

§2L1.2

condition; or guiding persons through, or abandoning persons in, a dangerous or remote geographic area without adequate food, water, clothing, or protection from the elements). If subsection (b)(6) applies solely on the basis of conduct related to fleeing from a law enforcement officer, do not apply an adjustment from §3C1.2 (Reckless Endangerment During Flight). Additionally, do not apply the adjustment in subsection (b)(6) if the only reckless conduct that created a substantial risk of death or serious bodily injury is conduct for which the defendant received an enhancement under subsection (b)(5).

4. **Application of Subsection (b)(7) to Conduct Constituting Criminal Sexual Abuse.**—Consistent with Application Note 1(L) of §1B1.1 (Application Instructions), “serious bodily injury” is deemed to have occurred if the offense involved conduct constituting criminal sexual abuse under 18 U.S.C. § 2241 or § 2242 or any similar offense under state law.
5. **Inapplicability of §3A1.3.**—If an enhancement under subsection (b)(8)(A) applies, do not apply §3A1.3 (Restraint of Victim).
6. **Interaction with §3B1.1.**—For the purposes of §3B1.1 (Aggravating Role), the aliens smuggled, transported, or harbored are not considered participants unless they actively assisted in the smuggling, transporting, or harboring of others. In large scale smuggling, transporting, or harboring cases, an additional adjustment from §3B1.1 typically will apply.

Background: This section includes the most serious immigration offenses covered under the Immigration Reform and Control Act of 1986.

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| <i>Historical Note</i> | Effective November 1, 1987. Amended effective January 15, 1988 (amendments 35, 36, and 37); November 1, 1989 (amendment 192); November 1, 1990 (amendment 335); November 1, 1991 (amendment 375); November 1, 1992 (amendment 450); May 1, 1997 (amendment 543); November 1, 1997 (amendment 561); November 1, 2006 (amendments 686 and 692); November 1, 2007 (amendment 702); November 1, 2009 (amendment 730); November 1, 2014 (amendment 785); November 1, 2016 (amendment 802); November 1, 2018 (amendment 805); November 1, 2025 (amendment 836). |
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§2L1.2. Unlawfully Entering or Remaining in the United States

- (a) Base Offense Level: **8**
- (b) Specific Offense Characteristics
 - (1) (Apply the Greater) If the defendant committed the instant offense after sustaining—
 - (A) a conviction for a felony that is an illegal reentry offense, increase by **4** levels; or
 - (B) two or more convictions for misdemeanors under 8 U.S.C. § 1325(a), increase by **2** levels.
 - (2) (Apply the Greatest) If, before the defendant was ordered deported or ordered removed from the United States for the first time, the defendant engaged in criminal conduct that, at any time, resulted in—