

(c) Cross Reference

- (1) If death resulted, apply the appropriate homicide guideline from Chapter Two, Part A, Subpart 1, if the resulting offense level is greater than that determined under this guideline.

Commentary

Statutory Provisions: 8 U.S.C. §§ 1324(a), 1327. For additional statutory provision(s), *see* Appendix A (Statutory Index).

Application Notes:

1. **Definitions.**—For purposes of this guideline:

“The offense was committed other than for profit” means that there was no payment or expectation of payment for the smuggling, transporting, or harboring of any of the unlawful aliens.

“Number of unlawful aliens smuggled, transported, or harbored” does not include the defendant.

“Aggravated felony” has the meaning given that term in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(43)), without regard to the date of conviction for the aggravated felony.

“Child” has the meaning set forth in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. § 1101(b)(1)).

“Spouse” has the meaning set forth in 101(a)(35) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(35)).

“Immigration and naturalization offense” means any offense covered by Chapter Two, Part L.

“Minor” means an individual who had not attained the age of 18 years.

“Parent” means (A) a natural mother or father; (B) a stepmother or stepfather; or (C) an adoptive mother or father.

“Bodily injury,” “serious bodily injury,” and “permanent or life-threatening bodily injury” have the meaning given those terms in the Commentary to §1B1.1 (Application Instructions).

2. **Prior Convictions Under Subsection (b)(3).**—Prior felony conviction(s) resulting in an adjustment under subsection (b)(3) are also counted for purposes of determining criminal history points pursuant to Chapter Four, Part A (Criminal History).
3. **Application of Subsection (b)(6).**—Reckless conduct to which the adjustment from subsection (b)(6) applies includes a wide variety of conduct (*e.g.*, transporting persons in the trunk or engine compartment of a motor vehicle; carrying substantially more passengers than the rated capacity of a motor vehicle or vessel; harboring persons in a crowded, dangerous, or inhumane