

2017
National
Seminar

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

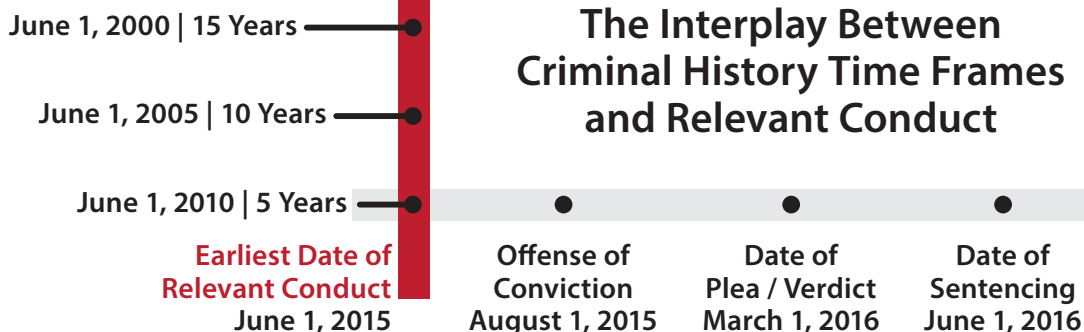
This handout is intended to be a quick reminder of some key considerations when applying the criminal history calculations at §4A1.1 and 4A1.2.

Criminal History Points for Prior Offenses Committed... ...at 18 or Older ...Before 18

| Pts* | Sentence | (Earliest Date of Relevant Conduct) Time Frame | (Earliest Date of Relevant Conduct) Time Frame | Sentence | Pts* |
|-----------------|--------------|---|---|--|-----------------|
| 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

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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

Multiple Prior Sentences / USSG §4A1.2(a)(2): 2017 Annual National Seminar

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Multiple Prior Sentences will be Treated as a “Single Sentence” if –

1. Prior sentences are for offense **NOT** separated by an intervening arrest

--- AND ---

2. The offenses **either**:
 - a. Were named in the same charging document, or
 - b. Resulted in sentences imposed on the same day

* For Single Sentences, if concurrent - use the longest sentence and if consecutive, aggregate the length of the sentences

Example 1

1. Defendant was convicted of 3 bank robberies that had not been separated by intervening arrests
2. Defendant was sentenced on the same day to 5 years for each robbery to run concurrently
3. Single sentence: 3 points (§4A1.1(a))
4. 1 point added for crime of violence that did not receive points: 2 additional points (§4A1.1(e))

Example 2

1. The defendant’s prior record includes two robberies, the second committed after the defendant had been arrested for the first and was out on bail release. The two robbery offenses were subsequently charged in the same indictment and sentenced on the same day, resulting in concurrent sentences of five years each.
2. Intervening arrest
3. Separate sentences: 3 points each (total 6 points)

Career Offender “Override”

Criteria

- Defendant must be at least 18 at the time of the offense
- Instant offense of conviction is a felony for a “crime of violence” or “controlled substance offense”
- Defendant must have at least two prior felony convictions for a “crime of violence” or “controlled substance offense” that are counted separately under §4A1.1(a), (b), or (c)

Override

- Criminal History Category VI
- Offense level determined by a table base on statutory maximum (unless the offense level from Chapters Two and Three is greater)

Career Offender Table

| Statutory Maximum | Life ... 37 25 years + ... 34 20 years + ... 32 15 years + ... 29 10 years + ... 24 5 years + ... 17 More than 1 year ... 12 | Offense Level * |
|-------------------|--|---|
| | | * Decrease by number of levels (0 or -2 or -3) at §3E1.1 (Acceptance of Responsibility) |

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The United States Sentencing Commission, an independent agency in the judicial branch of the federal government, was organized in 1985 to develop a national sentencing policy for the federal courts. The resulting sentencing guidelines provide structure for the courts’ sentencing discretion to help ensure that similar offenders who commit similar offenses receive similar sentences.