

## SCENARIOS: CRIMINAL HISTORY: RECURRING ISSUES

### ARE THESE SCORED CORRECTLY?

1. On October 19, 2016, at 1:44 a.m., the defendant, armed with a Glock pistol, entered Lucky's Convenience Store and robbed the cashier at gunpoint. The cashier gave the defendant all the money in the register's drawer and the store's safe, totaling \$1,387.00.

The defendant was arrested by local law enforcement on October 24, 2016, and was charged with armed robbery. Law enforcement recovered the Glock pistol used during the robbery.

On November 3, 2016, the defendant was charged in federal court with felon in possession of a firearm. The indictment cites only the Glock pistol. The defendant pleaded guilty to one count of 18 U.S.C. § 922(g). The applicable guideline for the instant offense is §2K2.1.

The defendant's criminal history is as follows:

<b>Arrest Date</b>	<b>Conviction/Court</b>	<b>Date Sentence Imposed/Disposition</b>	<b>Guideline</b>	<b>Points</b>
03/04/2012	Distribution of a Controlled Substance (felony) Wicomico County Circuit Court Salisbury, MD	04/07/2012: 6 months custody	§4A1.1(b)	2
10/24/2016	Armed Robbery (felony) Anne Arundel County Circuit Court Annapolis, MD	01/13/2017: 18 months custody	§4A1.1(a)	3

**Is the defendant's criminal history scored correctly? Why or why not?**

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## SCENARIOS: CRIMINAL HISTORY: RECURRING ISSUES

2. The instant offense of conviction is possession with intent to distribute heroin, in violation of 21 U.S.C. § 841(applicable guideline §2D1.1). The indictment alleges that the defendant, from on or about April 29, 2016 through May 30, 2017, distributed over 200 grams of heroin.

The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
07/10/2012	Driving Under the Influence (misdemeanor) Fort Smith District Court, Fort Smith, AR	7/15/2012: \$500 fine	§4A1.1(c)	1
8/22/2015	Reckless Driving (misdemeanor) Fort Smith District Court Fort Smith, AR	9/1/2015: 3 months' probation  12/1/2015: probation discharged	§4A1.2(c)(1)	0
02/17/2016	Sale of more than 5 grams of Heroin (felony) Oklahoma District Court for Muskogee County	03/27/2016: Time Served (30 days custody)	§4A1.2(a)(1)	0
01/22/2017	Sale of more than 5 grams of Heroin (felony) Oklahoma District Court for Muskogee County	01/24/2018: 90 days custody	§4A1.2(a)(1)	0

**Is the defendant's criminal history scored correctly? Why or why not?**

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## SCENARIOS: CRIMINAL HISTORY: RECURRING ISSUES

3. Defendant pleaded guilty to one count of possession with intent to distribute 500 grams or more of cocaine, in violation of 21 U.S.C. § 841 (applicable guideline §2D1.1). The instant offense occurred on June 2, 2017. The defendant's relevant conduct includes two other sales of cocaine that occurred on May 19, 2017, and June 17, 2017.

The defendant's criminal history is as follows:

<b>Arrest Date</b>	<b>Conviction/Court</b>	<b>Date Sentence Imposed/Disposition</b>	<b>Guideline</b>	<b>Points</b>
04/16/2017	Theft (felony) Superior Court of Connecticut; Hartford, CT	07/30/2017: 3 months custody	§4A1.1(b)	2

Defendant was released on bond for the theft offense on April 18, 2017. The probation officer did not assign two criminal history points under §4A1.1(d) for committing the instant offense while under a criminal justice sentence.

**Is the defendant's criminal history scored correctly? Why or why not?**

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4. The instant offense of conviction is embezzlement, in violation of 18 U.S.C. § 656, applicable guideline §2B1.1. The offense occurred from November 2017 through December 2017.

The defendant's criminal history is as follows:

<b>Arrest Date</b>	<b>Conviction/Court</b>	<b>Date Sentence Imposed/Disposition</b>	<b>Guideline</b>	<b>Points</b>
05/30/2005	Driving While Intoxicated (misdemeanor) Chester County District Court West Chester, PA	06/01/2005: 2 years' probation  05/01/2007: Warrant issued for probation violation; warrant still outstanding	§4A1.1(d)	2

**Is the defendant's criminal history scored correctly? Why or why not?**

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## SCENARIOS: CRIMINAL HISTORY: RECURRING ISSUES

5. The defendant was found guilty of armed robbery, in violation of 18 U.S.C. § 2113(a). The applicable guideline is §2B3.1. The robbery occurred on March 7, 2018.

The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
11/18/1988	Second Degree Murder (felony) Superior County Court of Los Angeles County Los Angeles, CA	02/18/1989: 6 years to life imprisonment;  08/31/2001: Released on parole  11/30/2006: Parole revoked, 2 years custody	§4A1.1(a), §4A1.2(k)	3
09/11/2006	Burglary (felony) Superior County Court of Orange County Santa Ana, CA	11/24/2006: 3 years custody, 2 years suspended, probation to follow  6/20/2008: Probation revoked, re-imposition of 2 years suspended custody	§4A1.1(a), §4A1.2(k)	3
05/11/2017	Driving While License Suspended Superior County Court of San Diego County San Diego, CA	06/15/2017: \$200 fine	§4A1.2(c)(1)	0

**Is the defendant's criminal history scored correctly? Why or why not?**

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## SCENARIOS: CRIMINAL HISTORY: RECURRING ISSUES

6. The instant offense of conviction is illegal reentry in violation of 8 U.S.C § 1326 (applicable guideline §2L1.2). The defendant illegally reentered the United States on January 28, 2018.

The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
04/24/2006	Illegal Entry (misdemeanor) U.S. District Court; District of New Mexico Las Cruces Division	4/27/2006: 30 days custody	§4A1.2(e)(2)	0
02/22/2007	Importation of Marijuana (felony) U.S. District Court; District of Arizona Tucson Division	04/29/2007: 8 months custody; 3 years supervised release  05/24/2010: supervised release revoked; 30 days custody	§4A1.1(b), §4A1.2(k)	2
05/22/2010	Illegal Reentry (felony) U.S. District Court; District of Arizona Tucson Division	05/24/2010: 15 months custody; 3 years supervised release	§4A1.1(a)	3

Is the defendant's criminal history scored correctly? Why or why not?

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## SCENARIOS: CRIMINAL HISTORY: RECURRING ISSUES

7. The instant offense of conviction is bank fraud, in violation of 18 U.S.C. § 1344 (applicable guideline §2B1.1). The offense occurred from January 2017 through September 2017.

The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
12/05/2004	Theft (felony) Kenton County Circuit Court Covington, KY  Case number: 2004-CR-856	4/27/2005: 2 years' probation  01/12/2007: Probation revoked; 15 months custody	§4A1.1(a), §4A1.2(k)	3
1/29/2005	Theft (felony) Kenton County Circuit Court Covington, KY  Case number: 2005-CR-125	04/22/2005: 2 years' probation  01/12/2007: Probation revoked; 15 months custody concurrent with case number 2004-CR-856	§4A1.2(e)(2),	0
12/07/2006	Robbery (felony) Kenton County Circuit Court Covington, KY	01/12/2007: 15 months custody concurrent with revocation time imposed in case numbers 2004-CR-856 and 2005-CR-125	§4A1.1(a)	3

**Is the defendant's criminal history scored correctly? Why or why not?**

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## SCENARIOS: CRIMINAL HISTORY: RECURRING ISSUES

8. The instant offense of conviction is possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841 (applicable guideline §2D1.1). The defendant's relevant conduct for this offense began in April 2016 and ended with his arrest in the instant offense on March 15, 2017.

The defendant's criminal history is as follows:

<b>Arrest Date</b>	<b>Conviction/Court</b>	<b>Date Sentence Imposed/Disposition</b>	<b>Guideline</b>	<b>Points</b>
10/15/2014	Second Degree Burglary (felony) Hennepin County District Court Minneapolis, MN CR-14-98484	03/07/2015: 15 months custody	§4A1.1(a)	3
10/15/2014	Aggravated Assault (felony) Hennepin County District Court Minneapolis, MN CR-14-98652	03/07/2015: 15 months custody, to run concurrent with CR-14-98484	§4A1.2(a)(2), §4A1.1(e)	1

**Is the defendant's criminal history scored correctly? Why or why not?**

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## SCENARIOS: CRIMINAL HISTORY: RECURRING ISSUES

9. Defendant pleaded guilty to one count of kidnapping, in violation of 18 U.S.C. § 1201 (applicable guideline §2A4.1). The offense occurred on July 21, 2017.

The defendant's criminal history is as follows:

<b>Arrest Date</b>	<b>Conviction/Court</b>	<b>Date Sentence Imposed/Disposition</b>	<b>Guideline</b>	<b>Points</b>
09/14/2010	Aggravated Assault (felony) Miami-Dade Circuit Court Miami, FL 2010-CR-34873	11/27/2010: 8 months custody	§4A1.1(b), §4A1.2(a)(2)	3
09/14/2010	Aggravated Assault (felony) Miami-Dade Circuit Court Miami, FL 2010-CR-37124	11/27/2010: 6 months custody consecutive to 2010-CR-34873	§4A1.2(a)(2)	0

**Is the defendant's criminal history scored correctly? Why or why not?**

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