

SEX OFFENSES SCENARIOS

Scenario 1

Defendant is convicted of one count of possession of child pornography on June 1, 2017. The defendant used a file sharing program to download images of child pornography.

The government believes that the 5-level increase for distribution of pornography under §2G2.2(b)(3) applies based on the defendant's knowledge that other individuals in the file sharing program could access his files.

Should the defendant receive an enhancement under §2G2.2(b)(3) (distribution SOC)?

Scenario 2

The defendant is convicted of possession of child pornography under 18 U.S.C. § 2252. The defendant's step-daughter testified at the sentencing hearing that the defendant sexually abused her on numerous occasions 30 years ago when she was 14. The government argues that the 5-level pattern of activity enhancement at §2G2.2(b)(5) should apply, but the defendant objects because while he admits the conduct took place, it occurred 30 years ago and there was no conviction for the conduct.

Should the enhancement for pattern of activity apply?

Scenario 3

The defendant is convicted of one count of production of child pornography, citing one minor, age 14, exploited during the production on July 15, 2017. On July 7, 2017, the defendant also produced child pornography exploiting a different child, age 9.

The probation officer applied a two-level increase for the offense involving a minor between 12-16 under §2G2.1(b)(1)(b). The government has objected, arguing that the court should impose a four-level increase for a minor under 12 under §2G2.1(b)(1)(A).

Should an enhancement at §2G2.1(b)(1) apply?

SEX OFFENSES SCENARIOS

Scenario 4

The defendant is convicted of one count of production of child pornography, citing one minor, age 10, exploited during the production on a December 2, 2017; applicable guideline §2G2.1. In the video, there is another child who is also filmed engaging in sexual activity. Does the special instruction at §2G2.1(d)(1) apply?

Scenario 5

The defendant is convicted 18 U.S.C. § 1594 (Conspiracy to violate 18 U.S.C. § 1591(a), Sex Trafficking of Children). The probation officer applied a base offense level 34, pursuant to §2G1.3(a)(1). The defendant objects, and believes the base offense should be 24, pursuant to §2G1.3(a)(4).

What is the correct base offense level?

Scenario 6

The defendant is convicted of one count of transportation of a minor, age 15, for purposes of prostitution on February 5, 2018. The government alleges the defendant also transported a second minor age 16 on February 1 for purposes of prostitution.

Does the special instruction at §2G1.3(d)(1) apply?

Scenario 7

The defendant is convicted of production of child pornography for producing a video of himself engaging in sexual activity with one of his 13-year old students on July 5, 2016. The defendant admitted that he had sex with another student one time in 2013. The probation officer has applied §4B1.5(b). The defendant objected, arguing that he only has one prior prohibited

SEX OFFENSES SCENARIOS

sexual conduct and that the enhancement should not apply because the enhancement requires two prior instances of sexual abuse.

Should the enhancement at §4B1.5(b) apply?

Scenario 8

Count 1 – Trafficking child pornography on April 15, 2017; Applicable guideline §2G2.2; Offense Level 40

Count 2 – Production of child pornography, citing one minor exploited during the production on April 15, 2017; Applicable guideline §2G2.1; Offense Level 38

The probation officer applied §2G2.1(b)(3) for the offense involving distribution of child pornography.

The distribution cited in the trafficking count is the same child pornography cited in the production count.

Will the counts group?

If so, under which grouping rule?
