



Proposed Amendment on Human Smuggling

Public Data Briefing

Proposed Amendment

A

Number of Aliens

B

Risk and Injury

C

Cross Reference (18 U.S.C. §§ 2241–2244)

D

IFC: Transnational Criminal Organizations

A

Number of Aliens

A

Number of Aliens

Current

- (2) If the offense involved the smuggling, transporting, or harboring of six or more unlawful aliens, increase as follows:

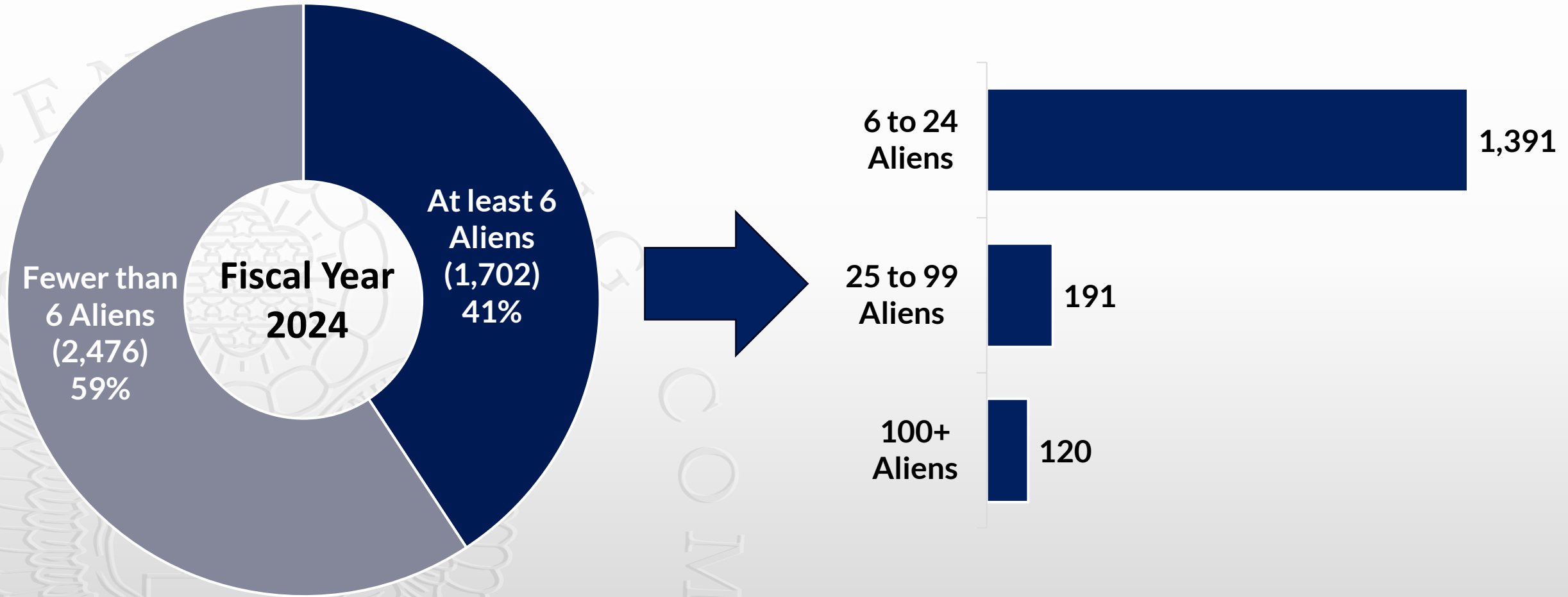
NUMBER OF UNLAWFUL ALIENS SMUGGLED, TRANSPORTED, OR HARBORED	INCREASE IN LEVEL
(A) 6–24	add 3
(B) 25–99	add 6
(C) 100 or more	add 9.

Proposed

- (2) If the offense involved the smuggling, transporting, or harboring of six or more unlawful aliens, increase as follows:

NUMBER OF UNLAWFUL ALIENS SMUGGLED, TRANSPORTED, OR HARBORED	INCREASE IN LEVEL
(A) [6]–12	add 3
(B) 13–18	add [4]
(C) 19–24	add [5]
(D) 25–49	add [6]
(E) 50–99	add [7]
(F) 100 or more	add 9.

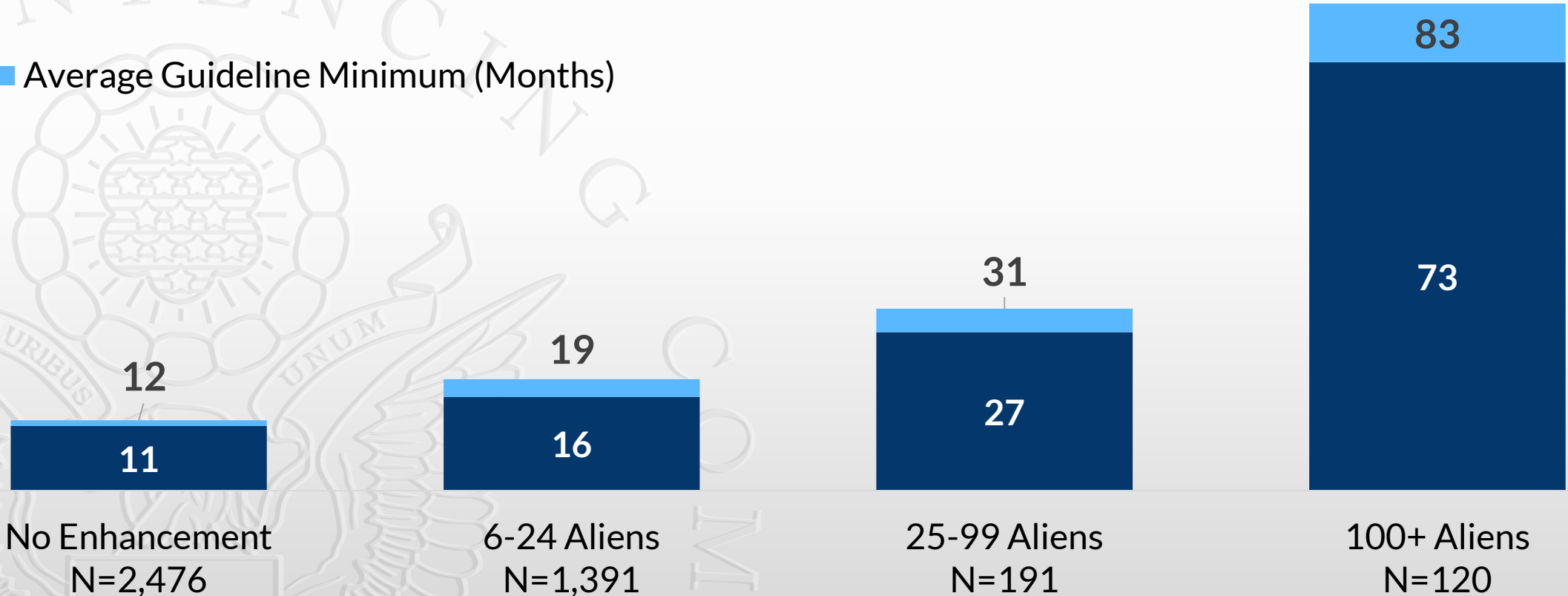
Number of Aliens in §2L1.1 Offenses Fiscal Year 2024



Average Guideline Minimum and Average Sentence By Level of §2L1.1(b)(2) (Number of Aliens) Enhancement Fiscal Year 2024

■ Average Sentence (Months)

■ Average Guideline Minimum (Months)



Sentences Relative to the Guideline Range

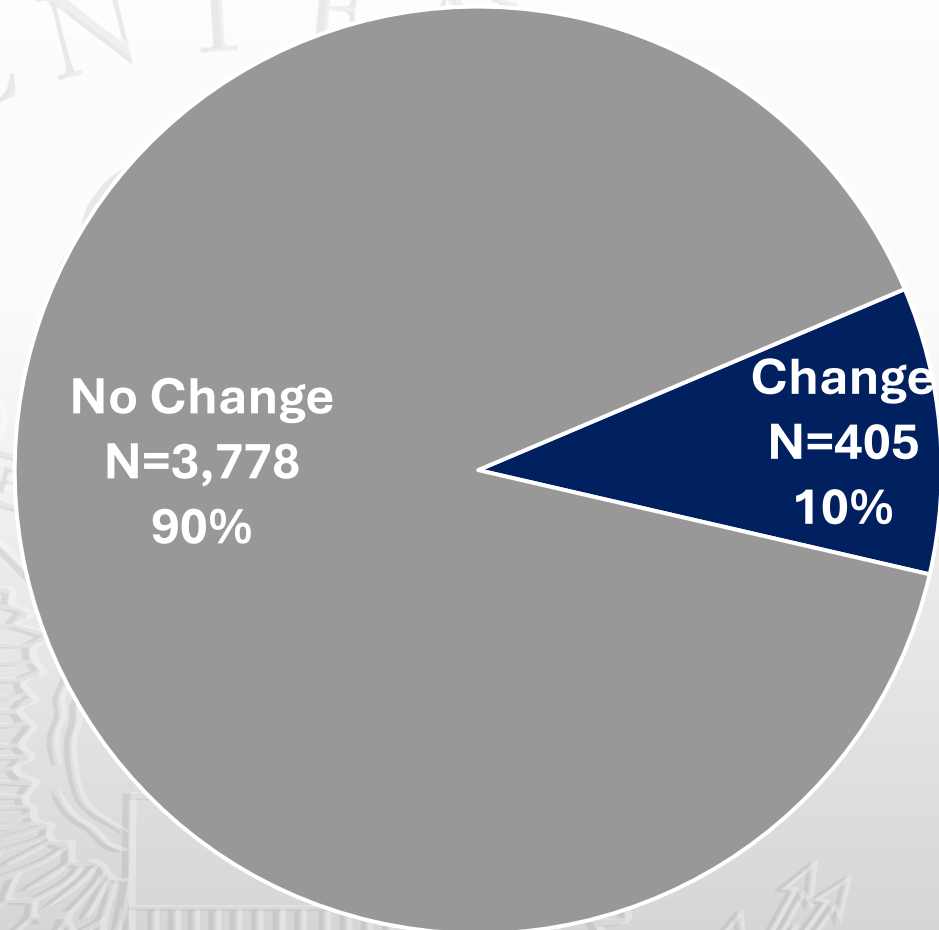
By Level of §2L1.1(b)(2) (Number of Aliens) Enhancement

Fiscal Year 2024

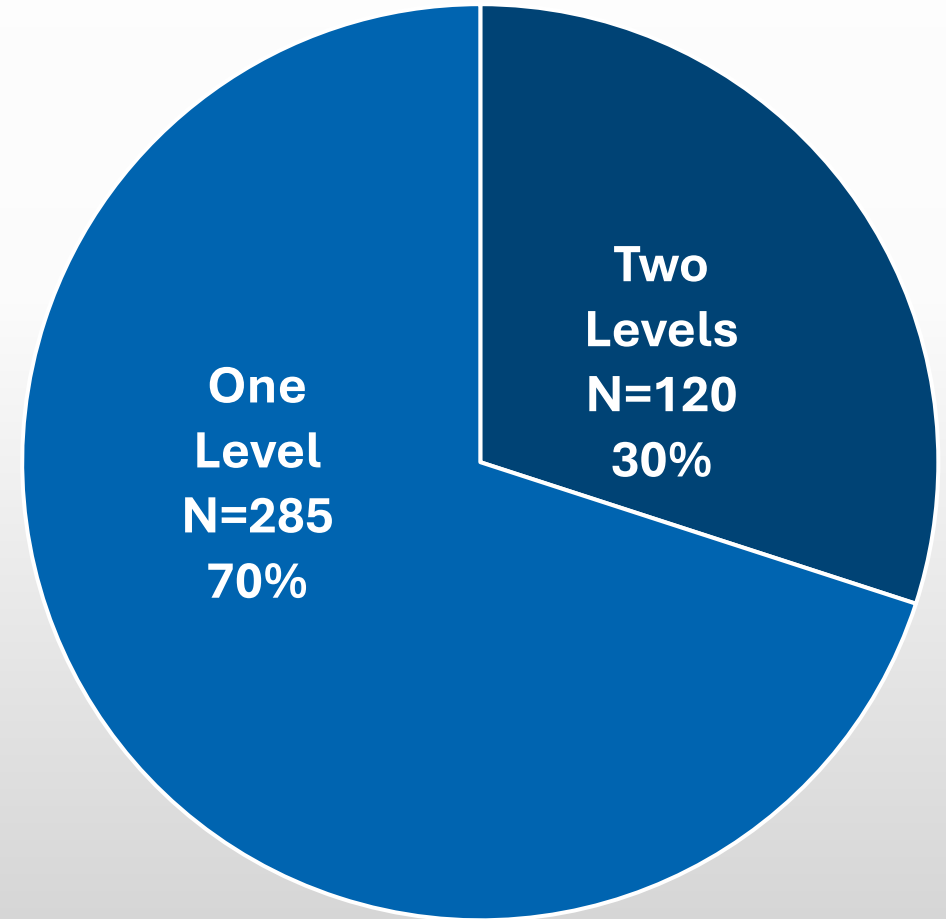
	No Enhancement	6-24 Aliens (b)(2)(A)	25-99 Aliens (b)(2)(B)	100+ Aliens (b)(2)(C)
Within Range	54%	49%	49%	35%
Upward Departure/Variance	3%	3%	3%	3%
§5K1.1	2%	4%	7%	16%
§5K3.1	29%	25%	16%	17%
Other Government- Sponsored Below	5%	4%	7%	18%
Other Below	8%	16%	19%	12%

Accounting for Number of Aliens

Impact of the Proposed Amendment



Number of Offense Levels Increased



Race

By Impact of Proposed (b)(2) (Number of Aliens) Amendment Fiscal Year 2024

	Change Under Proposed Amendment	No Change Under Proposed Amendment
White	4%	8%
Black	9%	8%
Hispanic	87%	82%
Other	<1%	2%

Gender and Citizenship

By Impact of Proposed (b)(2) (Number of Aliens) Amendment Fiscal Year 2024

	Change Under Proposed Amendment	No Change Under Proposed Amendment
Male	94%	78%
Female	6%	22%

	Change Under Proposed Amendment	No Change Under Proposed Amendment
U.S. Citizen	49%	66%
Non-U.S. Citizen	51%	34%



B

Risk and Injury

B

Risk and Injury

Vehicle/Vessel Risk

- (6) If the offense involved (A) concealing persons in the trunk or engine compartment of a motor vehicle, or (B) carrying substantially more passengers than the rated capacity of a motor vehicle or vessel, increase by **[2]** levels, but if the resulting offense level is less than level 18, increase to level 18.

Bodily Injury and Death Enhancement in §2L1.1 Offenses By (b)(6) (Risk) Enhancement Fiscal Year 2024

	§2L1.1(b)(6) Applied N=1,550	No §2L1.1(b)(6) Applied N=2,633
No Injury or Death	90%	99.5%
Bodily Injury	3%	0.2%
Serious Bodily Injury	3%	0.1%
Permanent or Life- Threatening Bodily Injury	1%	0%
Death	3%	0.2%

Number of Aliens Enhancement in §2L1.1 Offenses By (b)(6) (Risk) Enhancement Fiscal Year 2024

	§2L1.1(b)(6) Applied N=1,550	No §2L1.1(b)(6) Applied N=2,663
Fewer than 6 Aliens	48%	66%
6 to 24 Aliens	42%	28%
25 to 99 Aliens	6%	4%
100+ Aliens	5%	2%

B

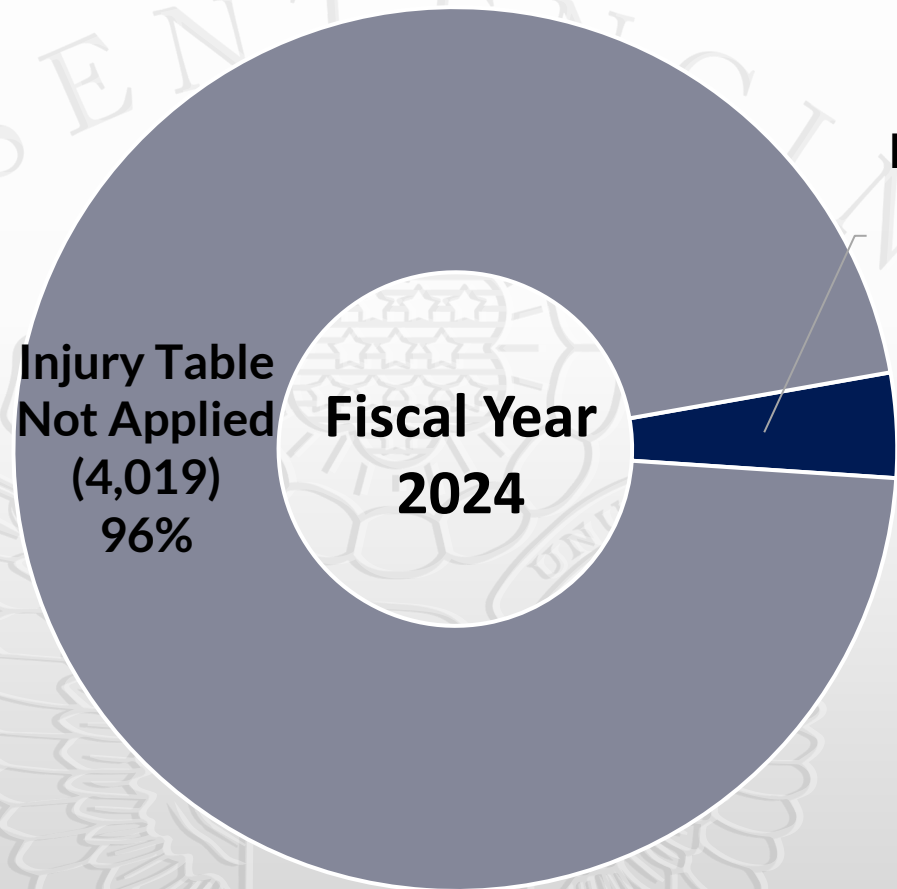
Risk and Injury

Existing Injury Table

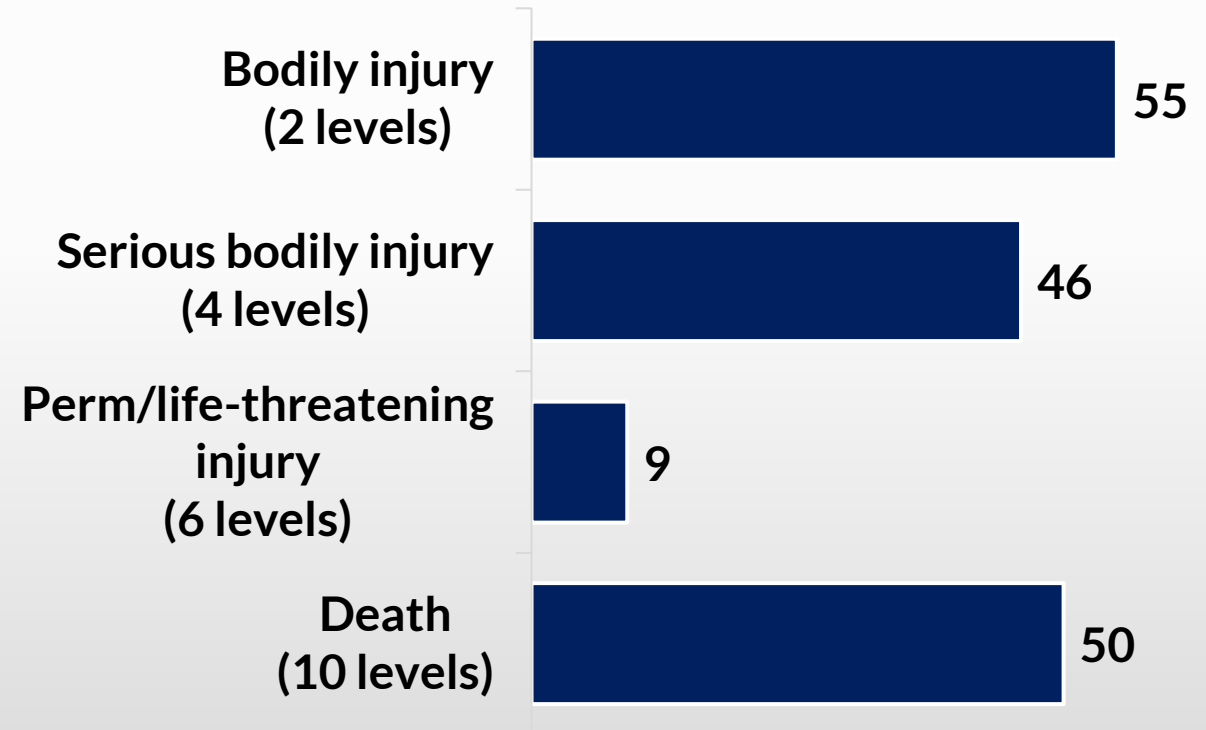
- (7) If any person died or sustained bodily injury, increase the offense level according to the seriousness of the injury:

DEATH OR DEGREE OF INJURY	INCREASE IN LEVEL
(A) Bodily Injury	add 2 levels
(B) Serious Bodily Injury	add 4 levels
(C) Permanent or Life-Threatening Bodily Injury	add 6 levels
(D) Death	add 10 levels.

§2L1.1(b)(7) (Injury) Application Fiscal Year 2024



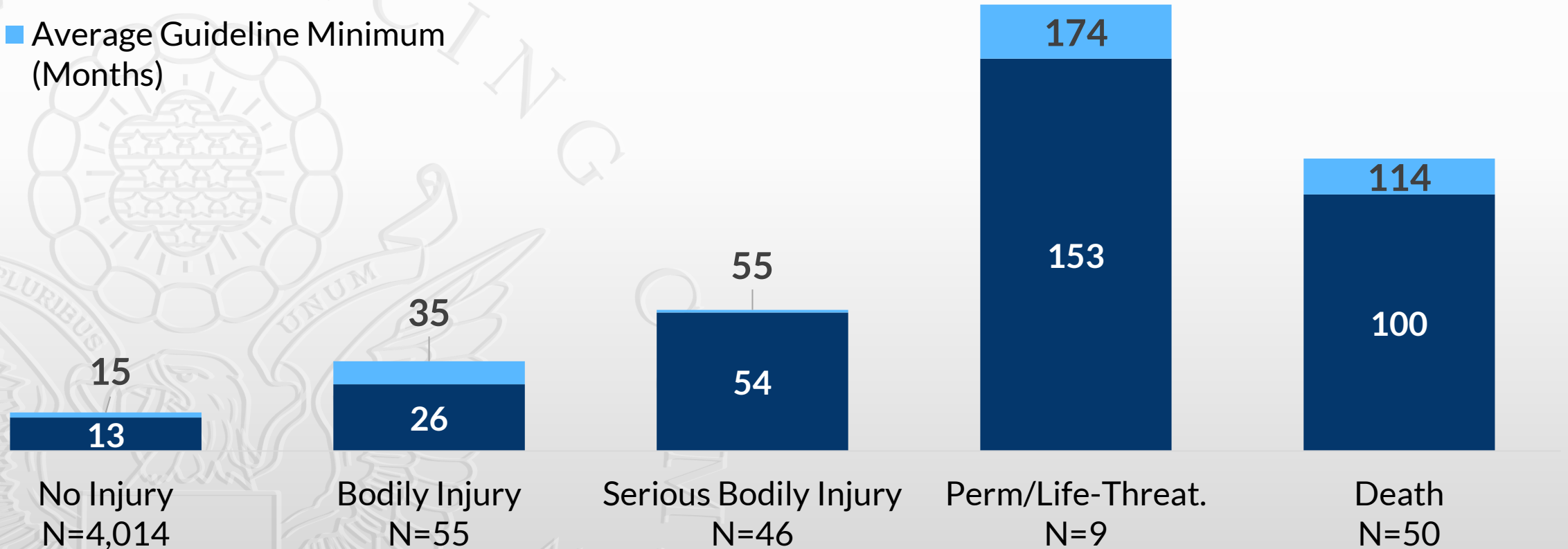
Injury Table
Applied
(160)
4%



Average Guideline Minimum and Average Sentence By Level of §2L1.1(b)(7) (Injury) Enhancement Fiscal Year 2024

■ Average Sentence (Months)

■ Average Guideline Minimum (Months)



Sentences Relative to the Guideline Range

By Level of §2L1.1(b)(7) (Injury) Enhancement

Fiscal Year 2024

	No Enhancement	Bodily Injury (b)(7)(A)	Serious Bodily Injury (b)(7)(B)	Perm/Life-threatening (b)(7)(C)	Death (b)(7)(D)
Within Range	54%	25%	57%	44%	32%
Upward Departure/Variance	3%	0%	7%	0%	4%
§5K1.1	3%	7%	9%	0%	20%
§5K3.1	27%	45%	9%	11%	2%
Other Government-Sponsored Below	5%	13%	7%	33%	16%
Other Below	8%	9%	13%	11%	26%

B

Risk and Injury

Modified Injury Table

(78) (A) If any person died, or sustained bodily injury (including criminal sexual abuse under 18 U.S.C. § 2241 or § 2242 or any similar offense under state law)[, or was subjected to conduct constituting criminal sexual contact under 18 U.S.C. § 2244], increase the offense level according to the seriousness of the injury:

DEATH OR DEGREE OF INJURY	INCREASE IN LEVEL
(Ai) Bodily Injury [or Criminal Sexual Contact]	add 2 levels
(Bii) Serious Bodily Injury (Including Criminal Sexual Abuse)	add 4 levels
(Ciii) Permanent or Life-Threatening Bodily Injury	add 6 levels
(Div) Death	add 10 levels.

Bodily Injury in §2L1.1(b)(7) (Injury) Offenses Fiscal Year 2024

	Number of Sentenced Individuals	Number of Known Victims	Average Number of Victims	Median Number of Victims
Bodily Injury	90	267	3	2
Serious Bodily Injury	72	106	1	1
Permanent or Life- Threatening Bodily Injury	11	11	1	1
Death	49	197	4	1

B

Risk and Injury

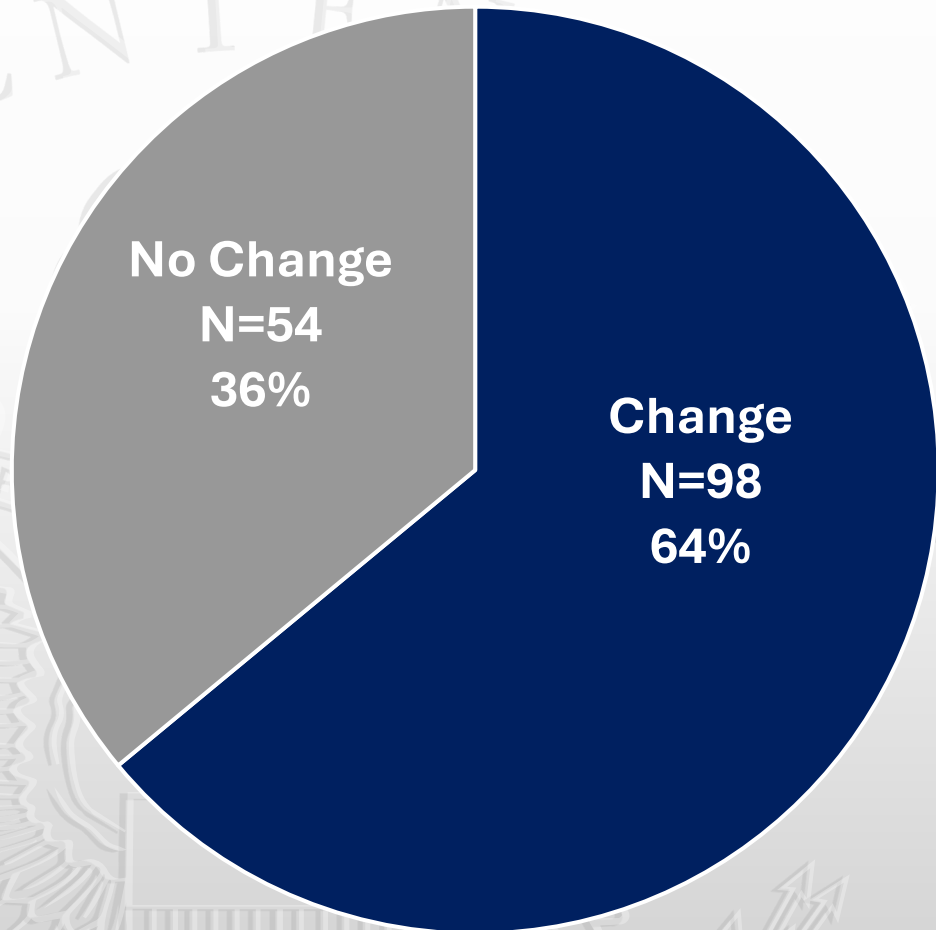
Option 1

(B) If subsection (b)(8)(A) applies and [the offense resulted in][the defendant intentionally or knowingly caused] death, any degree of injury listed above[, or criminal sexual contact under 18 U.S.C. § 2244]—

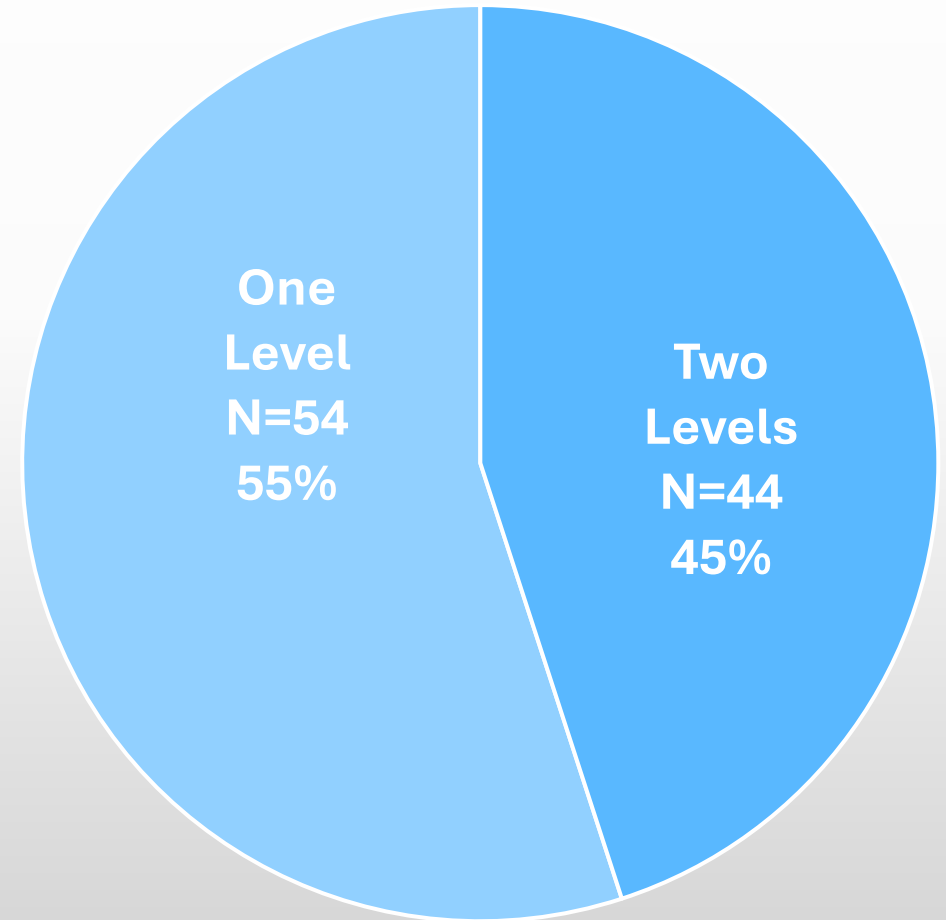
- (i) to one or two additional people, increase by [1] level; or
- (ii) to three or more additional people, increase by [2] levels.

Accounting for Bodily Injury and Death

Impact of Option 1



Number of Offense Levels Increased



B

Risk and Injury

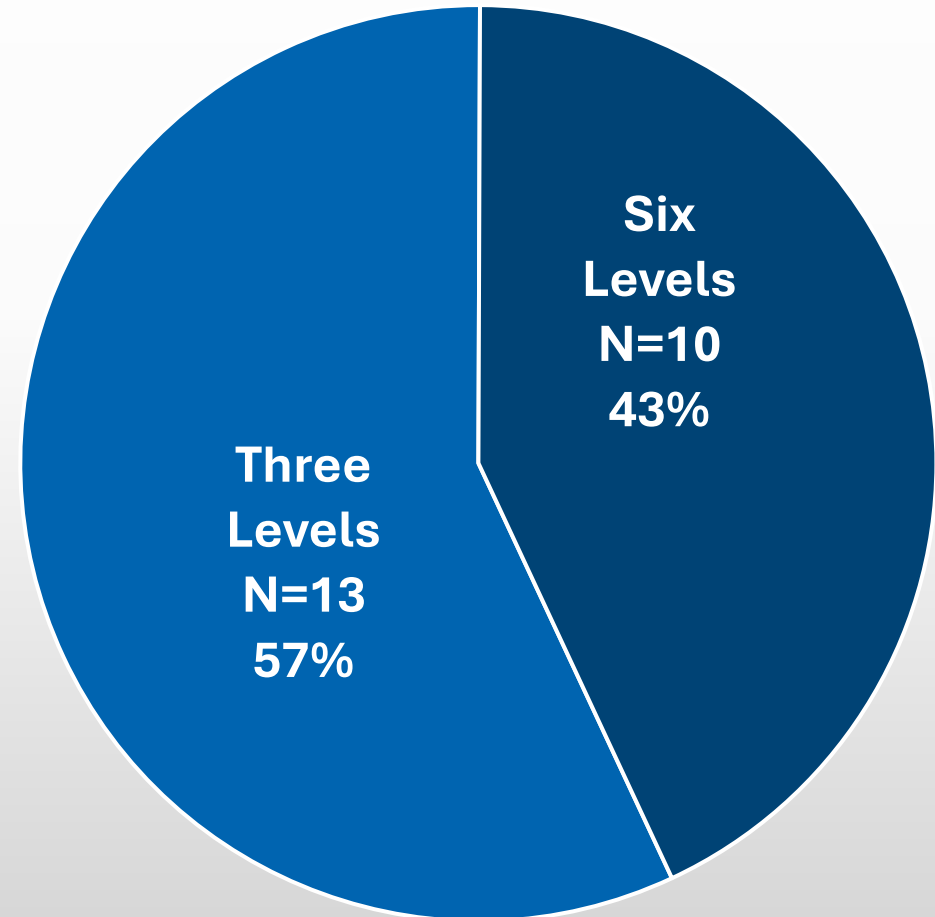
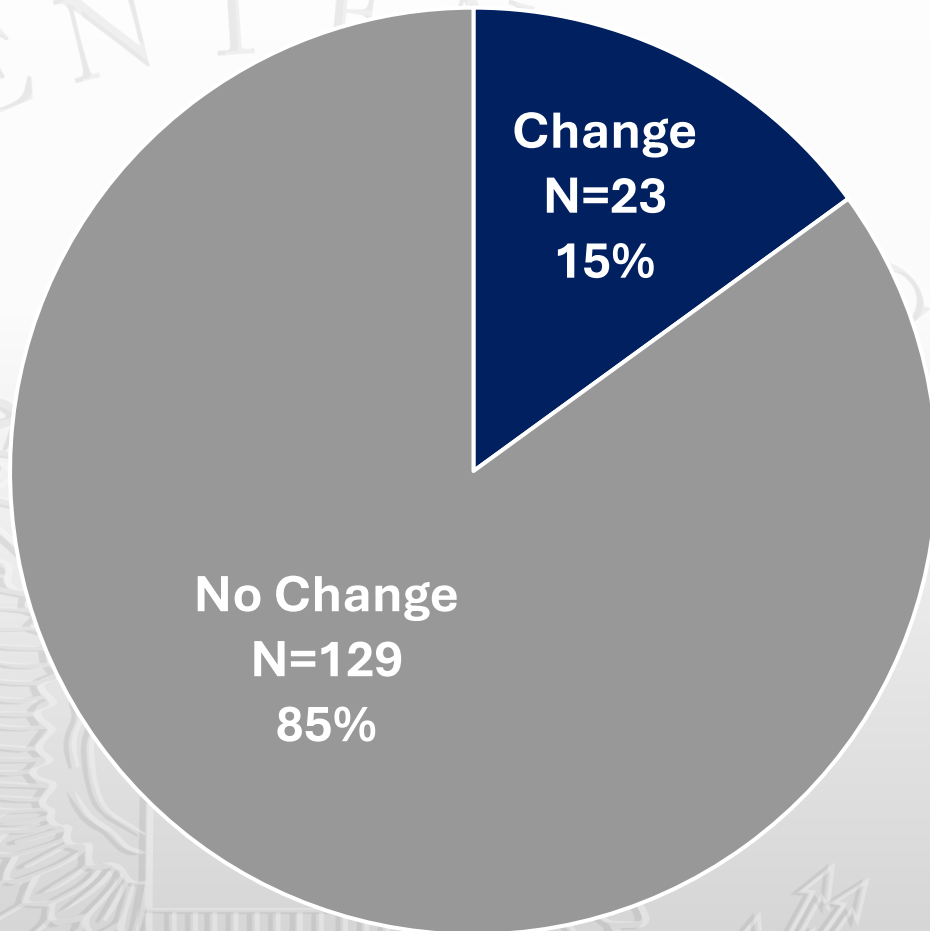
Option 2

- (B) If subsection (b)(8)(A) applies and [the offense resulted in][the defendant intentionally or knowingly caused] death or permanent or life-threatening bodily injury—
- (i) to one or two additional people, increase by **[3]** levels; or
 - (ii) to three or more additional people, increase by **[6]** levels.

Accounting for Bodily Injury and Death

Number of Offense Levels Increased

Impact of Option 2



Race

By Impact of Option 1 and Option 2

Fiscal Year 2024

	Change Under Option 1	Change Under Option 2	No Change Under Options
White	8%	0	2%
Black	4%	4% (one case)	7%
Hispanic	87%	96%	91%
Other	1%	0	0%

Gender and Citizenship By Impact of Option 1 and Option 2 Fiscal Year 2024

	Change Under Option 1	Change Under Option 2	No Change Under Options
Male	85%	83%	89%
Female	15%	17%	11%

	Change Under Option 1	Change Under Option 2	No Change Under Options
U.S. Citizen	66%	52%	56%
Non-U.S. Citizen	34%	48%	44%



C

Cross Reference (18 U.S.C. §§ 2241–2244)

C

Cross Reference (18 U.S.C. §§ 2241–2244)

(c) Cross Reference

* * *

- (2) If the [offense involved][defendant engaged in] conduct described in 18 U.S.C. §§ 2241–2244, apply the appropriate guideline from Chapter Two, Part A, Subpart 3, if the resulting offense level is greater than that determined under this guideline.

Data: In fiscal year 2024, 35 cases involved some form of sexual conduct against one or multiple victims. Of these cases, 16 cases involved aggravated criminal sexual abuse (as prohibited by 18 U.S.C. §2241) and 20 cases involved criminal sexual abuse (as prohibited by 18 U.S.C. §2241).



D

IFC: Transnational Criminal Organizations

Cartel and Transnational Criminal Organization
Level of §2L1.1(b)(2) (Number of Aliens) Enhancement
Fiscal Year 2024

	No Enhancement	3-Level Enhancement 6-24 Aliens	6-Level Enhancement 25-99 Aliens	9-Level Enhancement 100 or More Aliens
Cartel and Transnational Criminal Organization N=201	19%	36%	13%	32%
Non-Cartel/Non- Transnational Criminal Organization N=3,982	62%	33%	4%	1%

Cartel and Transnational Criminal Organization Level of §2L1.1(b)(7) (Injury) Enhancement Fiscal Year 2024

	No Enhancement	2-Level Enhancement Bodily Injury	4-Level Enhancement Serious Bodily Injury	6-Level Enhancement Perm/LT Bodily Injury	10-Level Enhancement Death
Cartel and Transnational Criminal Organization N=201	79%	5%	3%	3%	10%
Non-Cartel/Non- Transnational Criminal Organization N=3,982	97%	1%	1%	0.2%	0.7%

D

IFC: Transnational Criminal Organizations

Issue for Comment

- Add SOC to further address risks associated with transnational criminal organizations?
- If so, number of levels?
- Definition or list of organizations?
- Tie to role adjustment, or role within organization?
- *Mens rea* requirement?
- Unwarranted sentencing disparities?



The Commission is accepting public comment on this proposal through March 18, 2026.

comment.ussc.gov

United States Sentencing Commission
Attention: Public Affairs
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 20002-8002