

§2L2.2

(3) If the defendant fraudulently obtained or used (A) a United States passport, increase by 4 levels; or (B) a foreign passport, increase by 2 levels.

(4) (Apply the Greater):

- (A) If the defendant committed any part of the instant offense to conceal the defendant's membership in, or authority over, a military, paramilitary, or police organization that was involved in a serious human rights offense during the period in which the defendant was such a member or had such authority, increase by 2 levels. If the resulting offense level is less than level 13, increase to level 13.
- (B) If the defendant committed any part of the instant offense to conceal the defendant's participation in (i) the offense of incitement to genocide, increase by 6 levels; or (ii) any other serious human rights offense, increase by 10 levels. If clause (ii) applies and the resulting offense level is less than level 25, increase to level 25.

(c) Cross Reference

- (1) If the defendant used a passport or visa in the commission or attempted commission of a felony offense, other than an offense involving violation of the immigration laws, apply—
 - (A) §2X1.1 (Attempt, Solicitation, or Conspiracy) in respect to that felony offense, if the resulting offense level is greater than that determined above; or
 - (B) if death resulted, the most analogous offense guideline from Chapter Two, Part A, Subpart 1 (Homicide), if the resulting offense level is greater than that determined above.

Commentary

Statutory Provisions: 8 U.S.C. §§ 1160(b)(7)(A), 1185(a)(3), (5), 1325(c), (d); 18 U.S.C. §§ 911, 1015, 1028, 1423–1426, 1542–1544, 1546.

Application Notes:

1. **Definition.**—For purposes of this guideline, “*immigration and naturalization offense*” means any offense covered by Chapter Two, Part L.
2. **Application of Subsection (b)(2).**—Prior felony conviction(s) resulting in an adjustment under subsection (b)(2) are also counted for purposes of determining criminal history points pursuant to Chapter Four, Part A (Criminal History).