

2017
National Seminar

Criminal History Calculations /USSG §4A1.1 &4A1.2: 2017 Annual National Seminar

This handout is intended to be a quick reminder of some key considerations when applying the criminal history calculations at §4A1.1 and 4A1.2.

Criminal History Points for Prior Offenses Committed...

...at 18 or Older

...Before 18

Pts*	Sentence	(Earliest Date of Relevant Conduct)	(Earliest Date of Relevant Conduct)	Sentence	Pts*
		Time Frame	Time Frame		
3	> 13 Months	Within 15 years of prior sentence imposition or release	Within 15 years of prior sentence imposition or release	> 13 Months <i>Only If Convicted as an Adult and:</i>	3
2	≥ 60 Days	Within 10 years of prior sentence imposition	Within 5 years of prior sentence imposition or release	≥ 60 Days	2
1 (Max of 4)	All Others**	Within 10 years of prior sentence imposition	Within 5 years of prior sentence imposition	All Others**	1 (Max of 4)

* If Otherwise Countable
** Exceptions May Apply

* If Otherwise Countable
** Exceptions May Apply



Other Consideratons:

- §4A1.2(f) – Diversionary Dispositions
- §4A1.2(h) – Foreign Sentences
- §4A1.2(i) – Tribal Court Sentences
- §4A1.2(k) – Revocations of Probation, Parole, Mandatory Release, or Supervised Release

CRIMINAL HISTORY SCENARIOS

Cedar Rapids, May 22, 2018

Scenario #1

Defendant was convicted of a conspiracy to distribute crack cocaine. The conspiracy began on December 1, 2013 and ended on April 1, 2014 at which time the defendant was arrested. The Indictment lists three separate deliveries made from New York and Washington, DC.

- December 28, 2013 – 50 grams
- February 9, 2014 – 50 grams
- March 2, 2014 – 50 grams

The Indictment also cites 20 grams crack delivery from New York to Philadelphia on October 10, 2013. The defendant was convicted for this conduct in Philadelphia on November 17, 2013 and sentenced to one month in jail. For what amount of drugs would the guidelines hold the defendant accountable?

- A. 50 grams
- B. 150 grams
- C. 170 grams

Scenario #2

Defendant is convicted of Theft of Mail, a violation of 18 U.S.C. § 1708. The defendant, a mail carrier, stole several bags of mail from his mail truck. When police contacted the defendant regarding the mail theft, he fled from officers. The defendant was charged and convicted by the state for fleeing officers and false statements to police officers. As a result, the defendant is currently serving a 6-month sentence in county jail.

The court applied §2B1.1 for the theft of mail. The court did not apply an enhancement for obstruction at §3C1.1. Application note 5(B) and (D) indicates that fleeing arrest and false statements to law enforcement are examples of conduct ordinarily not covered.

Since §3C1.1 is not applicable, should this prior conviction receive criminal history points?

- A. Yes
- B. No

CRIMINAL HISTORY SCENARIOS, Cont.

Scenario #3

<u>Arrest Date</u>	<u>Charge/Docket #</u>	<u>Date/Sent. Imposed</u>
02/07/03 (Age 18)	Burglary, Montgomery County District Ct. Dayton, OH, Case#2003- CR-411	04/07/03: 4 to 15 yrs. imprisonment consecutive to Case#2003-CR-805
02/07/03 (Age 18)	Burglary, Montgomery County District Ct. Dayton, OH, Case#2003- CR-805	04/07/03: 4 to 15 yrs. imprisonment consecutive to Case# 2003-CR-411

#3-A. Are these sentences scored separately or as a single sentence?

- A. Separately
- B. Single

#3-B. How many criminal history points?

- A. None
- B. 1
- C. 2
- D. 3
- E. 4

CRIMINAL HISTORY SCENARIOS, Cont.

Scenario #4

<u>Arrest Date</u>	<u>Charge/Docket #</u>	<u>Date/Sent. Imposed</u>
05/06/09 (Age 20)	Aggravated Robbery (Case# 09-432); Rutherford County Criminal Court, Murfreesboro, TN	06/26/09: 1 year custody, consecutive to Case# 09- 433
05/06/09 (Age 20)	Aggravated Robbery (Case # 09-433); Rutherford County Criminal Court, Murfreesboro, TN	06/26/09: 9 months' custody, consecutive to Case# 09-432

#4-A. Are these sentences counted separately or as a single sentence?

- A. Separately
- B. Single

#4-B. How many criminal history points?

- A. None
- B. 1
- C. 2
- D. 3
- E. 4

Scenario #5

<u>Arrest Date</u>	<u>Charge/Docket #</u>	<u>Date/Sent. Imposed</u>
11/07/11 (Age 21)	Consp. to commit possession of CDS (Cocaine) Second Judicial District Court Albuquerque, New Mexico	12/05/11: Guilty 2 years deferred adjudication, probation with drug treatment 09/06/12: probation revoked; guilty and resentenced to 180 days custody

How many criminal history points?

- A. None
- B. 1
- C. 2
- D. 3
- E. 4

CRIMINAL HISTORY SCENARIOS, Cont.

Scenario #6

<u>Arrest Date</u>	<u>Charge/Docket #</u>	<u>Date/Sent. Imposed</u>
03/05/06 (Age 22)	Burglary-1 st Degree Charles County Circuit Court, La Plata. Maryland	06/28/06: 2 years' probation 04/10/08: probation violation, warrant issued 06/20/08: probation revoked; 12-month sentence imposed

How many criminal history points?

- | | |
|---------|------|
| A. None | D. 3 |
| B. 1 | E. 4 |
| C. 2 | |

Scenario #7

<u>Arrest Date</u>	<u>Charge/Docket #</u>	<u>Date/Sent. Imposed</u>
04/08/09 (Age 21)	Criminal Mischief 3rd Degree Polk County District Court, Des Moines, Iowa, Case #1234	05/15/09: 2 years' probation 2/4/11: probation revoked; 2-year sentence (concurrent with #1235, #1236)
1/03/10	Theft 3d Degree Polk County District Court, Des Moines, Iowa Case #1235	2/18/10: 2 years' probation 2/4/11: probation revoked; 2-year sentence (concurrent with #1234, #1236)
9/12/10	Carrying Concealed Weapon Polk County District Court, Des Moines, Iowa, Case #1236	10/20/10: 2 years' probation 2/4/11: probation revoked; 2-year sentence (concurrent with #1234, #1235)

How many criminal history points?

- | | |
|------|------|
| A. 3 | C. 6 |
| B. 5 | D. 9 |