

CRIMES OF VIOLENCE UNDER §2L1.2
Updated 10/22/09

This list was created to assist attorneys in determining whether or not a prior conviction is a crime of violence warranting a **16 level** enhancement under U.S.S.G. §2L1.2(b)(1)(A)(ii). This list will be updated on a monthly basis. It will attempt to include the most recent 5th Circuit decisions, government concessions at the appellate level and district court decisions at the trial level. The district court decisions will be taken from the brief abstracts sent by the appellate section and from the trial attorneys themselves. The purpose of this list being to provide attorneys with a quick reference on crimes of violence under 2L1.2 as well as informing attorneys that an issue has already been researched, written, and litigated, successfully or unsuccessfully. An effort will be made to provide a point of contact and to indicate if an appeal is pending. While the focus of this list is crimes of violence warranting a 16 level enhancement, a few selected aggravated felonies will be included as well as a few cases from other districts and some important drug cases. ***For additions or corrections, please contact: [Anne Berton@fd.org](mailto:Anne.Berton@fd.org), or [Lupe Maldonado@fd.org](mailto:Lupe.Maldonado@fd.org).***

Disclaimer: This list should not be used as a substitute for thorough research by each attorney. Although every effort will be made to keep the list updated, it may not be complete. This list includes 5th Circuit decisions and district court decisions in the Western District. It does not include decisions from other circuits or districts. Also, it does not include all possible arguments regarding each prior conviction. Finally, even if an offense is listed as a crime of violence, attorneys should review the listed case and look at the **reasoning** behind the court's decision. You may still have a viable objections or you may want to object to preserve the issue or challenge the court's reasoning.

Alabama

Alaska

Arizona¹

Aggravated Assault (Class 6 Felony), ARIZ. REV. STAT. ANN §13-1204
Contact Attorney: Jim Langell (Please note this case if from the 10th Circuit)
Not a Crime of Violence/Not an Aggravated Felony/Not a Felony

Aggravated Assault on Law Enforcement Officer
Contact Attorney: Reggie Trejo
Not a Crime of Violence/Not an Aggravated Felony/Agreement Reached for 4 Level Enhancement

Aggravated Assault Serious Physical Injury, ARIZ. REV. STAT. ANN § 13-1204 (A)(1)
Contact Attorney: Joseph Cordova
Not a Crime of Violence

¹The Ninth Circuit disagrees with the Fifth Circuit's holding in *US v. Mungia-Portillo* and has held that Aggravated Assault under ARIZ. REV. STAT. §13-1204(A)(11) is not a crime of violence. *US v. Esparza-Herrera*, No. 07-30490, –F3.d–, 2009 WL 455512 (9th Cir. 2009).

Aggravated Assault with a Deadly Weapon, ARIZ. REV. STAT. ANN §13-1203
Contact Attorney: Santiago Hernandez
Not a Crime of Violence/Not an Aggravated Felony/4 Level Enhancement Imposed

Attempted Aggravated Assault, ARIZ. REV. STAT. §13-1204 and §13-1001
Contact Attorney: Margarito G. Rodriguez
Not a Crime of Violence

Burglary in the Second Degree, ARIZ. REV. STAT. ANN §13-1507(1998)
Contact Attorney: Robert Castaneda & Mike Gorman
Crime of Violence

Sexual Assault, ARIZ. REV. STAT. §13-1406
Contact Attorney: Christine Kelso
Not a Crime of Violence/ Not an Aggravated Felony/ 4 Level Enhancement Imposed

Arkansas

Battery in the Second Degree, ARK. CODE ANN. §5-13-202
Contact Attorney: Sandra S. Lewis
Appellate Attorney: Philip Lynch
Not a Crime of Violence

Burglary,
1. ARK CODE ANN. §5-39-201(a)(1987)
US v. Mendoza-Sanchez, 456 F.3d 479 (5th Cir. 2006)
Crime of Violence
2. ARK CODE ANN. §5-39-201(2004)
Contact Attorney: Todd Durden
Not a Crime of Violence

California

Assault with a Deadly Weapon
1. CAL. PENAL CODE §245(a)(1)
US v. Sanchez-Ruedas, No. 05-40804, 452 F.3d 409 (5th Cir. 2006)
Crime of Violence
2. CAL. PENAL CODE §245(a)(1)
US v. Robles-Enriquez, 194 Fed. Appx. 189(5th Cir. 2007)(unpub.)
Crime of Violence

Assault with Intent to Commit a Felony, CAL. PENAL CODE §220(a)
US v. Rojas-Gutierrez, No. 06-50584, 510 F.3d 545 (5th Cir. 2007)
Crime of Violence

Attempted Robbery, CAL. PENAL CODE §211
Contact Attorney: Sandra S. Lewis
Not A Crime of Violence

Burglary

1. CAL. PENAL CODE §459

Contact Attorney: Ahilan T. Arulanantham (contact Anne Berton)

Not a Crime of Violence

2. CAL. PENAL CODE §459

Contact Attorney: Reginaldo Trejo, Jr.

Appellate Attorney: Carolyn Fuentes

Crime of Violence/appealed/affirmed 10/5/06

3. CAL. PENAL CODE §459

US v. Murillo-Lopez, No. 04-41397, 444 F.3d 337, (5th Cir. 2006)

Crime of Violence

4. CAL. PENAL CODE §459

Contact Attorney: Tyron Mansfield & Erik Hanshew

Appellate Attorney: Carolyn Fuentes

Crime of Violence

5. CAL. PENAL CODE §459

US v. Ortega-Gonzaga, No. 06-40493, 490 F.3d 393 (5th Cir. 2007)

Not a Crime of Violence

6. CAL. PENAL CODE §459

US v. Gonzalez-Terrazas, No. 07-50375, 529 F.3d 293 (5th Cir. 2008)

Not a Crime of Violence

Corporal Injury to a Spouse, CAL. PENAL CODE §273.5

Contact Attorney: Rebecca Reyes

Crime of Violence

False Imprisonment, CAL. PENAL CODE §236 AND 237

Contact Attorney: Horatio Aldredge

Not a Crime of Violence/Not an Aggravated Felony

First Degree Robbery, CAL. PENAL CODE §211, 212.5, and 12022(a)(1)

US v. Estrada-Borjas, No. 05-40739, 174 Fed. Appx. 820(5th Cir. 2006)(unpub)

Crime of Violence

Kidnapping, CAL. PENAL CODE §207(a)

US v. Moreno-Flores, No. 07-50833, 542 F.3d 445 (5th Cir. 2008)

Not a Crime of Violence

Lewd Conduct With a Minor, CAL. PENAL CODE §288(b)

US v. Olivas-Pena, No. 05-11371, 202 F. Appx. 656 (5th Cir. 2006)

Crime of Violence

Oral Copulation, Victim Unconscious and Sexual Penetration, Victim Unconscious,

CAL. PENAL CODE §288a(f) and 289 (d)

US v. Raya-Romero, No. 04-40447, 157 Fed. Appx. 703 (5th Cir. 2005) (unpublished)

Not a Crime of Violence b/c not supported by the record

Oral Copulation of a Minor, §288a(b)(1)

Us v. Munoz-Ortenza, No. 07-51344, –F.3d—, 2009 WL 693146 (5th Cir. 2009)

Not a Crime of Violence

Possession of a Deadly Weapon, CAL. PENAL CODE §1202 (a)

US v. Medina-Anicacio, No. 01-41171, 325 F.3d 638 (5th Cir. 2003)

Not a Crime of Violence/ Not an Aggravated Felony

Rape, CAL. PENAL CODE §261(c) (1991)

US v. Gomez-Gomez, No. 05-41461, 547 –F.3d– 242 (5th Cir. 2008)

Crime of Violence

Robbery

1. CAL. PENAL CODE §211

Contact Attorney: Christine W. Kelso

Not a Crime of Violence

2. CAL. PENAL CODE §211

Contact Attorney: Bill Fry

Not a Crime of Violence

3. CAL. PENAL CODE §211

US v. Tellez-Martinez, No. 06-50647, 517 F.3d 813 (5th Cir. 2008)

Contact Attorney: John Calhoun

Appellate Attorney: Henry Bemporad

**Crime of Violence/Appeal Filed/Affirmed/Petition for Rehearing/Denied
3-18-08**

Sexual Battery, CAL. PENAL CODE §243.4 (1998)²

US v. Bonilla-Mungia, No. 03-41751, 422 F.3d 316 (5th Cir. 2005)

Possibly Not a Crime of Violence/Remanded: 200 Fed.Appx. 376 (5th Cir. 2006)(unpub.)

Taking Vehicle without Consent, CAL. PENAL CODE §10851(a)

Gonzalez v. Dueñas-Alvarez, 127 S.Ct. 815 (2007)

Aggravated Felony

² The Ninth Circuit held that a sexual battery conviction under CAL. PENAL CODE § 243.4(a) does not constitute a crime of violence. *US v. Lopez-Montanez*, No. 04-50260, 421 F.3d 926 (9th Cir. 2005).

Unlawful Sexual Intercourse with a Minor^{3 4}

1. CAL. PENAL CODE §261.5

US v. Morales-Macias, 131 Fed. Appx. 433 (5th Cir. 2005)(unpub.)

Contact Attorney: Manuel Pacheco

Appellate Attorney: Donna Coltharp

Crime of Violence at Resentencing

2. CAL. PENAL CODE §261.5

US v. Lopez-Garcia, No. 05-40061, 163 Fed. Appx. 306 (5th Cir. 2006)(unpub.)

Crime of Violence

3. CAL. PENAL CODE §261.5

US v. Eusebio-Giron, No. 05-51000, 186 Fed. Appx. 507, (5th Cir. 2006)(unpub.)

Contact Attorney: Anne Berton

Appellate Attorney: Carolyn Fuentes

Crime of Violence/appeal/affirmed 6-22-06

4. CAL. PENAL CODE §261.5

US v. Diaz-Vela, No. 06-40939, 224 Fed. Appx. 381(5th Cir. 2007)(unpub.)

Crime of Violence

5. CAL. PENAL CODE §261.5(c)

US v. Vigil-Sanchez, No. 06-41313, 246 Fed. Appx. 854 (5th Cir. 2007)(unpub.)

Crime of Violence

6. CAL. PENAL CODE §261.5(c)

US v. Lopez-De Leon, No. 06-41553, 513 F.3d 472 (5th Cir. 2008)

Crime of Violence

Colorado

Attempted Second Degree Kidnapping, COLO. REV. STAT. §18-3-302(1)

US v. Cervantes-Blanco, No. 06-50738, 504 F.3d 576 (5th Cir. 2007)

Contact Attorney: Margarito Rodriguez

Appellate Attorney: Judy Madewell

Not a Crime of Violence/Appealed/Remanded

Conspiracy to Distribute or Manufacture a Controlled Substance, COLO. REV. STAT. §18-18-405(1)(a)

Contact Attorney: Reggie Trejo

Not a Drug Trafficking Offense

³The Ninth Circuit held that CAL. PENAL CODE § 261.5(c) is overly inclusive and, therefore, is not a crime of violence. *US v. Rodriguez-Guzman*, No. 06-10585, 506 F.3d 738 (9th Cir. 2007).

⁴The Ninth Circuit held that CAL. PENAL CODE §§261.5(c), 286(b)(1), 288a(b)(1), 289(h) do not constitute sexual abuse of a minor and, therefore, are not aggravated felonies. *Estrada-Espinoza v. Mukasey*, –F.3d–, 2008 WL 4615681 (9th Cir. 2008). (**Note there is a Circuit Split/Preserve the Issue**)

Criminal Attempt to Commit Assault in the Second Degree, COLO. REV. STAT. §18-2-101 and §18-3-203

Contact Attorney: Rita Rodriguez

Not a Crime of Violence

First Degree Criminal Trespass

1. COLO. REV. STAT. § 18-4-502

US v. Delgado-Enriquez, No. 98-51003, 188 F.3d 592 (5th Cir. 1999)

Crime of Violence (*Note: 16 levels imposed back then but should now probably be an aggravated felony and an 8 level increase, depending on the sentence.*)

2. COLO. REV. STAT. § 18-4-502

Contact Attorney: Edgar Holguin

Aggravated Felony (8 level Enhancement Imposed)

First Degree Criminal Trespass-Auto with Intent to Commit a Crime, COLO. REV. STAT. § 18-4-502

Contact Attorney: Selena Solis

Appellate Attorney: Carolyn Fuentes

Aggravated Felony - Appeal Pending

Menacing

1. COLO. REV. STAT. §18-3-206

US v. Landeros-Arreola, No. 00-50512, 260 F.3d 407 (5th Cir. 2001)

Not an Aggravated Felony

2. COLO. REV. STAT. §18-3-206

Contact Attorney: Maureen Franco

Not a Crime of Violence

3. COLO. REV. STAT. §18-3-206

Contact Attorney: Manuel Acosta-Rivera

Appellate Attorney: Henry Bemporad

Not a Crime of Violence at Resentencing/Not an Aggravated Felony/ 4 Level Enhancement Imposed

Misdemeanor Assault, COLO. REV. STAT. §18-3-204

Contact Attorney: Anne Berton

Not a Crime of Violence

Misdemeanor Third Degree Sexual Assault, COLO. REV. STAT. §18-3-404

Contact Attorney: Edgar Holguin

Not a Crime of Violence

Misdemeanor Unlawful Sexual Contact, COLO. REV. STAT. §18-3-404

Contact Attorney: Marie Romero-Martinez

Appellate Attorney: Carolyn Fuentes

Government conceded Not a Crime of Violence

Second Degree Burglary: Dwelling, COLO. REV. STAT. §18-4-203(2)(a) (1998)

Contact Attorney: Anne Berton

Appellate Attorney: Carolyn Fuentes

Crime of Violence/appeal/affirmed 7-13-06

Second Degree Sexual Assault, COLO. REV. STAT. §18-3-403
US v. Palomares-Candela, No. 03-10535, 104 Fed. Appx. 957 (5th Cir. 2004)(unpub.)
Not a Crime of Violence

Connecticut

Second Degree Assault, CONN. GEN. STAT. § 53a-60(a)(2)
US v. Torres-Diaz, No. 05-40090, 438 F.3d 529 (5th Cir. 2006)
Crime of Violence

Delaware

District of Columbia

Florida

Aggravated Battery,

1. FLA. STAT. §784.045 (1998)
US v. Gonzalez-Chavez, No. 04-40173, 432 F.3d 334 (5th Cir. 2005)
Crimes of Violence/Appeal/ Vacated & Remanded

2. FLA. STAT. §784.045 (1998)
Contact Attorney: Edgar Holguin
Not a Crime of Violence/Not an Aggravated Felony/4 Level Enhancement Imposed

3. FLA. STAT. §784.03(1)(a)(1), 784.045(1)(a)(2)
US v. Dominguez, No. 06-40292, 479 F.3d 345(5th Cir. 2007)
Crime of Violence

4. FLA. STAT. §784.045(1)(b)
US v. Thompson, No. 07-50512, 269 Fed. Appx. 363 (5th Cir. 2008)(unpub)
Contact Attorney: Erik Hanshew
Appellate Attorney: Henry Bemporad
Crime of Violence/ Appeal Pending

Aggravated Stalking, FLA. STAT. §784.048(4)
US v. Insaulgarat, No. 02-40917, 378 F.3d 456 (5th Cir. 2004)
Not a Crime of Violence

Battery of a Police Officer,

1. FLA. STAT. §784.07/784.03
Contact Attorney: Maureen Franco
Not a Crime of Violence

2. FLA. STAT. §784.07/784.03
US v. Robledo-Leyva, No. 08-50140, 307 Fed. Appx. 859 (5th Cir. 2009)
Crime of Violence

Burglary,

1. FLA. STAT. §810.02(1), (3)(b)(2004)
Contact Attorney: Frances Cusack & Brad Bogan
Not a Crime of Violence

2. FLA. STAT. §810.02(1), (3)(2005)
US v. Castillo-Morales, No. 07-40053, 507 F.3d 873 (5th Cir. 2007)
Crime of Violence

3. FLA. STAT. §810.02(3)(1995)
US v. Gomez-Guerra, No. 05-41789, 485 F.3d 301 (5th Cir. 2007)
Not a Crime of Violence

4. FLA. STAT. §810.02
Contact Attorney: Erik Hanshew
Appellate Attorney: Judy Madewell
Crime of Violence/Appeal Pending

Committing a Lewd and Lascivious Act Upon a Child Under the Age of 16 Years,
Fla. Stat. §800.04(2)(1999)
Contact Attorney: Anne Berton
Not a Crime of Violence

DUI/Manslaughter and DUI/Bodily Injury, FLA. STAT. §316.193 (3)(c)(2) & (3)
US v. Valenzuela, No. 03-20395, 389 F.3d 1305 (5th Cir. 2004)
Not a Crime of Violence

Georgia

Family Violence Battery, GA. CODE ANN. §16-5-23.1 (f)
US v. Lopez-Hernandez, No. 02-21078, 112 Fed. Appx. 984 (5th Cir. 2004)(unpub.)
Not a Crime of Violence

Hawaii

Idaho

Attempted Robbery and Battery, IDAHO CODE ANN §§18-6501, 18-6502, 18-306,
18-909 and 18-903
Contact Attorney: Margarito Rodriguez
Not a Crime of Violence/Aggravated Felony 9 Level Enhancement Imposed

Rape, IDAHO CODE ANN § 18-6101(1)
US v. Villa-Delgado, No. 07-50677, 265 Fed. Appx. 251 (5th Cir. 2008)
Contact Attorney: Edgar Holguin
Appellate Attorney: Judy Madewell
Crime of Violence/Appeal/Affirmed 2-8-08

Illinois

Aggravated Battery

1. 720 ILL. STAT. CH. 38 §12-4(b)(1)
Contact Attorney: Selena Solis
Appellate Attorney: Henry Bemporad
Not a Crime of Violence at Resentencing

2. 720 ILL. COMP. STAT. § 5/12-4 (1996)
Contact Attorney: William E. Hermesmeier & Joseph Cordova
Appellate Attorney: Donna Coltharp
Crime of Violence./Appealed/Remanded

3. 720 ILL. COMP. STAT. §5/12-4
US v. Gomez-Vargas, 111 Fed.Appx. 741 (5th Cir. 2004)(unpub.)
Not a Crime of Violence

4. 720 ILL. COMP. STAT. §5/12-4
US v. Aguilar-Delgado, No. 04-40309, 120 Fed.Appx 522 (5th Cir. 2004)(unpub.)
Not a Crime of Violence

5. 720 ILL. STAT. CH. 38 §12-4(a)(1986)
Contact Attorney: Bill Ibbotson
Not a Crime of Violence

6. 720 ILL. STAT. CH. 38 §12-4(b)(1)
Contact Attorney: Rebecca Reyes
Not a Crime of Violence/ 8 Level Enhancement Imposed

7. 720 ILL. COMP. STAT. §5/12-4(b)(1)(1995)
US v. Velasco, No. 05-10451, 465 F.3d 633 (5th Cir. 2006)
Crime of Violence

Aggravated Stalking, 720 ILL. STAT. CH. 38§12-7.4
Contact Attorney: Selena Solis

Appellate Attorney: Judy Madewell
Gov't Conceded-Not a Crime of Violence/Remanded/ 4 Levels Imposed

Domestic Battery, 720 ILL. COMP. STAT. §5/12-3.2 (1996)
Contact Attorney: Santiago D. Hernandez
Not a Crime of Violence

Domestic Battery and Battery Causing Bodily Harm, 720 ILL. COMP. STAT. §5/12-3.2-A-1; 5/12-3-A-1
Contact Attorney: Randall Lockhart
Not a Crime of Violence

Indiana

Aiding Attempted Battery with a Deadly Weapon, IND. CODE §35-42-2-1 (2004)
US v. Juarez-Mejia, No. 08-10699, 2009 WL 1971604 (5th Cir. 2009)(unpub)
Crime of Violence

Iowa

Assault with Intent to Commit Sexual Abuse, IOWA CODE ANN. §709.11 (West 2003)
Contact Attorneys: Christina Norton, Manuel Pacheco, and Bill Fry
Not a Crime of Violence
Going Armed with Intent, IOWA CODE §708.8
Contact Attorney: Reginaldo Trejo
Not a Crime of Violence

Kansas

Aggravated Battery, KAN. STAT. §21-3414(a)(1)(C)
Larin-Ulloa v. Gonzalez, No. 462 F.3d 456 (5th Cir. 2006)
Not an Aggravated Felony

Aggravated Indecent Liberties with a Child, KAN. STAT. §21-3504(a)(3)
Contact Attorney: Manuel Acosta
Appellate Attorney: Philip Lynch
Crime of Violence/Appealed/Appeal Dsmissed by Client

Aggravated Sexual Battery, KAN. STAT. §21-3518
US v. Matute-Galdamez, No. 03-41728, 111 Fed. Appx. 264 (5th Cir. 2004)(unpub.)
Not a Crime of Violence

Attempted Aggravated Sexual Battery, KAN. STAT. §21-3518
US v. Meraz-Enriquez, No. 04-40607, 442 F.3d 331 (5th Cir. 2006)
Not a Crime of Violence

Indecent Solicitation of a Child, KAN. STAT. §21-3510
US v. Ramos-Sanchez, No. 05-50943, 483 F.3d 400 (5th Cir. 2007)
Contact Attorney: Selena Solis
Appellate Attorney: Judy Madewell
Crime of Violence/ Appeal/ Affirmed 4-2-07

Kentucky

Assault, KY. REV. STAT. ANN §508025(1)(a)(1)
Contact Attorney: Reggie Trejo
Not a Crime of Violence/Eight Level Enhancement Imposed

Misdemeanor 4th Degree Assault, KY. REV. STAT. ANN. §508.030
Contact Attorney: Clare Koontz
Government conceded at trial level Not a Crime of Violence

Louisiana

Unauthorized Entry of Inhabited Dwelling, LA. REV. STAT. ANN. 14:62.3
Contact Attorney: Dan Ramirez
Not a Crime of Violence/Aggravated Felony 8 Level Enhancement Imposed

Maine

Maryland

Massachusetts

Assault and Battery,

1. MASS. GEN. LAWS CH. 265, §13A
Andrade v. Gonzalez, No. 04-30247, 459 F.3d 538 (5th Cir. 2006)
Aggravated Felony

2. MASS. GEN. LAWS CH. 265, §13A
US v. Deras-Rodriguez, No. 05-50222, 173 Fed. Appx. 355 (5th Cir. 2006)(unpub.)
Contact Attorney: Frances Cusack
Appellate Attorney: Henry Bemporad
Crime of Violence/Appeal/Affirmed 4-15-06

Assault and Battery with a Deadly Weapon, MASS. GEN. LAWS CH. 265, §15A(b)
Contact Attorney: Frank Morales
Not a Crime of Violence

Indecent Assault and Battery of a Minor, MASS. GEN. LAWS CH 265§13B
US v. Castillo-Suarez, No. 05-41242, 215 Fed. Appx. 361 (5th Cir. 2007)(unpub.)
Crime of Violence

Michigan

Attempted Assault with a Deadly Weapon, MICH. COMP. LAWS §750.82
US v. Avila-Nava, No. 06-51190, 237 Fed. Appx. 925 (5th Cir. 2007) (unpub.)
Contact Attorney: Rita Rodriguez
Appellate Attorney: Henry Bemporad
Crime of Violence/Appeal Pending

Attempted Home Invasion, MICH. COMP. LAWS § 750.110
Contact Attorney: Rebecca Reyes and Bruce Weathers
Not a Crime of Violence/ Not an Aggravated Felony

Felonious Assault, MICH. COMP. LAWS §750.82
US v. Saucedo-Roman, No. 05-41013, 202 F. Appx. 723 (5th Cir. 2006)
Crime of Violence

Minnesota

First Degree Damage to Property (Gross Misdemeanor), MINN. STAT. §609.13
Contact Attorney: Tyrone Mansfield
Not a Felony/No Enhancement

Terroristic Threats , MINN. STAT. §609.713 (2000)
US v. Naranjo-Hernandez, No. 03-41081, 133 Fed. Appx. 96 (5th Cir. 2005) (unpub.)
Not Crime of Violence

Third Degree Sexual Contact, MINN. STAT. §609.344
US v. Fernandez-Cusco, No. 05-40289, 447 F.3d 382 (5th Cir. 2006)
Crime of Violence

Mississippi

Missouri

Burglary, MO. REV. STAT. § 569.160 (1997)
US v. Carbajal-Diaz, No. 06-41491, 508 F.3d 804 (5th Cir. 2007)
Crime of Violence
Sexual Assault, MO. REV. STAT. §566.040 (1)
US v. Sarmiento-Funes, No. 03-40741, 374 F3d. 336 (5th Cir. 2004)
Not a Crime of Violence

Montana

Sexual Intercourse Without Consent, MONT. CODE ANN. § 45-5-503(1)
Contact Attorney: Sandra Lewis
Not a Crime of Violence

Nebraska

Aiding and Abetting Burglary, NEB. REV. STAT. §28-507
US v. Medellin-Herrera, No. 08-50773, 2009 WL 1259037 (5th Cir. 2009)(unpub.)
Crime of Violence

Nevada

Invasion of the Home, NEV. REV. STAT. §205.067
Contact Attorney: Edgar Holguin
Not a Crime of Violence

New Hampshire

New Jersey

Aggravated Assault, N.J. STAT. ANN. § 2C:12-1b(7)
US v. Ramirez, No. 07-40442, -F.3d-, 2009 WL 189071 (5th Cir. 2009)
Crime of Violence

New Mexico

Aggravated Assault with a Deadly Weapon, N.M. STAT. § 30-3-1
Contact Attorney: Horacio Aldredge
Appellate Attorney: Phil Lynch
Crime of Violence/Appealed/Appeal Dismissed by Client

Aggravated Battery, N.M. STAT. §30-3-5
Contact Attorney: William Hermesmeyer & Clare Koontz
Appellate Attorney: Donna Coltharp
Crime of Violence/Remanded

Child Abuse, N.M. STAT. §30-06-01
Contact Attorney: Erik Hanshew
Not an Aggravated Felony/Four Level Enhancement Imposed

Criminal Sexual Penetration, N.M. STAT. §30-9-1 (c)
Contact Attorney: Anne Berton
Not a Crime of Violence

New York

Attempted Gang Assault in the Second Degree, N.Y. PENAL LAW § 120.06
Contact Attorney: William Fry
Not a Crime of Violence

Attempted Assault in the Second Degree, N.Y. PENAL LAW § 120.05
US v. Neri-Hernandes, No. 06-41173, 504 F.3d 587 (5 Cir. 2007)
Crime of Violence

Attempted Manslaughter, N.Y. PENAL LAW §125.15
US v. Bonilla, No. 06-40894, 524 F.3d 647 (5th Cir. 2008)
Not a Crime of Violence

Criminal Possession of Stolen Property in the Third Degree, N.Y. PENAL LAW § 165.50
Burke v. Mukasey, No. 06-60710 509 F.3d 695 (5th Cir. 2007)
Aggravated Felony

First Degree Manslaughter, N.Y. PENAL LAW §125.20
US v. Segovia-Portillo, No. 07-40094, 270 Fed. Appx. 367 (5th Cir. 2008)(unpub.)
Crime of Violence

Rape in the Third Degree, N.Y. PENAL LAW §130.25-2
US v. Gonzalez-Alonzo, No. 05-51538, 204 Fed Appx. 359 (5th Cir. 2006)(unpub.)
Contact Attorney: John Calhoun
Appellate Attorney: Judy Madewell
Crime of Violence - appeal pending

Second Degree Assault, N.Y. PENAL LAW §120.05
Contact Attorney: Santiago Hernandez and Bruce Weathers
Not a Crime of Violence/Not an Aggravated Felony

Second Degree Kidnapping, N.Y. PENAL LAW §135.20
US v. Iniguez-Barba, No. 06-50434, 485 F.3d 790 (5th Cir. 2007)
Contact Attorney: Robert Castaneda
Appellate Attorney: Donna Coltharp
Crime of Violence-appeal pending

North Carolina

Breaking and Entering

1. N.C. GEN. STAT. §14-54(a)
Contact Attorney: Marie Romero-Martinez
Appellate Attorney: Phil Lynch
**Government Conceded at Appellate Level that it is Not a Crime of Violence/
8 Levels Imposed**

2. N.C. GEN. STAT. §14-54
Contact Attorney: Abe Hernandez
Appellate Attorney: Phil Lynch
Crime of Violence/Appeal Pending

Involuntary Manslaughter, N.C. GEN. STAT. §14-18(1994)
Contact Attorney: Anne Berton & Bruce Weathers
Not a Crime of Violence/Not an Aggravated Felony/4 Levels Imposed

Taking Indecent Liberties with a Child, N.C. GEN. STAT. §14-202.1 (a)(1)
US v. Izaguirre-Flores, No. 04-40276, 405 F3d 270, (5th Cir. 2005)
Crime of Violence

North Dakota

Ohio

Aggravated Burglary, OHIO REV. CODE ANN. §2911.11(A)(1)(2001)
US v. Ramirez, No. 08-41192, 2009 WL 3016157 (5th Cir. 2009)(unpub.)
Not a Crime of Violence

Oklahoma

Indecent or Lewd Acts with a Child

1. OKLA. STAT. TIT. 21, §1123(A)(4)
Contact Attorney: Frank Morales
Appellate Attorney: Donna Coltharp
Crime of Violence/Appealed/Affirmed

2. OKLA. STAT. TIT. 21, §1123(A)(4)
US v. Lerma-Galindo, No. 06-50149, 209 Fed. Appx. 375 (5th Cir. 2006)(unpub.)
Contact Attorney: Joseph Cordova
Appellate Attorney: Henry Bemporad
Crime of Violence/Appealed/Affirmed

3. OKLA. STAT. TIT. 21, §1123(A)(4)
US v. Balderas-Rubio, No. 06-41153, 499 F.3d 470 (5th Cir. 2007)
Crime of Violence

Maiming, OKLA. STAT. TIT. 21, §751
Contact Attorney: Francisco “Frank” Morales
Not a Crime of Violence

Oregon

Third Degree Robbery, OR. REV. STAT. §164.395
US v. Cuevas-Jacome, No. 07-51492, 2009 WL 536441 (5th Cir. 2009)(unpub.)
Crime of Violence

Pennsylvania

Terroristic Threats

1. 18 PA. CONS. STAT. §2706 (2003)
United States v. Martinez-Paramo, 380 F.3d 799 (5th Cir. 2004)
Not Crime of Violence

2. 18 PA. CONS. STAT. §2706(a)
US v. Ortiz-Gomez, No. 08-40292, -F.3d-, 2009 WL 604133 (5th Cir. 2009)
Not a Crime of Violence

Rhode Island

Third Degree Sexual Assault, R.I. GEN. LAWS §11-37-6 (2004)
Contact Attorney: Bill Fry
Crime of Violence

South Carolina

Assault and Battery of a High and Aggravated Nature (ABHAN)

1. *US v. Guerrero-Robledo*, No. 07-41151, 565 F.3d 940 (5th Cir. 2009), petition for cert. filed (July 7, 2009)

Crime of Violence

2. *US v. Pegueros-Aguilar*, No. 08-41285, 2009 WL 2591367 (5th Cir. 2009)

Crime of Violence

South Dakota

Tennessee

Attempted Kidnapping, TENN. CODE ANN. § 39-13-303

US v. Gonzalez-Ramirez, No. 04-51355, 477 F.3d 310 (5th Cir. 2007)

Crime of Violence

Aggravated Assault (Reckless), TENN. CODE ANN. §39-13-102

US v. Mungia-Portillo, No. 06-40273, 484 F.3d 813 (5th Cir. 2007)

Crime of Violence (*Note: There is a Circuit Split/Preserve the Issue. See US v. Esparza-Herrera, No. 07-30490, -F.3d-, 2009 WL 455512 (9th Cir. 2009)*)

Aggravated Burglary, TENN. CODE ANN §39-14-403

US v. Herrera-Montes, No. 06-41426, 490 F.3d 390 (5th Cir. 2007)

Not a Crime of Violence

Facilitation of Aggravated Assault

Contact Attorney: Bill Fry

Appellate Attorney: Carolyn Fuentes

Crime of Violence/Appeal Pending

Facilitation of Aggravated Robbery, TENN. CODE ANN. §39-11-403

US v. Trejo-Palacios, 418 F. Supp. 2d 915 (S.D. Tex. 2006)

Not Crime of Violence/It is an Aggravated Felony/ 8 Levels Imposed

Reckless Aggravated Assault, TENN. CODE ANN. §39-13-102

Contact Attorney: Selena Solis

Not a Crime of Violence

Texas

Aggravated Assault, TEX. PENAL CODE ANN. §22.02

US v. Ramirez, 367 F.3d 274 (5th Cir. 2004)

Crime of Violence

Aggravated Assault with a Deadly Weapon

1. TEX. PENAL CODE ANN §22.02

US v. Guillen-Alvarez, No. 05-41787, 489 F.3d 197(5th Cir. 2007)

Crime of Violence

2. TEX. PENAL CODE ANN §22.02(a)(4) (1993)
Contact Attorney: Anne Berton and Mike Gorman
Not a Crime of Violence (*Note: There may be some arguments to the pre-1994 statute*)

Aggravated Assault with a Motor Vehicle, Tex. Penal Code Ann. §22.01(a)(1), 22.02
US v. Fuentes-Berlanga, No. 04-41163, 149 Fed. Appx. 258(5th Cir. 2005)(unpub.)
Crime of Violence

Aggravated Assault of a Peace Officer

1. TEX. PENAL CODE ANN. §22.02(a)(2) (1979)
US v. Fierro-Reyna, No. 05-51198, 466 F.3d 324 (5th Cir. 2006)
Not a Crime of Violence

2. TEX. PENAL CODE ANN. §22.02(a)(2)
US v. Antuna-Moran, No. 06-40103, 488 F.3d 1048 (5th Cir. 2007)
Not a Crime of Violence

Aggravated Kidnapping, TEX. PENAL CODE ANN. §20.04
Contact Attorney: Christine W. Kelso
Crime of Violence

Aggravated Robbery of an Elderly Person, TEX. PENAL CODE ANN. §29.03(a)(3)(A)
(1998)
US v. Garcia-Aguirre, No. 05-50318, slip copy, 2006 WL 509400 (5th Cir.)(unpub.)
Contact Attorney: Frances Cusack
Appellate Attorney: Henry Bemporad
Crime of Violence-Affirmed 3/1/06

Aggravated Sexual Assault of a Child, TEX. PENAL CODE ANN. §22.021
US v. Rayo-Valdez, No. 02-10010, 302 F.3d 314 (5th Cir. 2002)
Crime of Violence

Arson,

1. TEX. PENAL CODE ANN. §28.02 (1993)
US v. Velez-Alderete, No.08-20557, -F.3d-, 2009 WL 1519693 (5th Cir. 2009)
Crime of Violence

2. TEX. PENAL CODE ANN. §28.02
US v. Pulliro, No. 09-20032, 2009 WL 2998825 (5th Cir. 2009)(unpub.)
Crime of Violence

Assault,

1. TEX. PENAL CODE ANN. §22.01(a)(1) (misd)
US v. Villegas-Hernandez, No. 05-40988, 468 F.3d 874 (5th Cir. 2006)
Not a Crime of Violence/ Not an Aggravated Felony

2. TEX. PENAL CODE ANN. §22.01(a)(1)
US v. Davila-Solis, No. 06-40826, 217 Fed. Appx. 402 (5th Cir. 2007)(unpub.)
Not an Aggravated Felony

Assault on a Public Servant-Third Degree, TEX. PENAL CODE ANN. §22.01
Contact Attorney: Santiago D. Hernandez
Not a Crime of Violence

Attempted Aggravated Assault-Third Degree, TEX. PENAL CODE ANN. §22.02
Contact Attorney: Tyrone T. Mansfield
Not a Crime of Violence

Attempted Indecency with a Child, TEX. PENAL CODE §21.11
US v. Rivera-Perez, 322 F.3d 350 (5th Cir. 2003)
Crime of Violence Despite Being a Misdemeanor Under §12.44

Burglary of a Building, TEX. PENAL CODE ANN. §30.02 (1990), applying 1974 version
US v. Rodriguez-Rodriguez, No. 02-20697, 388 F.3d 466 (5th Cir. 2004)
Not a Crime of Violence

Burglary of Habitation (TEX. PENAL CODE §30.02(a)(3) is not a Crime of Violence, see below)

1. TEX. PENAL CODE ANN. §30.02(a)(1) (2000)
US v. Garcia-Mendez, No. 04-41152, 420 F.3d 454 (5th Cir. 2005)
Crime of Violence

2. TEX. PENAL CODE §30.02
US v. Valdez-Maltos, No. 05-40869, 443 F.3d 910 (5th Cir. 2006)
Crime of Violence

3. TEX. PENAL CODE ANN. §30.02(a)(3)
US v. Castro, No. 07-40094, 272 Fed. Appx. 385 (5th Cir. 2008)
Crime of Violence

4. TEX. PENAL CODE ANN. §30.02(a)(3)
Contact Attorney: Erik Hanshew
Not a Crime of Violence

5. TEX. PENAL CODE ANN. §30.02(a)(3)
US v. Herrera-Montes, No. 06-41426, 490 F.3d 390 (5th Cir. 2007)
Not a Crime of Violence (Although this case deals with a Tennessee statute, it is identical to Texas statute 30.02(a)(3)).

6. TEX. PENAL CODE ARTICLE 1389 OR 1390 (1963)
US v. Montoya-Beltran, No. 07-51410, slip copy, 2008 WL 3876507 (5th Cir. 2008)
Contact Attorney: Bill Fry
Appellate Attorney: Carolyn Fuentes
Not a Crime of Violence

7. TEX. PENAL CODE ANN. §30.02
Contact Attorney: Darren Ligon
Not a Crime of Violence/Eight Levels Imposed

8. TEX. PENAL CODE ANN. §30.02(a)(1)
US v. Cardenas-Cardenas, No. 08-40210, 543 F.3d 731, 2008 WL 4353084 (5th Cir. 2008)

Crime of Violence

9. TEX. PENAL CODE ANN. §30.02(a)(3)
US v. Beltran-Ramirez, No. 07-50218, 266 Fed. Appx. 371 (5th Cir. 2008)(unpub.)

Not A Crime of Violence

10. TEX. PENAL CODE ANN. §30.02(a)(3)
US v. Castro, No. 07-40762, 272 Fed. Appx. 385 (5th Cir. 2008)(unpub.)

Not a Crime of Violence

11. TEX. PENAL CODE ANN. §30.02(a)(3)
US v. Constante, No. 07-41004, 544 F.3d 584 (5th Cir. 2008)

Not a Crime of Violence under 18 USC §924(e)

Consensual Sexual Intercourse with Person Less Than 17, TEX. PENAL CODE §22.011(a)(2)

US v. Alvarado-Hernandez, No. 05-50994, 465 F.3d 188 (5th Cir. 2006)

Crime of Violence

Criminal Mischief, TEX. PENAL CODE §28.03 (a)(3)

US v. Landeros - Gonzalez, No. 01-10066, 262 F.3d 424 (5th Cir. 2001)

Not a Crime of Violence/Not an Aggravated Felony

Criminally Negligent Homicide, TEX. PENAL CODE ANN. §19.05

US v. Dominguez-Ochoa, No. 03-40260, 386 F.3d 639 (5th Cir. 2004)

Not a Crime of Violence

Child Endangerment, TEX. PENAL CODE ANN. §22.041 (c)

US v. Calderon-Pena, No. 02-20331, 383 F.3d 254 (5th Cir. 2004)

Not a Crime of Violence

Deadly Conduct,

1. TEX. PENAL CODE ANN. §22.05(b)(1)

US v. Hernandez-Rodriguez, No. 05-51429, 467 F.3d 492 (5th Cir. 2006)

Crime of Violence

2. TEX. PENAL CODE ANN. §22.05(b)(2)

Contact Attorney: Robert Castaneda and Bruce Weathers

Not a Crime of Violence/4 Level Enhancement Imposed

Driving While Intoxicated, TEX. PENAL CODE §49.04

US v. Chapa-Garza, 243 F.3d 921 (5th Cir. 2001) see also 262 F.3d 479 (5th Cir. 2001)

Not a Crime of Violence/ Not an Aggravated Felony

Indecency with a Child

1. TEX. PENAL CODE §21.11 (a)(1)

US v. Velazquez-Overa, 100 F.3d 418 (5th Cir. 1996)

Aggravated Felony

2. TEX. PENAL CODE §21.11(a)(2) **(by Exposure)**

US v. Zavala-Sustaita, 214 F.3d 601 (5th Cir. 2000)

Aggravated Felony

3. TEX. PENAL CODE §21.11 (a)(1)
US v. Guerrero-Delgado, No. 06-40227, 202 Fed. Appx. 780 (5th Cir. 2006)
(unpub.)
Crime of Violence
4. TEX. PENAL CODE 21.11(a)(1991)
US v. Nino-Jaramillo, No. 05-20496, 200 Fed. Appx.348 (5th Cir. 2006)(unpub.)
Crime of Violence
5. TEX PENAL CODE §21.11(a)
US v. Figueroa-Hernandez, 212 Fed. Appx. 326 (5th Cir. 2007)(unpub.)
Crime of Violence
6. TEX PENAL CODE §21.11(a)
US v. Lopez-Cortez, No. 07-40561, 269 Fed. Appx. 360 (5th Cir. 2008)(unpub)
Crime of Violence
7. TEX PENAL CODE §21.11(a)(1)
US v. Najera-Najera, No. 07-10464, 519 F.3d 509 (5th Cir. 2008)
Crime of Violence
8. TEX PENAL CODE §21.11(a)(1)
US v. Ayala, No. 07-41149, 542 F.3d 494 (5th Cir. 2008), cert. denied, 129 S.Ct. 1388 (2009)
Crime of Violence
9. TEX PENAL CODE §21.11(a)(1)
US v. Rivera-Castaneda, No. 08-41071, 2009 WL 2515523 (5th Cir. 2009)(unpub)
Crime of Violence
10. TEX. PENAL CODE §21.11
US v. Cruz, No. 08-40788, 2009 WL 2903706, (5th Cir. 2009)(unpub.)
Crime of Violence

Injury to a Child

1. TEX. PENAL CODE ANN. §22.04
US v. Garcia-Cantu, No. 01-41029, 302 F.3d 308 (5th Cir. 2002)
Not a Crime of Violence/Not an Aggravated Felony/4 Level Enhancement Imposed
2. TEX. PENAL CODE ANN. §22.04
Contact Attorney: Manuel Acosta
Appellate Attorney: Judy Madewell
Not a Crime of Violence at Resentencing/Not an Aggravated Felony/ 4 Level Enhancement Imposed
3. TEX. PENAL CODE ANN. §22.04
US v. Vasquez-Torres, No. 04-41172, 134 Fed. Appx 648 (5th Cir. 2005)(unpub.)
Not a Crime of Violence/Not an Aggravated Felony/4 Level Enhancement Imposed

4. TEX. PENAL CODE ANN. §22.04
Contact Attorney: Molly Roth
Appellate Attorney: Henry Bemporad
Not a Crime of Violence at Resentencing/Not an Aggravated Felony/ 4 Level Enhancement Imposed

5. TEX. PENAL CODE ANN. §22.04 (a)(3)
Perez-Munoz v. Keisler, No. 06-60440, 507 F.3d 357 (5th Cir. 2007)
Crime of Violence

6. **(By Criminal Negligence)**, TEX. PENAL CODE ANN. §22.04
Contact Attorney: Reggie Trejo
Not an Aggravated Felony/Four Level Enhancement Imposed

Intoxicated Assault, TEX. PENAL CODE ANN. §49.07 (1994)
US v. Vargas-Duran, No. 02-20116, 356 F.3d 598 (5th Cir. 2004)
Not a Crime of Violence

Intoxication Manslaughter, TEX. PENAL CODE ANN. §49.08
US v. Iovino, No. Crim. A. B-05-602, 405 F. Supp.2d 771 (S.D. Tex. 2005)
Not a Crime of Violence

Kidnapping, TEX. PENAL CODE ANN. §20.03
Contact Attorney: Rita Rodriguez
Appellate Attorney: Carolyn Fuentes
Crime of Violence/appeal pending

Possession of Short-Barrel Firearm, TEX. PENAL CODE §46.05
US v. Diaz-Diaz, No. 02-20392, 327 F.3d 410 (5th Cir. 2003)
Aggravated Felony

Retaliation

1. TEX. PENAL CODE ANN. §36.06 (a)
US v. Martinez-Mata, No. 03-40490, 393 F.3d 625 (5th Cir. 2004)
Not a Crime of Violence

2. TEX. PENAL CODE ANN. §36.06(1995)
US v. Acuna-Cuadros, No. 03-20345, 385 F.3d 875 (5th Cir. 2004)
Not a Crime of Violence

3. TEX. PENAL CODE ANN. §36.06(a)(1)(A)
Contact Attorney: Margarito Rodriguez
Appellate Attorney: Judy Madewell
Not an Aggravated Felony (Gov't conceded)(Four Level Enhancement Imposed)

Robbery, TEX. PENAL CODE ANN. §29.02
US v. Santiesteban-Hernandez, No. 05-50399, 469 F.3d 376 (5th Cir. 2006)
Crime of Violence

Sexual Assault

1. TEX. PENAL CODE ANN. §22.011(a)(2)

Contact Attorney: Molly Roth

Appellate Attorney: Judy Madewell

Crime of Violence

2. TEX. PENAL CODE §22.011

US v. Martinez-Vega, No. 05-41498, 471 F.3d 559 (5th Cir. 2006)

Crime of Violence

3. TEX. PENAL CODE ANN. §22.011(a)(1)

US v. Luciano-Rodriguez, No. 04-41016, 442 F.3d 320 (5th Cir. 2006), reh'g en banc denied, -F3.d- (5th Cir. Aug 3, 2006)

Not a Crime of Violence

4. TEX. PENAL CODE ANN. §22.011(a)(2)

US v. Alvarado-Hernandez, No. 05-50994, 465 F.3d 188 (5th Cir. 2006)

Crime of Violence

5. Attempted Sexual Assault

US v. Rosas-Aguilar, No. 06-50850, 223 Fed. Appx. 350 (5th Cir. 2007) (unpub.)

Crime of Violence

Sexual Assault of a Child,

1. TEX. PENAL CODE §22.011(c)(1)

US v. Flores-Morales, 209 Fed. Appx. 438 (5th Cir. 2006)(unpub.)

Crime of Violence

2. TEX. PENAL CODE §22.01(a)(2)(A) and (c)(1)

US v. Castro-Guevara, No. 08-40796, -F.3d-, 2009 WL 2006811 (5th Cir. 2009)

Crime of Violence (Noting possible tension between *US v. Alvarado-Hernandez* and *US v. Lopez-DeLeon*.)

Theft from a Person, TEX. PENAL CODE §31.03

US v. Luna-Montoya, No. 02-41444, 80 Fed.Appx. 334 (5th Cir. 2003)(unpub.)

Not a Crime of Violence

Unauthorized Use of a Motor Vehicle,

1. TEX. PENAL CODE ANN. §31.07 (a)

US v. Armendariz-Moreno, No. 07-40225, -F.3d-, 2009 WL 1653551 (5th Cir. 2009)

Not an Aggravated Felony (following remand in *Armendariz-Moreno v. United States*, 129 S.Ct. 993 (2009))

2. TEX. PENAL CODE ANN. §31.07 (a)

US v. Lopez-Solis, No. 07-51091, 2009 WL 2447790 (5th Cir. 2009)

Not an Aggravated Felony

3. TEX. PENAL CODE §31.07(a)

US v. Reyes-Figueroa, No. 08-40108, 282 Fed.Appx. 330 (5th Cir. 2009)(unpub.)

Not an Aggravated Felony

Unlawfully Carrying a Firearm, TEX. PENAL CODE §42.02(c)
US v. Hernandez-Neave, No. 01-50059, 291 F.3d 296 (5th Cir. 2001)
Not an Aggravated Felony

Unlawful Restraint, TEX. PENAL CODE ANN. § 22.01 and 20.01 (1999)
US v. Hernandez-Rodriguez, No. 03-41524, 135 Fed. Appx 661 (5th Cir. 2005)
Not a Crime of Violence

Utah

Vermont

Virginia

Grand Larceny, VA. CODE ANN. §18.2-95
US v. Argumedo-Perez, No. 08-10132, 2009 WL 1262429 (5th Cir. 2009)(unpub.)
Not an Aggravated Felony

Shooting into an occupied dwelling, VA. CODE ANN. §18.5-279
US v. Alfaro, No. 04-40176, 408 F3d 204 (5th Cir. 2005)
Not a Crime of Violence

Washington⁵

Assault in the Second Degree

1. WASH. REV. CODE §9A.36.021(1)(c) (West 1988 & Supp. 1995)
Contact Attorney: Todd Durden and Brad Bogan
Not a Crime of Violence

2. WASH. REV. CODE §9A.36.021(1)(e)
US v. Magdaleno-Sanchez, No. 05-50047, 169 Fed. Appx. 830 (5th Cir. 2006)(unpub.)
Contact Attorney: Anne T. Berton
Appellate Attorney: Carolyn Fuentes
Crime of Violence/Remanded 3-2-06/appeal pending

Assault in the Fourth Degree, WASH. REV. CODE §9A.36.041(1)
US v. Sanchez-Torres, 136 Fed. Appx. 644 (5th Cir. 2005)
Not Four Level Crime of Violence Based on 3 or More Misdemeanor Crimes of Violence

Attempted Residential Burglary, WA REV. CODE §9A.52.025
US v. Ruiz Santos, No. 07-51464, 2009 WL 2391511 (5th Cir. 2009)
Crime of Violence

⁵**Fourth Degree Assault**, §9A.36.041(1) & (2) (2004)
US v. Sanchez-Torres, 136 Fed. Appx 644 (5th Cir. 2005)
Not a Crime of Violence under 2L1.2(b)(1)(E)

Residential Burglary, WASH. REV. CODE §9A.52.025

Contact Attorney: Marina Douenat

Not a Crime of Violence (Four Level Enhancement imposed)

Second Degree Manslaughter, WASH. REV. CODE §9A.32.070(1) (West 1988)

Contact Attorney: Todd Durden and Brad Bogan

Not a Crime of Violence

West Virginia

Wisconsin

Wyoming

FEDERAL

Assault on Federal Officer, 18 USC § 111

Contact Attorney: Erik Hanshew

Crime of Violence

Conspiring to Commit Mail Fraud, Wire Fraud, Bank Fraud, and Money Laundering, 18 USC § 371, 1341, 1343, 1344, 1956(h)

Nijhawan v. Holder, No. 08-495, 129 S.Ct. 2294 (2009)

Aggravated Felony (pursuant to 8 USC 1101(a)(43)(m)(i) (“an offense that involves fraud or deceit in which the loss to the victim or victims exceeds \$10,000))

Using a Telephone to Facilitate a Conspiracy to Distribute Marijuana and/or Cocaine, 21 USC §843(b)

US v. Pillado-Chaparro, No. 08-30192, –F.3d–, 2008 WL 4228232 (5th Cir. 2008)

Drug Traffick Offense under 2L1.2(b)(1)(A)(i)

A FEW SELECTED DRUG CASES:

U.S.S.C.

State Drug Possession

Lopez v. Gonzalez No. 05-547, 127 S.Ct. 625 (2006)

Not a Drug Trafficking Offense under §2L1.2 (b)(1)(A)(i) and Not an Aggravated Felony

California

Offer to Transport, Sell, Furnish, Administer, or Give Away a Controlled Substance, Cal. Health & Safety Code §11379(a)

US v. Garza-Lopez, No. 03-41750, 410 F.3d 268 (5th Cir. 2005)

Not a Drug Trafficking Offense under §2L1.2 (b)(1)(A)(i)

Note: For Illegal Reentry Offenses Committed on or after November 1, 2008, Offer to Sell Under 2L1.2, Application Note 1(B)(iv) is a Drug Trafficking Offense.

Possession of Cocaine Base for Sale, Cal. Health & Safety Code §11351.5

US v. Mosso-Guzman, No.08-50684, 2009 WL 1675476 (5th Cir. 2009)(unpub.)

Drug Trafficking Offense under §2L1.2 (b)(1)(A)(i)

Purchase for Sale, Cal. Health & Safety Code §11351

US v. Palacios-Quinonez, No. 05-10323, 431 F.3d 471 (5th Cir. 2005)

Drug Trafficking Offense under §2L1.2 (b)(1)(A)(i)

Second State Conviction for Possession, Cal. Health & Safety Code §11352

US v. Cepeda-Rios, No. 07-50731, 530 F.3d 333 (5th Cir. 2008)

Aggravated Felony (Note there is a Circuit Split/Preserve the Issue)

Unlawful Transport, Import, Sale, Administration or Gift of Controlled Substance, Cal. Health & Safety Code §11352

US v. Gutierrez-Ramirez, No. 03-41742, 405 F.3d 352 (5th Cir. 2005)

Not a Drug Trafficking Offense under §2L1.2 (b)(1)(A)(i)

Georgia

Trafficking Methamphetamine, GA. Code Ann. §16-13-31(e) (1999)

US v. Gutierrez-Bautista, No. 06-40486, 507 F.3d 305 (5th Cir. 2007)

Drug Trafficking Offense Under §2L1.2(b)(1)(A)

New Mexico

Conspiracy to Commit Trafficking of a Controlled Substance, N.M. Stat. §30-31-20

Attorney: Anne Berton

Not a Drug Trafficking Offense under 2L1.2(b)(1)(B) (b/c could have been by “barter or giving away of”)

Criminal Solicitation to Commit Trafficking, N.M. STAT. §30-31-20(A)(2) (1978)

Contact Attorney: Rita Rodriguez

Not a Drug Trafficking Offense

Distribution of Marijuana (Cause the Transfer) and Criminal Solicitation to Commit Distribution of Marijuana, N.M. STAT. §30-31-22(A)(1)(C)
Contact Attorney: Anne Berton and Mike Gorman
Not a Drug Trafficking under 2L1.2(b)(1)(B)

New York

Attempted Criminal Sale of Controlled Substance, N.Y. Penal Law §220.39
Contact Attorney: Rita Rodriguez
Not an Aggravated Felony/Four Level Enhancement Imposed

North Carolina

Transporting Marijuana, N.C. Gen Stat §90-95(h)
US v. Lopez-Salas, No. 06-41637, 513 F.3d 174 (5th Cir. 2008)
Not a Drug Trafficking Offense Under 2L1.2 (b)(1)(A)

Ohio

Drug Trafficking Offense, Ohio Rev. Code Ann. §2925.03(A)(2)
US v. Fuentes-Oyervides, No. 07-41007, 541 F.3d 286 (5th Cir. 2008)
Drug Trafficking Offense Under §2L1.2(b)(1)(B)

Oregon

Delivery of a Controlled Substance, OR. REV. STAT §475.992(1)
US v. Salamanca-Rosas, No. 08-51055, 2009 WL 2482067 (5th Cir. 2009)
Drug Trafficking under 2L1.2(b)(1)(A)

Texas

Delivery of a Controlled Substance, Tex. Health & Safety Code §481.112
1. *US v. Gonzalez*, No. 05-41221, 484 F.3d 712 (5th Cir. 2007)
Not a Drug Trafficking Offense under §2L1.2 (b)(1)(A)& (B)
2. *US v. Morales-Martinez*, No. 06-40467, 496 F.3d 356 (5th Cir. 2007)
Not a Drug Trafficking Offense Under §2L1.2 (b)(1)(A)
3. *US v. Fuentes*, No. 06-20325, 245 Fed. Appx. 358 (5th Cir. 2007)(unpub.)
Not an Aggravated Felony
Knowing and Intentional Delivery of Cocaine, TEX. PENAL CODE ANN §481.112(a)
US v. Price, No. 07-40040, 516 F.3d 285 (5th Cir. 2008)
Not a Drug Trafficking Offense 2K2.1(a)(2) but may apply under 2L1.2(b)(1)(A)(i)
Possession of a Controlled Substance, Tex. Health & Safety Code §481.115
US v. Estrada-Mendoza, 475 F.3d 258 (5th Cir. 2007)
Not an Aggravated Felony
Possession with Intent to Deliver a Controlled Substance, Tex. Health & Safety Code §481.112(a)
US v. Ford, 06-20142, 509 F.3d 714 (5th Cir. 2007)
Drug Trafficking Offense under 2K2.1(a)(4)(A) but may apply under 2L1.2(b)(1)(A)(i)

Possession of Marijuana, 2,000 lbs. or less but over 50 lbs., Tex. Health & Safety Code §481.12(b)(5)
Arce Vences v. Mukasey, No. 06-6003, 512 F.3d 167 (5th Cir. 2007)
Not an Aggravated Felony

Second State Conviction for Possession, Tex. Health & Safety Code §481.115
US v. Andrade-Aguilar, No. 07-41132, –F.3d–, 2009 WL 1464151 (5th Cir. 2009)
Not an Aggravated Felony (b/c second conviction committed before first one became final)

Utah

Attempted Distribution of a Controlled Substance (Arrange to Distribute), UTAH
CODE ANN. §58-37-8(1)(a)(ii)
Contact Attorney: Anne Berton and Mike Gorman
Not Drug Trafficking under 2L1.2(b)(1)(A)