97.2
5E1.1 (Restitution)	148	2.7	77.0
5K1.1 (Substantial Assistance to Authorities)	122	2.3	93.4
5C1.2 (Limitation on Applicability of Statutory Minimums)	115	2.1	93.0
4A1.3 (Adequacy of Criminal History)	109	2.0	89.9
1B1.10 (Retroactivity of Amended Guideline Ranges)	89	1.7	88.8
7B1.4 (Term of Imprisonment)	89	1.7	93.3
4A1.2 (Definitions and Instructions of Criminal History)	78	1.4	93.6
2L1.2 (Unlawfully Entering or Remaining in the United States)	74	1.4	97.3
4A1.1 (Criminal History Category)	71	1.3	95.8
1B1.3 (Relevant Conduct)	65	1.2	90.8
1B1.2 (Applicable Guidelines)	63	1.2	92.1
5G1.3 (Defendant Subject to Undischarged Term of Imprisonment)	62	1.2	90.3
2K2.1 (Firearms)	60	1.1	95.0
2B3.1 (Robbery)	51	0.9	96.1
5E1.2 (Fines for Individual Defendants)	50	0.9	92.0
3B1.3 (Abuse of Position of Trust or Use of Special Skill)	49	0.9	87.8
7B1.3 (Revocation of Probation or Supervised Release)	47	0.9	95.7
4B1.1 (Career Offender)	44	0.8	97.7
5D1.3 (Conditions of Supervised Release)	37	0.7	51.4
4B1.4 (Armed Career Criminal)	35	0.6	97.1
4B1.2 (Definitions for Career Offender)	33	0.6	90.9
3A1.1 (Vulnerable Victim)	32	0.6	90.6
5C1.1 (Imposition of a Term of Imprisonment)	28	0.5	85.7
5H1.6 (Family Ties and Responsibilities)	26	0.5	100.0
3D1.2 (Groups of Closely Related Counts)	24	0.4	91.7
3C1.2 (Reckless Endangerment)	23	0.4	100.0
5H1.4 (Physical Condition)	22	0.4	95.4
Constitutional Issues	248	4.6	98.4
Other Guidelines	470	8.7	91.7
Other Non-guideline Issues	437	8.1	93.8

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¹Based on 3,654 appeals defendants with sentencing as at least one of the reasons for appeal. Information on issues was available in 3,635 of these cases which cited 5,511 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 twenty times among relevant cases.

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

