

§2J1.6

§2J1.5. Failure to Appear by Material Witness

(a) Base Offense Level:

- (1) **6**, if in respect to a felony; or
- (2) **4**, if in respect to a misdemeanor.

(b) Specific Offense Characteristic

- (1) If the offense resulted in substantial interference with the administration of justice, increase by **3** levels.

Commentary

Statutory Provisions: 18 U.S.C. § 3146(b)(1)(B). For additional statutory provision(s), see Appendix A (Statutory Index).

Application Notes:

1. “**Substantial interference with the administration of justice**” includes a premature or improper termination of a felony investigation; an indictment, verdict, or any judicial determination based upon perjury, false testimony, or other false evidence; or the unnecessary expenditure of substantial governmental or court resources.
2. By statute, a term of imprisonment imposed for an offense under 18 U.S.C. § 3146(b)(1)(B) runs consecutively to any other term of imprisonment imposed. 18 U.S.C. § 3146(b)(2).

Background: This section applies to a failure to appear by a material witness. The base offense level incorporates a distinction as to whether the failure to appear was in respect to a felony or misdemeanor prosecution. The offense under 18 U.S.C. § 3146(b)(1)(B) is a misdemeanor for which the maximum period of imprisonment authorized by statute is one year.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1989 (amendment 177); November 1, 1991 (amendment 401); November 1, 2009 (amendment 737).
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§2J1.6. Failure to Appear by Defendant

(a) Base Offense Level:

- (1) **11**, if the offense constituted a failure to report for service of sentence; or
- (2) **6**, otherwise.