

Use of Guidelines and Specific Offense Characteristics

Fiscal Year 2009



USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS¹
Fiscal Year 2009²

Guideline and SOC	Applied ³	Percent ⁴
Part A - Offenses Against The Person		
All Offenses	75,607	100.0
Chapter 2 Specific Offense Characteristic Adjustments	47,429	62.7
§2A1.1 First Degree Murder	339	0.4
No Specific Offense Characteristics for this guideline	NA	NA
§2A1.2 Second Degree Murder	58	0.1
(a) Base offense level 38	56	96.6
(a) Base offense level 33 ⁵	2	3.4
No Specific Offense Characteristics for this guideline	NA	NA
§2A1.3 Voluntary Manslaughter	29	0.0
(a) Base offense level 29	28	96.6
(a) Base offense level 25 ⁵	1	3.4
No Specific Offense Characteristics for this guideline	NA	NA
§2A1.4 Involuntary Manslaughter	44	0.1
(a)(1) Criminally negligent (Base offense level 12)	4	9.1
(a)(2)(A) Reckless conduct (Base offense level 18)	11	25.0
(a)(2)(B) Reckless operation of a means of transportation (Base offense level 22)	29	65.9
No Specific Offense Characteristics for this guideline	NA	NA

¹ The information in this tables depicts information collected from only those cases in which complete guideline information is available. Of the 81,372 cases received by the Commission, 71,054 contained complete guideline information (87.3 percent). It is possible to have multiple guideline calculations for each case, and this table represents each guideline calculation for cases in which complete information was received. Only values which are allowable according to the sentencing manual(s) are counted.

² Fiscal Year 2009 data represents guideline application from guidelines effective November 1, 2008 unless otherwise specified.

³ This column represents the number of times each guideline or Specific Offense Characteristic was applied.

⁴ The "Percent" column represents, for each guideline, the portion of all guideline calculations in which the specific guideline was involved. For each Specific Offense Characteristic (SOC), the percent represents the frequency with which the specific was used in the calculations for the specific guideline.

⁵ Base offense level value was increased on November 1, 2004.

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Guideline and SOC	Applied	Percent
§2A1.5 Conspiracy or Solicitation to Commit Murder	58	0.1
(a) Base offense level 33	56	96.6
(a) Base offense level 28 ⁵	2	3.4
Chapter 2 Specific Offense Characteristic Adjustments	23	39.7
(b)(1) Offer/receipt of anything of pecuniary value for undertaking the murder (4 levels)	23	39.7
§2A2.1 Assault with Intent to Commit Murder: Attempted Murder	247	0.3
(a)(1) Offense would have constituted first degree murder (Base offense level 33)	188	76.1
(a)(1) Offense would have constituted first degree murder (Base offense level 28) ⁵	6	2.4
(a)(2) Otherwise (Base offense level 27)	51	20.6
(a)(2) Otherwise (Base offense level 22) ⁵	2	0.8
Chapter 2 Specific Offense Characteristic Adjustments	128	51.8
(b)(1)(A) Permanent or life-threatening bodily injury (4 levels)	60	24.3
(b)(1)(B) Between permanent/life-threatening and serious bodily injury (3 levels)	5	2.0
(b)(1)(C) Serious bodily injury (2 levels)	61	24.7
(b)(2) Offer/receipt of anything of pecuniary value for undertaking the murder (4 levels)	4	1.6
§2A2.2 Aggravated Assault	446	0.6
Chapter 2 Specific Offense Characteristic Adjustments	441	98.9
(b)(1) More than minimal planning (2 levels)	23	5.2
(b)(2)(A) Firearm discharged (5 levels)	42	9.4
(b)(2)(B) Dangerous weapon otherwise used (4 levels)	238	53.4
(b)(2)(C) Dangerous weapon brandished or threatened (3 levels)	19	4.3
(b)(2) Firearm use, unknown (2 levels) ⁶	1	0.2

⁶ This SOC level is not available under the guidelines, but court documents reflected the court's findings that this was the proper level for this offense.

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Guideline and SOC	Applied	Percent
§2A2.2 Aggravated Assault (continued)	446	0.6
(b)(3)(C) Permanent or life-threatening injury (7 levels)	34	7.6
(b)(3)(E) Between permanent/life-threatening and serious bodily injury (6 levels)	57	12.8
(b)(3)(B) Serious bodily injury (5 levels)	183	41.0
(b)(3)(D) Between serious and "simple" bodily injury (4 levels)	19	4.3
(b)(3)(A) "Simple" bodily injury (3 levels)	90	20.2
(b)(4) Assault motivated by payment or offer of money or thing of value (2 levels)	34	7.6
(b)(5) Assault involved violation of a court protection order (2 levels)	3	0.7
(b)(6) If the defendant was convicted under 18 U.S.C. § 111(b) or § 115 (2 levels)	46	10.3
§2A2.3 Minor Assault	32	0.0
(a)(1) Physical contact or dangerous weapon possessed/threatened (Base offense level 7)	26	81.2
(a)(2) Other than the behavior in (a)(1) (Base offense level 4)	6	18.8
Chapter 2 Specific Offense Characteristic Adjustments	19	59.4
(b)(1)(A) Bodily injury to victim (2 levels)	10	31.2
(b)(1)(B) Substantial bodily injury to victim under age of 16 (4 levels)	9	28.1
§2A2.4 Obstructing or Impeding Officers	142	0.2
Chapter 2 Specific Offense Characteristic Adjustments	108	76.1
(b)(1) Physical contact or dangerous weapon possessed/threatened (3 levels)	104	73.2
(b)(1) Physical contact or dangerous weapon possessed/threatened (2 levels) ⁶	1	0.7
(b)(2) Victim sustained bodily injury (2 levels)	46	32.4
§2A3.1 Criminal Sexual Abuse (Rape)	167	0.2
(a)(1) Conviction under 18 U.S.C. § 2241(c) (Base offense level 38)	18	10.8
(a)(2) Otherwise (Base offense level 30)	122	73.0
(a) Base offense level 27 ⁵	27	16.2
Chapter 2 Specific Offense Characteristic Adjustments	146	87.4
(b)(1) Offense committed by means set forth in 18 U.S.C. § 2241(a) or (b) (4 levels)	99	59.3
(b)(2)(A) Victim under age of 12 (4 levels)	46	27.5
(b)(2)(B) Victim between 12 and 16 (2 levels)	30	18.0
(b)(3)(A) Victim in custody, care or control (2 levels)	66	39.5
(b)(3)(B) Victim in a correctional facility (2 levels)	8	4.8

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Guideline and SOC	Applied	Percent
§2A3.1 Criminal Sexual Abuse (Rape) (continued)	167	0.2
(b)(4)(A) Permanent or life-threatening bodily injury (4 levels)	1	0.6
(b)(4)(B) Between permanent/life-threatening and serious bodily injury (3 levels)	0	0.0
(b)(4)(C) Serious bodily injury (2 levels)	12	7.2
(b)(4) Bodily injury, type unknown (1 levels) ⁶	1	0.6
(b)(5) Victim abducted (4 levels)	4	2.4
(b)(6)(A) Misrepresentation to persuade a minor (2 levels)	1	0.6
(b)(6)(B) Use of a computer to persuade a minor (2 levels)	8	4.8
§2A3.2 Criminal Sexual Abuse of a Minor (Statutory Rape)	40	0.0
(a) Base offense level 18	36	90.0
(a)(1) Violation of Chapter 117 of Title 18 and the commission of a sex act (BOL 24) ⁷	3	7.8
(a)(3) Other than (a)(1) or (a)(2) (Base offense level 18) ⁷	1	2.5
Chapter 2 Specific Offense Characteristic Adjustments	15	37.8
(b)(1) Victim in custody, care or control of the defendant (4 levels)	7	17.5
(b)(2)(A) Misrepresentation of identity (4 levels)	0	0.0
(b)(2)(B) Undue influence (4 levels)	4	10.0
(b)(2)(B) Undue influence (2 levels) ⁸	1	1.7
(b)(3)(A) Use of a computer to persuade the victim to engage in prohibited sexual conduct (2 levels)	4	10.0
(b)(3)(B) Use of a computer to facilitate travel by the victim/participant to engage in prohibited sexual conduct (2 levels) ⁹	1	1.7
§2A3.3 Criminal Sexual Abuse of a Ward	9	0.0
(a) Base offense level 14	6	66.7
(a) Base offense level 12 ¹⁰	3	33.3
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
(b)(1) Misrepresentation of identity (2 levels)	0	0.0
(b)(2) Use of a computer (2 levels)	0	0.0

⁷ Base offense level was eliminated on November 1, 2004.

⁸ SOC was increased on November 1, 2004.

⁹ SOC was eliminated on November 1, 2004.

¹⁰ Base offense level was increased on November 1, 2007.

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Guideline and SOC	Applied	Percent
§2A3.4 Abuse Sexual Contact	53	0.1
(a)(1) If offense committed by means in 18 U.S.C. § 2241(a) or (b) (BOL 20)	1	1.9
(a)(2) If offense committed by means in 18 U.S.C. § 2242 (Base offense level 16)	5	9.4
(a)(3) Other than (a)(1) or (a)(2) (Base offense level 12)	41	77.4
(a)(1) If offense committed by means in 18 U.S.C. § 2241(a) or (b) (BOL 16) ⁵	2	3.8
(a)(3) Other than (a)(1) or (a)(2) (Base offense level 10) ⁵	4	7.8
Chapter 2 Specific Offense Characteristic Adjustments	38	71.7
(b)(1) Victim under the age of 12 (4 levels or increase to level 20)	25	47.2
(b)(1) Victim under the age of 12 (4 levels or increase to level 16) ⁸	4	7.8
(b)(2) Victim between 12 and 16 (2 levels)	3	5.7
(b)(3) Victim was in custody, care or control (2 levels)	18	34.0
(b)(4) Misrepresentation of identity (2 levels)	1	1.9
(b)(5) Use of a computer (2 levels)	1	1.9
§2A3.5 Failure to Register as a Sex Offender	227	0.3
(a)(1) Defendant required to register as a Tier III offender (Base offense level 16)	110	48.5
(a)(2) Defendant required to register as a Tier II offender (Base offense level 14)	71	31.3
(a)(3) Defendant required to register as a Tier I offender (Base offense level 12)	46	20.3
Chapter 2 Specific Offense Characteristic Adjustments	8	3.5
(b)(1)(A) If while in failure to register status, sex offense against non-minor (6 levels)	0	0.0
(b)(1)(B) If while in failure to register status, felony offense against a minor (6 levels)	0	0.0
(b)(1)(C) If while in failure to register status, sex offense against a minor (8 levels)	7	3.1
(b)(2)(A) Defendant voluntarily corrected the failure to register (decrease 3 levels)	0	0.0
(b)(2)(B) Defendant voluntarily attempted to register but was unable to (decrease 3 lvls)	1	0.4
§2A3.6 Aggravated Offenses Relating to Registration as a Sex Offender	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

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Guideline and SOC	Applied	Percent
§2A4.1 Kidnapping, Abduction or Unlawful Restraint	108	0.1
(a) Base offense level 32	102	94.4
(a) Base offense level 24 ⁵	6	5.6
Chapter 2 Specific Offense Characteristic Adjustments	87	80.6
(b)(1) Ransom demanded or a demand upon the government (6 levels)	42	38.9
(b)(2)(A) Victim sustained permanent or life-threatening bodily injury (4 levels)	13	12.0
(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)	12	11.1
(b)(3) Dangerous weapon used (2 levels)	58	53.7
(b)(4)(A) Victim not released before 30 days (2 levels)	7	6.5
(b)(4)(B) Victim not release before seven days (1 level)	7	6.5
(b)(4)(C) Victim released before 24 hours (1 level decrease)	0	0.0
(b)(5) Victim sexually exploited (6 levels)	4	3.7
(b)(5) Victim sexually exploited (3 levels) ¹¹	2	1.8
(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)	1	0.1
(b)(7)(B) Abduction in connection with another crime (4 levels)	3	2.8
§2A4.2 Demanding or Receiving Ransom Money	1	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2A5.1 Aircraft Piracy or Attempted Aircraft Piracy	0	0.0
Chapter 2 Specific Offense Characteristic Adjustments	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	18	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)	6	33.3
(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)	12	66.7
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
(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

¹¹ SOC was increased on November 1, 2003.

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Guideline and SOC	Applied	Percent
§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	269	0.4
(a)(2) Convicted of 47 U.S.C. § 223(a)(1)(C) - (E) not involving threat to injure (BOL 6)	1	0.4
(a)(1) Conviction other than (a)(1) (Base offense level 12)	268	99.6
Chapter 2 Specific Offense Characteristic Adjustments	175	65.1
(b)(1) Conduct evidencing an intent to carry out such threat (6 levels)	15	5.6
(b)(2) More than two threats (2 levels)	60	22.3
(b)(3) Violation of a court protection order (2 levels)	4	1.5
(b)(4)(A) Disruption of public, governmental, or business functions (4 levels)	87	32.3
(b)(4)(B) Substantial expenditure of funds to clean or decontaminate (4 levels)	3	1.1
(b)(5) If subsection (a)(2) and (b)(1)-(b)(4) do not apply (4 level decrease)	24	8.9
§2A6.2 Stalking or Domestic Violence	10	0.0
Chapter 2 Specific Offense Characteristic Adjustments	10	100.0
(b)(1)(A) Violation of court protection order (2 levels)	0	0.0
(b)(1)(B) Bodily injury (2 levels)	0	0.0
(b)(1)(C) Possession , or threatened use of a dangerous weapon (2 levels)	0	0.0
(b)(1)(D) Pattern of activity stalking, threatening, or assaulting same victim (2 levels)	2	20.0
(b)(1)(A)-(D) Violation of more than one of above (4 levels)	8	80.0

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Guideline and SOC	Applied	Percent
Part B - Basic Economic Offenses		
§2B1.1 Larceny, Embezzlement, Theft, and Fraud	7,951	10.5
(a)(1) Statutory maximum of 20 years or more (Base offense level 7)	2,560	32.2
(a)(2) Otherwise (Base offense level 6)	5,242	65.9
(a)(1) Base offense level 4 ¹²	7	0.1
(a)(1) Base offense level 6 ¹³	142	1.8
Chapter 2 Specific Offense Characteristic Adjustments	6,724	84.6
(b)(1)(A) \$5,000 or less (0 levels)	1,623	20.4
(b)(1)(B) Between \$5,000 and \$10,000 (2 levels)	472	5.9
(b)(1)(C) Between \$10,000 and \$30,000 (4 levels)	1,262	15.9
(b)(1)(D) Between \$30,000 and \$70,000 (6 levels)	1,147	14.4
(b)(1)(E) Between \$70,000 and \$120,000 (8 levels)	700	8.8
(b)(1)(J) Between \$120,000 and \$200,00 ¹⁴ (9 levels)	1	0.0
(b)(1)(F) Between \$120,000 and \$200,000 (10 levels)	608	7.6
(b)(1)(K) Between \$200,000 and \$350,000 ¹⁴ (10 levels)	4	0.0
(b)(1)(G) Between \$200,000 and \$400,000 (12 levels)	642	8.1
(b)(1)(H) Between \$400,000 and \$1,000,000 (14 levels)	672	8.4
(b)(1)(I) Between \$1,000,000 and \$2,500,000 (16 levels)	408	5.1
(b)(1)(Q) Between \$5,000,000 and \$10,000,000 ¹⁴ (16 levels)	2	0.0
(b)(1)(J) Between \$2,500,000 and \$7,000,000 (18 levels)	241	3.0
(b)(1)(K) Between \$7,000,000 and \$20,000,000 (20 levels)	97	1.2
(b)(1)(L) Between \$20,000,000 and \$50,000,000 (22 levels)	34	0.4

¹² Base offense level was increased on November 1, 2001.

¹³ The alternative base offense level of 7 was added on November 1, 2003.

¹⁴ Dollar amount and offense levels for this SOC changed on November 1, 2001.

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Guideline and SOC	Applied	Percent
§2B1.1 Larceny, Embezzlement, Theft, and Fraud (continued)	7,951	10.5
(b)(1)(M) Between \$50,000,000 and \$100,000,000 (24 levels)	15	0.2
(b)(1)(N) Between \$100,00,000 and \$200,000,000 (26 levels)	11	0.1
(b)(1)(O) Between \$200,000,000 and \$400,000,000 (28 levels)	2	0.0
(b)(1)(P) More than \$400,000,000 (30 levels)	9	0.1
(b)(2)(A) More than 10 but less than 50 victims or mass marketing (2 levels)	905	11.4
(b)(2)(B) More than 50 victims but less than 250 victims (4 levels)	281	3.5
(b)(2)(B) More than 50 victims ¹⁵ (4 levels)	29	0.4
(b)(2)(C) More than 250 victims (6 levels)	176	2.2
(b)(3) Theft was from another person ¹⁶ (2 levels)	32	0.4
(b)(4) Receiving stolen property as a business (2 levels)	78	1.0
(b)(4)(A) More than minimal planning ¹⁷ (2 levels)	5	0.1
(b)(5) Misappropriation of trade secrets or benefit foreign government ¹⁸ (2 levels)	3	0.0
(b)(6) Theft or damage to a national cemetery (2 levels)	3	0.0
(b)(7) Convicted under (A) 18 U.S.C. §1037 and (B) involved e-mail addresses through improper means (2 levels)	6	0.1

¹⁵ Threshold amounts and levels were changed for this SOC on November 1, 2003.

¹⁶ SOC was changed from §2B1.1(b)(2) on November 1, 2001. The statistics reflect all instances of the application of this SOC.

¹⁷ SOC was eliminated on November 1, 2001.

¹⁸ SOC was formerly §2B1.1(b)(7) and redesignated §2B1.1(b)(5) on November 1, 2001. The statistics reflect all instances of the application of this SOC.

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Guideline and SOC	Applied	Percent
§2B1.1 Larceny, Embezzlement, Theft, and Fraud (continued)	7,951	10.5
(b)(8)(A) Misrepresentation of acting on behalf of charitable, educational, religious or political organization or a government agency (2 levels, if less than 10) ¹⁹	72	0.9
(b)(8)(B) Misrepresentation during bankruptcy proceeding (2 levels, if less than 10) ¹⁹	71	0.9
(b)(8)(C) Violation of any prior judicial/administrative order (2 levels, if less than 10) ¹⁹	94	1.2
(b)(8)(D) Misrepresentation in financial assistance for higher education (2 levels, if less than 10) ¹⁹	4	0.0
(b)(9)(A) Offender relocated to evade law enforcement (2 levels, increase to 12) ²⁰	92	1.2
(b)(9)(B) Most of scheme committed outside of U.S. (2 levels, increase to 12) ²⁰	107	1.3
(b)(9)(C) Offense otherwise involved sophisticated means (2 levels, increase to 12) ²⁰	494	6.2
(b)(10)(A)(i) Possession or use of any device-making equipment (2 levels, increase to 12) ²¹	249	3.1
(b)(10)(A)(ii) Possession or use of any authentication feature (2 levels, increase to 12) ²¹	69	0.9
(b)(10)(B)(i) Production/trafficking of any unauthorized access device (2 levels, increase to 12) ²¹	152	1.9
(b)(10)(B)(ii) Production/trafficking authentication feature (2 levels, increase to 12) ²¹	21	0.3
(b)(10)(C)(i) Use of means of ID unlawfully to produce/obtain (2 levels, increase to 12) ²¹	376	4.7
(b)(10)(C)(ii) Possession of five or more means of ID (2 levels, increase to 12) ²¹	87	1.1
(b)(11) Conduct described in 18 U.S.C. § 1040 (2 levels, increase to 12)	1	0.0
(b)(12)(A) Organized scheme to steal vehicles or parts (two levels, increase to 14) ²²	35	0.4
(b)(12)(B) Organized scheme to steal goods that are part of a cargo shipment (2 levels, increase to 14)	14	0.2
(b)(13)(A) Conscious/reckless risk of death/serious bodily injury (2 levels, increase to 14) ²³	35	0.4
(b)(13)(B) Possession of a dangerous weapon (2 levels, increase to 14) ²³	15	0.2

¹⁹ SOC was formerly §2B1.1(b)(7) and redesignated §2B1.1(b)(8) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

²⁰ SOC was formerly §2B1.1(b)(8) and redesignated §2B1.1(b)(9) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

²¹ SOC was formerly §2B1.1(b)(9) and redesignated §2B1.1(b)(10) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

²² SOC was formerly §2B1.1(b)(5) and redesignated §2B1.1(b)(10) on November 1, 2001, The SOC was subsequently redesignated §2B1.1(b)(11) on November 1, 2004. The SOC was subsequently redesignated §2B1.1(b)(12)(A) on November 1, 2007. The statistics reflect all instances of the application of this SOC.

²³ SOC was formerly §2B1.1(b)(11) and redesignated §2B1.1(b)(12) on November 1, 2004. The SOC was subsequently redesignated §2B1.1(b)(13) on November 1, 2008. The statistics reflect all instances of the application of this SOC.

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Guideline and SOC	Applied	Percent
§2B1.1 Larceny, Embezzlement, Theft, and Fraud (continued)	7,951	10.5
(b)(14)(A) More than \$1,000,000 derived from financial institution (2 levels) ²⁴	67	0.8
(b)(14)(B)(i) Jeopardized the safety and soundness of financial institution (4 levels or more) ²⁵	17	0.2
(b)(14)(B)(ii) Substantially endangered solvency or financial security, publicly traded or had 1,000 or more employees (4 levels or more)	2	0.0
(b)(14)(B)(iii) Substantially endangered solvency or financial security of 100 or more victims (4 levels or more)	1	0.0
(b)(15)(A)(i)(I) Convicted of 18 U.S.C. §1030 and involved computer system/attempt to obtain personal information (2 levels) ²⁶	29	0.4
(b)(15)(A)(ii) Convicted of 18 U.S.C. §1030(a)(5)(A)(i) (4 levels) ²⁷	7	0.1
(b)(15)(A)(iii) Convicted of 18 U.S.C. §1030 and substantial disruption of a critical infrastructure (6 levels) ²⁸	1	0.0
(b)(16)(A)(i) Violation of securities law and defendant was an officer of a publicly traded company (4 levels, increase to 24) ²⁹	8	0.1
(b)(16)(A)(ii) Violation of securities law and defendant was a registered broker (4 levels, increase to 24) ²⁹	13	0.2
(b)(16)(A)(iii) Violation of securities law and defendant was an investment advisor (4 levels, increase to 24) ²⁹	4	0.0
(b)(16)(B)(i) Violation of commodities law and defendant was an officer of a futures commission merchant (4 levels, increase to 24) ²⁹	2	0.0
(b)(16)(B)(ii) Violation of commodities law and defendant was a commodities advisor (4 levels, increase to 24) ²⁹	0	0.0
(b)(16)(B)(iii) Violation of commodities law and defendant was a commodity pool operator (4 levels, increase to 24) ²⁹	2	0.0

²⁴ SOC was formerly §2B1.1(b)(6)(A) and redesignated §2B1.1(b)(12)(A) on November 1, 2001, The SOC was subsequently redesignated §2B1.1(b)(13)(A) on November 1, 2004. The SOC was subsequently redesignated §2B1.1(b)(14)(A) on November 1, 2008. The statistics reflect all instances of the application of this SOC.

²⁵ SOC was formerly §2B1.1(b)(12)(B) and redesignated §2B1.1(b)(13)(B) on November 1, 2004. The SOC was subsequently redesignated §2B1.1(b)(14)(B) on November 1, 2008. The statistics reflect all instances of the application of this SOC.

²⁶ SOC was formerly §2B1.1(b)(13)(A)(i) and redesignated §2B1.1(b)(14)(A)(i) on November 1, 2004. The SOC was subsequently redesignated §2B1.1(b)(15)(A)(i) on November 1, 2008. The statistics reflect all instances of the application of this SOC.

²⁷ SOC was formerly §2B1.1(b)(13)(A)(ii) and redesignated §2B1.1(b)(14)(A)(ii) on November 1, 2004. The SOC was subsequently redesignated §2B1.1(b)(15)(A)(ii) on November 1, 2008. The statistics reflect all instances of the application of this SOC.

²⁸ SOC was formerly §2B1.1(b)(13)(A)(iii) and redesignated §2B1.1(b)(14)(A)(iii) on November 1, 2004. The SOC was subsequently redesignated §2B1.1(b)(15)(A)(iii) on November 1, 2008. The statistics reflect all instances of the application of this SOC.

²⁹ SOC was formerly §2B1.1(b)(14) and redesignated §2B1.1(b)(15) on November 1, 2004. The SOC was subsequently redesignated §2B1.1(b)(16) on November 1, 2008. The statistics reflect all instances of the application of this SOC.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2B1.4 Insider Trading	12	0.0
Chapter 2 Specific Offense Characteristic Adjustments	12	100.0
(b)(1) Loss between \$10,000 and \$30,000 (4 levels)	1	8.3
(b)(1) Loss between \$70,000 and \$120,000 (8 levels)	2	16.7
(b)(1) Loss between \$400,000 and \$1,000,000 (14 levels)	5	41.7
(b)(1) Loss between \$1,000,000 and \$2,500,000 (16 levels)	1	8.3
(b)(1) Loss between \$2,500,000 and \$7,000,000 (18 levels)	1	8.3
(b)(1) Loss between \$7,000,000 and \$20,000,000 (20 levels)	2	16.7
§2B1.5 Theft or Damage of Cultural Heritage Resources	15	0.0
Chapter 2 Specific Offense Characteristic Adjustments	14	93.3
(b)(1)(A) Loss less than \$2,000 (0 levels)	2	13.3
(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)	3	20.0
(b)(1)(B) Loss between \$10,000 and \$30,000 (4 levels)	7	46.7
(b)(1)(B) Loss between \$30,000 and \$70,000 (6 levels)	1	6.7
(b)(1)(B) Loss between \$70,000 and \$120,000 (8 levels)	1	6.7
(b)(1)(B) Loss between \$20,000,000 and \$50,000,000 (22 levels)	1	6.7
(b)(2)(A) Offense involved national park system (2 levels)	3	20.0
(b)(2)(B) Offense involved National Historical Landmark (2 levels)	0	0.0
(b)(2)(C) Offense involved national monument or national memorial (2 levels)	0	0.0
(b)(2)(D) Offense involved a national marine sanctuary (2 levels)	0	0.0
(b)(2)(E) Offense involved a national cemetery (2 levels)	0	0.0
(b)(2)(F) Offense involved a museum (2 levels)	1	6.7
(b)(2)(G) Offense involved the World Heritage List (2 levels)	1	6.7
(b)(3)(A) Offense involved human remains (2 levels)	1	6.7
(b)(3)(B) Offense involved a funerary object (2 levels)	0	0.0
(b)(3)(C) Offense involved cultural patrimony (2 levels)	1	6.7
(b)(3)(D) Offense involved a sacred object (2 levels)	0	0.0
(b)(3)(E) Offense involved cultural property (2 levels)	2	13.3
(b)(3)(F) Offense involved designated archaeological or ethnological material (2 levels)	2	13.3
(b)(3)(G) Offense involved a pre-Columbian monumental/architectural mural (2 levels)	0	0.0

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2B1.5 Theft or Damage of Cultural Heritage Resources (continued)	15	0.0
(b)(4) Committed for pecuniary gain (2 levels)	6	40.0
(b)(5) Pattern of misconduct involving cultural heritage resources (2 levels)	4	26.7
(b)(6) Dangerous weapon brandished/threatened (2 levels or increase to level 14)	0	0.0
§2B1.6 Aggravated Identity Theft	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2B2.1 Burglary of a Residence	111	0.2
(a)(1) Burglary of a residence (Base offense level 17)	15	13.5
(a)(2) Burglary of a structure other than a residence (Base offense level 12)	96	86.5
Chapter 2 Specific Offense Characteristic Adjustments	82	73.9
(b)(1) More than minimal planning (2 levels)	32	28.8
(b)(2)(A) Loss \$2,500 or less (0 levels)	39	35.1
(b)(2)(B) Between \$2,500 and \$10,000 loss (one level)	24	21.6
(b)(2)(C) Between \$10,000 and \$50,000 loss (2 levels)	35	31.5
(b)(2)(D) Between \$50,000 and \$250,000 loss (3 levels)	10	9.0
(b)(2)(E) Between \$250,000 and \$800,000 (4 levels)	3	2.7
(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)	52	46.8
(b)(4) Dangerous weapon possessed (2 levels)	5	4.5

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2B2.3 Trespass	8	0.0
Chapter 2 Specific Offense Characteristic Adjustments	1	12.5
(b)(1)(A) Occurred at a secured government facility (2 levels)	0	0.0
(b)(1)(B) Occurred at a nuclear energy facility (2 levels)	0	0.0
(b)(1)(C) Occurred on a vessel or aircraft of the United States (2 levels)	0	0.0
(b)(1)(D) Occurred in a secured area of an airport (2 levels)	1	12.5
(b)(1)(E) Occurred at a residence (2 levels)	0	0.0
(b)(1)(F) Occurred on a computer system used to (i) maintain/operate infrastructure or (ii) by or for a government entity in the administration of justice/national defense/ national security (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	3,634	4.8
Chapter 2 Specific Offense Characteristic Adjustments	3,358	92.4
(b)(1) Financial institution or post offense subject of offense (2 levels)	2,237	61.6
(b)(2) Firearm discharged (8 levels) ³⁰	1	0.0
(b)(2)(A) Firearm discharged (7 levels)	72	2.0
(b)(2)(B) Firearm otherwise used (6 levels)	164	4.5
(b)(2)(C) Firearm brandished or possessed (5 levels)	531	14.6
(b)(2)(D) Dangerous weapon otherwise used (4 levels)	124	3.4
(b)(2)(E) Dangerous weapon brandished or possessed (3 levels)	381	10.5
(b)(2)(F) Threat of death (2 levels)	620	17.1
(b)(3)(A) Bodily injury occurred (2 levels)	152	4.2
(b)(3)(B) Serious bodily injury (4 levels)	89	2.4
(b)(3)(C) Permanent/life-threatening bodily injury (6 levels)	19	0.5
(b)(3)(D) Between bodily and serious bodily injury (3 levels)	6	0.2
(b)(3)(E) Between serious and permanent/life-threatening bodily injury (5 levels)	4	0.1
(b)(4)(A) Person abducted during offense (4 levels)	152	4.2
(b)(4)(B) Person physically restrained during offense (2 levels)	368	10.1

³⁰ SOC level was changed on November 1, 2001.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2B3.1 Robbery (continued)	3,634	4.8
(b)(5) Offense involved carjacking (2 levels)	201	5.5
(b)(6) Obtaining firearm, destructive device or controlled substance object of offense (one level)	291	8.0
(b)(7)(B) Loss between \$10,000 and \$50,000 (one level)	487	13.4
(b)(7)(C) Loss between \$50,000 and \$250,000 (2 levels)	224	6.2
(b)(7)(D) Loss between \$250,000 and \$800,000 (3 levels)	36	1.0
(b)(7)(E) Loss between \$800,000 and \$1,500,000 (4 levels)	9	0.2
(b)(7)(F) Loss between \$1,500,000 and \$2,500,000 (5 levels)	6	0.2
(b)(7)(G) Loss between \$2,500,000 and \$5,000,000 (6 levels)	0	0.0
(b)(7)(H) Loss more than \$5,000,000 (7 levels)	1	0.0
§2B3.2 Extortion by Force	98	0.1
Chapter 2 Specific Offense Characteristic Adjustments	89	90.8
(b)(1) Express or implied threat of death, bodily injury or kidnaping (2 levels)	72	73.5
(b)(2) Amount demanded between \$10,000 and \$50,000 (one level)	16	16.3
(b)(2) Amount demanded between \$50,000 and \$250,000 (2 levels)	20	20.4
(b)(2) Amount demanded between \$250,000 and \$800,000 (3 levels)	8	8.2
(b)(2) Amount demanded between \$800,000 and \$1,500,000 (4 levels)	1	1.0
(b)(3)(A)(i) Firearm discharged (7 levels)	1	1.0
(b)(3)(A)(ii) Firearm otherwise used (6 levels)	2	2.0
(b)(3)(A)(iii) Firearm brandished or possessed (5 levels)	4	4.1
(b)(3)(A)(iv) Dangerous weapon otherwise used (4 levels)	10	10.2
(b)(3)(A)(v) Dangerous weapon brandished or possessed (3 levels)	4	4.1
(b)(3)(B)(i)(I) Offense involved preparation to carry out threat of death (3 levels)	0	0.0
(b)(3)(B)(i)(II) Offense involved preparation to carry out threat of serious bodily injury (3 levels)	1	1.0
(b)(3)(B)(i)(III) Offense involved preparation to carry out threat of kidnaping (3 levels)	1	1.0
(b)(3)(B)(i)(IV) Offense involved preparation to carry out threat of product tampering (3 levels)	0	0.0
(b)(3)(B)(i)(V) Offense involved preparation to carry out threat of damage to a computer system used on maintain critical infrastructure (3 levels)	0	0.0
(b)(3)(B)(ii) Offender demonstrated ability to carry out a threat described in (i)(I) through (i)(V)(3 levels)	1	1.0

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2B3.2 Extortion by Force (continued)	98	0.1
(b)(4)(A) Bodily injury (2 levels)	4	4.1
(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)	2	2.0
(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)	3	3.1
(b)(5)(B) Person physically restrained to facilitate offense or escape (2 levels)	1	1.0
§2B3.3 Blackmail and other forms of Extortion	26	0.0
Chapter 2 Specific Offense Characteristic Adjustments	14	53.8
(b)(1)(B) Amount demanded between \$5,000 and \$10,000 (2 levels)	1	3.8
(b)(1)(B) Amount demanded between \$10,000 and \$30,000 (4 levels)	2	7.7
(b)(1)(B) Amount demanded between \$30,000 and \$70,000 (6 levels)	2	7.7
(b)(1)(B) Amount demanded between \$70,000 and \$120,000 (8 levels)	2	7.7
(b)(1)(B) Amount demanded between \$120,000 and \$200,000 (10 levels)	2	7.7
(b)(1)(B) Amount demanded between \$200,000 and \$400,000 (12 levels)	1	3.8
(b)(1)(B) Amount demanded between \$400,000 and \$1,000,000 (14 levels)	1	3.8
(b)(1)(B) Amount demanded between \$1,000,000 and \$2,500,000 (16 levels)	1	3.8
(b)(1)(B) Amount demanded between \$2,500,000 and \$7,000,000 (18 levels)	2	7.7
§2B4.1 Bribery in Procurement of Bank Loan and other Commercial Bribery	42	0.1
(a) Base offense level 7 ¹²	1	2.4
(a) Bas offense level 8	41	97.6
Chapter 2 Specific Offense Characteristic Adjustments	42	100.0
(b)(1) Bribe between \$2,000 and \$5,000 (one level)	3	7.1
(b)(1) Bribe between \$5,000 and \$10,000 (2 levels)	5	11.9
(b)(1) Bribe between \$10,000 and \$30,000 (4 levels)	3	7.1
(b)(1) Bribe between \$20,000 and \$40,000 ¹⁴ (4 levels)	1	2.4
(b)(1) Bribe between \$30,000 and \$70,000 (6 levels)	7	16.7
(b)(1) Bribe between \$70,000 and \$120,000 (8 levels)	2	4.8
(b)(1) Bribe between \$120,000 and \$200,000 (10 levels)	5	11.9

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2B4.1 Bribery in Procurement of Bank Loan and other Commercial Bribery (continued)	42	0.1
(b)(1) Bribe between \$200,000 and \$400,000 (12 levels)	7	16.7
(b)(1) Bribe between \$400,000 and \$1,000,000 (14 levels)	4	9.52
(b)(1) Bribe between \$1,000,000 and \$2,500,000 (16 levels)	3	7.1
(b)(1) Bribe between \$2,500,000 and \$7,000,000 (18 levels)	1	2.4
(b)(1) Bribe between \$7,000,000 and \$20,000,000 (20 levels)	1	2.4
(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 or level 24)	0	0.0
§2B5.1 Offenses involving Counterfeit Bearer Obligations	433	0.6
(a) Base offense level 8 ¹²	1	0.2
(a) Base offense level 9	432	99.8
Chapter 2 Specific Offense Characteristic Adjustments	341	78.8
(b)(1) Items valued between \$2,000 and \$5,000 (one level)	77	17.8
(b)(1) Items valued between \$5,000 and \$10,000 (2 levels)	48	11.1
(b)(1) Items valued between \$10,000 and \$30,000 (4 levels)	53	12.2
(b)(1) Items valued between \$30,000 and \$70,000 (6 levels)	34	7.8
(b)(1) Items valued between \$70,000 and \$120,000 (8 levels)	7	1.6
(b)(1) Items valued between \$120,000 and \$200,000 (10 levels)	5	1.2
(b)(1) Items valued between \$200,000 and \$400,000 (12 levels)	6	1.4
(b)(1) Items valued between \$400,000 and \$1,000,000 (14 levels)	3	0.7
(b)(1) Items valued between \$2,500,000 and \$7,000,000 (18 levels)	2	0.5
(b)(1) Items valued between \$7,000,000 and \$20,000,000 (20 levels)	1	0.2
(b)(2)(A) Offender manufactured/produced any actual counterfeit material (2 levels, increase to 15)	46	10.6
(b)(2)(B)(i) Offender controlled/possessed counterfeiting paper similar to distinctive paper (2 levels)	4	0.9
(b)(2)(B)(ii) Offender controlled/possessed a device identical to a distinctive counterfeit deterrent (2 levels)	2	0.5
(b)(3) Subsection (b)(2)(A) applies and offense level less than 15, increase to 15	160	37.0
(b)(4) Dangerous weapon possessed (2 levels, if less than 13 increase to 13)	5	1.2
(b)(5) Offense committed outside of United States (2 levels)	25	5.8

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2B5.3 Criminal Infringement of Copyright or Trademark	196	0.3
(a) Base offense level 6 ¹²	1	0.5
(a) Base offense level 8	195	99.5
Chapter 2 Specific Offense Characteristic Adjustments	192	98.0
(b)(1) Infringement amount between \$2,000 and \$5,000 (one level)	19	9.7
(b)(1) Infringement amount between \$5,000 and \$10,000 (2 levels)	5	2.6
(b)(1) Infringement amount between \$10,000 and \$30,000 (4 levels)	23	11.7
(b)(1) Infringement amount between \$20,000 and \$40,000 ¹⁴ (4 levels)	1	0.5
(b)(1) Infringement amount between \$30,000 and \$70,000 (6 levels)	29	14.8
(b)(1) Infringement amount between \$70,000 and \$120,000 (8 levels)	19	9.7
(b)(1) Infringement amount between \$350,000 and \$500,000 ¹⁴ (9 levels)	2	1.0
(b)(1) Infringement amount between \$120,000 and \$200,000 (10 levels)	26	13.3
(b)(1) Infringement amount between \$800,000 and \$1,500,000 ¹⁴ (11 levels)	1	0.5
(b)(1) Infringement amount between \$200,000 and \$400,000 (12 levels)	18	9.2
(b)(1) Infringement amount between \$400,000 and \$1,000,000 (14 levels)	16	8.2
(b)(1) Infringement amount between \$1,000,000 and \$2,500,000 (16 levels)	10	5.1
(b)(1) Infringement amount between \$2,500,000 and \$7,000,000 (18 levels)	10	5.1
(b)(1) Infringement amount between \$7,000,000 and \$20,000,000 (20 levels)	5	2.6
(b)(1) Infringement amount between \$20,000,000 and \$50,000,000 (22 levels)	4	2.0
(b)(2) Display of a work being prepared for commercial distribution (2 levels)	21	10.7
(b)(3) Manufacturing/importation/uploading infringed items (2 levels or increase to 12) ³¹	77	39.3
(b)(4) Committed for commercial advantage or private gain (2 level decrease) ³²	2	1.0
(b)(5)(A) Conscious/reckless risk of serious bodily injury (2 levels, increase to 13) ³³	1	0.5
(b)(5)(B) Possession of a dangerous weapon (2 levels, increase to 13) ³³	1	0.5

³¹ SOC was formerly §2B5.3(b)(2) and redesignated §2B5.3(b)(3) on November 1, 2005. The statistics reflect all instances of the application of this SOC.

³² SOC was formerly §2B5.3(b)(3) and redesignated §2B5.3(b)(4) on November 1, 2005. The statistics reflect all instances of the application of this SOC.

³³ SOC was formerly §2B5.3(b)(4) and redesignated §2B5.3(b)(5) on November 1, 2005. The statistics reflect all instances of the application of this SOC.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2B6.1 Altering or Removing Motor Vehicle ID Numbers	15	0.0
Chapter 2 Specific Offense Characteristic Adjustments	15	100.0
(b)(1) Retail value between \$5,000 and \$10,000 (2 levels)	1	6.7
(b)(1) Retail value between \$10,000 and \$30,000 (4 levels)	2	13.3
(b)(1) Retail value between \$30,000 and \$70,000 (6 levels)	1	6.7
(b)(1) Retail value between \$120,000 and \$200,000 ¹⁴ (7 levels)	1	6.7
(b)(1) Retail value between \$120,000 and \$200,000 (10 levels)	1	6.7
(b)(1) Retail value between \$200,000 and \$400,000 (12 levels)	4	26.7
(b)(1) Retail value between \$400,000 and \$1,000,000 (14 levels)	3	20.0
(b)(1) Retail value between \$7,000,000 and \$20,000,000 (20 levels)	2	13.3
(b)(2) Offender in the business of receiving and selling stolen property (2 levels)	7	46.7
(b)(3) Part of organized scheme to steal vehicles or parts (increase to level 14)	0	0.0

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part C - Offenses Involving Public Officials		
§2C1.1 Offering, Giving, Soliciting, or Receiving a Bribe	263	0.4
(a)(1) If the defendant was a public official (Base offense level 14)	134	51.0
(a)(2) Otherwise (Base offense level 12)	103	39.2
(a) Base offense 10 ³⁴	26	9.9
Chapter 2 Specific Offense Characteristic Adjustments	234	89.0
(b)(1) Offense involved more than one bribe or extortion (2 levels)	152	57.8
(b)(2)(A) Value of payment or loss between \$5,000 and \$10,000 (2 levels)	27	10.3
(b)(2)(A) Value of payment or loss between \$10,000 and \$20,000 ³⁵ (3 levels)	1	0.4
(b)(2)(A) Value of payment or loss between \$10,000 and \$30,000 (4 levels)	37	14.1
(b)(2)(A) Value of payment or loss between \$30,000 and \$70,000 (6 levels)	28	10.6
(b)(2)(A) Value of payment or loss between \$70,000 and \$120,000 (8 levels)	20	7.6
(b)(2)(A) Value of payment or loss between \$200,000 and \$350,000 ³⁵ (8 levels)	1	0.4
(b)(2)(A) Value of payment or loss between \$120,000 and \$200,000 (10 levels)	13	4.9
(b)(2)(A) Value of payment or loss between \$200,000 and \$400,000 (12 levels)	17	6.5
(b)(2)(A) Value of payment or loss between \$400,000 and \$1,000,000 (14 levels)	18	6.8
(b)(2)(A) Value of payment or loss between \$1,000,000 and \$2,500,000 (16 levels)	14	5.3
(b)(2)(A) Value of payment or loss between \$2,500,000 and \$7,000,000 (18 levels)	3	1.1
(b)(2)(A) Value of payment or loss between \$7,000,000 and \$20,000,000 (20 levels)	1	0.4
(b)(2)(B) Payment used to influence elected official (8 levels)	1	0.4
(b)(3) Offense involved an elected public official or one in sensitive position (4 levels, increase to level 18)	104	39.5
(b)(4)(A) Defendant was a public official who facilitated entry into U.S. for a person, vehicle or cargo (2 lev's)	4	1.5
(b)(4)(B) Defendant was a public official who facilitated obtaining a passport or other legal document (2 lev's)	1	0.4
(b)(4)(C) Defendant was a public official who facilitated the obtaining of a government identification (2 lev's)	3	1.1

³⁴ Base offense level was changed November 1, 2004.

³⁵ Threshold amounts and level increases were changed on November 1, 2001.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2C1.2 Offering, Giving, Soliciting, or Receiving a Gratuity	17	0.0
(a)(2) Defendant was a public official (Base offense level 11)	8	47.1
(a)(2) Otherwise (Base offense level 9)	6	35.3
(a) Base offense level 7 ³⁴	3	17.6
Chapter 2 Specific Offense Characteristic Adjustments	14	82.4
(b)(1) More than one gratuity (2 levels)	6	35.3
(b)(2)(A) Gratuity between \$10,000 and \$30,000 (4 levels)	4	23.5
(b)(2)(A) Gratuity between \$30,000 and \$70,000 (6 levels)	2	11.8
(b)(2)(A) Gratuity between \$70,000 and \$120,000 (8 levels)	1	6.9
(b)(2)(A) Gratuity between \$200,000 and \$400,000 (12 levels)	1	6.9
(b)(2)(B) Payment given to elected official (8 levels)	2	11.8
(b)(3) Offense involved an elected public official or one in sensitive position (4 levels, increase to level 18)	5	29.4
(b)(4)(A) Defendant was a public official who facilitated entry into U.S. for a person, vehicle or cargo (2 lev's)	2	11.8
(b)(4)(B) Defendant was a public official who facilitated obtaining a passport or other legal document (2 lev's)	0	0.0
(b)(4)(C) Defendant was a public official who facilitated the obtaining of a government identification (2 lev's)	0	0.0
§2C1.3 Conflict of Interest: Payment or Receipt of Unauthorized Compensation	12	0.0
Chapter 2 Specific Offense Characteristic Adjustments	1	8.3
(b)(1) Actual or planned harm to the government (4 levels)	1	8.3
§2C1.5 Payments to Obtain Public Office	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2C1.7 Fraud Involving Deprivation of the Intangible Right to the Honest Services Public Officials ³⁶	11	0.0
Chapter 2 Specific Offense Characteristic Adjustments	11	100.0
(b)(1)(A) Loss between \$5,000 and \$10,000 (2 levels)	1	9.1
(b)(1)(A) Loss between \$10,000 and \$30,000 (4 levels)	3	27.3
(b)(1)(A) Loss between \$30,000 and \$70,000 (6 levels)	1	9.1
(b)(1)(A) Loss between \$200,000 and \$350,000 ³⁵ (8 levels)	3	27.3
(b)(1)(A) Loss between \$120,000 and \$200,000 (10 levels)	1	9.1
(b)(1)(B) Offense involved an elected official (8 levels)	2	18.2
§2C1.8 Making/Receiving/Failure to report a Contribution in Violation of the Federal Election Campaign Act	12	0.0
Chapter 2 Specific Offense Characteristic Adjustments	11	91.7
(b)(1) Contribution between \$5,000 and \$10,000 (2 levels)	1	8.3
(b)(1) Contribution between \$10,000 and \$30,000 (4 levels)	2	16.7
(b)(1) Contribution between \$30,000 and \$70,000 (6 levels)	5	41.7
(b)(1) Contribution between \$70,000 and \$120,000 (8 levels)	2	16.7
(b)(1) Contribution between \$120,000 and \$200,000 (10 levels)	1	8.3
(b)(2)(A) Offense involved an illegal transaction made/received by/from a foreign national (2 levels)	0	0.0
(b)(2)(B) Offense involved an illegal transaction made/received by/from a government of a foreign country (4 levels)	0	0.0
(b)(3)(A) Offense involved contribution/donation/receipt of government funds (2 levels)	0	0.0
(b)(3)(B) Defendant committed the offense for the purpose of receiving non-monetary Federal benefit (2 levels)	1	8.3
(b)(4) Defendant engaged in 30 or more transactions (2 levels)	3	25.0
(b)(5) Offense involved contribution/donation made/obtained through intimidation/coercion (4 levels)	0	0.0

³⁶ Guideline eliminated and consolidated with §2C1.1 on November 1, 2004.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
Part D - Offenses Involving Drugs		
§2D1.1 Drug Trafficking	23,468	31.0
(a)(1) Base offense level 43	3	0.0
(a)(2) or (a)(3) Base offense level 38	1,079	4.6
(a)(3) Base offense level 36	1,085	4.6
(a)(3) or (a)(3)(B)(iii) Base offense level 34	2,246	9.6
(a)(3)(B)(ii) Base offense level 33	198	0.8
(a)(3) Base offense level 32	3,154	13.4
(a)(3)(B)(ii) Base offense level 31	414	1.8
(a)(3) or (a)(3)(B)(i) Base offense level 30	2,730	11.6
(a)(3) Base offense level 29 ³⁷	1	0.0
(a)(3) Base offense level 28	1,635	7.0
(a)(3) Base offense level 26	4,162	17.4
(a)(3) Base offense level 24	1,657	7.1
(a)(3) Base offense level 23 ³⁷	1	0.0
(a)(3) Base offense level 22	744	3.2
(a)(3) Base offense level 20	1,199	5.1
(a)(3) Base offense level 18	1,495	6.4
(a)(3) Base offense level 16	742	3.2
(a)(3) Base offense level 14	336	1.4
(a)(3) Base offense level 12	362	1.5
(a)(3) Base offense level 10	62	0.3
(a)(3) Base offense level 8	55	0.2
(a)(3) Base offense level 6	107	0.5
(a)(3) Base offense level 4 ³⁷	1	0.0
Chapter 2 Specific Offense Characteristic Adjustments	11,553	49.2
(b)(1) Dangerous weapon possessed (two levels)	2,785	11.9
(b)(2)(A) Aircraft used to import or export the controlled substance (2 levels or level 26)	21	0.1
(b)(2)(B) Offender acted as pilot or any operation officer (2 levels or level 26)	30	0.1

³⁷ This base offense level is not available under the guidelines, but court documents reflected the court's findings that this was the proper base offense level for this offense.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2D1.1 Drug Trafficking (continued)	23,468	31.0
(b)(3) Distribution in a prison (2 levels)	55	0.2
(b)(4) Importation of methamphetamine from unlawfully imported material (2 levels)	87	0.4
(b)(5) Defendant convicted under 21 U.S.C. § 865 (2 levels)	1	0.0
(b)(6) Defendant distributed through mass marketing (2 levels) ³⁸	36	0.2
(b)(7) Distribution of an anabolic steroid and a masking agent (2 levels) ³⁹	1	0.0
(b)(8) Distribution of an anabolic steroid to an athlete (2 levels) ⁴⁰	1	0.0
(b)(9) Defendant convicted under 21 U.S.C. §841(g)(1)(A) (2 levels)	0	0.0
(b)(10)(A)(i) Unlawful discharge of hazardous waste into the environment (2 levels) ⁴¹	27	0.1
(b)(10)(A)(ii) Unlawful transportation of hazardous waste (2 levels) ⁴¹	8	0.0
(b)(10)(B) Convicted under 21 U.S.C. § 860a with minor present (2 levels or level 14)	5	0.0
(b)(10)(C)(i) Convicted of meth under 21 U.S.C. § 860a with minor present (3 levels or level 27)	6	0.0
(b)(10)(C)(ii) Manufacturing of meth creating substantial risk to humans/environment (3 levels or level 27) ⁴²	40	0.2
(b)(10)(D) Manufacturing of meth creating substantial risk to minor (6 lvls or level 30) ⁴³	27	0.1
(b)(11) Safety Valve (2 level decrease) ⁴⁴	8,688	37.0

³⁸ SOC was changed from §2D1.1(b)(5) on March 1, 2007. The statistics reflect all instances of the application of this SOC.

³⁹ SOC was changed from §2D1.1(b)(6) on March 1, 2007. The statistics reflect all instances of the application of this SOC.

⁴⁰ SOC was changed from §2D1.1(b)(7) on March 1, 2007. The statistics reflect all instances of the application of this SOC.

⁴¹ SOC was formerly §2D1.1(b)(8) and redesignated §2D1.1(b)(10) on March 1, 2007. SOC was formerly §2D1.1(b)(6) and redesignated §2D1.1(b)(8) on March 1, 2006. SOC was formerly §2D1.1(b)(5) and redesignated §2D1.1(b)(6) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁴² SOC was formerly §2D1.1(b)(10)(B)(i) and (ii) and redesignated §2D1.1(b)(10)(C)(ii) on November 1, 2007. SOC was formerly §2D1.1(b)(8) and redesignated §2D1.1(b)(10)(C)(ii) on March 1, 2007. SOC was formerly §2D1.1(b)(6) and redesignated §2D1.1(b)(8) on March 1, 2006. SOC was formerly §2D1.1(b)(5) and redesignated §2D1.1(b)(6) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁴³ SOC was formerly §2D1.1(b)(10)(C) and redesignated §2D1.1(b)(10)(D) on November 1, 2007. SOC was formerly §2D1.1(b)(8) and redesignated §2D1.1(b)(10)(C) on March 1, 2007. SOC was formerly §2D1.1(b)(6) and redesignated §2D1.1(b)(8) on March 1, 2006. SOC was formerly §2D1.1(b)(5) and redesignated §2D1.1(b)(6) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁴⁴ SOC was formerly §2D1.1(b)(9) and redesignated §2D1.1(b)(11) on March 1, 2007. SOC was formerly §2D1.1(b)(7) and redesignated §2D1.1(b)(9) on March 1, 2006. SOC was formerly §2D1.1(b)(4) and redesignated §2D1.1(b)(7) on November 1, 1996. SOC was formerly §2D1.1(b)(6) and redesignated §2D1.1(b)(4) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2D1.2 Drug offenses near protected location/involving underage/pregnant individuals	457	0.6
(a)(1) Base offense level 42	1	0.2
(a)(2) Base offense level 41	3	0.7
(a)(1) Base offense level 40	1	0.2
(a)(2) Base offense level 39	10	2.2
(a)(1) Base offense level 38	3	0.7
(a)(2) Base offense level 37	12	2.6
(a)(1) Base offense level 36	6	1.3
(a)(2) Base offense level 35	23	5.0
(a)(1) Base offense level 34	25	5.4
(a)(2) Base offense level 33	14	3.1
(a)(1) Base offense level 32	39	8.5
(a)(2) Base offense level 31	12	2.6
(a)(1) Base offense level 30	68	14.9
(a)(2) Base offense level 29	6	1.3
(a)(1) Base offense level 28	53	11.6
(a)(2) Base offense level 27	6	1.3
(a)(1) or (a)(3) Base offense level 26	56	12.2
(a)(2) Base offense level 25	8	1.8
(a)(1) Base offense level 24	6	1.3
(a)(2) Base offense level 23	5	1.1
(a)(1) Base offense level 22	11	2.4
(a)(2) Base offense level 21	1	0.2
(a)(1) Base offense level 20	11	2.4
(a)(2) Base offense level 19	4	0.9
(a)(1) Base offense level 18	13	2.8
(a)(2) Base offense level 17	3	0.7
(a)(1) Base offense level 16	13	2.8
(a)(1) Base offense level 14	32	7.0
(a)(2) or (a)(4) Base offense level 13	10	2.2

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2D1.2 Drug offenses near protected location/involving underage/pregnant individuals (cont)	457	0.6
(a)(1) Base offense level 12 ³⁷	1	0.2
(a)(1) Base offense level 8 ³⁷	1	0.2
No Specific Characteristics for this guideline	NA	NA
§2D1.5 Continuing Criminal Enterprise	21	0.0
(a)(1) Base offense level 44	3	14.3
(a)(1) Base offense level 42	8	38.1
(a)(1) Base offense level 40	2	9.5
(a)(1) or (a)(2) Base offense level 38	8	38.1
No Specific Characteristics for this guideline	NA	NA
§2D1.6 Use of Communication Facility in Committing Drug Offense	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D1.7 Unlawful Sale or Transportation of Drug Paraphernalia	2	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D1.8 Renting or Managing a Drug Establishment	53	0.1
(a)(1) or (a)(2) Base offense level 26	24	45.3
(a)(1) or (a)(2) Base offense level 24	8	15.1
(a)(1) or (a)(2) Base offense level 22	4	7.6
(a)(1) or (a)(2) Base offense level 20	4	7.6
(a)(1) or (a)(2) Base offense level 18	2	3.8
(a)(1) or (a)(2) Base offense level 16	2	3.8
(a)(1) or (a)(2) Base offense level 14	4	7.6
(a)(1) or (a)(2) Base offense level 12	2	3.8
(a)(1) Base offense level 8	2	3.8
(a)(1) Base offense level 6	1	1.9
No Specific Offense Characteristics for this guideline	NA	NA
§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

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2D1.10 Endangering Human Life While Illegally Manufacturing a Controlled Substance	7	0.0
(a)(1) Base offense level 41	2	28.6
(a)(1) Base offense level 37	1	14.3
(a)(1) Base offense level 35	2	28.6
(a)(1) Base offense level 29	1	14.3
(a)(2) Base offense level 20	1	14.3
Chapter 2 Specific Offense Characteristic Adjustments	6	85.7
(b)(1)(A) Involving manufacturing of methamphetamine (3 levels, increase to level 27)	4	57.1
(b)(1)(B) Involving manufacturing of meth creating a substantial risk to minor (6 levels, increase to level 30)	2	28.6
§2D1.11 Unlawfully Distributing, Importing, Exporting or Possessing a Listed Chemical	157	0.2
(a) Base offense level 38	7	4.5
(a) Base offense level 36	4	2.6
(a) Base offense level 34	21	13.4
(a) Base offense level 32	32	20.4
(a) Base offense level 31	2	1.3
(a) Base offense level 30	30	19.1
(a) Base offense level 28	29	18.5
(a) Base offense level 26	30	19.1
(a) Base offense level 22	1	0.6
(a) Base offense level 18	1	0.6
Chapter 2 Specific Offense Characteristic Adjustments	17	10.8
(b)(1) Dangerous weapon possessed (2 levels)	9	5.7
(b)(2) Convicted of 21 U.S.C. §§841(d)(2),(g)(1), or 960(d)(2) (3 level decrease)	7	4.5
(b)(3)(A) Unlawful discharge/emission/release into environment of hazardous substance (2 levels)	1	0.6
(b)(3)(B) Unlawful transportation of hazardous substance (2 levels)	1	0.6
(b)(4) Defendant distributed through mass marketing (2 levels)	0	0.0
(b)(5) Convicted under 21 U.S.C. § 865 (2 levels)	0	0.0

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2D1.12 Unlawful Possession/Manufacturing of Prohibited Equipment	14	0.0
(a)(1) Offender intended to manufacture a controlled substance (Base Offense Level 12)	14	100.0
(a)(2) Reasonable believe equipment to be used for manufacturing (BOL 9)	0	0.0
Chapter 2 Specific Offense Characteristic Adjustments	14	100.0
(b)(1)(A) Offender intended to manufacture methamphetamine (2 levels)	7	50.0
(b)(1)(B) Offender knew material was used to manufacture methamphetamine (2 levels)	7	50.0
(b)(2)(A) Offense involved discharge of a hazardous substance (2 levels)	2	14.3
(b)(2)(B) Unlawful transportation of a hazardous substance (2 levels)	2	14.3
(b)(3) Defendant distributed through mass marketing (2 levels)	0	0.0
(b)(4) Offense involved stealing or transporting stolen anhydrous ammonia (6 levels)	6	42.9
§2D1.13 Structuring Chemical Transactions to Evade Recordkeeping Requirements	1	0.0
Base offense level 6	1	100.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D1.14 Narco-Terrorism	0	0.0
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
(b)(1) if §3A1.4 (Terrorism) does not apply (6 levels)	0	0.0
§2D2.1 Unlawful Possession	306	0.4
(a)(1) Heroin or any Schedule I or II opiate or cocaine base (Base Offense Level 8)	81	26.5
(a)(2) Cocaine, flunitrazepam, LSD, or PCP (Base Offense Level 6)	47	15.4
(a)(3) Any other controlled substance or a list I chemical (Base Offense Level 4)	178	58.2
No Specific Offense Characteristics for this guideline	NA	NA
§2D2.2 Acquiring a Controlled Substance by Forgery, Fraud, Deception, or Subterfuge	57	0.1
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
(a)(1) Death resulted (Base Offense Level 26)	0	0.0
(a)(2) Serious bodily injury resulted (Base Offense Level 21)	0	0.0
(a)(3) Otherwise (Base Offense Level 13)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D3.1 Regulatory Offenses Involving Registration Numbers	1	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2D3.2 Regulatory Offenses Involving Controlled Substances or Listed Chemicals	3	0.0
No Specific Offense Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
Part E - Offenses Involving Criminal Enterprises and Racketeering		
§2E1.1 Unlawful Conduct Relating to Racketeer Influenced and Corrupt Organizations	59	0.1
(a)(1) Base offense level 19	58	98.3
(a)(2) Offense level from applicable underlying racketeering offense	1	1.7
No Specific Offense Characteristics for this guideline	NA	NA
§2E1.2 Interstate or Foreign Travel or Transportation in Aid of a Racketeering Enterprise	2	0.0
(a)(1) Base offense level 6	1	50.0
(a)(2) Base offense level applicable to underlying crime of violence	1	50.0
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	16	0.0
(a)(1) Base offense level 32	16	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	36	0.0
Chapter 2 Specific Offense Characteristic Adjustments	2	5.6
(b)(1)(A) Firearm discharged (5 levels)	0	0.0
(b)(1)(B) Dangerous weapon otherwise used (4 levels)	2	5.6
(b)(1)(C) Dangerous weapon brandished or possessed (3 levels)	0	0.0
(b)(2)(A) Bodily injury (2 levels)	0	0.0
(b)(2)(B) Serious bodily injury (4 level)	1	2.8
(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

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2E3.1 Gambling Offenses	82	0.1
(a)(1) Offense involved a gambling business (Base offense level 12)	80	97.6
(a)(2) Offense involved an animal fighting venture (Base offense level 10)	1	1.2
(a)(3) Otherwise (Base offense level 6)	1	1.2
No Specific Offense Characteristics for this guideline	NA	NA
§2E4.1 Unlawful Conduct Relating to Contraband Cigarettes	66	0.1
(a)(1) Base offense level 9	9	13.6
(a)(2) Loss between \$5,000 and \$12,500 (Base offense level 10)	3	4.6
(a)(2) Loss between \$12,500 and \$30,000 (Base offense level 12)	8	12.1
(a)(2) Loss between \$30,000 and \$80,000 (Base offense level 14)	19	28.8
(a)(2) Loss between \$80,000 and \$200,000 (Base offense level 16)	7	10.6
(a)(2) Loss between \$200,000 and \$400,000 (Base offense level 18)	6	9.1
(a)(2) Loss between \$400,000 and \$1,000,000 (Base offense level 20)	3	4.6
(a)(2) Loss between \$1,000,000 and \$2,500,000 (Base offense level 22)	7	10.6
(a)(2) Loss between \$2,500,000 and \$7,000,000 (Base offense level 24)	2	3.0
(a)(2) Loss between \$7,000,000 and \$20,000,000 (Base offense level 26)	2	3.0
No Specific Offense Characteristics for this guideline	NA	NA
§2E5.1 Offering, Accepting, or Soliciting a Bribe Affecting a Pension Benefit	10	0.0
(a)(1) Bribe involved (Base offense level 10)	9	90.0
(a)(2) Gratuity involved (Base offense level 6)	1	10.0
Chapter 2 Specific Offense Characteristic Adjustments	10	100.0
(b)(1) Offender was a fiduciary of the benefit plan or labor organization (2 levels)	5	50.0
(b)(2)(A) Value of prohibited payment between \$2,000 and \$5,000 (1 level)	2	20.0
(b)(2)(B) Value of prohibited payment between \$5,000 and \$10,000 (2 levels)	1	10.0
(b)(2)(B) Value of prohibited payment between \$10,000 and \$30,000 (4 levels)	1	10.0
(b)(2)(B) Value of prohibited payment between \$70,000 and \$120,000 (8 levels)	3	30.0
(b)(2)(B) Value of prohibited payment between \$120,000 and \$200,000 (10 levels)	1	10.0
(b)(2)(B) Value of prohibited payment between \$200,000 and \$400,000 (12 levels)	2	20.0
§2E5.3 False Statements in Relation to Documents Required by Employee Retirement Security Act	4	0.0
(a)(1) Base offense level 6	4	100.0
(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

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part F - Offenses Involving Fraud and Deceit		
§2F1.1 Fraud and Deceit ⁴⁵	107	0.1
(a) Base offense level 6	106	99.1
(a) Base offense level 8 ⁴⁶	1	0.9
Chapter 2 Specific Offense Characteristic Adjustments	107	100.0
(b)(1)(C) Loss between \$5,000 and \$10,000 (2 levels)	1	0.9
(b)(1)(D) Loss between \$10,000 and \$20,000 (3 levels)	1	0.9
(b)(1)(E) Loss between \$20,000 and \$40,000 (4 levels)	5	4.7
(b)(1)(F) Loss between \$40,000 and \$70,000 (5 levels)	3	2.8
(b)(1)(G) Loss between \$70,000 and \$120,000 (6 levels)	11	10.3
(b)(1)(H) Loss between \$120,000 and \$200,000 (7 levels)	13	12.2
(b)(1)(I) Loss between \$200,000 and \$350,000 (8 levels)	9	8.4
(b)(1)(J) Loss between \$350,000 and \$500,000 (9 levels)	4	3.7
(b)(1)(K) Loss between \$500,000 and \$800,000 (10 levels)	10	9.4
(b)(1)(L) Loss between \$800,000 and \$1,500,000 (11 levels)	18	16.8
(b)(1)(M) Loss between \$1,500,000 and \$2,500,000 (12 levels)	10	9.4
(b)(1)(N) Loss between \$2,500,000 and \$5,000,000 (13 levels)	7	6.5
(b)(1)(O) Loss between \$5,000,000 and \$10,000,000 (14 levels)	7	6.5
(b)(1)(P) Loss between \$10,000,000 and \$20,000,000 (15 levels)	2	1.9
(b)(1)(Q) Loss between \$20,000,000 and \$40,000,000 (16 levels)	1	0.9
(b)(1)(R) Loss between \$40,000,000 and \$80,000,000 (17 levels)	2	1.9
(b)(1)(S) Loss greater than \$80,000,000 (18 levels)	3	2.8
(b)(2)(A) Offense involved more than minimal planning (2 levels)	73	68.2
(b)(2)(B) Offense involved a scheme to defraud more than one victim (2 levels)	21	19.6
(b)(3) Mass marketing (2 levels)	7	6.5

⁴⁵ Guideline eliminated and consolidated with §2B1.1 on November 1, 2001.

⁴⁶ This base offense level is not available under the guidelines, but court documents reflected the court's findings that this was the proper base offense level for this offense.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2F1.1 Fraud and Deceit (continued)	107	0.1
(b)(4)(A) Offense involved misrepresentation of acting on behalf of charity ⁴⁷ (2 levels)	1	0.9
(b)(4)(B) Offense involved misrepresentation during bankruptcy proceeding ⁴⁷ (2 levels)	1	0.9
(b)(4)(C) Offense involved a violation of judicial order ⁴⁷ (2 levels)	0	0.0
(b)(5)(A) Possession/use of any device making equipment (2 levels, increase to 12)	0	0.0
(b)(5)(B) Production/trafficking of unauthorized device (2 levels, increase to 12)	0	0.0
(b)(5)(C)(i) Unauthorized transfer/use of means of ID (2 levels, increase to 12)	1	0.4
(b)(5)(C)(ii) Possession of 5 or more means of ID (2 levels, increase to 12)	0	0.0
(b)(6)(A) Offender relocated to evade law enforcement ⁴⁸ (2 levels or level 12)	5	4.7
(b)(6)(B) Fraud committed outside of U.S. ⁴⁸ (2 levels or level 12)	3	2.8
(b)(6)(C) Offense involved sophisticated means ⁴⁸ (2 levels or level 12)	13	12.1
(b)(7)(A) Offense involve risk of serious bodily injury ⁴⁹ (2 levels or level 13)	1	0.4
(b)(7)(B) Offense involved possession of dangerous weapon ⁴⁹ (2 levels or level 13)	0	0.0
(b)(8)(A) Offense jeopardized the safety of financial institution ⁵⁰ (4 levels)	0	0.0
(b)(8)(B) Offense affected a financial institution and derived \$1,000,000 in receipts ⁵⁰ (4 levels)	2	1.9

⁴⁷ SOC redesignated from §2F1.1(b)(3) on November 1, 1998. The statistics reflect all instances of the application of this SOC.

⁴⁸ SOC redesignated from §2F1.1(b)(5)(A), (B), and (C) on November 1, 2000. The statistics reflect all instances of the application of this SOC.

⁴⁹ SOC redesignated from §2F1.1(b)(4)(A) and (B) on November 1, 1998. The statistics reflect all instances of the application of this SOC.

⁵⁰ SOC redesignated 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
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
Part G - Offenses Involving Commercial Sex Acts, Sexual Exploitation of Minors and Obscenity		
§2G1.1 Promoting A Commercial Sex Act or Prohibited Sexual Contact	229	0.3
(a)(1) Offense of conviction for 18 U.S.C. § 1591(b)(1) (Base offense level 34)	2	0.9
(a)(2) Otherwise (Base offense level 14)	197	86.0
(a) Base offense level 14 ⁵¹	12	5.2
(a)(1) Offense involved a minor (Base offense level 19) ⁵²	9	3.9
(a)(2) Otherwise (Base offense level 14) ⁵³	9	3.9
Chapter 2 Specific Offense Characteristic Adjustments	44	19.2
(b)(1) Offense involved fraud or coercion (4 levels)	33	14.4
(b)(1)(A) Offense involved a commercial sex act (4 levels) ⁵⁴	2	0.9
(b)(1)(B) Offense involved the use of physical force/fraud/coercion (4 levels) ⁵⁵	0	0.0
(b)(2)(A) Victim under the age of 12 (9 levels) ⁵⁶	2	0.9
(b)(2)(B) Victim between 12 and 16 (2 levels) ⁵⁴	7	3.1
(b)(3)(A) Defendant was parent, relative, or legal guardian of victim (2 levels) ⁵⁴	9	3.9
(b)(3)(B) Victim was in the custody, care, or control of the defendant (2 levels) ⁵⁴	0	0.0
(b)(4)(A) Misrepresentation of participant's identity to persuade minor to engage in prostitution (2 levels) ⁵⁴	0	0.0
(b)(4)(B) Defendant otherwise unduly influenced a minor to engage in commercial sex act (2 levels) ⁵⁴	0	0.0
(b)(5)(A) Use of computer to persuade a minor to engage in commercial sex act (2 levels) ⁵⁴	0	0.0
(b)(5)(B) Use of a computer to solicit a person to engage in sexual conduct with a minor (2 levels) ⁵⁴	0	0.0

⁵¹ Alternative base offense level of 34 was added on November 1, 2007. Base offense level 14 was the only level available from November 1, 2004 through October 30, 2007. This statistic reflects cases sentenced using the guidelines in effect in this time period.

⁵² Alternative base offense level eliminated on November 1, 2004.

⁵³ This statistic reflects all cases sentenced prior to the changes effective November 1, 2004 with this base offense level.

⁵⁴ SOC eliminated on November 1, 2004.

⁵⁵ SOC amended to only include "fraud or coercion" on November 1, 2004.

⁵⁶ SOC levels were amended on November 1, 2000.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2G1.3 Transportation of or Travel to Engage in Prohibited Sexual Contact with a Minor	290	0.4
(a)(1) Conviction under 18 U.S.C. § 1591(b)(1) (Base offense level 34)	2	0.7
(a)(2) Conviction under 18 U.S.C. § 1591(b)(2) (Base offense level 30)	14	4.8
(a)(3) Conviction under 18 U.S.C. § 2422(b) or § 2423(a) (Base offense level 28)	127	43.8
(a)(4) Otherwise (Base offense level 24)	112	38.6
(a) Base offense level 24 ⁵⁷	35	12.1
Chapter 2 Specific Offense Characteristic Adjustments	265	91.4
(b)(1)(A) Offender was a parent/relative/guardian of the minor (2 levels)	12	4.1
(b)(1)(B) Offender was in custody, care or control of victim (2 levels)	9	3.1
(b)(2)(A) Misrepresentation of identity to persuade minor to engage in prohibited sexual conduct (2 levels)	15	5.2
(b)(2)(B) Defendant used undue influence on minor to engage in prohibited sexual conduct (2 levels)	73	25.2
(b)(3)(A) Use of a computer to persuade a minor to engage in prohibited sexual conduct (2 levels)	86	29.6
(b)(3)(B) Use of a computer to solicit someone to engage in prohibited sexual conduct with a minor (2 levels)	108	37.2
(b)(4)(A) Offense involved commission of sexual act or contact (2 levels)	91	31.4
(b)(4)(B) Offense involved a commercial sex act (2 levels)	26	9.0
(b)(5) Victim under the age of 12 (8 levels)	33	11.4
(b)(5) Victim under the age of 12 (2 levels) ⁵⁸	1	0.3
§2G2.1 Production of Pornography	386	0.5
(a) Base offense level 32	350	90.7
(a) Base offense level 27 ⁵⁹	36	9.3
Chapter 2 Specific Offense Characteristic Adjustments	378	97.9
(b)(1)(A) Victim under the age of 12 (4 levels)	157	40.7
(b)(1)(B) Victim between 12 and 16 (2 levels)	168	43.5
(b)(2)(A) Offense involved the commission of a sexual act or sexual contact (2 levels)	191	49.5
(b)(2)(B) Offense involved (i) the commission of a sexual act and (ii) conduct as described in 18 U.S.C. § 2241(a) or (b) (4 levels)	20	5.2

⁵⁷ Alternative base offenses levels were introduced on November 1, 2007.

⁵⁸ This SOC level is not available under the guidelines, but court documents reflected the court's findings that this was the proper level for this offense.

⁵⁹ Base offense level increased on November 1, 2004.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2G2.1 Production of Pornography (continued)	386	0.5
(b)(3) Offense involved distribution (2 levels)	91	23.6
(b)(4) Offense involved portrayal of sadistic/masochistic conduct or violence (4 levels)	63	16.3
(b)(5) Offender was a parent/relative/legal guardian or custody/care/control (2 levels) ⁶⁰	208	53.9
(b)(6)(A) Misrepresentation to persuade the travel of a minor to engage in sexually explicit conduct (2 levels) ⁶¹	12	3.1
(b)(6)(B)(i) Use of a computer to persuade the travel of a minor to engage in sexually explicit conduct (2 levels) ⁶¹	57	14.8
(b)(6)(B)(ii) Use of a computer to solicit participation with a minor in sexually explicit conduct (2 levels) ⁶¹	20	5.2
§2G2.2 Trafficking in Pornography	1,620	2.1
(a)(1) Offender convicted of 18 U.S.C. §1466(A)(b), §2252(a)(4) or §2252A(a)(5), Base offense level 18	883	54.5
(a)(2) Otherwise, Base offense level 22	708	43.7
(a) Base offense level 17 ⁵⁹	29	1.8
Chapter 2 Specific Offense Characteristic Adjustments	1,620	100.0
(b)(1)(A) If (a)(2) applies (B) offender only received material and (C) did not traffic material (decrease 2 levels)	232	14.3
(b)(2) Victim under the age of 12 (2 levels) ⁶²	1,535	94.8
(b)(3)(A) Done for pecuniary gain (5 levels) ⁶³	35	2.2
(b)(3)(B) In exchange for thing of value (5 levels) ⁶³	223	13.8
(b)(3)(C) Distribution to a minor (5 levels) ⁶³	33	2.0
(b)(3)(D) Distribution to a minor to coerce to facilitate travel of a minor (6 levels)	7	0.4
(b)(3)(E) Distribution to a minor to coerce to engage in sexual behavior (7 levels) ⁶³	14	0.9
(b)(3)(F) Distribution other than in (b)(3)(A)-(D) (2 levels) ⁶³	292	18.0

⁶⁰ SOC was redesignated from §2G2.1(b)(2) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁶¹ SOC was redesignated from §2G2.1(b)(3) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁶² SOC was redesignated from §2G2.2(b)(1) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁶³ SOC was redesignated from §2G2.2(b)(2) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2G2.2 Trafficking in Pornography (continued)	1,620	2.1
(b)(4) Sadistic or masochistic conduct or other forms of violence (4 levels) ⁶⁴	1,189	73.4
(b)(4) Sadistic or masochistic conduct or other forms of violence (2 levels) ⁵⁸	1	0.1
(b)(5) Offender engaged in a pattern of activity involving sexual exploitation (5 levels) ⁶⁵	150	9.2
(b)(6) Use of a computer (2 levels) ⁶⁶	1,575	97.2
(b)(7)(A) At least 10 images, but fewer than 150 (2 levels) ⁶⁷	247	15.2
(b)(7)(B) At least 150 images, but fewer than 300 (3 levels) ⁶⁷	139	8.6
(b)(7)(C) At least 300 images, but fewer than 600 (4 levels) ⁶⁷	157	9.7
(b)(7)(D) 600 images or more (5 levels) ⁶⁷	1,023	63.1
§2G2.3 Selling or Buying Children for use in the Production of Pornography	5	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2G2.4 Possession of Pornography ⁶⁸	14	0.1
Chapter 2 Specific Offense Characteristic Adjustments	14	100.0
(b)(1) Minor under the age of 12 depicted (2 levels)	13	92.9
(b)(2) 10 or more items (2 levels)	5	35.7
(b)(3) Use of a computer (2 levels)	13	92.9
(b)(4) Sadistic or masochistic conduct depicted (4 levels)	6	42.8
(b)(5)(A) At least 10 images, but fewer than 150 (2 levels)	3	21.4
(b)(5)(B) At least 150 images, but fewer than 300 (3 levels)	1	7.1
(b)(5)(C) At least 300 images, but fewer than 600 (4 levels)	1	7.1
(b)(5)(D) 600 images or more (5 levels)	3	21.4
§2G2.5 Recordkeeping Offenses Involving the Production of Sexually Explicit Materials	2	0.0
No Specific Offense Characteristics for the guideline	NA	NA

⁶⁴ SOC was redesignated from §2G2.2(b)(3) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁶⁵ SOC was redesignated from §2G2.2(b)(4) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁶⁶ SOC was redesignated from §2G2.2(b)(5) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁶⁷ SOC was redesignated from §2G2.2(b)(6) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁶⁸ Guideline eliminated and consolidated with §2G2.2 on November 1, 2004.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2G2.6 Child Exploitation Enterprises	9	0.0
Chapter 2 Specific Offense Characteristic Adjustments	9	100.0
(b)(1)(A) Victim not attained the age of 12 years (4 levels)	8	88.9
(b)(1)(B) Victim between the ages of 12 and 16 (2 levels)	1	11.1
(b)(2)(A) Defendant was parent, relative, or legal guardian (2 levels)	0	0.0
(b)(2)(B) Minor was otherwise in custody, care, or supervisory control (2 levels)	0	0.0
(b)(3) Offense involved conduct described in 18 U.S.C. § 2241(a) or (b) (2 levels)	0	0.0
(b)(4) Computer or interactive computer service used (2 levels)	9	100.0
§2G3.1 Importing/Mailing/Transporting Obscene Matter	49	0.1
Chapter 2 Specific Offense Characteristic Adjustments	49	100.0
(b)(1)(A) Distribution for pecuniary gain (5 levels)	4	8.2
(b)(1)(B) Distribution in exchange for thing of value (5 levels)	0	0.0
(b)(1)(C) Distribution to a minor (5 levels)	22	44.9
(b)(1)(D) Distribution to a minor to coerce to engage in illegal activity (6 levels)	4	8.2
(b)(1)(E) Distribution to a minor to coerce to engage in sexual behavior (7 levels) ⁶⁹	15	30.6
(b)(1)(F) Distribution other than in (b)(1)(A)-(E) (2 levels) ⁷⁰	0	0.0
(b)(2) Offense involved misleading domain name on the Internet (2 levels)	0	0.0
(b)(3) Offense involved use of a computer (2 levels)	45	91.8
(b)(4) Sadistic or masochistic conduct or other forms of violence (4 levels) ⁷¹	8	16.3
§2G3.2 Obscene Telephone Communication for Commercial Purposes	0	0.0
Chapter 2 Specific Offense Characteristic Adjustments	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

⁶⁹ SOC was redesignated from §2G3.1(b)(1)(D) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁷⁰ SOC was redesignated from §2G3.1(b)(1)(E) on November 1, 2004. The statistics reflect all instances of the application of this SOC.

⁷¹ SOC was redesignated from §2G3.1(b)(2) November 1, 2004. The statistics reflect all instances of the application of this SOC.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
Part H - Offenses Involving Individual Rights		
§2H1.1 Offenses Involving Individual Rights	66	0.1
(a)(1) Offense level from the offense guideline applicable to underlying offense	36	54.5
(a)(2) Offense involved two or more participants (Base offense level 12)	18	27.3
(a)(3) Offense involved (A) use/threat of force, or (B) property damage (BOL 10)	10	15.2
(a)(4) Otherwise (Base offense level 6)	2	3.1
Chapter 2 Specific Offense Characteristic Adjustments	54	81.8
(b)(1)(A) Offender was a public official at the time of the offense(6 levels)	12	18.2
(b)(1)(B) Offense committed under color of law (6 levels)	42	63.6
§2H2.1 Obstructing an Election or Registration	8	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)	6	75.0
(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)	2	25.0
No Specific Offense Characteristics for the guideline	NA	NA
§2H3.1 Interception of Communications	14	0.0
(a)(1) Base offense level 9	10	71.4
(a)(2) Offender convicted of 26 U.S.C. §§7231A or 7216 (Base offense level 6)	4	28.6
Chapter 2 Specific Offense Characteristic Adjustments	5	35.7
(b)(1)(A) Convicted under 18 U.S.C. § 1039(d) or (e) (3 levels)	1	7.1
(b)(1)(B) Purpose was to obtain direct/indirect commercial advantage ⁷² (3 levels)	4	28.6
(b)(2)(A) Convicted under 18 U.S.C. § 119 (8 levels)	0	0.0
(b)(2)(B) Convicted under 18 U.S.C. §119 and involved the use of a computer to make restricted personal information of a covered person public (10 levels)	0	0.0
§2H3.2 Manufacturing, Distributing, Advertising Eavesdropping Device	1	0.0
Chapter 2 Specific Offense Characteristic Adjustments	1	100.0
(b)(1) Offense committed for pecuniary gain (3 levels)	1	100.0

⁷² SOC was formerly designated §2H3.1(b)(1) and redesignated §2H3.1(b)(1)(B) on November 1, 2007. This statistic reflects all instances of the application of this SOC.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2H3.3 Obstructing Correspondence	14	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2H4.1 Peonage, Involuntary Servitude and Slave Trade	8	0.0
(a)(1) Base offense level 22	8	100.0
(a)(2) Offender convicted of 18 U.S.C. § 1592 (Base offense level 18)	0	0.0
Chapter 2 Specific Offense Characteristic Adjustments	8	100.0
(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)	3	37.5
(b)(2)(A) Dangerous weapon used (4 levels)	0	0.0
(b)(2)(B) Dangerous weapon brandished or threatened (2 levels)	1	12.5
(b)(3)(A) Victim held in peonage/involuntary servitude for more than one year (3 levels)	3	37.5
(b)(3)(B) Victim held in peonage/involuntary servitude - 180 days to one year (2 levels)	1	12.5
(b)(3)(C) Victim held in peonage/involuntary servitude - 30 days to 180 days (one level)	4	50.0
(b)(4)(A) Other felony committed during offense (2 levels)	4	50.0
(b)(4)(B) Other felony committed during offense (2 levels above applicable offense)	0	0.0
§2H4.2 Willful Violations of the Migrant&Seasonal Agricultural Worker Protection Act	0	0.0
Chapter 2 Specific Offense Characteristic Adjustments	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
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part J - Offenses Involving the Administration of Justice		
§2J1.1 Contempt	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2J1.2 Obstruction of Justice	169	0.2
(a)(1) Base offense level 14	160	94.7
(a)(1) Base offense level 12 ⁷³	9	5.3
Chapter 2 Specific Offense Characteristic Adjustments	65	38.5
(b)(1)(A) Convicted under 18 U.S.C. § 1001, and stat max of 8 years because of sex offense (4 levels)	4	2.4
(b)(1)(B) Causing/threatening to cause physical injury (8 levels) ⁷⁴	27	16.0
(b)(1)(C) Convicted under 18 U.S.C. § 1001 or § 1505 and stat max of 8 years because of terrorism (12 levels)	0	0.0
(b)(2) Offense resulted in substantial influence with the administration of justice (3 levels)	26	15.4
(b)(3)(A) Offense involved destruction of records (2 levels)	6	3.6
(b)(3)(B) Offense involved selection of any essential document to destroy (2 levels)	5	3.0
(b)(3)(C) Offense involved otherwise extensive in scope or planning (2 levels)	6	3.6
§2J1.3 Perjury or Subornation of Perjury	70	0.1
(a) Base offense level 14	67	95.7
(a) Base offense level 12 ⁷³	3	4.3
Chapter 2 Specific Offense Characteristic Adjustments	13	18.6
(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)	13	18.6
§2J1.4 Impersonation	37	0.0
Chapter 2 Specific Offense Characteristic Adjustments	15	40.5
(b)(1) Offense committed to conduct an unlawful arrest, detention or search (6 levels)	15	40.5

⁷³ Base offense level increased on November 1, 2003

⁷⁴ SOC was formerly §2J1.2(b)(1) and was redesignated on November 1, 2007. The statistics reflect all instances of the application of the SOC.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2J1.5 Failure to Appear by Material Witness	1	0.0
(a)(1) In respect to a felony (Base offense level 6)	0	0.0
(a)(2) In respect to a misdemeanor (Base offense level 4)	1	100.0
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
(b)(1) Offense resulted in substantial influence with the administration of justice (3 levels)	0	0.0
§2J1.6 Failure to Appear by Defendant	60	0.1
(a)(1) Failure to report for service of sentence (Base offense level 11)	31	51.7
(a)(2) Otherwise (Base offense level 6)	29	48.3
Chapter 2 Specific Offense Characteristic Adjustments	28	46.7
(b)(1)(A) (a)(1) applies and voluntarily surrendered within 96 hours (5 level decrease)	0	0.0
(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)	12	20.0
(b)(2)(B) (a)(2) applies and offense punishable by 5 to 15 years (6 levels)	14	23.3
(b)(2)(C) (a)(2) applies and offense punishable by less than 5 years (3 levels)	2	3.3
§2J1.7 Commission of Offense While on Release ⁷⁵	1	0.0
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
If an enhancement under 18 U.S.C. § 3147 applies (3 levels)	0	0.0
§2J1.9 Payment to a Witness	0	0.0
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
Payment made/offered for refusing to testify (4 levels)	0	0.0

⁷⁵ Guideline was deleted from Chapter Two and replaced by §3C1.3 on November 1, 2006.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part K - Offenses Involving Public Safety		
§2K1.1 Failure to Report Theft of Explosive Materials	4	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2K1.3 Unlawful Receipt/Possession/Transportation of Explosive Materials	26	0.0
(a)(1) Two prior convictions for crime of violence/controlled substance (BOL 24)	1	3.8
(a)(2) One prior convictions for crime of violence/controlled substance (BOL 20)	3	11.5
(a)(3) Defendant convicted under 18 U.S.C. § 842(p)(2) (Base offense level 18)	0	0.0
(a)(4)(A) Prohibited person or (B) knowingly distributed explosive materials to prohibited person (Base offense level 16)	10	38.5
(a)(5) Otherwise (Base offense level 12)	12	46.2
Chapter 2 Specific Offense Characteristic Adjustments	14	53.8
(b)(1)(A) Weight of explosives 25 to 100 pounds (one level)	5	19.2
(b)(1)(B) Weight of explosives 100 to 250 pounds (2 levels)	1	3.8
(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)	2	7.7
(b)(1)(E) Weight of explosives more than 1,000 pounds (5 levels)	2	7.7
(b)(2) Offense involved stolen explosives (2 levels)	5	19.2
(b)(3)(A) Convicted under 18 U.S.C. § 842(p)(2) (4 levels , increase level 18)	2	7.7
(b)(3)(B) Use of explosives in connection with another felony offense (4 levels or level 18)	0	0.0
§2K1.4 Arson	103	0.1
(a)(1)(A) Substantial risk of death/serious bodily injury (B) destruction of dwelling (BOL 24)	60	58.2
(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)	35	34.0
(a)(3) Involved the destruction of or tampering with aids to maritime navigation (Base offense level 16)	2	1.9
(a)(4) 2 plus the level from §2B1.1 ⁷⁶	6	5.8
Chapter 2 Specific Offense Characteristic Adjustments	7	6.8
(b)(1) Committed to conceal another offense (2 levels)	7	6.8
(b)(2) Offense not under (a)(3) and occurred on national cemetery (2 levels)	1	1.0

⁷⁶ The alternative base level of 16 was implemented on November 1, 2007. Prior to this, level 16 was only available for this alternative base offense level.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2K1.5 Possessing Dangerous Weapon or Materials While Boarding an Aircraft	4	0.0
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
(b)(1) Committed without regard for safety of human life (15 levels)	0	0.0
(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)	0	0.0
§2K1.6 Licensee Recordkeeping Violations Involving Explosive Materials	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2K2.1 Unlawful Receipt/Possession/Transportation of Firearms or Ammunition	6,374	8.4
(a)(1) Two prior convictions & firearm described in 26 U.S.C. §5845(a) or 18 U.S.C. §921(a)(30) (BOL 26)	121	1.9
(a)(2) Two prior convictions for crime of violence (Base offense level 24)	1,310	20.6
(a)(3) One prior convictions & firearm described in 26 U.S.C. §5845(a) or 18 U.S.C. §921(a)(30) (BOL 22)	225	3.5
(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)	2,138	33.5
(a)(5) Firearm described in 26 U.S.C. §5845(a) or 18 U.S.C. 921(a)(30) (BOL 18)	250	3.9
(a)(6)(A) Offender prohibited person or (B) convicted under 18 U.S.C. § 922(d) (BOL 14)	1,784	28.0
(a) Base offense level 13 ⁷⁷	1	0.0
(a)(7) Except as provided in (a)(8) (Base offense level 12)	517	8.1
(a)(8) Offense convicted under 18 U.S.C. §922 (c), (e), (f), (m), (s), (t) or (x)(1) (BOL 6)	28	0.4
Chapter 2 Specific Offense Characteristic Adjustments	3,432	53.8
(b)(1)(A) 3-4 firearms (one level) ⁷⁸	1	0.0
(b)(1)(A) 3-7 firearms (two levels)	879	13.8
(b)(1) Unknown number of firearms (three levels) ⁷⁹	2	0.0
(b)(1)(B) 8-24 firearms (four levels)	372	5.8
(b)(1)(D) 13-24 firearms (four levels) ⁷⁸	1	0.0
(b)(1)(C) 25-99 firearms (six levels)	127	2.0
(b)(1)(D) 100-199 firearms (eight levels)	21	0.3

⁷⁷ This base offense level is not available under the guidelines, but court documents reflect the court's findings that this was the proper base offense level for this offense.

⁷⁸ Firearm table changed on November 1, 2001.

⁷⁹ This SOC level is not available for this guideline for the effective date of the cases in question (amendment years 2007 and 2008), but court documents reflected the court's findings that this was the proper level for this offense.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2K2.1 Unlawful Receipt/Possession/Transportation of Firearms or Ammunition (cont)	6,374	8.4
(b)(1)(E) 200 or more firearms (10 levels)	18	0.3
(b)(2) Not subject to (a)(1)-(a)(5) and solely for lawful sporting purposes (decrease to level 6)	73	1.1
(b)(3)(A) Destructive device that is a portable rocket or missile (15 levels)	3	0.0
(b)(3)(B) Destructive device (2 levels)	118	1.8
(b)(4)(A) Firearm stolen (2 levels)	1,114	17.5
(b)(4)(B) Firearm had altered/obliterated serial number (4 levels)	384	6.0
(b)(4) Firearm stolen or altered/obliterated serial number (2 levels) ⁸⁰	54	0.8
(b)(5) Defendant engaged in trafficking of firearms (4 levels)	280	4.4
(b)(6) Firearms used in connection with another offense (4 levels/increase to level 18) ⁸¹	1,564	24.5
(b)(7) Recordkeeping offense to conceal offense involving firearms (increase to level of underlying offense) ⁸²	8	0.1
§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	10	0.0
Chapter 2 Specific Offense Characteristic Adjustments	4	40.0
(b)(1)(A) Unlawful possession of firearm in a federal court facility (2 levels)	3	30.0
(b)(1)(B) Firearm in school zone (2 levels)	1	10.0
§2K2.6 Possessing, Purchasing or Owning Body Armor by Violent Felons	5	0.0
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
(b)(1) Body armor used in connection with another felony (4 levels)	0	0.0
§2K3.2 Feloniously Mailing Injurious Articles	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

⁸⁰ SOC was amended on November 1, 2006 to provide for a four level enhancement for altered/obliterated serial numbers.

⁸¹ SOC changed from §2K2.1(b)(5) and redesignated §2K2.1(b)(6) on November 1, 2006. The statistics reflect all instances of the application of this SOC.

⁸² SOC changed from §2K2.1(b)(6) and redesignated §2K2.1(b)(7) on November 1, 2006. The statistics reflect all instances of the application of this SOC.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part L - Offenses Involving Immigration, Naturalization, and Passports		
§2L1.1 Smuggling, Transporting or Harboring an Unlawful Alien	3,185	4.2
(a)(1) Convicted under 8 U.S.C. § 1327 for inadmissible alien under 8 U.S.C. § 1182(a)(3) (Base offense level 25)	2	0.1
(a)(1) Convicted under 8 U.S.C. § 1327 after being previously deported (BOL 23)	8	0.2
(a)(2) Otherwise (Base offense level 12)	3,173	99.6
(a) Base offense level 11 ⁸³	1	0.0
(a) Base offense level 8 ⁸³	1	0.0
Chapter 2 Specific Offense Characteristic Adjustments	2,485	78.0
(b)(1)(A) Offense committed for profit and (B) BOL under (a)(2) (3 level decrease)	140	4.4
(b)(2) Unknown number of aliens (1 level) ⁸⁴	1	0.0
(b)(2)(A) 6-24 aliens smuggled (3 levels)	1,277	40.1
(b)(2)(B) 25-99 aliens smuggled (6 levels)	250	7.8
(b)(2)(C) 100 or more aliens smuggled (9 levels)	85	2.7
(b)(3)(A) Prior conviction for felony immigration and naturalization offense (2 levels)	135	4.2
(b)(3)(B) Two or more prior convictions for felony immigration offense (4 levels)	25	0.8
(b)(4) Smuggled, transported, or harbored an unaccompanied minor (2 levels)	297	9.3
(b)(5)(A) Firearm discharged (6 levels, increase to 22) ⁸⁵	20	0.6
(b)(5)(B) Weapon brandished or otherwise used (4 levels, increase to 20) ⁸⁵	46	1.4
(b)(5)(C) Weapon possessed (2 levels, increase to 18) ⁸⁵	27	0.8
(b)(6) Reckless creating risk of death or serious bodily injury (2 levels, increase to 18) ⁸⁶	1,247	39.2

⁸³ This base offense level is not available under the guidelines, but court documents reflect the court's findings that this was the proper base offense level for this offense.

⁸⁴ This SOC level is not available under the guidelines, but court documents reflected the court's findings that this was the proper level for the offense.

⁸⁵ SOC was formerly §2L1.1(b)(4) and redesignated §2L1.1(b)(5) on November 1, 2006. The statistics reflect all instances of the application of the SOC.

⁸⁶ SOC was formerly §2L1.1(b)(5) and redesignated §2L1.1(b)(6) on November 1, 2006. The statistics reflect all instances of the application of the SOC.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2L1.1 Smuggling, Transporting or Harboring an Unlawful Alien (continued)	3,185	4.2
(b)(7)(A) Bodily injury (2 levels) ⁸⁷	40	1.2
(b)(7)(B) Serious bodily injury (4 levels) ⁸⁷	22	0.7
(b)(7)(C) Permanent or life-threatening bodily injury (6 levels) ⁸⁷	4	0.1
(b)(7)(D) Death (10 levels)	40	1.2
(b)(7)(D) Death (8 levels) ⁸⁸	7	0.2
(b)(8)(A) Alien involuntarily detained, demand for payment after smuggled into U.S. (2 levels, increase to 18)	69	2.2
(b)(8)(B) Alien involuntarily detained, demand for payment while smuggled into U.S. (2 levels, increase to 18)	42	1.3
(b)(9) Defendant convicted under 8 U.S.C. §1324(a)(4) (2 levels)	1	0.0
§2L1.2 Unlawfully Entering or Remaining in the United States	17,089	22.6
Chapter 2 Specific Offense Characteristic Adjustments	12,106	70.8
(b)(1)(A)(i) Previously deported and conviction for drug trafficking offense of greater than 13 months(16 levels)	2,496	14.6
(b)(1)(A)(ii) Previously deported and conviction for crime of violence (16 levels)	2,117	12.4
(b)(1)(A)(iii) Previously deported and conviction for firearms offense (16 levels)	35	0.2
(b)(1)(A)(iv) Previously deported and conviction for a child pornography offense (16 levels)	7	0.0
(b)(1)(A)(v) Previously deported and conviction for a national security/terrorism offense (16 levels)	3	0.0
(b)(1)(A)(vi) Previously deported and conviction for a human trafficking offense (16 levels)	17	0.1
(b)(1)(A)(vii) Previously deported and conviction for an alien smuggling offense (16 levels)	234	1.4
(b)(1)(B) Previously deported, drug offense sentence less than 13 months (12 levels)	1,009	5.9
(b)(1)(C) Previously deported and aggravated felony conviction (8 levels)	1,577	9.2
(b)(1)(D) Previously deported and any other felony conviction (4 levels)	4,587	26.8
(b)(1)(E) Previously deported and three or more misdemeanor convictions of crimes of violence or drug trafficking (4 levels)	24	0.1

⁸⁷ SOC was formerly §2L1.1(b)(6) and redesignated §2L1.1(b)(7) on November 1, 2006. The statistics reflect all instances of the application of the SOC.

⁸⁸ SOC was formerly §2L1.1(b)(6) and redesignated §2L1.1(b)(7) and the enhancement level was increased on November 1, 2006. The statistics reflect all instances of the application of the SOC.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2L2.1 Trafficking in Documents Relating to Naturalization	385	0.5
(a) Base offense level 14 ⁸³	1	0.3
(a) Base offense level 11	383	99.5
(a) Base offense level 8 ⁸³	1	0.3
Chapter 2 Specific Offense Characteristic Adjustments	238	61.8
(b)(1) Committed other than for profit or only smuggling relative (3 level decrease)	20	5.2
(b)(2)(A) 6-24 Documents/Passports (3 levels)	104	27.0
(b)(2)(B) 25-99 Documents/Passports (6 levels)	41	10.6
(b)(2)(C) 100 or more Documents/Passports (9 levels)	62	16.1
(b)(3) Offender knew passport or visa facilitated a felony offense (4 levels)	10	2.6
(b)(4)(A) Committed instant offense after conviction of immigration offense (2 levels)	3	0.8
(b)(4)(B) Committed instant offense after two or more convictions immigration (4 lvls)	2	0.5
(b)(5)(A) Defendant fraudulently obtained or used a United States passport (4 levels)	6	1.6
(b)(5)(B) Defendant fraudulently obtained or used a foreign passport (2 levels)	5	1.3
§2L2.2 Fraudulent Acquiring Documents Relating to Citizenship	1,672	2.2
(a) Base offense level 8	1,669	99.8
(a) Base offense level 6 ⁸⁹	3	0.2
Chapter 2 Specific Offense Characteristic Adjustments	578	34.6
(b)(1) Offender an unlawful alien, previously deported (2 levels)	271	16.2
(b)(2)(A) Prior felony immigration and naturalization offense (2 levels)	16	1.0
(b)(2)(B) Two or more prior felony immigration and naturalization offenses (4 levels)	11	0.6
(b)(3)(A) Offender fraudulently obtained or used a United States passport (4 levels)	170	10.2
(b)(3)(B) Offender fraudulently obtained or used a foreign passport (2 levels)	187	11.2
§2L2.5 Failure to Surrender Canceled Naturalization Certificate	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

⁸⁹ Base offense level was changed on November 1, 1997.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part M - Offenses Involving National Defense and Weapons of Mass Destruction		
§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	2	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M2.3 Destruction of, or Production of Defective, 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	1	0.0
(a)(1) Top secret information gathered or transmitted (Base offense level 42)	0	0.0
(a)(2) Otherwise (Base offense level 37)	1	100.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M3.2 Gathering National Defense Information	2	0.0
(a)(1) Top secret information gathered (Base offense level 35)	0	0.0
(a)(2) Otherwise (Base offense level 30)	2	100.0
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
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§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
Chapter 2 Specific Offense Characteristic Adjustments	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	10	0.0
(a)(1)(A) National security controls (B) offense involved financial transactions with a country supporting terrorism (Base offense level 26)	7	70.0
(a)(1) National security or nuclear proliferation controls evaded (Base offense level 22) ⁹⁰	1	10.0
(a)(2) Otherwise (Base offense level 14)	2	20.0
No Specific Offense Characteristics for this guideline	NA	NA
§2M5.2 Exportation of Arms/Munitions/Military Equipment without Validated Export License	63	0.1
(a)(1) Except as provided in (a)(2) (Base offense level 26)	46	73.0
(a)(2) Except as provided in (a)(2) (Base offense level 22) ⁹⁰	1	1.6
(a)(2) Involved less than 10 only non-fully automatic small arms (Base offense level 14)	16	25.4
No Specific Offense Characteristics for this guideline	NA	NA
§2M5.3 Providing Material Support/Resources to Designated Foreign Terrorist Organizations	10	0.0
Chapter 2 Specific Offense Characteristic Adjustments	6	60.0
(b)(1)(A) Offense involved the provision of dangerous weapons (2 levels)	0	0.0
(b)(1)(B) Offense involved the provision of firearms (2 levels)	0	0.0
(b)(1)(C) Offense involved the provision of explosives (2 levels)	1	10.0
(b)(1)(D) Offense involved the provisions of funds to purchase (A)-(C) (2 levels)	5	50.0
(b)(1)(E) Offense involved the provisions of funds used with the intent to commit a violent act (2 levels)	0	0.0

⁹⁰ This base offense level was raised to level 26 on November 1, 2001.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2M6.1 Unlawful Production of Nuclear Material	3	0.0
(a)(1)(A) Intent to injure U.S. (B) aid a foreign nation (Base offense level 42)	1	33.3
(a)(2) Subsections (a)(1), (a)(3)-(a)(5) do not apply (Base offense level 28)	1	33.3
(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)	1	33.3
Chapter 2 Specific Offense Characteristic Adjustments	2	66.7
(b)(1)(A) Subsection (a)(2), (a)(4), or (a)(5) applies and (B) threat of biological agent (2 levels)	2	66.7
(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
§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
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
Part N - Offenses Involving Food, Drugs, Agricultural Products and Odometer Laws		
§2N1.1 Tampering or Attempting to Tamper Involving risk of Death or Bodily Injury	4	0.0
Chapter 2 Specific Offense Characteristic Adjustments	1	25.0
(b)(1)(A) Permanent or life-threatening bodily injury (4 levels)	0	0.0
(b)(1)(B) Serious bodily injury (2 levels)	1	25.0
(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	2	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	39	0.0
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
(b)(1) Convicted under 21 § U.S.C. 331 after prior conviction under 21 § U.S.C. 331 (4 lvls)	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
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part P - Offenses Involving Prisons and Correctional Facilities		
§2P1.1 Escape, Instigating or Assisting Escape	258	0.3
(a)(1) Custody is by virtue of an arrest on a felony/conviction of another offense (BOL 13)	254	98.4
(a)(2) Otherwise (Base offense level 8)	4	1.6
Chapter 2 Specific Offense Characteristic Adjustments	183	70.9
(b)(1) Use of threat of force against any person (5 levels)	4	1.6
(b)(2) Escaped from non-secure custody,(a)(1) applies, return in 96 hours (7 level decrease)	13	5.0
(b)(2) Escaped from non-secure custody, (a)(2)applies, return in 96 hours (4 level decrease)	8	3.1
(b)(3) Escaped from non-secure custody and (b)(2) does not apply, (a)(1) applies (4 level decrease)	156	60.5
(b)(3) Escaped from non-secure custody and (b)(2) does not apply, (a)(2) applies (2 level decrease)	1	0.4
(b)(4) Offender was a law enforcement officer (2 levels)	1	0.4
§2P1.2 Providing or Possessing Contraband in Prison	114	0.2
(a) Base offense level 26 ⁹¹	2	1.8
(a)(1) Object was a firearm or destructive device (Base offense level 23)	2	1.8
(a)(2) Object was a weapon, ammunition, LSD, or a narcotic drug (Base offense level 13)	76	66.7
(a)(3) Object was an alcoholic beverage/currency/controlled substance (BOL 6)	32	28.1
(a)(4) Other object threatened order of facility (Base offense level 4)	2	1.8
Chapter 2 Specific Offense Characteristic Adjustments	4	3.5
(b)(1) Offender was a law enforcement officer (2 levels)	4	3.5
§2P1.3 Engaging in a Riot Involving Persons in a Facility	5	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)	4	80.0
(a)(3) Otherwise (Base offense level 10)	1	20.0
No Specific Offense Characteristics for this guideline	NA	NA

⁹¹ This base offense level is not available under the guidelines, but court documents reflect the court's findings that this was the proper base offense level for this offense.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part Q -Offenses Involving the Environment		
§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	37	0.0
Chapter 2 Specific Offense Characteristic Adjustments	35	94.6
(b)(1)(A) Resulted in ongoing emission of a hazardous substance (6 levels)	13	35.1
(b)(1)(B) Otherwise involved discharge of a hazardous substance (4 levels)	3	8.1
(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)	9	24.3
(b)(4) Involved transportation without a permit or violation of a permit (4 levels)	27	73.0
(b)(4) Involved transportation without a permit or violation of a permit (2 levels) ⁹²	1	2.7
(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)	1	2.7
(b)(7) Convicted under 49 U.S.C. § 5124 or § 46312 (2 levels)	3	8.1
§2Q1.3 Mishandling of Other Environmental Pollutants	47	0.1
Chapter 2 Specific Offense Characteristic Adjustments	32	68.1
(b)(1)(A) Ongoing/repetitive discharge of a pollutant (6 levels)	15	31.9
(b)(1)(B) Otherwise discharge of pollutant (4 levels)	14	29.8
(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)	2	4.3
(b)(4) Discharge without permit or in violation of a permit (4 levels)	25	53.2
(b)(5) Recordkeeping reflected an effort to conceal offense (Offense level of underlying offense)	1	2.1

⁹² This SOC level is not available under the guidelines, but court documents reflected the court's findings that this was the proper level for this offense.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2Q1.4 Tampering or Attempted Tampering with Public Water System	0	0.0
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
(b)(1)(A) Victim sustained permanent/life threatening bodily injury (4 levels)	0	0.0
(b)(1)(B) Victim sustained serious bodily injury (2 levels)	0	0.0
(b)(1)(C) The degree of injury is between subdivisions (A) and (B) (3 levels)	0	0.0
(b)(2)(A) Offense resulted in disruption of public functions/services (4 levels)	0	0.0
(b)(2)(B) Disruption resulted in expenditure of funds to clean up in response to offense (4 levels)	0	0.0
(b)(3) Ongoing release of contaminant into public water system (2 levels)	0	0.0
§2Q1.6 Hazardous or Injurious Devices on Federal Lands	0	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)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2Q2.1 Offenses Involving Fish, Wildlife and Plants	138	0.2
Chapter 2 Specific Offense Characteristic Adjustments	127	92.0
(b)(1)(A) Offense committed for pecuniary gain (2 levels)	92	66.7
(b)(1)(B) Offense involved a pattern of similar violations (2 levels)	8	5.8
(b)(2)(A) Offense involved wildlife not quarantined (2 levels)	7	5.1
(b)(2)(B) Offense involved significant risk of infestation/disease to human/wildlife (2 levels)	6	4.4
(b)(3)(A) Value of wildlife between \$2,000 and \$5,000 (one level)	12	8.7
(b)(3)(A) Value of wildlife between \$5,000 and \$10,000 (2 levels)	10	7.2
(b)(3)(A) Value of wildlife between \$10,000 and \$30,000 (4 levels)	17	12.3
(b)(3)(A) Value of wildlife between \$30,000 and \$70,000 (6 levels)	22	15.9
(b)(3)(A) Value of wildlife between \$70,000 and \$120,000 (8 levels)	8	5.8
(b)(3)(A) Value of wildlife between \$120,000 and \$200,000 (10 levels)	5	3.6
(b)(3)(A) Value of wildlife between \$200,000 and \$400,000 (12 levels)	5	3.6
(b)(3)(A) Value of wildlife between \$400,000 and \$1,000,000 (14 levels)	6	4.4
(b)(3)(A) Value of wildlife between \$1,000,000 and \$2,500,000 (16 levels)	2	1.4
(b)(3)(B)(i) Offense involved protected marine mammals (4 levels)	2	1.4
(b)(3)(B)(ii) Offense involved fish/wildlife/plants listed as endangered (4 levels)	14	10.1
(b)(3)(B)(iii) Offense involved fish/wildlife/plants endangered internationally (4 levels)	8	5.8

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part R - Antitrust Offenses		
§2R1.1 Bid-Rigging, Price-Fixing or Market-Allocation Agreements Among Competitors	11	0.0
(a) Base offense level 12	10	90.9
(a) Base offense level 10 ⁹³	1	9.1
Chapter 2 Specific Offense Characteristic Adjustments	11	100.0
(b)(1) Involved participation in agreement to submit non-competitive bid (one level)	8	72.7
(b)(2)(A) Volume of commerce between \$1,000,000 and \$10,000,000 (2 levels)	1	9.1
(b)(2)(B) Volume of commerce between \$10,000,000 and \$40,000,000 (4 levels)	2	18.2
(b)(2)(C) Volume of commerce between \$2,500,000 and \$6,250,000 ⁹⁴ (3 levels)	1	9.1
(b)(2)(C) Volume of commerce between \$40,000,000 and \$100,000,000 (6 levels)	1	9.1
(b)(2)(D) Volume of commerce between \$100,000,000 and \$250,000,000 (8 levels)	1	9.1
(b)(2)(E) Volume of commerce between \$250,000,000 and \$500,000,000 (10 levels)	1	9.1
(b)(2)(F) Volume of commerce between \$500,000,000 and \$1,000,000,000 (12 levels)	1	9.1
(b)(2)(G) Volume of commerce between \$1,000,000,000 and \$1,500,000,000 (14 levels)	3	27.3
(b)(2)(H) Volume of commerce more than \$1,500,000,000 (16 levels)	0	0.0

⁹³ Base offense level was increased on November 1, 2006.

⁹⁴ SOC enhancement level and threshold amounts were increased on November 1, 2006.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part S - Money Laundering and Monetary Transactions Reporting		
§2S1.1 Laundering of Monetary Instruments	959	1.3
(a)(1) Base offense level 6	6	0.6
(a)(1) Base offense level 7	1	0.1
(a)(1) Base offense level 8	12	1.2
(a)(1)&(2) Base offense level 10	5	0.5
(a)(1)&(2) Base offense level 11	1	0.1
(a)(1)&(2) Base offense level 12	45	4.7
(a)(1)&(2) Base offense level 13	3	0.3
(a)(1)&(2) Base offense level 14	64	6.7
(a)(1)&(2) Base offense level 15	2	0.2
(a)(1)&(2) Base offense level 16	41	4.3
(a)(1)&(2) Base offense level 17	3	0.3
(a)(1)&(2) Base offense level 18	68	7.1
(a)(1)&(2) Base offense level 19	6	0.6
(a)(1)&(2) Base offense level 20	76	7.9
(a)(1)&(2) Base offense level 20 ⁹⁵	12	1.2
(a)(1)&(2) Base offense level 21	25	2.6
(a)(1)&(2) Base offense level 22	81	8.4
(a)(1)&(2) Base offense level 23	22	2.3
(a)(1)&(2) Base offense level 23 ⁹⁵	4	0.4
(a)(1)&(2) Base offense level 24	61	6.4
(a)(1)&(2) Base offense level 25	15	1.6
(a)(1)&(2) Base offense level 26	59	6.2
(a)(1)&(2) Base offense level 27	16	1.7

⁹⁵ Base offense levels were expanded to incorporate the value of the laundered funds on November 1, 2001.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2S1.1 Laundering of Monetary Instruments (continued)	959	1.3
(a)(1)&(2) Base offense level 28	33	3.4
(a)(1)&(2) Base offense level 29	19	2.0
(a)(1)&(2) Base offense level 30	32	3.3
(a)(1)&(2) Base offense level 31	14	1.5
(a)(1)&(2) Base offense level 32	44	4.6
(a)(1)&(2) Base offense level 33	4	0.4
(a)(1)&(2) Base offense level 34	50	5.2
(a)(1)&(2) Base offense level 35	2	0.2
(a)(1)&(2) Base offense level 36	43	4.5
(a)(1) Base offense level 38	51	5.3
(a)(1) Base offense level 39	3	0.3
(a)(1) Base offense level 40	16	1.7
(a)(1) Base offense level 41	2	0.2
(a)(1) Base offense level 42	4	0.4
(a)(1) Base offense level 43	8	0.8
(a)(1) Base offense level 44	2	0.2
Chapter 2 Specific Offense Characteristic Adjustments	946	98.6
(b)(1)(B)(i) Subsection (a)(2) applies and offender knew proceeds intended for distribution of a controlled substance (6 levels)	171	17.8
(b)(1)(B)(ii) Subsection (a)(2) applies and offender knew proceeds were intended for a crime of violence (6 levels)	21	2.2
(b)(1)(B)(iii) Subsection (a)(2) applies and offender knew proceeds intended for firearms explosives (6 levels)	3	0.3
(b)(1) Proceeds intended for unlawful controlled substance offense ⁹⁶ (3 levels)	13	1.4

⁹⁶ SOC was expanded and level enhanced on November 1, 2001.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2S1.1 Laundering of Monetary Instruments (continued)	959	1.3
(b)(2)(A) Offender convicted under 18 U.S.C. §1957 (one level)	143	14.9
(b)(2)(B) Offender convicted under 18 U.S.C. §1956 (2 levels)	754	78.6
(b)(2)(C) Subsection (a)(1) applies and offender in business of laundering money (4 levels)	19	2.0
(b)(2)(B) Value of funds laundered between \$100,000 and \$200,000 ⁹⁷ (one level)	1	0.1
(b)(2)(C) Value of funds laundered between \$200,000 and \$350,000 ⁹⁷ (2 levels)	2	0.2
(b)(2)(D) Value of funds laundered between \$350,000 and \$600,000 ⁹⁷ (3 levels)	2	0.2
(b)(2)(E) Value of funds laundered between \$600,000 and \$1,000,000 ⁹⁷ (4 levels)	1	0.1
(b)(2)(F) Value of funds laundered between \$1,000,000 and \$2,000,000 ⁹⁷ (5 levels)	5	0.5
(b)(2)(G) Value of funds laundered between \$2,000,000 and \$3,500,000 ⁹⁷ (6 levels)	2	0.2
(b)(2)(J) Value of funds laundered between \$10,000,000 and \$20,000,000 ⁹⁷ (9 levels)	1	0.1
(b)(2)(L) Value of funds laundered between \$35,000,000 and \$60,000,000 ⁹⁷ (11 levels)	1	0.1
(b)(2)(N) Value of funds laundered greater than \$100,000,000 ⁹⁷ (13 levels)	1	0.1
(b)(3) Subsection (b)(2)(B) applies and sophisticated laundering involved (2 levels)	70	7.3
§2S1.2 Engaging in Monetary Transactions in Property Derived from Unlawful Activity ⁹⁸	4	0.0
Chapter 2 Specific Offense Characteristic Adjustments	4	100.0
(b)(1)(A) Unlawful activity involved a controlled substance (5 levels)	0	0.0
(b)(1)(B) Any other specified unlawful activity (2 levels)	2	50.0
(b)(2) Value of funds laundered between \$100,000 and \$200,000 (1 levels)	1	25.0
(b)(2) Value of funds laundered between \$1,000,000 and \$2,000,000 (5 levels)	1	25.0
(b)(2) Value of funds laundered between \$2,000,000 and \$3,500,000 (6 levels)	1	25.0
(b)(2) Value of funds laundered between \$3,500,000 and \$6,000,000 (7 levels)	1	25.0

⁹⁷ SOC eliminated on November 1, 2001.

⁹⁸ Guideline was eliminated and consolidated with §2S1.1 on November 1, 2001.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2S1.3 Structuring Transactions to Evade Reporting Requirements	261	0.4
(a)(1) Offender convicted under 31 U.S.C. §§ 5318 or 5318A (Base offense level 8)	3	1.1
(a)(2) Loss less than \$5,000 (Base offense level 6)	5	1.9
(a) Loss between \$5,000 and \$10,000 ⁹⁹ (Base offense level 8)	1	0.4
(a)(2) Loss between \$10,000 and \$30,000 (Base offense level 10)	32	12.3
(a)(2) Loss between \$30,000 and \$70,000 (Base offense level 12)	57	21.8
(a)(2) Loss between \$70,000 and \$120,000 (Base offense level 14)	43	16.5
(a)(2) Loss between \$120,000 and \$200,000 (Base offense level 16)	19	7.3
(a)(2) Loss between \$200,000 and \$400,000 (Base offense level 18)	37	14.2
(a) Loss between \$2,500,000 and \$5,000,000 ⁹⁹ (Base offense level 19)	3	1.1
(a)(2) Loss between \$400,000 and \$1,000,000 (Base offense level 20)	23	8.8
(a)(2) Loss between \$1,000,000 and \$2,500,000 (Base offense level 22)	7	2.7
(a)(2) Loss between \$2,500,000 and \$7,000,000 (Base offense level 24)	16	6.1
(a)(2) Loss between \$7,000,000 and \$20,000,000 (Base offense level 26)	9	3.4
(a)(2) Loss between \$20,000,000 and \$50,000,000 (Base offense level 28)	3	1.2
(a)(2) Loss between \$100,000,000 and \$200,000,000 (Base offense level 32)	1	0.4
(a)(2) Loss between \$200,000,000 and \$400,000,000 (Base offense level 34)	1	0.4
(a)(2) Loss greater than \$400,000,000 (Base offense level 36)	1	0.4
Chapter 2 Specific Offense Characteristic Adjustments	198	75.9
(b)(1)(A) Offender knew proceeds were for unlawful activity (2 levels)	84	32.2
(b)(1)(B) Offense involved bulk cash smuggling (2 levels)	82	31.4
(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)	48	18.4
(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 ¹⁰⁰ (decrease to level 6)	31	11.9

⁹⁹ Base offense levels thresholds amounts and levels were changed on November 1, 2001.

¹⁰⁰ SOC was redesignated §2S1.3(b)(2) on November 1, 2001.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part T - Offenses Involving Taxation		
§2T1.1 Tax Evasion	656	0.9
(a)(2) No tax loss or loss less than \$2,000 (Base offense level 6)	13	2.0
(a)(1) Loss between \$2,000 and \$5,000 (Base offense level 8)	10	1.5
(a)(1) Loss between \$5,000 and \$8,000 ¹⁰¹ (Base offense level 9)	2	0.3
(a)(1) Loss between \$5,000 and \$12,500 (Base offense level 10)	26	4.0
(a)(1) Loss between \$13,500 and \$23,500 ¹⁰¹ (Base offense level 11)	1	0.2
(a)(1) Loss between \$12,500 and \$30,000 (Base offense level 12)	55	8.4
(a)(1) Loss between \$23,500 and \$40,000 ¹⁰¹ (Base offense level 12)	1	0.2
(a)(1) Loss between \$40,000 and \$70,000 ¹⁰¹ (Base offense level 13)	4	0.6
(a)(1) Loss between \$30,000 and \$80,000 (Base offense level 14)	143	21.8
(a)(1) Loss between \$70,000 and \$120,000 ¹⁰¹ (Base offense level 14)	5	0.8
(a)(1) Loss between \$120,000 and \$200,000 ¹⁰¹ (Base offense level 15)	19	3.4
(a)(1) Loss between \$80,000 and \$200,000 (Base offense level 16)	157	23.9
(a)(1) Loss between \$200,000 and \$325,000 ¹⁰¹ (Base offense level 16)	10	1.5
(a)(1) Loss between \$325,000 and \$550,000 ¹⁰¹ (Base offense level 17)	3	0.5
(a)(1) Loss between \$200,000 and \$400,000 (Base offense level 18)	87	13.3
(a)(1) Loss between \$550,000 and \$950,000 ¹⁰¹ (Base offense level 18)	5	0.8
(a)(1) Loss between \$400,000 and \$1,000,000 (Base offense level 20)	72	11.0
(a)(1) Loss between \$1,000,000 and \$2,500,000 (Base offense level 22)	34	5.2
(a)(1) Loss between \$5,000,000 and \$10,000,000 ¹⁰¹ (Base offense level 22)	1	0.2
(a)(1) Loss between \$2,500,000 and \$7,000,000 (Base offense level 24)	16	2.4
(a)(1) Loss between \$40,000,000 and \$80,000,000 ¹⁰¹ (Base offense level 25)	1	0.2
(a)(1) Loss between \$7,000,000 and \$20,000,000 (Base offense level 26)	3	0.4
(a)(1) Loss greater than 80,000,000 ¹⁰¹ (Base offense level 26)	1	0.2
(a)(1) Loss between \$20,000,000 and \$50,000,000 (Base offense level 28)	1	0.2

¹⁰¹ Base offense level thresholds amounts and levels changed on November 1, 2001.

**USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009**

Guideline and SOC	Applied	Percent
§2T1.1 Tax Evasion (continued)	656	0.9
Chapter 2 Specific Offense Characteristic Adjustments	247	37.6
(b)(1) Failed to report exceeding \$10,000 from criminal activity (2 levels, level 12)	182	27.7
(b)(2) Sophisticated means (2 levels, increase to level 12)	92	14.0
§2T1.4 Aiding, Assisting, Procuring, Counseling or Advising Tax Fraud	131	0.2
(a)(2) No tax loss or loss less than \$2,000 (Base offense level 6)	0	0.0
(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	0.8
(a)(1) Loss between \$12,500 and \$30,000 (Base offense level 12)	3	2.3
(a)(1) Loss between \$40,000 and \$70,000 ¹⁰¹ (Base offense level 13)	1	0.8
(a)(1) Loss between \$30,000 and \$80,000 (Base offense level 14)	19	14.5
(a)(1) Loss between \$120,000 and \$200,000 ¹⁰¹ (Base offense level 15)	1	0.8
(a)(1) Loss between \$80,000 and \$200,000 (Base offense level 16)	44	33.6
(a)(1) Loss between \$200,000 and \$325,000 ¹⁰¹ (Base offense level 16)	1	0.8
(a)(1) Loss between \$325,000 and \$550,000 ¹⁰¹ (Base offense level 17)	1	0.8
(a)(1) Loss between \$200,000 and \$400,000 (Base offense level 18)	22	16.8
(a)(1) Loss between \$550,000 and \$950,000 ¹⁰¹ (Base offense level 18)	1	0.8
(a)(1) Loss between \$950,000 and \$1,500,000 ¹⁰¹ (Base offense level 19)	1	0.8
(a)(1) Loss between \$400,000 and \$1,000,000 (Base offense level 20)	12	9.2
(a)(1) Loss between \$1,500,000 and \$2,500,000 ¹⁰¹ (Base offense level 20)	1	0.8
(a)(1) Loss between \$1,000,000 and \$2,500,000 (Base offense level 22)	3	2.3
(a)(1) Loss between \$5,000,000 and \$10,000,000 ¹⁰¹ (Base offense level 22)	1	0.8
(a)(1) Loss between \$2,500,000 and \$7,000,000 (Base offense level 24)	8	6.1
(a)(1) Loss between \$7,000,000 and \$20,000,000 (Base offense level 26)	4	3.0
(a)(1) Loss between \$20,000,000 and \$50,000,000 (Base offense level 28)	2	1.5
(a)(1) Loss between \$50,000,000 and \$100,000,000 (Base offense level 30)	5	3.8
Chapter 2 Specific Offense Characteristic Adjustments	104	79.4
(b)(1)(A) As part of scheme, offender derived substantial portion of income (2 levels)	23	17.6
(b)(1)(B) Defendant was in business of preparing tax returns (2 levels)	73	55.7
(b)(2) Sophisticated means (2 levels, increase to level 12)	23	17.6

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2T1.6 Failing to Collect or Truthfully Account for and Pay Over Tax	26	0.0
(a) Loss between \$23,500 and \$40,000 ¹⁰¹ (Base offense level 12)	2	7.7
(a) Loss between \$30,000 and \$80,000 (Base offense level 14)	1	3.8
(a) Loss between \$80,000 and \$200,000 (Base offense level 16)	7	26.9
(a) Loss between \$200,000 and \$400,000 (Base offense level 18)	5	19.2
(a) Loss between \$400,000 and \$1,000,000 (Base offense level 20)	6	23.1
(a) Loss between \$1,000,000 and \$2,500,000 (Base offense level 22)	2	7.7
(a) Loss between \$2,500,000 and \$7,000,000 (Base offense level 24)	2	7.7
(a) Loss between \$7,000,000 and \$20,000,000 (Base offense level 26)	1	3.8
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	9	0.0
(a)(2) Loss less than \$12,500 (Base offense level 10)	0	0.0
(a)(1) Base offense level 12	2	22.2
(a)(1) Base offense level 14	1	11.1
(a)(1) Base offense level 18	1	11.1
(a)(1) Base offense level 22	2	22.2
(a)(1) Base offense level 24	1	11.1
(a)(1) Base offense level 26	2	22.2
Chapter 2 Specific Offense Characteristic Adjustments	5	55.6
(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)	5	55.6

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2T2.1 Non-payment of Taxes	14	0.0
(a) No tax loss or loss less than \$2,000 (Base offense level 6)	4	28.6
(a) Loss between \$5,000 and \$12,500 (Base offense level 10)	2	14.3
(a) Loss between \$12,500 and \$30,000 (Base offense level 12)	3	21.4
(a) Loss between \$30,000 and \$80,000 (Base offense level 14)	2	14.3
(a) Loss between \$200,000 and \$400,000 (Base offense level 18)	3	21.4
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)	16	0.0
(a)(3) Loss less than \$100 (Base offense level 4)	4	25.0
(a)(2) Loss between \$100 and \$1,000 (Base offense level 5)	0	0.0
(a)(1) Loss between \$1,000 and \$2,000 (Base offense level 6)	2	12.5
(a)(1) Loss between \$2,000 and \$5,000 (Base offense level 8)	1	6.2
(a)(1) Loss between \$5,000 and \$12,500 (Base offense level 10)	1	6.2
(a)(1) Loss between \$80,000 and \$200,000 (Base offense level 16)	1	6.2
(a)(1) Loss between \$400,000 and \$1,000,000 (Base offense level 20)	4	25.0
(a)(1) Loss between \$1,000,000 and \$2,500,000 (Base offense level 22)	1	6.2
(a)(1) Loss between \$2,500,000 and \$7,000,000 (Base offense level 24)	1	6.2
(a)(1) Loss between \$7,000,000 and \$20,000,000 (Base offense level 26)	1	6.2
Chapter 2 Specific Offense Characteristic Adjustments	0	0.0
(b)(1) Sophisticated means (2 levels, increase to level 12)	3	18.8

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
Part X - Other Offenses		
§2X1.1 Attempt, Solicitation, or Conspiracy	27	0.0
(a) Base offense level 12	4	14.8
(a) Base offense level 13	3	11.1
(a) Base offense level 18	1	3.7
(a) Base offense level 19	1	3.7
(a) Base offense level 20	2	7.4
(a) Base offense level 21	1	3.7
(a) Base offense level 22	4	14.8
(a) Base offense level 24	3	11.1
(a) Base offense level 26	2	7.4
(a) Base offense level 32	1	3.7
(a) Base offense level 33	3	11.1
(a) Base offense level 34	1	3.7
(a) Base offense level 43	1	3.7
Chapter 2 Specific Offense Characteristic Adjustments	27	100.0
(b)(1) If an attempt (3 level decrease)	14	51.8
(b)(2) If a conspiracy (3 level decrease)	12	44.4
(b)(3)(A) Solicitation (3 level decrease)	1	3.7

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2X2.1 Aiding and Abetting	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2X3.1 Accessory After the Fact	146	0.2
(a) Base offense level 4	4	2.7
(a) Base offense level 5	1	0.7
(a) Base offense level 6	4	2.7
(a) Base offense level 7	5	3.4
(a) Base offense level 8	9	6.2
(a) Base offense level 10	5	3.4
(a) Base offense level 12	4	2.7
(a) Base offense level 13	1	0.7
(a) Base offense level 14	4	2.7
(a) Base offense level 16	11	7.5
(a) Base offense level 17	4	2.7
(a) Base offense level 18	8	5.5
(a) Base offense level 19	5	3.4
(a) Base offense level 20	15	10.3
(a) Base offense level 21	2	1.4
(a) Base offense level 22	8	5.5
(a) Base offense level 23	6	4.1
(a) Base offense level 24	7	4.8
(a) Base offense level 26	7	4.8
(a) Base offense level 27	2	1.4
(a) Base offense level 28	2	1.4
(a) Base offense level 29	1	0.7
(a) Base offense level 30	29	19.9
No Specific Offense Characteristics for this guideline	NA	NA

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2X4.1 Misprision of a Felony	432	0.6
(a) Base offense level 4	36	8.3
(a) Base offense level 5	17	3.9
(a) Base offense level 6	7	1.6
(a) Base offense level 7	25	5.8
(a) Base offense level 8	1	0.2
(a) Base offense level 9	32	7.4
(a) Base offense level 10	5	1.2
(a) Base offense level 11	27	6.2
(a) Base offense level 12	4	0.9
(a) Base offense level 13	27	6.2
(a) Base offense level 14	6	1.4
(a) Base offense level 15	35	8.1
(a) Base offense level 16	4	0.9
(a) Base offense level 17	63	14.6
(a) Base offense level 18	1	0.2
(a) Base offense level 19	141	32.6
(a) Base offense level 25 ¹⁰²	1	0.2
No Specific Offense Characteristics for this guideline	NA	NA
§2X5.1 Other Felony Offenses	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2X5.2 Other Class A Misdemeanors	188	0.2
No Specific Offense Characteristics for this guideline	NA	NA

¹⁰² This base offense level is not available under the guidelines, but court documents reflected the court's findings that this was the proper base offense level for the offense.

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS
Fiscal Year 2009

Guideline and SOC	Applied	Percent
§2X6.1 Use of a Minor in Crime of Violence	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA
§2X7.1 Border Tunnels and Subterranean Passages	0	0.0
(a)(1) Convicted under 18 U.S.C. § 554(c) (4 plus underlying smuggling offense, increase to 16)	0	0.0
(a)(2) Convicted under 18 U.S.C. § 554(a) (Base offense level 16)	0	0.0
(a)(3) Convicted under 18 U.S.C. § 554(b) (Base offense level 8)	0	0.0
No Specific Offense Characteristics for this guideline	NA	NA