

Selected Sentencing Statistics for Fiscal Year 2012 for the Federal Sentencing Guidelines for Criminal Sexual Abuse (Rape) (§2A3.1) and Abusive Sexual Contact (§2A3.4)

NOTE: The November 4, 2003 *Report of the Native American Advisory Group to the United States Sentencing Commission* found: “The effect of the federal Indian country jurisdiction is reflected in federal case statistics. While Indian offenses amount to less than five percent of the overall federal caseload, they constitute a significant portion of the violent crime in federal court. Over eighty percent of manslaughter cases and **over sixty percent of sexual abuse cases arise from Indian jurisdiction.**”... “In a geographical sense, **Indian offenses are a major part of the practice of federal criminal law in several very large federal districts, such as Arizona, New Mexico, South Dakota and Montana, and a significant part in others, such as Minnesota, Nevada and Washington [Eastern & Western Districts of Washington].**”

The United States Sentencing Commission’s **Fiscal Year 2012** sentencing data confirms the continuation of Advisory Group’s findings regarding the application of the guidelines for **Criminal Sexual Abuse (Rape), where over 70 percent of the defendants fall in the “Other” category of the Race of Offenders, which includes Native Americans.** Additionally, **over 60 percent of those cases come from the eight federal districts cited in the Advisory Group’s Report** as having Indian offenses as a significant part of their federal criminal law practice.

Because the nature and circumstances of the offenses and offenders in these cases are significantly determined in the context of Indian reservations, the sentencing data below must be viewed in that light.

http://www.ussc.gov/Research_and_Statistics/Research_Projects/Miscellaneous/20031104_Native_American_Advisory_Group_Report.pdf

§2A3.1 Criminal Sexual Abuse (Rape)

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS

Offender Based
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Found at:

http://www.ussc.gov/Data_and_Statistics/Federal_Sentencing_Statistics/Guideline_Application_Frequencies/2012/Use_of_Guidelines_and_Specific_Offense_Characteristics_Offender_Based.pdf

Guideline and SOC	Applied	%
§2A3.1 Criminal Sexual Abuse (Rape)	116	0.2
(a)(1) Conviction under 18 U.S.C. § 2241(c) (Base offense level 38)	12	10.3
(a)(2) Otherwise (Base offense level 30)	90	77.6
(a) Base offense level 27	14	12.1
Chapter 2 Specific Offense Characteristic Adjustments	95	81.9
(b)(1) Offense committed by means set forth in 18 U.S.C. § 2241(a) or (b) (4 levels)	52	44.8
(b)(2)(A) Victim under age of 12 (4 levels)	34	29.3
(b)(2)(B) Victim between 12 and 16 (2 levels)	21	19.1
(b)(3)(A) Victim in custody, care or control (3 levels)	1	0.9
(b)(3)(A) Victim in custody, care or control (2 levels)	24	20.7
(b)(3)(B) Victim in a correctional facility (2 levels)	3	2.6
(b)(4)(A) Permanent or life-threatening bodily injury (4 levels)	2	1.7
(b)(4)(B) Between permanent/life-threatening and serious bodily injury (3 levels)	0	0.0
(b)(4)(C) Serious bodily injury (2 levels)	8	6.9
(b)(5) Victim abducted (4 levels)	9	7.8
(b)(6)(A) Misrepresentation to persuade a minor (2 levels)	5	4.3
(b)(6)(B) Use of a computer to persuade a minor (2 levels)	10	8.6

CHAPTER THREE ADJUSTMENTS

Offender Based

Fiscal Year 2012

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Found at:

[http://www.ussc.gov/Data and Statistics/Federal Sentencing Statistics/Guideline Application Frequencies/2012/Chapter Three Adjustments Offender Based.pdf](http://www.ussc.gov/Data%20and%20Statistics/Federal%20Sentencing%20Statistics/Guideline%20Application%20Frequencies/2012/Chapter%20Three%20Adjustments%20Offender%20Based.pdf)

Guideline	Applied	%
§2A3.1 Criminal Sexual Abuse (Rape)	116	0.2
§3A1.1(a) Hate Crime Adjustment (three levels)	0	0.0
§3A1.1(b)(1)&(2) Vulnerable Victim Adjustment (two or four levels)	16	13.8
§3A1.2 Official Victim Adjustment (three or six levels)	0	0.0
§3A1.3 Restraint of Victim Adjustment (two levels)	3	2.6
§3A1.4 Terrorism Adjustment (12 levels, or increase to level 32)	0	0.0
§3B1.1 Aggravating Role Adjustment (two, three or four levels)	4	3.4
§3B1.2 Mitigating Role Adjustment (two, three or four level decrease)	0	0.0
§3B1.3 Abuse of Position of Trust Adjustment (two levels)	0	0.0
§3B1.4 Use of a Minor to Commit a Crime Adjustment (two levels)	0	0.0
§3B1.5 Use of Body Armor in Drug Trafficking or Crimes of Violence (two or four levels)	0	0.0
§3C1.1 Obstructing or Impeding the Administration of Justice Adjustment (two levels)	5	4.3
§3C1.2 Reckless Endangerment During Flight (two levels)	0	0.0
§3C1.3 Commission of Offense While on Release (three levels)	0	0.0
§3C1.4 False Registration of Domain Name (two levels)	0	0.0
§3E1.1 Acceptance of Responsibility (two or three level decrease)	90	77.6

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Table 17

OFFENDERS SENTENCED UNDER EACH CHAPTER TWO GUIDELINE

Fiscal Year 2012

Found at:

http://www.ussc.gov/Research_and_Statistics/Annual_Reports_and_Sourcebooks/2012/Table17.pdf

§2A3.1 - Criminal Sexual Abuse

Guideline	As Primary Guideline		As Any Guideline	
	N	%	N	%
§2A3.1	121	0.2	129	0.2

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Table 28 (information consolidated)

SENTENCES RELATIVE TO THE GUIDELINE RANGE BY EACH PRIMARY SENTENCING GUIDELINE

Fiscal Year 2012

Found at:

http://www.ussc.gov/Research_and_Statistics/Annual_Reports_and_Sourcebooks/2012/Table28.pdf

§2A3.1 - Criminal Sexual Abuse

Total	Within	Above	Govt Sponsored			Below
			§5K1.1	§5K3.1	Other	
121	65	10	2	1	33	37

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**SENTENCE LENGTH IN SELECTED PRIMARY SENTENCING GUIDELINES
And
LENGTH OF IMPRISONMENT IN SELECTED PRIMARY SENTENCING GUIDELINES**

Fiscal Year 2012

Both Found at: www.ussc.gov Interactive Sourcebook

IDENTICAL INFORMATION (which indicates that none of the cases were given a probation-only sentence):

§2A3.1 - Criminal Sexual Abuse

Total Cases	Mean Months	Median Months
121	186	135

**NOTE:
LENGTH OF IMPRISONMENT FOR THE DISTRICTS OF
ARIZONA, MINNESOTA, MONTANA, NEVADA, NEW MEXICO
SOUTH DAKOTA, WASHINGTON EASTERN, WASHINGTON WESTERN
(these eight districts with a significant number of cases originating on Indian reservations,
account for just over 60 percent of all the cases under this guideline)**

Total Cases	Mean Months	Median Months
74	170	128

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§2A3.4 Abusive Sexual Contact

USE OF GUIDELINES AND SPECIFIC OFFENSE CHARACTERISTICS

Offender Based

Fiscal Year 2012

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Found at:

http://www.ussc.gov/Data_and_Statistics/Federal_Sentencing_Statistics/Guideline_Application_Frequencies/2012/Use_of_Guidelines_and_Specific_Offense_Characteristics_Offender_Based.pdf

Guideline and SOC	Applied	%
§2A3.4 Abuse Sexual Contact	48	0.1
(a)(1) If offense committed by means in 18 U.S.C. § 2241(a) or (b) (BOL 20)	2	4.2
(a)(2) If offense committed by means in 18 U.S.C. § 2242 (Base offense level 16)	8	16.7
(a)(3) Other than (a)(1) or (a)(2) (Base offense level 12)	37	77.1
(a)(3) Other than (a)(1) or (a)(2) (Base offense level 10)	1	2.1
Chapter 2 Specific Offense Characteristic Adjustments	27	56.2
(b)(1) Victim under the age of 12 (4 levels or increase to level 22)	12	25.0
(b)(1) Victim under the age of 12 (4 levels or increase to level 20)	7	7.4
(b)(2) Victim between 12 and 16 (2 levels)	2	4.2
(b)(3) Victim was in custody, care or control (2 levels)	15	31.2
(b)(4) Misrepresentation of identity (2 levels)	0	0.0
(b)(5) Use of a computer (2 levels)	0	0.0

CHAPTER THREE ADJUSTMENTS

Offender Based

Fiscal Year 2012

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Found at:

http://www.ussc.gov/Data_and_Statistics/Federal_Sentencing_Statistics/Guideline_Application_Frequencies/2012/Chapter_Three_Adjustments_Offender_Based.pdf

Guideline	Applied	%
§2A3.4 Abuse Sexual Contact	48	0.1
§3A1.1(a) Hate Crime Adjustment (three levels)	0	0.0
§3A1.1(b)(1)&(2) Vulnerable Victim Adjustment (two or four levels)	6	12.5
§3A1.2 Official Victim Adjustment (three or six levels)	1	2.1
§3A1.3 Restraint of Victim Adjustment (two levels)	1	2.1
§3A1.4 Terrorism Adjustment (12 levels, or increase to level 32)	0	0.0
§3B1.1 Aggravating Role Adjustment (two, three or four levels)	0	0.0
§3B1.2 Mitigating Role Adjustment (two, three or four level decrease)	0	0.0
§3B1.3 Abuse of Position of Trust Adjustment (two levels)	0	0.0
§3B1.4 Use of a Minor to Commit a Crime Adjustment (two levels)	0	0.0
§3B1.5 Use of Body Armor in Drug Trafficking or Crimes of Violence (two or four levels)	0	0.0

§3C1.1 Obstructing or Impeding the Administration of Justice Adjustment (two levels)	2	4.2
§3C1.2 Reckless Endangerment During Flight (two levels)	0	0.0
§3C1.3 Commission of Offense While on Release (three levels)	0	0.0
§3C1.4 False Registration of Domain Name (two levels)	0	0.0
§3E1.1 Acceptance of Responsibility (two or three level decrease)	42	87.5

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Table 17

OFFENDERS SENTENCED UNDER EACH CHAPTER TWO GUIDELINE

Fiscal Year 2012

Found at:

http://www.ussc.gov/Research_and_Statistics/Annual_Reports_and_Sourcebooks/2012/Table17.pdf

§2A3.4 – Abusive Sexual Contact

Guideline	As Primary Guideline		As Any Guideline	
	N	%	N	%
§2A3.4	48	0.1	70	0.1

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Table 28 (information consolidated)

SENTENCES RELATIVE TO THE GUIDELINE RANGE BY EACH PRIMARY SENTENCING GUIDELINE

Fiscal Year 2012

Found at:

http://www.ussc.gov/Research_and_Statistics/Annual_Reports_and_Sourcebooks/2012/Table28.pdf

§2A3.4 – Abusive Sexual Contact

Total	Within	Above	Govt Sponsored			Below
			§5K1.1	§5K3.1	Other	
48	31	7	0	0	0	10