

Table 55

GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANTS¹
Fiscal Year 1997

GUIDELINE	Number	Percent	Affirmance Rate²
TOTAL	5,552	100.0	92.0
2D1.1 (Drug Trafficking)	1,006	18.1	93.8
5K2.0 (Departures)	343	6.2	93.0
3E1.1 (Acceptance of Responsibility)	302	5.4	95.4
3B1.2 (Mitigating Role)	285	5.1	99.0
3B1.1 (Aggravating Role)	256	4.6	94.1
3C1.1 (Obstruction of Justice)	226	4.1	90.7
2F1.1 (Fraud)	208	3.8	88.9
5E1.1 (Restitution)	142	2.6	73.9
5K1.1 (Substantial Assistance to Authorities)	130	2.3	91.5
6A1.3 (Resolution of Disputed Factors)	114	2.0	95.6
5C1.2 (Limitation on Applicability of Statutory Minimums)	103	1.9	94.2
1B1.3 (Relevant Conduct)	97	1.8	88.7
4A1.3 (Adequacy of Criminal History)	96	1.7	93.8
4A1.2 (Definitions and Instructions of Criminal History)	85	1.5	92.9
4B1.1 (Career Offender)	80	1.4	96.2
2K2.1 (Firearms)	76	1.4	90.8
2B3.1 (Robbery)	69	1.2	92.8
7B1.3 (Revocation of Probation or Supervised Release)	69	1.2	91.3
5G1.3 (Defendant Subject to Undischarged Term of Imprisonment)	68	1.2	85.3
4A1.1 (Criminal History Category)	66	1.2	95.4
1B1.10 (Retroactivity of Amended Guideline Ranges)	62	1.1	82.3
1B1.2 (Applicable Guidelines)	58	1.0	93.1
6B1.1 (Plea Agreement Procedure)	54	1.0	94.4
7B1.4 (Term of Imprisonment)	48	0.9	87.5
3B1.3 (Abuse of Position of Trust or Use of Special Skill)	46	0.8	91.3
4B1.4 (Armed Career Criminal)	45	0.8	95.6
2L1.2 (Unlawfully Entering or Remaining in the United States)	44	.8	68.2
5K2.13 (Diminished Capacity)	37	0.7	89.2
3A1.1 (Vulnerable Victim)	35	0.6	80.0
5E1.2 (Fines for Individual Defendants)	35	0.6	77.1
3D1.2 (Groups of Closely Related Counts)	32	0.6	84.4
4B1.2 (Definitions for Career Offender)	31	0.6	100.0
6A1.1 (Presentence Report)	28	0.5	100.0
2B1.1 (Larceny, Embezzlement and Theft)	26	0.5	96.2
3C1.2 (Reckless Endangerment)	22	0.4	90.9
Constitutional Issues	249	4.5	96.4
Other Guidelines	538	9.7	88.7
Other Non-guideline Issues	341	6.1	93.0

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¹Based on 3,692 appeals defendants with sentencing as at least one of the reasons for appeal. Information on issues was available in 3,368 of these cases which cited 5,552 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 two times among relevant cases.

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

SOURCE: U.S. Sentencing Commission, 1997 Appeals Datafile, APPFY97.