

REPORT
of the
DRUG WORKING GROUP
CASE REVIEW PROJECT

March 27, 1992

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I. INTRODUCTION

This report summarizes the work of the Drug Working Group case review project. Detailed supporting documentation is available as an attachment to this report and from the Working Group.

The Working Group reviewed data relevant to the consideration of amendments during the 1992 amendment cycle in the following areas:

§1B1.3 (Relevant Conduct) (Amendment 1(A)). This amendment to guideline and commentary is intended to clarify the scope of the guideline, and to reduce confusion in application.

§3B1.2 (Mitigating Role) (Amendment 18(A)). This amendment to the mitigating role guideline and commentary is intended to clarify the factors a court must consider in determining whether a defendant warrants a mitigating role reduction, and to facilitate application of the guideline.

§2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking) (Amendment 19). This amendment is intended to limit the offense level of certain mitigating role defendants involved with large quantities of drugs.

§2D1.8 (Renting or Managing a Drug Establishment) (Amendment 20). This amendment applies the §2D1.1 quantity table to 21 U.S.C. §856 offenses.

II. §1B1.3 (RELEVANT CONDUCT) (AMENDMENT 1(A))

A. Summary

Concern has been expressed that some practitioners in the field may not fully understand the proper scope of relevant conduct as it is trained by Commission staff, and that this problem is largely attributable to unclear language in the guideline and commentary. See Public Comment Summary.

B. Profile of Relevant Conduct Determinations

To assist the Commission's consideration of this issue, the Working Group completed a relevant conduct profile of the 815 drug cases reviewed. These cases were drawn from a random 25 percent sample of all drug cases appearing in the 25 percent Departure Sample of MONFY90 cases. See Section 24 for more detail on the methodology and coding instruments used.

The relevant conduct profile delineated --

- (1) the quantity of drugs with which the defendant was "personally involved" (excludes quantities for which defendant would only have been held responsible under the "otherwise accountable" language of §1B1.3);
- (2) the court's finding of relevant conduct (or, in the absence of a statement of reasons, the Pre-Sentence Report determination of relevant conduct);
- (3) the quantity of drugs with which the entire conspiracy was involved (includes all §1B1.3 relevant conduct quantities, as well as quantities for which the defendant would not be accountable as they were beyond the scope of the jointly undertaken conduct of the defendant, as determined by the court).

Five variations of these three quantities (denominated classes A,B,C,D,F) were observed in practice. (A sixth possible variation (class E below) was not observed in the sample.)

Class A -- the quantity of drugs with which he was personally involved (see coding manual) was equal to the quantity for the entire conspiracy, and the court held the defendant accountable for such quantity. In other words, defendant was held accountable by the court for the full quantity of drugs with which he was personally involved.

Class B -- defendant was personally involved with less drugs than the conspiracy, and was held accountable only for those drugs.

Class C -- defendant was held accountable for the drugs of the entire conspiracy, but was personally involved with a smaller quantity.

Class D -- defendant was held accountable for a smaller quantity of drugs than he was personally accountable for, and he was personally involved with the same amount of drugs as the entire conspiracy.

Class E -- defendant was held accountable by the court for a quantity of drugs less than that of the entire conspiracy, but more than that with which he was personally involved.

Class F -- similar to class D, but he was personally involved with less drugs than the entire conspiracy.

Examples:

Class	Personally Involved (base offense level)	Court Assessed (base offense level)	Entire Conspiracy (base offense level)
A	20	20	20
B	10	10	20
C	10	20	20
D	20	10	20
E	10	15	20
F	15	10	20

The tables at Section 18 of the Appendix depict the frequency of these variations in the 815 cases reviewed. Class A was observed in the majority of cases (70%), and classes B and D were each observed in 12 percent of the cases. Classes C and F were rarely observed. Class E was, as noted above, not observed. Thus, §1B1.3's "otherwise accountable" provision may have played only a limited role in setting the offense level in 70 percent of the cases.

III. §3B1.2 (MITIGATING ROLE) (AMENDMENT 18(A))

A. Summary

To assist the Commission in its consideration of Amendment 18(A), the Working Group completed an extensive review of case law, and conducted a detailed review of almost 1500 drug case files. See the discussion on methodology above.

Case law was reviewed for offense conduct (referred to herein as "offense factors" or "factors") the courts typically considered as warranting a mitigating role adjustment or no such adjustment. In the fall of 1991, in light of this review, the Working Group reviewed approximately 600 cases.

After the Commission published proposed amendment 18(A) with a specific list of factors, the Working Group reviewed an additional 815 cases to profile drug defendants in

terms of the role adjustments applied and the specific factors and offender functions that might impact on the Commission's consideration of amendment 18(A).¹

Following are data regarding --

- * the frequency of mitigating role adjustments among certain populations of MONFY90 defendants;
- * profiles of mitigating role adjustment and no-adjustment defendants in terms of offense factor (e.g., how many minimal role (-4) defendants had decision-making authority);
- * the relationship of offense factors to mitigating role adjustments (e.g., how often an offense factor is more or less likely to result in a mitigating role adjustment);
- * the relationship of offense factors to courier and mule functions (e.g., how many couriers owned some part of the drugs involved);
- * the estimated prison impact of the amendment.

B. Frequency of Mitigating Role Adjustments

The Working Group profiled the frequency of role adjustments in all §2D1.1 MONFY90 cases, and in the 815 MONFY90 cases reviewed. See Section 3 of the Appendix. The frequencies in the two populations were generally similar (9.7% of all §2D1.1 defendants received minor role (-2), compared with 9.6% of the sample; 84.4% of all §2D1.1 defendants received no mitigating role reduction (0), compared with 85.0% of the sample). Small variations were noted in the relative percentages of minimal role (-4) defendants (5.0% of all §2D1.1 defendants, 3.6% of the sample), and intermediate role (-3) defendants (0.8% of all §2D1.1 defendants, 1.5% of the sample).²

¹ The modified amendment at Section 1 of the Appendix has, where feasible, been annotated to reference data in the Appendix that addresses specific issues or elements of the amendment. Section 3 of the Appendix also compares and contrasts variations of the modified amendment, and their impact on frequency of mitigating role adjustments.

² Some variation was also noted among "missing" defendants (0.0% of all MONFY90 defendants, 0.8% of the sample).

C. Offense Factors and Role Adjustments³

1. Profiles of Mitigating Role Adjustments and Relevant Offense Factors

This section briefly profiles the offense factors commonly associated with defendants who received a mitigating role adjustment. A factor was considered "generally" present where it appeared more than 70 percent of the time among mitigating role defendants.⁴

Not the Only Known Participant: Mitigating role defendants are generally (86%) not the only known participant in the offense. That is, in 86 percent of the cases, other defendants were known.⁵ (However, a relatively large number of -4 defendants -- possibly from EDNY -- were the only known participants.)

No Possession of Weapons: Mitigating role defendants generally (92%) did not possess or use a weapon. No (0%) -4 or -3 defendant had a firearm.

Performed Unskilled Tasks: Mitigating role defendants generally performed no skilled tasks. Few or no mitigating role defendants piloted a plane or ship, financed operations, directed large or mid-level operations, or grew or manufactured controlled substances. Half of those who had only a passive role in the offense (*i.e.*, performed no tasks), who merely looked out for law enforcement authorities, or who acted as gofers received mitigating reductions.

Decision-Making Authority: Mitigating role defendants (but not -2 defendants) generally (32-78%)⁶ had no decision-making authority (depending on treatment of defendants assertions). Minor role (-2) defendants (50-75%) had decision-making authority.

³ The data referenced in this section and those that follow are drawn from various Sections of the Appendix.

⁴ Where a response was "Unknown" it was not counted as a "Yes" or "No." Where a response was "Defendant's Assertion Only," it generally did not affect the profile, whether the responses were all counted as "Yes" or all as "No." The exception to this was in the case of decision-making authority and ownership, where counting "Defendant's Assertion Only" as "Yes" resulted in a somewhat inconclusive profile for the factors. In this case, and cases that follow, a range was given, based on all "Defendant's Assertion Only" responses first counted as "Yes" and then as "No." This information is particularly relevant to the question of whether to permit a mitigating role adjustment based on defendant's uncorroborated assertion.

⁵ Possible responses to this question were limited to "Yes" and "No."

⁶ See note 4 supra.

Compensation Less than \$2000: Mitigating role defendants generally (73%) received small payments in amounts less than \$2000. Note: assertions regarding the amount of compensation occurred in only 44 percent of all cases. Those assertions were corroborated in only 18 percent of all cases. See Section 15 of the Appendix.

Flat Fee Compensation: Mitigating role defendants generally (46%) received compensation in the form of a flat fee.⁷ Note: responses regarding the form of compensation occurred in 63 percent of all cases, and were corroborated in 42 percent of all cases. See Section 15 of the Appendix.

Partial Knowledge of Conspiracy: Mitigating role defendants generally (68-81%) had only partial knowledge of the scope of conspiracy.

No Ownership of Drugs: Mitigating role defendants generally (48%-79%)⁸ had no ownership of any portion of drugs. Note: corroboration of defendant's ownership was available in 61 percent of all cases.

No Financing: Mitigating role defendants generally (86%) did not finance any aspect of criminal activity.

Control Over Drugs: Mitigating role defendants generally (75%) had control over the drugs.

Class A Relevant Conduct: Minimal role (-4) defendants were generally (72%) class A (personal quantity same as relevant conduct and entire conspiracy). Minor (-2) and intermediate roles generally (71%) were class A and B (personal involvement was less than entire conspiracy but court assessed only quantity with which defendant was personally involved). See Section II, supra, for explanations of the classes.

2. Profiles of No-Adjustment Defendants and Relevant Offense Factors

Not the Only Known Participant: No-adjustment defendants are generally (73%) not the only known participant in the offense.

⁷ Due to the large number of possible responses here, and the high frequency of "Flat Fee" responses relative to the infrequency of other responses, the requirement that a factor be present 70 percent of the time before being considered as "generally" present was modified for this factor.

⁸ See note 4 supra.

No Possession of Weapons: No-adjustment defendants generally (80%) did not possess or use a weapon.

Performed Skilled Tasks: No-adjustment defendants frequently performed skilled tasks, including having piloted craft, financed operations, directed large or mid-level operations, or grown or manufactured controlled substances. Mitigating role adjustments were applied in half of the cases where defendant had only a passive role in the offense (i.e., performed no tasks), looked out for law enforcement authorities, or acted as a gofer.

Decision-Making Authority: No-adjustment defendants generally (64-80%) had decision-making authority.

Compensation Less than \$2000: No-adjustment defendants generally (76%) received small payments in amounts less than \$2000. See note supra on corroboration.

Percentage of Profits Compensation: No-adjustment defendants generally (50%) received compensation in the form of a percentage of the profits. See note supra on corroboration.

Knowledge of Conspiracy: No-adjustment defendants (37-63%) had full knowledge of the scope of conspiracy, and 33-60%) had no or partial knowledge (depending on how "only known defendants" are counted).

Ownership of Drugs: No-adjustment defendants generally (40-60%) had ownership of a portion of the drugs, while 18-37% did not (depending on how defendant's assertions are characterized).

No Financing: No-adjustment defendants generally (81%) did not finance any aspect of criminal activity.

Control Over Drugs: No-adjustment defendants generally (92%) had control over the drugs.

Class A Relevant Conduct: No-adjustment defendants generally (73%) had class A relevant conduct (quantity with which personally involved is the same as relevant conduct and entire conspiracy quantities).

D. Relating Offense Factors and Mitigating Role Adjustments

1. Offense Factors that Tend to Bear a Relationship to Whether a Mitigating Role Adjustment is Applied

The following offense factors tended to bear a relationship to the application of a mitigating role adjustment; that is, defendants having the factor seemed to have been more (or less) likely to receive a mitigating role adjustment. The factor has been noted where defendants demonstrating the factor received mitigating role reductions with particular frequency or infrequency, relative to the overall frequency with which the general population of defendants received mitigating role adjustments.

Defendant was the Only Known Participant in the Offense (Less Likely to Receive Reduction -- "Less Likely"): although mitigating role adjustment defendants make up 15 percent of the population, only 10 percent of persons who were the only known participant were given mitigating role adjustments. Those who were not the only known participants were given role reductions at the same rate (17%) as the general population.

Defendant Possessed/Used a Weapon (Less Likely): although mitigating role adjustment defendants make up 15 percent of the population, only 6 percent of persons who possessed or used a weapon received a mitigating role reduction (in all of these cases they received a minor role (-2) reduction, never an intermediate (-3) or minimal role (-4) reduction).

Coconspirator Possessed/Used a Weapon (More Likely to Receive Reduction -- "More Likely"): although mitigating role adjustment defendants make up only 15 percent of the population, where the coconspirator possessed or used a weapon, 25 percent of defendants received a mitigating role reduction. Where neither a coconspirator nor the defendant possessed/used a weapon, reductions were applied at the same rate (16%) as for the general population.

Performed Only Unskilled Tasks (More Likely): although mitigating role adjustment defendants make up 15 percent of the population, including 22 percent of persons transporting drugs with the aid of some vehicle or equipment, 50 percent of passive participants, 53 percent of persons running errands or performing carpentry and the like, 44 percent of persons providing early warnings to dealers, 20 percent of persons running money, 32 percent of persons carrying drugs on their person, 20 percent of persons offloading drugs, 39 percent who rented or permitted their residences to be used, all received mitigating role reductions.

Performed Skilled Tasks (Less Likely): although mitigating role adjustment defendants make up 15 percent of the population, 17 percent of persons who financed the activity, 13 percent of persons who manufactured or grew drugs, none

(0%) who imported or organized and directed a large operation, 5 percent who directed mid-level operations, and none (0%) who piloted a plane or ship, received mitigating role adjustments.

Performed Indeterminate Skill Tasks: although mitigating role adjustment defendants make up 15 percent of the population, none (0%) who performed personal-security functions, 21 percent who brokered deals, and 9 percent who sold user-quantity drugs, received mitigating role adjustments.

No Decision-Making Authority (More Likely):⁹ although mitigating role adjustment defendants make up 15 percent of the population, only 8 percent of persons with decision-making authority were given mitigating role adjustments. Thirty-nine percent of persons with no decision-making authority were given mitigating role adjustments.

Small Payments to Defendant (More Likely):¹⁰ mitigating role adjustment defendants make up 23 percent¹¹ of the population, and received mitigating role adjustments at the following rates --

- * 10 percent receiving more than \$10000 in compensation,
- * 26 percent of persons receiving \$5000 or less,
- * 24 percent of persons receiving \$2000 or less,
- * 28 percent receiving \$1000 or less,
- * 32 percent receiving \$500 or less, and
- * 36 percent receiving \$200 or less.

Flat Fee (Non-Percentage) Form of Compensation to Defendant (More Likely): although mitigating role adjustment defendants make up 23 percent¹² of the population, only 2 percent of defendants receiving a percentage of the profits from the activity received a mitigating role reduction; and 56 percent received flat fees. Note: see the discussion supra regarding corroboration.

⁹ Where the presence or absence of decision-making authority was corroborated. Where not corroborated, the figures are 12 percent receiving reductions where "Defendant's Assertion Only" equals "Yes," and 67 percent where "Defendant's Assertion Only" equals "No." See note 34 supra.

¹⁰ See discussion supra regarding corroboration.

¹¹ Due to the large number of unknown responses, the percentage of the population is 23 percent instead of the usual 15 percent.

¹² See note 11 supra.

Only Partial Knowledge of Scope of Conspiracy (More Likely):¹³ although mitigating role adjustment defendants make up 15 percent of the population, 30 percent of defendants with no or partial knowledge of the scope of the conspiracy, and 4 percent with full knowledge received a mitigating role reduction.

No Ownership of Any Portion of Drugs (More Likely):¹⁴ although mitigating role adjustment defendants make up 15 percent of the population, 33 percent of defendants who did not own a portion of the drugs, and only 4 percent of defendants who did own a portion of the drugs received a mitigating role reduction.

Financing Any Aspect of Criminal Activity (Less Likely): although mitigating role adjustment defendants make up 15 percent of the population, only 8 percent of those who financed the activity received a mitigating role reduction. Where defendant did not finance the activity, a mitigating reduction was applied at the same rate (15%) as for the general population.

No Control Over Drugs (More Likely): although mitigating role adjustment defendants make up 23 percent of the population, 20 percent of those who controlled the drugs, and 46 percent of those who did not, received mitigating role reductions.

Class B, C, or F Relevant Conduct (More Likely): although mitigating role adjustment defendants make up 14 percent of the population, mitigating role reductions were applied in the following proportions --

- * 10 percent of class A defendants;
- * 26 percent of class B defendants;
- * 33 percent of class C defendants;
- * 15 percent of class D defendants; and
- * 31 percent of class F defendants.

In class B, C, and F relevant conduct, the defendant's personal involvement is less than that of the entire conspiracy (i.e., mitigating role reductions appeared to be

¹³ These figures apply where the defendant was not the only known participant in the conspiracy. Where the defendant was, the figures are 6 percent receiving reductions where "Not Applicable" equals "Full Knowledge," and 11 percent where "Not Applicable" equals "Partial Knowledge." See note 34 supra.

¹⁴ Where the presence or absence of decision-making authority was corroborated. Where not corroborated, the figures are 10 percent receiving reductions where "Defendant's Assertion Only" equals "Yes," and 29 percent where "Defendant's Assertion Only" equals "No." See note 34 supra.

applied more frequently where the quantity of drugs associated with the entire conspiracy was greater than that with which the defendant was personally associated).

2. Offense Factors that Do Not Tend to Have a Relationship to Whether a Mitigating Role Adjustment is Applied

The following offense factors tended not to have a relationship with whether a mitigating role adjustment is applied; that is, defendants having the factor did not seem more (or less) likely to receive a mitigating role adjustment. The factor has been noted where defendants showing the factor received mitigating role reductions at the same rate as the overall frequency with which the general population of defendants received mitigating role adjustments.

- * Where defendant is not the only known participant;
- * Where neither the defendant nor any coconspirator possessed or used weapon;
- * Where defendant received moderate payments (\$1000-\$5000);
- * Where defendant did not finance the criminal activity;
- * Where defendant had control over the drugs; and
- * Where Class A or D relevant conduct was involved.

3. Offense Factors that Could Not be Reliably Discerned From a Review of the Offense Conduct

Certain offense factors are extremely difficult to discern consistently from a review of the offense conduct contained in Commission case files and, for that reason, may not be suitable for inclusion in the guideline and commentary:

- * **Comparison of payment to defendant with profit or revenue from the entire conspiracy.** This information could only be coded in 86 of 815 cases. See Section 8 of the Appendix. Reliable information on expected conspiracy revenue or profits was often missing. In addition, the value of drugs was not always consistently estimated -- legitimate methods included street value of large quantities of drugs compared with the wholesale price of those same drugs.
- * **The period of time during which defendant participated in the offense, and controlled the drugs.** This information could only be coded in 413 cases, but many of these responses included estimations based on the distance defendant asserted he traveled, on estimated destination, and the like. See Section 14 of the Appendix.

E. Relating Offender Mule and Courier Functions to Mitigating Role Adjustment and Offense Factors¹⁵

After reviewing appellate case law in the fall of 1991, the Working Group observed considerable attention given by courts to the issue of whether transporters of drugs (couriers¹⁶ and mules¹⁷) should receive mitigating role adjustments.

1. Mule and Courier Functions and Mitigating Role Adjustments

Couriers and mules received mitigating role reductions more frequently (23% and 32%, respectively) than the general population (17% of whom received such reduction). 22 percent of all mitigating role adjustments applied went to couriers, and 17 percent to mules.

2. Mule and Courier Functions that Tend to Have a Relationship to Offender Factors

The following offense factors tended to have a relationship to whether a person who transported drugs (a courier or mule) received a mitigating role adjustment; that is, defendants having the factor seemed to have been more (or less) likely to receive a mitigating role adjustment.

Defendant was the Only Known Participant in the Offense (Less Likely): although 23 percent of couriers and 32 percent of mules received mitigating reductions, only 11 percent of couriers and 28 percent of mules who were the only known participant were given mitigating role adjustments. Those who were not the only known participants were given role reductions in 28 percent (couriers) and 37 percent (mules) of the cases.

Coconspirator Possessed/Used a Weapon (More Likely): although 23 percent of couriers and 32 percent of mules received mitigating role reductions, where the coconspirator possessed or used a weapon, 30 percent of couriers (there were no cases involving mules) received a mitigating role reduction. Where no one

¹⁵ Data from which this section is drawn is found in Section 16 and 17 of the Appendix.

¹⁶ "Courier" was defined as a person who transported controlled substances with the aid of a vehicle or other equipment.

¹⁷ "Mule" was defined as a person who transports or carries controlled substances internally or on their person, including in baggage, souvenirs, or clothing. A person flying on an airplane with cocaine in two pieces of baggage was a mule.

possessed/used a weapon, reductions were applied at the same rate as for all transporters receiving mitigating role reductions.

No Decision-Making Authority (More Likely):¹⁸ although 23 percent of couriers and 32 percent of mules received mitigating role reductions, 18 percent of couriers and no (0%) mules with decision-making authority were given mitigating role adjustments. Thirty-nine percent of couriers and 57 percent of mules with no decision-making authority were given mitigating role adjustments.

Small Payments to Defendant (Couriers More Likely, Mules Less Likely): 21 percent of couriers and 40 percent of mules received mitigating role reductions in cases where the amount of compensation was asserted (but not necessarily corroborated). These defendants received mitigating role adjustments in the following proportions --

- * 21 percent (couriers) and no (0%) mules receiving more than \$10000 in compensation,
- * 23 percent (couriers) and 38 percent (mules) of persons receiving \$5000 or less,
- * 23 percent (couriers) and 41 percent (mules) of persons receiving \$2000 or less,
- * 27 percent (couriers) and 33 percent (mules) receiving \$1000 or less,
- * 30 percent (couriers) and 30 percent (mules) receiving \$500 or less, and
- * 25 percent (couriers) and 33 percent (mules) receiving \$200 or less

Percentage Form of Compensation to Defendant (Less Likely): although 23 percent of couriers and 32 percent of mules received mitigating role reductions, no (0%) couriers and 17 percent of mules receiving a percentage of the profits from the activity received a mitigating role reduction; couriers and mules receiving flat fees received mitigating role adjustments at the same rate as for all transporters receiving mitigating role reductions.

Full or Partial Knowledge of Conspiracy (More Likely):¹⁹ although 23 percent of

¹⁸ Where the presence or absence of decision-making authority was corroborated. Where not corroborated, the figures are 18 percent (couriers) and 34 percent (mules) receiving reductions where "Defendant's Assertion Only" equals "Yes," and 24 percent (couriers) and 39 percent (mules) where "Defendant's Assertion Only" equals "No." See note 34 supra.

¹⁹ Where the defendant was not the only known participant in the conspiracy. Where the defendant was, the figures are 15 percent (couriers) and 31 percent (mules) receiving reductions where "Not Applicable" equals "Full Knowledge," and 23 percent (couriers) and

couriers and 32 percent of mules received mitigating role reductions, 28 percent of couriers and 40 percent of mules with partial knowledge of the scope of the conspiracy; and 29 percent of couriers and 40 percent of mules with full knowledge received a mitigating role reduction.

No Ownership of Any Portion of Drugs (More Likely):²⁰ although 23 percent of couriers and 32 percent of mules received mitigating role reductions, 38 percent of couriers and 55 percent of mules who did not own a portion of the drugs received a mitigating role reduction. No (0%) couriers or mules who did own a portion of the drugs received such a reduction.

Financing Any Aspect of Criminal Activity (Couriers More, Mules Less): although 23 percent of couriers and 32 percent of mules received mitigating role reductions, the only courier who financed the activity received a mitigating role reduction. No (0%) mule who financed the activity received a reduction. Where the defendant did not finance the activity, a mitigating reduction was applied at about the same rate (25% (couriers) and 33% (mules)) as for all transporters receiving mitigating role reductions.

Class B, C, D, F Relevant Conduct: although 23 percent of couriers and 32 percent of mules received mitigating role reductions, mitigating role reductions were received in the following proportions --

- * 19 percent (couriers) and 31 percent (mules) of class A defendants;
- * 50 percent (couriers) and 50 percent (mules) of class B defendants;
- * 44 percent (couriers) and 33 percent (mules) of class C defendants;
and
- * 12 percent (couriers) and no (0%) mules of class D defendants.

No (0%) couriers of class F defendants received mitigating role reductions. There were no mules in class F.

32 percent (mules) where "Not Applicable" equals "Partial Knowledge." See note 34 supra.

²⁰ Where the presence or absence of decision-making authority was corroborated. Where not corroborated, the figures are 18 percent (couriers) and 32 percent (mules) receiving reductions where "Defendant's Assertion Only" equals "Yes," and 26 percent (couriers) and 40 percent (mules) where "Defendant's Assertion Only" equals "No." See note 34 supra.

3. Courier and Mule Functions that Do Not Tend to Have a Relationship to Offender Factors

The following offense factors tended not to have a relationship with whether a mitigating role adjustment is applied to a courier or mule; that is, defendants having the factor seemed not to have been more (or less) likely to receive a mitigating role adjustment).

- * Where mule defendant was the only known participant;
- * Where defendant possessed or used a weapon;
- * Where no person possessed or used weapon;
- * Where defendant received payments over \$1000;
- * Where defendant received flat fee compensation;
- * Where defendant did not finance the criminal activity;
- * Where class A (couriers and mules) or C (mules only) relevant conduct was involved; and
- * Where defendant had control over drugs: defendants who transported drugs make up 23 percent (couriers) and 32 percent (mules) of the those receiving mitigating reductions, and received mitigating role reductions at these rates regardless of whether they had control over the drugs or not (note only 4 of 113 couriers, and no (0%) mules did not have such control).

F. **Estimated Impact of Definition Change on Mitigating Role Reductions Applied²¹**

1. Summary

Section 20 of the Appendix summarizes the anticipated prison impact of the modified amendment based on two differing assumptions. Assumption 1 is that the uncorroborated response "Defendant's Assertion Only" was a "No" response. Assumption 2 is that "Defendant's Assertion Only" was "Yes" response.²² Since assumption 1 presumes the response in defendant's favor, more defendants likely will receive mitigating role adjustments under the modified amendment. On the other hand, assumption 2 (presuming responses against the defendant) likely will result in granting fewer mitigating role reductions.

²¹ See section 3 of the Appendix for data discussed in this subsection.

²² In other words, where a defendant asserted, in the absence of any corroboration or any evidence to the contrary, that he did not own any portion of the drugs, assumption 1 treats ownership as "No" and assumption 2 treats it as "Yes."

Caveat: Computer projections can not account reliably for the restrictive conditions of the modified amendment that are difficult to quantify (such as the requirement that mitigating role defendants be "significantly less culpable than other participants in the criminal activity and [be] plainly among the least culpable of those participants"). Accordingly, the number of defendants who actually receive mitigating role reductions will likely be fewer than projected under either assumption.

2. Number of Defendants Receiving Mitigating Role Adjustments

Following is a summary of the impact of the modified amendment, using both assumptions, on the number of defendants receiving mitigating role reductions. The first number of the ranges provided below correlates with assumption 2, the second with assumption 1.

- * **Mitigating Role Adjustments:** Under the modified amendment, 112-171 (14-21%) of the 815 defendants are projected (subject to the caveat noted above) to receive mitigating role adjustments, compared with 119 (15%) who actually received such adjustments.
- * **Minimal Role Adjustments:** Twenty to fifty (20-50) or (18-30%) of the adjustments under the modified amendment would be for minimal role (-4), compared with 24 percent for minimal role (-4) in actual practice (35% for combined minimal (-4) and intermediate (-3) roles).
- * **Minor Role Adjustments:** Under the modified amendment, 92 (82%) to 120 (70%) of defendants would receive minor role (-2) reductions, compared with 66 percent for minor role (-2) in actual practice (76% for combined minor (-2) and intermediate (-3) role defendants).

3. Prison Impact of Definition Change²³

Following is a summary of prison impact resulting from the change to §3B1.2 alone (not in connection with the cap amendment to §2D1.1). Defendants who received either an upward or downward departure were not included in the estimate of prison impact.

²³ See section 21 of the Appendix for prison impact data.

Assumption 1: 139 of the defendants would be impacted

Total impact on sample:	-284 months
Total impact on §2D1.1: ²⁴	-4544 months
Median impact:	-4 months
Mean impact:	-2 months
Range of impact on individual:	-104 months to 104 months

Assumption 2: 115 of the defendants would be impacted

Total impact on sample:	+537 months
Total impact on §2D1.1: ²⁵	+8592 months
Median impact:	+4 months
Mean:	+4.6 months
Range of impact on individual:	-30 months to 104 months

IV. §2D1.1 (UNLAWFUL MANUFACTURING, IMPORTING, EXPORTING, OR TRAFFICKING) (BASE OFFENSE LEVEL CAPS) (AMENDMENT 19)²⁶

A. Summary

The Working Group reviewed Monitoring data and case review information to provide additional information for the Commission regarding whether or not to promulgate a base offense level cap for defendants who qualify for mitigating role adjustments, and if so, at what level.

Based on two options considered for caps (base offense level 32 and base offense level 36), two groups of defendants were identified. The first group includes 317 defendants with a ten-year mandatory minimum quantity (base offense level 32) who received a

²⁴ Sample population was approximately 1/16 of the §2D1.1 population. Total prison impact is 16 times the impact on the sample population.

²⁵ Sample population was approximately 1/16 of the §2D1.1 population. Total prison impact is 16 times the impact on the sample population.

²⁶ Data provided in this section are found in Section 20 of the Appendix.

mitigating role adjustment.²⁷ The second group includes 63 defendants with a base offense level greater than level 36, and who received a mitigating role adjustment.²⁸

None (0%) of the defendants with greater than a base offense level 36 and a mitigating role adjustment received §5K1.1 reductions for substantial assistance. Sixty of the defendants with greater than a base offense level 32 and a mitigating role adjustment received §5K1.1 reductions.

Section 20 of the Appendix provides considerable data regarding the numbers of mitigating role adjustments among MONFY90 defendants with base offense levels greater than level 32 and level 36, and profiles those defendants by base offense level, criminal history, offense factors, and offender function.

B. Prison Impact²⁹

1. Base Offense Level Cap Amendment to §2D1.1 Alone

Following is a summary of prison impact resulting from the change to §2D1.1 alone (not in connection with the definition amendment to §3B1.2). Defendants who received either an upward or downward departure were not included in the estimate of prison impact.

OPTION 1 (CAP AT BASE OFFENSE LEVEL 32)

16 defendants in the sample impacted

Total impact on sample: -643 months

Total impact on §2D1.1:³⁰ -12,680 months

Median impact: -38 or 43 months

Mean impact: -40 months

Range of impact on individual: -102 months to -15 months

²⁷ Source: MONFY90 data showing total offense levels for all §2D1.1 defendants receiving mitigating role adjustments. Acceptance of responsibility reduction was assumed to have been applied (in fact, it is applied in less than 75% of MONFY90 §2D1.1 cases).

²⁸ See note 27 supra.

²⁹ See section 21 of the Appendix for data provided in this subsection.

³⁰ Section 2D1.1 population included up to 317 defendants with mitigating role adjustments and base offense levels greater than 32 (assuming all received acceptance of responsibility -- in fact, only 75% of §2D1.1 do so). Total §2D1.1 prison impact is 317 times the mean impact.

OPTION 2 (CAP AT BASE OFFENSE LEVEL 36)

0 defendants in the sample had more than base offense level 36

Total impact on §2D1.1: Section 2D1.1 population included up to 63 defendants with mitigating role adjustments and base offense levels greater than 36 (assuming all received acceptance of responsibility -- in fact, only 75% of §2D1.1 do so). Total §2D1.1 prison impact would have been 63 times the mean impact on the sample, if a mean could have been determined.

2. Interaction of Amendment to §3B1.2 and Cap Amendment to §2D1.1

Following is a summary of prison impact resulting from the change to §3B1.2 alone (not in connection with the cap amendment to §2D1.1). Defendants who received either an upward or downward departure were not included in the estimate of prison impact.

Assumption 1 (Uncorroborated assertions assumed to be corroborated in defendant's favor):

26 defendants in the sample impacted

Total impact on sample:	-1596 months
Total impact on §2D1.1: ³¹	-25,536 months
Median impact:	43-48 months
Mean impact:	-61 months
Range of impact on individual:	-195 months to -15 months

Assumption 2 (Uncorroborated assertions assumed to be corroborated in government's favor):

15 defendants in the sample impacted

Total impact on sample:	-720 months
Total impact on §2D1.1: ³²	-11,520 months
Median impact:	-43 months
Mean:	-48 months
Range of impact on individual:	-84 months to 0 months

³¹ Sample population was approximately 1/16 of the §2D1.1 (and guidelines referencing §2D1.1), §2D1.8, and §2D2.1 populations. Total prison impact is approximately 16 times the total impact on the sample population.

³² Sample population was approximately 1/16 of the §2D1.1 (and guidelines referencing §2D1.1), §2D1.8, and §2D2.1 populations. Total prison impact is approximately 16 times the total impact on the sample population.

V. **§2D1.8 (RENTING OR MANAGING A DRUG ESTABLISHMENT) (AMENDMENT 20)**³³

To assist the Commission in its consideration of Amendment 20, the Working Group reviewed the 66 single count case files identified by Monitoring as sentenced under §2D1.8. The Working Group profiled §2D1.8 drug defendants in terms of the role adjustments applied and the specific factors and offender functions that might impact on the Commission's consideration of amendment 20.

The following data are summarized below and in the attachment to this report.

- * §2D1.8 defendants generally received mitigating role adjustments more frequently (24% of defendants) than the general population of §2D1.1 defendants (15% of defendants);
- * §2D1.8 defendants owned the drugs in the offense in 29 percent of the cases, and did not own them in 55 percent of the cases (with the remainder of cases unknown);
- * §2D1.8 defendants in general carried or possessed weapons more frequently than §2D1.1 defendants studied (25% of cases compared with 20%), were associated with coconspirators carrying weapons in more cases (15% of cases compared with 10%), and were not involved with force in fewer cases (60% compared with 80%);
- * the offender functions for §2D1.8 defendants were varied, including passive participation in an offense, transporting drugs, renting premises for use in the offense, manufacturing controlled substances, and dealing relatively large quantities of drugs.
- * relative to the general population of drug offenders, §2D1.8 defendants were more frequently passive participants (17% compared with 1% overall), gofers (14% compared with 2%), renters (26% compared with 2%), and grower/manufacturers (12% compared with 4%).
- * median sentence imposed was 18 months for all §2D1.8 defendants, 21 months for no-adjustment defendants and the aggravating role defendant, and 3 months for mitigating role defendants, with the low sentence probation and the high sentence 41 months. (Compare with median sentence of 58 months for general population of drug defendants.)

³³ Data provided in this section are drawn from Section 22 of the Appendix.

- * median offense level corresponding to the quantity with which §2D1.8 defendants were personally involved (see definitions above) was level 26 (the same as for all drug defendants).
- * median base offense level imposed was level 16 for §2D1.8 defendants,³⁴ and level 26 for all drug defendants.

³⁴ This guideline currently provides for a single base offense level 16.

19. Proposed substitute amendment #19

Proposed amendment: §2D1.1(a)(3) is amended by making the following addition as indicated:

- (3) the offense level specified in the Drug Quantity Table set forth in subsection (c) below. Provided, that if the defendant qualifies for a mitigating role adjustment under §3B1.2 (Mitigating Role), the base offense level shall not exceed level 32.

AMENDMENT 18(A) -- Substitute Proposal

§3B1.2. Mitigating Role

* * *

Commentary

Application Notes:

1. *This section provides a downward adjustment in offense level for a defendant who has a minimal role (4-level reduction) or a minor role (2-level reduction) in the criminal activity for which the defendant is accountable under §1B1.3 (Relevant Conduct). In cases falling between (a) and (b), a 3-level reduction is provided.*
2. *To determine whether a defendant warrants a mitigating (minimal or minor) role adjustment requires an assessment of the defendant's role and relative culpability in comparison with the other participants in the criminal activity for which the defendant is accountable pursuant to §1B1.3 (Relevant Conduct). The fact that the conduct of one participant warrants an upward adjustment for an aggravating role (§3B1.1) or warrants no adjustment, does not necessarily mean that another participant must be assigned a downward adjustment for a mitigating (minimal or minor) role. See definition of "participant" in note 1 of §3B1.1.*
3. **[Option A --** This section does not apply if the defendant individually possessed a firearm (or directed or induced another participant to possess a firearm) in connection with the criminal activity.

[Option B -- This section does not apply if a firearm was possessed in connection with the offense.]

4. *Subsection (a) (4-level reduction) applies to a defendant who plays a minimal role in concerted activity. To qualify for a minimal role adjustment under subsection (a), the defendant plainly must be one of the least culpable of the participants in the criminal activity. Such defendants ordinarily must have all of the characteristics consistent with a mitigating (minimal or minor) role listed in application note 6. In addition, although not determinative, a defendant's lack of knowledge or understanding of the scope and structure of the criminal activity and of the activities of others may be indicative of a minimal role (4-level reduction).*
5. *To qualify for a minor role adjustment under subsection (b) (2-level reduction), the defendant plainly must be one of the less culpable participants in the criminal activity, but have a role that cannot be described as minimal.*
6. *The following is a non-exhaustive list of characteristics that ordinarily are associated with a mitigating (minimal or minor) role:*
 - (a) *the defendant performed only unskilled, ~~and~~ unsophisticated tasks;*
 - (b) *the defendant had no decision-making authority or responsibility;*
 - (c) *~~total~~ compensation to the defendant was small in amount [(i.e., value of \$1,000 or less)], generally in the form of a flat fee; and*
 - (d) *the defendant did not exercise any supervision over other participant(s).*

7. With regard to offenses involving contraband (including controlled substances), a defendant who
- (a) sold, or negotiated the terms of the sale of, the contraband;
 - (b) had an ownership interest in any portion of the contraband; or
 - (c) financed any aspect of the criminal activity

~~shall not receive a mitigating (minimal or minor) role with respect to adjustment below the Chapter Two offense level that the defendant would have received for the quantity of contraband that the defendant sold, negotiated, or owned, or for that aspect of the criminal activity that the defendant financed because, with regard to those acts, the defendant has acted as neither a minimal nor a minor participant. For example, a street dealer who sells 100 grams of cocaine and who is held accountable under §1B1.3 (Relevant Conduct) for only that quantity shall not be considered for a mitigating (minimal or minor) role adjustment. In contrast, a street dealer who sells 100 grams of cocaine, but who is held accountable, pursuant to §1B1.3, for a jointly undertaken criminal activity involving 5 kilograms of cocaine may, if otherwise qualified, be considered for a mitigating (minimal or minor) role adjustment, but the resulting offense level may not be less than the Chapter Two offense level for the 100 grams of cocaine that the defendant sold.~~

8. A defendant who transports a quantity of contraband (e.g., a courier or mule, not an offloader or deckhand),

[Option A -- shall not receive a minimal role (4-level) adjustment for that quantity of contraband that the defendant transported. If such a defendant otherwise qualifies for a role adjustment, consideration may be given to a minor role (2-level) adjustment.]

[Option B -- shall not receive a minimal role (4-level) adjustment for that quantity of contraband that the defendant transported. ~~If such a defendant transported contraband on a single occasion, and otherwise qualifies for a role adjustment (see e.g., notes 6 and 7), e~~ Consideration may be given to a minor role (2-level) adjustment, if the defendant establishes that he transported contraband on a single occasion, that he neither sold nor had an ownership interest in any portion of the contraband, and that he otherwise qualifies for a role adjustment (see e.g., notes 6 and 7).]

[Option C -- shall not receive a mitigating (minimal or minor) role adjustment for that quantity of contraband that the defendant transported.]

9. Consistent with the structure of the guidelines, the defendant bears the burden of persuasion in establishing entitlement to a mitigating (minimal or minor) role adjustment. In determining whether a mitigating (minimal or minor) role adjustment is warranted, the court should consider all of the available facts, including any information arising from the circumstances of the defendant's arrest that may be relevant to a determination of the defendant's role in the offense. In weighing the totality of the circumstances, a court may consider a defendant's assertion of facts that supports a mitigating role adjustment. However, a court is not required to find, based solely on the defendant's bare assertion, that such a role adjustment is warranted.

[Background would remain unaltered, as follows:

Background: This section provides a range of adjustments for a defendant who plays a part in committing the offense that makes him substantially less culpable than the average participant. The determination whether to apply subsection (a) or subsection (b), or an intermediate adjustment, involves a determination that is heavily dependent upon the facts of the particular case.]

TALKING POINTS -- ROLE AMENDMENT

Problems with the Current Guideline

1. The language of the current guideline commentary is insufficiently specific, and provides inadequate guidance.
 - * the commentary provides general principles but not specifics (see notes 1, 3)
 - * the commentary provides that specifics should be considered but gives no guidance (see Background)
 - * public comment shows displeasure with the lack of specific guidance
2. The current guideline commentary is not satisfactory with respect to treatment of mules and couriers.
 - * the commentary encourages minimal role for certain couriers/mules (see n 2)
 - * the Ninth Circuit (among others?) has found that the Commission has failed to consider the role of mules in drug activity and departures are authorized where they fail to receive mitigating role adjustments -- see United States v. Valdez-Gonzalez, Nos. 89-10274, etc. (9th Cir. Feb. 19, 1992) (approving 10- or 11-level departure for role of two defendants as mules)
 - * numerous cases received by the Commission indicate departure given on basis of mule or courier role in the offense
 - * inter-district disparity is extensive; for example, in the 815-case study we completed, one district applied 10 of the 12 minimal role adjustments given to mules (p.82); other districts indicate through public comment, that mules and couriers as a policy shall receive no reduction
 - * 12 (20%) of 60 mules and 4 (4%) of 113 couriers receive minimal role (p.28)
 - * 8 (13%) of 60 mules and 22 (19%) of 113 couriers receive minor (-2) or intermediate (-3) role adjustments (p.28)
 - * the commentary fails adequately to advise courts they are not bound by the uncorroborated assertions of defendants, particularly couriers/mules stopped at points of entry -- 15 (8%) of the 177 defendants who were apparently the only known participant in the offense nevertheless received mitigating role adjustments (2/3 of them minimal (-4)) (p.18)

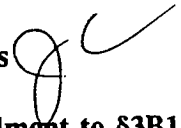
3. The current guideline commentary permits those possessing or carrying a firearm to receive mitigating role adjustments.
 - * 9 defendants received minor (-2) role adjustments even after personally they carried firearms in connection with the offense (p.22)
4. The current guideline commentary is not satisfactory with respect to treatment of street-level and mid-level dealers -- likely too many receive mitigating role adjustments
 - * the commentary apparently permits defendants who sell drugs, but who are among the less culpable of a large conspiracy to receive a minor role reduction, regardless of their status of sellers or decision-makers (see note 3)
 - * 16 (9%) of 188 street-level dealers receive mitigating role adjustments (mostly minor (-2) role adjustments) (p.28)
 - * 10 (5%) of 203 mid-level dealers receive mitigating role adjustments (mostly minor (-2) role adjustments) (p.28)
5. The current guideline commentary may not be satisfactory with respect to its treatment of passive participants in an offense, or others remotely connected with the offense.

Benefits of the Proposed Guideline

6. The proposed commentary bars defendants from any mitigating role adjustment if they possess a firearm in connection with the offense. There are no exceptions for these defendants.
7. The proposed commentary bars couriers and mules from minimal (-4) role adjustments with respect to the quantity of drugs they personally carried.
8. The proposed commentary bars defendants who sell, own, or finance from any mitigating role adjustment with respect to the quantity of drugs they personally sell, own, or finance.
 - * these defendants form the bulk (at least 58%) of our population: 188 (23%) were street-level dealers, 203 (25%) were mid-level dealers, 38 (5%) were high-level dealers, 32 (4%) were growers, 6 (1%) were financiers (p.27)
 - * only 22% were known not to own the drugs (p.46)
 - * only 11% were known to have no decision-making authority (p.32)
9. The relevant conduct exception (which is trained under the current guideline and would continue under the proposed guideline) has a limited impact since few defendants were held for more than that with which they were personally involved, and even fewer would survive the requirement that they satisfy the note 6 requirements (no sophisticated tasks, no decision-making, only small, flat fee compensation, no supervising).
 - * Few are class C or E
 - * only (4% of all defendants were held accountable for more drugs than those with which they were personally involved (i.e. class C or E relevant conduct) (p.84)
 - * only 5 (4%) of couriers were class C or E (p.85)
 - * 7 (11%) of mules were class C or E (p.85); note that we classified border/foot mules as class C or E where they were held accountable for the drugs as a group
 - * only 7 (3%) of 203 mid-level dealers were class C or E (p.85)
 - * only 9 (5%) of 188 street-level dealers were class C or E (p.85)

- * Few qualify under note 6
 - * mid-level dealers typically should not qualify as performing unsophisticated, unskilled tasks
 - * only 11% were known to have no decision-making authority, and 65% had such authority (the rest were unknown or not corroborated) (p.32)
 - * 58% of those whose amount of compensation was identifiable (not necessarily corroborated) received payments that were not small (under \$1000) and would not qualify under the proposed guideline (p.38)
 - * 42% received forms of payment (percentage of the profits, ongoing wages, drugs) that would generally not qualify under the proposed guideline (p.40)

MEMORANDUM

To: Commissioners
From: Julie Carnes 
Re: Role Amendment to §3B1.2 (Mitigating Role) (Amendment 18(A))
Date: April 9, 1992

As you know, early next week we are scheduled to continue our consideration of Amendment 18(A), amending §3B1.2 (Mitigating Role). I have attached an amended copy of the role amendment, as well as a summary of the guideline and brief reasons for supporting the amendment.

I would like to emphasize that the proposed amendment is substantially the same as that published in the Federal Register at the beginning of this year; and the proposed amendment retains much of the current guideline, particularly with respect to general principles set forth in §3B1.2 (Mitigating Role).¹

In my opinion it is critical that we pass this amendment this year, regardless of the fate of other amendments proposed this cycle. Extensive public comment on the subject, and my own work in this area during the past two years, particularly with practitioners around the country, has convinced me that the current guideline provides inadequate guidance to the court. The current guideline is based on commendable general principles,

¹ Notes 1, 4 and 5 are drawn primarily from the current §3B1.2 and commentary. Notes 2 through 8 are substantially similar to notes or requests for comment published in the Federal Register in January of this year. The entire proposed amendment, with only limited modifications, was available to the Commission when we began consideration of the amendment on April 1, 1992.

Memorandum on Role Amendment
April 9, 1992

but it provides limited guidance on specific factors associated with mitigating roles.² Consequently, and inevitably, some defendants do not receive the adjustment who should receive it, and others receive it who should not.³ The proposed guideline follows the current guideline structure and sets forth specific factors (identified in the cases we reviewed) that courts can utilize to determine the relative culpability of the defendant.

Note that the proposed amendment was crafted after an extensive case file review and computer analysis of almost 1500 defendants. I strongly believe that further study in this area would produce no additional useful information, and would merely prolong the period during which the role guideline is applied inconsistently. The study identified the critical factors (e.g., limited knowledge of the criminal activity, no ownership of any portion of the drugs, no possession of firearm, performance of unskilled tasks, no decision-making authority) most commonly associated with mitigating role reductions. Factors not associated with receiving a mitigating role reduction, or which were frequently indeterminable, were not included in the proposed amendment.

² Indeed, while the current commentary states the role determination "is heavily dependent upon the facts of the particular case," it provides no assistance with respect to determining which facts are relevant to the role determination.

³ We investigated developing a computer model of the current guideline in order to quantify some of the potential disparity in application. Somewhat understandably, the very lack of specific guidance in the guideline that leads us to suspect there may be disparity also makes it difficult to develop an adequate computer model of the guideline. However, we were able to develop a model of the proposed guideline. This model showed that only 38-52% of those defendants receiving a mitigating reduction from the court also would receive a reduction under the proposed guideline; 11-18% of those receiving no adjustment from the court would receive an adjustment under the proposed guideline; and 47-61% of those receiving an adjustment from the court would not receive an adjustment under the proposed guideline.

Memorandum on Role Amendment
April 9, 1992

Following is a summary of the amendment, along with brief thoughts on each note.

Multiple Participants. Note 2 requires that there be multiple participants in the offense before a reduction may be given, but clarifies that the mere presence of an aggravating role participant does not mean a mitigating reduction necessarily is to be given. See United States v. Daughtrey, 874 F. 2d 213, 216 (4th Cir. 1989) for a fine resolution of the issues involved.

Firearms. Note 3 categorically excludes defendants who possess firearms from receiving a mitigating role reduction. I'm convinced that we do learn something about the culpability and role of a defendant who carries a firearm into a criminal transaction, be it a bank robbery or a drug deal.⁴ I think most courts agree with this principal: only 9 defendants carrying firearms (of 815 defendants studied) were given a mitigating role adjustment, and none of these received more than a 2-level reduction.

Plainly Among the Least Culpable. Notes 4 and 5 adopt and restate the current §3B1.2 framework for identifying mitigating role defendants: the minimal role (-4) defendant "plays a minimal role in concerted activity" and "plainly must be one of the least culpable of the participants" and the minor role (-2) defendant "plainly must be one of the

⁴ Option B would bar a mitigating role adjustment for a defendant whose coconspirator carried a firearm. This option may sweep too broadly, as in the case of a huge conspiracy where no more than one of 40 defendants carries a gun, in the case of a passive "girl-friend" whose boyfriend dealer carries a gun, or in the case of two defendants who meet to transfer drugs, and where one defendant intends to use the gun, if at all, against the other defendant. Note that 70 defendants were involved in activity where only a coconspirator carried the gun, and 19 of those received mitigating role reductions from the court (the proposed guideline would have given 25-29 of such defendants a mitigating role reduction). Also note that one-third of all defendants with relatively unsophisticated roles (passive enablers, gofers, lookouts, money-runners) were involved with coconspirators who carried dangerous weapons.

Memorandum on Role Amendment
April 9, 1992

less culpable participants." These general principles have proven workable over the years; retaining these principles would ensure that the substantial body of case law that has developed in this area would remain in place.

Scope of Knowledge. Note 4 also adopts current §3B1.2 language identifying the scope of the defendant's knowledge of the activity as an important consideration determining minimal role (-4). Our computer analysis showed this characteristic to be one of the factors most highly correlated with the receipt of a mitigating role reduction.

List of Characteristics. Note 6 sets forth a non-exhaustive list of characteristics ordinarily to be established in order to receive a mitigating role reduction. This list will give much-needed, structured guidance to courts in determining a defendant's eligibility for a mitigating role reduction, and will identify for defendants the offense characteristics to be proven in order to receive a reduction in offense level.⁵ The factors were identified in the study as having consistent correlation with the receipt of mitigating role reductions.

Selling, Owning, Financing Contraband. Note 7 prohibits defendants who sell or own the contraband, or finance the activity, from receiving any role reduction. The case file

⁵ The characteristic (note 6(C)) requiring small, flat-fee compensation presents an important additional characteristic associated with mitigating role defendants. Our research shows that defendants believed to have received \$1000 or less were associated more frequently with mitigating role reductions than the average population, while defendants believed to have received more than \$5000 were associated with mitigating role reductions considerably less frequently.

Despite this apparent association, it seems to me that the wiser course is to allow courts discretion in determining what may be "compensation small in amount," particularly in light of the extensive regional disparity in compensation. More importantly, 75% of the defendants known to receive \$1000 or less did not receive any mitigating role reduction. Because the amount of compensation is relatively infrequently corroborated, we might be well advised not to suggest a specific dollar figure, when to do so might inappropriately encourage a reduction based on an asserted amount of compensation.

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study showed that most courts rarely gave such defendants mitigating role reductions, but that up to 10% of street- and mid-level dealers received such reductions. However, the amendment makes clear that if the defendant is held accountable (under §1B1.3 Relevant Conduct) for the contraband of others with which the defendant was not involved, a reduction may be considered.

Couriers and Mules. Note 8 sets forth a rule for couriers and mules, primarily in order to eliminate inter-district disparity. I believe that Option B is the preferable option. The rule would prohibit such transporters from receiving minimal role (-4) reductions,⁶ but would permit minor role (-2) reductions where the defendant only transported contraband on one occasion⁷, and where the defendant satisfies the conditions set forth in notes 6 and 7. Note that the amendment would not require mules and couriers to receive a minor role (-2) reduction.⁸ Inter-district disparity is apparent on many fronts: data from the case file

⁶ The current guideline suggests the availability of a minimal role reduction for couriers where the defendant was involved in "a single smuggling transaction involving a small amount of drugs."

⁷ Data that we collected on approximately 150 couriers showed that 20-30% of couriers were known to have transported drugs on more than one occasion, and consequently would be barred from receiving an adjustment.

⁸ Of 113 couriers, 8 had non-flat fee compensation (46 additional had an unknown form of compensation), 5 owned a portion of the drugs (68 uncorroborated), 1 financed (30 uncorroborated), 40% had compensation greater than \$1,000, 10 had decision-making authority (72 uncorroborated), 6 had full knowledge (40 uncorroborated), and 5 were held for quantities greater than that which they carried personally.

Of 60 mules, 6 had non-flat fee compensation (11 additional had an unknown form of compensation), 3 owned a portion of the drugs (47 uncorroborated), 0 financed (7 uncorroborated), 62% had compensation greater than \$1,000, 3 had decision-making authority (50 uncorroborated), 3 had full knowledge (32 uncorroborated), and 6 were held for quantities greater than that which they carried personally.

Memorandum on Role Amendment
April 9, 1992

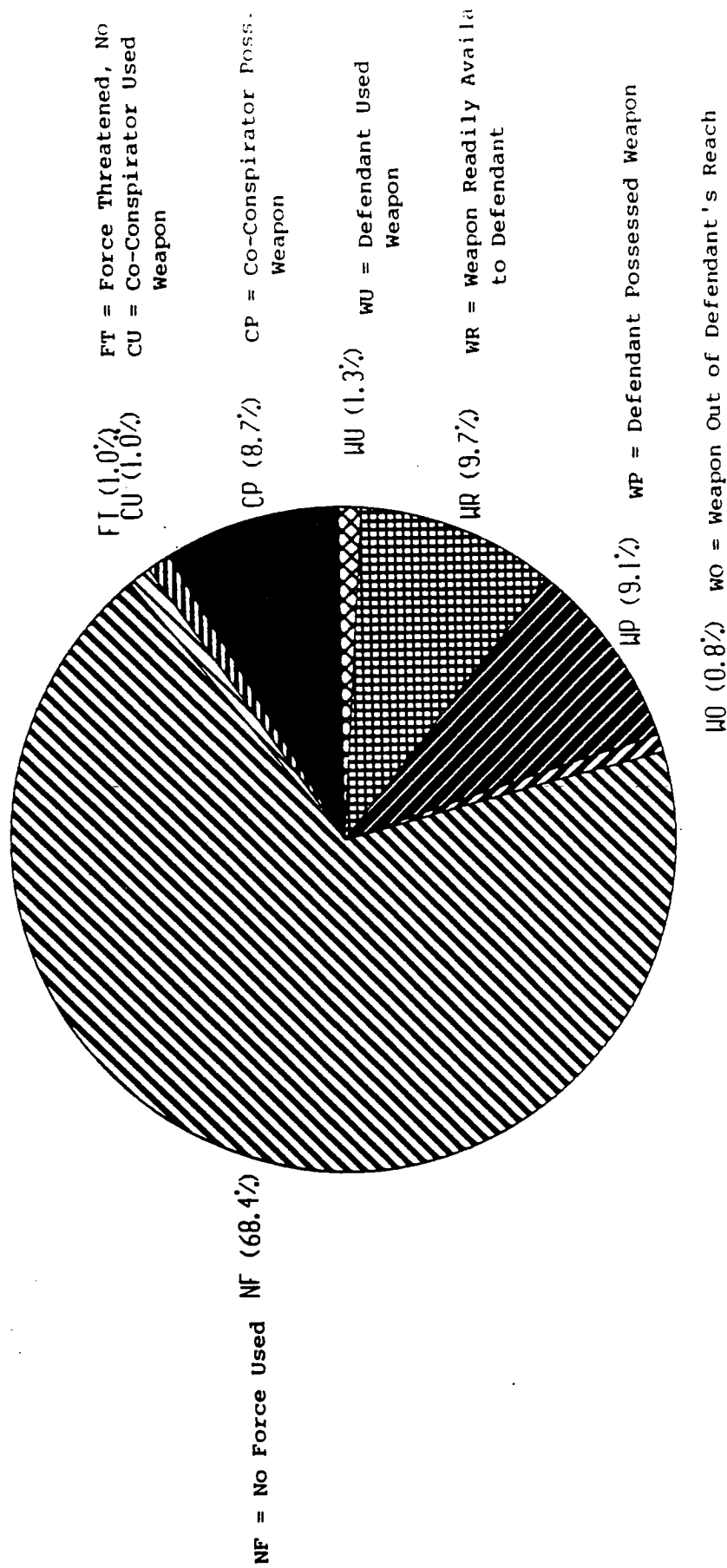
study show that 10 of the 12 mules⁹ who received minimal role (-4) reductions were from the same district. Other districts report through public comment that such defendants are never considered for any type of mitigating role reduction. Meanwhile, the Ninth Circuit in a February 19, 1992, decision held that the Commission has failed to take into consideration the mitigating role of mules in a drug offense, and such defendants may qualify for a downward departure based on "marginal culpability." See United States v. Valdez-Gonzalez, Nos. 89-10274, etc., (9th Cir. Feb. 19, 1992).

At present, 12 (20%) of 60 mules and 4 (4%) of 113 couriers received minimal role (-4) reductions. Twenty-two, (19%) of couriers received minor (-2) or intermediate (-3) role reductions, and 8 (13%) of mules received minor (-2) or intermediate (-3) role reductions.

⁹ "Mules" were defined as defendants who carried or transported the drugs internally or on their person, whereas "couriers" carried or transported the drugs, without the aid of a vehicle or other equipment.

Use of Weapon/Show of Force

All Drug Defendants Studied



USE OF A WEAPON

Comparing FORCE Used by Mitigating and No Role Defendants
CURRENT Guideline vs. PROPOSED Guidelines

CURRENT Guideline

MITROLE	FORCE								Total
	CP	CU	FT	NF	WO	WP	WR	WU	
(No Adj) 0	46	5	4	399	5	56	54	7	576
(Minor) -2	10	1	2	54	1	2	6	1	77
-3	4	1	0	7	0	0	0	0	12
(Minml) -4	3	0	1	25	0	0	0	0	29
Total	63	7	7	485	6	58	60	8	694

PROPOSED Guideline -- ASSUMPTION 1

(Def's assertions about offense conduct counted in
Def's favor for determining mitigating role)

PROPROLE	FORCE								Total
	CP	CU	FT	NF	WO	WP	WR	WU	
(No Adj) 0	36	5	6	329	5	47	53	8	489
(Minor) -2	20	1	1	97	1	0	0	0	120
(Minml) -4	7	1	0	43	0	0	0	0	51
(Unknwn) 9	0	0	0	16	0	11	7	0	34
Total	63	7	7	485	6	58	60	8	694

PROPOSED Guideline -- ASSUMPTION 2

(Def's assertions about offense conduct NOT counted in
Def's favor for determining mitigating role)

PROPROLEB	FORCE								Total
	CP	CU	FT	NF	WO	WP	WR	WU	
(No Adj) 0	39	6	6	384	5	47	53	8	548
(Minor) -2	18	1	1	71	1	0	0	0	92
(Minml) -4	6	0	0	14	0	0	0	0	20
(Unknwn) 9	0	0	0	16	0	11	7	0	34
Total	63	7	7	485	6	58	60	8	694

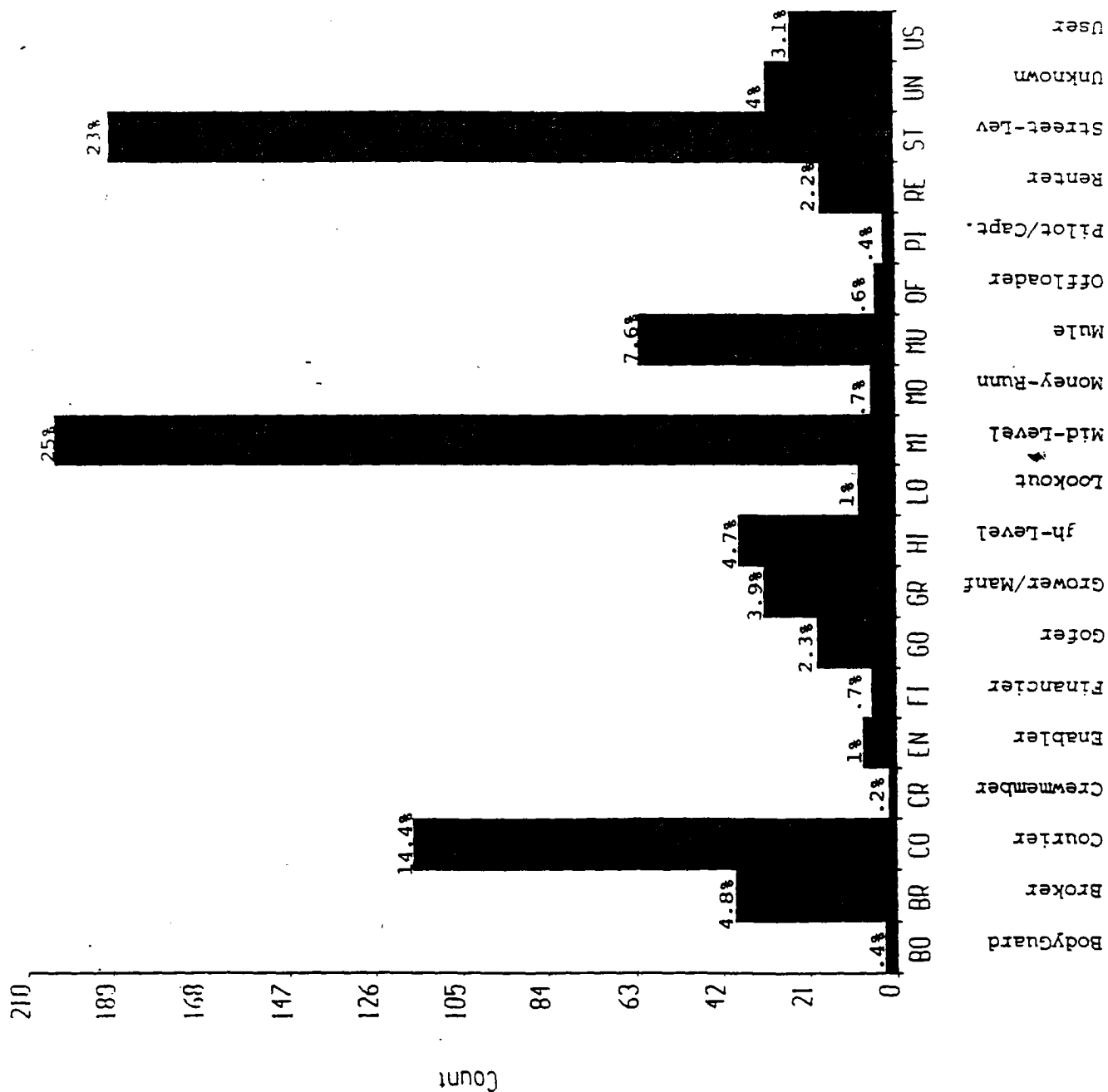
USE OF A WEAPON

Type of Force

All Defendants Studied, Grouped by Tasks Performed

FUNCTION	FORCE								Total
	CP	CU	FT	NF	WO	WP	WR	WU	
Bodyguard	1	0	0	0	0	1	1	0	3
Broker	6	0	0	31	1	0	1	0	39
Courier	8	2	0	99	0	5	2	1	117
CrewMember	0	0	0	2	0	0	0	0	2
Enabler	0	0	0	7	0	0	1	0	8
Financier	1	0	0	4	0	0	1	0	6
Gofer	6	0	1	10	0	0	2	0	19
Grower/Man	3	0	0	13	1	6	9	0	32
High-Level	4	1	0	18	0	7	8	0	38
Lookout	3	0	0	6	0	0	0	0	9
Mid-Level	12	2	4	129	2	21	28	5	203
Money-Runn	2	0	0	4	0	0	0	0	6
Mule	0	0	0	59	0	2	1	0	62
Offloader	2	0	0	2	0	0	1	0	5
Pilot/Capt	0	0	0	3	0	0	0	0	3
Renter	4	0	0	12	0	0	2	0	18
Street-Lev	12	2	2	125	2	25	17	4	189
Unknown	5	1	1	16	0	5	3	0	31
Total	69	8	8	540	6	72	77	10	790

Frequency of Functions Performed by Drug Offenders



TASKS PERFORMED*

Tasks Performed by Defendants

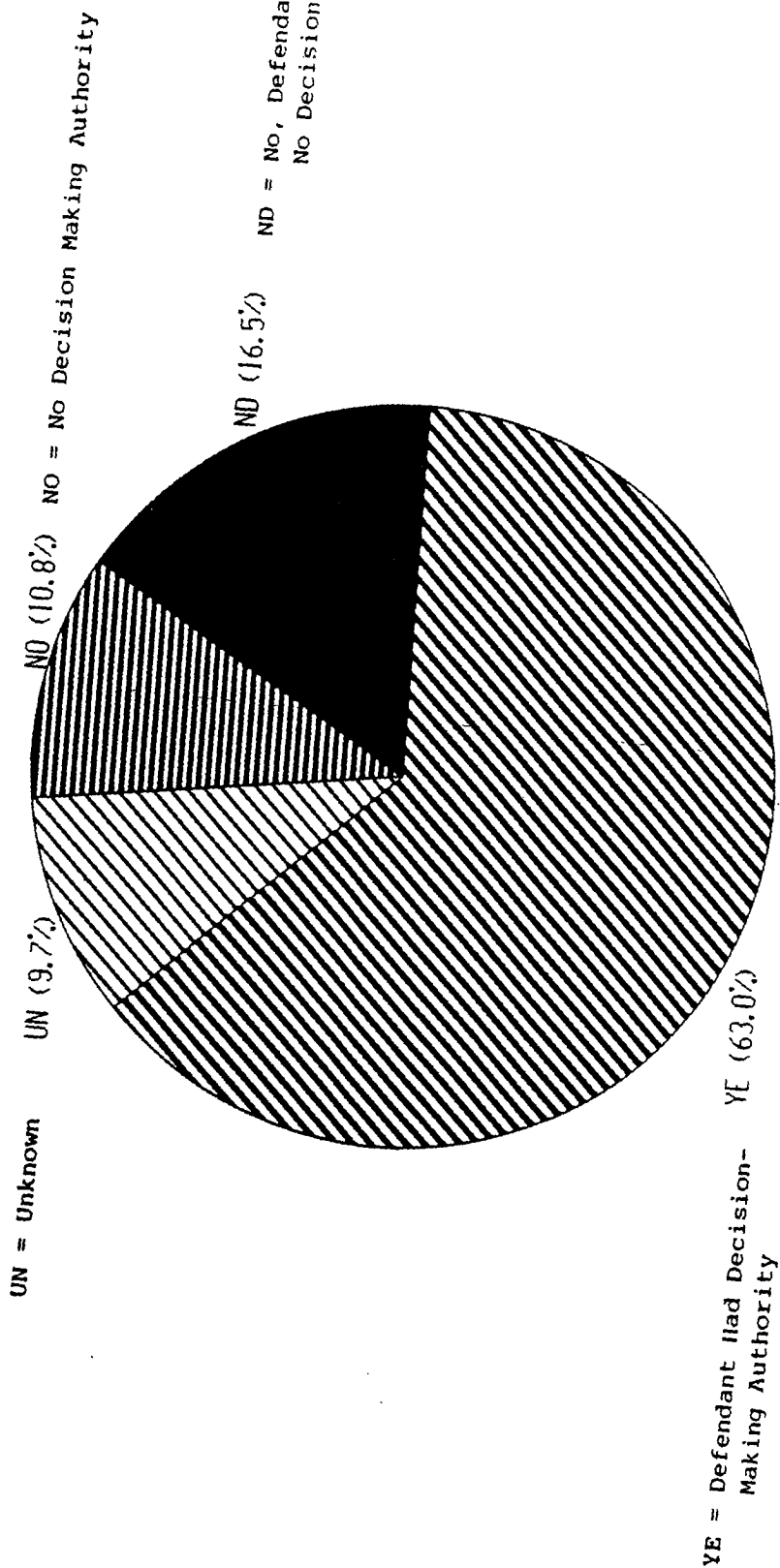
Receiving Mitigating and No Role Adjustments

CURRENT Guideline

FUNCTION	0	-2	-3	-4	Total
Bodyguard	3	0	0	0	3
Broker	30	5	1	2	38
Courier	87	20	2	4	113
CrewMember	2	0	0	0	2
Enabler	4	2	0	2	8
Financier	5	1	0	0	6
Gofer	9	6	3	1	19
Grower/Man	22	3	1	0	26
High-Level	11	0	0	0	11
Lookout	5	1	0	3	9
Mid-Level	146	9	0	1	156
Money-Runn	4	0	0	1	5
Mule	40	7	1	12	60
Offloader	4	1	0	0	5
Pilot/Capt	3	0	0	0	3
Renter	11	5	1	1	18
Street-Lev	165	14	1	1	181
Unknown	25	3	2	1	31
User	23	1	0	0	24
Total	599	78	12	29	718

* Court would determine whether tasks performed by defendant are skilled or unskilled.

Decision-Making Authority All Drug Defendants Studied



DECISION-MAKING AUTHORITY

Decision-Making Authority Among Mitigating and No Role Defendants
CURRENT Guideline vs. PROPOSED Guidelines

CURRENT Guideline

MITROLE	DECISION				Total
	ND	NO	UN	YE	
(No Adj) 0	91	50	64	371	576
(Minor) -2	19	19	8	31	77
-3	5	4	1	2	12
(Minml) -4	14	9	1	5	29
Total	129	82	74	409	694

PROPOSED Guideline - ASSUMPTION 1

(Def's assertions about offense conduct counted in Defendants' favor for determining mitigating role)

PROPROLE	DECISION				Total
	ND	NO	UN	YE	
(No Adj) 0	57	16	46	370	489
(Minor) -2	40	49	5	26	120
(Minml) -4	32	17	0	2	51
(Unknwn) 9	0	0	23	11	34
Total	129	82	74	409	694

PROPOSED Guideline - ASSUMPTION 2

(Def's assertions about offense conduct NOT counted in Def's favor for determining mitigating role)

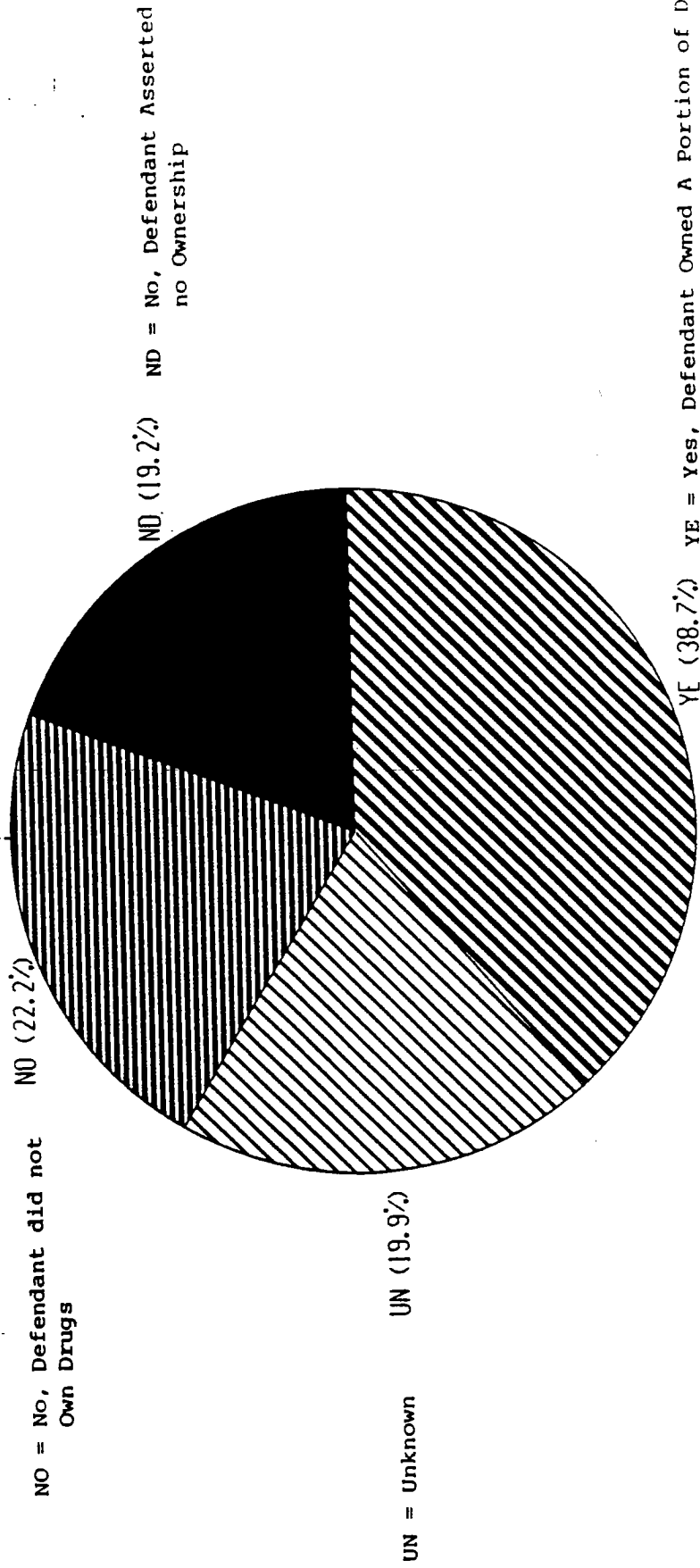
PROPROLEB	DECISION				Total
	ND	NO	UN	YE	
(No Adj) 0	107	17	46	378	548
(Minor) -2	20	49	5	18	92
(Minml) -4	2	16	0	2	20
(Unknwn) 9	0	0	23	11	34
Total	129	82	74	409	694

DECISION MAKING AUTHORITY

All Defendants Studied, Grouped by Tasks Performed

FUNCTION	DECISION				Total
	ND	NO	UN	YE	
Bodyguard	0	1	2	0	3
Broker	2	5	4	28	39
Courier	51	32	23	11	117
CrewMember	1	1	0	0	2
Enabler	4	4	0	0	8
Financier	0	0	4	2	6
Gofer	4	12	1	2	19
Grower/Man	1	1	4	26	32
High-Level	0	0	0	38	38
Lookout	2	5	0	2	9
Mid-Level	2	2	5	194	203
Money-Runn	1	4	0	1	6
Mule	44	7	6	5	62
Offloader	0	4	0	1	5
Pilot/Capt	0	0	0	3	3
Renter	7	5	2	4	18
Street-Lev	3	2	6	178	189
Unknown	8	0	20	3	31
Total	130	85	77	498	790

Owning Any Portion of Drugs All Drug Defendants Studied



OWNERSHIP OF ANY PORTION OF DRUGS
Comparing Ownership of Drugs Among
Mitigating and No Role Defendants
CURRENT Guideline vs. PROPOSED Guidelines

CURRENT Guideline

MITROLE	OWNED				Total
	ND	NO	UN	YE	
(No Adj) 0	112	103	134	227	576
(Minor) -2	17	40	10	10	77
-3	4	6	2	0	12
(Minml) -4	15	11	2	1	29
Total	148	160	148	238	694

PROPOSED Guideline -- ASSUMPTION 1

(Def's assertions about offense conduct counted in Defendants' favor for determining mitigating role)

PROPROLE	OWNED				Total
	ND	NO	UN	YE	
(No Adj) 0	79	61	114	235	489
(Minor) -2	43	74	0	3	120
(Minml) -4	26	25	0	0	51
(Unknwn) 9	0	0	34	0	34
Total	148	160	148	238	694

PROPOSED Guideline -- ASSUMPTION 2

(Def's assertions about offense conduct NOT counted in Def's favor for determining mitigating role)

PROPROLEB	OWNED				Total
	ND	NO	UN	YE	
(No Adj) 0	132	67	114	235	548
(Minor) -2	16	73	0	3	92
(Minml) -4	0	20	0	0	20
(Unknwn) 9	0	0	34	0	34
Total	148	160	148	238	694

OWNERSHIP OF ANY PORTION OF DRUGS

All Drug Defendants, Grouped by Tasks Performed

FUNCTION	ND	NO	OWNED		Total
			UN	YE	
Bodyguard	0	1	2	0	3
Broker	5	28	6	0	39
Courier	55	43	14	5	117
CrewMember	1	1	0	0	2
Enabler	3	5	0	0	8
Financier	0	1	5	0	6
Gofer	2	15	1	1	19
Grower/Man	1	6	6	19	32
High-Level	0	3	4	31	38
Lookout	1	8	0	0	9
Mid-Level	11	17	34	141	203
Money-Runn	1	5	0	0	6
Mule	42	11	6	3	62
Offloader	1	4	0	0	5
Pilot/Capt	0	2	1	0	3
Renter	9	8	1	0	18
Street-Lev	12	15	58	104	189
Unknown	8	2	19	2	31
Total	152	175	157	306	790

VARIABLE

SUMMARY OF VARIABLE AND CODES

Corrob:

Form of Compensation Corroborated by Evidence?

YE -- Yes

NO -- No, Defendant's Assertion Only

UN -- Unknown

Corrobo:

Amount of Compensation Corroborated by Evidence?

YE -- Yes

NO -- No, Defendant's Assertion Only

UN -- Unknown

Table

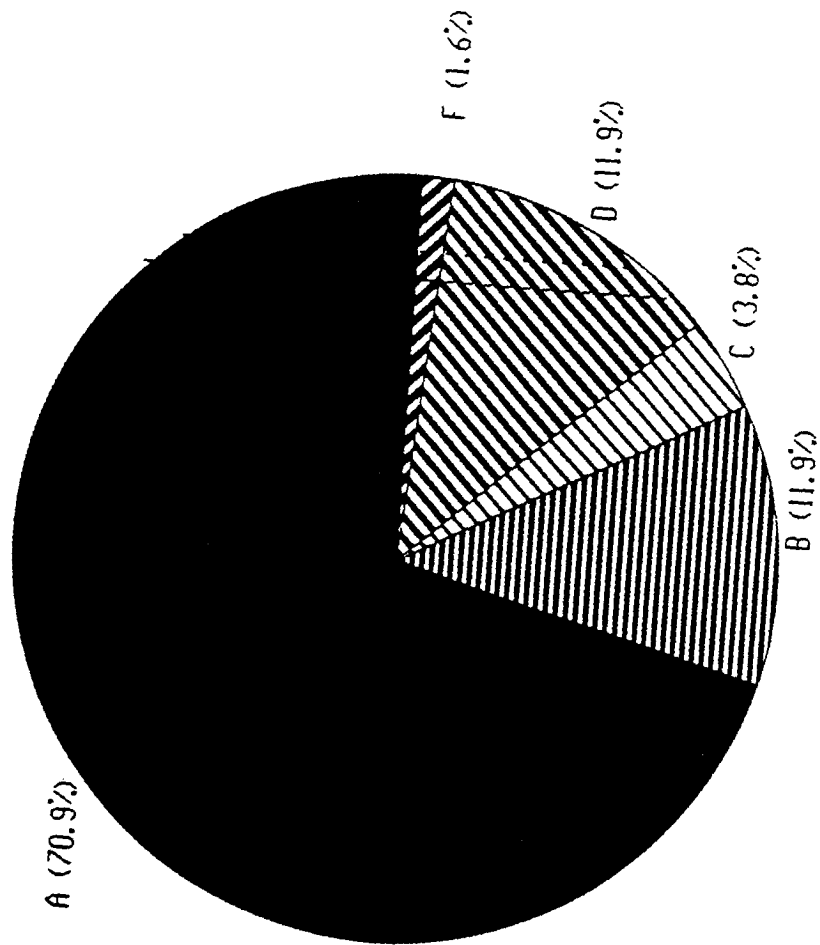
Distribution of Corroborated and Uncorroborated Responses

(Source: Drug Working Group Sample, Records Where Information Provided in File, N=790)

Factor	Total Defendants 0.00	Corroborated Response		Defendant Assertion Only (ND)		Unknown (UN)	
		N	%	N	%	N	%
Form of Compensation	790	328	41.5%	172	21.8%	290	36.7%
Amount of Compensation	790	142	18.0%	203	25.7%	445	56.3%
Ownership of Drugs	790	481	60.9%	152	19.2%	157	19.9%
Financed Offense	790	668	84.6%	45	5.7%	77	9.8%
Decision Authority	790	583	73.8%	130	16.5%	77	9.8%
Exercised Control	790	768	97.2%	4	0.5%	18	2.3%
Total	4,640	2,970	64.0%	706	15.2%	1,064	22.9%

Relevant Conduct Determinations

All Defendants Studied



RELEVANT CONDUCT DETERMINATION
Comparing Relevant Conduct Among
Mitigating and No Role Adjustment Defendants
CURRENT Guideline vs. PROPOSED Guidelines

CURRENT Guideline

MITROLE	RELCONDUCT						Total
	A	B	C	D	E	F	
(No Adj) 0	430	59	19	72	1	9	590
(Minor) -2	35	15	6	12	2	4	74
-3	4	6	1	1	0	0	12
(Minml) -4	18	3	3	1	2	0	27
Total	487	83	29	86	5	13	703

PROPOSED Guideline -- ASSUMPTION 1
(Def's assertions about offense conduct counted in
Defendants' favor for determining mitigating role)

PROPROLE	RELCONDUCT						Total
	A	B	C	D	E	F	
(No Adj) 0	378	46	19	49	2	9	503
(Minor) 2	59	28	6	17	2	4	116
(Minml) 4	25	7	3	14	1	0	50
(Unknwn) 9	25	2	1	6	0	0	34
Total	487	83	29	86	5	13	703

PROPOSED Guideline -- ASSUMPTION 2
(Def's assertions about offense conduct NOT counted in
Def's favor for determining mitigating role)

PROPROLEB	RELCONDUCT						Total
	A	B	C	D	E	F	
(No Adj) 0	417	53	22	58	2	9	561
(Minor) 2	38	22	6	17	2	4	89
(Minml) 4	7	6	0	5	1	0	19
(Unknwn) 9	25	2	1	6	0	0	34
Total	487	83	29	86	5	13	703

RELEVANT CONDUCT
 Relevant Conduct Drug Determination

All Drug Defendants, Grouped by Tasks Performed

FUNCTION	RELCONDUCT						Total
	A	B	C	D	E	F	
Bodyguard	2	1	0	0	0	0	3
Broker	25	5	2	5	1	0	38
Courier	69	16	5	25	0	1	116
CrewMember	2	0	0	0	0	0	2
Enabler	2	0	0	3	1	2	8
Financier	5	1	0	0	0	0	6
Gofer	10	5	0	1	0	1	17
Grower/Man	22	2	0	5	0	2	31
High-Level	30	2	1	3	0	0	36
Lookout	3	1	1	4	0	0	9
Mid-Level	150	23	6	18	1	2	200
Money-Runn	1	4	0	1	0	0	6
Mule	48	4	6	3	1	0	62
Offloader	4	0	0	1	0	0	5
Pilot/Capt	2	0	0	1	0	0	3
Renter	6	4	0	6	0	1	17
Street-Lev	135	23	8	15	1	3	185
Unknown	21	3	1	3	0	1	29
User	25	0	0	0	0	0	25
Total	562	94	30	94	5	13	798

SENTENCING DATA

Base Offense Levels Among All Drug Defendants Studied

BASEOL	Freq	Percent	Cum.
4	14	1.8%	1.8%
6	19	2.4%	4.2%
8	4	0.5%	4.7%
9	1	0.1%	4.8%
10	3	0.4%	5.2%
12	82	10.4%	15.6%
14	32	4.1%	19.6%
15	3	0.4%	20.0%
16	44	5.6%	25.6%
17	1	0.1%	25.7%
18	46	5.8%	31.6%
20	42	5.3%	36.9%
22	21	2.7%	39.5%
24	34	4.3%	43.9%
25	1	0.1%	44.0%
26	150	19.0%	63.0%
28	56	7.1%	70.1%
30	27	3.4%	73.5%
32	70	8.9%	82.4%
34	66	8.4%	90.7%
36	73	9.3%	100.0%
Total	789	100.0%	

Statutory Minimums Applicable to All Drug Defendants Studied

STATMIN	Freq	Percent	Cum.
0	435	53.6%	53.6%
3	1	0.1%	53.8%
12	15	1.8%	55.6%
60	187	23.1%	78.7%
72	1	0.1%	78.8%
120	138	17.0%	95.8%
180	10	1.2%	97.0%
240	14	1.7%	98.8%
300	2	0.2%	99.0%
360	2	0.2%	99.3%
420	1	0.1%	99.4%
996	1	0.1%	99.5%
999	4	0.5%	100.0%
Total	811	100.0%	

Table

Median Sentence Imposed by Function in the Offense

(Source: Drug Role Case Review, N=811)

Function in the Offense	Number of Defendants	Median Sentence Imposed (months)
Enabler	8	0
Gofer	19	41
Offloader	5	60
Lookout	9	21
Moneyrunner	6	13
Crewmember	2	90
Mule	62	60
Courier	117	37
Bodyguard	3	121
Renter	18	24
Broker	39	41
Pilot	3	97
Financier	6	60
Manufacturer	32	60
Street-Level	189	33
Mid-Level	203	78
High-Level	38	180
Unknown	31	60

Method Used for Selection of Case File Sample Drug Working Group Case File Project

After consultation with Monitoring, the Drug Working Group followed the selection process briefly outlined below in order to identify the sample of 815 cases reviewed for a study of role in the offense.

Base Population	29,011 cases	All MONFY90 cases -- the population for review was drawn from the MONFY90 sample.
25% Sample	~7,000 cases	An initial random 25% sample of the MONFY90 population was taken -- that sample was the "25% Departure Sample" of all MONFY90 cases commonly used by Monitoring for data analysis. This random 25% sample of all cases is considered representative of the general population (it is not limited to cases in which a departure was entered).
Add'l 25% Sample	887 cases	A 25% random sample of the departure sample was then taken. Selected from this sample for review were cases involving §2D guidelines, involving title 21 offenses, or having a relevant FPSSIS drug code.
Cases Reviewed	853 cases	853 cases were provided to drug working group for review. Thirty-four of the initial 887 cases were not available for review: 27 of the 887 cases had been archived and 7 additional cases otherwise were not available.
N	815 cases	The drug working group reviewed all 853 cases, and ultimately an additional 28 cases were discarded. Cases were discarded where the drug count was a pre-guideline count, the FPSSIS drug variable falsely identified the case as a §2D1.1 case, no PSI was provided, or the case involved only anabolic steroids or precursors. The sample N represents approximately 1/16 (6%) of the MONFY90 population.

CODING MANUAL
DRUG WORKING GROUP CASE FILE STUDY OF ROLE IN THE OFFENSE

"Coder" Put your initials here.
"Id Number" Fill in the USSC id number on the cover of the file.
"Case Number" Leave this blank.

General Coding Instructions and Definitions:

- * **IMPORTANT:** Unless otherwise instructed, mark only one answer for each question. The computer program we are using will not analyze data with more than one answer per question.

In questions 101, 102, 121: mark only the applicable answer that is the **most serious**, that is, the farthest down on the list of possible answers (e.g., Drugs for Personal Use instead of Flat Fee, Defendant Showed Weapon instead of Defendant Possessed Weapon).
- * The following instructions apply to questions 107, 108, 109, 110, 113:

Yes: note when (1) the weight of the government's evidence establishes the factor, or (2) the defendant so admits (i.e., against defendant's interest), or (3) the defendant and the government so agree, or (4) the court so determines.

No: note when (1) the weight of the defendant's evidence disproves the factor, (2) the government's evidence disproves the factor, (3) the defendant and the government so agree, or (4) the court so determines.

No, Defendant's Assertion Only: note when the defendant asserts the factor, but provides no corroboration for such assertion, and the government presents no evidence on the issue.

Unknown: note (1) when the weight of the evidence of both parties is even, or (2) when no information on the factor is presented in the case file, or (3) when the government asserts the factor, but provides no evidence for such assertion, and the defendant presents no evidence on the issue.
- * In questions where "Unknown" may be an answer, indicate "Unknown" as detailed in the preceding note.
- * A "participant" is defined in Note 1 of the Commentary to §3B1.1.
- * The "offense" is the offense conduct which the defendant committed or aided and abetted.
- * "Criminal activity" is the conduct under §1B1.3 (Relevant Conduct) for which defendant is accountable.
- * The "conspiracy" is the criminal conduct of the entire conspiracy, and is not limited to the criminal activity of the defendant. Thus, in some cases, the conspiracy will be broader in scope than the "criminal activity" of the defendant, and the defendant may not have jointly undertaken the conduct, or reasonably foreseen the scope of the conspiracy.
- * The "drugs" are those controlled substances that are the object of the offense, the criminal activity, or the entire conspiracy, as appropriate.
- * In questions 114 - 120, "drug quantity" is the total quantity of all drugs (including differing drugs), converted to a single base offense level using the table in §2D1.1.
- * Where the defendant only uses drugs (no evidence the defendant distributes), answer only question 121.

Specific Instructions:

100 Indicate whether the defendant is the **only known participant** in the offense, or whether more than one participant is involved. Relevant sources may include the related cases or codefendants section of the PSI, or information regarding names or pseudonyms of coconspirators. For this question only, situations otherwise coded as "No, Defendant's Assertion Only" are coded simply as "No."

101 Indicate the extent to which force was actually used in the criminal activity. **"Weapon"** includes any firearm, explosive, destructive device, bomb, knife, or other instrument, but does not include a fist.

NF -- No Force and No Weapon: neither the defendant nor a coconspirator threaten or use any force in connection with the criminal activity, nor do they possess a weapon. Also indicate NF, in any case where there is no statement with regard to whether force or a weapon was used or threatened.

FT -- Force Threatened/Used (No Weapon): the defendant (not a coconspirator) threatened or used force in connection with the criminal activity, but did not possess a weapon.

CP -- Coconspirator Possessed/Carried Weapon: a participant in the criminal activity, other than the defendant, possessed or carried a weapon in connection with the criminal activity and a §2D1.1(b)(1) enhancement may be indicated for the coconspirator. Also applies where the defendant is in the same house as a weapon that is undeniably owned by a coconspirator, and the defendant has not and almost certainly is not likely to use the weapon.

CU -- Coconspirator Showed/Used Weapon: a participant in the criminal activity, other than the defendant, showed (e.g., displayed, brandished, threatened) or used a weapon in connection with the criminal activity, and a §2D1.1(b)(1) enhancement may be indicated for the coconspirator.

WO -- Weapon Out of Defendant's Reach: the defendant possesses a weapon but its possession is so unconnected (temporally or spatially) with drugs or drug proceeds (money) and the criminal activity that a §2D1.1(b)(1) enhancement would not be likely.

WR -- Weapon Readily Available to Defendant: the defendant did not possess, carry, brandish, threaten, or use a weapon during and in relation to the criminal activity, but (1) possessed a weapon which was slightly removed from the defendant and the drugs (in another room or in the trunk of a car); or (2) possessed a weapon at the same location as the drugs or drug proceeds (money) but the defendant is not at that location.

WP -- Weapon Possessed/Carried by Defendant or at Defendant's Direction: the defendant (1) possessed or carried a weapon in connection with the criminal activity, (2) had a weapon within easy reach but not on the defendant's person (e.g., in the same room or in the cabin of the car), or (3) did not possess a weapon, but directed a coconspirator to possess, etc., a weapon in connection with the criminal activity. (See standard applied for §2D1.1(b)(1).)

WU -- Weapon Showed/Used By Defendant or at Defendant's Direction: the defendant (1) showed (e.g., displayed, brandished, threatened) or used a weapon in connection with the criminal activity, or (2) did not possess a weapon, but directed a coconspirator to show a weapon in connection with the criminal activity. (See standard applied for §2D1.1(b)(1).)

102 Indicate the **form of any compensation** or benefit which the defendant received or expected to receive as a result of participating in the criminal activity. **Focus on "profit" and on "the defendant";** the amount of compensation the defendant received if he was paid by another person, or the amount of profit (after expenses) the defendant received if he was "his own boss."

FF -- Flat Fee -- a fee or in-kind payment (other than drugs) which is specifically tied to individual acts undertaken by the defendant on behalf of the criminal activity.

DP -- Drugs for Personal Consumption -- drugs specifically tied to individual acts undertaken by the defendant on behalf of the criminal activity, and the defendant used them for personal consumption only.

FD -- Flat Fee and Drugs for Personal Consumption -- both a flat fee and drugs which were used for personal consumption only.

DR -- Drugs -- drugs specifically tied to individual acts undertaken by the defendant on behalf of the criminal activity, and the defendant distributed at least a portion of the drugs.

ON -- Ongoing Wages/Salary -- a fee or in-kind payment not specifically tied to individual acts, but representing ongoing payment over a period of time.

PE -- Percentage of Profits/Drugs -- a share of the drugs involved in the criminal activity, which defendant distributed for defendant's own profit; or a share in the proceeds from the distribution of such drugs -- shares are specifically tied to quantity of drugs distributed or profits earned, and not merely to individual acts undertaken by the defendant.

103 Indicate whether the form of compensation is corroborated. Note there can be no "NO" answer.

Yes: note when (1) the weight of the government or the defendant's evidence corroborates the answer given in the preceding question; or (2) the defendant so admits (i.e., against defendant's interest); or (3) the defendant and the government so agree; or (4) the court so determines.

No, Defendant's Assertion Only: note when the defendant asserts anything other than PE -- Percentage of Profits/Drugs, but provides no evidence for such assertion, and the government presents no evidence on the issue.

104 Indicate the dollar amount of compensation, or other benefit, the defendant (not all participants in the criminal activity) directly received or expected to receive for participation in the criminal conduct (indicate the aggregate, not the per-transaction, compensation here). "Profit" or "compensation" is equal to total revenue minus expenses -- do not indicate total revenue here. The figure indicated should represent the profit received or expected to be received by the defendant, not other participants in the activity. Note: in the unusual case where information is available regarding the actual after-expenses profit due a dealer, the profit figure should be indicated. Next, provide further detail by describing the compensation/benefit in terms of amount received (if drugs or in-kind compensation determine their value, where possible), and frequency with which it was received or expected to be received. Note: the computer will only generate data on the "amount" field and the "number of transactions field" -- put only one numerical value for each answer here. The further "description" is an open field which the computer will not run data for. This second field is for subsequent working group use.

105 Indicate whether the amount of compensation is corroborated. Note there can be no "NO" answer.

Yes: note when (1) the weight of the government or the defendant's evidence corroborates the answer given in the preceding question; or (2) the defendant so admits (i.e., against defendant's interest); or (3) the defendant and the government so agree; or (4) the court so determines.

No, Defendant's Assertion Only: note when the defendant asserts any figure, but provides no evidence for such assertion, and the government presents no evidence on the issue.

- 106 Indicate the total revenue (not profit) derived or expected from the criminal activity, or to be received or expected to be received by the defendant if the defendant is the only known participant. Focus on "revenue" and "criminal activity." The amount of money received (not just the profit) by the entire conspiracy (not just the defendant). Also look to the total value of the drugs involved. Use any information available to determine this figure. Further describe the total revenue, and elaborate on profit if profit is known. involved.
- 107 Indicate whether the defendant owned or expected to own a portion of the drugs involved in the criminal activity. A defendant did not own a portion of the drugs merely because the defendant received a small portion for defendant's personal use as compensation. A defendant does not own drugs in every case where the defendant has sold drugs, even if the defendant does not implicate another defendant as an owner. A defendant may, however, own drugs where the defendant admits to selling drugs on an ongoing basis, and implicates no other defendant as the owner of the drugs.
- 108 Indicate whether the defendant actually financed any aspect of the criminal activity, including the purchase, importation, manufacture, cultivation, transportation, or distribution of the drugs. The term "any aspect of the criminal activity" is to be considered broadly. The term "financed" means supplying the money for the aspect of the activity without taking physical or constructive possession of the drugs. Consequently, a person who finances the purchase of drugs does not typically own the drugs, nor does one who owns the drugs typically finance the purchase of the drugs. Focus on whether defendant paid for any aspect of the criminal activity, but did not possess or distribute the drugs associated with that payment. A defendant who buys drugs and distributes them did not "finance" -- he "owned." A defendant who gives another person money to buy and distribute drugs did "finance." Of course, a defendant may "own" one quantity of drugs and distribute them, and "finance" another. This is the relatively rare situation when you would check both "own" and "finance."
- 109 Indicate whether the defendant had any decision-making authority in the criminal activity. The defendant need not have actually exercised any such authority. Decision-making authority includes (1) selling, or negotiating the sale or terms of a sale of drugs; (2) exercising any decision-making authority with respect to the purchase, importation, manufacture, cultivation, transportation, or distribution of the drugs, or (3) supervising, managing, or recruiting another participant. Terms of the sale include parties, price, quantity, or location. Consider defendant's role only with respect to terms of the sale of drugs, and not terms of other transactions, such as where a defendant merely negotiated compensation for conduct not directly connected with drugs (a carpenter building a barn for a marijuana operation, a renter for profit). NOTE: where the defendant exchanged drugs for any consideration, assume he had decision-making authority, unless the weight of the evidence shows, or the court determines, that the defendant merely served as a gopher or "clerk" for another dealer, and did not have decision-making authority.
- 110 Indicate whether the defendant actually exercised control over the drugs for any period of time. If the defendant had control, indicate the actual number of hours or days he had such control. Control should be understood in the common law property sense of possession and dominion over the drugs. Where only the defendant is known to be involved in the criminal activity, assume that the defendant exercises control over the drugs. Where the defendant and one or more participants appear to be in joint possession of the drugs (e.g., both are riding in a vehicle which contains drugs, both are walking together and one carries a package of drugs), assume that the defendant and all participants each exercise control over the drugs, unless corroborating evidence indicates that the defendant did not exercise control over the drugs. Indicate the number of hours (if less than 24; if less than 1 hour, indicate 1 hour), or the number of days (approximate the number: 1 week = 7 days, 1 month = 30 days, 1 year = 365 days). To the extent possible, determine the period of control over the drugs when any information is available. (e.g., by approximating travel time where the points of origination and destination are known).

- 111 Indicate the **period of time** (i.e., the number of hours or days -- see above paragraph for instructions) during which defendant actually participated in the criminal activity. Count any period of time encompassing any conduct of the defendant, including any intervening periods of time during which the defendant committed no criminal conduct, unless such intervening periods are more than three months in length. In the case of intervening periods, aggregate the periods of time preceding and following the intervening period. Also note whether the period of time is substantially shorter than the duration of the entire conspiracy, or was approximately the duration of the entire conspiracy. If the period of time is less than 1 hour, indicate 1 hour.
- 112 Indicate the **period of time** (i.e., the number of hours or days) over which the conspiracy took place. (See instructions for preceding two paragraphs.)
- 113 Indicate the extent of the defendant's actual **knowledge of the scope of the criminal activity**. Determine whether there is evidence of "criminal activity" for which the defendant was accountable beyond the offense conduct of the defendant. (See definitions in general instructions section above.) If there is such evidence, indicate the scope of defendant's knowledge of that conspiracy, whether or not the defendant is criminally responsible for the activity of such conspiracy. If there is no evidence of criminal conduct of others, indicate Not Applicable. (This will commonly coincide with a "Yes" answer to the first question indicating the defendant is the only known participant in the offense. Factors that demonstrate the defendant's level of knowledge include the defendant's knowledge (1) of the scope and structure of the criminal activity, (2) of the identity of other participants (including buyers and sellers), (3) of the conduct of other participants, (4) of the quantity and type of drugs dealt, and (5) of the terms of criminal transactions.
- Full Knowledge:** the defendant knows most details of all of the above five factors.
- Partial Knowledge:** the defendant knows some (incomplete) details of two or more of the above five factors.
- No Knowledge:** the defendant knows some (incomplete) details of one or none of the above five factors.
- 114 Indicate the **type of drug** involved in the criminal activity. Indicate only the primary drug involved (the drug for which the base offense level would be greatest given the quantity involved. Where substantial quantities (more than a small quantity sufficient only for personal use) of two or more types of drugs are involved, indicate **Multiple of Above**. Indicate **Other Schedule I or II Drugs** where none of the preceding schedule I or II drugs are involved.
- 115 Indicate the **quantity of drugs** (converted to the relevant base offense level) with which defendant was personally and actually involved. This quantity includes no more than those acts or omissions that were part of the same course of conduct or common scheme or plan as the offense of conviction, that were actually committed by the defendant, or were aided and abetted by the defendant. This equates with the §1B1.3 (Relevant Conduct) standard without §1B1.3's otherwise accountable / reasonably foreseeable standard. This "personal" quantity, then, may be less than the court-determined relevant conduct quantity determined in questions 117, 118. Do not count any quantities of drugs which are excluded under §1B1.8 -- such quantities are counted only in question 119. In cases of violations where the defendant sold to a minor, or sold near a school, indicate the base offense level corresponding to the actual weight of drugs, and not to the doubled weight. Use the 1989 quantity table; that is, do not indicate a base offense level greater than 36. (Instructions in these last three sentences apply to all quantity questions below.)
- 116 Indicate the base offense level corresponding to the **quantity of drugs** to which the plea agreement (if any) stipulated the defendant was involved. Where there is no stipulated quantity, leave this blank.

- 117 Indicate the base offense level corresponding to the **quantity of drugs** with which the court determined the defendant was involved. Use the SOR where possible, and the PSI secondarily. This quantity should roughly equate with the §1B1.3 (Relevant Conduct) quantity.
- 118 Indicate the base offense level corresponding to the **PSI-recommended quantity of drugs**, if the PSI calculated a different quantity of drugs than the court. Where there is no difference in calculation, leave this blank. Explain any difference on line 128. Do not indicate the doubled weight of drugs in school or sale to minor cases (see above).
- 119 Indicate the base offense level corresponding to the **quantity of drugs** used by the court for sentencing plus the quantity revealed by the defendant pursuant to a §1B1.8 agreement.
- 120 Indicate the base offense level corresponding to the **quantity of drugs** with which the **entire conspiracy** was involved, regardless of whether the defendant could reasonably foresee the scope of the conspiracy or the entire quantity of drugs. In some cases the conspiracy will be broader in scope than the criminal activity. In determining the quantity of drugs involved here, rely on any evidence in the PSI (e.g., count quantity where the PSI indicates a conspiracy distributed x quantity of drugs a month for the past x months).
- 121 Indicate the most serious (not the primary) **specific function** or task performed by the defendant in the criminal activity, as discerned from the offense conduct, admissions of the defendant, etc. Do not rely on whether a Chapter 3 adjustment for role was actually given. Where defendant performed more than one function mark with a check additional less serious functions played. Use the following definitions:

Enabler (Passive): plays no more than passive role in criminal activity, knowingly permitting certain unlawful criminal activity to take place without affirmatively acting in any way to further such activity; may be coerced or unduly influenced to play such a role, or may do so as "a favor"; may include the rare case of a "passenger" or one of two "drivers" of a vehicle transporting drugs, where the defendant is almost certainly unaware of the presence of drugs in the vehicle.

Gopher/Worker/Employee: performs very limited, low-level function in the criminal activity (whether or not ongoing); generally has no contact with drugs; includes running errands, answering the telephone, receiving packages, manual labor, leasing one or more residences/structures in own name solely to further the criminal activity and not for one's own purposes.

Off-loader/Loader: performs the physical labor required to put large quantities of drugs into storage, hiding, or onto some mode of transportation.

Lookout: provides early warning security functions during meetings, exchanges, or off-loading; generally has no contact with drugs; less significant security role than bodyguard.

Crewmember: serves as crewmember on vessel or aircraft used to transport large quantities of drugs.

Moneyrunner: transports or carries proceeds of criminal activity but not drugs.

Mule: transports or carries drugs internally or on their person, often by airplane, or by walking across a border. Also includes a defendant who only transports or carries drugs in baggage, souvenirs, clothing, or otherwise.

Courier: transports or carries drugs with the assistance of a vehicle or other equipment. Includes situations where defendant, who is otherwise considered to be a crewmember, is the only participant directing a vessel (e.g., a go-fast boat) onto which drugs had been loaded from a "mother ship."

Broker/Steerer/Go-Between: arranges for two parties to buy/sell drugs; does not own the drugs.

Renter/Storer: provides defendant's residence, structures (barns, storage bins, buildings), or equipment for use to further the criminal activity.

Bodyguard/Strongman/Debt Collector: provides physical and personal security for another participant in the criminal activity; collects debts owed, or punishes recalcitrant persons.

Aircraft Pilot / Vessel Captain: pilots vessel or aircraft; requires special skill; does not include defendant who is the only participant directing a small boat (e.g., a go-fast boat) onto which drugs had been loaded from a "mother ship."

Financier: provides money for purchase, importation, manufacture, cultivation, transportation, or distribution of drugs.

Grower/Manufacturer: grows, cultivates, or manufactures a controlled substance. (Also indicate what level dealer defendant is in connection with this cultivation or manufacture.)

Street-Level Dealer: distributes small quantities directly to the user.

Mid-Level Dealer: distributes large quantities to other mid-level dealers or to street-level dealers.

High-Level Dealer/Importer: purchases, imports, cultivates, manufactures drugs near the top of the drug distribution chain, and distributes drugs to other high-level or mid-level dealers; or leads, directs, or otherwise runs a significant drug organization.

User Only: possessed small amount of drugs apparently for personal use only; no apparent function in any conspiratorial criminal activity.

- 122 Where the defendant actually carried or transported the drugs, indicate the primary mode of transportation by which this was done. Foot includes carrying drugs on one's person, without the aid of a vehicle or other mode of transportation. If the defendant did not carry or transport the drugs, indicate Not Applicable.
- 123 Indicate the scope of transportation if the defendant carried or transported the drugs. If the defendant did not carry or transport the drugs, indicate Not Applicable.
- 124 Indicate whether a plea agreement stipulated to any role in the offense, including mitigating role, aggravating role, or no adjustment for role.
YE -- The parties stipulate that some role adjustment, or no role adjustment applies.
NO -- The parties are silent as to role, or indicate that no agreement has been reached.
UN -- The written plea agreement or an adequate summary of the agreement are not available, or an oral agreement is not summarized adequately.
NA -- The defendant was convicted by jury trial -- no plea agreement exists.
- 125 Indicate whether the PSI and SOR determination of the role in the offense differs in any way, and explain.
- 126 Briefly summarize the criminal activity and the defendant's offense conduct, with particular attention to mitigating or aggravating factors that may impact on any role determination, including: details of defendant's use of a dangerous weapon; defendant's flight from law enforcement agents; the extent to which defendant supervised or was supervised by another participant; or defendant's personal or family

relationship to another participant, particularly where the relationship results in defendant engaging in criminal conduct as the result of undue emotional influence or some form of coercion by the other participant. The text of this summary will be provided to the Commission in the form of a summary of the offense.

- 127 Quote relevant comments from the PSI, SOR, transcript of sentencing, J/C, and Addenda on the above issues, or other relevant issues.
- 128 Indicate your comments on any of the above specific questions, or on general impressions of the case. Note particularly cases where the court's role determination or relevant conduct determine raises questions regarding application.
- 129 Indicate whether this case is of particular interest to the Commission in light of its serious consequences (in terms of sentence or role adjustment) for a lesser-role defendant, or its benign consequences (sentence or role adjustment) for a defendant who played a more extensive role in the criminal activity.

03/23/92 (Monday) 1:01pm

**Addendum to the
Drug/Role Working Group Report**

submitted by:

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April 1, 1993

United States Sentencing Commission

ADDENDUM TO THE 1992 DRUG/ROLE WORKING GROUP REPORT

INTRODUCTION

The 1992 Drug/Role Working Group conducted a case review project in order to provide the Commission with statistical and textual profiles of a random sample of 413 defendants convicted of drug-trafficking offenses who had base offense levels of 34 and above. This sample constitutes 20% of the population of cases from fiscal year 1992 which fit these criteria.

The working group attempted to examine these cases using factors outlined in proposed Amendments 8 and 9 in order to provide the Commission with more information about drug defendants with high base offense levels. These defendants represent the group that would potentially be affected by adoption of either of the proposed amendments. We have also prepared a textual description of the offense conduct and the defendant's involvement in the offense for each case. The working group felt it important to provide the Commission with brief summaries of the offense behavior of these defendants given the large volume of anecdotal evidence that suggests that the drug guideline "over-punishes" certain drug defendants who have limited involvement in the offense.

Additionally, the case review project was designed to attempt to provide a model of the impact of proposed Amendments 8 and 9. This was not always possible because the present Guidelines Manual does not identify certain factors crucial to the application of these proposed amendments. Such factors often are not found in the case file and had to be coded as "unknown."

Finally, the working group emphasizes the value it derived from reviewing the case files. Though labor intensive, this process uncovers considerable information that is difficult to otherwise obtain. The textual summaries have been prepared to provide a distillation of the cases for Commissioners and others who are unable to review files. We recommend them to your reading as we found that they provide a "feel" for the cases that statistical data alone cannot provide.

FINDINGS

Table 1 shows the frequency of the most serious function that the 413 defendants had in the criminal activity (see pages 4 and 5 of the Coding Manual in Appendix A for a description of these functions). Table 2 portrays the extent of involvement in the criminal activity for all 413 defendants. Involvement in the criminal activity is characterized by whether the defendant:

- 1) owned the drugs;
- 2) financed any aspect of the criminal activity;
- 3) sold or negotiated any terms of the sale of drugs;
- 4) had any decision-making authority; and
- 5) supervised or managed another participant.

Table 3 displays any aggravating or mitigating role adjustments made by the court. The defendants are listed by the most serious function that they performed.

One particularly notable finding is the number of departures for substantial assistance for all defendants regardless of their most serious function. Table 4 lists the 413 defendants by their most serious function and displays the departure rate by each function. Contrary to the frequent criticism that lower level defendants do not receive the benefit of a substantial assistance departure because of their limited knowledge of the criminal activity, Table 4 demonstrates that the opposite is often true. While 36% of the defendants who the working group coded as having more serious functions received a substantial assistance departure (the top half of Table 4), the departure rate climbed to 42.3% for those "less serious" defendants on the bottom half of Table 4.

Using a factor outlined in Amendment 8, Application Note 2, the data were initially screened to exclude all "defendants who possessed a firearm or directed or induced another participant to possess a firearm in connection with the criminal activity." This note bars defendants who possessed or directed another to possess a firearm from consideration for a mitigating role adjustment. Applying this criteria deleted 68 (16.5%) of the sample of 413 defendants for a remaining pool of 345 cases.

These 345 cases were then screened using factors outlined in Amendment 8, Application Note 5. Under this application note a defendant may be eligible for a mitigating role reduction if all or most of these factors are present:

- (a) the defendant performed only unskilled and unsophisticated tasks;
- (b) the defendant had no decision-making authority or responsibility;
- (c) total compensation to the defendant was small in amount; and
- (d) the defendant did not exercise any supervision over other participant(s).

The determination of what constitutes "unskilled and unsophisticated tasks" was too subjective a determination to be left up to individual coders. The working group adopted a proxy for this determination that included defendants whose most serious function was

Table 1
Most Serious Function of Defendants

Most Serious Function	Total	
	N	%
High Level Dealer/Importer	46	11.1
Mid-Level Dealer (sells to dealers)	119	28.8
Street-Level Dealer (sells to users)	49	11.9
Grower/Manufacturer	22	5.3
Financier	3	0.7
Aircraft Pilot or Ship Captain	11	2.7
Bodyguard/Strongman	6	1.5
Broker/Steerer/Go-Between	27	6.5
Courier (transports drugs by vehicle)	63	15.3
Mule (transports drugs on person)	17	4.1
Renter/Storer	5	1.2
Money-runner	3	0.7
Offloader/Loader	5	1.2
Gopher/Lookout/Deckhand	18	4.4
Enabler (passive)	2	0.5
Unknown	17	0.5
Total	413	100.0

Table 2
Extent of Defendant's Involvement in the Criminal Activity

Extent of Involvement	Yes		No		Unknown	
	N	%	N	%	N	%
Did defendant own drugs?	111	26.9	167	40.4	135	32.7
Did defendant finance activity?	93	22.6	171	41.5	148	35.9
Did defendant sell or negotiate sale of drugs?	185	44.8	146	35.4	82	19.9
Did defendant have decision-making authority?	165	40.0	156	37.8	92	22.3
Did defendant supervise or manage others?	126	30.5	202	48.9	85	20.6

Table 3
Most Serious Function of Defendant by Role Adjustments

Most Serious Function	Total		Mitigating Role		Aggravating Role	
	N	%	N	% *	N	% *
High-Level Dealer/Importer	46	11.1	1	2.2	28	60.9
Mid-Level Dealer (sells to dealers)	119	28.8	0	0.0	49	41.2
Street-Level Dealer (sells to users)	49	11.9	9	18.4	1	2.0
Grower/Manufacturer	22	5.3	0	0.0	5	22.7
Financier	3	0.7	2	66.7	0	0.0
Aircraft Pilot or Ship Captain	11	2.7	1	9.1	4	36.4
Bodyguard/Strongman	6	1.4	2	33.3	0	0.0
Broker/Steerer/Go-Between	27	6.5	2	7.4	3	11.1
Courier (transports drugs by vehicle)	63	15.2	28	44.4	0	0.0
Mule (transports drugs on person)	17	4.1	4	23.5	0	0.0
Renter/Storer	5	1.2	3	60.0	0	0.0
Money-runner	3	0.7	1	33.3	0	0.0
Off-Loader/Loader	5	1.2	4	80.0	0	0.0
Gopher/Lookout/Deckhand	18	4.4	11	61.1	0	0.0
Enabler (Passive)	2	0.5	2	100.0	0	0.0
Unknown	17	4.1	3	17.7	0	0.0
Total	413	100.0	73	17.9	90	21.8

* Note that these percentages represent ratios within each function category, not a ratio of the total number (413) of defendants. The same is true for the departure percentages in Table 4.

Table 4
Most Serious Function of Defendant by Type of Departure

Most Serious Function of Defendant	Total		Departures											
			Within Guideline Range				Upward Departure				Downward Departure			
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
High-Level Dealer/Importer	46	11.2	31	67.4	0	0.0	0	0.0	2	4.4	13	28.3		
Mid-Level Dealer (sells to Dealers)	119	28.9	69	58.0	0	0.0	0	0.0	8	6.7	42	35.3		
Street-Level Dealer (sells to users)	49	11.9	27	55.1	0	0.0	0	0.0	4	8.2	18	36.7		
Grower/Manufacturer	22	5.3	11	50.0	0	0.0	0	0.0	1	4.6	10	45.4		
Financier	3	0.7	2	66.7	0	0.0	0	0.0	0	0.0	1	33.3		
Aircraft Pilot or Ship Captain	11	2.7	8	72.7	0	0.0	0	0.0	0	0.0	3	27.3		
Bodyguard/Strongman	6	1.5	4	66.7	1	16.7	1	16.7	0	0.0	1	16.7		
Broker/Steerer/Go-Between	27	6.6	11	40.7	0	0.0	0	0.0	2	7.4	14	51.8		
Courier	63	15.3	35	55.6	0	0.0	0	0.0	3	4.8	25	39.7		
Mule	17	4.1	12	70.6	0	0.0	0	0.0	1	5.9	4	23.5		
Renter/Storer	5	1.2	2	40.0	0	0.0	0	0.0	0	0.0	3	60.0		
Money-runner	3	0.7	0	0.0	0	0.0	0	0.0	0	0.0	3	100.0		
Off-Loader/Loader	5	1.2	2	40.0	0	0.0	0	0.0	0	0.0	3	60.0		
Gopher/Lookout/Deckhand	18	4.4	6	33.3	0	0.0	0	0.0	1	5.6	11	61.1		
Enabler (Passive)	2	0.5	1	50.0	0	0.0	0	0.0	0	0.0	1	50.0		
Unknown	17	4.1	12	70.6	0	0.0	0	0.0	0	0.0	5	29.4		
Total	413	100.0	232	56.3	1	0.2	1	0.2	22	5.3	157	38.1		

identified as: courier; mule; renter/storer; money-runner; off-loader/loader; gopher/lookout/deckhand; enabler (passive); and user. We felt that these functions typically involve unskilled and unsophisticated tasks and exclude the functions that were not seen as unskilled or unsophisticated or otherwise were inconsistent with mitigating role. As a proxy for total compensation which was small in amount, the working group used amounts of \$10,000 or less. This amount was chosen for several reasons. The Commission determined in robbery offenses that losses of \$10,000 or less received no increase in offense level (no additional sanction). Additionally, in theft and fraud offenses a loss of \$10,000 produces an offense level of 8 that allows for a probationary sentence for most defendants.

Out of the 345 cases, 84 (24.4%) defendants met all of the criteria for mitigating role and would thus be eligible for the 4-level decrease for minimal role (see Application Note 3, proposed Amendment 8). An additional 25 defendants met the criteria based on available information; however, at least one of those criteria were coded as "unknown." Thus, after eliminating defendants due to the absence of any one of these criteria, a minimum of 84 and a maximum of 109 defendants would be eligible to receive an adjustment for mitigating role. Note that the 109 cases represents a high estimate due to the fact that we included cases where any of the four criteria were coded as "unknown."

Under proposed Amendment 8, Application Note 6, the defendant ordinarily is not eligible for a mitigating role reduction if he/she:

- (a) sold, or played a substantial part in negotiating the terms of the sale of the contraband;
- (b) had an ownership interest in any portion of the contraband; or
- (c) financed any aspect of the criminal activity.

Out of the 109 cases that the working group coded as possibly being eligible for a mitigating role reduction under Application Note 5, 108 (99.1%) would remain eligible for such a reduction after application of Note 6. Again, this number must be qualified due to the factors coded as "unknown." Textual summaries of the 108 defendants that would remain eligible for a mitigating role reduction under proposed Amendment 8 are provided in Appendix B. The textual summaries for all 413 cases are available upon request.

The working group re-examined the data gathered from the 413 cases using the factors outlined in proposed Amendment 9 as a guide. Out of these cases, 111 (26.9%) would be affected by the reduction of the upper limit of the Drug Quantity Table from level 42 to level 36.

Amendment 8 would provide offense level enhancements in 68 cases for firearm possession when possessed or directed by the defendant. However, Amendment 9 is considerably broader in its scope and would provide enhancements when a dangerous weapon, including a firearm, was possessed by any participant within the defendant's

relevant conduct regardless of whether that participant was directed by the defendant to do so. Additionally, Amendment 9 enhances for "substantial risk of death or serious bodily injury" even when no weapon is involved. Accordingly, the "weapon enhancements" in Amendment 9 applied to a total of 129 (31.2%).

Section 2D1.1(b)(1)(A) proposes a 6-level enhancement if a firearm was discharged or a substantial risk of death or serious bodily injury was otherwise created. Four cases out of the 413 would qualify for this enhancement. One case would qualify for the enhancement under §2D1.1(b)(1)(B), which provides a 4-level increase if a dangerous weapon (including a firearm), was otherwise used. Finally, 124 cases would qualify for the enhancement under §2D1.1(b)(1)(C), which provides a 2-level increase if a dangerous weapon (including a firearm) was brandished, displayed, or possessed.

The amendment also provides enhancements based on the number of participants involved in the criminal activity for cases in which the offense involved five or more participants and the defendant was the principal organizer or leader of the criminal activity or was one of several such principal organizers or leaders. Currently, §3B1.1(a) (Aggravating Role) provides a 4-level increase for these defendants. The proposed amendment enhances for larger scale operations by providing additional increases for organizations involving 15 or more participants while retaining the 4-level increase for organizations with at least five participants. If this proposed specific offense characteristic is used, then §3B1.1 (Aggravating Role) would not apply. Out of the 413 cases, the court determined that 49 defendants (11.9%) qualified under the current §3B1.1(a). Of these, 23 would qualify for the 4-level increase for cases involving at least five but less than 15 participants. Six cases would qualify for a 6-level enhancement for cases involving at least 15 but less than 50 participants. The working group found no cases that would qualify for the proposed 8-level increase for cases involving 50 or more participants. These numbers should be viewed conservatively due to the fact that there were 20 cases out of the 49 in which the working group could not determine the size of the organization and the court made no finding as to the specific number of participants.

Finally, proposed Amendment 9 provides a possible 4-level decrease under subdivision (b)(3) for defendants who did not receive a "weapon enhancement" under subdivision (b)(1) or were not convicted of 18 U.S.C. § 924(c). Such defendants may receive the reduction if they "did not own or sell the drugs, did not exercise decision-making authority, did not finance the operation, and did not use relevant special skills." The working group found that there were 88 defendants out of the 413 (21.3%) cases who would qualify for the 4-level reduction under subdivision (b)(3). Again, this number must be qualified due to the fact that it includes cases where any of the criteria (excluding that for "no weapon enhancement") was coded as "unknown." It should be noted, however, that the court made no aggravating role adjustments in any of these 88 cases, and that 47 (53.4%) of these defendants received a mitigating role adjustment.

Appendix A

**CODING MANUAL
1993 DRUG WORKING GROUP CASE FILE STUDY**

"Coder" Put your initials here.
"Id Number" Fill in the USSC id number on the cover of the file.
"Case Number" Leave this blank.

General Coding Instructions:

- * Mark only one answer for each question. The computer program we are using will not analyze data with more than one answer per question.
- * Mark only the answer that is the **most serious**, that is, the farthest **up** the list of possible answers.
- * Mark "**Unknown**" when (1) the weight of the evidence of both parties is even and the court makes no finding, or (2) no information on the factor is presented in the case file.
- * The following instructions apply to questions 104-108:

Mark **YE -- Yes** when (1) the weight of the government's evidence establishes the factor, or (2) the defendant so admits (i.e., against defendant's interest), or (3) the defendant and the government so agree, or (4) the court so determines.

Mark **NO -- No** when (1) the weight of the defendant's evidence disproves the factor (including when the defendant asserts the factor but provides no corroboration for such assertion, and the government presents no evidence on the issue), or (2) the government's evidence disproves the factor, or (3) the defendant and the government so agree, or (4) the court so determines.

- * A "participant" is defined in Note 1 of the Commentary to §3B1.1.
- * "Criminal activity" is the conduct under §1B1.3 (Relevant Conduct) for which defendant is accountable. This conduct may include both the criminal conduct of the defendant as well as the criminal conduct of others. See §1B1.3 (Relevant Conduct). This conduct for which the defendant is accountable is not necessarily as broad in scope as the entire conspiracy.
- * The "drugs" are those controlled substances that are the object of the offense, the criminal activity, or the entire conspiracy, as appropriate.
- * Where the defendant only uses drugs (no evidence the defendant distributes), answer only question 112.

Specific Instructions:

- 100 **Indicate the extent to which a weapon was involved with the criminal activity of the defendant or others for which the defendant could be held accountable under §1B1.3 (Relevant Conduct). "Weapon" includes any firearm, explosive, destructive device, bomb, knife, or other instrument (chair, car) used as a weapon, but does not include a fist.**

SU -- Substantial Risk of Death/Serious Bodily Injury -- No Weapon Used: a participant, including the defendant, created a substantial risk of death or serious bodily injury by a means other than use of a weapon (e.g., established a meth lab in a residential area).

FD -- Firearm Discharged: a participant, including the defendant, discharged a firearm in connection with the criminal activity.

WU -- Weapon Otherwise Used: a participant, including the defendant, otherwise used a firearm (e.g., pistol whipping) or otherwise used a weapon (e.g., drove a car at another person, stabbed a person).

WP -- Weapon Displayed/Brandished/Possessed On Person: a participant, including the defendant, displayed, brandished, showed, or threatened a weapon in connection with the criminal activity, or possessed or carried a weapon on their person, or within immediate arm's reach, in connection with the criminal activity. A weapon is threatened if the person did not actually have the weapon on his person, but claimed it was on his person.

WR -- Weapon Readily Accessible: a participant, including the defendant, had a weapon within easy reach but not on their person and not within immediate arm's reach. For example, a gun might be in the same room or in the cabin of the car.

WO -- Weapon Not Readily Accessible: a participant, including the defendant, (1) possessed a weapon which was somewhat removed from the participant and the drugs (e.g., was in another room or in the trunk of a car); or (2) the participant's weapon was with the drugs or drug proceeds (money) but the participant is not at that location.

NO -- No Weapon: (1) neither the defendant nor another participant possessed, threatened, or used any weapon in connection with the criminal activity; or (2) a participant, including the defendant, possessed a weapon but its possession is so unconnected (temporally or spatially) with drugs and drug proceeds (money) and the criminal activity that an enhancement under the current §2D1.1(b)(1) would not be likely; or (3) there is no statement in the PSI with regard to whether a weapon was used, threatened, or possessed.

- 101 **For the weapon identified in line 100, identify who was the participant connected with the weapon.**

DE -- Defendant or Defendant Directed Other Participant: mark this (1) if the defendant possessed the weapon, or (2) if the defendant directed or commanded another participant to possess, threaten, or use a weapon in connection with the criminal activity.

CO -- Other Participant (Within Defendant's Relevant Conduct, Not Directed): mark this if the other participant possessed or used the weapon but was not directed by the defendant to do so. Be certain only to count participants within the defendant's relevant conduct.

NO -- No Weapon: mark this when you marked No Weapon for Line 100.

- 102 Indicate the **form of any compensation** or other benefit which the defendant received or expected to receive as a result of participating in the criminal activity. Focus on "profit" and on "the defendant"; the amount of compensation the defendant received if he was paid by another person, or the amount of profit (after expenses) the defendant received if he was "his own boss."

PE -- Percentage of Profits/Drugs -- a share of the drugs involved in the criminal activity, which defendant distributed for defendant's own profit; or a share in the proceeds from the distribution of such drugs -- shares are specifically tied to quantity of drugs distributed or profits earned, and not merely to individual acts undertaken by the defendant. Includes defendant who receives all (100%) of the proceeds.

ON -- Ongoing Wages/Salary -- a fee or in-kind payment, including rent or drugs not specifically tied to individual acts, but representing ongoing payment over a period of time.

FF -- Flat Fee -- a fee or in-kind payment, including drugs, which is tied to specific individual acts undertaken by the defendant on behalf of the criminal activity (e.g., a fee for each courier run).

NO -- None -- the defendant received no compensation.

- 103 Indicate the **dollar amount of compensation**, or other benefit, the defendant (not all participants in the criminal activity) directly received or expected to receive for participation in the criminal conduct. "Profit" or "compensation" is equal to total revenue minus expenses -- do not indicate total revenue. Indicate the aggregate, not the per-transaction, compensation. Indicate **NO -- None** if you indicated None for Line 102.

- 104 Indicate whether the defendant **owned, or intended to own a portion of the drugs** involved in the criminal activity. A defendant did not own a portion of the drugs merely because the defendant received a small portion for defendant's **personal use** as compensation. A defendant does not own drugs in every case where the defendant has sold drugs, even if the defendant does not implicate another defendant as an owner. A defendant may, however, own drugs where the defendant admits to selling drugs on an ongoing basis, and implicates no other defendant as the owner of the drugs.

- 105 Indicate whether the defendant **financed any aspect of the criminal activity**, including the purchase, importation, manufacture, cultivation, transportation, or distribution of the drugs. The term "any aspect of the criminal activity" is to be considered broadly. The term "financed" means supplying the money for any aspect of the criminal activity.

- 106 Indicate whether the defendant **sold or negotiated any terms of the sale**. Terms of the sale include parties, price, quantity, or location. Consider defendant's role only with respect to terms of the sale of drugs, and not terms of other transactions, such as where a defendant merely negotiated compensation for conduct not directly connected with drugs (a carpenter building a barn for a marijuana operation, a renter for profit). **NOTE:** Where the defendant exchanged drugs for any consideration, assume he sold, unless the weight of the evidence shows, or the court determines, that the defendant merely served as a gopher or "clerk" for another dealer, not as a seller or dealer.

- 107 Indicate whether the defendant had any **decision-making authority** or decision-making responsibility with respect to any aspect of the criminal activity, including the purchase, importation, manufacture, cultivation, transportation, or distribution of the drugs. The defendant need not have actually exercised any such authority or responsibility to be considered to have such authority or responsibility.

- 108 Indicate whether the defendant **supervised or managed another participant**.

- 109 Indicate whether defendant received a +4 aggravating role adjustment or should have received such adjustment. Defendant should have received such adjustment if defendant is one of the principle organizers or leaders of the conspiracy. Factors to be considered include the exercise of decision-making authority, the nature of participation in the offense, the recruitment of accomplices, the claimed right to a larger share of the fruits of the criminal activity, the degree of participation in planning or organizing the offense, the nature and scope of the illegal activity, and the degree of control and authority exercised over others. There must be at least five participants in the conspiracy, including the defendant for defendant to be considered eligible for the aggravating enhancement. There may be more than one principle organizer or leader, but they should be one of few at the top of the organization. The fact that defendant suggested the commission of an offense does not alone indicate defendant is a principle organizer or leader. See §3B1.1.
- 110 If you indicated Yes to Line 109, indicate how many participants were involved in the criminal activity. Count the defendant as one participant. See the definition of "participant" in the general instructions of this manual.
- 111 Indicate the quantity of drugs in grams or kilograms with which the court determined the defendant was involved. Use the SOR where possible, and the PSI secondarily. This quantity usually will equate with the §1B1.3 (Relevant Conduct) determination. Indicate, where appropriate, that the quantity of drugs is the result of a conversion of multiple types of drugs into a base drug for guideline purposes (e.g., defendant distributed cocaine and heroin, and the court converted these drug weights into their marijuana equivalents in order to determine a single base offense level).
- 112 Indicate the most serious (not necessarily the primary) specific function or task performed by the defendant in the criminal activity. Do not rely on whether a Chapter Three adjustment for role was actually given. Where defendant performed more than one function mark only the most serious function, regardless of the amount of time spent on that function. Use the definitions that follow line 113.
- 113 Indicate the predominant (not necessarily the most serious) specific function or task performed by the defendant in the criminal activity. Again, do not rely on whether a Chapter Three adjustment for role was actually given. Where defendant performed more than one function mark only the predominant function. Use the definitions that follow:

High-Level Dealer/Importer: purchases or imports drugs near the top of the drug distribution chain, and distributes drugs to other high-level or mid-level dealers; or leads, directs, or otherwise runs a significant drug organization.

Mid-Level Dealer: distributes large quantities to other mid-level dealers or to street-level dealers.

Street-Level Dealer: distributes small quantities directly to the user.

Grower/Manufacturer: grows, cultivates, or manufactures a controlled substance.

Financier: provides money for purchase, importation, manufacture, cultivation, transportation, or distribution of drugs.

Aircraft Pilot / Vessel Captain: pilots vessel or aircraft; requires special skill; does not include defendant who is the only participant directing a small boat (e.g., a go-fast boat) onto which drugs had been loaded from a "mother ship" (such person is a courier).

Bodyguard/Strongman/Debt Collector: provides physical and personal security for another participant in the criminal activity; collects debts owed, or punishes recalcitrant persons.

Broker/Steerer/Go-Between: arranges for two parties to buy/sell drugs, or directs potential buyer to a potential seller.

Courier: transports or carries drugs with the assistance of a vehicle or other equipment. Includes situations where defendant, who is otherwise considered to be a crewmember, is the only participant directing a vessel (e.g., a go-fast boat) onto which drugs had been loaded from a "mother ship."

Mule: transports or carries drugs internally or on their person, often by airplane, or by walking across a border. Also includes a defendant who only transports or carries drugs in baggage, souvenirs, clothing, or otherwise.

Renter/Storer: provides, for profit/compensation, own residence, structures (barns, storage bins, buildings), land, or equipment for use to further the criminal activity.

Moneyrunner: transports/carries money from the purchase or sale of drugs in the criminal activity.

Off-loader/Loader: performs the physical labor required to put large quantities of drugs into storage, hiding, or onto some mode of transportation.

Gopher/Lookout/Deckhand/Worker/Employee: performs very limited, low-level function in the criminal activity (whether or not ongoing); generally has no contact with drugs; includes running errands, answering the telephone, receiving packages, packaging the drugs, manual labor, acting as lookout to provide early warnings during meetings, exchanges, or off-loading, or acting as deckhand/crewmember on vessel or aircraft used to transport large quantities of drugs.

Enabler (Passive): plays no more than passive role in criminal activity, knowingly permitting certain unlawful criminal activity to take place without affirmatively acting in any way to further such activity; may be coerced or unduly influenced to play such a function (e.g., a parent or grandparent threatened with displacement from a home unless they permit the activity to take place), or may do so as "a favor" (without compensation); may include the rare case of a "passenger" or one of two "drivers" of a vehicle transporting drugs, where the defendant is almost certainly unaware of the presence of drugs in the vehicle.

User/Only: possessed small amount of drugs apparently for personal use only; no apparent function in any conspiratorial criminal activity.

- 114 **Summarize the criminal activity and the defendant's offense conduct.** The text of this summary will be provided to the Commission in the form of a summary of the offense, so ensure that the summary reflects appropriate objectivity and use of proper grammar and spelling.

Always include information regarding (1) drug quantity and type, (2) to what extent a weapon was involved, (3) the function of the defendant, and (4) sentence imposed.

As necessary, note any mitigating or aggravating factors that may impact on any role determination, including (1) defendant's flight from law enforcement agents; (2) the extent to which defendant supervised or was supervised by another participant; (3) the extent to which the defendant was connected with the quantity of drugs involved; (4) unusually limited or severe criminal history; or (5) defendant's personal or family relationship to another participant, particularly where the relationship

results in defendant engaging in criminal conduct as the result of undue emotional influence or some form of coercion by the other participant.

- 115 **Indicate whether this case is of particular interest** to the Commission in light of its serious consequences (in terms of sentence or role adjustment) for a lesser-role defendant, or its benign consequences (sentence or role adjustment) for a defendant who played a more extensive role in the criminal activity. Be sure to mark this where the relevant conduct quantity appeared to over- or under-represented the defendant's role in the offense, where relevant conduct was incorrectly applied, and where a defendant's connection with the weapon was remote or particularly violent.

02/17/93 (Wednesday) 8:21am

Appendix B

Case Number: 95867

Weapon Involved: No Weapon
Defendant's Most Serious Function: Enabler (Passive)

Summary:

Codefendants were employees of an air cargo company who approached a confidential informant with an offer to divert shipments of cocaine through the air cargo company at Miami Airport for a substantial fee. Codefendants instructed CI to secrete 60 kilos of cocaine from Panama within a shipment of fish and further instructed CI as to the date of the shipment, the flight to be used and the manner of concealment. DEA completed shipments of what was actually 60 kilos of coffee and codefendants delivered the boxes from the air cargo warehouse to the CI and undercover agent; codefendants were subsequently paid \$30,000 for their part in the importation. The defendant was a supervisor at the warehouse where the boxes came in and was paid \$8,000 to allow the drug scheme to work by "looking the other way" while on his shift. According to the government, the defendant is the least culpable; he did not know the details of the operation but was aware that something was going on and was not involved in any hands-on duties in the importation operation. The court used the 60 kilos in calculating defendant's guideline range and sentenced the defendant to 121 months, the minimum of the applicable range. The defendant had no juvenile adjudications nor criminal convictions.

Case Number: 88287

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant was caught by customs officials at airport with 578 grams of cocaine in her suitcase. She had accompanied a man to Haiti and agreed to return with the cocaine for \$3000.00. Defendant received 168 mos.

Case Number: 88558

Weapon Involved: No Weapon
Defendant's Most Serious Function: Renter/Storer

Summary:

Defendant was paid \$300 per week in return for allowing crack cocaine to be made and packaged in her home for approximately 20 mos. She was one of many employees of a large drug conspiracy that distributed 15 k over the course of the investigation. Defendant was held accountable for all the drugs distributed over the course of the conspiracy. Defendant received 240 mos. on a 5K1.1 departure.

Case Number: 88568

Weapon Involved: Weapon Not Readily Accessible
Defendant's Most Serious Function: Unknown

Summary:

Details from PSI are unclear. A search warrant was executed on defendant's home and they found 301 g of cocaine base distributed throughout the house. A shotgun was found in the defendant's room. Eight other people were in the home when the warrant was executed. It is not clear what the defendant's role was. The defendant received 72 mos on a 5K1.1 departure with 5 yrs. consecutive on a 924(c).

Case Number: 126187

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant was minor participant in a "crack" distribution ring. His involvement was limited to acting as a driver for people carrying drugs and , on one occasion, he transported a quantity by himself. Defendant was held accountable for the transportation of 2.67 k of "crack" and cocaine. He received a 5K1.1 departure to 60 mos.

Case Number: 89520

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant helped obtain 19 k of PCP for another person to be distributed in another state. Defendant went with codefendant to deliver the PCP. It is unclear from PSI what defendant's compensation for offense was or whether or not his role at anytime was more than a courier. Defendant, a 23 yr. old with no prior convictions, received 151 mos.

Case Number: 119568

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

NOTE: COURT DID NOT MAKE A FINDING AS TO THE EXACT AMOUNT OF COCAINE THE DEFENDANT TRANSPORTED WHILE INVOLVED IN THE CONSPIRACY. Defendant served as a courier, making approximately 35 - 45 trips in an automobile. No weapons are assigned to this defendant under his relevant conduct. This defendant has no prior criminal convictions nor prior arrests. Court has determined that the defendant has simply transported more than 50 kilograms, but gives no exact amount. Defendant's original range was 121-151 months, but due to a 5K departure, defendant is sentenced to 87 months in prison.

Case Number: 119479

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Limited information in PSR. Defendant was stopped coming across the border into California. 877.89 grams of 99% pure methamphetamine (or 886.78 grams of meth mixture) were confiscated by authorities. Defendant has no known prior criminal record and no weapon was involved. Defendant was sentenced to 87 months, as a result of a substantial assistance motion.

Case Number: 119243

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant speaks little to no English. He was present at a number of drug deals, for the purposes of transporting the drugs and acting as a lookout to give the "early warning signal." No weapons were involved in the offense. Defendant made no negotiations, has no prior criminal history. 745 grams of crack were involved in this offense. He was sentenced to 151 months.

Case Number: 95646

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was one of five defendants involved in the distribution of multikilos of cocaine. The cocaine was transported from Mexico to Houston, Texas by the defendants. The defendant was convicted by a jury trial. His role was limited to being a driver who transported 521 kilos of cocaine from San Antonio to Houston. At sentencing, the Court granted a two level decrease for minor role. The Court sentenced the defendant to 235 months CBOP and five years Supervised Release.

Case Number: 126424

Weapon Involved: No Weapon
Defendant's Most Serious Function: Money-runner

Summary:

Defendant, a minimal participant in this conspiracy, served as a driver for an individual planning to negotiate a sale. At one point, the defendant carried the "front money" that was to be used to obtain the cocaine. Defendant did not play a part in and was completely removed from the negotiation of any sale. His co-defendant and the agents, however, agreed on the amount of 100 kilos. Absolutely no weapon was involved in the instant offense. Defendant was subject to a 10 year mandatory minimum, but due to a substantial assistance motion, he will be serving 87 months.

Case Number: 113558

Weapon Involved: No Weapon
Defendant's Most Serious Function: Off-loader/Loader

Summary:

The defendant was initially recruited as a crew member of a ship purposed to be involved with the criminal activity. He helped pick up 232.8 kilos of cocaine which was air-dropped, and transferred it to two smaller boats. The defendant did not possess a weapon had no managerial role or authority, and was expected to be paid approximately \$10,000 for his duties. The defendant appeared to have engaged in this criminal conduct merely for the quick and easy profit it stood to gain him. The defendant received a 151 months sentence. The Court noted no mitigating or aggravating factors for determination of departure.

Case Number: 111127

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

The defendant was arrested at the airport for attempting to bring 1.148 kilos of cocaine base into the United States. He was carrying 2 cardboard boxes with a total of 13 table place mats which contained the white powdery substance. It is not known to what extent the defendant is connected with the quantity of drugs. The defendant offered no acceptance of responsibility in the instant offense. He received an offense level of 36 with the guideline imprisonment range at 188 to 235 months. The court issued the defendant a sentence of 188 months.

Case Number: 114721

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant flew from Colombia to the United States transporting 2539.7 grams of cocaine and 299 grams of cocaine base internally and in his shoes and luggage. No weapons were involved in the offense. Defendant has one prior arrest, the case was dismissed, as the defendant was acting out of self-defense. He has no prior convictions. Defendant is sentenced to 121 months in prison.

Case Number: 113511

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

This case involved a very large scale, multi-count, multi-defendant marijuana and cocaine distribution conspiracy that continued for many years. The conspiracy transported thousands of kilograms of marijuana and hundreds of kilograms of cocaine from Mexico throughout the United States. The testimony at trial indicated that the defendant was a trusted truck driver for the organization in 1986 and 1987 who drove drugs on both sides of the border. The base offense level of 36 was computed based on seizures of cocaine and marijuana made in 1987. The defendant received no downward role adjustments. He was not a newcomer to the criminal justice system and had a Criminal History category IV. This 46 year old defendant was sentenced to 21 years and 10 months in prison, the bottom of his guideline range. It should be noted that the next highest sentence in the case was 12 years in prison. The most major codefendants were fugitives. There is no indication in the PSR whether the codefendants that received lower sentences also received 5K1.1 motions.

Case Number: 120047

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant served primarily as a runner in this offense. He made no negotiations of the sale. He brought the cocaine (24 kilos) to a specific location, then brought the agent to the cocaine, and was expected to get the money from the agent. He was to be paid \$5000 for his involvement in this transaction. Defendant has no prior criminal history and no weapons were involved. Defendant received 121 months for his participation in the conspiracy.

Case Number: 97739

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

This 41 year old US citizen pled guilty to one count of Conspiracy to Distribute heroin and cocaine base. He was one of 20 defendants charged in a 16 count indictment involving a multi-million dollar drug distribution network which operated between January 1988 and December 1990 in the Eastern District of Michigan. This defendant was named only in the conspiracy count. This defendant knew the organization's leader as a result of a failed marriage to the leader's daughter. The defendant received drugs in exchange for performing the following roles: driver for the leader, transporter of some of the drugs, and periodic packager of drugs. He received a 2-level downward adjustment for minor participant. Although the leader and "other members" were described as possessing weapons to protect the drug operation, this defendant was not held responsible for the presence of weapons. This defendant was held accountable for 10-15 kilograms of cocaine (apparently the result of converting unspecified amounts of heroin and cocaine base). He received a departure sentence (original range 97-121 months) for substantial assistance of 60 months and 5 years supervised release with drug treatment.

The defendant had 2 prior convictions: an ancient one for possession of heroin for which he received 6 months, and a recent one for distribution of a controlled substance and habitual second offender, which was determined to be related to the instant offense, and for which he received lifetime probation. He had pending traffic and narcotic violations for which he failed to appear and a bench warrant had been issued. The Criminal History Category was I.

The defendant was the product of an intact family of 7 children, one of whom was incarcerated for breaking and entering. He reported being adequately provided for and experiencing no family problems. He had been separated from his wife (drug organization's leader's daughter) for 5 years at the time of the instant offense. He had no children. The defendant claimed a high school education. He had previously worked for 10 years at the Ford Motor Company as an auto worker/assemblyman, but claimed unverifiable employment at a car wash for the 3 years prior to the instant offense. Drug usage began at age 16 and continued to the present. Drug of choice was heroin and the defendant had commenced outpatient treatment after arrest on the instant offense.

Case Number: 112959

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was a truck driver for a very large drug importation and distribution conspiracy. The defendant's guideline range was 210-262 months, but he was sentenced to 60 months based on a 5k1.1 motion.

Case Number: 112293

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was a courier for a cocaine and crack distribution network. The defendant on several occasions transported cocaine from Houston to Mississippi. The defendant was given a 4 point reduction for minimal role. His relevant conduct was calculated solely on the drugs in the count of conviction. He was sentenced to the bottom of the guideline range-78 months- despite the fact that there was a mandatory minimum 120 month sentence. There was no 5K1.1 motion.

Case Number: 114437

Weapon Involved: Weapon Not Readily Accessible
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was a courier in a major drug distribution conspiracy involving .5344 kilograms cocaine base. Weapons were possessed by all members of the conspiracy via the conspiracy period, although it is not known whether the defendant used or carried a firearm in connection with the drug distribution operation. This conduct, however, was viewed as an integral part of the offense and was reasonably foreseeable to the defendant. He was therefore awarded a two point enhancement toward his guideline calculation. The defendant received a 262 month imprisonment term on two counts to be served concurrently; 5 years supervised release to follow imprisonment also to be served concurrently; no fine, a special assessment of \$100. The defendant was sentenced at the low end of the guideline range due to his minor role in the overall conspiracy.

Case Number: 100575

Weapon Involved: No Weapon
Defendant's Most Serious Function: Unknown

Summary:

The defendant was convicted by a jury of cocaine distribution and Conspiracy (2 counts). This offense involved negotiations between a codefendant and an undercover agent for the purchase of 1 Kg of cocaine and 1 Kg of cocaine base (crack) for \$44,000. The defendant was not involved in the negotiations and his involvement was not apparent until the day before deal. The defendant denied any involvement. The total weight of the drugs was determined to be 1.01 kilograms of cocaine base. At sentencing, the Court granted a reduction for minimal participant. Terrell was sentenced to 156 months CBOP on each count, concurrent, a \$2,000 Fine and five years Supervised Release.

Case Number: 90866

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was convicted after trial of importing 285 grams of cocaine base and 100 grams of cocaine hydrochloride in his suitcase. The defendant was sentenced to the bottom of the guideline range - 151 months.

Case Number: 90923

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was arrested at the Mexican border with 149 kilograms in his car. The defendant was to get a \$1000 payment upon his return to Mexico. He was to leave the car containing the drugs near the border checkpoint with the keys in the ashtray. This defendant, who had no criminal record, was sentenced to 151 months, the bottom of the guideline range.

Case Number: 91088

Weapon Involved: No Weapon
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

The defendant was charged as a member of a large scale crack distribution conspiracy that distributed at least 15 kilograms of crack from various distribution houses in the Macon, Georgia area from 1986 through 1989. The defendant served as a lookout at a drug distribution house at various times from 1987 through 1989. On one occasion, the defendant rented a car so that another member of the organization could transport drugs interstate. The defendant was sentenced to 360 months, the bottom of the guideline range.

Case Number: 114579

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant attempted to bring in 40 k of cocaine from Puerto Rico. He stated he brought the drugs in under duress. No other participants in the offense were identified. Defendant received 121 mos. The defendant has no prior arrests or convictions.

Case Number: 92981

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant was involved in a reverse sting operation. His codefendants negotiated to purchase 20 k of heroin from undercover agents. The defendant carried the drugs by vehicle to the drop off-site. Defendant received 121 mos.

Case Number: 115924

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

20 year old black male, with only one prior conviction (property crime) functioned as courier on numerous trips between NY and NC, transporting cocaine base and cocaine by vehicle. Paid \$300-500 per trip. Did controlled delivery after arrest. 1.4 kilos cocaine base. 5K departure to 12-month sentence.

Case Number: 90521

Weapon Involved: No Weapon

Defendant's Most Serious Function: Off-loader/Loader

Summary:

The defendant was a member of a conspiracy to import 22.4 kilograms of cocaine into Florida. The defendant's role was as a lookout and/or an off loader. The precise role is not clear from the PSR. The defendant was given a 2 point reduction in his offense level for his minor role in the offense. He was sentenced to 136 months which was within the guideline range.

Case Number: 115230

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

36 year old Nigerian male, flew into NY with 5.3 kilos of heroin in bags. Says was doing a favor, and did not get paid. Courier profile. -4 role, +2 obstruction for false testimony at trial. No prior crim. hist. known. Sentenced to 121 months.

Case Number: 90522

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was a member of a conspiracy to import 275 kilograms of cocaine from Colombia to Miami, Florida. The defendant owned a boat and was recruited to assist in transporting the drugs from an airdrop point to Florida. The defendant was sentenced to 188 months, the bottom of the guideline range.

Case Number: 95532

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The sole defendant, a 29 year old Jamaican, pled guilty to 1 count of Possession with intent to Distribute Cocaine. A second count charging a previous distribution (8 months earlier) of .9 grams of cocaine base was dismissed. The instant offense was discovered through a traffic stop. While on the interstate, the defendant was driving a vehicle occupied by 2 others. The officer suspected drug use and received written permission to search the vehicle. Recovered were .2 kilograms of cocaine base. While the officer was waiting for backup, the defendant attempted to flee in the vehicle and then fled on foot, shouting to the officer to shoot him. He was apprehended a mile away 2 hours later. No weapons were involved. A sentence at the bottom of the range of 168 months and 5 years supervised release was imposed.

A Criminal History Category of IV was produced by the following convictions: **Aggravated Assault** - 3 years probation, revoked, 2 years custody; **Possession of Cocaine** - 2 years custody; **Unlawful Delivery of Cocaine** - 8 years custody. (Career Offender not invoked.) While in custody awaiting trial on the last charge, the defendant escaped and was at liberty for 1 month before apprehension.

An illegal alien, the defendant had been in the US since 1981 married and had 4 children with another on the way by his wife who was confined drug possession charges. He claimed 4 additional children by other relationships. He reported a 9th grade education, no substance abuse history except marijuana usage, and a general employment history consisting of work as an auto mechanic, laborer, and singer.

Case Number: 91928

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Very limited information on defendant in PSR; defendant was a Florida resident who was responsible for transporting 32 kilos of cocaine to the Detroit area; car rented by defendant (and containing the 32 kilos) was driven by co-defendant who arranged for the drug shipment to a car wash that was being used as a "wide scale distribution focal point for multiple kilograms of cocaine." Court sentenced the defendant to 151 months, the minimum of the applicable guideline range.

Case Number: 90645

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant assisted in bringing 22.4 kilograms of cocaine from Colombia to Florida. The defendant was a crew member on the boat on which the drugs were found. The defendant was sentenced to 160 months.

Case Number: 122415

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

This 30 year old citizen of Ecuador pled guilty to one count of Narcotics Conspiracy. He was involved for approximately 9 months in the organization which was, for 2 years, the primary source for heroin in the Bronx, N.Y. This defendant was a driver for one of the managers of a site from which heroin was sold at the street level. He also occasionally picked up and delivered heroin and money. A search of his residence revealed a semi-automatic pistol, stun gun, beeper, and various ammunition. However, an enhancement for the weapon was not applied because the government claimed it was not clearly probable that the weapon was connected to the instant offense. A 2 level downward adjustment for minor role was given. The range was 121-151 months. A sentence of 120 months and 5 years supervised release (at the mandatory minimum) was imposed as a downward departure pursuant to Rule 11(e)(1)(B) - "....consideration of the resource savings in the resolution of this case."

The defendant had no arrest history. He came to the US with his family in 1970 and was a resident alien. Recently married after a previous divorce, the defendant had 2 children. He completed the 10th grade, and admitted marijuana usage and experimentation with cocaine. He was employed as a car service driver for 3 years, and had previous employment as a forklift operator and a shipping clerk.

Case Number: 100064

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

An undercover agent was introduced by a CI to individuals involved in the importation of cocaine. The agent met with these individuals at the defendant's residence in Puerto Rico and was told of a 600 kilogram shipment of cocaine that would be smuggled by mules to Miami. The defendant and a codefendant were apprehended at the Miami International Airport. Each defendant was carrying luggage which contained a total of 16 kilos of cocaine (eight kilos in each bag). The defendant stated that he was to receive \$1,000 for his involvement. Both defendants agreed to cooperate with agents and proceeded to deliver the drugs which resulted in the arrest of another codefendant. The defendant pled guilty to two counts of drug violations and was sentenced to 121 months CBOP on each count, concurrent, and five years Supervised Release.

Case Number: 123783

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant pled guilty to one count of Conspiracy to Possess with Intent to ~~Distribute~~ Cocaine Base. There were 2 codefendants. The defendant was hired by an unidentified person to purchase .27 kilograms of crack from one of the codefendants and act as a courier for the purchaser. No weapons were involved. He received a departure for substantial assistance from a range of 120-121 months to a sentence of 72 months and 5 years supervised release.

This 30 year old US citizen was a first time offender. He had graduated from high school and served honorably in the US Army for 6 years. The unwed father of one child, he claimed experimentation with crack on 2 occasions. Unemployed for just one month at the time of the instant offense, he had previous employment as a brick layer and school bus driver.

Case Number: 123614

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

This 33 year old man, with only a drunken driving conviction, is serving 169 months for his role as a mule, in this conspiracy to import 47 kilograms of cocaine from Mexico.

Case Number: 91938

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant acted as transporter of cocaine from New Jersey to New York for a large drug importation and distribution ring, receiving between \$2000 and \$3000 per transaction; he occasionally acted as a money-runner. The PSR states that the government's evidence against the defendant is limited to 300 kilos and this is the amount the court used to determine the guideline range. The entire scheme, however, involved the importation and distribution of 828 kilos. The court departed downwards from a guideline range of 188-235 to a sentence of 175 "in view of defendant's substantial assistance [gov't motion] and his role in the offense in comparison with like cases and defendants."

Case Number: 105941

Weapon Involved: No Weapon
Defendant's Most Serious Function: Unknown

Summary:

An Undercover Agent(UCA) established contact with a major cocaine supplier, who was supplying 3 different distribution groups, and arranged for the transportation of 615 kilograms of cocaine. The "La Negra" organization received 51.5 kilograms of that shipment. The defendant was involved as a transporter and received a role reduction for minimal participant. He was not involved in any of the negotiations. Based on a 5K motion, the Court sentenced the defendant to 60 months CBOP and five years Supervised Release.

Case Number: 123493

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

This 21 year old US citizen pled guilty to Conspiracy to Possess with Intent to Distribute Cocaine. She was charged along with 2 other defendants and a juvenile. They were involved in the US portion of the transportation of drugs from Guatemala to Houston for distribution. This defendant drove a vehicle containing money to pay for drugs. When the money was removed and replaced with the drugs, she then drove the vehicle containing the drugs to an apartment where they were to be stored. She was in constant communication with the leader of the smuggling operation. A .9mm semi-automatic weapon was located in the vehicle but was inaccessible to the occupants. A .25 caliber pistol was found in the bedroom of the apartment where the drugs were stored. The 2 level increase for the weapon in the bedroom and the 3 level role aggravating adjustment applied by the PO were denied by the court. The defendant was held accountable for 22 kilograms of cocaine. The range established by the court was 121-151 months. She received a sentence of 126 months and 5 years supervised release.

This first offender was the only child born to parents who divorced when she was 2 years old. Following the divorce, she lived with grandparents in Colombia for 3 years, and then with parents and their spouses in the US. She completed the 11th grade. She was not married and had no children. She denied medical, psychiatric or substance abuse problems. Her employment history consisted of work as a cashier and landscaper for her father's business. She was supported by her father.

Case Number: 120855

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

This 39 year old Colombian was convicted of Conspiracy and Possession with Intent to Distribute 5+ Kilograms of Cocaine. He was charged along with 5 co-defendants. Undercover agents arranged for an airdrop of 700 kilograms of cocaine to a vessel near the Bahamas. They retrieved 500 kilograms from the ocean and held them for a controlled delivery. Two trucks with secret compartments were used to transport the drugs from one location to another where other drivers were waiting to take possession. When the trucks arrived at the delivery site, the defendant was seen exiting the house through a window, and was apprehended. Although his role was not really clear, it appeared that he was an intended courier. He was held accountable for all 700 kilograms, although each of the 2 trucks contained only 70 kilograms. No weapons were involved, and the defendant received a mitigating role adjustment of 2 levels. He received a bottom-of-the-range sentence of 235 months and 5 years supervised release.

Born and raised in Medellin, Colombia under middle-class circumstances, the defendant completed two years of college in civil engineering before entering the US illegally in 1981 to seek better economic opportunities. He had no prior arrest history, and was married but had no children. His wife returned to Colombia after his arrest. He had been self-employed selling jewelry door-to-door and as an unlicensed vendor at a flea market. He denied medical, psychiatric or substance abuse problems.

Case Number: 106864

Weapon Involved: No Weapon

Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

Defendant mailed a package from California to a co-defendant in Alabama. He suspected that the package contained cocaine. He was present in co-defendant's apartment at the time of a bust. Six ounces of cocaine base were on the coffee table near where he had slept. He said he was holding the cocaine base until the co-defendant repaid a \$900 loan. Because of the 10 year mandatory minimum sentence the court did not resolve whether defendant was a minimal participant or whether defendant accepted responsibility. He was sentenced to 121 months imprisonment.

Case Number: 106810

Weapon Involved: No Weapon

Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant flew from Togo to New York City with 3,448 grams of heroin in suitcase. Defendant received a 4-level reduction for minimal role and a 2-level reduction for acceptance of responsibility and was sentenced to 78 months imprisonment.

Case Number: 92035

Weapon Involved: No Weapon
Defendant's Most Serious Function: Unknown

Summary:

Defendant's role is described as being largely "unknown" in the PSR. He was arrested at an undercover drug transaction that had been set-up by the DEA with one of the co-defendants, who wanted to exchange methamphetamine for barrels of ephedrine (a precursor chemical). A bag of money (\$11,460) was found under defendant's car seat with defendant's prints on it; \$55,560 was discovered in the trunk.

Case Number: 106611

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant participated in the delivery of 195.6 grams of crack to a DEA agent. There was consensus among the parties that the defendant was being used by his codefendants strictly as a "courier." Further, there was consensus among the parties that the defendant was a heavy crack user and that his codefendants had taken advantage of his drug problem by promising the defendant an unspecified amount of crack in exchange for making the delivery. Defendant received a minor-role adjustment, but was denied a minimal-role adjustment because the drug quantity was not small and he knew of the scope of the offense. The government moved for, and the court granted, a downward departure of three-levels because of substantial assistance. Defendant was given a sentence of 87 months from an original guideline range of 121 - 151.

Case Number: 107713

Weapon Involved: No Weapon
Defendant's Most Serious Function: Unknown

Summary:

Defendant drove the vehicle to deliver cocaine in connection with a controlled buy. The parties had agreed on 20 KG of cocaine. 10.076 KG of 93 percent pure cocaine was delivered. According to investigative reports, defendant was linked as a supplier in other narcotics transactions, although not prosecuted. Defendant was sentenced to 180 months imprisonment.

Case Number: 108157

Weapon Involved: No Weapon
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

Defendant was an upholsterer in an auto repair shop. The owner sold methamphetamine. Defendant rode with a codefendant to deliver some methamphetamine--equivalent to 334 grams of pure methamphetamine. He was aware that the meeting involved some form of drug transaction, but appeared to have played no role in the offense. Probation officer thought defendant was not a minimal participant because he had knowledge of what was occurring and suspected that the owner was involved in the sale of drugs. Court gave a 4-level role reduction and, upon a government motion based on substantial assistance, departed downward 3 levels. Defendant received a sentence of 57 months.

Case Number: 106093

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was involved in the delivery of a total of 1,779 grams of methamphetamine to an undercover agent. These deliveries occurred on two separate occasions. The defendant was working for a codefendant and was to receive compensation. The total amount of meth sold and recovered following arrest was 3,557.8 grams, for which the defendant was held accountable. Based on a 5K motion, the Court sentenced the defendant to 120 months CBOP and five years Supervised Release.

Case Number: 106306

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Codefendants had negotiated for the purchase of 332 kilograms of cocaine. The codefendants had paid \$150,000 to an undercover agent for 70 kilograms which had been placed in a false compartment of a vehicle that the defendant was driving. The defendant was to receive \$500 for his involvement, which was driving the "load car" from Miami to Tampa and back. The government's evidence further showed that defendant's codefendants were not the owners of the drugs/moneys involved in the offense but were merely the couriers for this transaction. The defendant was sentenced to 188 months CBOP (the bottom of the applicable range) and five years Supervised Release.

Case Number: 106237

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant accompanied codefendants who had agreed to sell an undercover agent 25 kilograms of cocaine for \$537,000. The defendant's role was minor. Based on a 5K motion, the Court sentenced the defendant to 87 months CBOP and five years Supervised Release.

Case Number: 109385

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant recruited by member of a large cocaine importation and distribution network to transport drugs, which the defendant did on at least three occasions. Defendant was arrested on one of the trips with 30 kilos of cocaine, which is the quantity that the court used to determine the base offense level, after an objection from defense regarding the original amount used in the PSR (the amount of cocaine in the entire conspiracy...in excess of 1500 kilos). The court departed downward from a guideline range of 87 - 108 and sentenced the defendant to 36 months due to a 5K1.1 motion from the government.

Case Number: 121056

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was part of a conspiracy to import and distribute 700 kilograms of cocaine. All that is known of defendant's role is that, after the most culpable member of the conspiracy arranged for and accomplished the importation of 500 kilos, the defendant was present in a truck provided by the codefendant to transport the cocaine to another location. At one point the defendant handed the more culpable codefendant a set of keys to one of the trucks designated for transportation of the drugs. The defendant, a 36 year old man without a criminal record, was sentenced to 235 months, the bottom of the guideline range.

Case Number: 121359

Weapon Involved: No Weapon
Defendant's Most Serious Function: Off-loader/Loader

Summary:

The defendant was a low level member of a conspiracy to import 442 kilograms of cocaine. The defendant's role was limited to being a member of the team of individuals who manned the speedboats that were to pick the drugs from the ocean. The defendant was sentenced to time served on a 5k1.1 motion. The reduction was from a 121 month minimum.

Case Number: 98734

Weapon Involved: Weapon Not Readily Accessible
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant was captured at the US/Mexican border. His car was searched and the cocaine was found. The defendant's exact place in this distribution is unknown according to the PSR.

Case Number: 108862

Weapon Involved: No Weapon
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

Case involved an organization that imported multi-kilo amounts of cocaine into the U.S. through Puerto Rico. Initially, Undercover Agents(UCA) had been paid \$70,000, by a codefendant, to import 110 kilograms of cocaine into Miami, Florida. Following a controlled delivery, drug agents seized the cocaine. The UCA's continued negotiations with the smugglers and arranged to unload a vessel carrying 800 kilograms of cocaine, which was off the coast of Puerto Rico. When the vessel was located, crew members said that all of the cocaine had been discarded into the ocean because they thought they had been detected by the Coast Guard. The crew recovered 13 kilos which were given to the UCA's. The defendant was hired as a crewman and expected to receive 200,000 colombian pesos for his services. There was a mandatory minimum of 10 years. Based on a 5K motion, the Court sentenced the defendant to 121 months CBOP and five years Supervised Release.

Case Number: 128916

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant was arrested while transporting 300 kilograms of cocaine to an undisclosed location. Court is holding defendant accountable for anywhere from 50 to 150 kilograms of cocaine. Defendant possessed no weapons during the instant offense, and he has no prior record. Evidence shows that the defendant served as a courier in this operation. He will be serving 188 months in prison.

Case Number: 124892

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant was a minor participant in this conspiracy. He was arrested while transporting 400 kilograms of cocaine in a van. His most serious and predominant function was that of courier, although he was also given the responsibility of overseeing the "stash house". He possessed no weapons, has no prior criminal record, and is sentenced to serve 155 months.

Case Number: 127889

Weapon Involved: No Weapon
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

Defendant is sentenced to 100 months in prison, after a 5K1.1 motion. He is accountable for 149 kilograms of cocaine. Defendant was directed to communicate with another co-defendant regarding the importation of cocaine. Defendant possessed no weapons. It was alleged that the defendant was to pick up the cocaine from the co-defendant and give him the money for it, but this never occurred, and defense denies it. Defense maintains that his role was to be sure that the cocaine was in the hotel room and he would then contact his bosses so that they could retrieve the drugs and deliver the money. Defendant was arrested after leaving the hotel room upon inspection of the drugs.

Case Number: 121752

Weapon Involved: No Weapon
Defendant's Most Serious Function: Renter/Storer

Summary:

This defendant was a member of a large scale cocaine distribution conspiracy that distributed thousands of kilograms. The defendant's role included loading cocaine into vehicles, and into stash houses, and to serve as a stash house "sitter". The minimum of the guideline range was 292 months but the defendant was sentenced to 96 months on a 5K1.1 motion.

Case Number: 109979

Weapon Involved: No Weapon
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

Defendant was simply a farm hand for a large marijuana farm. He did not have any authority over the drugs, he just worked the fields.

Case Number: 121936

Weapon Involved: No Weapon
Defendant's Most Serious Function: Unknown

Summary:

The defendant was convicted of conspiring to distribute dilaudid. Her role was unclear from the PSR because she denied involvement despite the jury's opinion on that matter. What is mentioned in the report is that the evidence indicated that on one occasion, the defendant was to accept 1,350 dilaudid pills from another member of the conspiracy. It was not clear whether she was to sell them, to whom, and how many. She recieved a sentence of 151 months, the bottom of the guideline range. The relevant conduct was calculated on the basis of all the dilaudid distributed by the conspiracy over a one year period.

Case Number: 109223

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant's vehicle was observed near a drug bust. Agents followed the defendant and made a stop. A search of the vehicle resulted in the seizure of capsules thought to be cold tablets. The defendant had been released, however, lab tests revealed that the capsules contained 35.2 grams of heroin and a warrant was issued. Agents received information that the defendant was en route from Florida to Georgia with a load of crack cocaine. The defendant was arrested and a search of his vehicle revealed a secret compartment with 900 grams of crack cocaine and 17 grams of marijuana. The defendant was convicted of 3 counts of Possession With Intent to Distribute (Crack, Marijuana and Heroin). The total amount of drugs was converted to the equivalent 8,035.22 kilograms of marijuana. The Court sentenced the defendant to 188 months CBOP on each count to run concurrent and five years Supervised Release.

Case Number: 108452

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant is the "typical" courier. He was paid \$2000 to transport cocaine from Texas to Chicago. His involvement seems to stop here.

Case Number: 104775

Weapon Involved: No Weapon
Defendant's Most Serious Function: Unknown

Summary:

The defendant and two codefendants were aboard a small boat that was observed by U.S. Customs to be retrieving packages thrown from a small plane, and later throwing them back in the water. The defendants were subsequently arrested and the packages retrieved by the Coast Guard; there were 5 bales containing a total of 162 kilos of cocaine. No further information on the defendants was outlined in the file regarding their relationship with the drugs or with any organization. The court sentenced the defendant to 240 months, near the bottom of the applicable guideline range.

Case Number: 1048038

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant traveled from LA to Chicago via train carrying a suitcase filled with 17 kilos of cocaine; he was arrested in Chicago. The defendant stated that he was fearful for his safety and throughout the investigation refused to reveal any information regarding the source of the cocaine. The court sentenced the defendant to 151 months, the bottom of the applicable guideline range.

Case Number: 103844

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant was a runner for a complex heroin distribution organization. He was caught with over \$30,000 in his possession. He was "fired" from the organization because he panicked when faced with law enforcement officers. He is a very minimal player in the conspiracy, but was held accountable for over 10 kilos of heroin. The exact amount was not specified.

Case Number: 102617

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant's job was to ride with another person from California to Nebraska and deliver drugs. In the instant offense, the defendant received a package from California containing drugs. He is a small player in this, and doesn't appear to be a dealer.

Case Number: 101223

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant was holding the drugs for a drug deal. He was not involved in the negotiations. He also did not speak with the PO and thus his total involvement is unknown.

Case Number: 103505

Weapon Involved: No Weapon
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

Defendant was simply a gofer in an organization. He would answer phones, work as a lookout and various other odd jobs.

Case Number: 102071

Weapon Involved: No Weapon
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

Defendant drove and accompanied co-defendants to drug negotiation meetings. Although it was indicated that the defendant would load the cocaine into the vehicles, the defendant never did so. Defendant was held accountable for the 240 kilos of cocaine, the entire amount involved in the instant offense, even though the defendant had no contact with the drugs and argues that he had no idea as to the entire scope of the conspiracy. Defendant will serve 188 months in federal custody.

Case Number: 103701

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant was a U.S. mule for the Columbian drug ring. His only job was to pick up the cocaine and deliver it to another individual. The defendant took total responsibility for his actions.

Case Number: 125105

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was involved in a major cocaine and marijuana distribution network. The defendant's role was to transport money to Florida, and return with cocaine. The defendant's relevant conduct was calculated on the basis of 35 kilograms of cocaine, combined with 99 kilograms of marijuana. The defendant was sentenced to 108 months. The bottom of his guideline range was 168 months, but a 5K1.1 motion was filed.

Case Number: 125252

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was stopped on the highway in New Mexico with 35.9 kilograms of cocaine hidden in the car he was driving. The defendant was transporting the drugs for someone else who was going to pay him \$2000 for doing so. The minimum of the guideline range was 151 months, but the defendant was sentenced to 102 months based on a 5K1.1 motion.

Case Number: 125746

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was a courier of cocaine and methamphetamine. The defendant was instructed to travel to California from Illinois, retrieve cocaine and methamphetamine and return to Illinois where he would be paid \$1500. The defendant was sentenced to 3 years on a guideline minimum of 151 months on a 5K1.1 motion.

Case Number: 116242

Weapon Involved: No Weapon
Defendant's Most Serious Function: Off-loader/Loader

Summary:

The defendant was involved in a conspiracy to import 442 kilograms of cocaine. The defendant was recruited to assist in recovering bales of cocaine from the ocean near Puerto Rico. The defendant was sentenced to 3 years probation despite a guideline range of 121-151 months because of a 5k1.1 motion.

Case Number: 117058

Weapon Involved: No Weapon
Defendant's Most Serious Function: Off-loader/Loader

Summary:

This defendant was an off loader in a conspiracy to import 16446 kilograms of marijuana. The defendant recieved a 4 point downward adjustment for his role in the offense. He was sentenced to 4 years on a guideline minimum of 121 months based on a 5k1.1 motion.

Case Number: 102803

Weapon Involved: No Weapon
Defendant's Most Serious Function: Renter/Storer

Summary:

The defendant was found guilty of Possession with Intent to Distribute Cocaine. In exchange for \$1,000, the defendant let a friend store two suitcases overnight at his residence which contained 27.3 kilograms of cocaine base. The government advised that the defendant was aware that the suitcases contained cocaine base. The Court determined a Total Offense Level of 36 and a Criminal History Category I with a resulting guideline imprisonment range of 188-235. The Court imposed a sentence of 188 months.

Case Number: 116878

Weapon Involved: No Weapon
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

The defendant was a deckhand on a vessel that was to import 16000 kilograms of marijuana. The defendant was given a 4 point reduction for his status as a deckhand. He was sentenced to 5 years on a guideline minimum of 120 months based on a 5k1.1 motion.

Case Number: 111170

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant pled guilty to Distribution of one kilogram of cocaine. The defendant's relevant conduct also involved him as a courier on a separate occasion which resulted in an additional 395 kilos of cocaine. The Court determined a Total Offense Level of 34 and a Criminal History Category I with an imprisonment range of 151 to 188 months. The Court sentence the defendant to 156 months. The Court noted on the Statement Of Reasons that the defendant was sentenced at the lower end of Level 34 because of the defendant's debriefing with agents.

Case Number: 106247

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant was convicted of Conspiracy to Possess with Intent to Distribute Cocaine. The defendant was involved in a sophisticated drug distribution conspiracy. The presentence report reveals that the total amount of cocaine in the conspiracy was 2,909 kilograms. The defendant is described as "gofer" who drove the cocaine to designated areas on orders from above and delivered money. It is not clear from the presentence report whether the probation officer or the Court attempted to use relevant conduct to narrow the amount of drugs that the defendant was responsible for. The Court determined the Total Offense Level to be 40 with a Criminal History Category of I. The resulting imprisonment guideline range was 292-365 months. The defendant was sentenced to an imprisonment term of 56 months based on a downward departure for substantial assistance.

Case Number: 105051

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant was one of the couriers used by a financier in Detroit to transport quantities of cocaine from his source of supply in Florida. The defendant operated in this capacity for "at least" approximately a year and a half; the court held him accountable for the total amount of cocaine that the DEA estimated was involved in the conspiracy (between 30-50 kilos), which operated for approximately two and one half years. The court departed downward due to a 5K1.1 motion for substantial assistance and sentenced the defendant to 48 months, from an original guideline range of 120 - 135 (the 120 from the mandatory minimum).

Case Number: 96360

Weapon Involved: No Weapon

Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

The defendant was a crew member of a lobster boat loaded with 315.9 kilograms of cocaine bound for the United States. He was sentenced to 241 months on a guideline minimum of 235. The defendant was given no downward adjustment for role in the offense nor did he accept responsibility. The defendant was a 24 year old man with no prior record.

Case Number: 102939

Weapon Involved: Weapon Not Readily Accessible

Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

Defendant was involved in this conspiracy for only a short while. She was the organization leader's girlfriend, and her participation in the conspiracy was marginal. She attempted to rent locations and buy guns for the organization. The government contends that she carried empty vials on a few occasions and carried crack on others. The defendant admits that she was aware of the scope of the conspiracy, therefore, she was held accountable for the amount of drugs distributed during her involvement in the offense, which is 500 grams of cocaine base. She herself never carried a weapon, however, she was aware that weapons were being used, and she attempted to obtain them herself. The defendant's original guideline range was 188 to 235 months, but due to a substantial assistance motion, she is sentenced to serve 2 years probation.

Case Number: 95082

Weapon Involved: No Weapon

Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

The defendant was convicted at trial of Possession With Intent to Distribute Cocaine Base. The presentence discloses that the defendant's suitcase was searched after arriving at an airport and authorities found a total of 214.4 grams of cocaine base. The defendant denied any knowledge of how the cocaine base got into the suitcase. The Court found the Total Offense Level to be a level 34 with a Criminal History Category I. The imprisonment range was 151 to 188 months. The Court sentenced the defendant to an imprisonment term of 151 months.

Case Number: 94010

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant pled guilty to Conspiracy to Possess with Intent to Distribute 50 kilograms of Cocaine. The defendant was a courier in a large drug distribution conspiracy. The Court based the guidelines on 50 kilograms of cocaine and found the Total Offense Level to be 30. The Criminal History Category was I and the imprisonment range was 97 to 121 months. The court sentenced the defendant to 48 months imprisonment based on a downward departure for substantial assistance.

The defendant received a four level reduction for minimal participant. It is also noted that the defendant's version of the offense indicates that the defendant's brother asked the defendant to ride along to Chicago on two occasions. The defendant stated that he went on the first trip when his brother asked him to drive his car because he did not have a valid driver's license. While on the second trip to Chicago the brother informed the defendant that drugs were being moved in the cars. The defendant stated that he was sorry that he did not tell his brother to let him out of the car when it was confirmed that drugs were being transported in it. The defendant claimed that he received no money for anything in this case and did not learn of the large amount of drugs that were seized in the case until his arrest. The presentence report reflects that the case agent indicated that the defendant was aware of the drug transactions occurring, but was the least culpable of all six defendants involved.

Case Number: 91940

Weapon Involved: No Weapon

Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

Defendant's involvement in the instant offense was limited to a role of "lookout". She played no part in the negotiation of the sale, nor possessed a weapon. The defendant solely performed counter-surveillance activities while her co-defendants and the undercover agent made the sale. This defendant is held accountable for the 300 kilograms of cocaine involved in the instant offense, and has been sentenced to serve 235 months in federal custody for her involvement in the offense.

Case Number: 89111

Weapon Involved: No Weapon

Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant was arrested at JFK Airport for attempting to import 3.24 kilos of heroin from Singapore hidden in 28 exotic skin handbags, all in a large suitcase carried by the defendant. The defendant's contact person had offered her \$10,000 to smuggle the drugs into New York and the defendant, "desperate for money," accepted the offer. The contact person showed up at the airport, but fled when he saw the defendant with agents; he was not apprehended. The court sentenced the defendant to the bottom of the applicable guideline range, 78 months.

Case Number: 102819

Weapon Involved: No Weapon.

Defendant's Most Serious Function: Unknown

Summary:

29 yr old black male, crim hist II (firearms and drugs). Was crack cutter in large drug organization from which were seized crack, cocaine, heroin, mj, and 9 mm firearms. Sentenced to 135 months on drugs, and 60 months consecutive on firearm.

Case Number: 124386

Weapon Involved: No Weapon

Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

32 yr old male, crim hist II (including drug offense, but no enhancement of MM due to prior). Arrested carrying 172 g of crack on arrival at bus station with another def. Says was accompanying crack dealer and got \$500/trip. Characterized as courier by govt. -2 role, no guns. Admitted past deliveries which increased amount of crack to 329 grams, total. Sentenced to 120 months, no departure.

Case Number: 117856

Weapon Involved: No Weapon
Defendant's Most Serious Function: Unknown

Summary:

A codefendant dropped off \$178,480 to an apartment under surveillance. The codefendant was tailed and observed making phone calls from a nearby pay phone and then proceeded to a parking lot. The defendant was observed approaching this codefendant; the defendant handed the codefendant a cardboard box, spoke with him for a few moments, and walked away. The codefendant was apprehended and agents discovered 24 kilos of cocaine in the cardboard box. The defendant had been tailed back to his home (which was not the apartment originally under surveillance) where agents found nothing but the narcotics detector dog alerted to a closet area. There is nothing more on the extent of the defendant's involvement in this offense. The court sentenced the defendant to 121 months, the bottom of the applicable guideline range.

Case Number: 117857

Weapon Involved: No Weapon
Defendant's Most Serious Function: Unknown

Summary:

Defendant was observed dropping off a bag to an apartment under surveillance. The bag was later discovered to contain \$178,380. Defendant drove to a nearby pay phone and made several calls and then proceeded to a parking lot. A man approached him and handed him a cardboard box, spoke with him a few moments, and then walked away. Agents subsequently searched the van and discovered 24 kilos of cocaine in the box. No further information on the extent of the defendant's involvement in this offense was provided. The court sentenced the defendant to 121 months, the bottom of the applicable guideline range.

Case Number: 126023

Weapon Involved: No Weapon
Defendant's Most Serious Function: Unknown

Summary:

Defendant was arrested while driving in a truck with his two co-defendants. Combined, the three possessed a total of 341.89 grams of pure methamphetamine. There is no indication in the PSR of the defendant's role in the conspiracy, although it is assumed that he intended to distribute the substances. No weapons were found in connection with the offense, and the defendant has no prior convictions. The defendant has been sentenced to serve 211 months in custody.

Case Number: 129646

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

Defendant accompanied a friend who was picking up 50 k of cocaine. Defendant was aware that cocaine was in truck he was driving. No evidence from PSI that defendant had any other role. No weapon was involved. Defendant had no prior arrests or convictions. Defendant received 120 mos.

Case Number: 128629

Weapon Involved: No Weapon
Defendant's Most Serious Function: Money-runner

Summary:

Defendant attempted to help her boyfriend who was in jail to collect a drug debt owed on 16 k of cocaine he delivered. Defendant recruited CI to help her get the money and was arrested. Defendant held accountable for 16 k of cocaine. She had no prior arrests or convictions. Defendant received 51 mos. on 5K1.1.

Case Number: 97494

Weapon Involved: No Weapon
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

The defendant was a deckhand on a lobster boat that was observed by DEA to be "riding low in the water and travelling at a high rate of speed" three miles off the coast of Haiti. Three deckhands (not including the defendant) were observed by the Coast Guard throwing packages in the water. Coast Guard boarded and arrested six defendants. The defendant was identified as the least culpable as he was not in charge in any way and did not participate in throwing the cocaine overboard. However, he did not receive a mitigating role reduction, and was held accountable for all 316 kilos of cocaine. With a guideline range of 188 to 235 months, the defendant was sentenced to 72 months incarceration because of a 5K1.1 motion made by the government.

Case Number: 126521

Weapon Involved: No Weapon
Defendant's Most Serious Function: Unknown

Summary:

Details of PSI sketchy. Defendant involved in family drug ring. No details of his involvement or why he is being held accountable for 499 g of crack. Defendant received 120 mos. on a 5K1.1 departure.

Case Number: 115104

Weapon Involved: Weapon Readily Accessible
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

27 year old female with no criminal history, assisted husband in cocaine trafficking. Guilty at trial with several others of drug and 924(c) counts, based on wiretap on her residential phone. She passed messages and canceled orders on the phone for husband. Some other def's had guns. Received time served sentence (rather than 10+ years) because of 5K motion.

Case Number: 113786

Weapon Involved: Weapon Displayed/Brandished/Possessed on Person
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

The defendant was determined to be acting as counter surveillance during the drug transaction which involved 60 kilograms cocaine. Reportedly, he was a passenger in the car with another codefendant and appeared to be a minimal participant considering the role of others in this offense. The defendant was not directly involved with any weapon. He received a sentence of 60 months imprisonment and 48 months supervised release plus a special condition that he not return to the U.S. without permission of INS. No fine was ordered but the defendant ordered to pay a special assessment of \$50.00.

Case Number: 106714

Weapon Involved: Weapon Readily Accessible
Defendant's Most Serious Function: Money-runner

Summary:

Defendant worked part-time in apartment that was a center for cocaine distribution. Agents characterized him as "an inner member and trusted confidante of the...organization." He answered the telephone, passed on directions to other lower level members of the organization, assisted in counting money, and provided transportation of people, money, and cocaine. During the relevant period, the organization dealt with about 2,000 kilos of cocaine. Defendant received a "small sum per week." Defendant did not receive an adjustment for mitigating role. Upon a government motion based on substantial assistance, defendant was sentenced to 48 months imprisonment, a downward departure from the original guideline range of 360 - life.

Case Number: 100934

Weapon Involved: Weapon Readily Accessible
Defendant's Most Serious Function: Renter/Storer

Summary:

Female defendant with no substantial criminal history allowed big dealer to rent room in her and her husband's house and knew he was cooking crack and dealing it out of his room. He also had a gun behind his headboard (her knowledge unknown). He was in their house only one week before arrests. She accepted \$100 from him for renting the room, along with \$50 in crack. She and her husband had purchased (presumably) small amounts of drugs from the dealer in the past. 120-month sentence.

Case Number: 100741

Weapon Involved: Weapon Displayed/Brandished/Possessed on Person
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The Lockie Daly Organization (LDO) was involved in the distribution of cocaine from various houses, known as gate houses, in Philadelphia and operated from 1985 to 1990. The LDO consisted of mostly Jamaican Nationals which distributed 150 Kilograms of cocaine and 1.5 KG of cocaine base (crack). Through a pattern of racketeering, LDO activities included murder, manufacture and distribution of cocaine and money laundering. The defendant was a delivery person, transporting cocaine from the stash houses to the gate houses. Also, he rented cars used in LDO activities. The defendant was involved for a period of six months from 1986 to 1987 and responsible for the distribution of 26 kilograms of cocaine during that time. Based on a 5K motion, the Court sentenced the defendant to 72 months CBOP and five years Supervised Release.

Case Number: 99374

Weapon Involved: No Weapon
Defendant's Most Serious Function: Mule (Drug on Person)

Summary:

Defendant was just taught how to "cook" his first batch of meth. He delivered the meth to his superior and in transit back with 15 kilos, which weren't going to be sold at the time, he was arrested. This is why he has two jobs in this conspiracy, that of a mule and that of a manufacturer.

Case Number: 95600

Weapon Involved: Weapon Displayed/Brandished/Possessed on Person
Defendant's Most Serious Function: Off-loader/Loader

Summary:

The defendant was one of 29 defendants involved in an extensive marijuana growing operation which operated from 1981 to 1990. Trial testimony in a codefendants case reflected over 1,000,000 marijuana plants grown during that time in swampy areas in Florida. The marijuana was known as "Myakka Gold", the highest quality grown in the U.S. The defendants had various roles: growers, helpers and cleaners. The defendant trimmed plants and worked as a laborer from 1986 to 1987. For his involvement, he earned about \$10,000. During the course of the conspiracy, many codefendants possessed firearms at the growing sites. Based on a 5K motion, the Court departed downward and sentenced the defendant to 27 months CBOP and five years Supervised release.

Case Number: 92828

Weapon Involved: Weapon Displayed/Brandished/Possessed on Person
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

Defendant was low-level participant in an extensive marihuana growing and distribution ring that operated for 10 years and involved 29 codefendants and, according to the government, over 100 unindicted individuals. Testimony and other evidence established that the conspiracy involved approximately one million marihuana plants. The defendant's role was limited to "cleaning" the marihuana (preparing it for packaging); he was occasionally asked to drive and drop off co-defendants near the marihuana patches so that they could tend to the plants. The court accepted the calculations in the PSR, including drug amount (one million plants - level 42 for 300,000 kilos or more of marihuana). It is not clear whether relevant conduct was applied "correctly" as it is not clear at what point the defendant entered into the conspiracy, although by his own admission he was involved for at least 5 years. The court departed downward from a guideline range of 292 - 365 months in sentencing the defendant based on a U5K1.1 motion "and the fact that there exist factors not adequately taken into consideration by the Sentencing Guideline under 5K2.0: Namely, this conspiracy lasted over a ten year period and involved 1,000,000 marihuana plants. It involved 29 indicted conspirators and...over 100 unindicted co-conspirators. The guidelines did not take into consideration the effect of such an unusual case on the functions of the Court. For these reasons the Court departs to a level 16 resulting in a guideline range of 21 -27 months." The court subsequently sentenced the defendant to 21 months.

Case Number: 92821

Weapon Involved: Weapon Displayed/Brandished/Possessed on Person
Defendant's Most Serious Function: Gopher/Lookout/Deckhand

Summary:

This defendant was a part of a large marijuana conspiracy that produced over ONE MILLION MARIJUANA PLANTS, and pursuant to the guidelines, this calculates into one million kilograms of marijuana. This defendant's role was limited to providing transportation for her husband and other co-defendants to the marijuana farm. In addition, this defendant cleaned the marijuana and prepared the drugs for packaging on a few occasions. The court found that her relevant conduct included guns that were possessed by co-defendants, who carried weapons with them on the farm while preparing the drugs for sale. Additionally, the court also determined that this defendant will be held accountable for one million kilos of marijuana, as she was aware of the scope of the conspiracy. Her original guideline range was 292-365 months, and the defendant had no prior criminal convictions. However, due to a substantial assistance motion by the government, the defendant will be placed in federal custody for 12 months.

Case Number: 90524

Weapon Involved: No Weapon
Defendant's Most Serious Function: Courier (Drug by Vehicle)

Summary:

The defendant has two gambling convictions (misdemeanors) for which he was fined. He received 0 criminal history points. In return for a Toyota Camry of unspecified value, the defendant agreed to deliver cocaine for drug distributors. The drug transfer took place in a parking lot and was observed by police who stopped the defendant in his car a few blocks away. The defendant admitted to a search of the car, and his involvement in the offense. He was held only for the drugs in the car (20 kilos), received a two level reduction for minor role, and had the government assert that he had no knowledge of or involvement in any way with the larger amounts of cocaine seized (50 kilos) from co-conspirators.