

**Table 57**

**GUIDELINE INVOLVED IN ISSUES APPEALED BY THE DEFENDANTS<sup>1</sup>**  
**Fiscal Year 2007**

<b>GUIDELINE</b>	<b>Number</b>	<b>Percent</b>	<b>Affirmance Rate<sup>2</sup></b>
<b>TOTAL</b>	<b>16,017</b>	<b>100.0</b>	<b>93.0</b>
18 U.S.C. § 3553(a) Factors	2,750	17.2	96.9
2D1.1 (Drug Trafficking)	1,218	7.6	95.0
2L1.2 (Unlawfully Entering or Remaining in the United States)	997	6.2	88.9
2K2.1 (Firearms)	411	2.6	94.4
3B1.2 (Mitigating Role)	319	2.0	99.1
2B1.1 (Larceny, Embezzlement, and Theft)	255	1.6	89.4
3B1.1 (Aggravating Role)	242	1.5	94.6
3E1.1 (Acceptance of Responsibility)	218	1.4	97.2
4B1.4 (Armed Career Criminal)	202	1.3	95.5
3C1.1 (Obstruction of Justice)	199	1.2	92.5
4B1.1 (Career Offender)	195	1.2	93.8
5K2.0 (Departures)	187	1.2	93.0
7B1.3 (Revocation of Probation or Supervised Release)	169	1.1	95.9
5E1.1 (Restitution)	167	1.0	83.2
7B1.4 (Term of Imprisonment)	166	1.0	95.8
4A1.1 (Criminal History Category)	155	1.0	93.6
5C1.2 (Limitation on Applicability of Statutory Minimums)	151	0.9	91.4
4A1.2 (Definitions and Instructions of Criminal History)	146	0.9	93.2
1B1.3 (Relevant Conduct)	139	0.9	90.6
4A1.3 (Adequacy of Criminal History)	128	0.8	87.5
5D1.3 (Conditions of Supervised Release)	120	4.4	80.0
5K1.1 (Substantial Assistance to Authorities)	120	0.7	92.5
6A1.3 (Resolution of Disputed Factors)	92	0.6	100.0
4B1.2 (Definitions for Career Offender)	91	0.6	85.7
2B3.1 (Robbery)	89	0.6	95.5
5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)	79	0.5	93.7
2F1.1 (Fraud)	69	2.5	88.4
6A1.1 (Presentence Report)	60	2.2	93.3
Constitutional Issues	3,328	20.8	91.6
Other Guidelines	1,138	7.1	91.0
Other Non-guideline Issues	2,417	15.1	92.4

<sup>1</sup>Based on 6,639 appeals with sentencing as at least one of the reasons for appeal. 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 60 times among relevant cases.

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