

Table 57

GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANTS¹
Fiscal Year 2002

GUIDELINE	Number	Percent	Affirmance Rate²
TOTAL	9,100	100.0	92.7
2D1.1 (Drug Trafficking)	1,287	14.1	92.8
2L1.2 (Unlawfully Entering or Remaining in the United States)	533	5.9	92.3
5K2.0 (Departures)	375	4.1	95.2
3B1.1 (Aggravating Role)	266	2.9	93.6
3B1.2 (Mitigating Role)	265	2.9	98.5
3E1.1 (Acceptance of Responsibility)	257	2.8	96.9
3C1.1 (Obstruction of Justice)	219	2.4	94.1
1B1.3 (Relevant Conduct)	187	2.1	88.2
6A1.3 (Resolution of Disputed Factors)	185	2.0	91.9
2K2.1 (Firearms)	174	1.9	91.4
2F1.1 (Fraud)	143	1.6	92.3
4A1.3 (Adequacy of Criminal History)	136	1.5	89.0
5E1.1 (Restitution)	133	1.5	68.4
5K1.1 (Substantial Assistance to Authorities)	126	1.4	94.4
7B1.4 (Term of Imprisonment)	126	1.4	90.5
4A1.2 (Definitions and Instructions of Criminal History)	125	1.4	90.4
4A1.1 (Criminal History Category)	119	1.3	90.8
4B1.1 (Career Offender)	108	1.2	93.5
5C1.2 (Limitation on Applicability of Statutory Minimums)	101	1.1	95.0
7B1.3 (Revocation of Probation or Supervised Release)	101	1.1	96.0
2B3.1 (Robbery)	75	0.8	97.3
2B1.1 (Larceny, Embezzlement, and Theft)	65	0.7	90.8
5G1.3 (Defendant Subject to Undischarged Term of Imprisonment)	65	0.7	92.3
1B1.10 (Retroactivity of Amended Guideline Ranges)	57	0.6	96.5
2S1.1 (Laundering of Monetary Instruments)	57	0.6	87.7
4B1.4 (Armed Career Criminal)	53	0.6	90.6
5G1.2 (Sentencing in Multiple Counts of Conviction)	47	0.5	89.4
3D1.2 (Groups of Closely Related Counts)	47	0.5	76.6
6A1.1 (Presentence Report)	46	0.5	91.3
3B1.3 (Abuse of Position of Trust or Use of Special Skill)	45	0.5	86.7
4B1.2 (Definitions for Career Offender)	45	0.5	86.7
5D1.2 (Term of Supervised Release)	43	0.5	74.4
2K2.4 (Use of Firearms During or in Relation to Certain Crimes)	38	0.4	92.1
Constitutional Issues	464	5.1	96.5
Other Guidelines	876	9.6	89.4
Other Non-guideline Issues	2,111	23.2	94.6

¹Based on 4,530 appeals defendants with sentencing as at least one of the reasons for appeal. Information on issues was available in 4,530 of these cases which cited 9,100 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 38 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.