

of a person described in subdivision (A) or (B); and (2) the offense of conviction was motivated by such status, increase by **3** levels.

- (b) If subsection (a)(1) and (2) apply, and the applicable Chapter Two guideline is from Chapter Two, Part A (Offenses Against the Person), increase by **6** levels.
- (c) If, in a manner creating a substantial risk of serious bodily injury, the defendant or a person for whose conduct the defendant is otherwise accountable—
  - (1) knowing or having reasonable cause to believe that a person was a law enforcement officer, assaulted such officer during the course of the offense or immediate flight therefrom; or
  - (2) knowing or having reasonable cause to believe that a person was a prison official, assaulted such official while the defendant (or a person for whose conduct the defendant is otherwise accountable) was in the custody or control of a prison or other correctional facility,

increase by **6** levels.

#### Commentary

##### Application Notes:

1. **Applicability to Certain Victims.**—This guideline applies when specified individuals are victims of the offense. This guideline does not apply when the only victim is an organization, agency, or the government.
2. **Nonapplicability in Case of Incorporation of Factor in Chapter Two.**—Do not apply this adjustment if the offense guideline specifically incorporates this factor. The only offense guideline in Chapter Two that specifically incorporates this factor is §2A2.4 (Obstructing or Impeding Officers).
3. **Application of Subsections (a) and (b).**—“*Motivated by such status*”, for purposes of subsections (a) and (b), means that the offense of conviction was motivated by the fact that the victim was a government officer or employee, a former government officer or employee, or a member of the immediate family thereof. This adjustment would not apply, for example, where both the defendant and victim were employed by the same government agency and the offense was motivated by a personal dispute. This adjustment also would not apply in the case of a robbery of a postal employee because the offense guideline for robbery contains an enhancement (§2B3.1(b)(1)) that takes such conduct into account.
4. **Application of Subsection (c).**—
  - (A) **In General.**—Subsection (c) applies in circumstances tantamount to aggravated assault (i) against a law enforcement officer, committed in the course of, or in immediate flight following, another offense; or (ii) against a prison official, while the defendant (or a person for whose conduct the defendant is otherwise accountable) was in the custody or control of a prison or other correctional facility. While subsection (c) may apply in connection with a variety of offenses that are not by nature targeted against official victims, its applicability