

Prison and Sentencing Impact Assessments for 2026 Guideline Amendments to the Federal Sentencing Guidelines

For a complete description of the 2026 amendments, please visit https://www.ussc.gov/sites/default/files/pdf/amendment-process/reader-friendly-amendments/202605_RF.pdf.

1) Simplification

This amendment continues the Commission’s multi-year efforts to simplify the *Guidelines Manual*. The amendment deletes 26 specific offense characteristics that did not apply in the last five fiscal years. These 26 specific offense characteristics applied infrequently—if at all—even using a 25-year lookback period.

Because these provisions have been applied rarely, the Commission estimates that this amendment would have no impact on sentencing or the size of the Federal Bureau of Prisons population.

2) Inflationary Adjustments

This amendment makes adjustments to the monetary tables in §§2B1.1 (Theft, Property, Destruction, and Fraud), 2B2.1 (Burglary), 2B3.1 (Robbery), 2R1.1 (Bid-Rigging, Price-Fixing or Market-Allocation Agreements Among Competitors), 2T4.1 (Tax Table), 5E1.2 (Fines for Individual Defendants), and 8C2.4 (Base Fine) to account for inflation. The amendment adjusts the monetary tables and values in the guidelines using a specific multiplier derived from the Bureau of Labor Statistics’ Consumer Price Index and rounds, using a set of rules extrapolated from the provisions for adjusting monetary penalties for inflation set forth in section 5(a) of the Federal Civil Penalties Inflation Adjustment Act of 1990. The amendment also adjusts for inflation the monetary value in specific offense characteristics in other Chapter Two guidelines—§§2B1.4, 2B1.5, 2B2.3, 2B3.2, 2B3.3, 2B4.1, 2B5.1, 2B5.3, 2B6.1, 2C1.1, 2C1.2, 2C1.8, 2E5.1, 2Q2.1, and 2T3.1—and includes conforming changes to guidelines that refer to the monetary tables.

Had the amendment been in effect in fiscal year 2024, the Commission estimates that 1,680 individuals would have had a lower sentence under the amendment. The table below shows the estimated sentencing impact of the amendment by the guidelines that are affected. For example, of the 5,236 cases in which the court applied the fraud guideline at §2B1.1, the Commission estimates that the amendment would have affected 1,209 cases (23%). The average sentence reduction in those cases would have been seven months, from the current average sentence of 35 months to an estimated new average sentence of 28 months.

Estimated Sentencing Impact of Inflationary Adjustments Amendment¹
FY 2024 Cases
Change in Sentences Imposed

	Affected Cases							All Relevant Cases	
	Total Cases ²	Affected Cases ³	Percent Affected	Current Average Sentence	New Average Sentence	Number of Months Change	Percent Change	Current Average Sentence	New Average Sentence
§2B1.1	5,236	1,209	23%	35	28	-7	-20%	24	23
Guidelines Referring to §2B1.1	1,511	325	22%	38	30	-8	-21%	29	28
§2B2.1 (Burglary)	58	5	9%	37	33	-4	-11%	45	45
§2B3.1 (Robbery)	1,492	56	4%	108	98	-10	-9%	122	122
§2R1.1 (Antitrust)	8	0	0%	--	--	--	--	<1	--
§2T4.1 (Tax)	532	85	16%	26	18	-8	-31%	19	18

¹ The Inflationary Adjustments amendment uses an initial 1.36 multiplier, with amounts then rounded consistent with 28 U.S.C. § 2641 note.

² **Total cases** are those sentenced under guidelines that reference a monetary table included in the Inflationary Adjustments amendment and are therefore eligible for a sentence change.

³ **Affected Cases** are those in which the sentence is estimated to change due to the inflation adjustment to the monetary tables under the amendment. A change in the offense level in a case due to the amendment does not necessarily result in a sentence change.

The Commission estimates that the amendment would decrease the size of the Federal Bureau of Prisons population. The table below shows the estimated change in sentences served. The Commission estimates that at the end of the first year in which the amendment is implemented, the amendment would reduce the FBOP population by 162 persons. Based solely on the sentencing of a single year of individuals, the amendment ultimately would save the FBOP 889 person-years of bed space, once the last individual in this cohort has finished serving their sentence. At the end of the fifth year after implementation of the amendment, the FBOP population would be reduced by 637 persons.

**Estimated Impact on Sentences Served of Inflationary Adjustments Amendment
All Affected FY 2024 Cases Combined⁴**

Change in years of incarceration served for individuals sentenced in a single fiscal year⁵

1st Year	2nd Year	3rd Year	4th Year	5th Year	10th Year	15th Year	Total⁶
-162	-151	-141	-123	-61	-17	-11	-889

Change in total FBOP population in future years⁷

One Year After Effective Date	Two Years After Effective Date	Three Years After Effective Date	Four Years After Effective Date	Five Years After Effective Date
-162	-312	-453	-576	-637

⁴ This analysis combines all cases affected by the Inflationary Adjustments amendment in which the court applied a guideline that referenced one of the monetary tables in §§2B1.1, 2B3.1, 2R1.1, or 2T4.1. Each analysis involves a unique population of sentenced individuals exclusive of the others. As a result, the prison impact estimates for each group can be combined to provide an overall estimate.

⁵ This table indicates the number of prison beds saved each year by a cohort of individuals sentenced in a single year.

⁶ This is the total number of prison beds that will be saved when all individuals who were sentenced in the same year are released from prison.

⁷ This table indicates the annual number of prison beds saved as additional cohorts of sentenced individuals affected by the Inflationary Adjustments amendment enter the Federal Bureau of Prisons.

3) Drug Offenses

This amendment amends the Drug Quantity Table at subsection (c) of §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) and the Drug Equivalency Tables at Application Note 8(D) of the Commentary to §2D1.1 to add “fentanyl-related substances.” It sets the quantity thresholds and base offense levels for fentanyl-related substances at the same level as fentanyl analogues, to mirror the equivalencies between these substances in the Act.

The amendment also adds a new Note to the Drug Quantity Table that defines “fentanyl related substance” by reference to the definition in 21 U.S.C. § 812(e), allowing for flexibility in case the statutory definition is amended in the future. The amendment also adds “fentanyl-related substance” to the existing enhancement at §2D1.1(b)(13), which currently increases penalties for representing or marketing fentanyl or a fentanyl analogue as another substance or as a legitimately manufactured drug.

In fiscal year 2024, 348 fentanyl analogue cases were reported to the Commission—an increase from 123 fentanyl analogue cases in fiscal year 2021. Most of these cases involved a permanently scheduled analogue. Between fiscal years 2021 and 2024, there were only 20 cases that involved a non-scheduled analogue (*i.e.*, a substance that would likely qualify as a fentanyl-related substance under the amendment). In most of these 20 cases, the courts calculated the base offense level by using the converted drug weight for a fentanyl analogue, consistent with how these substances would be treated under the amendment. Therefore, the sentences imposed in those cases generally would have been the same under the amendment. Accordingly, the Commission estimates that amendment would have little to no impact on sentencing or on the Federal Bureau of Prisons population.

4) Multiple Counts

As part of the Commission’s continued efforts to simplify the Guidelines Manual, this amendment revises the rules in Chapter Three, Part D (Multiple Counts), to simplify the procedure for determining the single offense level for cases involving multiple counts. The amendment responds to both commenter concerns and Commission observations through its training mission that the rules were confusing and, at times, led to misapplication of the rules, potentially resulting in unwarranted sentencing disparities. This amendment replaces the five guidelines in Chapter Three, Part D, with a single guideline at §3D1.1 (Procedure for Determining Offense Levels on Multiple Counts) that provides all the steps necessary to determine a single offense level for cases involving multiple counts. The new guideline simplifies the process with minimal impact to sentencing outcomes. In that regard, the new guideline retains the same goals of providing incremental punishment for significant additional criminal conduct, preventing multiple punishments for substantially identical conduct, and limiting the significance of the formal charging decision.

The multiple count rules applied to 10,807 (18%) of the 58,526 cases in which an individual was sentenced in fiscal year 2024 and for which the Commission had complete guideline application information. The remaining 47,719 cases (82%) did not involve the application of the multiple

count rules. Had the amendment been in effect that year, the Commission estimates that the amendment would not have changed the final offense level in 85 percent (9,171) of the 10,807 multiple count cases, would have increased the offense level in eight percent (841) of those cases, and would have decreased the offense level in seven percent (795) of those cases. In the 841 cases where the published amendment would have increased the final offense level, the overall average increase would have been one offense level. Of the 795 cases where the published amendment would have decreased the final offense level, the overall average decrease would have been two offense levels. Accordingly, the Commission estimates this amendment to be outcome neutral. Therefore, the Commission estimates that the amendment would have no impact on sentencing or on the size of the Federal Bureau of Prisons population.

5) Sentencing Options

The amendment is intended to further assist courts in determining the appropriate sentence—both sentence length and sentence type—by setting forth the operation of the Sentencing Table and clearly delineating a court’s guideline sentencing options. The amendment revises Part A (Sentencing Table) of Chapter Five (Determining the Sentencing Range and Options Under the Guidelines) of the *Guidelines Manual* by adding Introductory Commentary and a new guideline at §5A1.1 (Sentencing Table). The new Introductory Commentary and §5A1.1 serve complementary functions. First, the new Introductory Commentary emphasizes that courts must consider and balance a broad range of factors to achieve a sentence that is “sufficient, but not greater than necessary to comply with the purposes set forth in [18 U.S.C. § 3553(a)(2)],” and that each of the available sentencing options—imprisonment, probation, and fines—serves a punitive function. Second, new §5A1.1 describes the structure and operation of the Sentencing Table and lists all available guideline sentencing options to assist the court in determining the appropriate sentence under the guidelines, including the determination of sentence type.

The amendment does not amend provisions in Chapters 2, 3, or 4 of the *Guidelines Manual*, therefore, it would have no impact on the guideline range that applies in any case. Because the decision as to what type of sentence to impose and the length of that sentence is a matter of the court’s discretion, after first correctly determining the guideline range that applies in the case, the Commission cannot estimate the number of cases that may be affected by the amendment. Therefore, the Commission cannot estimate the impact of the amendment on sentencing or on the size of the Federal Bureau of Prisons population.

6) Miscellaneous

This amendment responds to recently enacted legislation. The amendment has two provisions.

First, the amendment amends Appendix A (Statutory Index) to reference a new offense at 15 U.S.C. § 9901 (Prohibition on transfer of personally identifiable sensitive data of United States individuals to foreign adversaries) to §2H3.1 (Interception of Communications; Eavesdropping; Disclosure of Certain Private or Protected Information) in response to the Protecting Americans’ Data from Foreign Adversaries Act, Pub. L. 118–50 (2024).

From fiscal year 2024 to fiscal year 2025, no cases were reported to the Commission involving a conviction under this statute. Because of this, the impact on sentencing, if any, from the amendment cannot be estimated. The impact on the Federal Bureau of Prisons population would be negligible.

Next, the amendment amends Appendix A to reference a new offense at 18 U.S.C. § 1352 (Demands by foreign officials for bribes) to §2C1.1 (Offering, Giving, Soliciting, or Receiving a Bribe; Extortion Under Color of Official Right; Fraud Involving the Deprivation of the Intangible Right to Honest Services of Public Officials; Conspiracy to Defraud by Interference with Governmental Functions) in response to the Foreign Extortion Prevention Technical Corrections Act, Pub. L. 118–78 (2024).

From fiscal year 2024 to fiscal year 2025, no cases were reported to the Commission involving a conviction under this statute. Because of this, the impact on sentencing, if any, from the amendment cannot be estimated. The impact on the Federal Bureau of Prisons population would be negligible.

7) Technical

This amendment makes technical, stylistic, and other nonsubstantive changes to the *Guidelines Manual*. The Commission estimates that these amendments would have no impact on sentencing or the Federal Bureau of Prisons population.