§2B2.3

building plans to plot a particular course of entry, or disabling an alarm system, would constitute more than minimal planning.

Background: The base offense level for residential burglary is higher than for other forms of burglary because of the increased risk of physical and psychological injury. Weapon possession, but not use, is a specific offense characteristic because use of a weapon (including to threaten) ordinarily would make the offense robbery. Weapon use would be a ground for upward departure.

| Historical Note | Effective November 1, 1987. Amended effective January 15, 1988 (amendment 11); June 15, 1988 (amendment 12); November 1, 1989 (amendments 105 and 106); November 1, 1990 (amendments 315 and 361); November 1, 1993 (amendment 481); November 1, 2001 (amendment 617); November 1, 2014 (amendment 781); November 1, 2015 (amendment 791). |

§2B2.2. [Deleted]

Historical Note: Section 2B2.2 (Burglary of Other Structures), effective November 1, 1987, amended effective June 15, 1988 (amendment 13), November 1, 1989 (amendment 107), and November 1, 1990 (amendments 315 and 361), was deleted by consolidation with §2B2.1 effective November 1, 1993 (amendment 481).

§2B2.3. Trespass

(a) Base Offense Level: 4

(b) Specific Offense Characteristics

(1) (Apply the greater) If—

(A) the trespass occurred (i) at a secure government facility; (ii) at a nuclear energy facility; (iii) on a vessel or aircraft of the United States; (iv) in a secure area of an airport or a seaport; (v) at a residence; (vi) at Arlington National Cemetery or a cemetery under the control of the National Cemetery Administration; (vii) at any restricted building or grounds; or (viii) on a computer system used (I) to maintain or operate a critical infrastructure; or (II) by or for a government entity in furtherance of the administration of justice, national defense, or national security, increase by 2 levels; or

(B) the trespass occurred at the White House or its grounds, or the Vice President’s official residence or its grounds, increase by 4 levels.

(2) If a dangerous weapon (including a firearm) was possessed, increase by 2 levels.
§2B2.3

(3) If (A) the offense involved invasion of a protected computer; and (B) the loss resulting from the invasion (i) exceeded $2,500 but did not exceed $6,500, increase by 1 level; or (ii) exceeded $6,500, increase by the number of levels from the table in §2B1.1 (Theft, Property Destruction, and Fraud) corresponding to that amount.

(c) Cross Reference

(1) If the offense was committed with the intent to commit a felony offense, apply §2X1.1 (Attempt, Solicitation, or Conspiracy) in respect to that felony offense, if the resulting offense level is greater than that determined above.

Commentary


Application Notes:

1. Definitions.—For purposes of this guideline:

   “Airport” has the meaning given that term in section 47102 of title 49, United States Code.

   “Critical infrastructure” means systems and assets vital to national defense, national security, economic security, public health or safety, or any combination of those matters. A critical infrastructure may be publicly or privately owned. Examples of critical infrastructures include gas and oil production, storage, and delivery systems, water supply systems, telecommunications networks, electrical power delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), transportation systems and services (including highways, mass transit, airlines, and airports), and government operations that provide essential services to the public.

   “Felony offense” means any offense (federal, state, or local) punishable by imprisonment for a term exceeding one year, whether or not a criminal charge was brought or a conviction was obtained.

   “Firearm” and “dangerous weapon” are defined in the Commentary to §1B1.1 (Application Instructions).

   “Government entity” has the meaning given that term in 18 U.S.C. § 1030(e)(9).

   “Protected computer” means a computer described in 18 U.S.C. § 1030(e)(2)(A) or (B).

   “Restricted building or grounds” has the meaning given that term in 18 U.S.C. § 1752.

   “Seaport” has the meaning given that term in 18 U.S.C. § 26.

2. Application of Subsection (b)(3).—Valuation of loss is discussed in the Commentary to §2B1.1 (Theft, Property Destruction, and Fraud).
§2B3.1

**Background:** Most trespasses punishable under federal law involve federal lands or property. The trespass section provides an enhancement for offenses involving trespass on secure government installations (such as nuclear facilities) and other locations (such as airports and seaports) to protect a significant federal interest. Additionally, an enhancement is provided for trespass at a residence.

| Historical Note | Effective November 1, 1987. Amended effective November 1, 1989 (amendments 108 and 109); November 1, 1997 (amendment 551); November 1, 2001 (amendment 617); November 1, 2002 (amendment 637); November 1, 2003 (amendment 654); November 1, 2007 (amendments 699 and 703); November 1, 2013 (amendment 777); November 1, 2015 (amendment 791). |

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3. ROBBERY, EXTORTION, AND BLACKMAIL

§2B3.1. Robbery

(a) Base Offense Level: 20

(b) Specific Offense Characteristics

(1) If the property of a financial institution or post office was taken, or if the taking of such property was an object of the offense, increase by 2 levels.

(2) (A) If a firearm was discharged, increase by 7 levels; (B) if a firearm was otherwise used, increase by 6 levels; (C) if a firearm was brandished or possessed, increase by 5 levels; (D) if a dangerous weapon was otherwise used, increase by 4 levels; (E) if a dangerous weapon was brandished or possessed, increase by 3 levels; or (F) if a threat of death was made, increase by 2 levels.

(3) If any victim sustained bodily injury, increase the offense level according to the seriousness of the injury:

<table>
<thead>
<tr>
<th>Degree of Bodily Injury</th>
<th>Increase in Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bodily Injury</td>
<td>add 2</td>
</tr>
<tr>
<td>Serious Bodily Injury</td>
<td>add 4</td>
</tr>
<tr>
<td>Permanent or Life-Threatening Bodily Injury</td>
<td>add 6</td>
</tr>
<tr>
<td>If the degree of injury is between that specified in subdivisions (A) and (B),</td>
<td>add 3 levels; or</td>
</tr>
<tr>
<td>If the degree of injury is between that specified in subdivisions (B) and (C),</td>
<td>add 5 levels.</td>
</tr>
</tbody>
</table>