
§2M3.9. Disclosure of Information Identifying a Covert Agent

(a) Base Offense Level:

- (1) **30**, if the information was disclosed by a person with, or who had authorized access to classified information identifying a covert agent; or
- (2) **25**, if the information was disclosed by a person with authorized access only to other classified information.

Commentary

Statutory Provision: 50 U.S.C. § 3121.

Application Notes:

1. See Commentary to §2M3.1.
2. This guideline applies only to violations of 50 U.S.C. § 3121 by persons who have or previously had authorized access to classified information. This guideline does not apply to violations of 50 U.S.C. § 3121 by defendants, including journalists, who disclosed such information without having or having had authorized access to classified information. Violations of 50 U.S.C. § 3121 not covered by this guideline may vary in the degree of harm they inflict, and the court should impose a sentence that reflects such harm. See §2X5.1 (Other Offenses).
3. A term of imprisonment imposed for a conviction under 50 U.S.C. § 3121 shall be imposed consecutively to any other term of imprisonment. See 50 U.S.C. § 3121(d).

Background: The alternative base offense levels reflect a statutory distinction by providing a greater base offense level for a violation of 50 U.S.C. § 3121 by an official who has or had authorized access to classified information identifying a covert agent than for a violation by an official with authorized access only to other classified information. This guideline does not apply to violations of 50 U.S.C. § 3121 by defendants who disclosed such information without having, or having had, authorized access to classified information.

Historical Note

Effective November 1, 1987. Amended effective November 1, 2001 (amendment 636); November 1, 2010 (amendment 746); November 1, 2015 (amendment 796).

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4. EVASION OF MILITARY SERVICE

§2M4.1. Failure to Register and Evasion of Military Service

(a) Base Offense Level: **6**