

## APPENDIX D

### Sexual Abuse, Transporting, Pornography and Obscenity Guidelines

#### §2A3.1: Criminal Sexual Abuse; Attempt to Commit Criminal Sexual Abuse

BOL: 27

SOC: +4, if the offense was committed by mean set in 18 U.S.C. §2241(a) or (b) (including but not limited to, the use or display of any dangerous weapon);

+4, (A) if the victim had not attained the age of 12 years

+2, (B) if the victim had attained the age of 12 years but had not attained the age of 16 years;

+2, if the victim was (A) in the custody, care or supervisory control of the defendant OR (B) a person held in the custody of a correctional facility;

+4, (A) if the victim sustained permanent or life-threatening bodily injury;

+2, (B) if the victim sustained serious bodily injury;

+3, (C) if the degree of injury is between that specified in (A) and (B);

+4, if the victim was abducted.

#### CROSS-REFERENCE:

Apply **§2A1.1** if a victim was killed under circumstances that would constitute murder under 18 U.S.C. §1111 had such killing taken place within the territorial or maritime jurisdiction of the United States.

#### SPECIAL INSTRUCTION

Apply **§3A1.2**, if the offense occurred in a correctional facility and the victim was a corrections employee.

**§2A3.2: Criminal Sexual Abuse of a Minor (Statutory Rape) or Attempt to Commit Such Acts**

BOL: 15

SOC: +2, if the victim was in the custody, care of supervisory control of the defendant.

CROSS-REFERENCE

Apply **§2A3.1** if the offense involved criminal sexual abuse or attempt to commit criminal sexual abuse (as defined in 18 U.S.C. §2241 or §2242).

**§2A3.3: Criminal Sexual Abuse of a Ward or Attempt to Commit Such Acts**

BOL: 9

**§2A3.4: Abusive Sexual Contact or Attempt to Commit Abusive Sexual Contact**

BOL: 16, if the offense was committed by the means set in 18 U.S.C. §2241(a) or (b);  
12, if the offense was committed by the mean set in 18 U.S.C. §2242;  
10, otherwise.

SOC: +4 (or to level 16), if the victim had not attained the age of 12 years;

+2, if the BOL is determined under (a)(1) or (2) and the victim had attained the age of 12 years but had not attained the age of 16 years;

+2, if the victim was in the custody, care or supervisory control of the defendant.

CROSS-REFERENCE

Apply **§2A3.1** if the offense involved criminal sexual abuse or attempt to commit criminal sexual abuse (as defined in 18 U.S.C. §2241 or 2242);

Apply **§2A3.2** if the offense involved criminal sexual abuse of a minor or attempt to commit criminal sexual abuse of a minor (as defined in 18 U.S.C. §2243(a)).

**§2G1.1: Promoting Prostitution or Prohibited Sexual Conduct**

BOL: 14

SOL: +4, if the offense involved the use of physical force, or coercion by threats or drugs or in any manner;

- +9**, (A) if the victim had not attained the age of 12 years;
  - +7**, (B) if the victim had attained the age of 12 years but had not attained the age of 16 years
  - +5**, (C) if the victim had attained the age of 16 years but had not attained the age of 18 years;
- +2**, if (b)(2) applies and (A) the defendant was a parent, relative, or legal guardian of the victim OR (B) the victim was otherwise in the custody, care or supervisory control of the victim.

## CROSS-REFERENCE

Apply **§2G2.1** if the offense involved causing, transporting, permitting, or offering or seeking by notice or advertisement, a person less than 18 years of age to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct;

Apply **§2A3.1** if the offense involved criminal sexual abuse, attempted criminal sexual abuse, or assault with intent to commit criminal sexual abuse;

If the offense did not involve promoting prostitution and neither (c)(1) nor (c)(2) is applicable, use the offense guideline applicable to the underlying prohibited sexual conduct. If no offense guideline is applicable to the prohibited sexual conduct apply **§2X5.1**.

## SPECIAL INSTRUCTIONS

If the offense involved more than one victim, Chapter Three, Part D (Multiple Counts) shall be applied as if the promoting of prostitution or prohibited sexual conduct in respect to each victim had been contained in a separate count of conviction.

**§2G2.1: Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material; Custodian Permitting Minor to Engage in Sexually Explicit Conduct; Advertisement for Minors to Engage in Production**

BOL: 27

SOC: +4, if the victim had not attained the age of 12 years

+2, if the victim had attained the age of 12 years but not attained the age of 16 years;

+2, if the defendant was a parent, relative or legal guardian of the minor involved in the offense, or if the minor was otherwise in the custody, care or supervisory control of the defendant;

+2, if a computer was used to solicit participation by or with a minor in sexually explicit conduct for the purpose of producing sexually explicit material.

**SPECIAL INSTRUCTION**

If the offense involved the exploitation of more than one minor, Chapter Three, Part D (Multiple Counts) shall be applied as if the exploitation of each minor had been contained in a separate count of conviction.

**§2G2.2: Trafficking in Material Involving the Sexual Exploitation of a Minor; Receiving, Transporting, Shipping, or Advertising Material Involving the Sexual Exploitation of a Minor; Possessing Material Involving the Sexual Exploitation of a Minor with Intent to Traffic**

BOL: 17

SOC: +2, if the material involved a prepubescent minor or a minor under the age of 12 years;

If the offense involved distribution, increase by the number of levels from the table in §2F1.1 corresponding to the retail value of the material but in no event by less than 5 levels;

+4, if the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence;

+5, if the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor;

+2, if a computer was used for the transmission of the material or a notice or advertisement of the material

**CROSS-REFERENCE**

Apply **§2G2.1** if the offense involved causing, transporting, permitting, or offering or seeking by notice or advertisement, a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct.

**§2G2.4: Possession of Materials Depicting a Minor Engaged in Sexually Explicit Conduct**

BOL: 15

SOC: +2, if the material involved a prepubescent minor or a minor under the age of 12 years;

+2, if the offense involved possessing ten or more books, magazines, periodicals, films, video tapes, or other items, containing a visual depiction involving the sexual exploitation of a minor;

+2, if the defendant's possession of the material resulted from the defendant's use of a computer.

CROSS-REFERENCE

Apply **§2G2.1** if the offense involved causing, transporting, permitting, or offering or seeking by notice or advertisement, a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct;

Apply **§2G2.2** if the offense involved trafficking in material involving the sexual exploitation of a minor.