

(c) Cross References

- (1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. § 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply §2A1.1 (First Degree Murder), if the resulting offense level is greater than that determined above.
- (2) If the offense involved causing, transporting, permitting, or offering or seeking by notice or advertisement, a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, apply §2G2.1 (Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material; Custodian Permitting Minor to Engage in Sexually Explicit Conduct; Advertisement for Minors to Engage in Production), if the resulting offense level is greater than that determined above.

(d) Special Instruction

- (1) If the offense occurred in the custody or control of a prison or other correctional facility and the victim was a prison official, the offense shall be deemed to have an official victim for purposes of subsection (c)(2) of §3A1.2 (Official Victim).

Commentary

Statutory Provisions: 18 U.S.C. §§ 2241, 2242. For additional statutory provision(s), see Appendix A (Statutory Index).

Application Notes:1. **Definitions.**—For purposes of this guideline:

“**Abducted**”, “**permanent or life-threatening bodily injury**”, and “**serious bodily injury**” have the meaning given those terms in Application Note 1 of the Commentary to §1B1.1 (Application Instructions). However, for purposes of this guideline, “**serious bodily injury**” means conduct other than criminal sexual abuse, which already is taken into account in the base offense level under subsection (a).

“**Custody or control**” and “**prison official**” have the meaning given those terms in Application Note 4 of the Commentary to §3A1.2 (Official Victim).

“**Child pornography**” has the meaning given that term in 18 U.S.C. § 2256(8).

“**Computer**” has the meaning given that term in 18 U.S.C. § 1030(e)(1).

“**Distribution**” means any act, including possession with intent to distribute, production, transportation, and advertisement, related to the transfer of material involving the sexual exploitation of a minor. Accordingly, distribution includes posting material involving the sexual exploitation