

## SCENARIOS: INTRODUCTION TO CRIMINAL HISTORY

### ARE THESE SCORED CORRECTLY?

1. The date of the instant offense is April 19, 2018. The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
07/13/2010 (Age 23)	Possession of Class D Substance/Marijuana (misdemeanor), District Court Worcester, MA	10/25/2010: 1 year jail; sentence suspended; 2 years' probation	§4A1.1(b)	≠ 1

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

**No. The possession of marijuana conviction should receive one criminal history point.**

Section 4A1.2(b)(2) states: "If part of a sentence of imprisonment was suspended, 'sentence of imprisonment' refers only to the portion that was not suspended." Therefore, the court must determine the number of criminal history points for a sentence of two years' probation. The prior sentence was imposed within ten years of the instant offense. The possession of marijuana conviction receives one criminal history point under §4A1.1(c).

2. The date of the instant offense is November 23, 2017. The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
04/06/2011 (Age 44)	Possession of Class D Substance/Marijuana (misdemeanor), District Court Worcester, MA	9/21/2011: \$500 fine	§4A1.1(c)	1

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

**Yes. The criminal history is scored correctly.**

"Prior sentence," as used to determine criminal history points under §4A1.1 is defined at §4A1.2(a)(1). A "prior sentence means any sentence previously imposed upon adjudication of guilt ... for conduct not part of the instant offense." Although the defendant did not receive a custodial or supervisory sentence, the defendant was convicted of the offense, and was fined \$500. Additionally, the sentence for the possession of marijuana offense was imposed within ten years of the instant offense.

3. The date of the instant offense is March 7, 2016. The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
07/27/2004 (Age 16)	Assault Causing Bodily Injury (felony), Montgomery County Juvenile Court, Dayton, OH	04/04/2005: Pled true, adjudicated delinquent, 6 months' probation	§4A1.2(d)(2)	0

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

**Yes. The criminal history is scored correctly.**

No criminal history points are assigned to the prior assault conviction because the sentence was imposed more than five years before the instant offense. See §4A1.2(d)(2).

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4. The date of the instant offense is May 27, 2017. The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
02/20/2017 (Age 28)	Arson (felony), Third Circuit Court, Detroit, MI	08/29/2017: 12 months to 5 years' custody	§4A1.1(b)	<del>2</del> 3

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

**No. The prior conviction for arson should receive three criminal history points.**

Application note 2 at §4A1.2 states: that the length of a sentence of imprisonment is the stated maximum. Therefore, when the court imposes an indeterminate sentence as in this scenario, the stated maximum of five years is used to determine the appropriate number of criminal history points. A sentence of imprisonment of 13 months or greater that was imposed within 15 years of the instant offense receives three criminal history points under §4A1.1(a).

5. The date of the instant offense is January 23, 2019. The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
11/03/2016 (Age 28)	Terroristic Threats (misdemeanor), 68th Judicial District, Lubbock, TX	05/14/2017: 10 days jail	§4A1.1(c)	1

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

**Yes. The criminal history is scored correctly.**

"Prior sentence," as used to determine criminal history points under §4A1.1 is defined at §4A1.2(a)(1). A "prior sentence means any sentence previously imposed upon adjudication of guilt ... for conduct not part of the instant offense." The defendant received a sentence of 10 days jail for terroristic threats, and that sentence was imposed within ten years of the instant offense. One criminal history point is assigned under §4A1.1(c).

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6. The date of the instant offense is March 23, 2017. The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
10/09/2015 (Age 35)	Possession of Cocaine (felony), Ramsey Court District Court, St. Paul, MN	03/19/2016: 355 days jail, time served	§4A1.1(c)	<del>1</del> 2

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

**No. The prior conviction for possession of cocaine should receive two criminal history points.**

Although the defendant received a sentence of "time served" and he was not required to serve any additional days in jail, the sentence imposed in this case is 355 days in custody. This is a sentence of imprisonment of greater than 60 days. The sentence was imposed within ten years of the instant offense. Therefore, two criminal history points should be assigned under §4A1.1(b).

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7. The date of the instant offense is April 16, 2017. The defendant's criminal history is as follows:

Arrest Date	Conviction/Court	Date Sentence Imposed/Disposition	Guideline	Points
06/16/2006 (Age 15)	First Degree Manslaughter (felony), Hennepin County District Court, Minneapolis, MN	12/08/2007: 10 years' jail and 3 years supervised release  Although a juvenile at the time of his arrest, the defendant was certified as an adult and appeared in adult court	§4A1.1(a)	3

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

**Yes. The criminal history is scored correctly.**

Although the defendant committed the prior manslaughter offense as a juvenile, he was convicted as an adult. Section 4A1.2(d)(1) states that three criminal history points are added when the defendant is convicted as an adult and received a sentence of greater than 13 months. The sentence was imposed with 15 years of the commencement of the instant offense. Three points are assigned under §4A1.1(a).