

- (B) **Meaning of “Felony Offense”.**—For purposes of subsection (b)(1), “*felony offense*” means any offense (federal, state, or local) punishable by imprisonment for a term exceeding one year, regardless of whether a criminal charge was brought, or a conviction obtained.
- (C) **Meaning of “Used”.**—For purposes of subsection (b)(1), “*used*” means the body armor was (i) actively employed in a manner to protect the person from gunfire; or (ii) used as a means of bartering. Subsection (b)(1) does not apply if the body armor was merely possessed. For example, subsection (b)(1) would not apply if the body armor was found in the trunk of a car but was not being actively used as protection.
2. **Inapplicability of §3B1.5.**—If subsection (b)(1) applies, do not apply the adjustment in §3B1.5 (Use of Body Armor in Drug Trafficking Crimes and Crimes of Violence).
3. **Grouping of Multiple Counts.**—If subsection (b)(1) applies (because the defendant used the body armor in connection with another felony offense) and the instant offense of conviction includes a count of conviction for that other felony offense, the counts of conviction for the 18 U.S.C. § 931 offense and that other felony offense shall be grouped pursuant to subsection (c) of §3D1.2 (Groups of Closely Related Counts).

Historical Note

Effective November 1, 2004 (amendment 670).

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3. MAILING INJURIOUS ARTICLES

Historical Note

Effective November 1, 1987. Amended effective November 1, 1993 (amendment 481).

§2K3.1. [Deleted]

Historical Note

Section 2K3.1 (Unlawfully Transporting Hazardous Materials in Commerce), effective November 1, 1987, was deleted by consolidation with §2Q1.2 effective November 1, 1993 (amendment 481).

§2K3.2. Feloniously Mailing Injurious Articles

- (a) Base Offense Level (Apply the greater):

- (1) If the offense was committed with intent (A) to kill or injure any person, or (B) to injure the mails or other property, apply §2X1.1 (Attempt, Solicitation, or Conspiracy) in respect to the intended offense; or