PART E — OFFENSES INVOLVING CRIMINAL ENTERPRISES AND RACKETEERING

1. RACKETEERING

Introductory Commentary

Because of the jurisdictional nature of the offenses included, this subpart covers a wide variety of criminal conduct. The offense level usually will be determined by the offense level of the underlying conduct.

Historical Note

Effective November 1, 1987.

§2E1.1. Unlawful Conduct Relating to Racketeer Influenced and Corrupt Organizations

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

(1) 19; or

(2) the offense level applicable to the underlying racketeering activity.

Commentary


Application Notes:

1. Where there is more than one underlying offense, treat each underlying offense as if contained in a separate count of conviction for the purposes of subsection (a)(2). To determine whether subsection (a)(1) or (a)(2) results in the greater offense level, apply Chapter Three, Parts A, B, C, and D to both (a)(1) and (a)(2). Use whichever subsection results in the greater offense level.

2. If the underlying conduct violates state law, the offense level corresponding to the most analogous federal offense is to be used.

3. If the offense level for the underlying racketeering activity is less than the alternative minimum level specified (i.e., 19), the alternative minimum base offense level is to be used.

4. Certain conduct may be charged in the count of conviction as part of a “pattern of racketeering activity” even though the defendant has previously been sentenced for that conduct. Where such previously imposed sentence resulted from a conviction prior to the last overt act of the instant offense, treat as a prior sentence under §4A1.2(a)(1) and not as part of the instant offense. This treatment is designed to produce a result consistent with
the distinction between the instant offense and criminal history found throughout the guidelines. If this treatment produces an anomalous result in a particular case, a guideline departure may be warranted.

Historical Note  Effective November 1, 1987. Amended effective June 15, 1988 (amendment 26); November 1, 1989 (amendment 142).

§2E1.2. Interstate or Foreign Travel or Transportation in Aid of a Racketeering Enterprise

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

(1) 6; or

(2) the offense level applicable to the underlying crime of violence or other unlawful activity in respect to which the travel or transportation was undertaken.

Commentary


Application Notes:

1. Where there is more than one underlying offense, treat each underlying offense as if contained in a separate count of conviction for the purposes of subsection (a)(2). To determine whether subsection (a)(1) or (a)(2) results in the greater offense level, apply Chapter Three, Parts A, B, C, and D to both (a)(1) and (a)(2). Use whichever subsection results in the greater offense level.

2. If the underlying conduct violates state law, the offense level corresponding to the most analogous federal offense is to be used.

3. If the offense level for the underlying conduct is less than the alternative minimum base offense level specified (i.e., 6), the alternative minimum base offense level is to be used.


§2E1.3. Violent Crimes in Aid of Racketeering Activity

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

(1) 12; or
§2E1.4

(2) the offense level applicable to the underlying crime or racketeering activity.

Commentary


Application Notes:

1. If the underlying conduct violates state law, the offense level corresponding to the most analogous federal offense is to be used.

2. If the offense level for the underlying conduct is less than the alternative minimum base offense level specified (i.e., 12), the alternative minimum base offense level is to be used.

Background: The conduct covered under this section ranges from threats to murder. The maximum term of imprisonment authorized by statute ranges from three years to life imprisonment.

Historical Note

Effective November 1, 1987. Amended effective November 1, 1989 (amendment 143).

§2E1.4. Use of Interstate Commerce Facilities in the Commission of Murder-For-Hire

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

(1) 32; or

(2) the offense level applicable to the underlying unlawful conduct.

Commentary


Application Note:

1. If the underlying conduct violates state law, the offense level corresponding to the most analogous federal offense is to be used.

Background: This guideline and the statute to which it applies do not require that a murder actually have been committed.

Historical Note

Effective November 1, 1987. Amended effective November 1, 1989 (amendment 144); November 1, 1990 (amendment 311); November 1, 1992 (amendment 449).