



**U.S. Department of Justice**  
Office of Legislative Affairs

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*Office of the Assistant Attorney General*

*Washington, DC 20530*

June 10, 2024

The Honorable Mike Johnson  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

Dear Speaker Johnson:

On behalf of the Administration, I am pleased to present for Congressional consideration a legislative proposal that would amend the U.S. Sentencing Guideline applicable to human smuggling offenses to address serious deficiencies that frustrate efforts to obtain justice at sentencing for victims.

The human cost of smuggling operations is enormous. On June 27, 2022, for example 46 migrants were found dead inside a sweltering tractor-trailer vehicle abandoned on the side of a road near San Antonio, Texas.<sup>1</sup> In December 2021, 55 migrants died in a trailer truck accident in Chiapas, Mexico.<sup>2</sup> And in 2017, nine migrants perished in a truck in a San Antonio Walmart parking lot.<sup>3</sup> During the 2022 Fiscal Year, the Department of Homeland Security recorded 557 migrant deaths along the southwest border.<sup>4</sup>

Today's U.S. Sentencing Guidelines, however, fail to meet the magnitude of this challenge. Specifically, the current guidelines do not give consideration at sentencing to each person smuggled, instead increasing the advisory sentencing range in predetermined ranges (e.g., for one to five people smuggled, six to 24, and so on). They also fail to account for the number of people harmed in cases involving death or bodily injury and to distinguish offenses involving rape and other forms of sexual assault.

With this letter, we are proposing legislation that would ensure that the U.S. Sentencing Guidelines more appropriately reflect the danger posed by smuggling large numbers of people

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<sup>1</sup> Arelis R. Hernández, Nick Miroff & Maria Sacchetti, *46 Migrants Found Dead in Texas Inside Sweltering Tractor-Trailer*, WASH. POST, June 28, 2022.

<sup>2</sup> Rosa Sanchez and Kiara Alfonseca, *55 Migrants Dead, 105 Injured After Vehicle Overturms in Chiapas, Mexico: Authorities*, ABC NEWS, Dec. 11, 2021; *see also* Jacob Garcia, *Guatemalan Migrants Make Up Majority of 55 Dead in Mexico Truck Crash*, REUTERS, Dec. 10, 2021.

<sup>3</sup> David Montgomery, Manny Fernandez & Yonette Joseph, *Journey Fatal for 9 Migrants Found in Truck in a San Antonio Parking Lot*, N.Y. TIMES, July 23, 2017.

<sup>4</sup> Letter from Alejandro Mayorkas, Sec'y, Dep't of Homeland Sec., to U.S. Sentencing Comm'n (Oct.16, 2022).

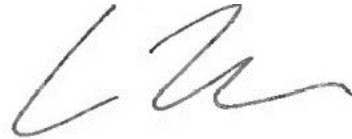
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and that persons injured or killed or who suffer from rape or other forms of sexual assault during smuggling offenses receive justice at sentencing.

We appreciate your consideration of these proposals and would welcome the opportunity to address your questions and provide technical assistance on any language you might consider.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Uriarte', written in a cursive style.

Carlos Felipe Uriarte  
Assistant Attorney General

Enclosure

## A BILL

To amend the U.S. Sentencing Guidelines applicable to human smuggling offenses, USSG § 2L1.1.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Deterring Human Smuggling and Harm to Victims Act of 2024”.

### **SECTION 2. AMENDMENT OF §2L1.1 OF U.S. SENTENCING GUIDELINES—**

(a) §2L1.1 is amended by striking subsection (b)(2) and inserting the following new subsection (b)(2):

“(2) If the offense involved the smuggling, transporting, or harboring of two or more unlawful aliens, increase as follows:

NUMBER OF UNLAWFUL ALIENS SMUGGLED, TRANSPORTED, OR HARBORED	INCREASE IN LEVEL
(A) 2-4	add 2 levels
(B) 5-9	add 4 levels
(C) 10-19	add 5 levels
(D) 20-29	add 6 levels
(E) 30-49	add 8 levels
(F) 49 or more	add 10 levels”;

(b) §2L1.1 is amended by striking subsection (b)(7) and inserting the following new subsection (b)(7):

“(7) If any person died or sustained bodily injury, increase the offense level according to the seriousness of the injury:

DEATH OR DEGREE OF INJURY	INCREASE IN LEVEL
(A) Bodily Injury	add 2 levels for each person so injured
(B) Serious Bodily Injury	add 4 levels for each person so injured
(C) Permanent or Life-Threatening Bodily Injury	add 6 levels for each person so injured
(D) Death	add 10 levels for each person who died”

The cumulative offense level determined from the application of subsections (b)(2) and (b)(7) may not exceed level **29**, except if subsection (b)(6) applies, in which case the

cumulative offense level determined from the application of subsections (b)(2), (b)(6), and (b)(7) may not exceed level **38.**”;

(c) §2L1.1 is amended by adding a new subsection (c)(2) to (c) Cross Reference as follows:

“(2) If prohibited sexual conduct, regardless of where it occurred in the United States or its territories, was committed during the smuggling, transporting, or harboring offense, apply the appropriate guidelines from Chapter II, Part A, Subpart 3. For purposes of §2L1.1, prohibited sexual conduct may occur anywhere during the course of the smuggling offense and is not limited to special maritime and territorial jurisdiction as defined by 18 U.S.C. Section 7; and “prohibited sexual conduct” (A) means any sexual activity for which any person can be charged with a criminal offense under state, federal, or any territorial law; (B) includes the production of child pornography; and (C) does not include trafficking in, or possession of, child pornography.”;

(d) §2L1.1 is amended by adding a new subsection (D) to Application Note 7 of the Commentary as follows:

“(D) The offense involves injury to, or the death of, a substantial number of individuals.”.