

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS<sup>1</sup>**  
**Post-Blakely 2004<sup>2</sup>**

Guideline and SOC	Applied <sup>3</sup>	Percent <sup>4</sup>
<b>Part A - Offenses Against Person</b>		
§2A1.1 First Degree Murder	29	0.2
No Specific Offense Characteristics for this guideline	NA	NA
§2A1.2 Second Degree Murder	11	0.1
No Specific Offense Characteristics for this guideline	NA	NA
§2A1.3 Voluntary Manslaughter	5	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2A1.4 Involuntary Manslaughter	13	0.1
(a)(1) Criminally negligent (Base offense level 10) <sup>5</sup>	4	30.8
(a)(1) Criminally negligent (Base offense level 12) <sup>6</sup>	1	7.7
(a)(2) Reckless (Base offense level 14)	6	45.2
(a)(2) Reckless (Base offense level 18) <sup>6</sup>	2	15.4
§2A1.5 Conspiracy or Solicitation to Commit Murder	1	0.0
(b)(1) Offer/receipt of anything of pecuniary value for undertaking the murder (4 levels)	0	0.0

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<sup>1</sup> The information in this tables depicts information collected from only those cases in which complete guideline information is available. Of the 70,068 cases in which the Commission received, 18,203 were sentenced after the United States Supreme Court decision in *Washington v Blakely* (decision date: June 24, 2004) during fiscal year 2004. Of the 18,203 cases, 14,734 contained complete guideline information (80.9 percent). It is possible for multiple guideline calculations for each case, and this table represents each guideline calculation for cases in which complete information was received.

<sup>2</sup> Post-*Blakely* 2004 data represents guideline application from guidelines effective November 1, 2003 unless otherwise specified.

<sup>3</sup> This column represents the number of times each guideline or Specific Offense Characteristic is applied.

<sup>4</sup> The “Percent” column represents, for each guideline, the percent of all guideline calculations in which the specific guideline was involved. For each Specific Offense Characteristic (SOC), the percent represents the percentage that the specific (SOC) was used in the calculations for the specific guideline.

<sup>5</sup> Only values which are allowable, according to the sentencing manual, are counted.

<sup>6</sup> Base offense level was increased on November 1, 2003.

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<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2A2.1 Assault with Intent to Commit Murder: Attempted Murder	19	0.1
(a)(1) Offense would have constituted first degree murder (Base offense level 28)	17	89.5
(a)(2) Otherwise (Base offense level 22)	2	10.5
(b)(1)(A) Permanent or life-threatening bodily injury (4 levels)	1	5.3
(b)(1)(B) Between permanent/life-threatening and serious bodily injury (3 levels)	0	0.0
(b)(1)(C) Serious bodily injury (2 levels)	3	15.8
(b)(2) Offer/receipt of anything of pecuniary value for undertaking the murder (4 levels)	1	5.3
§2A2.2 Aggravated Assault	85	0.6
(b)(1) More than minimal planning (2 levels)	3	3.5
(b)(2)(A) Firearm discharged (5 levels)	8	9.4
(b)(2)(B) Dangerous weapon otherwise used (4 levels)	48	56.5
(b)(2)(C) Dangerous weapon brandished or threatened (3 levels)	4	4.7
(b)(3)(C) Permanent or life-threatening injury (6 levels)	4	4.7
(b)(3)(E) Between permanent/life-threatening and serious bodily injury (5 levels)	11	12.9
(b)(3)(B) Serious bodily injury (4 levels)	28	32.9
(b)(3)(D) Between serious and "simple" bodily injury (3 levels)	2	2.4
(b)(3)(A) "Simple" bodily injury (2 levels)	20	23.5
(b)(4) Assault motivated by payment or offer of money or thing of value (2 levels)	0	0.0
(b)(5) Assault involved violation of a court protection order (2 levels)	3	3.5
§2A2.3 Minor Assault	3	0.0
(a)(1) Physical contact or dangerous weapon possessed/threatened (Base offense level 6)	3	100.0
(a)(2) Other than the behavior in (a)(1) (Base offense level 3)	0	0.0
(b)(1) Substantial bodily injury to victim under age of 16 (4 levels)	2	66.7
§2A2.4 Obstructing or Impeding Officers	44	0.3
(b)(1) Physical contact or dangerous weapon possessed/threatened (3 levels)	32	72.7

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<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2A3.1 Criminal Sexual Abuse (Rape)	42	0.3
(b)(1) Offense committed by means set forth in 18 U.S.C. § 2241(a) or (b) (4 levels)	14	33.3
(b)(2)(A) Victim under age of 12 (4 levels)	24	57.1
(b)(2)(B) Victim between 12 and 16 (2 levels)	1	2.4
(b)(3)(A)& (B) Victim in custody, care or control or in a correctional facility (2 levels)	17	40.5
(b)(4)(A) Permanent or life-threatening bodily injury (4 levels)	0	0.0
(b)(4)(B) Between permanent/life-threatening and serious bodily injury (3 levels)	0	0.0
(b)(4)(C) Serious bodily injury (2 levels)	0	0.0
(b)(5) Victim abducted (4 levels)	1	2.4
(b)(6)(A)&(B) Misrepresentation or use of a computer to persuade a minor (2 levels)	9	21.4
§2A3.2 Criminal Sexual Abuse of a Minor (Statutory Rape)	43	0.3
(a)(1) Violation of Chapter 117 of Title 18 and the commission of a sex act (BOL 24)	9	20.9
(a)(1) Violation of Chapter 117 of Title 18 (Base offense level 18) <sup>7</sup>	0	0.0
(a)(2) Other than a violation of Chapter 117 of Title 18 (Base offense level 15) <sup>7</sup>	1	2.3
(a)(2) Violation of Chapter 117 of Title 18 and no sex act or sexual contact (BOL 21)	20	46.5
(a)(3) Other than (a)(1) or (a)(2) (Base offense level 18)	13	30.2
(b)(1) Victim in custody, care or control of the defendant (2 levels)	3	7.0
(b)(2)(A)&(B) Misrepresentation of identity or undue influence (2 levels)	15	34.9
(b)(3)(A)&(B) Use of a computer (2 levels)	26	60.5
(b)(4) If subsection (a)(1) applies and (b)(1),(2) and (3) do not apply (6 level decrease)	0	0.0
§2A3.3 Criminal Sexual Abuse of a Ward	2	0.0
(b)(1)(A)&(B) Misrepresentation of identity (2 levels)	0	0.0
(b)(2) Use of a computer (2 levels)	0	0.0

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<sup>7</sup> This base offense level was increased on November 1, 2001.

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<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2A3.4 Abuse Sexual Contact	5	0.0
(a)(1) If offense committed by means in 18 U.S.C. § 2241(a) or (b) (BOL 16)	1	20.0
(a)(2) If offense committed by means in 18 U.S.C. § 2242 (Base offense level 12)	0	0.0
(a)(3) Other than (a)(1) or (a)(2) (Base offense level 10)	4	80.0
(b)(1) Victim under the age of 12 (4 levels or increase to level 16)	2	40.0
(b)(2) Victim between 12 and 16 (2 levels)	0	0.0
(b)(3) Victim was in custody, care or control (2 levels)	3	60.0
(b)(4) Misrepresentation of identity (2 levels)	0	0.0
(b)(5) Use of a computer (2 levels)	0	0.0
(b)(6) Violation of Chapter 117 of Title 18 (3 levels)	1	20.0
§2A4.1 Kidnaping, Abduction or Unlawful Restraint	36	0.2
(a) Base offense level 32	5	13.9
(a) Base offense level 24 <sup>8</sup>	31	86.1
(b)(1) Ransom demanded or a demand upon the government (6 levels)	27	75.0
(b)(2)(A) Victim sustained permanent or life-threatening bodily injury (4 levels)	0	0.0
(b)(2)(B) Between permanent or life-threatening and serious bodily injury (3 levels)	0	0.0
(b)(2)(C) Serious bodily injury (2 levels)	1	2.8
(b)(3) Dangerous weapon used (2 levels)	22	61.1
(b)(4)(A) Victim not released before 30 days (2 levels)	0	0.0
(b)(4)(B) Victim not release before seven days (1 level)	5	13.9
(b)(4)(C) Victim released before 24 hours (1 level decrease)	0	0.0
(b)(5) Victim sexually exploited (3 levels)	1	2.8
(b)(6) Victim was a minor, and in exchange for money, in custody, care or control (3 lev)	0	0.0
(b)(7)(A) Abduction in connection with another crime (increase to applicable g'line)	2	5.6
(b)(7)(B) Abduction in connection with another crime (4 levels)	1	2.8
§2A4.2 Demanding or Receiving Ransom Money	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

<sup>8</sup> Base offense level increased on November 1, 2003.

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<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2A5.1 Aircraft Piracy or Attempted Aircraft Piracy	0	0.0
(b)(1) Death resulting from act (5 levels)	0	0.0
§2A5.2 Interference with Flight Crew Member or Mass Transportation Vehicle or Ferry	2	0.0
(a)(1) Intentionally endangering safety of above stated transportation (BOL 30)	0	0.0
(a)(2) Recklessly endangering safety of above stated transportation (BOL 18)	0	0.0
(a)(3) If an assault occurred, most analogous BOL from §§ 2A2.1-2A2.4	0	0.0
(a)(4) Other than behavior in (a)(1)-(a)(3) (Base offense level 9)	2	100.0
(b)(1)(i) Subsection (a)(1) or (a)(2) applies, firearm discharged (5 levels)	0	0.0
(b)(1)(ii) Subsection (a)(1) or (a)(2) applies, dangerous weapon otherwise used (4 levels)	0	0.0
(b)(1)(iii) Subsection (a)(1) or (a)(2) applies, weapon brandished/threatened (3 levels)	0	0.0
§2A5.3 Committing Certain Crimes Aboard Aircraft	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2A6.1 Threatening or Harassing Communication	37	0.2
(a)(2) Convicted of 47 U.S.C. § 223(a)(1)(C) - (E) not involving threat to injure (BOL 6)	1	2.7
(a)(1) Conviction other than (a)(1) (Base offense level 12)	36	97.3
(b)(1) Conduct evidencing an intent to carry out such threat (6 levels)	3	8.1
(b)(2) More than two threats (2 levels)	6	16.2
(b)(3) Violation of a court protection order (2 levels)	0	0.0
(b)(4) Disruption in functions or substantial expenditure of funds to clean (4 levels)	3	8.1
(b)(5) If subsection (a)(2) and (b)(1)-(b)(4) do not apply (4 level decrease) <sup>9</sup>	11	29.7
§2A6.2 Stalking or Domestic Violence	3	0.0
(a) Base offense level 18	3	100.0
(a) Base offense level 14 <sup>10</sup>	0	0.0
(b)(1)(A)-(D) Violation of court order, bodily injury, weapon or pattern (2 levels)	1	33.3
(b)(1)(A)-(D) Violation of more than one of above (4 levels)	1	33.3

<sup>9</sup> Originally §2A6.1(b)(4) until November 1, 2002.

<sup>10</sup> Base offense level increased on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part B - Basic Economic Offenses</b>		
§2B1.1 Larceny, Embezzlement, Theft, and Fraud	1,697	11.0
(a)(1) Base offense level 4 <sup>11</sup>	57	3.4
(a)(1) Base offense level 6 <sup>12</sup>	315	18.6
(a)(1) Base offense level 7 (Statutory maximum of 20 years or more)	91	5.4
(a)(2) Otherwise Base offense level 6	1,233	72.7
(b)(1)(A) \$100 or less <sup>13</sup> (0 levels)	1	0.1
(b)(1)(A) \$5,000 or less (0 levels)	481	28.3
(b)(1)(B) Between \$100 and \$1,000 <sup>13</sup> (1 level)	4	0.2
(b)(1)(B) Between \$5,000 and \$10,000 (2 levels)	137	8.1
(b)(1)(C) Between \$1,000 and \$2,000 <sup>13</sup> (2 levels)	1	0.1
(b)(1)(D) Between \$2,000 and \$5,000 <sup>13</sup> (3 levels)	3	0.2
(b)(1)(C) Between \$10,000 and \$30,000 (4 levels)	322	19.0
(b)(1)(E) Between \$5,000 and \$10,000 <sup>13</sup> (4 levels)	3	0.2
(b)(1)(F) Between \$10,000 and \$20,000 <sup>13</sup> (5 levels)	6	0.4
(b)(1)(D) Between \$30,000 and \$70,000 (6 levels)	279	16.4
(b)(1)(G) Between \$20,000 and \$40,000 <sup>13</sup> (6 levels)	6	0.4
(b)(1)(H) Between \$40,000 and \$70,000 <sup>13</sup> (7 levels)	3	0.2
(b)(1)(E) Between \$70,000 and \$120,000 (8 levels)	128	7.5
(b)(1)(I) Between \$70,000 and \$120,000 <sup>13</sup> (8 levels)	4	0.2
(b)(1)(J) Between \$120,000 and \$200,000 <sup>13</sup> (9 levels)	7	0.4
(b)(1)(F) Between \$120,000 and \$200,000 (10 levels)	94	5.5
(b)(1)(K) Between \$200,000 and \$350,000 <sup>13</sup> (10 levels)	5	0.3
(b)(1)(L) Between \$350,000 and \$500,000 <sup>13</sup> (11 levels)	5	0.3
(b)(1)(G) Between \$200,000 and \$400,000 (12 levels)	72	4.2
(b)(1)(M) Between \$500,000 and \$800,000 <sup>13</sup> (12 levels)	3	0.2

<sup>11</sup> Base offense level was increased on November 1, 2001.

<sup>12</sup> Base offense level was altered on November 1, 2003.

<sup>13</sup> Dollar amount and offense levels for this Specific Offense Characteristic changed on November 1, 2001.

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<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2B1.1 Larceny, Embezzlement, Theft, and Fraud (continued)	1,697	11.0
(b)(1)(N) Between \$800,000 and \$1,500,000 <sup>13</sup> (13 levels)	4	0.2
(b)(1)(H) Between \$400,000 and \$1,000,000 (14 levels)	75	4.4
(b)(1)(O) Between \$1,500,000 and \$2,500,000 <sup>13</sup> (14 levels)	2	0.1
(b)(1)(P) Between \$2,500,000 and \$5,000,000 <sup>13</sup> (15 levels)	1	0.1
(b)(1)(I) Between \$1,000,000 and \$2,500,000 (16 levels)	28	1.6
(b)(1)(Q) Between \$5,000,000 and \$10,000,000 <sup>13</sup> (16 levels)	1	0.1
(b)(1)(J) Between \$2,500,000 and \$7,000,000 (18 levels)	9	0.5
(b)(1)(K) Between \$7,000,000 and \$20,000,000 (20 levels)	9	0.5
(b)(1)(L) Between \$20,000,000 and \$50,000,000 (22 levels)	4	0.2
(b)(1)(M) Between \$50,000,000 and \$100,000,000 (24 levels)	8	0.1
(b)(2)(A) More than 10 but less than 50 victims or mass marketing (2 levels)	128	7.5
(b)(2)(B) More than 50 victims but less than 250 victims <sup>14</sup> (4 levels)	65	3.8
(b)(2)(C) More than 250 victims (6 levels)	5	0.3
(b)(3) Theft was from another person <sup>15</sup> (2 levels)	16	0.9
(b)(4)(A) More than minimal planning <sup>16</sup> (2 levels)	31	1.8
(b)(4)(B) Receiving stolen property as a business <sup>17</sup> (4 levels)	2	0.1
(b)(4) Receiving stolen property as a business (2 levels)	9	0.5

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<sup>14</sup> Threshold amounts and levels were changed for this Specific Offense Characteristic (SOC) on November 1, 2003.

<sup>15</sup> This SOC was changed from §2B1.1(b)(2) on November 1, 2001.

<sup>16</sup> This SOC was deleted on November 1, 2001.

<sup>17</sup> This SOC was changed to §2B1.1(b)(4) on November 1, 2001 and decreased to a two level enhancement at this time.

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<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2B1.1 Larceny, Embezzlement, Theft, and Fraud (continued)	1,697	11.0
(b)(5) Misappropriation of trade secrets or benefit foreign government <sup>18</sup> (2 levels)	0	0.0
(b)(6) Theft or damage to a national cemetery (2 levels)	1	0.1
(b)(7) Misrepresentation in several ways (2 levels, if less than 10)	38	2.2
(b)(8)(A)-(C) Offender relocated/committed crime outside U.S./sophisticated means (2 levels, increase to 12)	76	4.5
(b)(9)(A)-(C) Possession/production or trafficking in devices (2 levels, increase to 12)	198	11.7
(b)(10) Organized scheme to steal vehicles <sup>19</sup> (two levels)	1	0.1
(b)(11) Conscious/reckless risk of injury/possession of weapon (2 levels, increase to 14)	9	0.5
(b)(12)(A) More than \$1,000,000 derived from financial institution (2 levels)	8	0.5
(b)(12)(B) Jeopardized the safety and soundness of financial institution (4 or more lev)	3	0.2
(b)(13)(A)(i) Convicted of 18 U.S.C. §1030 and involved (I) computer system or (II) attempt to obtain personal information (two levels)	2	0.1
(b)(13)(A)(ii) Convicted of 18 U.S.C. §1830(a)(5)(A)(i) (4 levels)	1	0.1
(b)(13)(A)(iii) Convicted of 18 U.S.C. §1380 and substantial disruption of a critical infrastructure (6 levels)	0	0.0
(b)(13)(B) if (A)(iii) applies and less than level 24, increase to level 24	0	0.0
(b)(14) violation of (A) securities law or (B) commodities law (4 levels)	1	0.1
§2B1.3 Property Damage or Destruction <sup>20</sup>	2	0.0
(b)(1) Loss between \$40,000 and \$70,000 (7 levels)	1	50.0
(b)(1) Loss between \$350,000 and \$500,000 (11 levels)	1	50.0
(b)(2) Undelivered mail destroyed (increase to level 6)	0	0.0
(b)(3) More than minimal planning (2 levels)	1	50.0
(b)(4) National cemetery damaged or destroyed (2 levels)	0	0.0

<sup>18</sup> This SOC was formerly §2B1.1(b)(7) and changed on November 1, 2001. The statistics reflect all instances of the application of this SOC.

<sup>19</sup> This SOC was formerly §2B1.1(b)(5) on November 1, 2001. The statistics reflect all instances of the application of this SOC.

<sup>20</sup> This guideline was consolidated with §2B1.1 on November 1, 2001.

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<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2B1.4 Insider Trading	0	0.0
(b)(1) Loss according to Loss Table	0	0.0
§2B1.5 Theft or Damage of Cultural Heritage Resources	2	0.0
(b)(1)(A) Loss between \$2,000 and \$5,000 (1 level)	0	0.0
(b)(1)(B) Loss between \$5,000 and \$10,000 (2 levels)	0	0.0
(b)(2) Involved (A) national park system, (B) National Historical Landmark, (C) national monument, (D) national marine sanctuary, (E) national cemetery, (F) museum, or (G) World Heritage List (2 levels)	0	0.0
(b)(3) Involved (A) human remains, (B) funerary object, (C) cultural patrimony, (D) sacred object, (E) cultural property, (F) archaeological material, (G) pre-Columbian mural (2 levels)	0	0.0
(b)(4) Committed for pecuniary gain (2 levels)	0	0.0
(b)(5) Pattern of misconduct involving cultural heritage resources (2 levels)	0	0.0
(b)(6) Dangerous weapon brandished/threatened (2 levels or increase to level 14)	0	0.0
§2B2.1 Burglary of a Residence	39	0.2
(a)(1) Burglary of a residence (Base offense level 17)	12	30.8
(a)(2) Burglary of a structure other than a residence (Base offense level 12)	27	69.2
(b)(1) More than minimal planning (2 levels)	19	48.7
(b)(2)(B) Between \$2,500 and \$10,000 loss (one level)	6	15.4
(b)(2)(C) Between \$10,000 and \$50,000 loss (2 levels)	7	18.0
(b)(2)(D) Between \$50,000 and \$250,000 loss (3 levels)	7	18.0
(b)(2)(E) Between \$250,000 and \$800,000 (4 levels)	0	0.0
(b)(2)(F) Between \$800,000 and \$1,500,000 (5 levels)	0	0.0
(b)(2)(G) Between \$1,500,000 and \$2,500,000 (6 levels)	0	0.0
(b)(2)(H) Between \$2,500,000 and \$5,000,000 (7 levels)	0	0.0
(b)(2)(I) More than \$5,000,000 (8 levels)	0	0.0
(b)(3) Firearm, destructive device or controlled substance taken (one level)	3	7.7
(b)(4) Dangerous weapon possessed (2 levels)	5	12.8

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<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2B2.3 Trespass	1	0.0
(b)(1)(A)-(E) Occurred at government or nuclear facility, vessel of U.S., secured airport area or a residence (2 levels)	0	0.0
(b)(2) Dangerous weapon possessed (2 levels)	0	0.0
(b)(3)(A)(B)(i) Invasion of a computer, loss between \$2,000 and \$5,000 (1 level)	0	0.0
(b)(3) Invasion of a computer, loss according to §2B1.1 loss table (between 2 and 26 lev)	0	0.0
§2B3.1 Robbery	765	5.0
(b)(1) Financial institution or post offense subject of offense (2 levels)	604	79.0
(b)(2)(A) Firearm discharged (7 levels)	3	0.4
(b)(2)(B) Firearm otherwise used (6 levels)	25	3.3
(b)(2)(C) Firearm brandished or possessed (5 levels)	82	10.7
(b)(2)(D) Dangerous weapon otherwise used (4 levels)	17	1.7
(b)(2)(E) Dangerous weapon brandished or possessed (3 levels)	102	13.3
(b)(2)(F) Threat of death (2 levels)	109	14.2
(b)(3)(A) Bodily injury occurred (2 levels)	26	3.4
(b)(3)(B) Serious bodily injury (4 levels)	12	1.6
(b)(3)(C) Permanent/life-threatening bodily injury (6 levels)	1	0.1
(b)(3)(D) Between bodily and serious bodily injury (3 levels)	0	0.0
(b)(3)(E) Between serious and permanent/life-threatening bodily injury (5 levels)	0	0.0
(b)(4)(A) Person abducted during offense (4 levels)	19	2.5
(b)(4)(B) Person physically restrained during offense (2 levels)	40	5.2
(b)(5) Offense involved carjacking (2 levels)	37	4.8
(b)(6) Obtaining firearm, destructive device or controlled substance object of offense <sup>21</sup> (one level)	10	1.3

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<sup>21</sup> This Specific Offense Characteristic (SOC) was changed from §2B3.1(b)(5) on November 1, 1997. There were no cases sentenced from prior to that amendment year.

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<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2B3.1 Robbery (continued)	765	5.0
(b)(7)(B) Loss between \$10,000 and \$50,000 (one level)	114	14.9
(b)(7)(C) Loss between \$50,000 and \$250,000 (2 levels)	36	4.7
(b)(7)(D) Loss between \$250,000 and \$800,000 (3 levels)	4	0.5
(b)(7)(E) Loss between \$800,000 and \$1,500,000 (4 levels)	0	0.0
(b)(7)(F) Loss between \$1,500,000 and \$2,500,000 (5 levels)	5	0.6
(b)(7)(G) Loss between \$2,500,000 and \$5,000,000 (6 levels)	1	0.1
(b)(7)(H) Loss more than \$5,000,000 (7 levels)	0	0.0
§2B3.2 Extortion by Force	11	0.1
(b)(1) Express or implied threat of death, bodily injury or kidnaping (2 levels)	10	90.9
(b)(2) Amount demanded between \$10,000 and \$50,000 (one level)	2	18.2
(b)(2) Amount demanded between \$50,000 and \$250,000 (2 levels)	2	18.2
(b)(2) Amount demanded between \$250,000 and \$800,000 (3 levels)	0	0.0
(b)(2) Amount demanded between \$800,000 and \$1,500,000 (4 levels)	2	18.2
(b)(2) Amount demanded between \$1,500,000 and \$2,500,000 (5 levels)	0	0.0
(b)(2) Amount demanded between \$2,500,000 and \$5,000,000 (6 levels)	0	0.0
(b)(2) Amount demanded more than \$5,000,000 (7 levels)	1	9.1
(b)(3)(A)(i) Firearm discharged (7 levels)	0	0.0
(b)(3)(A)(ii) Firearm otherwise used (6 levels)	0	0.0
(b)(3)(A)(iii) Firearm brandished or possessed (5 levels)	2	18.2
(b)(3)(A)(iv) Dangerous weapon otherwise used (4 levels)	0	0.0
(b)(3)(A)(v)&(B)(i)-(iv) Dangerous weapon brandished or possessed or preparation to carry out threat of death, bodily injury, kidnaping or product tampering (3 levels)	0	0.0
(b)(4)(A) Bodily injury (2 levels)	0	0.0
(b)(4)(B) Serious bodily injury (4 levels)	0	0.0
(b)(4)(C) Permanent or life-threatening bodily injury (6 levels)	0	0.0
(b)(4)(D) Between bodily injury and serious bodily injury (3 levels)	0	0.0
(b)(4)(E) Between serious and permanent/life-threatening bodily injury (5 levels)	0	0.0
(b)(5)(A) Person abducted to facilitate offense or escape (4 levels)	1	9.1
(b)(5)(B) Person physically restrained to facilitate offense or escape (2 levels)	0	0.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2B3.3 Blackmail and other forms of Extortion	1	0.0
(b)(1)(A) Amount demanded between \$2,000 and \$5,000 (one level)	0	0.0
(b)(1)(B) Amount demanded between \$5,000 and \$10,000 (2 levels)	0	0.0
§2B4.1 Bribery in Procurement of Bank Loan and other Commercial Bribery	17	0.1
(b)(1) Bribe between \$2,000 and \$5,000 (one level)	3	17.6
(b)(1) Bribe between \$5,000 and \$10,000 (2 levels)	3	17.6
(b)(1) Bribe between \$10,000 and \$20,000 <sup>22</sup> (3 levels)	1	5.9
(b)(1) Bribe between \$10,000 and \$30,000 (4 levels)	1	5.9
(b)(1) Bribe between \$20,000 and \$40,000 <sup>22</sup> (4 levels)	1	5.9
(b)(1) Bribe between \$30,000 and \$70,000 (6 levels)	1	5.9
(b)(1) Bribe between \$70,000 and \$120,000 <sup>22</sup> (6 levels)	1	5.9
(b)(1) Bribe between \$500,000 and \$800,000 <sup>22</sup> (10 levels)	1	5.9
(b)(1) Bribe between \$200,000 and \$400,000 (12 levels)	4	23.5
(b)(2)(A) Offender derived more than \$1,000,000 from financial institution (2 levels)	0	0.0
(b)(2)(B) Jeopardized safety and soundness of a financial institution (4 levels)	0	0.0

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<sup>22</sup> Threshold amounts and level increases were changed on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2B5.1 Offenses involving Counterfeit Bearer Obligations	119	0.8
(b)(1) Items valued between \$2,000 and \$5,000 (one level)	28	23.5
(b)(1) Items valued between \$5,000 and \$10,000 (2 levels)	11	9.2
(b)(1) Items valued between \$10,000 and \$20,000 <sup>22</sup> (3 levels)	1	0.8
(b)(1) Items valued between \$10,000 and \$30,000 (4 levels)	16	13.4
(b)(1) Items valued between \$30,000 and \$70,000 (6 levels)	5	4.2
(b)(1) Items valued between \$70,000 and \$120,000 (8 levels)	3	2.5
(b)(1) Items valued between \$200,000 and \$350,000 <sup>22</sup> (8 levels)	1	0.8
(b)(1) Items valued between \$120,000 and \$200,000 (10 levels)	1	0.8
(b)(1) Items valued between \$200,000 and \$400,000 (12 levels)	1	0.8
(b)(2) Offender manufactured/produced counterfeit material <sup>23</sup> (increase to level 15)	1	0.8
(b)(2) Offender manufactured/produced counterfeit material (2 levels)	45	37.8
(b)(3) Subsection (b)(2)(A) applies and offense level less than 15, increase to 15	30	25.2
(b)(4) Dangerous weapon possessed (2 levels, if less than 13 increase to 13)	1	0.8
(b)(5) Offense committed outside of United States (2 levels)	5	4.2

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<sup>23</sup> Enhancement level changed on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2B5.3 Criminal Infringement of Copyright or Trademark	24	0.2
(a)(1) Base offense level 6 <sup>24</sup>	3	12.5
(a)(1) Base offense level 8	21	87.5
(b)(1) Infringement amount between \$2,000 and \$5,000 (one level)	3	12.5
(b)(1) Infringement amount between \$5,000 and \$10,000 (2 levels)	3	12.5
(b)(1) Infringement amount between \$10,000 and \$30,000 (4 levels)	3	12.5
(b)(1) Infringement amount between \$30,000 and \$70,000 (6 levels)	2	8.3
(b)(1) Infringement amount between \$70,000 and \$120,000 <sup>22</sup> (6 levels)	2	8.3
(b)(1) Infringement amount between \$120,000 and \$200,000 <sup>22</sup> (7 levels)	1	4.2
(b)(1) Infringement amount between \$70,000 and \$120,000 (8 levels)	2	8.3
(b)(1) Infringement amount between \$200,000 and \$400,000 (12 levels)	2	8.3
(b)(1) Infringement amount between \$2,500,000 and \$5,000,000 <sup>22</sup> (13 levels)	1	4.2
(b)(1) Infringement amount between \$400,000 and \$1,000,000 (14 levels)	1	4.2
(b)(1) Infringement amount between \$2,500,000 and \$7,000,000 (18 levels)	1	4.2
(b)(2) Manufacturing/importation/uploading infringed items (2 levels or increase to 12)	10	41.7
(b)(3) Committed for commercial advantage or private gain (2 level decrease)	4	16.7
(b)(4) Conscious/reckless risk of serious bodily injury or possession of weapon (2 levels)	0	0.0
§2B6.1 Altering or Removing Motor Vehicle ID Numbers	7	0.0
(b)(1) Retail value between \$2,000 and \$5,000 (one level)	1	14.3
(b)(1) Retail value between \$5,000 and \$10,000 (2 levels)	1	14.3
(b)(1) Retail value between \$10,000 and \$30,000 (4 levels)	2	28.6
(b)(1) Retail value between \$70,000 and \$120,000 (8 levels)	1	14.3
(b)(1) Retail value between \$350,000 and \$500,000 <sup>22</sup> (9 levels)	1	14.3
(b)(1) Retail value between \$200,000 and \$400,000 (12 levels)	1	14.3
(b)(2) Offender in the business of receiving and selling stolen property (2 levels)	3	42.9
(b)(3) Part of organized scheme to steal vehicles or parts (increase to level 14)	4	57.1

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<sup>24</sup> This base offense was increased on November 1, 1999.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part C - Offenses Involving Public Officials</b>		
§2C1.1 Offering, Giving, Soliciting, or Receiving a Bribe	43	0.3
(b)(1) Offense involved more than one bribe or extortion (2 levels)	31	72.1
(b)(2)(A) Value of payment or loss between \$2,000 and \$5,000 (one level)	3	7.0
(b)(2)(A) Value of payment or loss between \$5,000 and \$10,000 (2 levels)	1	2.3
(b)(2)(A) Value of payment or loss between \$10,000 and \$20,000 <sup>25</sup> (3 levels)	1	2.3
(b)(2)(A) Value of payment or loss between \$10,000 and \$30,000 (4 levels)	4	9.3
(b)(2)(A) Value of payment or loss between \$30,000 and \$70,000 (6 levels)	2	4.6
(b)(2)(A) Value of payment or loss between \$120,000 and \$200,000 <sup>25</sup> (7 levels)	1	2.3
(b)(2)(A) Value of payment or loss between \$70,000 and \$120,000 or (b)(2)(B) payment used to influence elected official (8 levels)	7	16.3
(b)(2)(A) Value of payment or loss between \$200,000 and \$350,000 <sup>25</sup> or (b)(2)(B) payment used to influence elected official (8 levels)	3	7.0
(b)(2)(A) Value of payment or loss between \$350,000 and \$500,000 <sup>25</sup> (9 levels)	3	7.0
(b)(2)(A) Value of payment or loss between \$120,000 and \$200,000 (10 levels)	1	2.3
(b)(2)(A) Value of payment or loss between \$200,000 and \$400,000 (12 levels)	3	7.0
(b)(2)(A) Value of payment or loss between \$5,000,000 and \$10,000,000 <sup>25</sup> (14 levels)	1	2.3
§2C1.2 Offering, Giving, Soliciting, or Receiving a Gratuity	4	0.0
(b)(1) More than one gratuity (2 levels)	4	100.0
(b)(2)(A) Gratuity between \$2,000 and \$5,000 (one level)	2	50.0
(b)(2)(A) Gratuity between \$70,000 and \$120,000 or (b)(2)(B) payment given to elected official (8 levels)	2	50.0
§2C1.3 Conflict of Interest: Payment or Receipt of Unauthorized Compensation	4	0.0
(b)(1) Actual or planned harm to the government (4 levels)	1	25.0
§2C1.4 Payment or Receipt of Unauthorized Compensation <sup>26</sup>	1	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2C1.5 Payments to Obtain Public Office	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

<sup>25</sup> Threshold amounts and level increases were changed on November 1, 2001.

<sup>26</sup> Deleted and consolidated with §2C1.3 on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2C1.6 Loan or Gratuity to Bank Examiner or Adjustment of Farm Indebtedness	0	0.0
No Specific Offense Characteristics used in this guideline	NA	NA
§2C1.7 Fraud Involving Deprivation of the Intangible Right to the Honest Services Public Officials	10	0.1
(b)(1)(A) Loss between \$40,000 and \$70,000 <sup>25</sup> (5 levels)	1	10.0
(b)(1)(A) Loss between \$70,000 and \$120,000 <sup>25</sup> (6 levels)	1	10.0
(b)(1)(A) Loss between \$70,000 and \$120,000 or (b)(1)(B) involving an elected official (8 levels)	1	10.0
(b)(1)(A) Loss between \$350,000 and \$500,000 <sup>25</sup> (9 levels)	1	10.0
(b)(1)(A) Loss between \$500,000 and \$800,000 <sup>25</sup> (10 levels)	2	20.0
(b)(1)(A) Loss between \$2,500,000 and \$5,00,000 <sup>25</sup> (13 levels)	1	10.0
(b)(1)(A) Loss between \$400,000 and \$1,000,000 (14 levels)	1	10.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part D - Offenses Involving Drugs</b>		
§2D1.1 Drug Trafficking	5,420	35.0
(a)(1) Base offense level 43	0	0.0
(a)(2) or (a)(3) Base offense level 38	279	5.2
(a)(3) Base offense level 36	197	3.6
(a)(3) Base offense level 34	511	9.4
(a)(3) Base offense level 32	805	14.8
(a)(3) Base offense level 30	654	12.1
(a)(3) Base offense level 28	434	8.0
(a)(3) Base offense level 26	1,096	20.2
(a)(3) Base offense level 24	166	3.1
(a)(3) Base offense level 22	172	3.2
(a)(3) Base offense level 20	338	6.2
(a)(3) Base offense level 18	347	6.4
(a)(3) Base offense level 16	151	2.8
(a)(3) Base offense level 14	82	1.5
(a)(3) Base offense level 12	115	2.1
(a)(3) Base offense level 10	23	0.4
(a)(3) Base offense level 8	23	0.4
(a)(3) Base offense level 6	27	0.5
(b)(1) Dangerous weapon possessed (two levels)	500	9.2
(b)(2)(A) Aircraft used or (b)(2)(B) offender acted as pilot (2 levels or level 26)	14	0.3
(b)(3) Distribution in a prison (2 levels)	23	0.4
(b)(4) Importation of methamphetamine from unlawfully imported material (2 levels)	14	0.2

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2D1.1 Drug Trafficking (continued)	5,420	35.0
(b)(5)(A) Unlawful discharge or transportation of hazardous waste (2 levels)	20	0.4
(b)(5)(B) Manufacturing of meth creating substantial risk (3 levels or level 27)	31	0.6
(b)(5)(C) Manufacturing of meth creating substantial risk to minor (6 levels or level 30)	20	0.4
(b)(6) Safety Valve (2 level decrease) <sup>27</sup>	2,141	39.5
§2D1.2 Drug offenses near protected location/involving underage/pregnant individuals	123	0.8
(a)(2) Base offense level 45	0	0.0
(a)(1) Base offense level 44	0	0.0
(a)(2) Base offense level 43	0	0.0
(a)(1) Base offense level 42	0	0.0
(a)(2) Base offense level 41	0	0.0
(a)(1) Base offense level 40	3	2.4
(a)(2) Base offense level 39	9	7.3
(a)(1) Base offense level 38	1	0.8
(a)(2) Base offense level 37	3	2.4
(a)(1) Base offense level 36	5	4.1
(a)(2) Base offense level 35	6	4.9
(a)(1) Base offense level 34	6	4.9
(a)(2) Base offense level 33	8	6.5
(a)(1) Base offense level 32	2	1.6
(a)(2) Base offense level 31	5	4.1
(a)(1) Base offense level 30	3	2.4
(a)(2) Base offense level 29	1	0.8
(a)(1) Base offense level 28	15	12.2
(a)(2) Base offense level 27	5	4.1
(a)(1) or (a)(3) Base offense level 26	13	10.6
(a)(2) Base offense level 25	4	3.2

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<sup>27</sup> This Specific Offense Characteristic was changed from §2D1.1(b)(4) on November 1, 1996. The statistics reflect all instances of the application of this SOC.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2D1.2 Drug offenses near protected location/involving underage/pregnant individuals (cont)	123	0.8
(a)(1) Base offense level 24	3	2.4
(a)(2) Base offense level 23	3	2.4
(a)(1) Base offense level 22	0	0.0
(a)(2) Base offense level 21	0	0.0
(a)(1) Base offense level 20	2	1.6
(a)(2) Base offense level 19	2	1.6
(a)(1) Base offense level 18	5	4.1
(a)(2) Base offense level 17	2	1.6
(a)(1) Base offense level 16	4	3.2
(a)(2) Base offense level 15	4	3.2
(a)(1) Base offense level 14	7	5.7
(a)(2) or (a)(4) Base offense level 13	0	0.0
(a)(1) Base offense level 12	2	1.7
(a)(1) Base offense level 8	0	0.0
No Specific Characteristics for this guideline	NA	NA
§2D1.5 Continuing Criminal Enterprise	8	0.0
(a)(1) Base offense level 44	0	0.0
(a)(1) Base offense level 42	6	75.0
(a)(1) Base offense level 40	0	0.0
(a)(1) or (a)(2) Base offense level 38	1	12.5
No Specific Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2D1.6 Use of Communication Facility in Committing Drug Offense	12	0.1
(a)(1) Base offense level 38	0	0.0
(a)(1) Base offense level 36	1	8.3
(a)(1) Base offense level 34	2	16.7
(a)(1) Base offense level 32	1	8.3
(a)(1) Base offense level 30	1	8.3
(a)(1) Base offense level 26	3	25.0
(a)(1) Base offense level 24	2	16.7
(a)(1) Base offense level 18	0	0.0
(a)(1) Base offense level 14	0	0.0
(a)(1) Base offense level 12	0	0.0
(a)(1) Base offense level 8	1	8.3
(a)(1) Base offense level 6	1	8.3
No Specific Offense Characteristics for this guideline	NA	NA
§2D1.7 Unlawful Sale or Transportation of Drug Paraphernalia	6	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D1.8 Renting or Managing a Drug Establishment	17	0.1
(a)(1) Base offense level 36	1	5.9
(a)(1) Base offense level 30	0	0.0
(a)(1) Base offense level 28	0	0.0
(a)(1) or (a)(2) Base offense level 26	4	23.5
(a)(1) or (a)(2) Base offense level 24	1	5.9
(a)(1) or (a)(2) Base offense level 22	4	23.5
(a)(1) or (a)(2) Base offense level 20	1	5.9
(a)(1) or (a)(2) Base offense level 18	0	0.0
(a)(1) or (a)(2) Base offense level 16	1	5.9
(a)(1) or (a)(2) Base offense level 14	1	5.9
(a)(1) or (a)(2) Base offense level 12	1	5.9
(a)(1) Base offense level 8	3	17.6
No Specific Offense Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2D1.9 Placing or Maintaining Dangerous Devices on Federal Property to Protect Unlawful Production of a Controlled Substance	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D1.10 Endangering Human Life While Illegally Manufacturing a Controlled Substance	1	0.0
(a)(1) Base offense level 35	1	100.0
(b)(1)(A) Involving manufacturing of methamphetamine (3 levels)	0	0.0
(b)(1)(B) Involving manufacturing of meth creating a substantial risk to minor (6 levels)	0	0.0
§2D1.11 Unlawfully Distributing, Importing, Exporting or Possessing a Listed Chemical	38	0.2
(a)(1) Base offense level 38	8	21.0
(a)(1) Base offense level 36	2	5.3
(a)(1) Base offense level 34	4	10.5
(a)(1) Base offense level 32	4	10.5
(a)(1) Base offense level 30	3	7.9
(a)(1) Base offense level 28	3	7.9
(a)(1) Base offense level 26	10	26.3
(a)(1) Base offense level 24	1	2.6
(a)(1) Base offense level 22	1	2.6
(a)(1) Base offense level 12	2	5.3
(b)(1) Dangerous weapon possessed (2 levels)	2	5.3
(b)(2) Convicted of 21 U.S.C. §§841(d)(2),(g)(1), or 960(d)(2) (3 level decrease)	1	2.6
(b)(3)(A)&(B) Unlawful discharge/emission/release into environment of hazardous substance (2 levels)	1	2.6

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2D1.12 Unlawful Possession/Manufacturing of Prohibited Equipment	10	0.1
(a)(1) Offender intended to manufacture a controlled substance (Base Offense Level 12)	9	90.0
(a)(2) Reasonable believe equipment to be used for manufacturing (BOL 9)	1	10.0
(b)(1) Offender intended to manufacture methamphetamine (2 levels)	10	100.0
(b)(2) Offense involved discharge of hazardous substance (2 levels)	1	10.0
§2D1.13 Structuring Chemical Transactions to Evade Recordkeeping Requirements	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D2.1 Unlawful Possession	104	0.7
(a)(1) Heroin or any Schedule I or II opiate or cocaine base (Base Offense Level 8)	24	23.1
(a)(2) Cocaine, flunitrazepam, LSD, or PCP (Base Offense Level 6)	18	17.3
(a)(3) Any other controlled substance or a list I chemical (Base Offense Level 4)	62	59.6
§2D2.2 Acquiring a Controlled Substance by Forgery, Fraud, Deception, or Subterfuge	4	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D2.3 Operating or Directing the Operation of a Common Carrier Under the Influence	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D3.1 Regulatory Offenses Involving Registration Numbers	2	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D3.2 Regulatory Offenses Involving Controlled Substances or Listed Chemicals	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part E - Offenses Involving Criminal Enterprises and Racketeering</b>		
§2E1.1 Unlawful Conduct Relating to Racketeer Influenced and Corrupt Organizations	8	0.0
(a)(1) Base offense level 19	8	100.0
(a)(2) Offense level from applicable underlying racketeering offense	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2E1.2 Interstate or Foreign Travel or Transportation in Aid of a Racketeering Enterprise	4	0.0
(a)(1) Base offense level 6	0	0.0
(a)(2) Base offense level applicable to underlying crime of violence	4	100.0
No Specific Offense Characteristics for this guideline	NA	NA
§2E1.3 Violent Crimes in Aid of Racketeering Activity	0	0.0
(a)(1) Base offense level 12	0	0.0
(a)(2) Base offense level applicable to the underlying crime or racketeering activity	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2E1.4 Use of Interstate Commerce Facilities in the Commission of Murder-For-Hire	3	0.0
(a)(1) Base offense level 32	3	100.0
(a)(2) Base offense level applicable to the underlying unlawful conduct	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2E2.1 Making or Financing an Extortionate Extension of Credit	12	0.1
(b)(1)(A) Firearm discharged (5 levels)	0	0.0
(b)(1)(B) Dangerous weapon otherwise used (4 levels)	1	8.3
(b)(1)(C) Dangerous weapon brandished or possessed (3 levels)	0	0.0
(b)(2)(A) Bodily injury (2 levels)	1	8.3
(b)(2)(B) Serious bodily injury (4 level)	0	0.0
(b)(2)(C) Permanent or life-threatening bodily injury (6 levels)	0	0.0
(b)(2)(D) Between bodily injury and serious bodily injury (3 levels)	0	0.0
(b)(2)(E) Between serious bodily injury and permanent/life-threatening injury (5 levels)	0	0.0
(b)(3)(A) Person abducted to facilitate commission of the offense (4 levels)	0	0.0
(b)(3)(B) Person physically restrained to facilitate commission (2 levels)	0	0.0
§2E3.1 Gambling Offenses	25	0.2
(a)(1) Offense involved a gambling business (Base offense level 12)	25	100.0
(a)(2) Base offense level 6	0	0.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2E4.1 Unlawful Conduct Relating to Contraband Cigarettes	2	0.0
(a)(1) Base offense level 9	0	0.0
(a)(2) Loss between \$30,000 and \$80,000 (Base offense level 14)	1	50.0
(a)(2) Loss between \$120,000 and \$200,000 <sup>28</sup> (Base offense level 15)	1	50.0
§2E5.1 Offering, Accepting, or Soliciting a Bribe Affecting a Pension Benefit	3	0.0
(a)(1) Bribe involved (Base offense level 10)	0	0.0
(a)(2) Gratuity involved (Base offense level 6)	3	100.0
(b)(1) Offender was a fiduciary of the benefit plan or labor organization (2 levels)	3	100.0
(b)(2)(A) Value of prohibited payment between \$2,000 and \$5,000 (one level)	0	0.0
(b)(2)(B) Value of prohibited payment between \$5,000 and \$10,000 (2 levels)	1	33.3
(b)(2)(B) Value of prohibited payment between \$10,000 and \$20,000 <sup>29</sup> (3 levels)	2	66.7
§2E5.3 False Statements in Relation to Documents Required by Employee Retirement Security Act	0	0.0
(a)(1) Base offense level 6	0	0.0
(a)(2) Theft or embezzlement concealed (base offense level applicable from §§2B1.1 or 2E5.1)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

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<sup>28</sup> Base offense level thresholds amounts and levels changed on November 1, 2001.

<sup>29</sup> Threshold amounts and level increases were changed on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part F - Offenses Involving Fraud and Deceit</b>		
§2F1.1 Fraud and Deceit <sup>30</sup>	265	1.7
(b)(1)(B) Loss between \$2,000 and \$5,000 (one level)	1	0.4
(b)(1)(C) Loss between \$5,000 and \$10,000 (2 levels)	1	0.4
(b)(1)(D) Loss between \$10,000 and \$20,000 (3 levels)	16	6.0
(b)(1)(E) Loss between \$20,000 and \$40,000 (4 levels)	21	7.9
(b)(1)(F) Loss between \$40,000 and \$70,000 (5 levels)	17	6.4
(b)(1)(G) Loss between \$70,000 and \$120,000 (6 levels)	23	8.7
(b)(1)(H) Loss between \$120,000 and \$200,000 (7 levels)	22	8.3
(b)(1)(I) Loss between \$200,000 and \$350,000 (8 levels)	37	14.0
(b)(1)(J) Loss between \$350,000 and \$500,000 (9 levels)	25	9.4
(b)(1)(K) Loss between \$500,000 and \$800,000 (10 levels)	24	9.1
(b)(1)(L) Loss between \$800,000 and \$1,500,000 (11 levels)	25	9.4
(b)(1)(M) Loss between \$1,500,000 and \$2,500,000 (12 levels)	5	1.9
(b)(1)(N) Loss between \$2,500,000 and \$5,000,000 (13 levels)	16	6.0
(b)(1)(O) Loss between \$5,000,000 and \$10,000,000 (14 levels)	4	1.5
(b)(1)(P) Loss between \$10,000,000 and \$20,000,000 (15 levels)	3	1.1
(b)(1)(Q) Loss between \$20,000,000 and \$40,000,000 (16 levels)	3	1.1
(b)(1)(R) Loss between \$40,000,000 and \$80,000,000 (17 levels)	1	0.4
(b)(1)(S) Loss greater than \$80,000,000 (18 levels)	3	1.1
(b)(2)(A) More than minimal planning or (B) scheme to defraud more than one victim (2 levels)	213	80.4
(b)(3) Mass marketing <sup>31</sup> (2 levels)	10	3.8
(b)(4)(A) Misrepresentation, (B) violation of judicial order <sup>32</sup> (2 levels)	6	2.3

<sup>30</sup> Deleted and consolidated with §2B1.1 on November 1, 2001.

<sup>31</sup> Specific Offense Characteristic (SOC) in effect on November 1, 1998.

<sup>32</sup> SOC changed from §2F1.1(b)(3) on November 1, 1998. The statistics reflect all instances of the application of this SOC.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2F1.1 Fraud and Deceit (continued)	265	1.7
(b)(5)(A)&(B) Possession/production of device making equipment (C) transfer means of ID (2 levels)	3	1.1
(b)(5) Foreign bank accounts for concealment <sup>33</sup> (Increase to level 12)	8	3.0
(b)(6)(A) Offender relocated to evade law enforcement, (B) fraud committed outside of U.S. or (C) sophisticated means used (2 levels or level 12)	12	4.5
(b)(7)(A) Risk of bodily injury (B) possession of dangerous weapon <sup>34</sup> (2 levels)	5	1.9
(b)(8) Jeopardized the safety of financial institution or (B) \$1,000,000 derived <sup>35</sup> (4 levels)	1	0.4
§2F1.2 Insider Trading <sup>30</sup>	1	0.0
(b)(1) Loss between \$120,000 and \$200,000 (7 levels)	1	100.0

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<sup>33</sup>SOC deleted on November 1, 2000.

<sup>34</sup> Specific Offense Characteristic (SOC) changed from §2F1.1(b)(4)(A) and (B) on November 1, 1998. The statistics reflect all instances of the application of this SOC.

<sup>35</sup> SOC changed from §2F1.1(b)(6)(A) and (B) on November 1, 1998. The statistics reflect all instances of the application of this SOC.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part G - Offenses Involving Commercial Sex Acts, Sexual Exploitation of Minors and Obscenity</b>		
§2G1.1 Promoting A Commercial Sex Act or Prohibited Sexual Contact	36	0.2
(a)(1) Offense involved a minor (Base offense level 19)	27	75.0
(a)(2) Otherwise (Base offense level 14) <sup>36</sup>	9	25.0
(b)(1)(A) Commercial sex act and (B) the use of physical force/fraud/coercion (4 levels)	16	44.4
(b)(2)(B) Victim between 12 and 16 (7 levels) <sup>36</sup>	0	0.0
(b)(2)(C) Victim between 16 and 18 (5 levels) <sup>36</sup>	0	0.0
(b)(2)(A) Victim under the age of 12 (4 levels)	0	0.0
(b)(2)(B) Victim between 12 and 16 (2 levels)	22	61.1
(b)(3) Victim under 16 and (A) offender was parent/guardian or (B) otherwise custody care or control (2 levels)	4	11.1
(b)(4)(A) Misrepresentation or (B) undue influence and (b)(3) does not apply (2 levels)	11	30.6
(b)(5) Use of a computer (2 levels)	8	22.2
§2G2.1 Production of Pornography	36	0.2
(a) Base offense level 27	35	97.2
(a) Base offense level 25 <sup>37</sup>	1	2.8
(b)(1)(A) Victim under the age of 12 (4 levels)	18	50.0
(b)(1)(B) Victim between 12 and 16 (2 levels)	15	41.7
(b)(2) Offender was a parent/relative/legal guardian or custody, care or control (2 levels)	20	55.6
(b)(3)(A) Misrepresentation or (B) use of a computer (2 levels)	8	22.9

<sup>36</sup> Base offense level increased, and SOC levels decreased on November 1, 2000.

<sup>37</sup> Base offense level increased on November 1, 1996

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2G2.2 Trafficking in Pornography	89	0.6
(b)(1) Victim under the age of 12 (2 levels)	80	89.9
(b)(2)(A) Done for pecuniary gain or (B) in exchange for thing of value or (C) distribution to a minor (5 levels)	26	29.2
(b)(2)(D) Distribution to a minor to coerce to engage in sexual behavior (7 levels)	2	2.2
(b)(2)(E) Distribution other than in (b)(2)(A)-(D) (2 levels)	26	29.2
(b)(3) Sadistic or masochistic conduct or other forms of violence (4 levels)	47	52.8
(b)(4) Offender engaged in a pattern of activity involving sexual exploitation (5 levels)	19	21.4
(b)(5) Use of a computer (2 levels)	82	92.1
(b)(6)(A) At least 10 images, but fewer than 150 (2 levels)	11	12.4
(b)(6)(B) At least 150 images, but fewer than 300 (3 levels)	5	5.6
(b)(6)(C) At least 300 images, but fewer than 600 (4 levels)	7	7.9
(b)(6)(D) 600 images or more (5 levels)	12	13.5
§2G2.3 Selling or Buying Children for use in the Production of Pornography	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2G2.4 Possession of Pornography	81	0.5
(a) Base offense level 15	81	100.0
(a) Base offense level 13 <sup>37</sup>	0	0.0
(b)(1) Minor under the age of 12 depicted (2 levels)	67	82.7
(b)(2) 10 or more items (2 levels)	47	58.0
(b)(3) Use of a computer (2 levels)	73	90.1
(b)(4) Sadistic or masochistic conduct depicted (4 levels)	13	16.0
(b)(5)(A) At least 10 images, but fewer than 150 (2 levels)	18	20.7
(b)(5)(B) At least 150 images, but fewer than 300 (3 levels)	2	2.5
(b)(5)(C) At least 300 images, but fewer than 600 (4 levels)	3	3.7
(b)(5)(D) 600 images or more (5 levels)	8	9.9
§2G2.5 Recordkeeping Offenses Involving the Production of Sexually Explicit Materials	0	0.0
No Specific Offense Characteristics for the guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2G3.1 Importing/Mailing/Transporting Obscene Matter	6	0.0
(b)(1) (A) Done for pecuniary gain or (B) in exchange for thing of value or (C) distribution to a minor (5 levels)	1	16.7
(b)(1)(D) Distribution to a minor to coerce to engage in sexual behavior (7 levels)	2	33.3
(b)(1)(E) Distribution other than in (b)(1)(A)-(D) (2 levels)	0	0.0
(b)(2) Sadistic or masochistic conduct or other forms of violence (4 levels)	0	0.0
§2G3.2 Obscene Telephone Communication for Commercial Purposes	0	0.0
(b)(1) Victim under 18 and broadcast between 6AM and 11PM (4 levels)	0	0.0
(b)(2) Six plus the level in §2B1.1	0	0.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part H - Offenses Involving Individual Rights</b>		
§2H1.1 Offenses Involving Individual Rights	4	0.0
(a)(1) Offense level from the offense guideline applicable to underlying offense	0	0.0
(a)(2) Offense involved two or more participants (Base offense level 12)	4	100.0
(a)(3) Offense involved (A) use/threat of force, or (B) property damage (BOL 10)	0	0.0
(a)(4) Otherwise (Base offense level 6)	0	0.0
(b)(1)(A) Offender was a public official or (B) committed under color of law (6 levels)	4	100.0
§2H2.1 Obstructing an Election or Registration	1	0.0
(a)(1) Obstruction occurred by use of force or threat against property (BOL 18)	0	0.0
(a)(2) Obstruction occurred by forgery/fraud/theft/bribery (Base offense level 12)	1	100.0
(a)(3)(A) Solicited or accepted value to vote, refrain from, (B) false information to establish eligibility to vote, (C) voted more than once in federal election (BOL 6)	0	0.0
§2H3.1 Interception of Communications	4	0.0
(a)(1) Base offense level 9	0	0.0
(a)(2) Offender convicted of 26 U.S.C. §§7231A or 7216 (Base offense level 6)	4	100.0
(b)(1) Purpose was to obtain direct/indirect commercial advantage (3 levels)	1	25.0
§2H3.2 Manufacturing, Distributing, Advertising Eavesdropping Device	0	0.0
(b)(1) Offense committed for pecuniary gain (3 levels)	0	0.0
§2H3.3 Obstructing Correspondence	1	0.0
No Specific Offense Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2H4.1 Peonage, Involuntary Servitude and Slave Trade	0	0.0
(a)(1) Base offense level 22	0	0.0
(a)(2) Offender convicted of 18 U.S.C. § 1592 (Base offense level 18)	0	0.0
(b)(1)(A) Victim sustained permanent or life-threatening bodily injury (4 levels)	0	0.0
(b)(1)(B) Victim sustained bodily injury (2 levels)	0	0.0
(b)(2)(A) Dangerous weapon used (4 levels)	0	0.0
(b)(2)(B) Dangerous weapon brandished or threatened (2 levels)	0	0.0
(b)(3)(A) Victim held in peonage/involuntary servitude for more than one year (3 levels)	0	0.0
(b)(3)(B) Victim held in peonage/involuntary servitude - 180 days to one year (2 levels)	0	0.0
(b)(3)(C) Victim held in peonage/involuntary servitude - 30 days to 180 days (one level)	0	0.0
(b)(4)(A) Other felony committed during offense (2 levels)	0	0.0
§2H4.2 Willful Violations of the Migrant&Seasonal Agricultural Worker Protection Act	0	0.0
(b)(1)(i) Serious bodily injury (4 levels)	0	0.0
(b)(1)(ii) Bodily injury (2 levels)	0	0.0
(b)(2) Offense committed after sustaining civil adjudication for similar act (2 levels)	0	0.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part J - Offenses Involving the Administration of Justice</b>		
§2J1.1 Contempt	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2J1.2 Obstruction of Justice	32	0.2
(a)(1) Base offense level 14	11	34.4
(a)(1) Base offense level 12 <sup>38</sup>	21	65.6
(b)(1) Causing/threatening to cause physical injury (8 levels)	6	18.8
(b)(2) Offense resulted in substantial influence with the administration of justice (3 levels)	4	12.5
(b)(3) Offense involved (A) destruction of records, (B) selection of any essential document to destroy, or (C) otherwise extensive in scope or planning (2 levels)	0	0.0
§2J1.3 Perjury or Subornation of Perjury	17	0.1
(a) Base offense level 14	6	35.3
(a) Base offense level 12 <sup>38</sup>	11	64.7
(b)(1) Causing/threatening to cause physical injury (8 levels)	0	0.0
(b)(2) Offense resulted in substantial influence with the administration of justice (3 levels)	1	5.9
§2J1.4 Impersonation	4	0.0
(b)(1) Offense committed to conduct an unlawful arrest, detention or search (6 levels)	2	50.0
§2J1.5 Failure to Appear by Material Witness	1	0.0
(a)(1) In respect to a felony (Base offense level 6)	1	100.0
(a)(2) In respect to a misdemeanor (Base offense level 4)	0	0.0
(b)(1) Offense resulted in substantial influence with the administration of justice (3 levels)	1	100.0

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<sup>38</sup> Base offense level increased on November 1, 2003

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2J1.6 Failure to Appear by Defendant	23	0.2
(a)(1) Failure to report for service of sentence (Base offense level 11)	9	39.1
(a)(2) Otherwise (Base offense level 6)	14	60.9
(b)(1)(A) (a)(1) applies and voluntarily surrendered within 96 hours (5 level decrease)	1	4.4
(b)(1)(B) (a)(1) applies and ordered to community corrections (2 level decrease)	0	0.0
(b)(2)(A)(a)(2) applies and offense punishable by 15 years to death (9 levels)	8	34.8
(b)(2)(B) (a)(2) applies and offense punishable by 5 to 15 years (6 levels)	2	8.7
(b)(2)(C) (a)(2) applies and offense punishable by less than 5 years (3 levels)	2	8.7
§2J1.7 Commission of Offense While on Release	35	0.2
No Specific Offense Characteristics for this guideline	NA	NA
§2J1.9 Payment to a Witness	0	0.0
Payment made/offered for refusing to testify (4 levels)	0	0.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part K - Offenses Involving Public Safety</b>		
§2K1.1 Failure to Report Theft of Explosive Materials	2	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2K1.3 Unlawful Receipt/Possession/Transportation of Explosive Materials	5	0.0
(a)(1) Two prior convictions for crime of violence/controlled substance (BOL 24)	0	0.0
(a)(2) One prior convictions for crime of violence/controlled substance (BOL 20)	3	60.0
(a)(3)(A) Prohibited person or (B) knowingly distributed explosive materials to prohibited person (Base offense level 16)	2	40.0
(a)(4) Otherwise (Base offense level 12)	0	0.0
(b)(1)(A) Weight of explosives 25 to 100 pounds (one level)	0	0.0
(b)(1)(B) Weight of explosives 100 to 250 pounds (2 levels)	1	20.0
(b)(1)(C) Weight of explosives 250 to 500 pounds (3 levels)	0	0.0
(b)(1)(D) Weight of explosives 500 to 1,000 pounds (4 levels)	0	0.0
(b)(1)(E) Weight of explosives more than 1,000 pounds (5 levels)	2	40.0
(b)(2) Offense involved stolen explosives (2 levels)	0	0.0
(b)(3) Use of explosives in connection with another felony offense (4 levels or level 18)	0	0.0
§2K1.4 Arson	16	0.1
(a)(1)(A) Substantial risk of death/serious bodily injury (B) destruction of dwelling (BOL 24)	10	62.5
(a)(2)(A) Substantial risk of death/serious injury of other participant (B) destruction of structure other than a dwelling, (C) endangered a dwelling (Base offense level 20)	3	18.8
(a)(3) 2 plus the level from §2B1.1	3	18.8
(b)(1) Committed to conceal another offense (2 levels)	0	0.0
(b)(2) Offense not under (a)(3) and occurred on national cemetery (2 levels)	0	0.0
§2K1.5 Possessing Dangerous Weapon or Materials While Boarding an Aircraft	10	0.1
(b)(1) Committed without regard for safety of human life (15 levels)	1	10.0
(b)(2) Offender prohibited under federal law from possession weapon (2 levels)	0	0.0
(b)(3) Offender's possession lawful but for 49 U.S.C. §46505 (3 level decrease)	2	20.0
§2K1.6 Licensee Recordkeeping Violations Involving Explosive Materials	1	0.0
No Specific Offense Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2K2.1 Unlawful Receipt/Possession/Transportation of Firearms or Ammunition	1,642	10.6
(a)(1) Two prior convictions & firearm described in 26 U.S.C. §5845(a) or 18 U.S.C. §921(a)(30) (BOL 26)	31	1.9
(a)(2) Two prior convictions for crime of violence (Base offense level 24)	317	19.3
(a)(3) One prior convictions & firearm described in 26 U.S.C. §5845(a) or 18 U.S.C. §921(a)(30) (BOL 22)	44	2.7
(a)(4)(A) One prior conviction or (B) firearm described in 26 U.S.C. §5845(a) or 18 U.S.C. §921(a)(30) and (i) offender was a prohibited person or (ii) convicted under 18 U.S.C. § 922(d) (Base offense level 20)	550	33.5
(a)(5) Firearm described in 26 U.S.C. §5845(a) or 18 U.S.C. 921(a)(30) (BOL 18)	88	5.4
(a)(6)(A) Offender prohibited person or (B) convicted under 18 U.S.C. § 922(d) (BOL 14)	488	29.7
(a)(7) Excepted as provided in (a)(8) (Base offense level 12)	114	6.9
(a)(8) Offense convicted under 18 U.S.C. §922 (c), (e), (f), (m), (s), (t) or (x)(1) (BOL 6)	7	0.4
(b)(1)(A) 3-4 firearms <sup>39</sup> (one level)	3	0.2
(b)(1)(A) 3-7 firearms (two levels)	223	13.6
(b)(1)(B) 5-7 firearms <sup>39</sup> (two levels)	0	0.0
(b)(1)(C) 8-12 firearms <sup>39</sup> (3 levels)	5	0.3
(b)(1)(B) 8-24 firearms (4 levels)	85	5.2
(b)(1)(D) 13-24 firearms <sup>39</sup> (4 levels)	0	0.0
(b)(1)(E) 25-49 firearms <sup>39</sup> (5 levels)	1	0.1
(b)(1)(C) 25-99 firearms (6 levels)	30	1.8
(b)(1)(F) 50 or more firearms <sup>39</sup> (6 levels)	1	0.1
(b)(1)(D) 100-199 firearms (8 levels)	2	0.1
(b)(1)(E) 200 or more firearms (10 levels)	1	0.1
(b)(2) Not subject to (a)(1)-(a)(5) and solely for lawful sporting purposes (decrease to level 6)	32	2.0
(b)(3) Destructive device (2 levels)	49	3.0
(b)(4) Firearm stolen or altered/obliterated serial number (2 levels)	292	17.8
(b)(5) Firearms used in connection with another offense (4 levels/increase to level 18)	283	17.2
(b)(6) Recordkeeping offense to conceal offense involving firearms (increase to level of underlying offense)	1	0.1

<sup>39</sup> Firearm table changed on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2K2.4 Use of Firearm/Armor-Piercing Ammunition or Explosive	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2K2.5 Possession of Firearm or Dangerous Weapon in Federal Facility	6	0.0
(b)(1)(A) Unlawful possession of firearm (B) firearm in school zone (2 levels)	5	83.3
§2K2.6 Possessing, Purchasing or Owning Body Armor by Violent Felons	2	0.0
(b)(1) Body armor used in connection with another felony (4 levels)	1	50.0
§2K3.2 Feloniously Mailing Injurious Articles	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part L - Offenses Involving Immigration, Naturalization, and Passports</b>		
§2L1.1 Smuggling, Transporting or Harboring an Unlawful Alien	674	4.4
(a)(1) Convicted under 8 U.S.C. §1327 after being previously deported (BOL 23)	1	0.2
(a)(2) Otherwise (Base offense level 12)	672	99.7
(a)(2) Otherwise (Base offense level 9) <sup>40</sup>	1	0.2
(b)(1)(A) Offense committed for profit and (B) BOL under (a)(2) (3 level decrease)	41	6.1
(b)(2)(A) 6-24 aliens smuggled (3 levels)	318	47.2
(b)(2)(B) 25-99 aliens smuggled (6 levels)	42	6.2
(b)(2)(C) 100 or more aliens smuggled (9 levels)	2	0.3
(b)(3)(A) Prior conviction for felony immigration and naturalization offense (2 levels)	16	2.4
(b)(3)(B) Two or more prior convictions for felony immigration offense (4 levels)	2	0.3
(b)(4)(A) Firearm discharged (6 levels, increase to 22)	2	0.3
(b)(4)(B) Weapon brandished or otherwise used (4 levels, increase to 20)	2	0.3
(b)(4)(C) Weapon possessed (2 levels, increase to 18)	4	0.6
(b)(5) Reckless creating risk of death or serious bodily injury (2 levels, increase to 18)	262	38.9
(b)(6)(1) Bodily injury (2 levels)	7	1.0
(b)(6)(2) Serious bodily injury (4 levels)	0	0.0
(b)(6)(3) Permanent or life-threatening bodily injury (6 levels)	2	0.3
(b)(6)(4) Death (8 levels)	5	0.7
§2L1.2 Unlawfully Entering or Remaining in the United States	2,473	16.0
(b)(1)(A) Previously deported, conviction of (i) drug trafficking offense (ii) crime of violence (iii) firearms offense (iv) child pornography (v) national security (vi) human trafficking (vii) alien smuggling (16 levels)	992	40.1
(b)(2)(B) Previously deported, drug offense sentence less than 13 months (12 levels)	207	8.4
(b)(2)(C) Previously deported, aggravated felony conviction (8 levels)	431	17.4
(b)(2)(D) Previously deported, any other felony conviction (E) three or more misdemeanor convictions of crimes of violence or drug trafficking (4 levels)	346	14.0

<sup>40</sup> This base offense level was changed on November 1, 1997.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2L2.1 Trafficking in Documents Relating to Naturalization	67	0.4
(a) Base offense level 11	66	98.5
(a) Base offense level 9 <sup>40</sup>	1	1.5
(b)(1) Committed other than for profit or only smuggling relative (3 level decrease)	8	11.9
(b)(2)(A) 6-24 Documents/Passports <sup>41</sup> (2 levels)	0	0.0
(b)(2)(A) 6-24 Documents/Passports (3 levels)	14	20.9
(b)(2)(B) 25-99 Documents/Passports (6 levels)	13	19.4
(b)(2)(C) 100 or more Documents/Passports <sup>41</sup> (6 levels)	0	0.0
(b)(2)(C) 100 or more Documents/Passports (9 levels)	10	14.9
(b)(3) Offender knew passport or visa facilitated a felony offense (4 levels)	1	1.5
(b)(4)(A) Committed instant offense after conviction of immigration offense (2 levels)	2	3.0
(b)(4)(B) Committed instant offense after two or more convictions immigration (4 lvls)	0	0.0
§2L2.2 Fraudulent Acquiring Documents Relating to Citizenship	246	1.6
(a) Base offense level 8	244	99.2
(a) Base offense level 6 <sup>40</sup>	2	0.8
(b)(1) Offender an unlawful alien, previously deported (2 levels)	31	12.6
(b)(2)(A) Prior felony immigration and naturalization offense (2 levels)	7	2.8
(b)(2)(B) Two or more prior felony immigration and naturalization offenses (4 levels)	1	0.4
§2L2.5 Failure to Surrender Canceled Naturalization Certificate	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

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<sup>41</sup> Enhancement level was changed on November 1, 1997.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part M - Offenses Involving National Defense and Weapons of Mass Destruction</b>		
§2M1.1 Treason	0	0.0
(a)(1) Conduct tantamount to waging war against the United States (Base offense level 43)	0	0.0
(a)(2) Offense level applicable to most analogous offense	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M2.1 Destruction of, or Production of Defective War Material	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M2.3 Destruction of, or Production of Detective, National Defense Material	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M3.1 Gathering/Transmitting National Defense Information to Aid Foreign Gov't	0	0.0
(a)(1) Top secret information gathered or transmitted (Base offense level 42)	0	0.0
(a)(2) Otherwise (Base offense level 37)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M3.2 Gathering National Defense Information	0	0.0
(a)(1) Top secret information gathered (Base offense level 35)	0	0.0
(a)(2) Otherwise (Base offense level 30)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M3.3 Transmitting National Defense Information	0	0.0
(a)(1) Top secret information (Base offense level 29)	0	0.0
(a)(2) Otherwise (Base offense level 24)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M3.4 Losing National Defense Information	0	0.0
(a)(1) Top secret information was lost (Base offense level 18)	0	0.0
(a)(2) Otherwise (Base offense level 13)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M3.5 Tampering with Restricted Data Concerning Atomic Energy	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2M3.9 Disclosure of Information Identifying a Covert Agent	0	0.0
(a)(1) Information disclosed by person with access to classified material identifying a covert agent (BOL 30)	0	0.0
(a)(2) Information disclosed by person with access to classified material (BOL 25)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M4.1 Failure to Register and Evasion of Military Service	0	0.0
(b)(1) Occurred by person being inducted for compulsory military service (6 levels)	0	0.0
§2M5.1 Evasion of Export Controls	1	0.0
(a)(1)(A) National security controls (B) offense involved financial transactions with a country supporting terrorism (Base offense level 26)	0	0.0
(a)(2) Otherwise (Base offense level 14)	1	100.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M5.2 Exportation of Arms/Munitions/Military Equipment without Validated Export License	1	0.0
(a)(1) Except as provided in (a)(2) (Base offense level 26)	1	100.0
(a)(1) Except as provided in (a)(2) <sup>42</sup> (Base offense level 22)	0	0.0
(a)(2) Involved less than 10 only non-fully automatic small arms (Base offense level 14)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M5.3 Providing Material Support/Resources to Designated Foreign Terrorist Organizations	0	0.0
(b)(1)(A) Dangerous weapons involved (B) firearms (C) explosives (D) funds to purchase (A)-(C) (2 levels)	0	0.0
§2M6.1 Unlawful Production of Nuclear Material	2	0.0
(a)(1)(A) Intent to injure U.S. (B) aid a foreign nation (Base offense level 42)	0	0.0
(a)(2) Subsections (a)(1), (a)(3)-(a)(5) do not apply (Base offense level 28)	0	0.0
(a)(3) Convicted under 18 U.S.C. § 175b (Base offense level 22)	0	0.0
(a)(4) Convicted under 18 U.S.C. § 175(b) (a)(5)(A) Involved a threat to use nuclear weapon but (B) did not intend to carry out threat (Base offense level 20)	2	100.0
(b)(1)(A) Subsection (a)(2), (a)(4), or (a)(5) applies and (B) threat of biological agent (2 levels)	0	0.0
(b)(2)(A) Subsections (a)(2)-(a)(4) applies and (B)(i) victim died or permanent life-threatening bodily injury (4 levels)	0	0.0
(b)(2)(A) Subsection (a)(2)-(a)(4) applies and (ii) serious bodily injury (2 levels)	0	0.0
(b)(2)(A) Subsection (a)(2)-(a)(4) applies and (iii) injury between (i) and (ii) (3 levels)	0	0.0
(b)(3)(A) Subsection (a)(2)-(a)(5) applies and (B) disruption of government services (4 levels)	0	0.0

<sup>42</sup> This base offense level was raised on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2M6.2 Violation of Other Federal Atomic Energy Agency Statutes, Rules or Regulation	0	0.0
(a)(1) Committed with intent to injure the United States (Base offense level 30)	0	0.0
(a)(2) Otherwise (Base offense level 6)	0	0.0
No Specific Offense Characteristic for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part N - Offenses Involving Food, Drugs, Agricultural Products and Odometer Laws</b>		
§2N1.1 Tampering or Attempting to Tamper Involving risk of Death or Bodily Injury	2	0.0
(b)(1)(A) Permanent or life-threatening bodily injury (4 levels)	0	0.0
(b)(1)(B) Serious bodily injury (2 levels)	0	0.0
(b)(1)(C) Degree of injury between serious and permanent/life-threatening (3 levels)	0	0.0
§2N1.2 Providing False Information or Threatening to Tamper with Consumer Products	0	0.0
No Specific Offense Characteristics with this guideline	NA	NA
§2N1.3 Tampering with Intent to Injure Business	0	0.0
No Specific Offense Characteristics with this guideline	NA	NA
§2N2.1 Violations of Statutes and Regulations Dealing with any Food, Drug, etc	6	0.0
No Specific Offense Characteristics with this guideline	0	0.0
§2N3.1 Odometer Laws and Regulations	0	0.0
No Specific Offense Characteristics with this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part P - Offenses Involving Prisons and Correctional Facilities</b>		
§2P1.1 Escape, Instigating or Assisting Escape	57	0.4
(a)(1) Custody is by virtue of an arrest on a felony/conviction of another offense (BOL 13)	57	100.0
(a)(2) Otherwise (Base offense level 8)	0	0.0
(b)(1) Use of threat of force against any person (5 levels)	3	5.3
(b)(2) Escaped from non-secure custody,(a)(1) applies, return in 96 hours (7 level decrease)	1	1.8
(b)(2) Escaped from non-secure custody, (a)(2)applies, return in 96 hours (4 level decrease)	3	5.3
(b)(3) Escaped from non-secure custody and (b)(2) does not apply, (a)(1) applies (4 level decrease)	25	43.9
(b)(3) Escaped from non-secure custody and (b)(2) does not apply, (a)(2) applies (2 level decrease)	0	0.0
(b)(4) Offender was a law enforcement officer (2 levels)	0	0.0
§2P1.2 Providing or Possessing Contraband in Prison	37	0.2
(a)(1) Object was a firearm or destructive device (Base offense level 23)	1	2.7
(a)(2) Object was a weapon, ammunition, LSD, or a narcotic drug (Base offense level 13)	19	51.4
(a)(3) Object was an alcoholic beverage/currency/controlled substance (BOL 6)	17	46.0
(a)(4) Other object threatened order of facility (Base offense level 4)	0	0.0
(b)(1) Offender was a law enforcement officer (2 levels)	0	0.0
§2P1.3 Engaging in a Riot Involving Persons in a Facility	0	0.0
(a)(1) Substantial risk of death or serious bodily injury (Base offense level 22)	0	0.0
(a)(2) Caused a major disruption to the operation of an institution (Base offense level 16)	0	0.0
(a)(3) Otherwise (Base offense level 10)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part Q -Offenses Involving the Environment</b>		
§2Q1.1 Knowing Endangerment Resulting from Mishandling Hazardous Substances	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2Q1.2 Mishandling of Hazardous Substances	17	0.1
(b)(1)(A) Resulted in ongoing emission of a hazardous substance (6 levels)	2	11.8
(b)(1)(B) Otherwise involved discharge of a hazardous substance (4 levels)	6	35.3
(b)(2) Substantial likelihood of death or serious bodily injury (9 levels)	0	0.0
(b)(3) Disruption of public utilities or evacuation (4 levels)	0	0.0
(b)(4) Involved transportation without a permit or violation of a permit (4 levels)	9	52.9
(b)(5) Recordkeeping reflected an effort to conceal offense (Offense level of underlying offense)	0	0.0
(b)(6) Simple recordkeeping or reporting violation (2 level decrease)	0	0.0
§2Q1.3 Mishandling of Other Environmental Pollutants	7	0.0
(b)(1)(A) Ongoing/repetitive discharge of a pollutant (6 levels)	1	14.3
(b)(1)(B) Otherwise discharge of pollutant (4 levels)	5	71.4
(b)(2) Substantial likelihood of death or serious bodily injury (11 levels)	0	0.0
(b)(3) Resulted in disruption of public utilities or evacuation (4 levels)	0	0.0
(b)(4) Discharge without permit or in violation of a permit (4 levels)	4	57.1
(b)(5) Recordkeeping reflected an effort to conceal offense (Offense level of underlying offense)	0	0.0
§2Q1.4 Tampering or Attempted Tampering with Public Water System	0	0.0
(b)(1) Risk of death or serious bodily injury (6 levels)	0	0.0
(b)(2) Disruption of a public water system or evacuation (4 levels)	0	0.0
(b)(3) Ongoing release of contaminant into public water system (2 levels)	0	0.0
(b)(4) Purpose was to influence government action or extort money (6 levels)	0	0.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2Q1.6 Hazardous or Injurious Devices on Federal Lands	1	0.0
(a)(1) Intent was to violate Controlled Substance Act (apply §2D1.9)	0	0.0
(a)(2) Obstruct harvesting of timber and property destruction (apply §2B1.1)	0	0.0
(a)(3) Reckless disregard to risk to another person (apply §2A2.2)	0	0.0
(a)(4) Otherwise (Base offense level 6)	1	100.0
No Specific Offense Characteristics for this guideline	NA	NA
§2Q2.1 Offenses Involving Fish, Wildlife and Plants	20	0.1
(b)(1)(A) Committed for pecuniary gain (B) pattern of similar violations (2 levels)	8	40.0
(b)(2)(A) Involved wildlife not quarantined (B) significant risk to human/wildlife (2 levels)	0	0.0
(b)(3)(A) Value of wildlife between \$2,000 and \$5,000 (one level)	4	20.0
(b)(3)(A) Value of wildlife between \$5,000 and \$10,000 (2 levels)	1	5.0
(b)(3)(A) Value of wildlife between \$10,000 and \$20,000 <sup>43</sup> (3 levels)	1	5.0
(b)(3)(A) Value of wildlife between \$10,000 and \$30,000 or (B) offense involved protected marine mammals (4 levels)	1	5.0
(b)(3)(A) Value of wildlife between \$30,000 and \$70,000 (6 levels)	1	5.0
(b)(3)(A) Value of wildlife between \$70,000 and \$120,000 (8 levels)	1	5.0

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<sup>43</sup> Threshold amounts and level increases were changed on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part R - Antitrust Offenses</b>		
§2R1.1 Bid-Rigging, Price-Fixing or Market-Allocation Agreements Among Competitors	3	0.0
(b)(1) Involved participation in agreement to submit non-competitive bid (one level)	1	33.3
(b)(2)(A) Volume of commerce between \$400,000 and \$1,000,000 (one level)	0	0.0
(b)(2)(B) Volume of commerce between \$1,000,000 and \$2,500,000 (2 levels)	1	33.3
(b)(2)(C) Volume of commerce between \$2,500,000 and \$6,250,000 (3 levels)	0	0.0
(b)(2)(D) Volume of commerce between \$6,250,000 and \$15,000,000 (4 levels)	2	66.7
(b)(2)(E) Volume of commerce between \$15,000,000 and \$37,500,000 (5 levels)	0	0.0
(b)(2)(F) Volume of commerce between \$37,500,000 and \$100,000,000 (6 levels)	0	0.0
(b)(2)(G) Volume of commerce more than \$100,000,000 (7 levels)	0	0.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part S - Money Laundering and Monetary Transactions Reporting</b>		
§2S1.1 Laundering of Monetary Instruments	162	1.0
(a)(1)&(2) Base offense level 8	3	1.8
(a)(1)&(2) Base offense level 10	3	1.8
(a)(1)&(2) Base offense level 12	10	6.2
(a)(1)&(2) Base offense level 14	13	8.0
(a)(1)&(2) Base offense level 16	13	8.0
(a)(1)&(2) Base offense level 17	1	0.6
(a)(1)&(2) Base offense level 18	14	8.6
(a)(1)&(2) Base offense level 19	5	3.1
(a)(1)&(2) Base offense level 20	11	6.8
(a)(1)&(2) Base offense level 20 <sup>44</sup>	23	14.2
(a)(1)&(2) Base offense level 22	9	5.6
(a)(1)&(2) Base offense level 23	0	0.0
(a)(1)&(2) Base offense level 23 <sup>44</sup>	10	6.2
(a)(1)&(2) Base offense level 24	9	5.6
(a)(1)&(2) Base offense level 25	1	0.6
(a)(1)&(2) Base offense level 26	7	4.3
(a)(1)&(2) Base offense level 28	6	3.7
(a)(1)&(2) Base offense level 30	3	1.8
(a)(1)&(2) Base offense level 32	5	3.1
(a)(1)&(2) Base offense level 34	6	3.7
(a)(1)&(2) Base offense level 36	4	2.5
(a)(1)&(2) Base offense level 38	3	1.8

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**

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<sup>44</sup> Base offense levels were changed on November 1, 2001. This row represents pre-November 1, 2001 statistics.

**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2S1.1 Laundering of Monetary Instruments (continued)	162	1.0
(a)(1)&(2) Base offense level 40	2	1.2
(a)(1)&(2) Base offense level 41	1	0.6
(b)(1) Subsection (a)(2) applies and (B) offender knew proceeds were intended for (i) distribution of a controlled substance (ii) crime of violence (iii) firearms explosives (6 levels)	39	24.1
(b)(1) Proceeds intended for unlawful controlled substance offense <sup>45</sup> (3 levels)	13	8.2
(b)(2)(A) Offender convicted under 18 U.S.C. §1957 (one level)	10	6.2
(b)(2)(B) Offender convicted under 18 U.S.C. §1956 (2 levels)	108	66.7
(b)(2)(C) Subsection (a)(1) applies and offender in business of laundering money (4 levels)	3	1.8
(b)(2)(B) Value of funds laundered between \$100,000 and \$200,000 <sup>46</sup> (one level)	3	1.8
(b)(2)(C) Value of funds laundered between \$200,000 and \$350,000 <sup>46</sup> (2 levels)	4	2.5
(b)(2)(D) Value of funds laundered between \$350,000 and \$600,000 <sup>46</sup> (3 levels)	1	0.6
(b)(2)(E) Value of funds laundered between \$600,000 and \$1,000,000 <sup>46</sup> (4 levels)	3	1.8
(b)(2)(F) Value of funds laundered between \$1,000,000 and \$2,000,000 <sup>46</sup> (5 levels)	3	1.8
(b)(2)(G) Value of funds laundered between \$2,000,000 and \$3,500,000 <sup>46</sup> (6 levels)	5	3.1
(b)(2)(H) Value of funds laundered between \$3,500,000 and \$6,000,000 <sup>46</sup> (7 levels)	2	1.2
(b)(2)(I) Value of funds laundered between \$6,000,000 and \$10,000,000 <sup>46</sup> (8 levels)	1	0.6
(b)(2)(J) Value of funds laundered between \$10,000,000 and \$20,000,000 <sup>46</sup> (9 levels)	1	0.6
(b)(2)(K) Value of funds laundered between \$20,000,000 and \$35,000,000 <sup>46</sup> (10 levels)	1	0.6
(b)(2)(L) Value of funds laundered between \$35,000,000 and \$60,000,000 <sup>46</sup> (11 levels)	2	1.2
(b)(2)(M) Value of funds laundered between \$60,000,000 and \$100,000,000 <sup>46</sup> (12 levels)	1	0.6
(b)(2)(N) Value of funds laundered more than \$100,000,000 <sup>46</sup> (13 levels)	1	0.6
(b)(3) Subsection (b)(2)(B) applies and sophisticated laundering involved (2 levels)	5	3.1

<sup>45</sup> Specific Offense Characteristic (SOC) was expanded and level enhanced on November 1, 2001.

<sup>46</sup> SOC deleted on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
§2S1.2 Engaging in Monetary Transactions in Property Derived from Unlawful Activity <sup>47</sup>	9	0.1
(b)(1)(A) Unlawful activity involved a controlled substance (5 levels)	2	22.2
(b)(1)(B) Any other specified unlawful activity (2 levels)	3	33.3
(b)(2) Value of funds laundered between \$100,000 and \$200,000 (one level)	3	33.3
(b)(2) Value of funds laundered between \$200,000 and \$350,000 (2 levels)	0	0.0
(b)(2) Value of funds laundered between \$350,000 and \$600,000 (3 levels)	2	22.2
(b)(2) Value of funds laundered between \$600,000 and \$1,000,000 (4 levels)	1	11.1
(b)(2) Value of funds laundered between \$1,000,000 and \$2,000,000 (5 levels)	0	0.0
(b)(2) Value of funds laundered between \$2,000,000 and \$3,500,000 (6 levels)	1	11.1
(b)(2) Value of funds laundered between \$3,500,000 and \$6,000,000 (7 levels)	0	0.0
(b)(2) Value of funds laundered between \$6,000,000 and \$10,000,000 (8 levels)	0	0.0
(b)(2) Value of funds laundered between \$10,000,000 and \$20,000,000 (9 levels)	0	0.0
(b)(2) Value of funds laundered between \$20,000,000 and \$35,000,000 (10 levels)	0	0.0
(b)(2) Value of funds laundered between \$35,000,000 and \$60,000,000 (11 levels)	0	0.0

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<sup>47</sup> Guideline was deleted and consolidated with §2S1.1 on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2S1.3 Structuring Transactions to Evade Reporting Requirements	75	0.5
(a)(1) Offender convicted under 31 U.S.C. §§ 5318 or 5318A (Base offense level 8)	0	0.0
(a)(2) Loss less than \$5,000 (Base offense level 6)	2	2.7
(a)(2) Loss between \$10,000 and \$20,000 <sup>48</sup> (Base offense level 9)	2	2.7
(a)(2) Loss between \$10,000 and \$30,000 (Base offense level 10)	12	16.0
(a)(2) Loss between \$20,000 and \$40,000 <sup>48</sup> (Base offense level 10)	4	5.3
(a)(2) Loss between \$40,000 and \$70,000 <sup>48</sup> (Base offense level 11)	3	4.0
(a)(2) Loss between \$30,000 and \$70,000 (Base offense level 12)	9	12.0
(a)(2) Loss between \$70,000 and \$120,000 <sup>48</sup> (Base offense level 12)	2	2.7
(a)(2) Loss between \$120,000 and \$200,000 <sup>48</sup> (Base offense level 13)	4	5.3
(a)(2) Loss between \$70,000 and \$120,000 (Base offense level 14)	5	6.7
(a)(2) Loss between \$200,000 and \$350,000 <sup>48</sup> (Base offense level 14)	2	2.7
(a)(2) Loss between \$350,000 and \$500,000 <sup>48</sup> (Base offense level 15)	2	2.7
(a)(2) Loss between \$120,000 and \$200,000 (Base offense level 16)	5	6.7
(a)(2) Loss between \$500,000 and \$800,000 <sup>48</sup> (Base offense level 16)	3	4.0
(a)(2) Loss between \$800,000 and \$1,500,000 <sup>48</sup> (Base offense level 17)	1	1.3
(a)(2) Loss between \$200,000 and \$400,000 (Base offense level 18)	3	4.0
(a)(2) Loss between \$400,000 and \$1,000,000 (Base offense level 20)	5	6.7
(a)(2) Loss between \$1,000,000 and \$2,500,000 (Base offense level 22)	5	6.7
(a)(2) Loss between \$2,500,000 and \$7,000,000 (Base offense level 24)	3	4.0
(a)(2) Loss between \$7,000,000 and \$20,000,000 (Base offense level 26)	1	1.3

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<sup>48</sup> Base offense level thresholds amounts and levels changed on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
§2S1.3 Structuring Transactions to Evade Reporting Requirements (continued)	75	0.5
(b)(1) Offender knew proceeds were for unlawful activity or bulk cash smuggling (2 levels)	53	70.7
(b)(2) Convicted under subchapter II of chapter 53 of title 31 & offense involved more than \$100,000 over a 12 month period (two levels)	1	1.3
(b)(3) Subsection (b)(1) does not apply (B) offender did not act with reckless disregard of source of funds (C) funds were from lawful activity (D) funds used for legal purposes <sup>49</sup> (decrease to level 6)	1	1.3

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<sup>49</sup> Specific Offense Characteristic changed from §2S1.3(b)(2) on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part T - Offenses Involving Taxation</b>		
§2T1.1 Tax Evasion	130	0.8
(a)(2) No tax loss or loss less than \$2,000 (Base offense level 6)	2	1.5
(a)(2) No tax loss or loss less than \$1,700 <sup>50</sup> (Base offense level 6)	1	0.8
(a)(1) Loss between \$1,700 and \$3,000 <sup>50</sup> (Base offense level 7)	1	0.8
(a)(1) Loss between \$2,000 and \$5,000 (Base offense level 8)	2	1.5
(a)(1) Loss between \$5,000 and \$8,000 <sup>50</sup> (Base offense level 9)	3	2.3
(a)(1) Loss between \$5,000 and \$12,500 (Base offense level 10)	4	3.1
(a)(1) Loss between \$8,000 and \$13,500 <sup>50</sup> (Base offense level 10)	2	1.5
(a)(1) Loss between \$13,500 and \$23,500 <sup>50</sup> (Base offense level 11)	7	5.4
(a)(1) Loss between \$12,500 and \$30,000 (Base offense level 12)	8	6.2
(a)(1) Loss between \$23,500 and \$40,000 <sup>50</sup> (Base offense level 12)	18	13.8
(a)(1) Loss between \$40,000 and \$70,000 <sup>50</sup> (Base offense level 13)	10	7.7
(a)(1) Loss between \$30,000 and \$80,000 (Base offense level 14)	7	5.4
(a)(1) Loss between \$70,000 and \$120,000 <sup>50</sup> (Base offense level 14)	9	6.9
(a)(1) Loss between \$120,000 and \$200,000 <sup>50</sup> (Base offense level 15)	12	9.2
(a)(1) Loss between \$80,000 and \$200,000 (Base offense level 16)	5	3.8
(a)(1) Loss between \$200,000 and \$325,000 <sup>50</sup> (Base offense level 16)	12	9.2
(a)(1) Loss between \$325,000 and \$550,000 <sup>50</sup> (Base offense level 17)	6	4.6
(a)(1) Loss between \$200,000 and \$400,000 (Base offense level 18)	5	3.8
(a)(1) Loss between \$550,000 and \$950,000 <sup>50</sup> (Base offense level 18)	4	3.1
(a)(1) Loss between \$950,000 and \$1,500,000 <sup>50</sup> (Base offense level 19)	3	2.3
(a)(1) Loss between \$400,000 and \$1,000,000 (Base offense level 20)	4	3.1
(a)(1) Loss between \$1,500,000 and \$2,500,000 <sup>50</sup> (Base offense level 20)	1	0.8

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<sup>50</sup> Base offense level thresholds amounts and levels changed on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2T1.1 Tax Evasion (continued)	130	0.8
(a)(1) Loss between \$2,500,000 and \$5,000,000 <sup>50</sup> (Base offense level 21)	1	0.8
(a)(1) Loss between \$1,000,000 and \$2,500,000 (Base offense level 22)	2	1.5
(a)(1) Loss between \$2,500,000 and \$7,000,000 (Base offense level 24)	1	0.8
(b)(1) Failed to report exceeding \$10,000 from criminal activity (2 levels, level 12)	25	19.2
(b)(2) Sophisticated means (2 levels, increase to level 12)	29	22.3
§2T1.3 Fraud and False Statements Under Penalty of Perjury <sup>51</sup>	1	0.0
(a)(1) Base offense level from Tax Table (Base offense level 9)	1	100.0
(a)(2) otherwise (Base offense level 6)	0	0.0
(b)(1) Failed to report source of income exceeding \$10,000 (2 levels, increase to 12)	0	0.0
(b)(2) Sophisticated means (2 levels)	0	0.0
§2T1.4 Aiding, Assisting, Procuring, Counseling or Advising Tax Fraud	19	0.1
(a)(2) No tax loss or loss less than \$2,000 (Base offense level 6)	1	5.3
(a)(1) Loss between \$5,000 and \$12,500 (Base offense level 10)	0	0.0
(a)(1) Loss between \$8,000 and \$13,500 <sup>52</sup> (Base offense level 10)	1	5.3
(a)(1) Loss between \$13,500 and \$23,500 <sup>52</sup> (Base offense level 11)	1	5.3
(a)(1) Loss between \$12,500 and \$30,000 (Base offense level 12)	1	5.3
(a)(1) Loss between \$23,500 and \$40,000 <sup>52</sup> (Base offense level 12)	3	15.8
(a)(1) Loss between \$30,000 and \$80,000 (Base offense level 14)	2	10.5
(a)(1) Loss between \$70,000 and \$120,000 <sup>52</sup> (Base offense level 14)	5	26.3
(a)(1) Loss between \$80,000 and \$200,000 (Base offense level 16)	2	10.5
(a)(1) Loss between \$325,000 and \$550,000 <sup>52</sup> (Base offense level 17)	1	5.3
(a)(1) Loss between \$200,000 and \$400,000 (Base offense level 18)	1	5.3
(a)(1) Loss between \$400,000 and \$1,000,000 (Base offense level 20)	1	5.3
(b)(1)(A) Part of scheme, offender derived substantial portion of income (B) in business of preparing tax returns (2 levels)	11	57.9
(b)(2) Sophisticated means (2 levels, increase to level 12)	3	15.8

<sup>51</sup> Deleted and consolidated with §2T1.1 on November 1, 1993.

<sup>52</sup> Base offense level thresholds amounts and levels changed on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2T1.6 Failing to Collect or Truthfully Account for and Pay Over Tax	1	0.0
(a) Loss between \$70,000 and \$120,000 <sup>53</sup> (Base offense level 14)	1	100.0
No Specific Offense Characteristics for this guideline	NA	NA
§2T1.7 Failing to Deposit Collected Taxes in Trust Account as Required After Notice	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2T1.8 Offenses Relating to Withholding Statements	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2T1.9 Conspiracy to Impede, Impair, Obstruct	4	0.0
(a)(1) Loss between \$5,000 and \$12,500 (Base offense level 10)	1	25.0
(a)(1) Loss between \$23,500 and \$40,000 <sup>53</sup> (Base offense level 12)	1	25.0
(a)(1) Loss between \$70,000 and \$120,000 <sup>53</sup> (Base offense level 14)	1	25.0
(a)(1) Loss between \$325,000 and \$550,000 <sup>53</sup> (Base offense level 17)	1	25.0
(b)(1) Planned or threat of violence to impede the collection of revenue (4 levels)	0	0.0
(b)(2) Conduct was to encourage others to impede collection of revenue (2 levels)	0	0.0

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<sup>53</sup> Base offense level thresholds amounts and levels changed on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2T2.1 Non-payment of Taxes	5	0.0
(a) Loss between \$5,000 and \$12,500 (Base offense level 10)	1	20.0
(a) Loss between \$12,500 and \$30,000 (Base offense level 12)	3	60.0
(a) Loss between \$2,500,000 and \$5,000,000 <sup>53</sup> (Base offense level 21)	1	20.0
No Specific Offense Characteristics for this guideline	NA	NA
§2T2.2 Regulatory Offenses	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2T3.1 Evading Import Duties or Restrictions (Smuggling)	5	0.0
(a)(3) Loss less than \$100 (Base offense level 4)	0	0.0
(a)(2) Loss between \$100 and \$1,000 (Base offense level 5)	1	25.0
(a)(1) Loss between \$1,000 and \$2,000 (Base offense level 6)	0	0.0
(a)(1) Loss between \$1,700 and \$3,000 <sup>53</sup> (Base offense level 7)	1	25.0
(a)(1) Loss between \$2,000 and \$5,000 (Base offense level 8)	0	0.0
(a)(1) Loss between \$5,000 and \$12,500 (Base offense level 10)	1	25.0
(a)(1) Loss between \$12,500 and \$30,000 (Base offense level 12)	0	0.0
(a)(1) Loss between \$30,000 and \$80,000 (Base offense level 14)	0	0.0
(a)(1) Loss between \$80,000 and \$200,000 (Base offense level 16)	1	20.0
(a)(1) Loss between \$200,000 and \$400,000 (Base offense level 18)	0	0.0
(a)(1) Loss between \$400,000 and \$1,000,000 (Base offense level 20)	1	25.0
(a)(1) Loss more than \$400,000,000 (Base offense level 36)	0	0.0
(b)(1) Sophisticated means (2 levels, increase to level 12)	0	0.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

Guideline and SOC	Applied	Percent
<b>Part X - Other Offenses</b>		
§2X1.1 Attempt, Solicitation, or Conspiracy	50	0.3
(a) Base offense level 6	1	2.0
(a) Base offense level 8	3	6.0
(a) Base offense level 12	6	12.0
(a) Base offense level 13	2	4.0
(a) Base offense level 14	2	4.0
(a) Base offense level 15	1	2.0
(a) Base offense level 16	2	4.0
(a) Base offense level 17	4	8.0
(a) Base offense level 18	3	6.0
(a) Base offense level 19	4	8.0
(a) Base offense level 20	5	10.0
(a) Base offense level 22	4	8.0
(a) Base offense level 23	2	4.0
(a) Base offense level 24	3	6.0
(a) Base offense level 25	1	2.0
(a) Base offense level 28	2	4.0
(a) Base offense level 30	2	4.0
(a) Base offense level 34	2	4.0
(a) Base offense level 37	1	2.0
(b)(1) If an attempt (3 level decrease)	4	8.0
(b)(2) If a conspiracy (3 level decrease)	3	6.0
(b)(3)(A) Solicitation (3 level decrease)	2	4.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2X2.1 Aiding and Abetting	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2X3.1 Accessory After the Fact	30	0.2
(a) Base offense level 4	6	20.0
(a) Base offense level 5	1	3.3
(a) Base offense level 8	1	3.3
(a) Base offense level 10	1	3.3
(a) Base offense level 12	2	6.7
(a) Base offense level 13	2	6.7
(a) Base offense level 14	1	3.3
(a) Base offense level 16	1	3.3
(a) Base offense level 20	3	10.0
(a) Base offense level 21	1	3.3
(a) Base offense level 22	1	3.3
(a) Base offense level 24	2	6.7
(a) Base offense level 28	1	3.3
(a) Base offense level 30	20	15.3
No Specific Offense Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS**  
**Post-Blakely 2004**

<b>Guideline and SOC</b>	<b>Applied</b>	<b>Percent</b>
§2X4.1 Misprision of a Felony	106	0.7
(a) Base offense level 3	1	0.9
(a) Base offense level 4	17	16.0
(a) Base offense level 5	5	4.7
(a) Base offense level 6	2	1.9
(a) Base offense level 7	5	4.7
(a) Base offense level 9	15	14.2
(a) Base offense level 11	8	7.6
(a) Base offense level 12	1	0.9
(a) Base offense level 13	10	9.4
(a) Base offense level 15	6	5.7
(a) Base offense level 16	1	0.9
(a) Base offense level 17	7	6.7
(a) Base offense level 19	27	25.5
No Specific Offense Characteristics for this guideline	NA	NA
§2X5.1 Other Offenses	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA