

## §2B3.1

### Application Notes:

1. **Definitions.**—“*Firearm*,” “*destructive device*,” “*dangerous weapon*,” “*otherwise used*,” “*brandished*,” “*bodily injury*,” “*serious bodily injury*,” “*permanent or life-threatening bodily injury*,” and “*abducted*” have the meaning given such terms in the Commentary to §1B1.1 (Application Instructions).

“*Carjacking*” means the taking or attempted taking of a motor vehicle from the person or presence of another by force and violence or by intimidation.

2. **Dangerous Weapon.**—Consistent with Application Note 1(E)(ii) of §1B1.1 (Application Instructions), an object shall be considered to be a dangerous weapon for purposes of subsection (b)(2)(E) if (A) the object closely resembles an instrument capable of inflicting death or serious bodily injury; or (B) the defendant used the object in a manner that created the impression that the object was an instrument capable of inflicting death or serious bodily injury (e.g., a defendant wrapped a hand in a towel during a bank robbery to create the appearance of a gun).
3. **Definition of “Loss.”**—“*Loss*” means the value of the property taken, damaged, or destroyed.
4. **Cumulative Application of Subsections (b)(2) and (b)(3).**—The combined adjustments for weapon involvement and injury are limited to a maximum enhancement of 11 levels.
5. **“A Threat of Death.”**—“A threat of death,” as used in subsection (b)(2)(F), may be in the form of an oral or written statement, act, gesture, or combination thereof. Accordingly, the defendant does not have to state expressly his intent to kill the victim in order for the enhancement to apply. For example, an oral or written demand using words such as “Give me the money or I will kill you”, “Give me the money or I will pull the pin on the grenade I have in my pocket”, “Give me the money or I will shoot you”, “Give me your money or else (where the defendant draws his hand across his throat in a slashing motion)”, or “Give me the money or you are dead” would constitute a threat of death. The court should consider that the intent of this provision is to provide an increased offense level for cases in which the offender(s) engaged in conduct that would instill in a reasonable person, who is a victim of the offense, a fear of death.

**Background:** Possession or use of a weapon, physical injury, and unlawful restraint sometimes occur during a robbery. The guideline provides for a range of enhancements where these factors are present.

Although in pre-guidelines practice the amount of money taken in robbery cases affected sentence length, its importance was small compared to that of the other harm involved. Moreover, because of the relatively high base offense level for robbery, an increase of 1 or 2 levels brings about a considerable increase in sentence length in absolute terms. Accordingly, the gradations for property loss increase more slowly than for simple property offenses.

The guideline provides an enhancement for robberies where a victim was forced to accompany the defendant to another location, or a victim’s freedom of movement was restricted through physical contact or confinement, such as by being tied, bound, or locked up.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective June 15, 1988 (amendments 14 and 15); November 1, 1989 (amendments 110 and 111); November 1, 1990 (amendments 314, 315, and 361); November 1, 1991 (amendment 365); November 1, 1993 (amendment 483); November 1, 1997 (amendments 545 and 552); November 1, 2000 (amendment 601); November 1, 2001 (amendment 617); November 1, 2010 (amendment 746); November 1, 2015 (amendment 791); November 1, 2018 (amendment 805); November 1, 2024 (amendment 831); November 1, 2025 (amendments 832 and 836).
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