



Grouping Multiple Counts

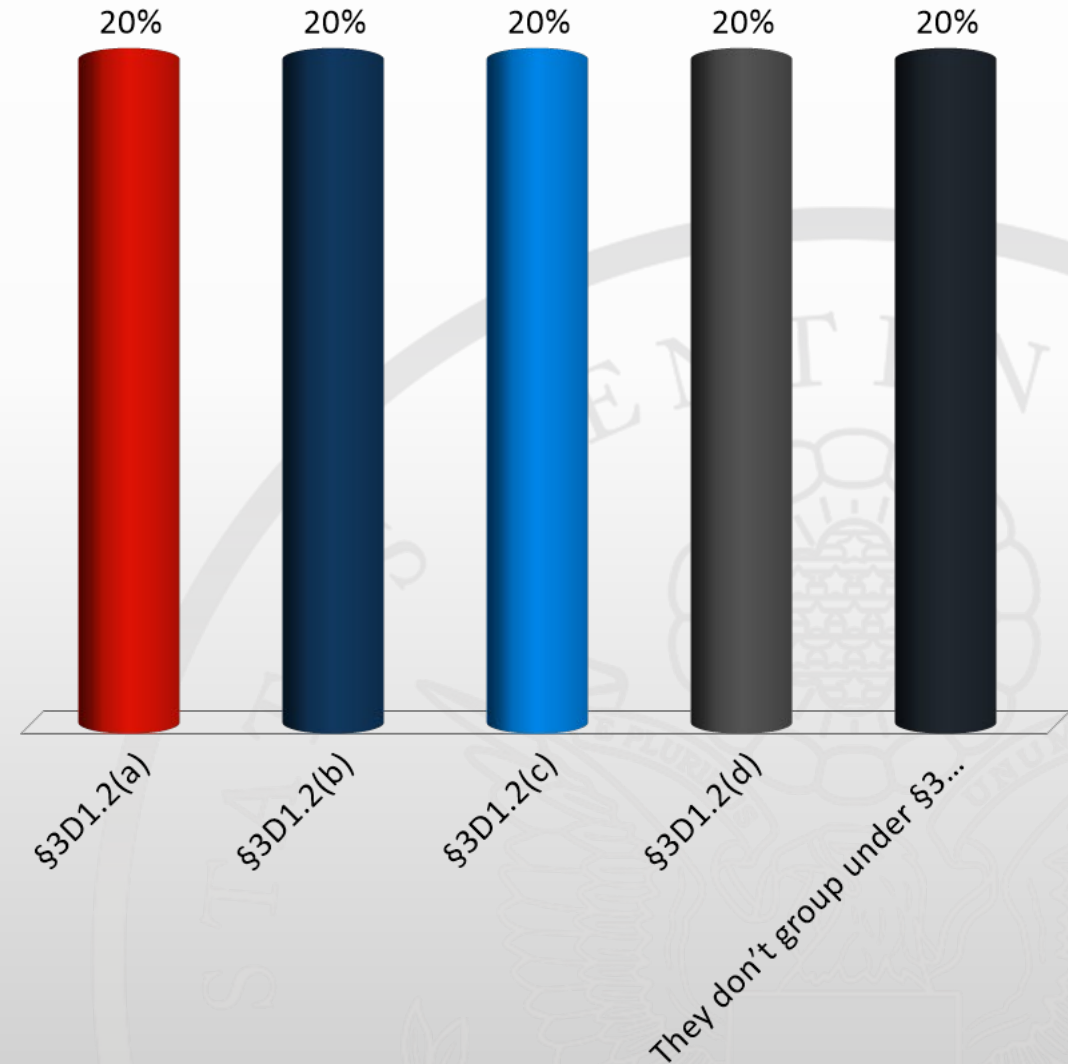
Today's Objective:

- Demystify the process of **grouping** multiple counts of conviction
- Resources:
 - Decision Tree
 - One-page primers
 - Scenarios
 - Discussion



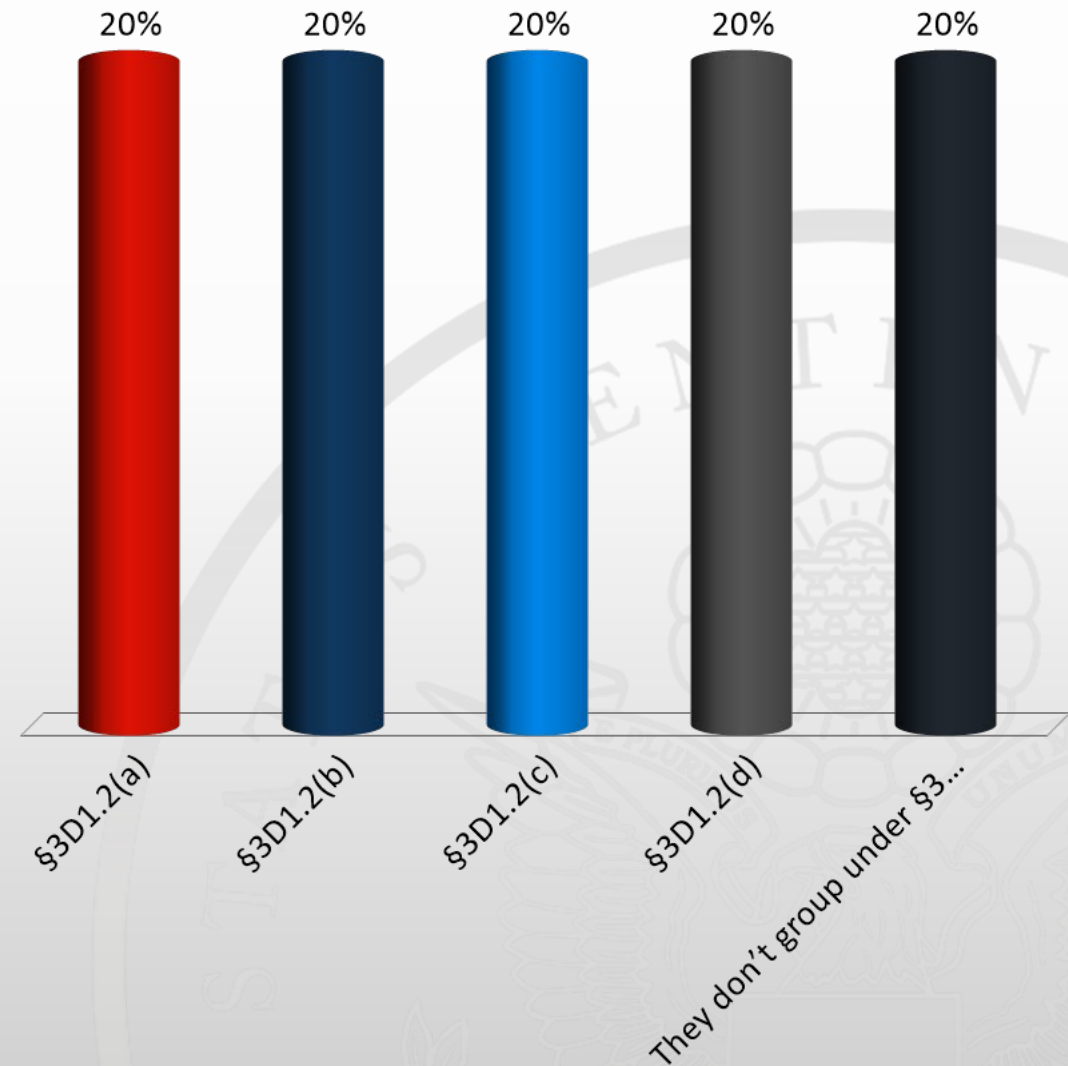
Scenario 1: Under which rule do these counts group?

- A. §3D1.2(a)
- B. §3D1.2(b)
- C. §3D1.2(c)
- D. §3D1.2(d)
- E. They don't group under §3D1.2 – assign units



Scenario 2: Under which rule do these counts group?

- A. §3D1.2(a)
- B. §3D1.2(b)
- C. §3D1.2(c)
- D. §3D1.2(d)
- E. They don't group under §3D1.2 – assign units



What is “Grouping”?

- Grouping is the application of the rules in Chapter 3, Part D to determine a single offense level for defendants convicted of multiple counts

Grouping Rules (1 of 2)

“Grouping” (§3D1.2)

- Closely related counts are treated as a single, composite harm
- One offense level represents all counts



Grouping Rules (2 of 2)

“Assigning Units” (§3D1.4)

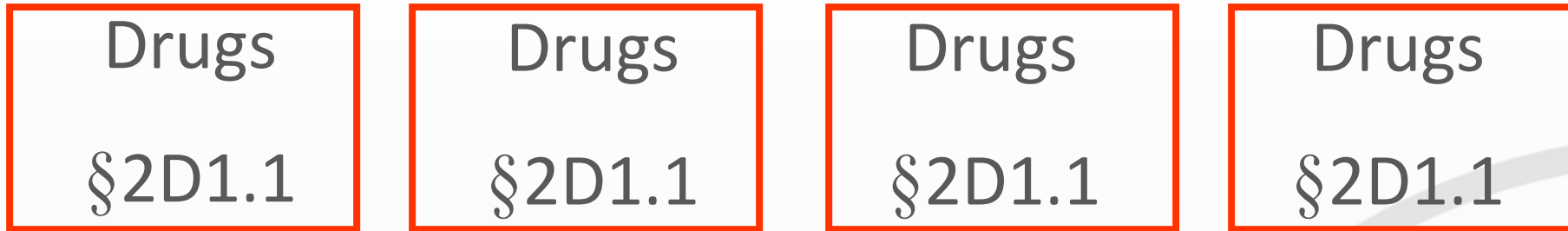
- Provides incremental punishment for multiple counts involving separate, distinct harms
- Adds offense levels for additional criminal conduct

Decision Tree: Grouping Multiple Counts of Conviction



Grouping under “Rule (d)”

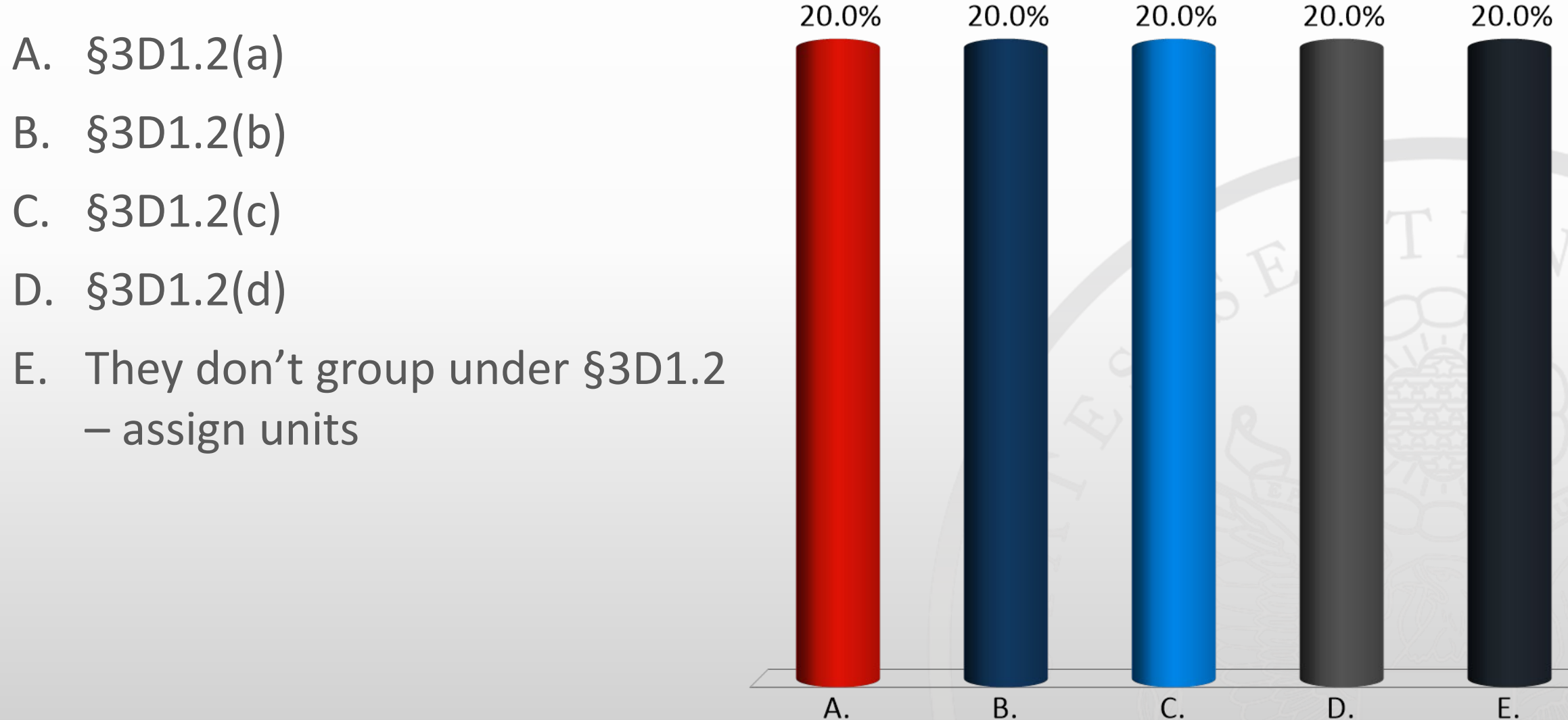
Example:



One application with the offense level for the group based on the aggregate and the conduct “taken as a whole”

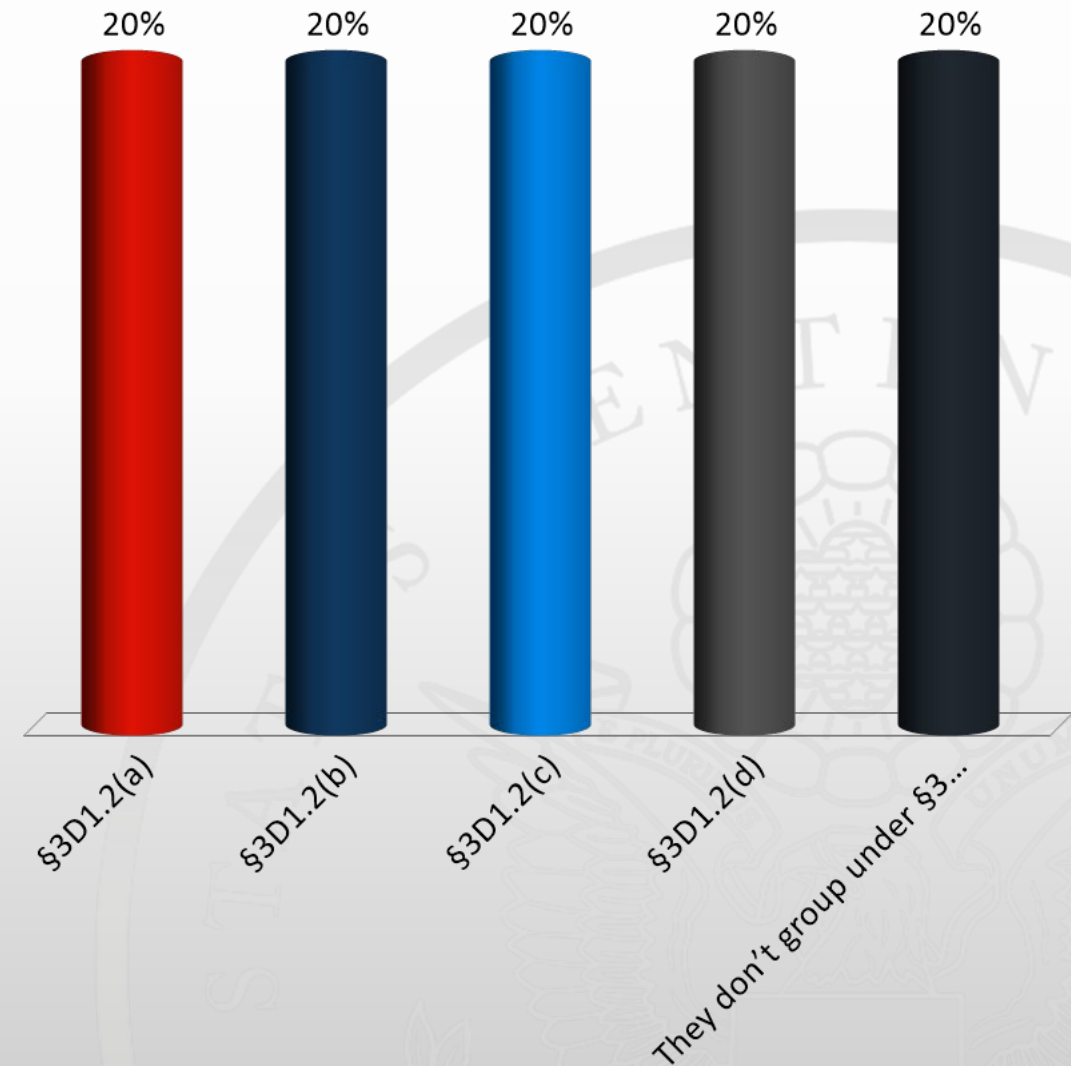


Scenario 3: Under which rule do these counts group?



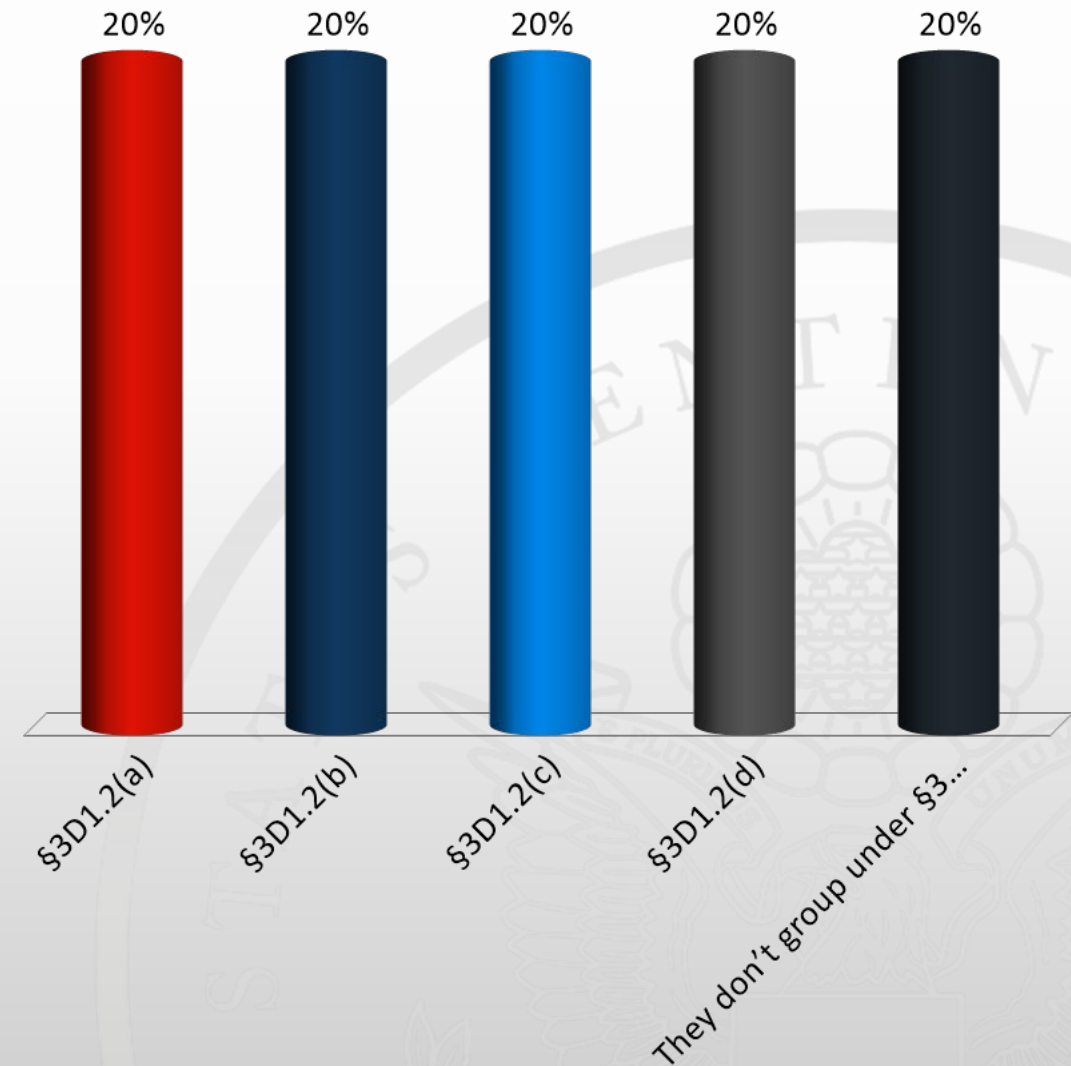
Scenario 4: Under which rule do these counts group?

- A. §3D1.2(a)
- B. §3D1.2(b)
- C. §3D1.2(c)
- D. §3D1.2(d)
- E. They don't group under §3D1.2 – assign units



Scenario 5: Under which rule do these counts group?

- A. §3D1.2(a)
- B. §3D1.2(b)
- C. §3D1.2(c)
- D. §3D1.2(d)
- E. They don't group under §3D1.2 – assign units



Grouping Closely Related Counts at §3D1.2

Multiple counts group (you don't add units) if:

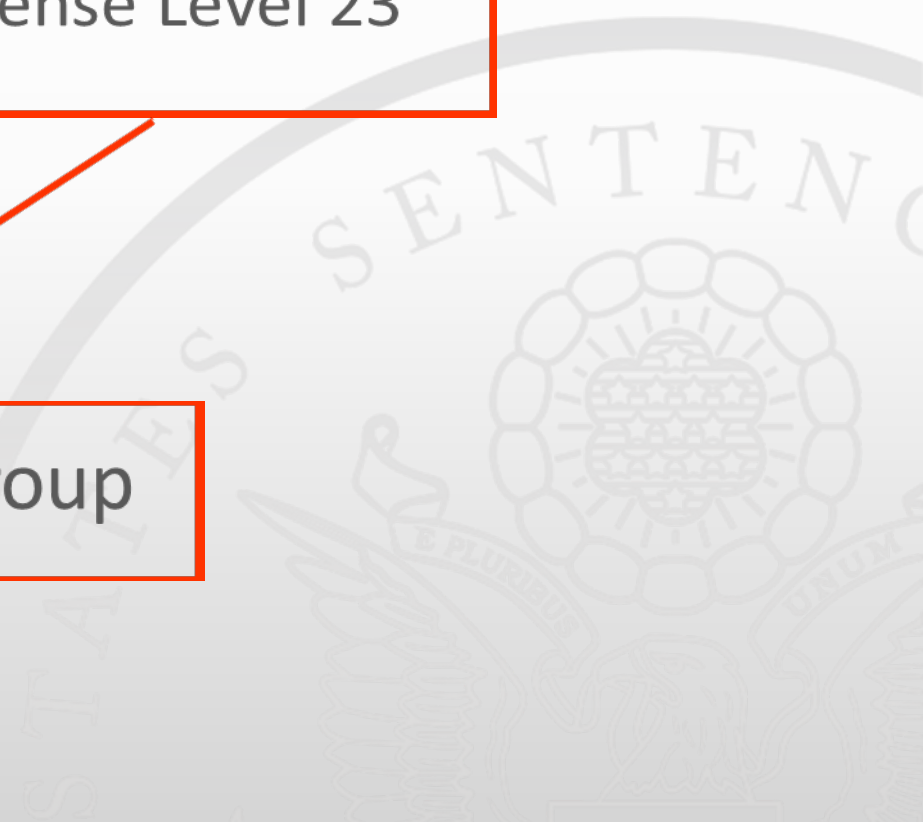
- a) Same victim, same act
- b) Same victim, multiple acts are part of single criminal objective
- c) Conduct is accounted for by a specific offense characteristic or Chapter Three adjustment

Impact of Counts Grouping under Rules (a), (b), or (c)

Count 1
Offense Level 20

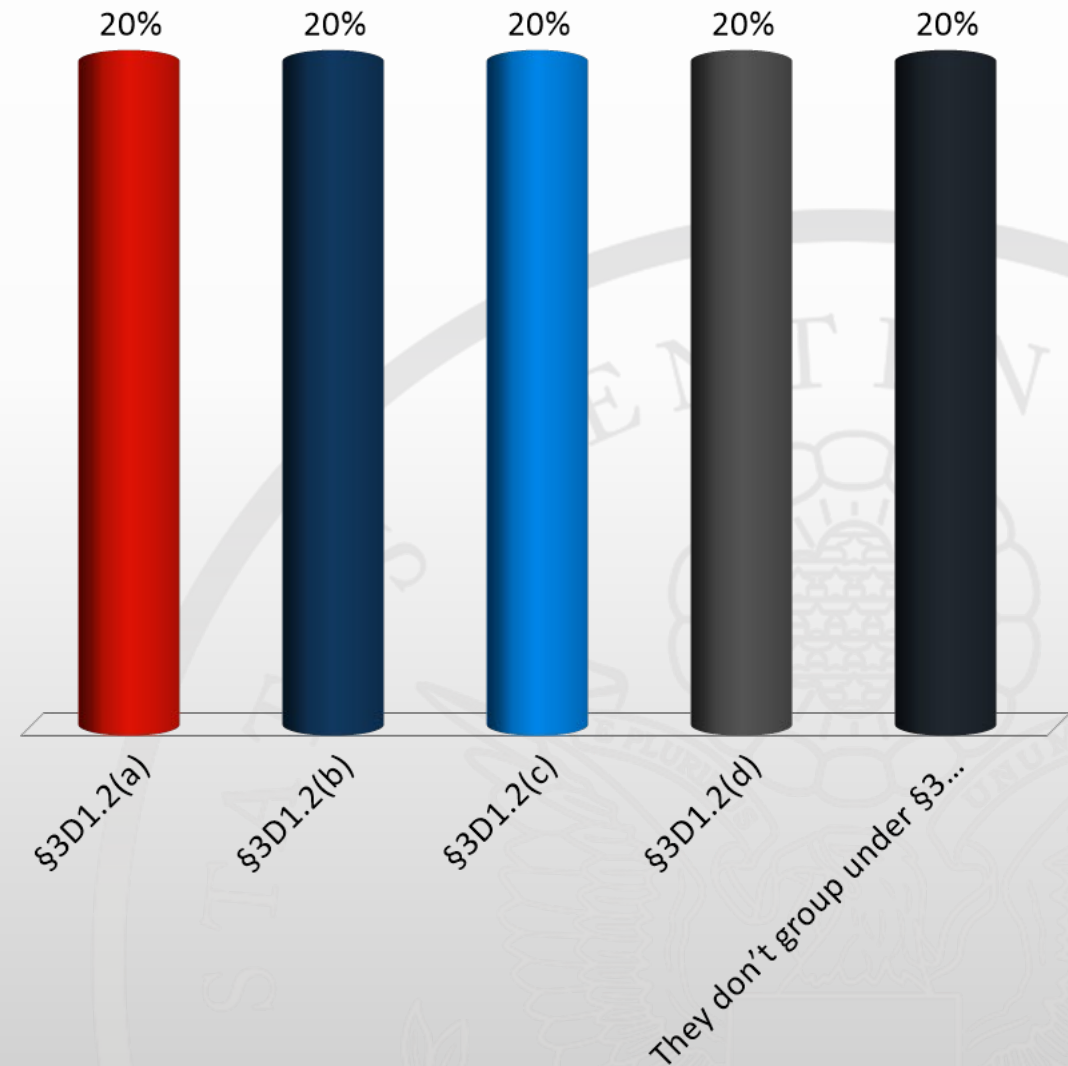
Count 2
Offense Level 23

Offense Level = 23 for the group



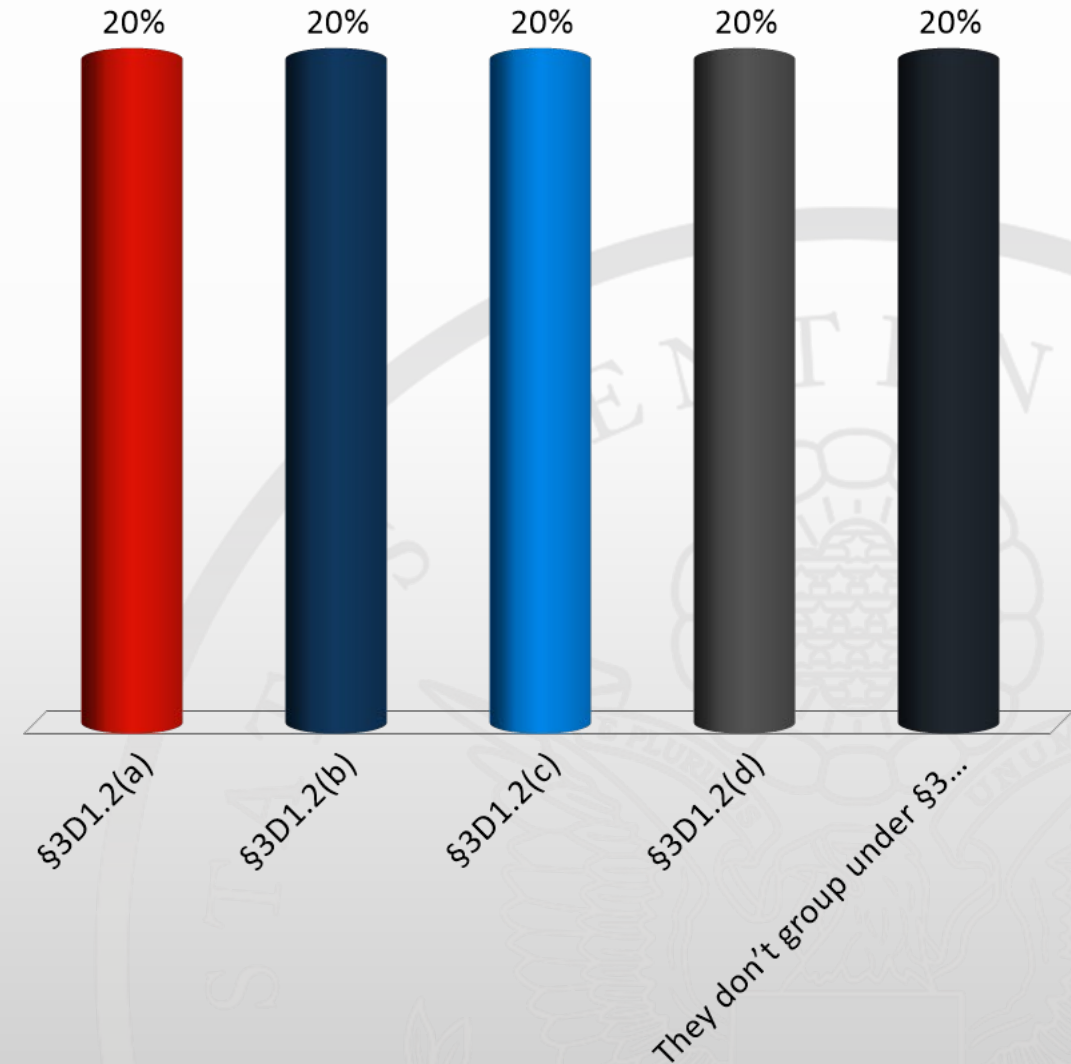
Scenario 6: Under which rule do these counts group?

- A. §3D1.2(a)
- B. §3D1.2(b)
- C. §3D1.2(c)
- D. §3D1.2(d)
- E. They don't group under §3D1.2 – assign units



Scenario 7: Under which rule do these counts group?

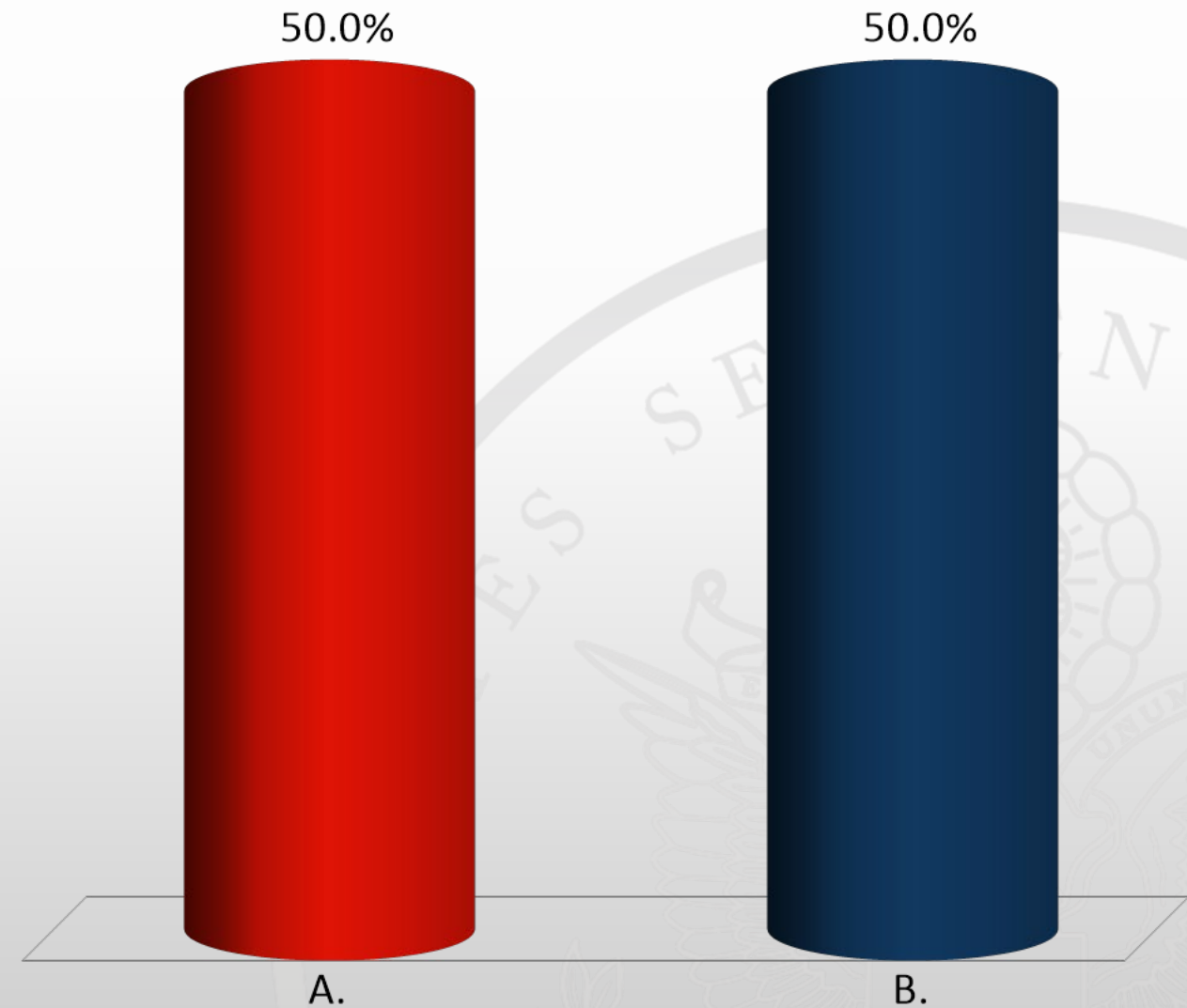
- A. §3D1.2(a)
- B. §3D1.2(b)
- C. §3D1.2(c)
- D. §3D1.2(d)
- E. They don't group under §3D1.2 – assign units



Scenario 8: Is the prosecutor correct?

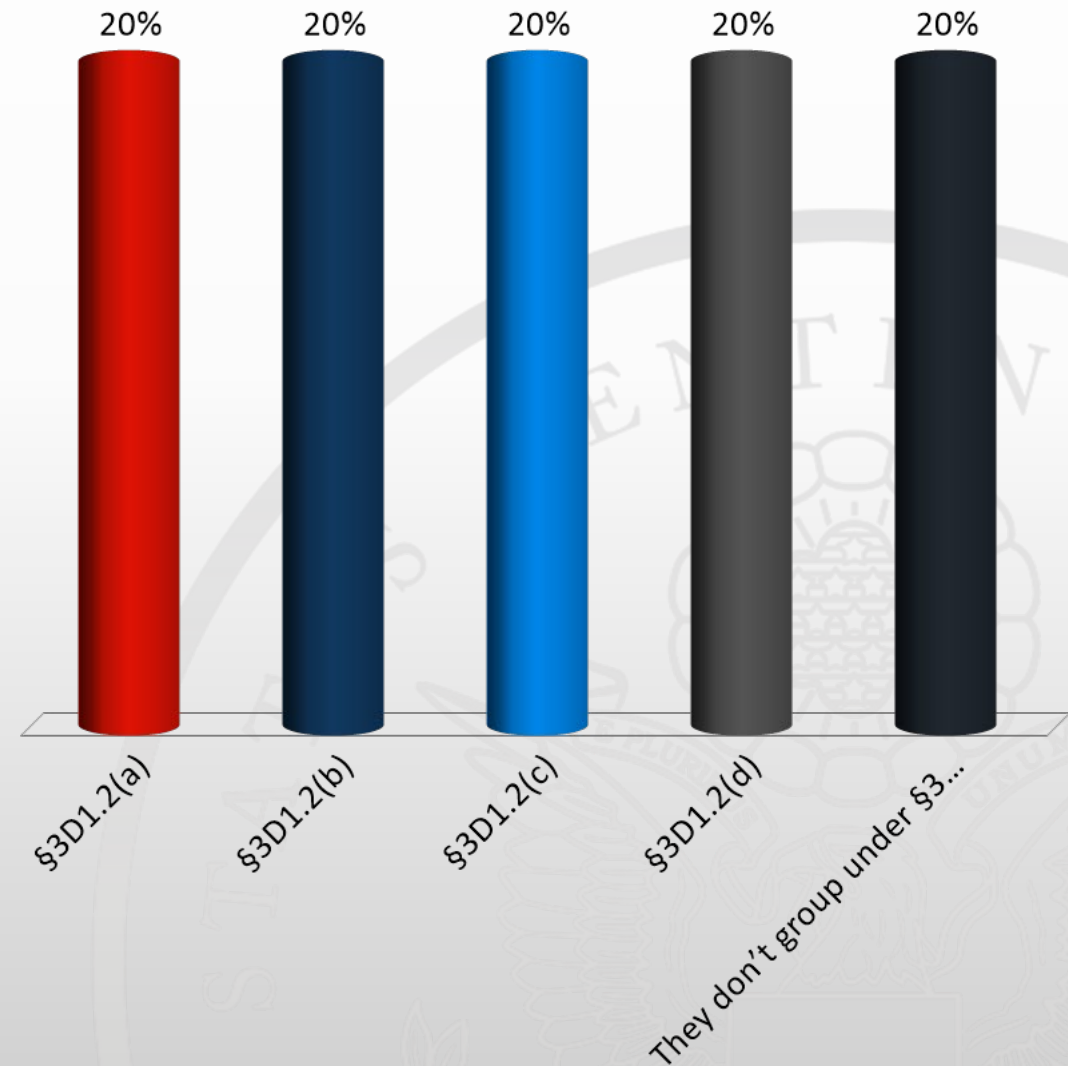
A. Yes

B. No



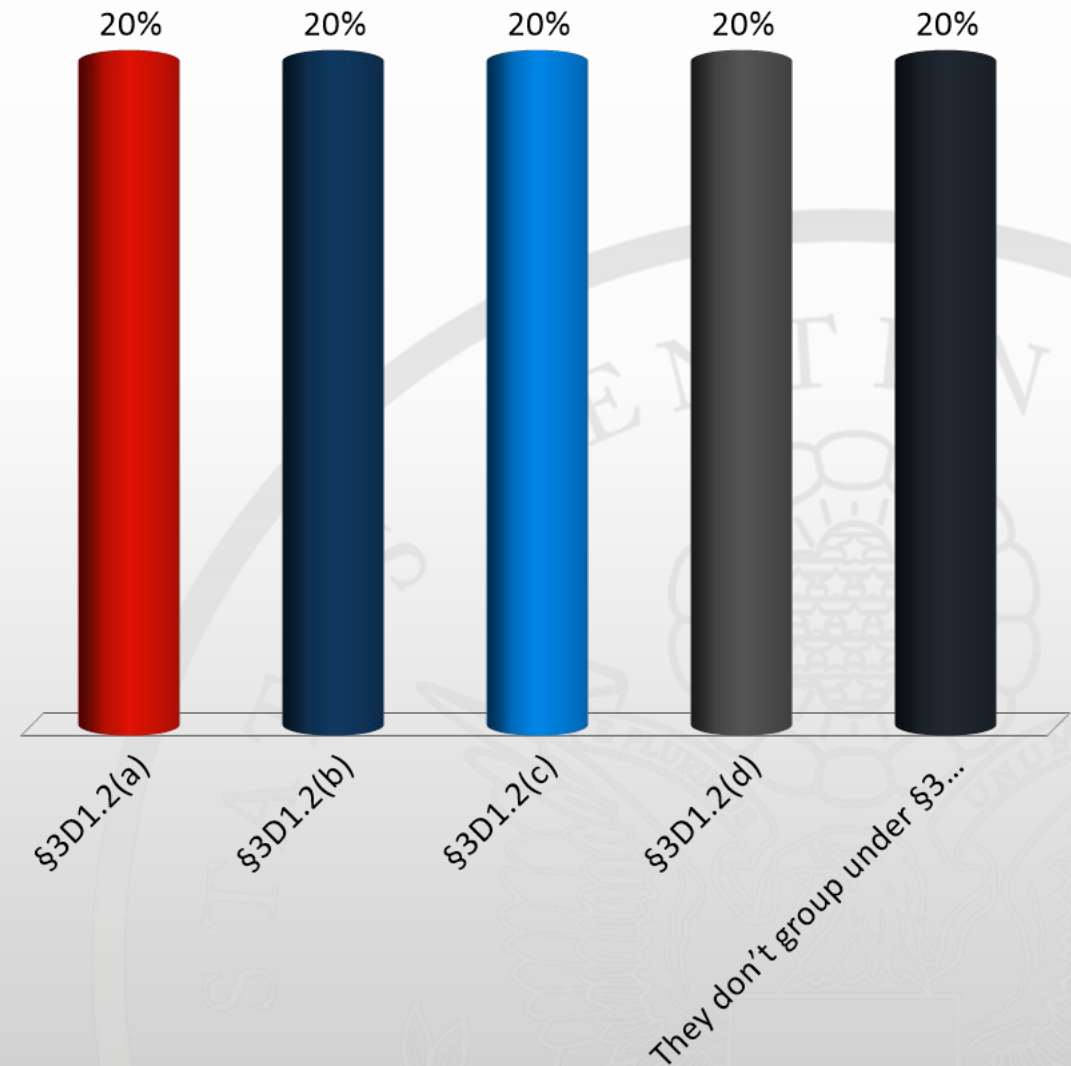
Scenario 9: Under which rule do these counts group?

- A. §3D1.2(a)
- B. §3D1.2(b)
- C. §3D1.2(c)
- D. §3D1.2(d)
- E. They don't group under §3D1.2 – assign units



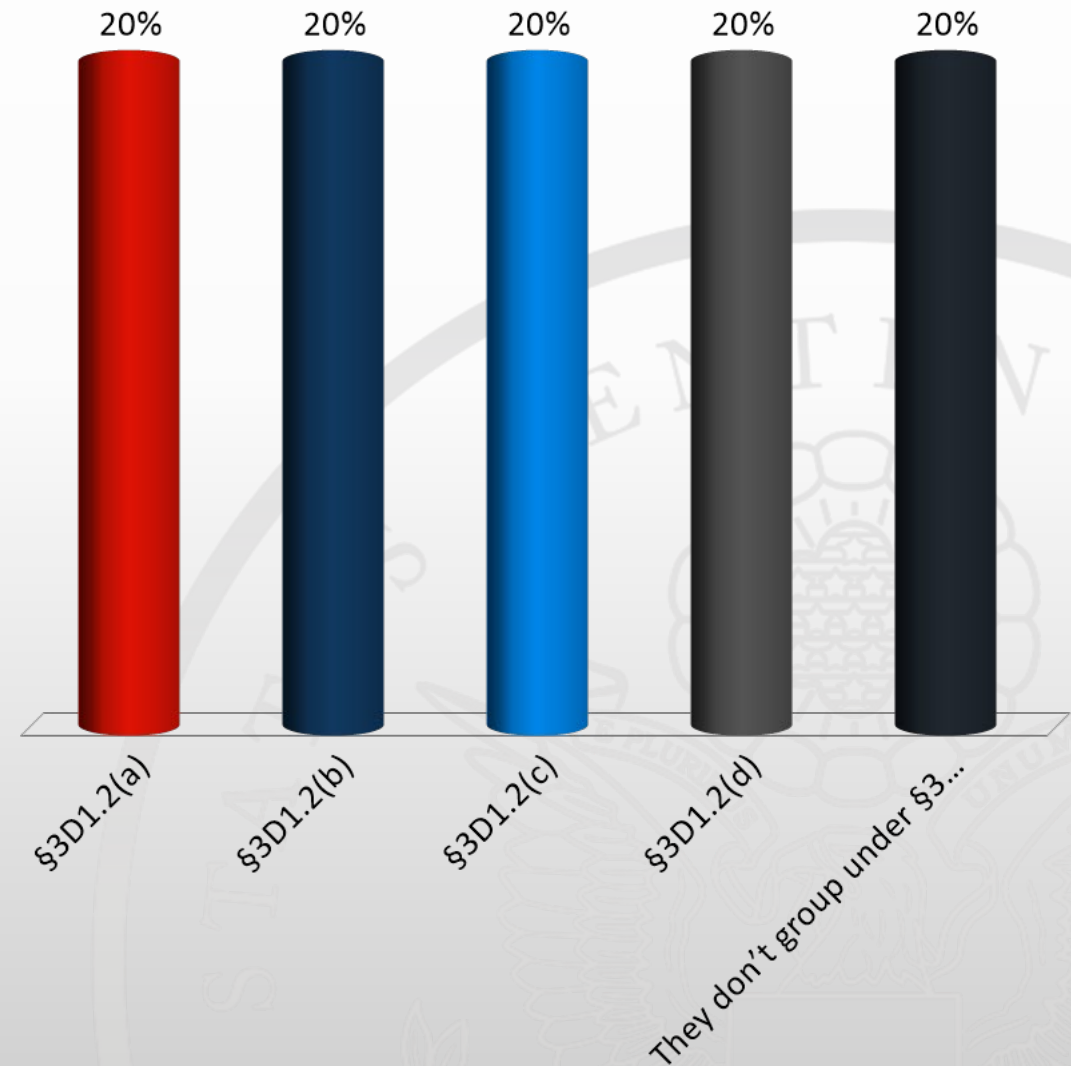
Scenario 10: Under which rule do these counts group?

- A. §3D1.2(a)
- B. §3D1.2(b)
- C. §3D1.2(c)
- D. §3D1.2(d)
- E. They don't group under §3D1.2 – assign units



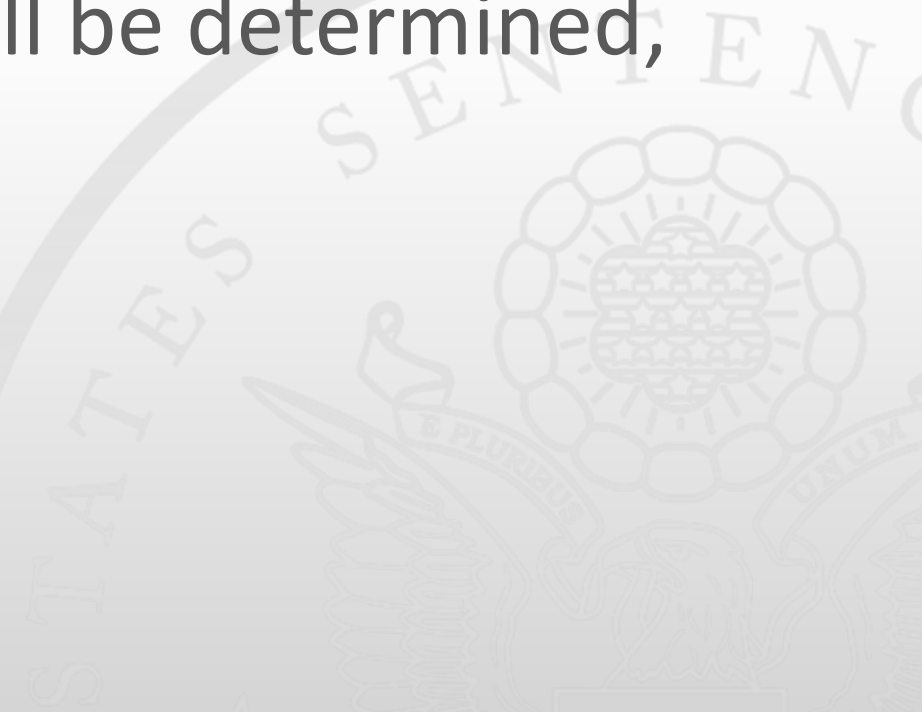
Scenario 11: Under which rule do these counts group?

- A. §3D1.2(a)
- B. §3D1.2(b)
- C. §3D1.2(c)
- D. §3D1.2(d)
- E. They don't group under §3D1.2 – assign units



Assignment of Units (§3D1.4)

- If, after application of the grouping rules at §3D1.2, there are counts of conviction or count groups for which a single offense level must still be determined, §3D1.4 must be applied.



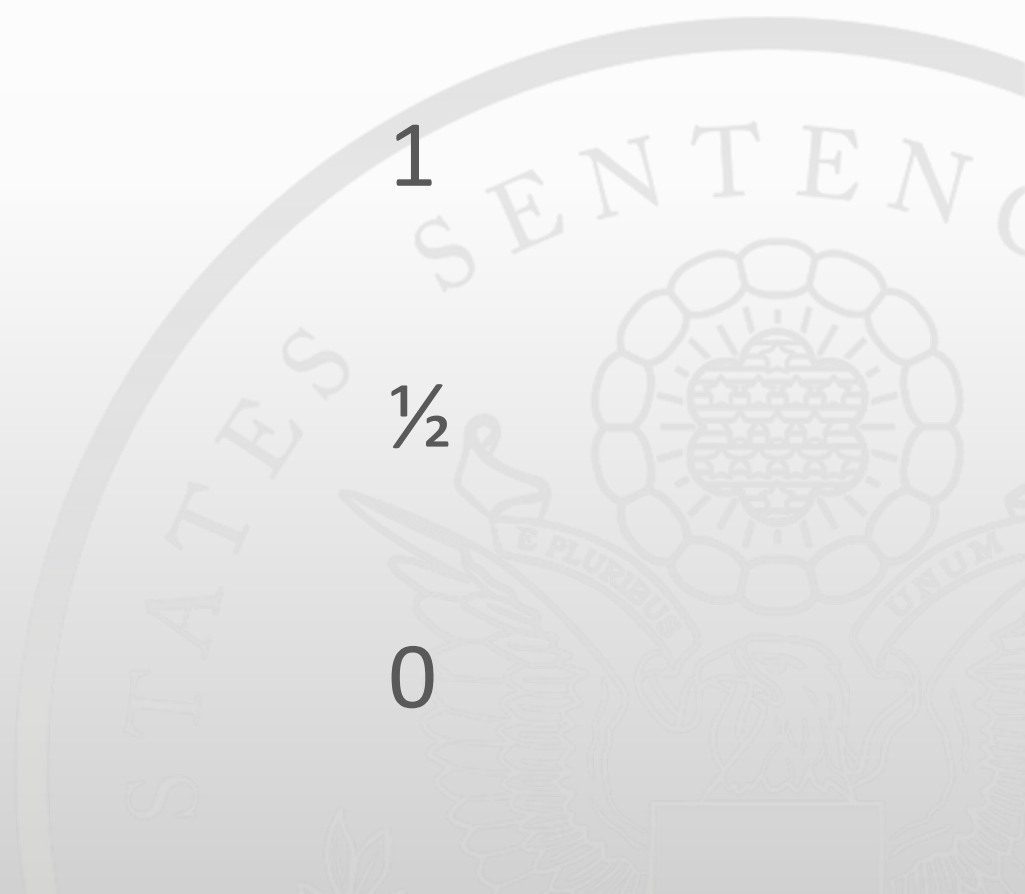
Assignment of Units (§3D1.4)

Highest Offense Level (or Equal) 1

1-4 Levels Less Serious 1

5-8 Levels Less Serious $\frac{1}{2}$

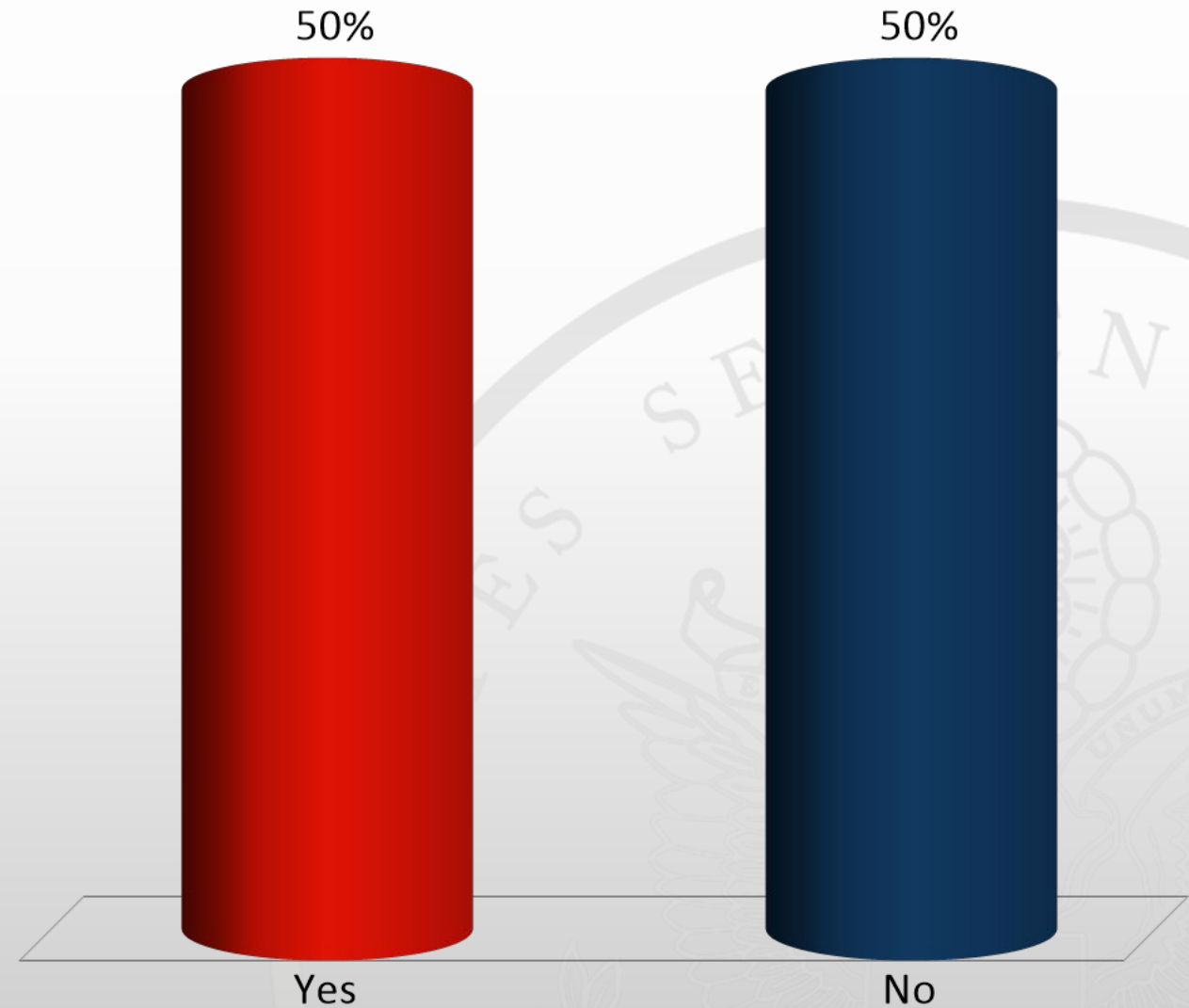
9 or More Levels Less Serious 0



Scenario 12: Is the defense attorney correct?

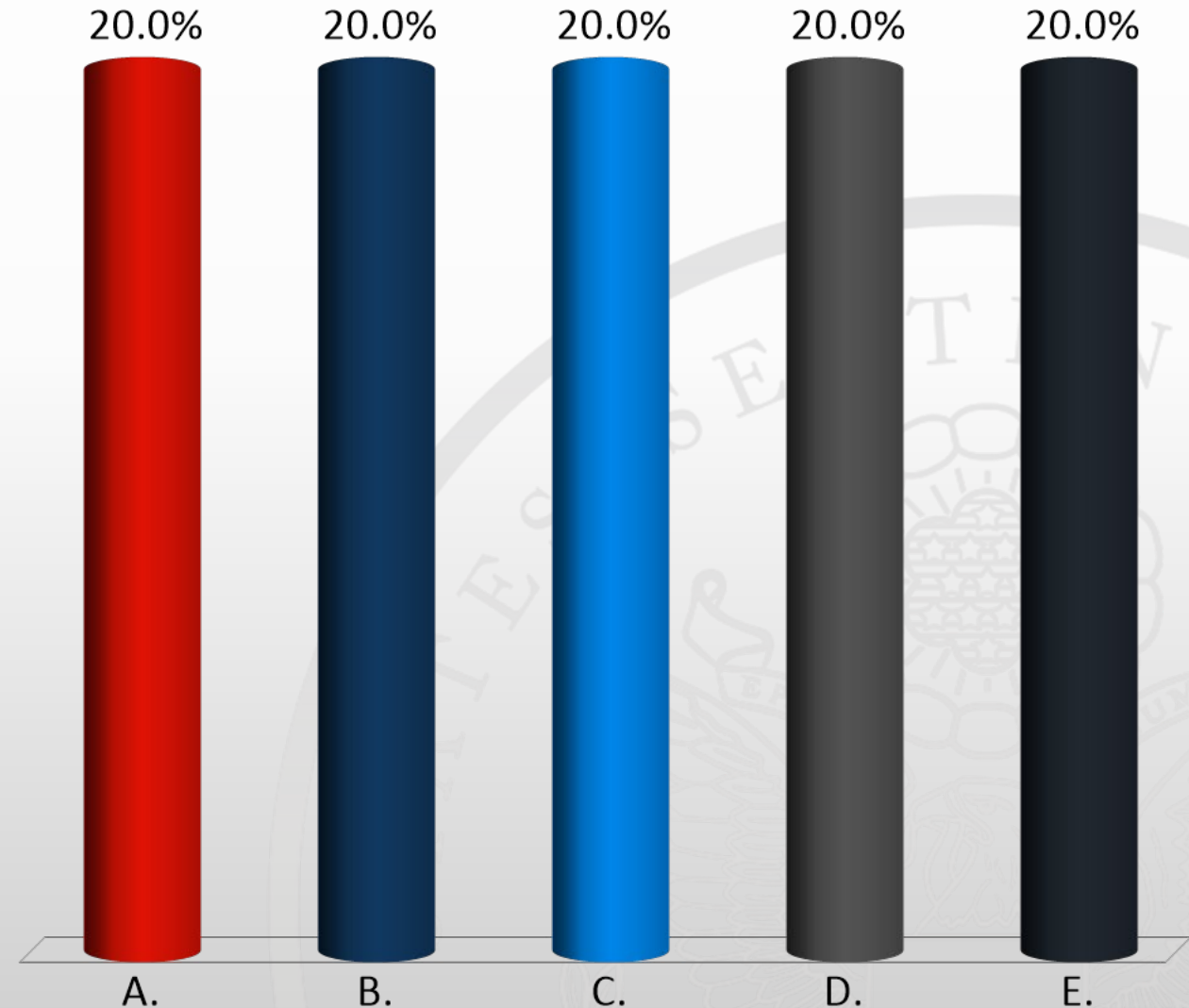
A. Yes

B. No



Scenario 13: Under which rule do these counts group?

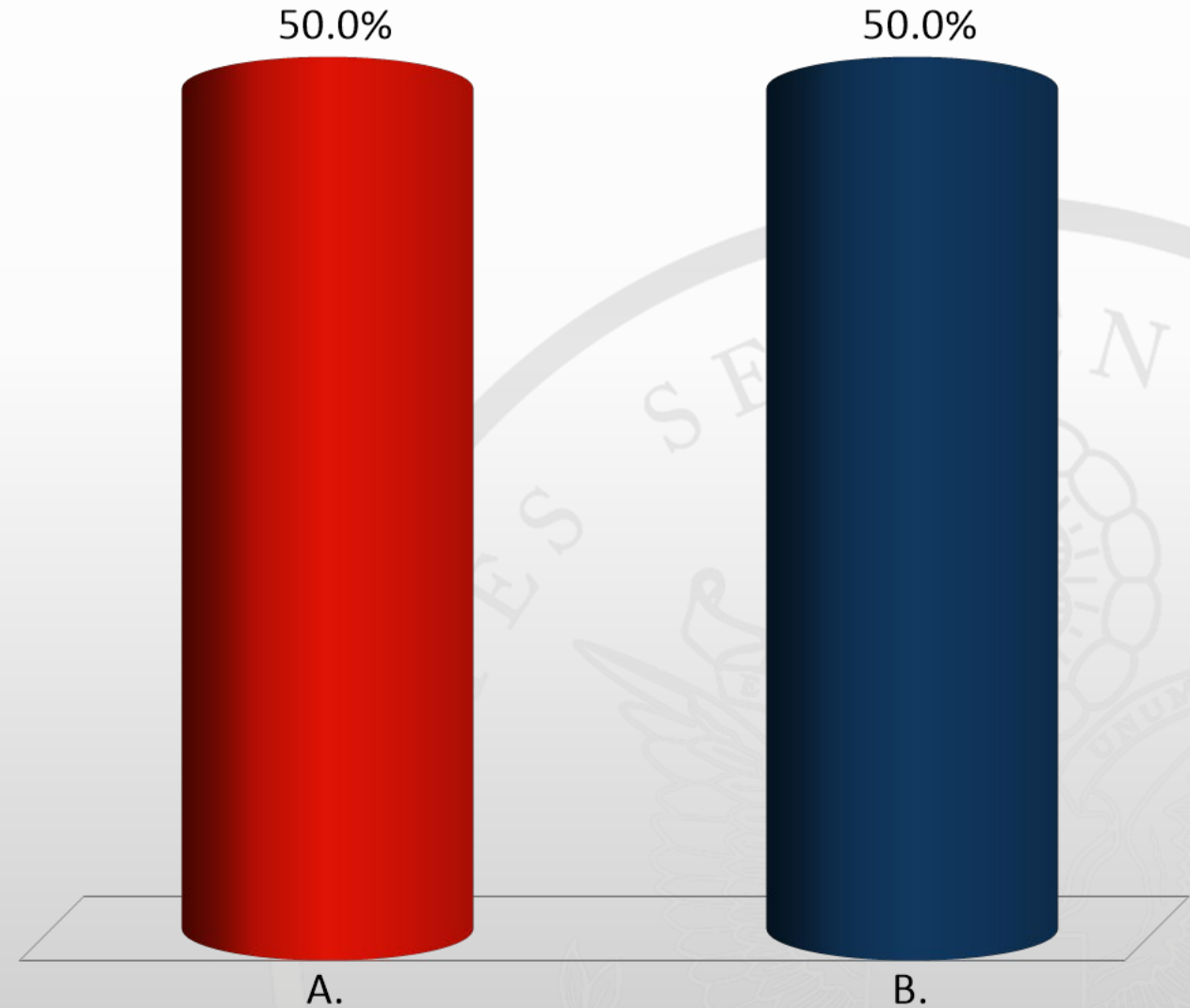
- A. §3D1.2(a)
- B. §3D1.2(b)
- C. §3D1.2(c)
- D. §3D1.2(d)
- E. They don't group under §3D1.2
– assign units



Question 14: If multiple counts don't group under Rule(d), you add units.

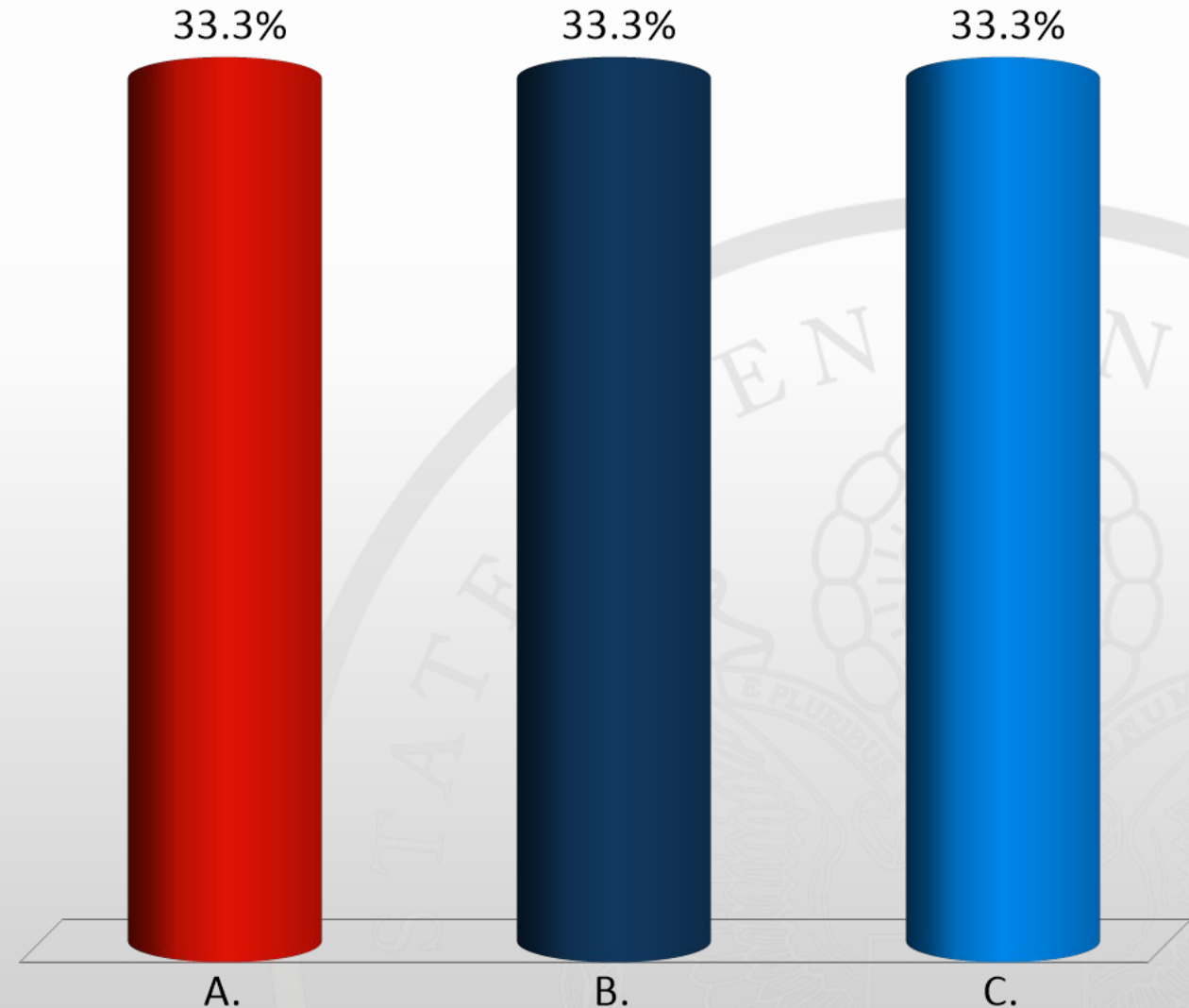
A. True

B. False



Question 15: What grouping rules apply?

- A. None of them – the defendant gets two separate sentences
- B. All the same grouping rules apply
- C. It depends on how hard the grouping issue is



Questions or Comments?



www.ussc.gov

HelpLine (202) 502-4545



[@theusscgov](https://twitter.com/theusscgov)

training@ussc.gov



#USSCSeminar19