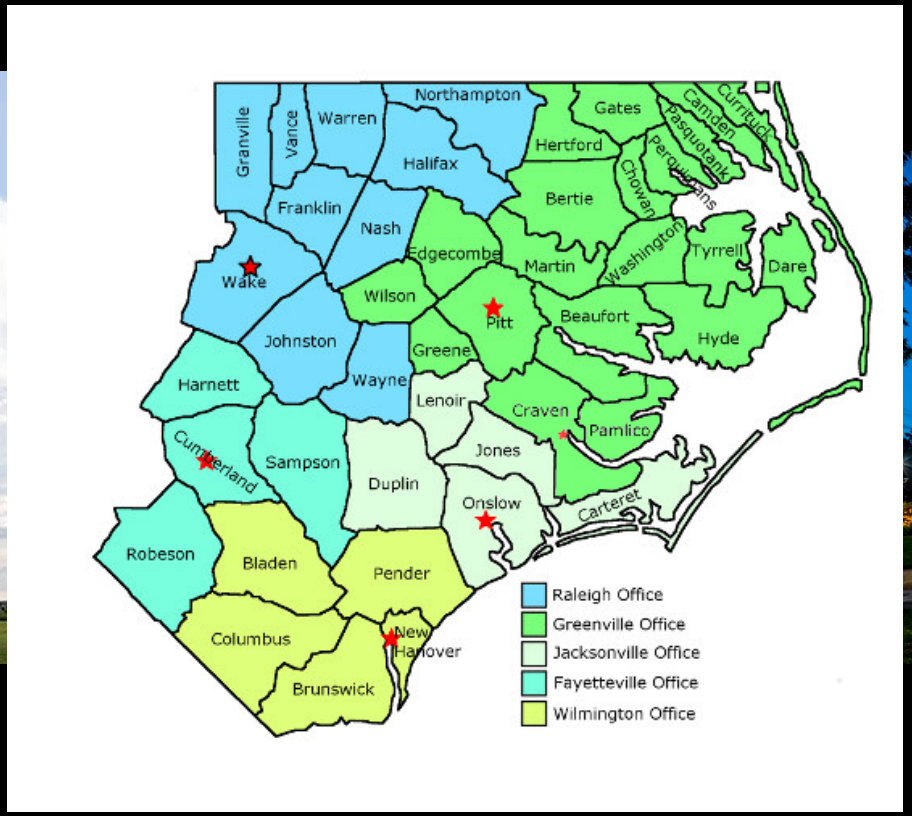






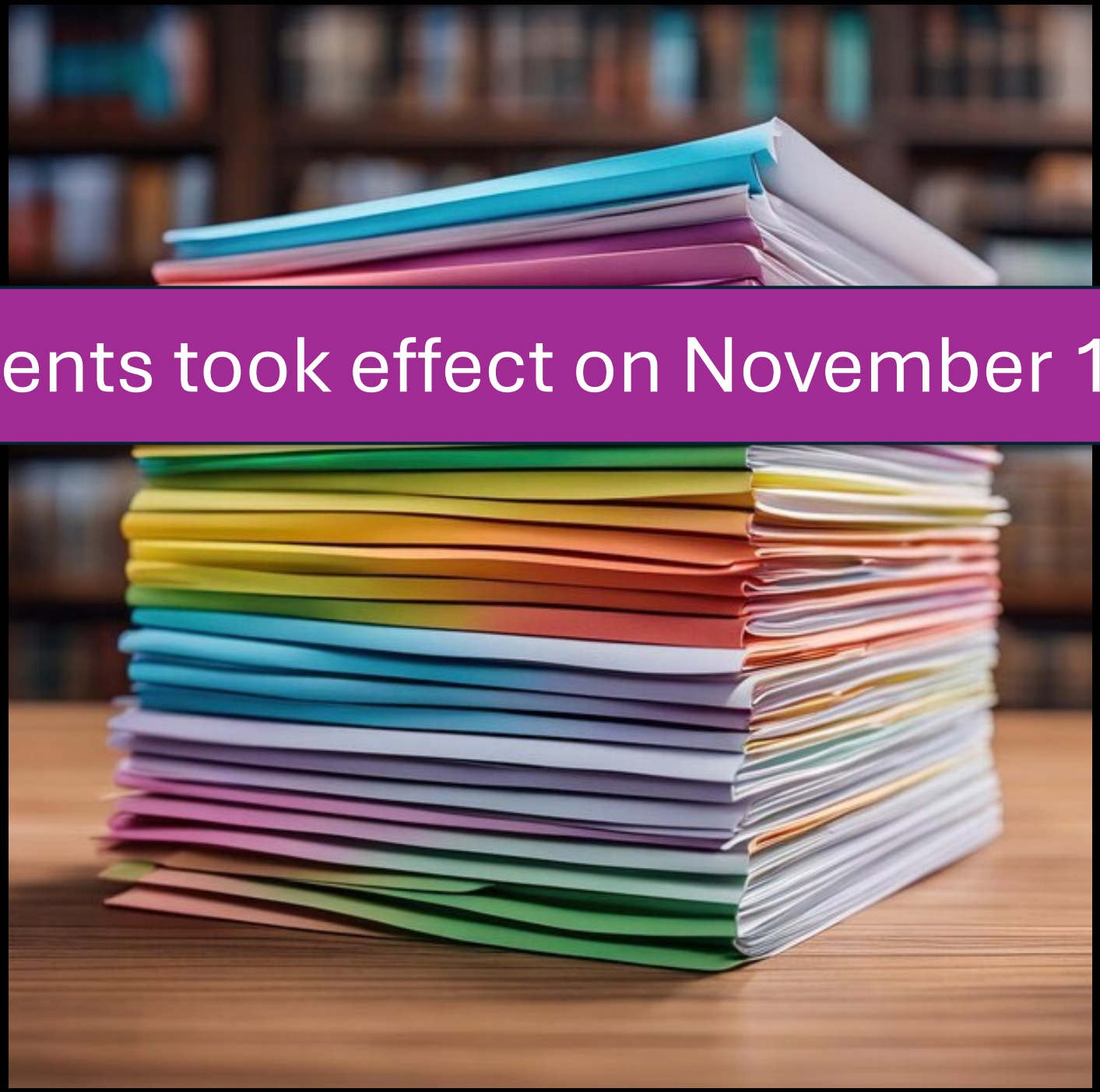

# The 2026 Sentencing Guideline Amendments

## Eastern District of North Carolina

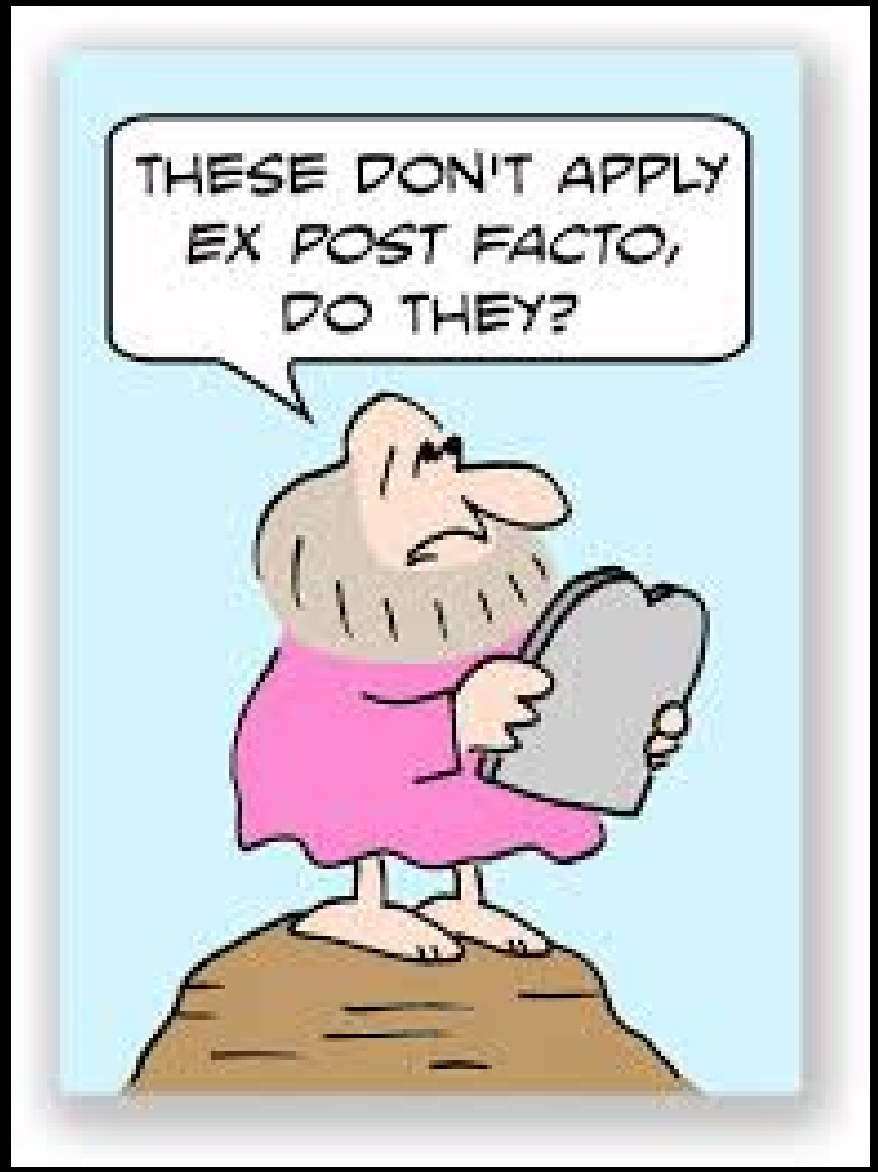
Halerie Costello and Kat Dowling, Assistant Federal Public Defenders

# Agenda

1. Fentanyl-Related Substances
2. Inflationary Adjustments
3. New Intro to Chapter 5
4. Simplification: Deleted SOCs
5. New Multi-Count Rules
6. Misc. Issues

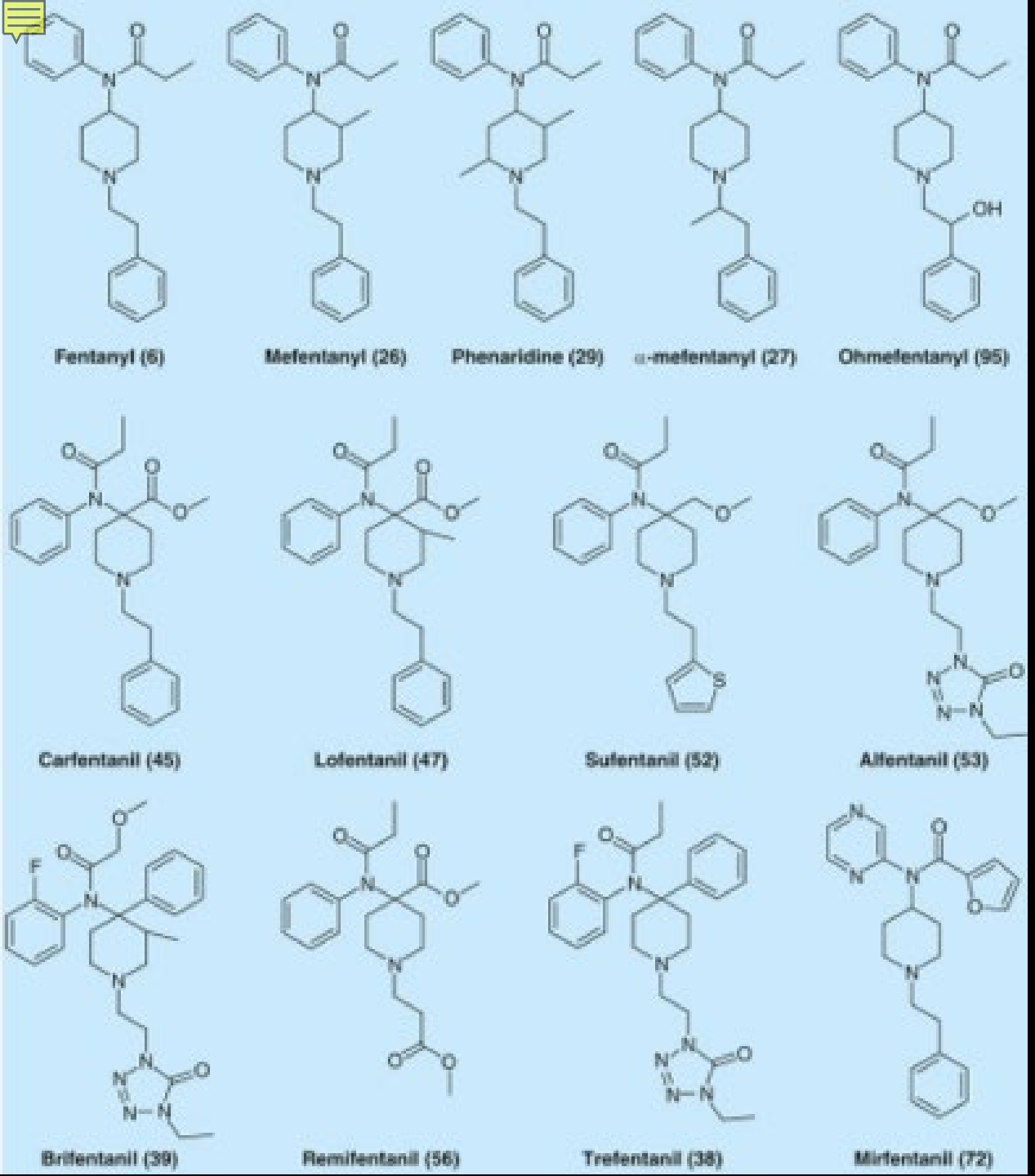


Amendments took effect on November 1, 2026!




# Remember EX POST FACTO

But also....remember the ONE BOOK RULE




# Fentanyl-Related Substances

# Fentanyl Analogue

- “fentanyl analogue” or “analogue of fentanyl” is not defined in the CSA

- USSG – any substance (including salts, isomers, and salts of isomers) that has a chemical structure similar to fentanyl

    - Regardless of whether the substance is a controlled substance or not

# Fentanyl-Related Substance

A substance that is structurally related to fentanyl by 1 or more of 5 listed chemical modifications:

**(A)** By replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle.

**(B)** By substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino, or nitro groups.

**(C)** By substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups.

**(D)** By replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle.

**(E)** By replacement of the N-propionyl group with another acyl group.

## Fentanyl Analogue

Similar chemical structure to fentanyl

## Fentanyl Related Substance

Structurally related to fentanyl by 1 or more listed modifications

**(A)** By replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle.

**(B)** By substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino, or nitro groups.

**(C)** By substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups.

**(D)** By replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle.

**(E)** By replacement of the N-propionyl group with another acyl group.

## (c) DRUG QUANTITY TABLE

| CONTROLLED SUBSTANCES AND QUANTITY* | BASE OFFENSE LEVEL |
|---|---|
| (1) ● 90 KG or more of Heroin;<br>● 450 KG or more of Cocaine;<br>● 25.2 KG or more of Cocaine Base;<br>● 90 KG or more of PCP, or 9 KG or more of PCP (actual);<br>● 45 KG or more of Methamphetamine, or<br>4.5 KG or more of Methamphetamine (actual), or<br>4.5 KG or more of "Ice";<br>● 45 KG or more of Amphetamine, or<br>4.5 KG or more of Amphetamine (actual);<br>● 900 G or more of LSD;<br>● 36 KG or more of Fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] Propanamide);<br>● 9 KG or more of a Fentanyl Analogue;<br>● 9 KG or more of a Fentanyl-Related Substance;<br>● 90,000 KG or more of Marihuana;<br>● 18,000 KG or more of Hashish;<br>● 1,800 KG or more of Hashish Oil;<br>● 90,000,000 units or more of Ketamine;<br>● 90,000,000 units or more of Schedule I or II Depressants;<br>● 5,625,000 units or more of Flunitrazepam;<br>● 90,000 KG or more of ***Converted Drug Weight***. | **Level 38** |

(b) Specific Offense Characteristics

* *

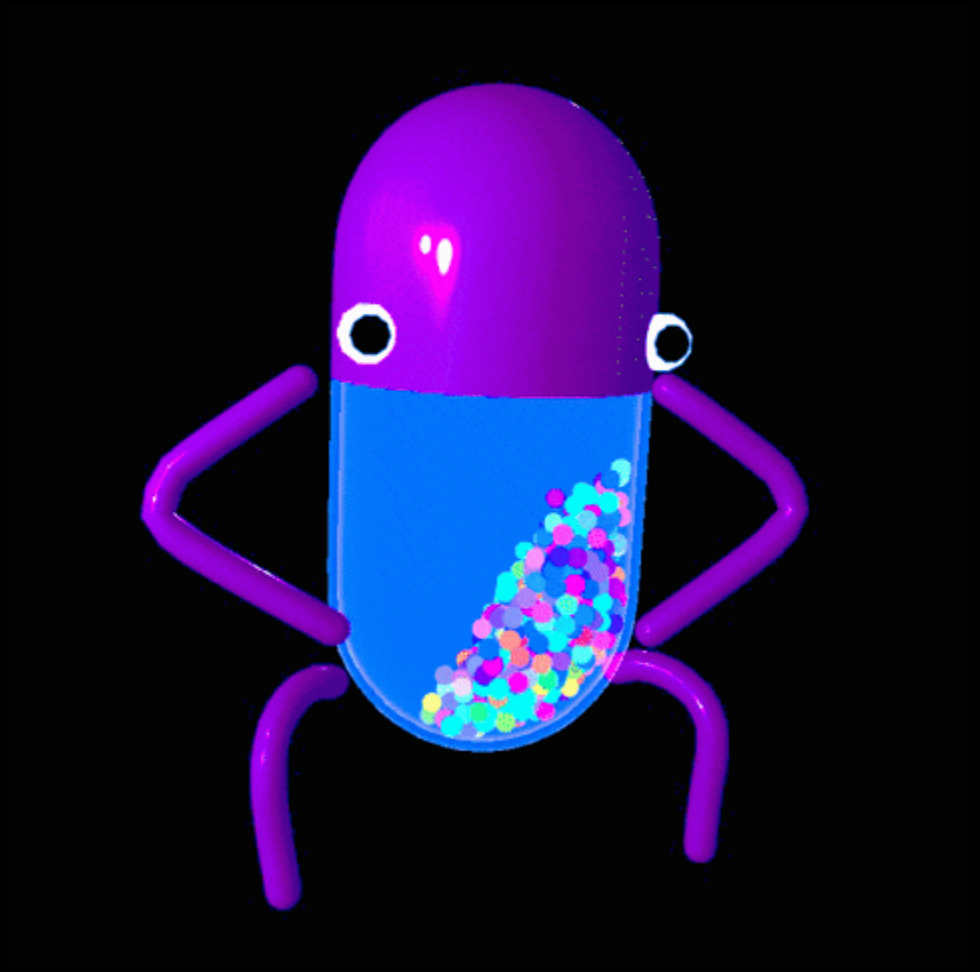
(13) If the defendant (A) kn
marketed as another substa
fentanyl (N-phenyl-N-[1-(2-p
~~or~~, a fentanyl analogue, or a
4 levels; or (B) represen
manufactured drug another
(N-phenyl-N-[1-(2-phenyleth
fentanyl analogue, or a fe
disregard that such mixture
manufactured drug, increase
subsection (b)(13)(B), has th
§ 321(g)(1).

*Provided*, however, that this
involving a fentanyl-related
level specified in the Drug Quantity Table for fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide), a fentanyl analogue, or a fentanyl-related substance.




| | Converted Drug Weight |
|---|---|
| EPAP) = | 700 gm |
| = | 700 gm |
| | 1 kg |
| | 100 gm |
| | 80 gm |
| | 670 gm |
| | 50 gm |
| | 250 gm |
| | 165 gm |
| nyl] Propanamide) = | 2.5 kg |
| | 10 kg |
| | 10 kg |
| | 1 kg |
| | 6,700 gm |
| | 2.5 kg |
| | 3 kg |
| | 2.5 kg |
| | 50 gm |
| | 500 gm |
| | 250 gm |
| | 500 gm |
| | 50 gm |
| | 6,700 gm |
| 1 gm of Oxymorphone = | 5 kg |
| 1 gm of Racemorphan = | 800 gm |

**Provided*, that the minimum offense level from the Drug Quantity Table for any of these controlled substances individually, or in combination with another controlled substance, is level 12.



***Notes to Drug Quantity Table:**

*  *  *

(K) The term "***Fentanyl-Related Substance***" is defined in 21 U.S.C. § 812(e). There is a rebuttable presumption that the base offense level specified in the Drug Quantity Table applies to fentanyl-related substances. However, if the defendant establishes either that the fentanyl-related substance (i) functions to block, diminish, or counteract the effect produced by fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide) or a fentanyl analogue, or (ii) is significantly less potent than fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide), the court should instead determine the base offense level for the fentanyl-related substance using the converted drug weight of the most closely related controlled substance referenced in this guideline (as provided in Application Note 6 below).

1) Is the substance in your case a fentanyl-related substance?

2) Is it substantially less potent than fentanyl?

3) What substance on the drug quantity table is  it most “closely related to”



Acetyl Fentanyl

Butyryl Fentanyl

Valeryl Fentanyl

Meta-flouro-fentanyl

4’-flourofentanyl


Length
Travel
Time
B
20%




# Inflationary Adjustments

## §2B1.1. Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States

* * *

(b) Specific Offense Characteristics

(1) If the loss exceeded ~~$6,500~~$9,000, increase the offense level as follows:

| [MULTIPLIER USED] | LOSS (APPLY THE GREATEST) | INCREASE IN LEVEL |
|---|---|---|
| [1.38] | (A) ~~$6,500~~$9,000 or less | no increase |
| [1.38] | (B) More than ~~$6,500~~$9,000 | add **2** |
| [1.33] | (C) More than ~~$15,000~~$20,000 | add **4** |
| [1.38] | (D) More than ~~$40,000~~$55,000 | add **6** |
| [1.58] | (E) More than ~~$95,000~~$150,000 | add **8** |
| [1.33] | (F) More than ~~$150,000~~$200,000 | add **10** |
| [1.40] | (G) More than ~~$250,000~~$350,000 | add **12** |
| [1.36] | (H) More than ~~$550,000~~$750,000 | add **14** |
| [1.33] | (I) More than ~~$1,500,000~~$2,000,000 | add **16** |
| [1.43] | (J) More than ~~$3,500,000~~$5,000,000 | add **18** |
| [1.58] | (K) More than ~~$9,500,000~~$15,000,000 | add **20** |
| [1.40] | (L) More than ~~$25,000,000~~$35,000,000 | add **22** |
| [1.38] | (M) More than ~~$65,000,000~~$90,000,000 | add **24** |
| [1.33] | (N) More than ~~$150,000,000~~$200,000,000 | add **26** |
| [1.40] | (O) More than ~~$250,000,000~~$350,000,000 | add **28** |
| [1.36] | (P) More than ~~$550,000,000~~$750,000,000 | add **30**. |

## §2B3.1. Robbery

* * *

(b) Specific Offense Characteristics

* * *

(7) If the loss exceeded ~~$20,000~~$25,000, increase the offense level as follows:

| [Multiplier Used] | Loss (Apply the Greatest) | Increase in Level |
|---|---|---|
| [1.25] | (A) ~~$20,000~~$25,000 or less | no increase |
| [1.25] | (B) More than ~~$20,000~~$25,000 | add **1** |
| [1.58] | (C) More than ~~$95,000~~$150,000 | add **2** |
| [1.40] | (D) More than ~~$500,000~~$700,000 | add **3** |
| [1.33] | (E) More than ~~$1,500,000~~$2,000,000 | add **4** |
| [1.33] | (F) More than ~~$3,000,000~~$4,000,000 | add **5** |
| [1.40] | (G) More than ~~$5,000,000~~$7,000,000 | add **6** |
| [1.58] | (H) More than ~~$9,500,000~~$15,000,000 | add **7**. |

* * *

## §5E1.2. Fines for Individual Defendants

* * *

(c) (1) The minimum of the fine guideline range is the amount shown in column A of the table below.

(2) Except as specified in paragraph (4) below, the maximum of the fine guideline range is the amount shown in column B of the table below.

(3) FINE TABLE

| [MULTIPLIER USED] | OFFENSE LEVEL | A MINIMUM | B MAXIMUM |
|---|---|---|---|
| [1.50, 1.58] | 3 and below | ~~$200~~$300 | ~~$9,500~~$15,000 |
| [1.40, 1.58] | 4–5 | ~~$500~~$700 | ~~$9,500~~$15,000 |
| [1.50, 1.58] | 6–7 | ~~$1,000~~$1,500 | ~~$9,500~~$15,000 |
| [1.25, 1.25] | 8–9 | ~~$2,000~~$2,500 | ~~$20,000~~$25,000 |
| [1.38, 1.38] | 10–11 | ~~$4,000~~$5,500 | ~~$40,000~~$55,000 |
| [1.36, 1.36] | 12–13 | ~~$5,500~~$7,500 | ~~$55,000~~$75,000 |
| [1.33, 1.33] | 14–15 | ~~$7,500~~$10,000 | ~~$75,000~~$100,000 |
| [1.50, 1.58] | 16–17 | ~~$10,000~~$15,000 | ~~$95,000~~$150,000 |
| [1.50, 1.50] | 18–19 | ~~$10,000~~$15,000 | ~~$100,000~~$150,000 |
| [1.33, 1.33] | 20–22 | ~~$15,000~~$20,000 | ~~$150,000~~$200,000 |
| [1.25, 1.25] | 23–25 | ~~$20,000~~$25,000 | ~~$200,000~~$250,000 |
| [1.40, 1.40] | 26–28 | ~~$25,000~~$35,000 | ~~$250,000~~$350,000 |
| [1.33, 1.33] | 29–31 | ~~$30,000~~$40,000 | ~~$300,000~~$400,000 |
| [1.43, 1.43] | 32–34 | ~~$35,000~~$50,000 | ~~$350,000~~$500,000 |
| [1.38, 1.38] | 35–37 | ~~$40,000~~$55,000 | ~~$400,000~~$550,000 |
| [1.40, 1.40] | 38 and above | ~~$50,000~~$70,000 | ~~$500,000~~$700,000. |




# New Intro to Chapter 5

# PART A — ~~SENTENCING TABLE~~ DETERMINATION OF SENTENCING RANGE AND SENTENCING OPTIONS

## Introductory Commentary

By statute, sentencing courts must consider and balance a broad range of factors when determining the appropriate sentence to impose in each individual case. Among these factors, courts are required to consider "all available sentencing options." 18 U.S.C. § 3553(a)(3). Each of the available sentencing options—imprisonment, probation, and fines—serves a punitive function, and the sentencing court must determine the option, or combination of options, that best achieve a sentence "sufficient, but not greater than necessary to comply with the purposes set forth in [18 U.S.C. § 3553(a)(2)]." 18 U.S.C. § 3553(a).

Congress charged the Commission with promulgating guidelines for sentencing courts to use in determining "whether to impose a sentence to probation, a fine, or a term of imprisonment" (*see* 28 U.S.C. § 994(a)(1)(A)). The provisions within Chapter Five, in combination, guide all aspects of determining the appropriate sentence under the guidelines, including the initial determination of sentence type. By clearly delineating the sentencing options available under the guidelines, the Commission intends for Part A of this chapter to assist courts in making this critical decision.

## §5A1.1. Sentencing Table

The Sentencing Table is used to determine the applicable sentencing range and sentencing options based upon the guideline calculations made in Chapters Two through Four.

(a) The Offense Level (1–43) forms the vertical axis of the Sentencing Table. The Criminal History Category (I–VI) forms the horizontal axis of the Table. The intersection of the Offense Level and Criminal History Category displays the Guideline Range in months of imprisonment. For example, the guideline range applicable to a defendant with an Offense Level of 15 and a Criminal History Category of III is 24–30 months of imprisonment. For purposes of the Sentencing Table, "***Life***" means life imprisonment.

(b) The Sentencing Table is divided into Zones A, B, C, and D. Each zone provides for different sentencing options for the court's consideration. Subject to any statutory limitations in an individual case (*see, e.g.*, §5B1.1(b) (statutory eligibility for probation), §§5G1.1, 5G1.2 (statutory minima and maxima)), the sentencing options in each zone are as follows:

(b) The Sentencing Table is divided into Zones A, B, C, and D. Each zone provides for different sentencing options for the court's consideration. Subject to any statutory limitations in an individual case (*see, e.g.*, §5B1.1(b) (statutory eligibility for probation), §§5G1.1, 5G1.2 (statutory minima and maxima)), the sentencing options in each zone are as follows:

| Sentencing Options | |
|---|---|
| Zone A | • probation;<br>• probation with a period of intermittent confinement, community confinement, or home detention;<br>• a "split sentence" (*i.e.*, part of the term satisfied by imprisonment and the remainder satisfied by a term of supervised release with a condition that substitutes community confinement or home detention for imprisonment, according to the schedule in §5C1.1(e)); or<br>• imprisonment.<br>*See* §5B1.1(a)(1); §5C1.1(a)–(b), (e); §5C1.1, comment. (n.2). |
| Zone B | • probation with the minimum term of imprisonment satisfied by a period of intermittent confinement, community confinement, or home detention, according to the schedule in §5C1.1(e);<br>• a "split sentence" (with at least one month satisfied by imprisonment); or<br>• imprisonment.<br>*See* §5B1.1(a)(2); §5C1.1(c), (e); §5C1.1, comment. (n.3). |
| Zone C | • a "split sentence" (with at least one-half of the minimum term satisfied by imprisonment); or<br>• imprisonment.<br>*See* §5C1.1(d), (e); §5C1.1, comment. (n.4). |
| Zone D | • imprisonment.<br>*See* §5C1.1(f). |




# Simplification: Deleted SOCs

# Deleted SOCs

**§2A5.1. Aircraft Piracy or Attempted Aircraft Piracy**

(a) Base Offense Level: 38

~~(b) Specific C~~

~~(1) If de~~

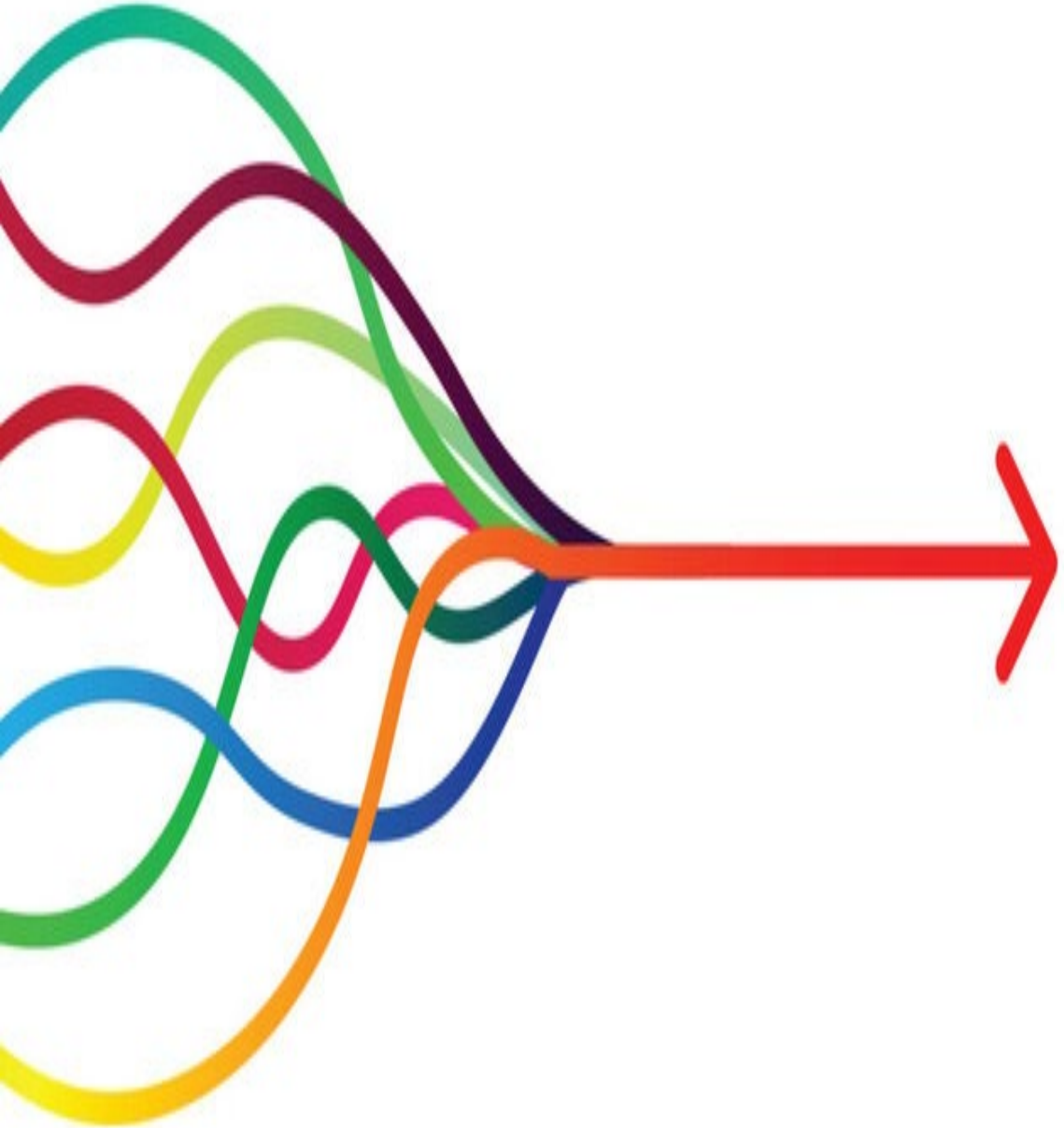
**§2B6.1. Altering or Removing Motor Vehicle Identification Numbers, or Trafficking in Motor Vehicles or Parts with Altered or Obliterated Identification Numbers**

* * *

1- SRC Outline - 2026 USSG Amendme...

* * *

~~(3) If the offense involved an organized scheme to steal vehicles or vehicle parts, or to receive stolen vehicles or vehicle parts, and the offense level as determined above is less than level **14**, increase to level **14**.~~



# New Multi-Count Rules

5

# Overview: New multi-count rules

- No more “grouping” of related counts; no more units or half-units
- The guidelines that have always aggregated counts (e.g. drugs, guns, fraud) still do
- Others are still calculated count-by-count
- The highest offense level still controls
- But now there is a short list of guidelines that can ever trigger additional levels (f/k/a units), and in limited circumstances



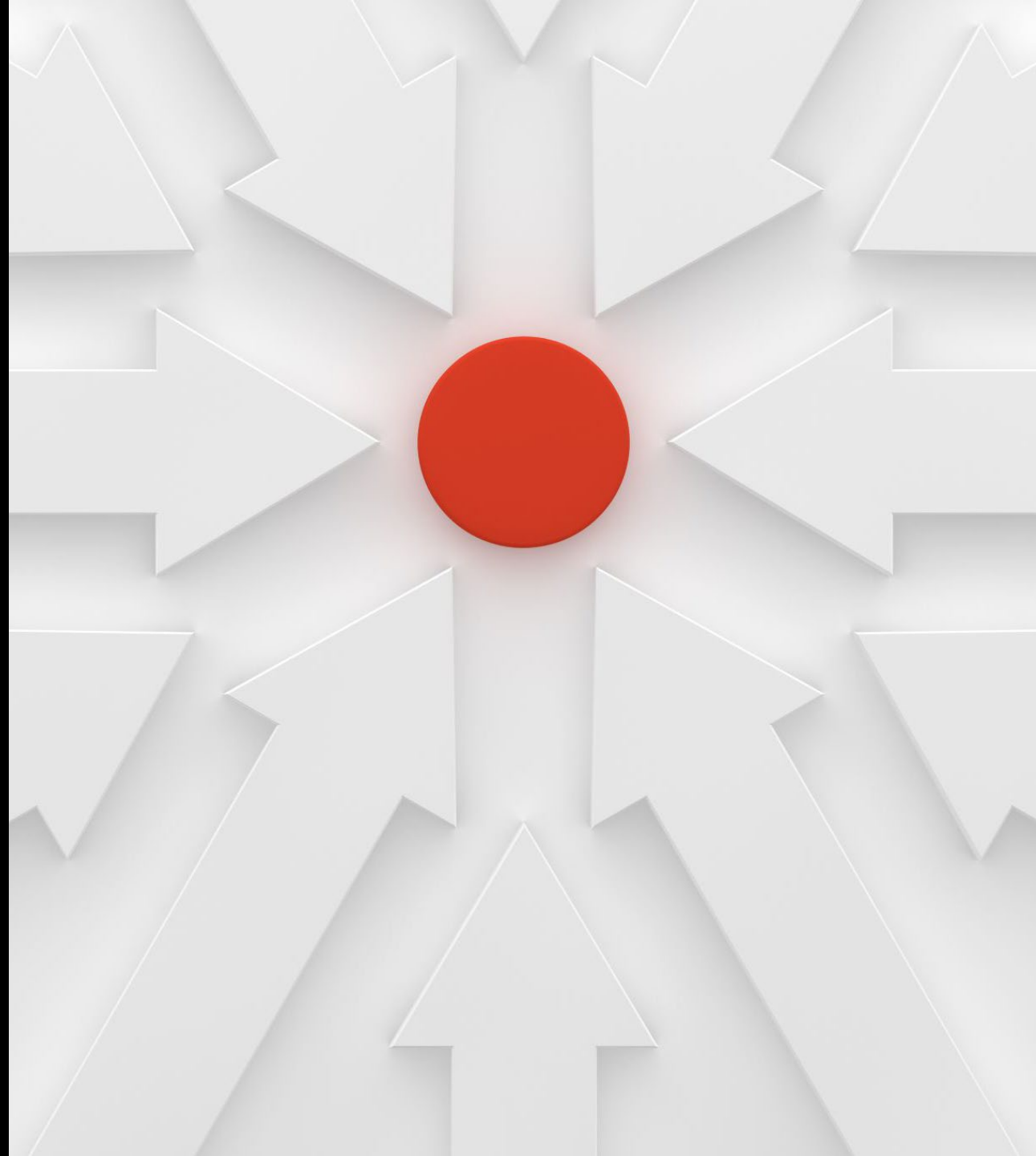
- NO EXTRA LEVELS UNLESS THERE ARE **MULTIPLE COUNTS UNDER THE SAME GUIDELINE!!**

- And even then, there might not be extra levels



# Why?

- Grouping rules confusing and lead to error
- Too many USSC Helpline calls
- Despite training and other resources, judges still misapplying the rules
- Intent = outcome neutral



## §3D1.1. Procedure for Determining Offense Level on Multiple Counts



**STEP ONE:**
If multiple counts under any of these GLs, calculate them in the aggregate under a single guideline

Fraud

Drug trafficking

§2A3.5;
§§2B1.1, 2B1.4, 2B1.5, 2B4.1, 2B5.1, 2B5.3, 2B6.1;
§§2C1.1, 2C1.2, 2C1.8;
§§2D1.1, 2D1.2, 2D1.5, 2D1.11, 2D1.13;
§§2E4.1, 2E5.1;
§§2G2.2, 2G3.1;
§2K2.1;
§§2L1.1, 2L2.1;
§2N3.1;
§2Q2.1;
§2R1.1;
§§2S1.1, 2S1.3;
§§2T1.1, 2T1.4, 2T1.6, 2T1.7, 2T1.9, 2T2.1, 2T3.1.

New §3D1.1(a)

Firearm offenses

Illegal reentry

CP non-production offenses

**These are currently the aggregate harm GLs that "group" under §3D1.2(d)**

# STEP TWO:

For all other counts, calculate each count individually under the applicable GL

New §3D1.1(c)

# STEP THREE:
# Determine whether extra levels are necessary

New §3D1.1(c)

**STEP THREE**:
If you have counts under any of these GL, additional levels may be necessary

Robbery

Murder, assault, rape, obstruction, etc.

all offenses in Chapter Two, Part A (except §2A3.5);
§§2B2.1, 2B3.1, 2B3.2, 2B3.3;
§2D2.3;
§§2E1.3, 2E1.4, 2E2.1;
§§2G1.1, 2G1.3, 2G2.1;
§§2H1.1, 2H4.1;
§2J1.2, 2J1.3;
§2K1.4;
§§2M3.9, 2M6.1;
§2N1.1;
§2Q1.4;
§2X6.1.

New §3D1.1(b)(1)

VICAR

CP production

**These are currently the GLs excluded from §3D1.2(d)**

## STEP FOUR:

Find which count has the highest offense level; this level (whether or not it includes extra levels) now applies to all counts

**STEP THREE:**
If counts under any of these, determine whether additional levels must be added

all offenses in Chapter Two, Part A (except §2A3.5);
§§2B2.1, 2B3.1, 2B3.2, 2B3.3;
§2D2.3;
§§2E1.3, 2E1.4, 2E2.1;
§§2G1.1, 2G1.3, 2G2.1;
§§2H1.1, 2H4.1;
§2J1.2, 2J1.3;
§2K1.4;
§§2M3.9, 2M6.1;
§2N1.1;
§2Q1.4;
§2X6.1.

New §3D1.1(b)(1)

**These are currently the GLs excluded from 3D1.2(d)**

# Additional levels will apply only if two conditions are both present:

all offenses in Chapter Two, Part A (except §2A3.5);
§§2B2.1, 2B3.1, 2B3.2, 2B3.3;
§2D2.3;
§§2E1.3, 2E1.4, 2E2.1;
§§2G1.1, 2G1.3, 2G2.1;
§§2H1.1, 2H4.1;
§2J1.2, 2J1.3;
§2K1.4;
§§2M3.9, 2M6.1;
§2N1.1;
§2Q1.4;
§2X6.1.

New §3D1.1(b)(1)

**First**, there must be multiple counts that come under the same guideline listed here

**&**

**Second**, those counts must be distinct—involve different victims or the same victim on different occasions

# Additional levels will apply only if two conditions are

all offenses in Chapter Two, Part A (except §2A3.5);
§§2B2.1, 2B3.1, 2B3.2, 2B3.3;
§2D2.3;
§§2E1.3, 2E1.4, 2E2.1;
§§2G1.1, 2G1.3, 2G2.1;
§§2H1.1, 2H4.1;
§2J1.2, 2J1.3;
§2K1.4;

| Number of Counts Covered by Guideline Listed in Paragraph (1) | | Increase in Offense Level |
|---|---|---|
| (A) | 2 | add **2** levels |
| (B) | 3 | add **3** levels |
| (C) | 4 or 5 | add **4** levels |
| (D) | 6 or more | add **5** levels. |

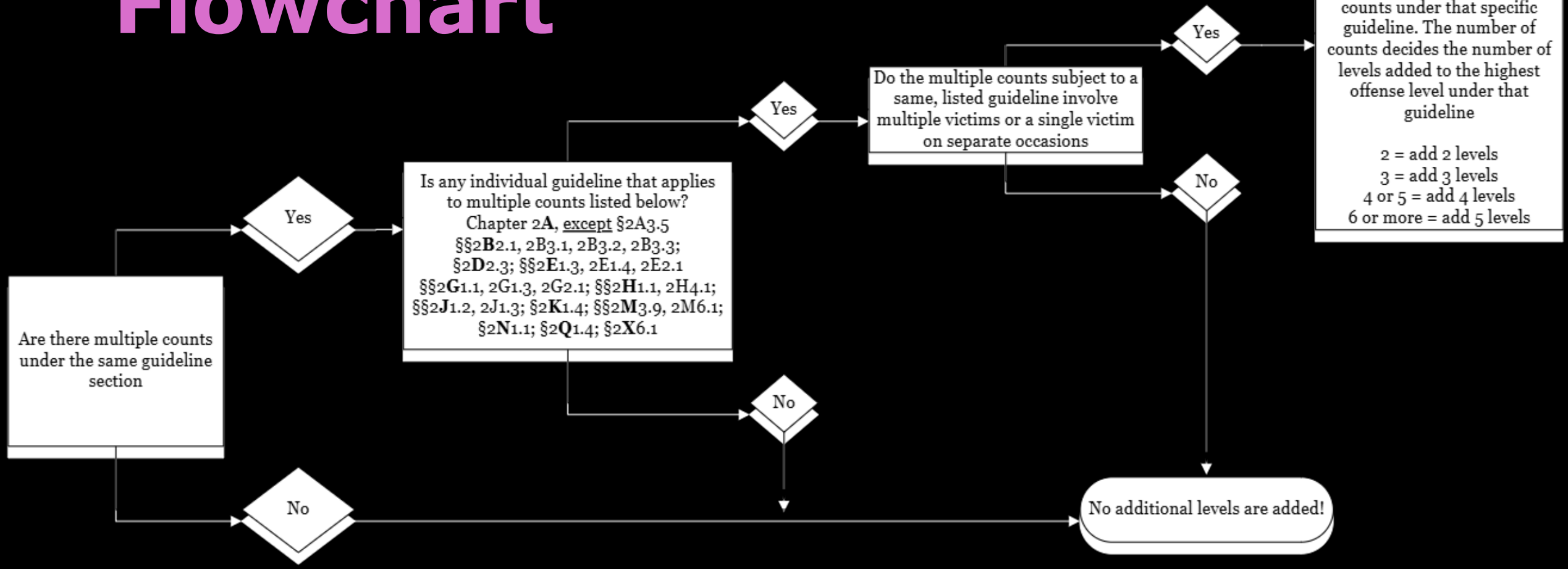
New §3D1.1(b)(2)

(e) SPECIAL INSTRUCTION FOR CERTAIN MULTIPLE COUNTS.—If there are multiple counts of conviction, exclude from the application of subsections (a) through (d) above the following counts:

(1) Any count for which the statute (A) specifies a term of imprisonment to be imposed; and (B) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment. Sentences for such counts are governed by subsection (a) of §5G1.2 (Sentencing on Multiple Counts of Conviction).

(2) Any count of conviction under 18 U.S.C. § 1028A. *See* Application Note 2(B) of the Commentary to §5G1.2 (Sentencing on Multiple Counts of Conviction) for guidance on how sentences for multiple counts of conviction under 18 U.S.C. § 1028A should be imposed.

# SRC Multi-Count Flowchart



# Example #1

# Example #1

**Count 1**: Possessing and [illegible]ing of a Firearm in Furtherance of a Crime of Violence. 1[illegible] § 924(c)(1)(A)(ii).

**Count 2**: Carjacking. 18 U.S.C. § 2119.

**Counts 3-5:** Interference with Commerce by Robbery. 18 U.S.C. § 1951.



# Step One: calculate in aggregate?

**Count 2**: Carjacking. 18 U.S.C. § 2119. Interference with Commerce by Robbery. 18 U.S.C. §

ALL FOUR §2B3.1

§2A3.5;
§§2B1.1, 2B1.4, 2B1. 1, 2B5.1, 2B5.2 ;
§§2C1.1, 2C1.2, 2C
§§2D1.1, 2D1.2, 2
§§2E4.1, 2E5.1;
§§2G2.2, 2G3.1;
§2K2.1;
§§2L1.1, 2L2.1;
§2N3.1;
§2Q2.1;
§2R1.1;
§§2S1.1, 2S1.3;
§§2T1.1, 2T1.4, 2T1.6, 2T1.7, 2T1.9, 2T2.1, 2T3.1.

New §3D1.1(a)

# Step Two: calculate each count

| | | |
|---|---|---|
| | **Count 2: Carjacking of a white Toyota Corolla (bearing license plate IFB011)** | |
| 51. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2119 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 52. | **Specific Offense Characteristics:** Because the offense involved carjacking, increase by 2 levels. USSG §2B3.1(b)(5). | +2[4] |
| 53. | **Victim Related Adjustment:** None. | 0 |
| 54. | **Adjustment for Role in the Offense:** None. | 0 |
| 55. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 56. | **Adjusted Offense Level (Subtotal):** Twenty-two. | 22 |

# Step Two: calculate each count

**Count 2: Carjacking of a white Toyota Corolla (bearing license plate IFB011)**

| | | |
|---|---|---|
| 51. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2119 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 52. | **Specific Offense Characteristics:** Because the offense involved carjacking, increase by 2 levels. USSG §2B3.1(b)(5). | +2[4] |
| 53. | **Victim Related Adjustment:** None. | 0 |
| 54. | **Adjustment for Role in the Offense:** None. | 0 |
| 55. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 56. | **Adjusted Offense Level (Subtotal):** Twenty-two. | 22 |

**Count 3: Interference with Commerce by Robbery of Ecomaxx Gas Station, Road #782 in Cidra, PR**

| | | |
|---|---|---|
| 57. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 58. | **Specific Offense Characteristics:** If a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[5] |
| 59. | **Victim Related Adjustment:** None. | 0 |
| 60. | **Adjustment for Role in the Offense:** None. | 0 |
| 61. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 62. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

# Step Two: calculate each count

**Count 2: Carjacking of a white Toyota Corolla (bearing license plate IFB011)**

| | | |
|---|---|---|
| 51. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2119 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 52. | **Specific Offense Characteristics:** Because the offense involved carjacking, increase by 2 levels. USSG §2B3.1(b)(5). | +2[4] |
| 53. | **Victim Related Adjustment:** None. | 0 |
| 54. | **Adjustment for Role in the Offense:** None. | 0 |
| 55. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 56. | **Adjusted Offense Level (Subtotal):** Twenty-two. | 22 |

**Count 3: Interference with Commerce by Robbery of Ecomaxx Gas Station, Road #782 in Cidra, PR**

| | | |
|---|---|---|
| 57. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 58. | **Specific Offense Characteristics:** If a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[5] |
| 59. | **Victim Related Adjustment:** None. | 0 |
| 60. | **Adjustment for Role in the Offense:** None. | 0 |
| 61. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 62. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

**Count 4: Interference with Commerce by Robbery of Ecomaxx Gas Station, Road #171 in Cidra, PR**

| | | |
|---|---|---|
| 63. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 64. | **Specific Offense Characteristics:** if a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[6] |
| 65. | **Victim Related Adjustment:** None. | 0 |
| 66. | **Adjustment for Role in the Offense:** None. | 0 |
| 67. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 68. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

# Step Two: calculate each count

**Count 2: Carjacking of a white Toyota Corolla (bearing license plate IFB011)**

| | | |
|---|---|---|
| 51. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2119 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 52. | **Specific Offense Characteristics:** Because the offense involved carjacking, increase by 2 levels. USSG §2B3.1(b)(5). | +2[4] |
| 53. | **Victim Related Adjustment:** None. | 0 |
| 54. | **Adjustment for Role in the Offense:** None. | 0 |
| 55. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 56. | **Adjusted Offense Level (Subtotal):** Twenty-two. | 22 |

**Count 3: Interference with Commerce by Robbery of Ecomaxx Gas Station, Road #782 in Cidra, PR**

| | | |
|---|---|---|
| 57. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 58. | **Specific Offense Characteristics:** If a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[5] |
| 59. | **Victim Related Adjustment:** None. | 0 |
| 60. | **Adjustment for Role in the Offense:** None. | 0 |
| 61. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 62. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

**Count 4: Interference with Commerce by Robbery of Ecomaxx Gas Station, Road #171 in Cidra, PR**

| | | |
|---|---|---|
| 63. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 64. | **Specific Offense Characteristics:** if a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[6] |
| 65. | **Victim Related Adjustment:** None. | 0 |
| 66. | **Adjustment for Role in the Offense:** None. | 0 |
| 67. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 68. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

**Count 5: Interference with Commerce by Robbery of Puma Gas Station, Road #173 in Cidra, PR**

| | | |
|---|---|---|
| 69. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 70. | **Specific Offense Characteristics:** if a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[7] |
| 71. | **Victim Related Adjustment:** None. | 0 |
| 72. | **Adjustment for Role in the Offense:** None. | 0 |
| 73. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 74. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

# Step Three: additional levels?

**Count 2: Carjacking of a white Toyota Corolla (bearing license plate IFB011)**

| | | |
|---|---|---|
| 51. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2119 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 52. | **Specific Offense Characteristics:** Because the offense involved carjacking, increase by 2 levels. USSG §2B3.1(b)(5). | +2[4] |
| 53. | **Victim Related Adjustment:** None. | 0 |
| 54. | **Adjustment for Role in the Offense:** None. | 0 |
| 55. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 56. | **Adjusted Offense Level (Subtotal):** Twenty-two. | 22 |

**Count 3: Interference with Commerce by Robbery of Ecomaxx Gas Station, Road #782 in Cidra, PR**

| | | |
|---|---|---|
| 57. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 58. | **Specific Offense Characteristics:** If a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[5] |
| 59. | **Victim Related Adjustment:** None. | 0 |
| 60. | **Adjustment for Role in the Offense:** None. | 0 |
| 61. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 62. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

**Count 4: Interference with Commerce by Robbery of Ecomaxx Gas Station, Road #171 in Cidra, PR**

| | | |
|---|---|---|
| 63. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 64. | **Specific Offense Characteristics:** if a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[6] |
| 65. | **Victim Related Adjustment:** None. | 0 |
| 66. | **Adjustment for Role in the Offense:** None. | 0 |
| 67. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 68. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

**Count 5: Interference with Commerce by Robbery of Puma Gas Station, Road #173 in Cidra, PR**

| | | |
|---|---|---|
| 69. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 70. | **Specific Offense Characteristics:** if a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[7] |
| 71. | **Victim Related Adjustment:** None. | 0 |
| 72. | **Adjustment for Role in the Offense:** None. | 0 |
| 73. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 74. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

all offenses in Chapter Two, Part A (except §2A3.5);
§§2B2.1, 2B3.1, 2B3.2, 2B3.3;
§2D2.3;
§§2E1.3, 2E1.4, 2E2.1;
§§2G1.1, 2G1.3, 2G2.1;
§§2H1.1, 2H4.1;
§2J1.2, 2J1.3;
§2K1.4;
§§2M3.9, 2M6.1;
§2N1.1;
§2Q1.4;
§2X6.1.

New §3D1.1(b)(1)

# Step Three: additional levels?

**Count 2: Carjacking of a white Toyota Corolla (bearing license plate IFB011)**

| | | |
|---|---|---|
| 51. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2119 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 52. | **Specific Offense Characteristics:** Because the offense involved carjacking, increase by 2 levels. USSG §2B3.1(b)(5). | +2[4] |
| 53. | **Victim Related Adjustment:** None. | 0 |
| 54. | **Adjustment for Role in the Offense:** None. | 0 |
| 55. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 56. | **Adjusted Offense Level (Subtotal):** Twenty-two. | 22 |

**Count 3: Interference with Commerce by Robbery of Ecomaxx Gas Station, Road #782 in Cidra, PR**

| | | |
|---|---|---|
| 57. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 58. | **Specific Offense Characteristics:** If a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[5] |
| 59. | **Victim Related Adjustment:** None. | 0 |
| 60. | **Adjustment for Role in the Offense:** None. | 0 |
| 61. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 62. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

**Count 4: Interference with Commerce by Robbery of Ecomaxx Gas Station, Road #171 in Cidra, PR**

| | | |
|---|---|---|
| 63. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 64. | **Specific Offense Characteristics:** if a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[6] |
| 65. | **Victim Related Adjustment:** None. | 0 |
| 66. | **Adjustment for Role in the Offense:** None. | 0 |
| 67. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 68. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

**Count 5: Interference with Commerce by Robbery of Puma Gas Station, Road #173 in Cidra, PR**

| | | |
|---|---|---|
| 69. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 1951 is USSG §2B3.1. The base offense level for a robbery is 20. USSG §2B3.1(a). | 20 |
| 70. | **Specific Offense Characteristics:** if a firearm was otherwise used, increase by 6 levels; USSG 2B3.1(b)(2)(B). | +6[7] |
| 71. | **Victim Related Adjustment:** None. | 0 |
| 72. | **Adjustment for Role in the Offense:** None. | 0 |
| 73. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 74. | **Adjusted Offense Level (Subtotal): Twenty-six.** | 26 |

| Number of Counts Covered by Guideline Listed in Paragraph (1) | Increase in Offense Level |
|---|---|
| (A) 2 | add **2** levels |
| (B) 3 | add **3** levels |
| (C) 4 or 5 | add **4** levels |
| (D) 6 or more | add **5** levels. |

New §3D1.1(b)(2)

# Step Four: highest level controls

**Count 2: Carjacking of a white Toyota Corolla (bearing li**

51. **Base Offense Level:** The guideline for a violation of 18 U.S.C §2B3.1. The base offense level for a robbery is 20. USSG §2B
52. **Specific Offense Characteristics:** Because the offense i increase by 2 levels. USSG §2B3.1(b)(5).
53. **Victim Related Adjustment:** None.
54. **Adjustment for Role in the Offense:** None.
55. **Adjustment for Obstruction of Justice:** None.
56. **Adjusted Offense Level (Subtotal):** Twenty-two.

**Count 3: Interference with Commerce by Robbery of Ecor #782 in Cidra, PR**

57. **Base Offense Level:** The guideline for a violation of 18 U.S.C §2B3.1. The base offense level for a robbery is 20. USSG §2B
58. **Specific Offense Characteristics:** If a firearm was otherwise levels; USSG 2B3.1(b)(2)(B).
59. **Victim Related Adjustment:** None.
60. **Adjustment for Role in the Offense:** None.
61. **Adjustment for Obstruction of Justice:** None.
62. **Adjusted Offense Level (Subtotal): Twenty-six.**

**Count 4: Interference with Commerce by Robbery of Ecom #171 in Cidra, PR**

63. **Base Offense Level:** The guideline for a violation of 18 U.S.C §2B3.1. The base offense level for a robbery is 20. USSG §2B
64. **Specific Offense Characteristics:** if a firearm was otherwise levels; USSG 2B3.1(b)(2)(B).
65. **Victim Related Adjustment:** None.
66. **Adjustment for Role in the Offense:** None.
67. **Adjustment for Obstruction of Justice:** None.
68. **Adjusted Offense Level (Subtotal): Twenty-six.**

**Count 5: Interference with Commerce by Robbery of Puma in Cidra, PR**

69. **Base Offense Level:** The guideline for a violation of 18 U.S.C §2B3.1. The base offense level for a robbery is 20. USSG §2B3
70. **Specific Offense Characteristics:** if a firearm was otherwise levels; USSG 2B3.1(b)(2)(B).
71. **Victim Related Adjustment:** None.
72. **Adjustment for Role in the Offense:** None.
73. **Adjustment for Obstruction of Justice:** None.
74. **Adjusted Offense Level (Subtotal): Twenty-six.**

75. **Multiple Count Adjustment:** Units are assigned pursuant to USSG §3D1.4(a), (b) and (c). One unit is assigned to the group with the highest offense level. One additional unit is assigned for each group that is equally serious or from 1 to 4 levels less serious. One-half unit is assigned to any group that is 5 to 8 levels less serious than the highest offense level. Any groups that are 9 or more levels less serious than the group with the highest offense level are disregarded.

| Group/Count | Adjusted Offe |
|---|---|
| Count 1 | |
| Count 2 | 1.0 |
| Count 3 | 1.0 |
| Count 4 | 1.0 |
| Count 5 | 1.0 |
| **Total Number of U** | 4.0 |

SAME

76. **Greater of the Adjusted Offense Levels Above:** **26**

77. **Increase in Offense Level:** The offense level is increased pursuant to the number of units assigned by the amount indicated in the table at USSG §3D1.4. **+4**

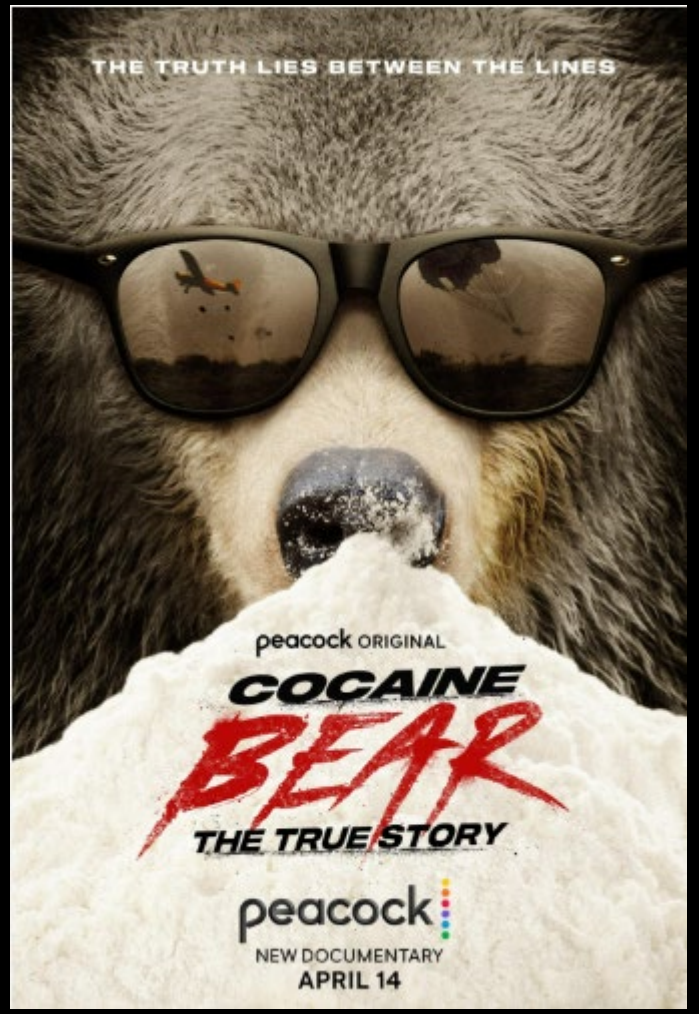
78. **Combined Adjusted Offense Level:** The Combined Adjusted Offense Level is determined by taking the offense level applicable to the Group with the highest offense level and increasing the offense level by the amount indicated in the table at USSG §3D1.4. **30**

ASE IN
LEVEL
levels
levels
levels
levels.

# Example #2

**Counts 1 to 3**: Introducing into Interstate Commerce Misbranded Animal Drugs. Title 21 U.S.C. §§331(a) and 333(a)(2). Class E felonies.

**Penalties:** Not more than three (3) years imprisonment. Maximum $10,000 fine. A term of supervised release not more than one (1) year.



# Step One: Calculate in the aggregate?

**Counts 1 to 3**: Introducing into Interstate Commerce Misbranded Animal Drugs. Title 21 U.S.C. §§331(a) and 333(a)(2). Class E felonies.

**Penalties:** Not more than three (3) years imprisonment. Maximum $10,000 fine. A term of supervised release not more than one (1) year.

**2N2.1**

§2A3.5;
§§2B1.1, 2B1.4, 2B1.5, 2[illegible] 2B5.1, 2B5.3, [illegible];
§§2C1.1, 2C1.2, 2C1.8[illegible]
§§2D1.1, 2D1.2, 2D1[illegible]
§§2E4.1, 2E5.1;
§§2G2.2, 2G3.1;
§2K2.1;
§§2L1.1, 2L2.1;
§2N3.1;
§2Q2.1;
§2R1.1;
§§2S1.1, 2S1.3;
§§2T1.1, 2T1.4, 2T1.6, 2T1.7, 2T1.9, 2T2.1, 2T3.1.

New §3D1.1(a)

# Step Two: calculate each count

**Count 1 - Introducing into Interstate Commerce Misbranded Animal Drugs**

| | | |
|---|---|---|
| 23. | **Base Offense Level:** The guideline for a violation of Title 21 U.S.C. § 331(a) is USSG §2N2.1. The base offense level is six (6). USSG §2N2.1(a). | 6 |
| 24. | **Specific Offense Characteristics:** None. | 0 |
| 25. | **Victim Related Adjustment:** None. | 0 |
| 26. | **Adjustment for Role in the Offense:** None. | 0 |
| 27. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 28. | **Adjusted Offense Level (Subtotal):** Six. | 6 |

**Count 2 - Introducing into Interstate Commerce Misbranded Animal Drugs**

| | | |
|---|---|---|
| 29. | **Base Offense Level:** The guideline for a violation of Title 21 U.S.C. § 331(a) is USSG §2N2.1. The base offense level is six (6). USSG §2N2.1(a). | 6 |
| 30. | **Specific Offense Characteristics:** None. | 0 |
| 31. | **Victim Related Adjustment:** None. | 0 |
| 32. | **Adjustment for Role in the Offense:** None. | 0 |
| 33. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 34. | **Adjusted Offense Level (Subtotal):** Six. | 6 |

**Count 3 - Introducing into Interstate Commerce Misbranded Animal Drugs**

| | | |
|---|---|---|
| 35. | **Base Offense Level:** The guideline for a violation of Title 21 U.S.C. § 331(a) is USSG §2N2.1. The base offense level is six (6). USSG §2N2.1(a). | 6 |
| 36. | **Specific Offense Characteristics:** None. | 0 |
| 37. | **Victim Related Adjustment:** None. | 0 |
| 38. | **Adjustment for Role in the Offense:** None. | 0 |
| 39. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 40. | **Adjusted Offense Level (Subtotal): Six** | 6 |

# Step Three: additional levels?

| | | |
|---|---|---|
| | **Group 1: Count 1 - Introducing into Interstate Commerce Misbranded Animal Drugs** | |
| 23. | **Base Offense Level:** The guideline for a violation of Title 21 U.S.C. § 331(a) is USSG §2N2.1. The base offense level is six (6). USSG §2N2.1(a). | 6 |
| 24. | **Specific Offense Characteristics:** None. | 0 |
| 25. | **Victim Related Adjustment:** None. | 0 |
| 26. | **Adjustment for Role in the Offense:** None. | 0 |
| 27. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 28. | **Adjusted Offense Level (Subtotal):** Six. | 6 |

| | | |
|---|---|---|
| | **Group 2: Count 2 - Introducing into Interstate Commerce Misbranded Animal Drugs** | |
| 29. | **Base Offense Level:** The guideline for a violation of Title 21 U.S.C. § 331(a) is USSG §2N2.1. The base offense level is six (6). USSG §2N2.1(a). | 6 |
| 30. | **Specific Offense Characteristics:** None. | 0 |
| 31. | **Victim Related Adjustment:** None. | 0 |
| 32. | **Adjustment for Role in the Offense:** None. | 0 |
| 33. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 34. | **Adjusted Offense Level (Subtotal):** Six. | 6 |

| | | |
|---|---|---|
| | **Group 3: Count 3 - Introducing into Interstate Commerce Misbranded Animal Drugs** | |
| 35. | **Base Offense Level:** The guideline for a violation of Title 21 U.S.C. § 331(a) is USSG §2N2.1. The base offense level is six (6). USSG §2N2.1(a). | 6 |
| 36. | **Specific Offense Characteristics:** None. | 0 |
| 37. | **Victim Related Adjustment:** None. | 0 |
| 38. | **Adjustment for Role in the Offense:** None. | 0 |
| 39. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 40. | **Adjusted Offense Level (Subtotal): Six** | 6 |

all offenses in Chapte[illegible]vo, Part A (except [illegible]3.5);
§§2B2.1, 2B3.1, 2B[illegible];
§2D2.3;
§§2E1.3, 2E1.4, 2[illegible];
§§2G1.1, 2G1.3, 2G2.[illegible];
§§2H1.1, 2H4.1;
§2J1.2, 2J1.3;
§2K1.4;
§§2M3.9, 2M6.1;
§2N1.1;
§2Q1.4;
§2X6.1.

New §3D1.1(b)(1)

# Step Four: highest level controls

**Count 1 - Introdu**

23. **Base Offense Level:** The g
USSG §2N2.1. The base off

24. **Specific Offense Characte**

25. **Victim Related Adjustmen**

26. **Adjustment for Role in the**

27. **Adjustment for Obstructio**

28. **Adjusted Offense Level (S**

41. **Multiple Count Adjustment:** Units are assigned pursuant to USSG §3D1.4(a), (b) and (c). One unit is assigned to the group with the highest of se level. One additional unit is assigned for each group that is equally serious or f 4 levels less serious. One-half unit is assigned to any group that is 5 to 8 leve an the highest offense level. Any groups that are 9 or more levels less with the highest offense level are disregarded.

| Group/Count | Adj |
|---|---|
| Count 1 | |
| Count 2 | |
| Count 3 | |

**Total Numbe** 3.0

**3 LEVELS LOWER!**

42. **Greater of the Adj s Above:** **6**

43. **Increase in Offense L** offense level is increased pursuant to the number of units assigned by the mount indicated in the table at USSG §3D1.4. **+3**

44. **Combined Adjusted Offense Level:** The Combined Adjusted Offense Level is determined by taking the offense level applicable to the Group with the highest offense level and increasing the offense level by the amount indicated in the table at USSG §3D1.4. Because all groups have the same offense level of 6, the combined adjusted offense level is 9. **9**

**nerce Misbranded Animal Drugs**

Title 21 U.S.C. § 331(a) is §2N2.1(a). **6**

**0**

**0**

**0**

**0**

**6**

# Example #3

**Count 2**:
Title 18 U.S.C. §§ 2251(a) & (e): Production of Child Pornography

**Count 5**:
Title 18 U.S.C. § 2252A(a)(5)(B): Possession of Child Pornography

**Count 7**:
Title 18 U.S.C. §§ 2251(a) & (e): Production of Child Pornography

# Step One: calculate in aggregate?

**Count 2**:
Title 18 U.S

2G2.1

**Count 5**:
Title 18

2G2.2

(5)

hild Pornography

**Count 5**: Possession of Child Pornography

| | | |
|---|---|---|
| 47. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2252A(a)(5)(B) is USSG § 2G2.2. The base offense level is 18. USSG § 2G2.2(a)(1). | 18 |
| 48. | **Specific Offense Characteristics:** Because the material involved a prepubescent minor or a minor who had not attained the age of twelve (12) years, a two-level increase is warranted under USSG § 2G2.2(b)(2)[7]. | +2 |
| 49. | **Specific Offense Characteristics:** Because the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence, or sexual abuse of an infant or toddler, a five-level increase is warranted under USSG §§ 2G2.2(b)(4)(A) and (B)[8]. | +4 |
| 50. | **Specific Offense Characteristics:** Because the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor, a five-level increase is warranted under USSG § 2G2.2(b)(5)[9]. | +5 |
| 51. | **Specific Offense Characteristics:** Because the offense involved the use of a computer or an interactive computer service for the possession, transmission, receipt, or distribution of the material, or for accessing with intent to view the material, a two-level increase is warranted under USSG § 2G2.2(b)(6). | +2 |
| 52. | **Specific Offense Characteristics:** Because the offense involved 600 or more images, a five-level increase is warranted under USSG § 2G2.2(b)(7)(D)[10]. | +5 |
| 53. | **Victim Related Adjustment:** None. | 0 |
| 54. | **Adjustment for Role in the Offense:** None. | 0 |
| 55. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 56. | **Adjusted Offense Level (Subtotal):** | 36 |

§§§

# Step Two: calculate other counts

**Count 2: Production of Child Pornography**

| | | |
|---|---|---|
| 40. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2251(a) is USSG §2G2.1. The base offense level is 32. USSG § 2G2.1(a). | 32 |
| 41. | **Specific Offense Characteristics:** The offense involved a minor who had attained the age of twelve (12) years but not attained the age of sixteen (16) years, a two-level increase is warranted under USSG § 2G2.1(b)(1)(B)[6]. | +2 |
| 42. | **Specific Offense Characteristics:** The offense involved the use of a computer or an interactive computer service to persuade, induce, entice, coerce a minor to engage in sexually explicit conduct, a two-level increase is warranted under USSG § 2G2.1(b)(6)(B)(i). | +2 |
| 43. | **Victim Related Adjustment:** None. | 0 |
| 44. | **Adjustment for Role in the Offense:** None. | 0 |
| 45. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 46. | **Adjusted Offense Level (Subtotal):** | 36 |

**Count 7: Production of Child Pornography**

| | | |
|---|---|---|
| 57. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2251(a) is USSG §2G2.1. The base offense level is 32. USSG §2G2.1(a). | 32 |
| 58. | **Specific Offense Characteristics:** The offense involved a minor who had attained the age of twelve (12) years but not attained the age of sixteen (16) years, a two-level increase is warranted under USSG § 2G2.1(b)(1)(B)[11]. | +2 |
| 59. | **Specific Offense Characteristics:** The offense involved the use of a computer or an interactive computer service to persuade, induce, entice, coerce a minor to engage in sexually explicit conduct, a two-level increase is warranted under USSG § 2G2.1(b)(6)(B)(i). | +2 |
| 60. | **Victim Related Adjustment:** None. | 0 |
| 61. | **Adjustment for Role in the Offense:** None. | 0 |
| 62. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 63. | **Adjusted Offense Level (Subtotal):** | 36 |

# Step Three: additional levels?

| | Count 2: Production of Child Pornography | |
|---|---|---|
| 40. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2251(a) is USSG §2G2.1. The base offense level is 32. USSG § 2G2.1(a). | 32 |
| 41. | **Specific Offense Characteristics:** The offense involved a minor who had attained the age of twelve (12) years but not attained the age of sixteen (16) years, a two-level increase is warranted under USSG § 2G2.1(b)(1)(B)[6]. | +2 |
| 42. | **Specific Offense Characteristics:** The offense involved the use of a computer or an interactive computer service to persuade, induce, entice, coerce a minor to engage in sexually explicit conduct, a two-level increase is warranted under USSG § 2G2.1(b)(6)(B)(i). | +2 |
| 43. | **Victim Related Adjustment:** None. | 0 |
| 44. | **Adjustment for Role in the Offense:** None. | 0 |
| 45. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 46. | **Adjusted Offense Level (Subtotal):** | 36 |

| | Count 7: Production of Child Pornography | |
|---|---|---|
| 57. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2251(a) is USSG §2G2.1. The base offense level is 32. USSG §2G2.1(a). | 32 |
| 58. | **Specific Offense Characteristics:** The offense involved a minor who had attained the age of twelve (12) years but not attained the age of sixteen (16) years, a two-level increase is warranted under USSG § 2G2.1(b)(1)(B)[11]. | +2 |
| 59. | **Specific Offense Characteristics:** The offense involved the use of a computer or an interactive computer service to persuade, induce, entice, coerce a minor to engage in sexually explicit conduct, a two-level increase is warranted under USSG § 2G2.1(b)(6)(B)(i). | +2 |
| 60. | **Victim Related Adjustment:** None. | 0 |
| 61. | **Adjustment for Role in the Offense:** None. | 0 |
| 62. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 63. | **Adjusted Offense Level (Subtotal):** | 36 |

all offenses in Chapter Two, Part A (except §2A3.5);
§§2B2.1, 2B3.1, 2B3.2, 2B3.3;
§2D2.3;
§§2E1.3, 2E1.4, 2E2.1;
§§2G1.1, 2G1.3, 2G2.1;
§§2H1.1, 2H4.1;
§2J1.2, 2J1.3;
§2K1.4;
§§2M3.9, 2M6.1;
§2N1.1;
§2Q1.4;
§2X6.1.

New §3D1.1(b)(1)

# Step Three: additional levels?

| | Count 2: Production of Child Pornography | |
|---|---|---|
| 40. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2251(a) is USSG §2G2.1. The base offense level is 32. USSG § 2G2.1(a). | 32 |
| 41. | **Specific Offense Characteristics:** The offense involved a minor who had attained the age of twelve (12) years but not attained the age of sixteen (16) years, a two-level increase is warranted under USSG § 2G2.1(b)(1)(B)[6]. | +2 |
| 42. | **Specific Offense Characteristics:** The offense involved the use of a computer or an interactive computer service to persuade, induce, entice, coerce a minor to engage in sexually explicit conduct, a two-level increase is warranted under USSG § 2G2.1(b)(6)(B)(i). | +2 |
| 43. | **Victim Related Adjustment:** None. | 0 |
| 44. | **Adjustment for Role in the Offense:** None. | 0 |
| 45. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 46. | **Adjusted Offense Level (Subtotal):** | 36 |

| | Count 7: Production of Child Pornography | |
|---|---|---|
| 57. | **Base Offense Level:** The guideline for a violation of 18 U.S.C. § 2251(a) is USSG §2G2.1. The base offense level is 32. USSG §2G2.1(a). | 32 |
| 58. | **Specific Offense Characteristics:** The offense involved a minor who had attained the age of twelve (12) years but not attained the age of sixteen (16) years, a two-level increase is warranted under USSG § 2G2.1(b)(1)(B)[11]. | +2 |
| 59. | **Specific Offense Characteristics:** The offense involved the use of a computer or an interactive computer service to persuade, induce, entice, coerce a minor to engage in sexually explicit conduct, a two-level increase is warranted under USSG § 2G2.1(b)(6)(B)(i). | +2 |
| 60. | **Victim Related Adjustment:** None. | 0 |
| 61. | **Adjustment for Role in the Offense:** None. | 0 |
| 62. | **Adjustment for Obstruction of Justice:** None. | 0 |
| 63. | **Adjusted Offense Level (Subtotal):** | 36 |

| Number of Counts Covered by Guideline Listed in Paragraph (1) | Increase in Offense Level |
|---|---|
| (A) 2 | add **2** levels |
| (B) 3 | add **3** levels |
| (C) 4 or 5 | add **4** levels |
| (D) 6 or more | add **5** levels. |

New §3D1.1(b)(2)

# Step Four: highest level controls

Count 2: Production of Child Pornogr

40. **Base Offense Level:** The guideline for
§2G2.1. The base offense level is 32. U

41. **Specific Offense Characteristics:** The
the age of twelve (12) years but not att
level increase is warranted under USSG

42. **Specific Offense Characteristics:** The
an interactive computer service to per
engage in sexually explicit conduct, a tw
§ 2G2.1(b)(6)(B)(i).

43. **Victim Related Adjustment:** None.

44. **Adjustment for Role in the Offense:** N

45. **Adjustment for Obstruction of Justic**

46. **Adjusted Offense Level (Subtotal):**

Count 7: Production of Child Pornog

57. **Base Offense Level:** The guideline for
§2G2.1. The base offense level is 32. U

58. **Specific Offense Characteristics:** The
the age of twelve (12) years but not at
level increase is warranted under USSG

59. **Specific Offense Characteristics:** The
an interactive computer service to pe
engage in sexually explicit conduct, a t
§ 2G2.1(b)(6)(B)(i).

60. **Victim Related Adjustment:** None.

61. **Adjustment for Role in the Offense:**

62. **Adjustment for Obstruction of Justic**

63. **Adjusted Offense Level (Subtotal):**

64. **Multiple Count Adjustment:** Units are assigned pursuant to USSG §3D1.4(a), (b) and (c). One unit is assigned to the group with the highest offense level. One additional unit is assigned for each group that is equally serious or from 1 to 4 levels less serious. One-half unit is assigned to any group that is 5 to 8 levels less serious than the highest offense level. Any groups that are 9 or more levels less serious than the highest offense level are disregarded.

| Group/Count | Adjusted Level |
|---|---|
| Count 2 | |
| Count 5 | |
| Count 7 | |
| **Total Number of Units** | 3.0 |

1 LEVEL LOWER!

65. **Greater of the Adjusted Offense Levels Above:** 36

66. **Increase in Offense Level:** The offense level is increased pursuant to the number of units assigned by the amount indicated in the table at USSG §3D1.4. +3

67. **Combined Adjusted Offense Level:** The Combined Adjusted Offense Level is determined by taking the offense level applicable to the Group with the highest offense level and increasing the offense level by the amount indicated in the table at USSG §3D1.4. 39

# Example #4

Bank Robbery, in violation of Title 18, United States Code, Sections 2113(a) and (d), a Class B Felony

Possession of a Firearm in relation to a Crime of Violence, in violation of Title 18 U.S.C. § 924(c)(1)(B)(i), a Class A Felony

Escape, in violation of Title 18, United States Code, Section 751, a Class D felony



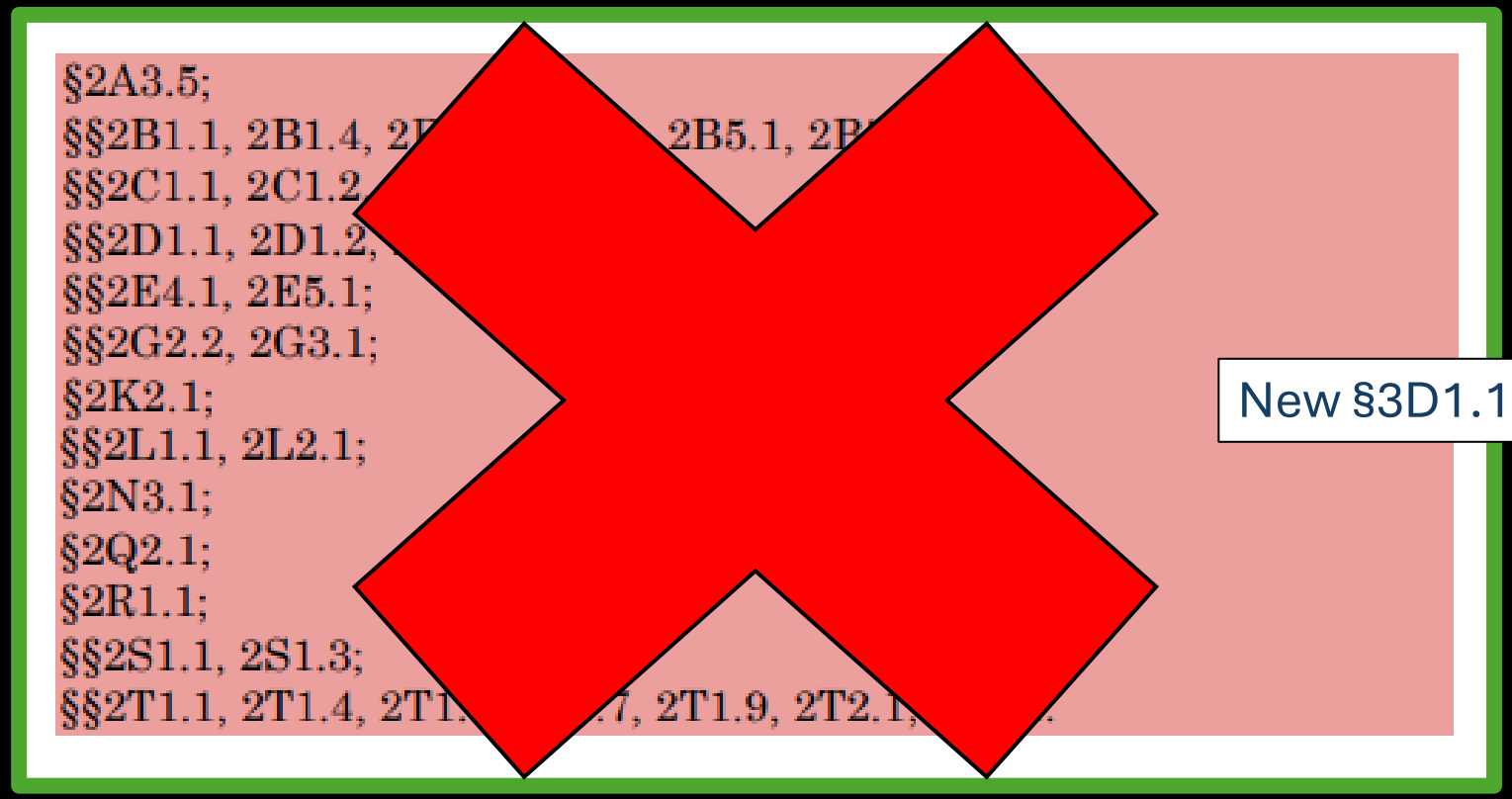
# Step One: calculate in aggregate?

Bank Robbery, in violation [illegible] United States Code, Sections 2113(a) and (d) [illegible] Felony

2B3.1

Escape, in violation of Title [illegible] States Code, Section 751, a Class D felony

2P1.1



# Step Two: calculate each count

Count One - Bank Robbery

20. **Base Offense Level:** The United States Sentencing Commission Guideline for a violation of 18 U.S.C. §§2113(a) and (d) is found in USSG §2B3.1(a) and calls for a base offense level of 20. **20**

21. **Specific Offense Characteristic:** Since the property of a financial institution was taken during the instant offense, the base offense level is increased by two levels, pursuant to USSG §2B3.1(b)(1). **+2**

22. **Victim-Related Adjustments:** None. 0

23. **Adjustments for Role in the Offense:** None. 0

24. **Adjustment for Obstruction of Justice:** None. 0

25. **Adjusted Offense Level (Subtotal)** **22**

Count Five - Escape

27. **Base Offense Level:** The United States Sentencing Commission Guideline for violation of 18 U.S.C. § 751(a) is found in USSG §2P1.1(a)(1) and calls for a base offense level of 13, if the defendant was in custody or confinement by virtue of an arrest on a charge of a felony, or conviction of any offense. In this case, the defendant was being housed at the Greene County Detention Center while in the custody of the Attorney General on the charge of bank robbery. **13**

28. **Specific Offense Characteristic:** Pursuant to USSG §2P1.1(b)(1), if the use or the threat of force against any person was involved, increase the offense level by five levels. In the present case, during the defendant's escape, he assaulted Deputy McCauley, causing serious bodily injury which required stitches. **+5**

29. **Victim-Related Adjustments:** Pursuant to USSG §3A1.2 (c)(2), if, in a manner creating a substantial risk of serious bodily injury, the defendant knowing or having reasonable cause to believe that a person was a prison official, assaulted such official while the defendant was in the custody or control of a prison or other correctional facility, increase by six levels. **+6**

30. **Adjustments for Role in the Offense:** None. 0

31. **Adjustment for Obstruction of Justice:** None. 0

32. **Adjusted Offense Level (Subtotal):** **24**

# Step Three: additional levels?

Count One - Bank Robbery

20. **Base Offense Level:** The United States Sentencing Commission Guideline for a violation of 18 U.S.C. §§2113(a) and (d) is found in USSG §2B3.1(a) and calls for a base offense level of 20. 20

21. **Specific Offense Characteristic:** Since the property of a financial institution was taken during the instant offense, the base offense level is increased by two levels, pursuant to USSG §2B3.1(b)(1). +2

22. **Victim-Related Adjustments:** None. 0

23. **Adjustments for Role in the Offense:** None. 0

24. **Adjustment for Obstruction of Justice:** None. 0

25. **Adjusted Offense Level (Subtotal)** 22

Count Five - Escape

27. **Base Offense Level:** The United States Sentencing Commission Guideline for violation of 18 U.S.C. § 751(a) is found in USSG §2P1.1(a)(1) and calls for a base offense level of 13, if the defendant was in custody or confinement by virtue of an arrest on a charge of a felony, or conviction of any offense. In this case, the defendant was being housed at the Greene County Detention Center while in the custody of the Attorney General on the charge of bank robbery. 13

28. **Specific Offense Characteristic:** Pursuant to USSG §2P1.1(b)(1), if the use or the threat of force against any person was involved, increase the offense level by five levels. In the present case, during the defendant's escape, he assaulted Deputy McCauley, causing serious bodily injury which required stitches. +5

29. **Victim-Related Adjustments:** Pursuant to USSG §3A1.2 (c)(2), if, in a manner creating a substantial risk of serious bodily injury, the defendant knowing or having reasonable cause to believe that a person was a prison official, assaulted such official while the defendant was in the custody or control of a prison or other correctional facility, increase by six levels. +6

30. **Adjustments for Role in the Offense:** None. 0

31. **Adjustment for Obstruction of Justice:** None. 0

32. **Adjusted Offense Level (Subtotal):** 24

all offenses in Chapter [illegible] Part A (except [illegible].5);
§§2B2.1, 2B3.1, 2B3 [illegible]
§2D2.3;
§§2E1.3, 2E1.4, 2E2 [illegible]
§§2G1.1, 2G1.3, 2G2.1 [illegible]
§§2H1.1, 2H4.1;
§2J1.2, 2J1.3;
§2K1.4;
§§2M3.9, 2M6.1;
§2N1.1;
§2Q1.4;
§2X6.1.

New §3D1.1(b)(1)

# Step Four: highest level controls

Count One - Bank Robbery

20. **Base Offense Level:** The United St violation of 18 U.S.C. §§2113(a) and ( base offense level of 20.

21. **Specific Offense Characteristic:** Sinc during the instant offense, the base offe USSG §2B3.1(b)(1).

22. **Victim-Related Adjustments:** None.

23. **Adjustments for Role in the Offense:**

24. **Adjustment for Obstruction of Justi**

25. **Adjusted Offense Level (Subtotal)**

| | **Multiple-Count Adjustment** (See § 3D1.4) | | **Units** |
|---|---|---|---|
| 33. | Adjusted Offense Level for Count One | 22 | 1 |
| 34. | Adjusted Offense Level for C | 24 | 1 |
| 35. | Total Number of Un | | 2 |
| 36. | Greater Ad | | 24 |
| 37. | Increa | | 2 |
| 38. | **Combine** | | **26** |
| 39. | **Adjustment of Responsibility:** None. | | 0 |
| 40. | **Adjusted Offen Level:** | | **26** |

**2 LEVELS LOWER!**

ng Commission Guideline for 2P1.1(a)(1) and calls for a base onfinement by virtue of an arrest . In this case, the defendant was er while in the custody of the **13**

§2P1.1(b)(1), if the use or the crease the offense level by five s escape, he assaulted Deputy ed stitches. **+5**

§3A1.2 (c)(2), if, in a manner e defendant knowing or having official, assaulted such official f a prison or other correctional **+6**

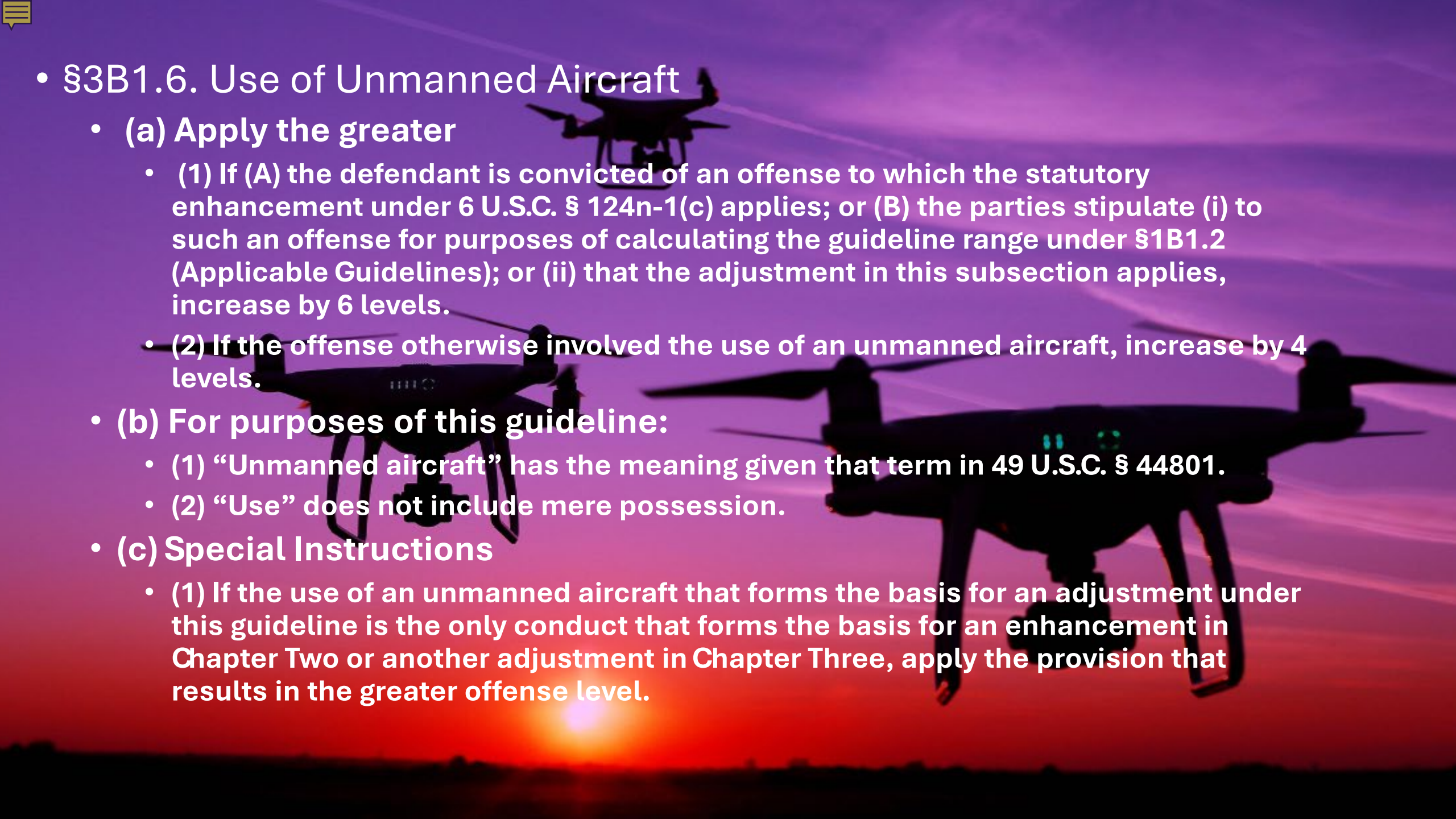
0

31. **Adjustment for Obstruction of Justice:** None.

32. **Adjusted Offense Level (Subtotal):** **24**


Miscellaneous


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- §3B1.6. Use of Unmanned Aircraft
  - (a) Apply the greater
    - (1) If (A) the defendant is convicted of an offense to which the statutory enhancement under 6 U.S.C. § 124n-1(c) applies; or (B) the parties stipulate (i) to such an offense for purposes of calculating the guideline range under §1B1.2 (Applicable Guidelines); or (ii) that the adjustment in this subsection applies, increase by 6 levels.
    - (2) If the offense otherwise involved the use of an unmanned aircraft, increase by 4 levels.
  - (b) For purposes of this guideline:
    - (1) "Unmanned aircraft" has the meaning given that term in 49 U.S.C. § 44801.
    - (2) "Use" does not include mere possession.
  - (c) Special Instructions
    - (1) If the use of an unmanned aircraft that forms the basis for an adjustment under this guideline is the only conduct that forms the basis for an enhancement in Chapter Two or another adjustment in Chapter Three, apply the provision that results in the greater offense level.



# Minor Role Update

(e) Special ~~Instruction~~Instructions

(2) Application of §3B1.2 (Mitigating Role) to §2D1.1 Cases

(A) Determine whether an adjustment under §3B1.2 (Mitigating Role) applies.

(B) In addition to the circumstances identified in §3B1.2, an adjustment under §3B1.2 is generally warranted if the defendant's primary function in the offense was performing a low-level trafficking function.

B. In addition to the circumstances identified in §3B1.2, an adjustment under § 3B1.2 is **generally warranted** if the defendant's **primary function** in the offense was performing a **low-level trafficking** function.

commit such an offense and was motivated by an intimate or familial relationship, or by threats or fear to commit the offense).

(e) Special ~~Instruction~~Instructions

(2) Application of §3B1.2 (Mitigating Role) to §2D1.1 Cases

(A) Determine whether an adjustment under §3B1.2 (Mitigating Role) applies.

(B)(1) An adjustment under **§ 3B1.2(a)** is **generally warranted** if the defendant's **primary function** in the offense was plainly among the lowest level of drug trafficking functions, **such as** serving as a **courier**, **running errands**, **sending or receiving phone calls or messages**, or acting as a **lookout**.

-4

(ii) an adjustment under §3B1.2(b) is generally warranted if the defendant's primary function in the offense was performing another low-level trafficking function, such as distributing controlled substances in user-level quantities for little or no monetary compensation or with a primary motivation other than profit (*e.g.*, the defendant was otherwise unlikely to commit such an offense and was motivated by an intimate or familial relationship, or by threats or fear to commit the offense).

(e) Special ~~Instruction~~Instructions

(2) Application of §3B1.2 (Mitigating Role) to §2D1.1 Cases

(A) Determine whether an adjustment under §3B1.2 (Mitigating Role) applies.

(B) In addition to the circumstances identified in §3B1.2, an adjustment under §3B1.2 is generally warranted if the defendant's primary function in the offense was performing a low-level trafficking function.

commit such an offense and was motivated by an intimate or familial relationship, or by threats or fear to commit the offense).

(B)(2) An adjustment under **§ 3B1.2(b)** is **generally warranted** if the defendant's **primary function** in the offense was performing another low-level trafficking function, **such as distributing controlled substances in user-level quantities for little or no compensation** or **with a primary motivation other than profit** (e.g. the defendant was otherwise unlikely to commit such an offense and was motivated by an intimate or familial relationship, or by threats or fear to commit the offense).

-2

