

**EXAMPLE CASE #1**

**DEFENDANT:** Smith, John Q.  
**DATE OF BIRTH:** March 3, 1973  
**SEX:** Male  
**RACE:** White  
**DATE OF SENTENCE:** September 6, 2005

**CIRCUMSTANCES OF CRIME:**

The victim, a 32-year-old woman, separated from the defendant after five years of marriage and was living with her parents. Following a telephone conversation with his former wife regarding unpaid child support, the defendant loaded a sawed-off shotgun, told friends that he was going to "take her out," and drove to the victim's house. The friends notified police, who arrested the defendant following a brief stand-off near the house. The defendant had fired one shot toward the house before police arrived, but no person was injured.

**BACKGROUND OF DEFENDANT:**

The defendant was on parole at the time of this offense. Since his release on parole two months earlier, he has worked as a kitchen helper in a local restaurant. He is divorced, has two children who live with their mother, and has a high school education.

**OFFENSE DATE:** June 5, 2005

**CONVICTION DATE:** September 6, 2005

**CURRENT CONVICTION(S):**

Attempted Murder (F1)  
(18 Pa.C.S. §901)  
(OTN: F3199000)  
(DOCKET #: CP-99-CR-1234-2005)  
Aggravated Assault (F1)  
(18 Pa.C.S. §2702(a)(1))  
(OTN: F3199000)  
(DOCKET #: CP-99-CR-1234-2005)  
Firearms w/o License (F3)  
(18 Pa.C.S. §6106)  
(OTN: F3199000)  
(DOCKET #: CP-99-CR-1234-2005)

**PRIOR ADULT RECORD:**

<u>Date of Judicial Proceeding/ Sentencing</u>		<u>Sentence Imposed</u>
1/5/96	Criminal Mischief (M3)	1 year probation
1/5/00	Simple Assault (M2)	2 years probation
1/5/01	Burglary (F1)	3-23 months
1/5/02	Burglary (F1) (house/person present)	1-2 years
1/5/04	Interfere w/ custody (M2)	11½-23 months
1/5/04	Harass. by com.(M3)	1 year probation (consecutive)

**PRIOR JUVENILE ADJUDICATIONS:**

<u>Date of Dispositional Hearing</u>		<u>Sentence Imposed</u>
1/5/88	RSP (M2)	Probation
1/5/89	Aggravated Assault (F2)	ARC
1/5/90	Burglary (F1) (house/person)	Danville

## EXAMPLE CASE #1

### MAJOR POINTS:

#### *Crime of violence*

Attempted Murder, an F1, is a crime of violence (42 Pa.C.S. §9714(g)), and is assigned an OGS 13 or OGS 14 depending on whether serious bodily injury results. As such, the defendant may be subject to one of the mandatory minimum sentences related to crimes of violence, including visibly possessing a firearm. The standard guideline recommendation for any crime of violence is a state sentence of incarceration. The statutory maximum for inchoates to Murder is 40 years when serious bodily injury results, and 20 years when serious bodily injury does not result.

#### *Merger*

Inasmuch as aggravated assault, the lesser offense, contains some but not all of the elements of the greater offense, attempted murder, the offenses merge for purposes of sentencing. (42 Pa.C.S. §9765)

#### *Deadly Weapon Enhancement*

Because a deadly weapon (saw-off shotgun) was used during the commission of the crime, the court must consider the DWE/Used recommendation when imposing sentence for the Attempted Murder. Since Firearms Not To Be Carried Without a License, a violation of the Pennsylvania uniform firearms Act, is excluded from the enhancement provisions under §303.10(a)(3), no enhancement is applied when sentencing for this offense.

#### *Adult convictions/Other Misdemeanors*

The 6<sup>th</sup> Edition Guidelines base prior record scoring on concurrent or consecutive sentences imposed for offenses in a prior judicial proceeding. When there is a single offense in the prior judicial proceeding, it shall count in the prior record score. The four prior adult misdemeanor convictions accrue two points as "Other Misdemeanors" in the prior record score, since each was a separate judicial proceeding. The two convictions sentenced on 1/5/04, were imposed consecutively therefore both are scored according to §303.5(b).

#### *Juvenile adjudications/lapsing*

The juvenile adjudication for Aggravated Assault (F2) lapses since the defendant was 28 years of age or older at the time of the offense. The Burglary

(F1) does not lapse since it is a four point offense and there was an express finding that the adjudication was based on the commission of a felony and occurred on or after the defendant's 14th birthday. No points are added for juvenile adjudications that are "Other Misdemeanors" under §303.7(a)(5).

#### *Prior record score categories*

Since Attempted Murder and Firearms w/o License - Loaded both have an OGS of 9 or higher; and the defendant has two prior four-point adjudications and/or convictions, the prior record score category used with the Attempted Murder and Firearms w/o License when the weapon is loaded is REVOC.

#### *Sentence Recommendation*

Under these guidelines, which are offense-based, the sentence recommendation for each offense is based on the OGS and PRS. Therefore, the prior record score is considered in the sentence recommendation for both offenses listed. In the case of the Attempted Murder (no SBI), the statutory maximum of 20 years capitates the sentence recommendations at 120 months, the statutory limit. The statutory limit for F3 Firearms w/o License is 42 months.

#### *Sentence Imposed*

The court using the JNET-based *SGS Web* application has no later than 30 days after sentencing, to submit the Guideline Sentence Form to the Commission for the judicial proceeding. Upon entry of the sentenced imposed for each offense in the judicial proceeding, the conformity to the guideline recommendation is calculated. Any comments, including reasons for the sentence or departure, should be included in the provided areas in *SGS Web*. Concurrent/Consecutive information is required when imposing any second or subsequent sentencing alternative for the same offense or for a different offense in the same judicial proceeding. The maximum amount of supervision based on all periods of incarceration, state intermediate punishment, county intermediate punishment and probation for the current offense and subsequent offenses in the judicial proceeding are calculated and displayed in *SGS Web*. The court may print a copy of the Guideline Sentence Form for their records.

**EXAMPLE CASE #2**

**DEFENDANT:** Jones, Michael M.

**DATE OF BIRTH:** June 4, 1977

**SEX:** Male

**RACE:** Black

**DATE OF SENTENCE:** October 5, 2005

**CIRCUMSTANCES OF CRIME:**

As part of an undercover investigation conducted by the local drug task force, police purchased 5 grams of cocaine from the defendant during a scheduled meeting on a school playground. Two days later, during a county-wide raid of drug dealers, the defendant was arrested. On his person at the time of the arrest was one ounce of marihuana.

**BACKGROUND OF DEFENDANT:**

The defendant was released from supervision prior to committing this offense. He is unemployed, lives with his mother and two sisters and has a tenth grade education. He has been assessed to be drug-dependant.

**OFFENSE DATE:** June 3, 2005

**CONVICTION DATE:** October 5, 2005

**CURRENT CONVICTION(S):**

PWID Cocaine (5 g.)(F)  
(35 P.S. §780-113(a)(30))  
(OTN: H2134871)  
(DOCKET #: CP-99-CR-4567-2005)

**OFFENSE DATE:** June 5, 2005

**CONVICTION DATE:** October 5, 2005

**CURRENT CONVICTION(S):**

Poss. Marih. (1 oz.)(M)  
(35 P.S. §780-113(a)(31))  
(OTN: H2606520)  
(DOCKET #: CP-99-CR-8910-2005)

**PRIOR ADULT RECORD:**

<u>Date of Judicial Proceeding/ Sentencing</u>		<u>Sentence Imposed</u>
2/5/01	Harassment (S)	90 days probation
2/5/02	Theft by Unl.(M1)	3 years probation
2/5/02	Theft by Unl.(M2)	1 year probation (concurrent)
5/5/03	Criminal Trespass (F3)	3-23 months (concurrent)

**PRIOR JUVENILE ADJUDICATIONS:**

<u>Date of Dispositional Hearing</u>		<u>Sentence Imposed</u>
1/1/93	Theft of Services (S)	30days probation
1/1/94	Prohibited Offensive Weapon (M2)	1 year probation

## EXAMPLE CASE #2

### MAJOR POINTS:

#### *Drug offenses*

A defendant convicted of Possession with Intent to Deliver Cocaine may be subject to a mandatory minimum sentence. A defendant convicted of PWID (Cocaine, 5 g.) and subject to sentencing under the drug trafficking mandatory may be considered for state intermediate punishment or boot camp but not for county intermediate punishment.

#### *Youth/School Enhancement*

Because the defendant was convicted of PWID within 1,000 feet of the real property on which a school was located, the court must consider a youth/school enhancement recommendation when imposing sentence for this offense. Since the enhancement applies only to convictions under 35 P.S. §780-113(a)(14) and (a)(30), no enhancement is applied to the conviction under (a)(31) for Possession of Marihuana.

#### *Prior adult convictions*

Summary offenses do not count when computing the prior record score. Although there are two prior misdemeanor convictions sentenced on 2/5/02, the M2 Theft is not considered in the prior record score. Following §303.5(b), the most serious offense of the judicial proceeding shall count and only consecutive sentences imposed on multiple counts in the same judicial proceeding shall be counted. The M2 Theft probation sentenced was imposed concurrent to the M1 Theft probation sentence. The sentence for Criminal Trespass is scored since it is a different judicial proceeding. See §303.5 for details on scoring offenses in a judicial proceeding.

#### *Prior juvenile adjudications*

A prior adjudication of delinquency for an offense that was misgraded is scored as the current equivalent offense. As a result, Prohibited Offensive Weapon is scored as an M1. The juvenile lapsing provision does not apply to the first sentence (PWID) since the defendant was 27 years of age at the time of the offense. Therefore, the prior adjudication for a weapons misdemeanor is included in the prior record score. The juvenile lapsing provision does apply to the second sentence (Possession of Marihuana) since the defendant was 28 years of age at the time of the offense.

Therefore, the prior adjudication for a weapons misdemeanor is not included in the prior record score.

#### *Prior record score categories*

Since the juvenile lapsing provision applies to one sentence and not the other, separate prior record score calculations are computed in the *SGS Web* application. Upon entering each date of offense, *SGS Web* applies the correct prior record score.

#### *Sentence Recommendation*

Under these guidelines, which are offense-based, the sentence recommendation for each offense is based on the OGS and PRS. Therefore, the prior record score is considered in the sentence recommendation for both offenses listed.

#### *Sentence Imposed*

The court using the JNET-based *SGS Web* application has no later than 30 days after sentencing, to submit the Guideline Sentence Form to the Commission for the judicial proceeding. Upon entry of the sentenced imposed for each offense in the judicial proceeding, the conformity to the guideline recommendation is calculated. Any comments, including reasons for the sentence or departure, should be included in the provided areas in *SGS Web*. Concurrent/Consecutive information is required when imposing any second or subsequent sentencing alternative for the same offense or for a different offense in the same judicial proceeding. The maximum amount of supervision based on all periods of incarceration, state intermediate punishment, county intermediate punishment and probation for the current offense and subsequent offenses in the judicial proceeding are calculated and displayed in *SGS Web*. The court may print a copy of the Guideline Sentence Form for their records.

**EXAMPLE CASE #3**

**DEFENDANT:** Rodriguez, Victor H.  
**DATE OF BIRTH:** October 10, 1953

**SEX:** Male

**RACE:** Hispanic

**DATE OF SENTENCE:** September 6, 2005

**CIRCUMSTANCES OF CRIME:**

The defendant was observed driving erratically late at night and was pursued by police. The defendant tried to evade police by turning into an alley and driving without lights. Upon arrest, a blood test determined the defendant's blood alcohol level to be 0.18%.

**BACKGROUND OF DEFENDANT:**

The defendant is a 51 year-old surgeon with a national reputation for his cancer research. He is divorced and his two children live with his ex-wife in another city. He is very active in local charitable and civic organizations.

**OFFENSE DATE:** June 4, 2005

**CONVICTION DATE:** September 6, 2005

**CURRENT CONVICTION(S):**

DUI (M1)  
(75 Pa.C.S. §3802(c))  
(OTN: H3042594)  
(DOCKET #: CP-99-CR-1112-2005)

Fleeing Police (M2)  
(75 Pa.C.S. §3733)  
(OTN: H3042594)  
(DOCKET #: CP-99-CR-1112-2005)

DUS/DUI (S)  
(75 Pa.C.S. §1543(b)(1.1)(i))  
(OTN: H3042594)  
(DOCKET #: CP-99-CR-1112-2005)

**PRIOR ADULT RECORD:**

<u>Date of Judicial Proceeding/ Sentencing</u>		<u>Sentence Imposed</u>
3/5/96	DUI (M2)	ARD
3/5/01	DUI (M2)	15 days HA 1 year probation
6/5/04	DUI (M1)	3-23 months

**PRIOR JUVENILE ADJUDICATIONS:**

None

### EXAMPLE CASE #3

#### MAJOR POINTS:

##### *Driving Under the Influence*

Under these guidelines, the Commission provides sentence recommendations for DUI convictions. As with all other convictions for which a mandatory minimum sentence applies, sentence recommendations for DUI are based on the OGS and PRS. DUI (M) is assigned an OGS of 1; DUI (M2) is assigned an OGS 3; DUI (M1) is assigned an OGS 5. The grading of DUI offenses is based on the BAC and prior convictions within the past ten years. The court must consider the guideline recommendation but may depart from the guidelines. The court may not impose a sentence less than the mandatory minimum therefore the guideline range recommendation begins with the mandatory minimum. Certain Qualified Restrictive Intermediate Punishment programs may be used to satisfy the mandatory provision for first, second or third DUI offenses.

##### *DUS/DUI-related*

The Driving While a License is Suspended due to a previous DUI and a BAC .02% or higher is a summary offense but requires imposition of a mandatory minimum sentence of 90 days for a first conviction. No guideline recommendation is provided and no guideline sentence form is required since this is a Summary offense. A county intermediate punishment sentence may be used to satisfy the mandatory provision.

##### *Prior record score*

For prior record score purposes, an offense for which a defendant received ARD is not included in the prior record score. The second DUI conviction is scored as an Other Misdemeanor and the third conviction is scored as one point in the DUI Offenses section of the prior record score.

##### *Mandatory based on prior DUIs*

For purposes of the mandatory minimum sentence for DUI, only those convictions for DUI within the past ten years are considered for the mandatory sentence enhancement. A prior DUI for which the

defendant was accepted into an ARD program is considered a conviction.

##### *Sentence Recommendation*

Under these guidelines, which are offense-based, the guideline sentence recommendation for every offense is based on the OGS and PRS. Therefore, the prior record score is considered in the sentence recommendation for all misdemeanor and felony convictions. When the guideline range is lower than the mandatory minimum, the mandatory minimum supersedes the sentence recommendation.

##### *Sentence Imposed*

The court using the JNET-based *SGS Web* application has no later than 30 days after sentencing, to submit the Guideline Sentence Form to the Commission for the judicial proceeding. Upon entry of the sentenced imposed for each offense in the judicial proceeding, the conformity to the guideline recommendation is calculated. Any comments, including reasons for the sentence or departure, should be included in the provided areas in *SGS Web*. Concurrent/Consecutive information is required when imposing any second or subsequent sentencing alternative for the same offense or for a different offense in the same judicial proceeding. The maximum amount of supervision based on all periods of incarceration, state intermediate punishment, county intermediate punishment and probation for the current offense and subsequent offenses in the judicial proceeding are calculated and displayed in *SGS Web*. The court may print a copy of the Guideline Sentence Form for their records.

**EXAMPLE CASE #4**

**DEFENDANT:** Doe, Jane U.  
**DATE OF BIRTH:** September 1, 1971  
**SEX:** Female  
**RACE:** White  
**DATE OF SENTENCE:** September 6, 2005

**CIRCUMSTANCES OF CRIME:**

The defendant broke into a house while the homeowners were on vacation and took \$9,000 worth of jewelry. She was arrested by police as she fled the scene. Her husband was arrested shortly thereafter when police found him waiting in a car near the house.

**BACKGROUND OF DEFENDANT:**

The defendant is employed part-time at a fast food restaurant where she has worked intermittently during the past three years. She dropped out of high school her senior year but later obtained a GED. She lives with her husband and two children (ages five and nine) and claimed she needed money in order to pay the mortgage on the house.

**OFFENSE DATE:** June 13, 2005

**CONVICTION DATE:** September 6, 2006

**CURRENT CONVICTION(S):**

Burglary (F1)  
(18 Pa.C.S. §3502)  
(OTN: E9286756)  
(DOCKET #: CP-99-CR-1314-2005)

Theft (F3)  
(18 Pa.C.S. §3921)  
(OTN: E9286756)  
(DOCKET #: CP-99-CR-1314-2005)

Criminal conspiracy (F1)  
(18 Pa.C.S. §903)  
(OTN: E9286756)  
(DOCKET #: CP-99-CR-1314-2005)

**PRIOR ADULT RECORD:**

<u>Date of Judicial Proceeding/ Sentencing</u>		<u>Sentence Imposed</u>
4/5/03	Criminal Trespass (F3)	2 years probation
4/5/03	Theft (M2)	1 year probation (consecutive)
4/5/04	Theft (F3)	2 years CIP (concurrent)
9/15/05	Theft (M1)	3-23 months

**PRIOR JUVENILE ADJUDICATIONS:**

None

## EXAMPLE CASE #4

### MAJOR POINTS:

#### *Burglary & Theft*

Burglary is subcategorized based on the type of structure and whether a person was present in the structure during the burglary. Under the burglary statute, a person may not be convicted both for burglary and for the offense that it was his intent to commit after the burglarious entry unless that offense is a F1 or F2.

#### *Inchoate offense (Criminal Conspiracy)*

Criminal conspiracy carries the same grade as the most serious object offense. Criminal conspiracy to an F1 Burglary is an F1. However, the Commission assigns inchoates to F1 offenses an OGS one point less than the most serious object offense. Since Burglary of a house with no person present is assigned an OGS 7, a conspiracy to this Burglary is assigned an OGS 6.

#### *Previously convicted*

In order for a previous offense to be considered a prior conviction, both the commission of and conviction for that offense must have occurred prior to the commission of the current offense (§303.8(a)) however, §303.5(c) also requires a sentence to be imposed prior to the sentence for the current offense. Therefore, the M1 Theft conviction sentenced on 9/15/05 occurred after the current date of sentence on 9/6/05 and is not considered a prior conviction.

#### *Prior adult convictions*

Under previous guidelines, all prior convictions counted in the prior record score, except those offenses sentenced totally concurrent. Under these guidelines, which are based on a judicial proceeding, where there are multiple offenses in the judicial proceeding, any offense for which a sentence of supervision or confinement is imposed consecutive to a sentence for another offense in the judicial proceeding shall be counted. The F3 Theft and the M2 Theft are both scored in the first judicial proceeding. The 1-year probation sentence on the M2 Theft is consecutive to the first offense in the judicial proceeding. The offense sentenced on 4/5/04 is scored because a single offense in the judicial proceeding shall be counted in the prior record score.

#### *Sentence Recommendation*

Under these guidelines, which are offense-based, the guideline sentence recommendation for every offense is based on the OGS and PRS. Therefore, the prior record score is considered in the sentence recommendation for all misdemeanor and felony convictions.

#### *Sentence Imposed*

The court using the JNET-based *SGS Web* application has no later than 30 days after sentencing, to submit the Guideline Sentence Form to the Commission for the judicial proceeding. Upon entry of the sentenced imposed for each offense in the judicial proceeding, the conformity to the guideline recommendation is calculated. Any comments, including reasons for the sentence or departure, should be included in the provided areas in *SGS Web*. Concurrent/Consecutive information is required when imposing any second or subsequent sentencing alternative for the same offense or for a different offense in the same judicial proceeding. The maximum amount of supervision based on all periods of incarceration, state intermediate punishment, county intermediate punishment and probation for the current offense and subsequent offenses in the judicial proceeding are calculated and displayed in *SGS Web*. The court may print a copy of the Guideline Sentence Form for their records.