

## PART H — OFFENSES INVOLVING INDIVIDUAL RIGHTS

### 1. CIVIL RIGHTS

<i>Historical Note</i>	Introductory Commentary to Part H, Subpart 1, effective November 1, 1987, was deleted effective November 1, 1995 (amendment 521).
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#### §2H1.1. Offenses Involving Individual Rights

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- (a) Base Offense Level (Apply the Greatest):
  - (1) the offense level from the offense guideline applicable to any underlying offense;
  - (2) **12**, if the offense involved two or more participants;
  - (3) **10**, if the offense involved (A) the use or threat of force against a person; or (B) property damage or the threat of property damage; or
  - (4) **6**, otherwise.
- (b) Specific Offense Characteristic
  - (1) If (A) the defendant was a public official at the time of the offense; or (B) the offense was committed under color of law, increase by **6** levels.

#### Commentary

**Statutory Provisions:** 18 U.S.C. §§ 241, 242, 245(b), 246–250, 1091; 42 U.S.C. § 3631.

#### Application Notes:

1. “**Offense guideline applicable to any underlying offense**” means the offense guideline applicable to any conduct established by the offense of conviction that constitutes an offense under federal, state, or local law (other than an offense that is itself covered under Chapter Two, Part H, Subpart 1).

In certain cases, conduct set forth in the count of conviction may constitute more than one underlying offense (*e.g.*, two instances of assault, or one instance of assault and one instance of arson). In such cases, use the following comparative procedure to determine the applicable base offense level: (i) determine the underlying offenses encompassed within the count of conviction as if the defendant had been charged with a conspiracy to commit multiple offenses. *See* Application Note 4 of §1B1.2 (Applicable Guidelines); (ii) determine the Chapter Two offense level (*i.e.*, the base offense level, specific offense characteristics, cross references, and special instructions) for each such underlying offense; and (iii) compare each of the Chapter Two offense levels determined above with the alternative base offense level under subsection (a)(2), (3), or (4). The determination of the applicable alternative base offense level is to be based on the entire conduct