

inserting “or”; and by striking “, or (a)(5)”.

Section 2M6.1(b)(2) is amended by inserting “(A)” after “(a)(4)”.

Section 2M6.1(b)(3) is amended by inserting “or” after “(a)(3),”; and by striking “, or (a)(5)”.

The Commentary to § 2M6.1 captioned “Statutory Provisions” is amended by inserting “(only with respect to weapons of mass destruction as defined in 18 U.S.C. 2332a(c)(2)(B), (C), and (D)),” after “842(p)(2);” and by striking “, but including any biological agent, toxin, or vector”.

The Commentary to § 2M6.1 captioned “Application Notes” is amended in Note 1 in the paragraph that begins “Select biological agent” by inserting “(A)” after “identified”; by inserting “and maintained” after “established”; and by striking “511(d) of the Antiterrorism and Effective Death Penalty Act, Pub. L. 104–132. See 42 CFR part 72.” and inserting “351A of the Public Health Service Act (42 U.S.C. 262a); or (B) by the Secretary of Agriculture on the list established and maintained pursuant to section 212 of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401).”.

The Commentary to § 2M6.1 captioned “Application Notes” is amended in Note 2 by striking “(a)(3)” each place it appears and inserting “(a)(4)(B)”.

Chapter Two, Part Q, is amended by striking § 2Q1.4 in its entirety and inserting the following new guideline:

“§ 2Q1.4. Tampering or Attempted Tampering with a Public Water System; Threatening to Tamper with a Public Water System

(a) Base Offense Level (Apply the greatest):

(1) 26;

(2) 22, if the offense involved (A) a threat to tamper with a public water system; and (B) any conduct evidencing an intent to carry out the threat; or

(3) 16, if the offense involved a threat to tamper with a public water system but did not involve any conduct evidencing an intent to carry out the threat.

(b) Specific Offense Characteristics

(1) If (A) any victim sustained permanent or life-threatening bodily injury, increase by 4 levels; (B) any victim sustained serious bodily injury, increase by 2 levels; or (C) the degree of injury is between that specified in subdivisions (A) and (B), increase by 3 levels.

(2) If the offense resulted in (A) a substantial disruption of public, governmental, or business functions or services; or (B) a substantial expenditure of funds to clean up, decontaminate, or

otherwise respond to the offense, increase by 4 levels.

(3) If the offense resulted in an ongoing, continuous, or repetitive release of a contaminant into a public water system or lasted for a substantial period of time, increase by 2 levels.

(c) Cross References

(1) If the offense resulted in death, apply § 2A1.1 (First Degree Murder) if the death was caused intentionally or knowingly, or § 2A1.2 (Second Degree Murder) in any other case, if the resulting offense level is greater than that determined above.

(2) If the offense was tantamount to attempted murder, apply § 2A2.1 (Assault with Intent to Commit Murder; Attempted Murder) if the resulting offense level is greater than that determined above.

(3) If the offense involved extortion, apply § 2B3.2 (Extortion by Force or Threat of Injury or Serious Damage) if the resulting offense level is greater than that determined above.

(d) Special Instruction

(1) If the defendant is convicted of a single count involving (A) the death or permanent, life-threatening, or serious bodily injury of more than one victim; or (B) conduct tantamount to the attempted murder of more than one victim, Chapter Three, Part D (Multiple Counts) shall be applied as if the defendant had been convicted of a separate count for each such victim.

Commentary

Statutory Provision: 42 U.S.C. 300i–1. Application Notes:

1. Definitions.—For purposes of this guideline, ‘permanent or life-threatening bodily injury’ and ‘serious bodily injury’ have the meaning given those terms in Note 1 of the Commentary to § 1B1.1 (Application Instructions).

2. Application of Special

Instruction.—Subsection (d) applies in any case in which the defendant is convicted of a single count involving (A) the death or permanent, life-threatening, or serious bodily injury of more than one victim; or (B) conduct tantamount to the attempted murder of more than one victim, regardless of whether the offense level is determined under this guideline or under another guideline in Chapter Two (Offense Conduct) by use of a cross reference under subsection (c).

3. Departure Provisions.—

(A) Downward Departure Provision.—The base offense level in subsection (a)(1) reflects that offenses covered by that subsection typically pose a risk of death or serious bodily injury to one or more victims, or cause, or are intended to cause, bodily injury. In the unusual

case in which such an offense did not cause a risk of death or serious bodily injury, and neither caused nor was intended to cause bodily injury, a downward departure may be warranted.

(B) Upward Departure Provisions.—If the offense caused extreme psychological injury, or caused substantial property damage or monetary loss, an upward departure may be warranted.

If the offense was calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct, an upward departure would be warranted. See Application Note 4 of § 3A1.4 (Terrorism).”.

Chapter Two, Part Q, is amended by striking § 2Q1.5 in its entirety.

Section § 2S1.1(b)(1)(B)(iii) is amended by striking “terrorism,”.

The Commentary to § 2S1.1 captioned “Statutory Provisions” is amended by inserting “, 1960 (but only with respect to unlicensed money transmitting businesses as defined in 18 U.S.C. 1960(b)(1)(C))” after “1957”.

The Commentary to § 2S1.3 captioned “Statutory Provisions” is amended by inserting “(but only with respect to unlicensed money transmitting businesses as defined in 18 U.S.C. 1960(b)(1)(A) and (B))” after “1960”.

The Commentary to § 2X2.1 captioned “Statutory Provisions” is amended by inserting “, 2339C(a)(1)(A)” after “2339A”.

The Commentary to § 2X2.1 captioned “Application Notes” is amended in Note 1 by inserting “or § 2339C(a)(1)(A)” after “2339A”; and by inserting “, or provided or collected funds for,” after “supported”.

Section 2X3.1(a) is amended to read as follows:

“(a) Base Offense Level:

(1) 6 levels lower than the offense level for the underlying offense, except as provided in subdivisions (2) and (3).

(2) The base offense level under this guideline shall be not less than level 4.

(3)(A) The base offense level under this guideline shall be not more than level 30, except as provided in subdivision (B).

(B) In any case in which the conduct is limited to harboring a fugitive, other than a case described in subdivision (C), the base offense level under this guideline shall be not more than level 20.

(C) The limitation in subdivision (B) shall not apply in any case in which (i) the defendant is convicted under 18 U.S.C. 2339 or 2339A; or (ii) the conduct involved harboring a person who committed any offense listed in 18