

## **§2D1.10**

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### **§2D1.10. Endangering Human Life While Illegally Manufacturing a Controlled Substance; Attempt or Conspiracy**

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- (a) Base Offense Level (Apply the greater):
  - (1) **3** plus the offense level from the Drug Quantity Table in §2D1.1; or
  - (2) **20**.
- (b) Specific Offense Characteristic
  - (1) (Apply the greater):
    - (A) If the offense involved the manufacture of amphetamine or methamphetamine, increase by **3** levels. If the resulting offense level is less than level **27**, increase to level **27**.
    - (B) If the offense (i) involved the manufacture of amphetamine or methamphetamine; and (ii) created a substantial risk of harm to the life of a minor or an incompetent, increase by **6** levels. If the resulting offense level is less than level **30**, increase to level **30**.

#### **Commentary**

**Statutory Provision:** 21 U.S.C. § 858.

**Application Note:**

1. **Substantial Risk of Harm Associated with the Manufacture of Amphetamine and Methamphetamine.—**
  - (A) **Factors to Consider.**—In determining, for purposes of subsection (b)(1)(B), whether the offense created a substantial risk of harm to the life of a minor or an incompetent, the court shall include consideration of the following factors:
    - (i) The quantity of any chemicals or hazardous or toxic substances found at the laboratory, and the manner in which the chemicals or substances were stored.
    - (ii) The manner in which hazardous or toxic substances were disposed, and the likelihood of release into the environment of hazardous or toxic substances.
    - (iii) The duration of the offense, and the extent of the manufacturing operation.
    - (iv) The location of the laboratory (*e.g.*, whether the laboratory is located in a residential neighborhood or a remote area), and the number of human lives placed at substantial risk of harm.