



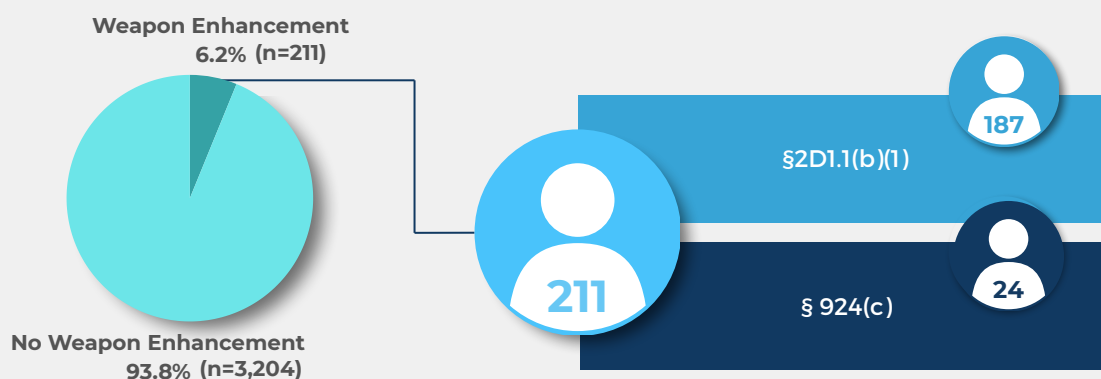
Impact of Exclusionary Criteria for the Proposed Low-Level Trafficking Functions Reduction

Exclusionary Criteria

Subpart 2 of Part A of the proposed amendment creates a new low-level trafficking functions reduction at §2D1.1(b)(17) that would apply instead of the mitigating role adjustment at §3B1.2. Unlike §3B1.2, proposed §2D1.1(b)(17) prohibits individuals who possess a weapon or use violence from qualifying for a reduction. To estimate how many individuals would be ineligible for the proposed reduction who currently receive a mitigating role adjustment under §3B1.2, the Commission examined the overlap of the mitigating role adjustment and cases involving weapons or violence.¹

Impact of Weapon Exclusion

In fiscal year 2023, **3,415 individuals received a mitigating role adjustment** under §3B1.2. Of those individuals, 6.2 percent (n = 211) also received a dangerous weapon enhancement under §2D1.1(b)(1) or were convicted under 18 U.S.C. § 924(c).



Not all 211 individuals who received a mitigating role adjustment and a weapon enhancement would be excluded from the new low-level trafficking functions reduction because the enhancement is offense-based and the proposed weapon exclusion is defendant-based. Of the 211 individuals, 31 also qualified for safety valve, which contains a defendant-based weapon exclusion. This suggests that the dangerous weapon exclusion in the proposed new reduction would exclude 180 individuals who currently qualify for a mitigating role adjustment under §3B1.2.



Impact of Violence Exclusion

Of the individuals who received a mitigating role adjustment under §3B1.2 in fiscal year 2023, six received the violence enhancement at §2D1.1(b)(2). Of note, four of those six individuals also received a dangerous weapon enhancement at §2D1.1(b)(1) or a conviction under § 924(c). This suggests that in addition to the 180 individuals excluded by the dangerous weapon exclusion, two individuals would be disqualified due to a violence enhancement, for a total of 182 individuals excluded from a reduction at §2D1.1(b)(17). This represents 5.3% of the 3,415 individuals who currently receive a mitigating role adjustment under §3B1.2.



¹ The analyses included 18,222 individuals sentenced in fiscal year 2023 under §2D1.1(a)(5) with complete guideline application information under a *Guidelines Manual* effective November 1, 2014 or later.