

§3A1.3

is limited to assaultive conduct against such official victims that is sufficiently serious to create at least a “substantial risk of serious bodily injury”.

(B) **Definitions.**—For purposes of subsection (c):

“**Custody or control**” includes “non-secure custody”, *i.e.*, custody with no significant physical restraint. For example, a defendant is in the custody or control of a prison or other correctional facility if the defendant (i) is on a work detail outside the security perimeter of the prison or correctional facility; (ii) is physically away from the prison or correctional facility while on a pass or furlough; or (iii) is in custody at a community corrections center, community treatment center, “halfway house”, or similar facility. The defendant also shall be deemed to be in the custody or control of a prison or other correctional facility while the defendant is in the status of having escaped from that prison or correctional facility.

“**Prison official**” means any individual (including a director, officer, employee, independent contractor, or volunteer, but not including an inmate) authorized to act on behalf of a prison or correctional facility. For example, this enhancement would be applicable to any of the following: (i) an individual employed by a prison as a corrections officer; (ii) an individual employed by a prison as a work detail supervisor; and (iii) a nurse who, under contract, provides medical services to prisoners in a prison health facility.

“**Substantial risk of serious bodily injury**” includes any more serious injury that was risked, as well as actual serious bodily injury (or more serious injury) if it occurs.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective January 15, 1988 (amendment 44); November 1, 1989 (amendments 246, 247, and 248); November 1, 1992 (amendment 455); November 1, 2002 (amendment 643); November 1, 2004 (amendment 663); November 1, 2010 (amendment 747); November 1, 2023 (amendment 824); November 1, 2025 (amendment 836).
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§3A1.3. Restraint of Victim

If a victim was physically restrained in the course of the offense, increase by 2 levels.

Commentary

Application Notes:

1. “**Physically restrained**” is defined in the Commentary to §1B1.1 (Application Instructions).
2. Do not apply this adjustment where the offense guideline specifically incorporates this factor, or where the unlawful restraint of a victim is an element of the offense itself (*e.g.*, this adjustment does not apply to offenses covered by §2A4.1 (Kidnapping, Abduction, Unlawful Restraint)).

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1989 (amendments 249 and 250); November 1, 1991 (amendment 413); November 1, 2025 (amendment 836).
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