

INTRODUCTION TO RELEVANT CONDUCT

1. The defendant is convicted of one count of Bank Robbery in which the defendant stole \$1,700.

Applicable guideline is §2B3.1 (Robbery)

If the defendant did not possess a gun in the bank, but after the bank robbery used a gun to carjack a vehicle in order to aid the getaway, would the §2B3.1 firearm specific offense characteristic apply?

2. The defendant is convicted of a drug conspiracy involving at least 100 kg of cocaine. Applicable guideline is §2D1.1 (Drugs)

Conspiracy involved multiple importations; however, the defendant was only involved in two importations of 5 kg each.

What quantity of drugs will be used to determine the defendant's base offense level at §2D1.1?

3. The defendant is convicted of bank robbery.

Applicable guideline is §2B3.1 (Robbery)

Co-participant carried a gun in the robbery, a fact unknown to the defendant until the commission of the robbery. Will the §2B3.1 specific offense characteristic for "if a firearm was brandished or possessed" apply?

4. The defendant is convicted of bank robbery.

Applicable guideline is §2B3.1 (Robbery)

Defendant and co-participant robbed the bank while armed. During the robbery, a teller set off a silent alarm. The police responded to the robbery in process. While attempting to subdue the defendant and

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his co-participant, the officer shot and injured a customer in the bank. Will the §2B3.1 specific offense characteristic for “bodily injury” apply?

5. Three defendants convicted of a Drug Conspiracy involving 10,000 kg of Marijuana- §2D1.1.

Defendant 1 lives in Minnesota, but owns a marijuana grow operation in California. Defendant 2 lives in California at the grow operation and is responsible for taking care of the plants, watering them, harvesting, etc. Defendant 3 lives in New Orleans and has access to an airplane. He flew to California on several occasions to pick-up the marijuana (total of 5,000 kgs) and took it back to New Orleans to distribute to his people.

What amounts are attributable to each defendant?

6. Defendants were convicted of Filing False Tax Returns. Applicable guideline is §2T1.1. (Tax Evasion). Defendant 1 steals personal identifying information from a local business. Defendant 2 files the vast majority of the false tax returns. Defendant 1 only files a handful of returns, but they share the return money which exceeds \$100,000.

Is each defendant accountable for the total loss amount?

7. The defendant is convicted of sale of 1 kg of cocaine on a single occasion

Applicable guideline is §2D1.1 (Drugs)

It is determined that the defendant additionally sold 1 kg of cocaine to the same gang member each week for 40 weeks.

What quantity of drugs will be used to determine the defendant’s base offense level at §2D1.1?

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8. Defendant convicted of Felon in Possession of a Firearm. Applicable guideline is §2K2.1. (Prohibited Transactions involving Firearms).

Several weeks after the offense cited in the indictment, during the execution of a search warrant, officers located seven additional firearms, including two that were stolen and four that had the serial numbers scratched off.

Is the defendant accountable for the firearm in the count of conviction as well as the seven firearms located at his residence?

9. The defendant was arrested for committing two robberies. The first robbery occurred on June 7, 2019 and the defendant passed a note to the teller stating that the teller would die unless he gave him the money. The defendant did not possess a gun during the robbery. On June 8, 2019, the defendant committed another bank robbery where he possessed a gun. The defendant plead guilty to only the June 7th robbery. The probation officer applied a two-level increase for threat of death under §2B3.1(b)(F), but the government believes the defendant should have received a five-level increase for possession of a gun under §2B3.1(b)(2)(C).

Is the government correct?
