

Table 58**GUIDELINE INVOLVED IN ISSUES APPEALED BY THE GOVERNMENT¹
Fiscal Year 2002**

GUIDELINE	Number	Percent	Affirmance Rate²
TOTAL	183	100.0	28.4
5K2.0 (Departures)	26	14.2	19.2
2D1.1 (Drug Trafficking)	24	13.1	54.2
3B1.2 (Mitigating Role)	8	4.4	12.5
4A1.3 (Adequacy of Criminal History)	6	3.3	0.0
1B1.3 (Relevant Conduct)	5	2.7	40.0
2F1.1 (Fraud)	5	2.7	0.0
2L1.2 (Unlawfully Entering or Remaining in the United States)	5	2.7	0.0
3B1.1 (Aggravating Role)	5	2.7	60.0
3C1.1 (Obstruction of Justice)	4	2.2	75.0
3E1.1 (Acceptance of Responsibility)	4	2.2	0.0
4B1.1 (Career Offender)	4	2.2	0.0
5C1.2 (Limitation on Applicability of Statutory Minimum Sentences)	4	2.2	50.0
Constitutional Issues	1	0.5	100.0
Other Guidelines	62	33.9	21.0
Other Non-guideline Issues	20	10.9	45.0

¹Based on 4,530 appeals defendants with sentencing as at least one of the reasons for appeal. The Government appealed in 110 of these cases which cited 183 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 three times among relevant cases.

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

SOURCE: U.S. Sentencing Commission, 2002 Appeals Datafile, APPFY02.