

**Table 57**

**GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANTS<sup>1</sup>  
Fiscal Year 2000**

<b>GUIDELINE</b>	<b>Number</b>	<b>Percent</b>	<b>Affirmance Rate<sup>2</sup></b>
<b>TOTAL</b>	<b>5,839</b>	<b>100.0</b>	<b>92.0</b>
2D1.1 (Drug Trafficking)	817	14.0	92.0
5K2.0 (Departures)	400	6.9	92.0
3B1.1 (Aggravating Role)	281	4.8	93.6
3B1.2 (Mitigating Role)	280	4.8	97.1
3E1.1 (Acceptance of Responsibility)	269	4.6	95.5
3C1.1 (Obstruction of Justice)	211	3.6	95.7
2L1.2 (Unlawfully Entering or Remaining in the United States)	175	3.0	90.9
2F1.1 (Fraud)	137	2.3	92.7
5C1.2 (Limitation on Applicability of Statutory Minimums)	131	2.2	90.8
5E1.1 (Restitution)	128	2.2	75.0
5K1.1 (Substantial Assistance to Authorities)	126	2.2	95.2
7B1.3 (Revocation of Probation or Supervised Release)	112	1.9	87.5
4A1.2 (Definitions and Instructions of Criminal History)	101	1.7	91.1
4A1.3 (Adequacy of Criminal History)	100	1.7	94.0
2K2.1 (Firearms)	99	1.7	86.9
7B1.4 (Term of Imprisonment)	96	1.6	87.5
2B3.1 (Robbery)	94	1.6	95.7
6A1.3 (Resolution of Disputed Factors)	93	1.6	86.0
1B1.3 (Relevant Conduct)	87	1.5	96.1
4A1.1 (Criminal History Category)	87	1.5	98.8
4B1.1 (Career Offender)	78	1.3	93.6
5G1.3 (Defendant Subject to Undischarged Term of Imprisonment)	57	1.0	89.5
3B1.3 (Abuse of Position of Trust or Use of Special Skill)	50	0.9	88.0
5E1.2 (Fines for Individual Defendants)	49	0.8	83.7
4B1.4 (Armed Career Criminal)	39	0.7	89.7
3A1.1 (Vulnerable Victim)	39	0.7	89.7
1B1.2 (Applicable Guidelines)	38	0.7	97.4
2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien)	33	0.6	93.9
6B1.1 (Plea Agreement Procedure)	32	0.5	93.8
4B1.2 (Definitions for Career Offender)	28	0.5	100.0
5K2.13 (Diminished Capacity)	28	0.5	96.4
1B1.10 (Retroactivity of Amended Guideline Ranges)	26	0.4	88.5
2B1.1 (Larceny, Embezzlement, and Theft)	26	0.4	92.3
5H1.4 (Physical Condition)	26	0.4	96.2
Constitutional Issues	286	4.9	91.6
Other Guidelines	702	12.0	90.2
Other Non-guideline Issues	478	8.2	90.6

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<sup>1</sup>Based on 3,800 appeals defendants with sentencing as at least one of the reasons for appeal. Information on issues was available in 3,791 of these cases which cited 5,916 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.

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

SOURCE: U.S. Sentencing Commission, 2000 Appeals Datafile, APPFY00.