

CHAPTER THREE

ADJUSTMENTS

PART A — VICTIM-RELATED ADJUSTMENTS

Introductory Commentary

The following adjustments are included in this part because they may apply to a wide variety of offenses.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1990 (amendment 344); November 1, 2023 (amendment 824).
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§3A1.1. Hate Crime Motivation or Vulnerable Victim

- (a) If the finder of fact at trial or, in the case of a plea of guilty or *nolo contendere*, the court at sentencing determines beyond a reasonable doubt that the defendant intentionally selected any victim or any property as the object of the offense of conviction because of the actual or perceived race, color, religion, national origin, ethnicity, gender, gender identity, disability, or sexual orientation of any person, increase by **3** levels.
- (b) (1) If the defendant knew or should have known that a victim of the offense was a vulnerable victim, increase by **2** levels.
- (2) If (A) subdivision (1) applies; and (B) the offense involved a large number of vulnerable victims, increase the offense level determined under subdivision (1) by **2** additional levels.
- (c) Special Instruction
 - (1) Subsection (a) shall not apply if an adjustment from §2H1.1(b)(1) applies.

Commentary

Application Notes:

1. Subsection (a) applies to offenses that are hate crimes. Note that special evidentiary requirements govern the application of this subsection.

Do not apply subsection (a) on the basis of gender in the case of a sexual offense. In such cases, this factor is taken into account by the offense level of the Chapter Two offense guideline. Moreover, do not apply subsection (a) if an adjustment from §2H1.1(b)(1) applies.