

' 2G2.4. **Possession of Materials Depicting a Minor Engaged in Sexually Explicit Conduct**

- (a) Base Offense Level: **15**
- (b) Specific Offense Characteristics
 - (1) If the material involved a prepubescent minor or a minor under the age of twelve years, increase by **2** levels.
 - (2) If the offense involved possessing ten or more books, magazines, periodicals, films, video tapes, or other items, containing a visual depiction involving the sexual exploitation of a minor, increase by **2** levels.
 - (3) If the defendant's possession of the material resulted from the defendant's use of a computer, increase by **2** levels.
 - (4) If the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence, increase by 4 levels.
 - (5) If the offense involved **B**
 - (A) at least 10 images, but fewer than 150, increase by 2 levels;
 - (B) at least 150 images, but fewer than 300, increase by 3 levels;
 - (C) at least 300 images, but fewer than 600, increase by 4 levels; and
 - (D) 600 or more images, increase by 5 levels.
- (c) Cross References
 - (1) If the offense involved causing, transporting, permitting, or offering or seeking by notice or advertisement, a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, apply ' 2G2.1 (Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material; Custodian Permitting Minor to Engage in Sexually Explicit Conduct; Advertisement for Minors to Engage in Production).

- (2) If the offense involved trafficking in material involving the sexual exploitation of a minor (including receiving, transporting, shipping, advertising, or possessing material involving the sexual exploitation of a minor with intent to traffic), apply ' 2G2.2 (Trafficking in Material Involving the Sexual Exploitation of a Minor; Receiving, Transporting, Shipping, or Advertising Material Involving the Sexual Exploitation of a Minor; Possessing Material Involving the Sexual Exploitation of a Minor with Intent to Traffic).

Commentary

Statutory Provision: 18 U.S.C. ' 2252(a)(4).

Application Notes:

1. For purposes of this guideline **C**

"Minor" means an individual who had not attained the age of 18 years.

"Visual depiction" means any visual depiction described in 18 U.S.C. ' 2256(5) and (8).

2. For purposes of subsection (b)(2), a file that (A) contains a visual depiction; and (B) is stored on a magnetic, optical, digital, other electronic, or other storage medium or device, shall be considered to be one item. If the offense involved a large number of visual depictions, an upward departure may be warranted, regardless of whether subsection (b)(2) applies.

Historical Note: Effective November 1, 1991 (see Appendix C, amendment 372). Amended effective November 27, 1991 (see Appendix C, amendment 436); November 1, 1996 (see Appendix C, amendment 537); November 1, 2000 (see Appendix C, amendment 592).