

**Robbery Scenario
Guideline Application Exercise**

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ROBBERY SCENARIO

Application of the guidelines and sentencing for Defendant A

Conviction:	Count 1
Offense:	Armed Bank Robbery; violation of 18 U.S.C. § 2113(a) and (d)
Maximum Statutory Penalties:	Up to 25 years imprisonment and up to \$250,000 fine; Class B Felony: up to 5 years supervised release following imprisonment; up to 3 years imprisonment upon subsequent revocation

Facts

1. On December 1, 2009, Defendant A and a co-participant robbed a federally insured bank. The robbery was planned by Defendant A, who directed the co-participant.
2. In the robbery, Defendant A carried the pistol while the co-participant carried a folding knife.
3. Although not part of the plan, during the robbery Defendant A pushed a teller, causing her to fall and resulting in a cut on her forehead, bruises, and contusions.
4. While neither part of the plan, nor directed by Defendant A, during the robbery the co-participant restrained a customer by binding him with tape and forcing him into a closet.
5. \$15,000 in bank loot was taken and ultimately divided, \$9,000 for Defendant A and \$6,000 for the co-participant; \$5,000 of the loot was recovered from Defendant A upon arrest six days after robbery, while nothing was recovered from the co-participant.
6. Within a few days of apprehension Defendant A provided full information to the government and announced intentions to plead guilty. The government stated that they will make a motion for Defendant A to receive full Acceptance of Responsibility.

Prior Record

Defendant A has prior criminal record resulting from conduct committed after he was 18 years old and disposed of in state court, as follows:

- 5 years prior to instant robbery auto theft 2 years probation
- 2 years prior to instant robbery grand larceny 6 months jail and 2 years probation to follow

Defendant A was on this probation at the time of the instant robbery

Guideline Application

Offense Level Calculations

Chapter Two Offense Guideline	§2B3.1 (Robbery)
• §2B3.1(a)	20 (base offense level)
• §2B3.1(b)(1)	+2 (robbery of bank)
• §2B3.1(b)(2)(C)	+5 (firearm possessed by defendant) (knife possessed by co-participant is +3, but only the greater offense level is used)
• §2B3.1(b)(3)(A)	+2 (“bodily injury” resulting from defendant pushing a teller)
• §2B3.1(b)(4)(B)	+2 (restraint of customer by co-participant)
• §2B3.1(b)(7)(B)	+1 (“loss” of \$15,000 loot taken by defendant and co-participant)
(Chapter Two Offense Level:	32)

Chapter Three Adjustments

- §3A1.3 (Restraint guideline directs that it not be applied because the robbery guideline has an SOC for this factor)
- §3B1.1(c) +2 (Aggravating Role based on defendant’s leadership over the co-participant)
- §3E1.1(a)&(b) -3 (Acceptance of Responsibility)

Offense Level Total **31**

Criminal History Calculations

Chapter Four, Part A

- 2 year probation sentence for auto theft: 1 criminal history point (§4A1.1(c))
- 6 month jail sentence followed by 2 years probation for grand larceny: 2 criminal history points (§4A1.1(b))
- “Status” due to the instant offense being committed while on the probation of the prior grand larceny sentence: 2 criminal history points (§4A1.1(d))

Criminal History Category III (based on a total of 5 criminal history points)

“Overrides” of Offense Level and/or Criminal History Category

§3A1.4 and Chapter Four, Part B

No “overrides” are applicable

Applicable Guideline Range

Chapter Five, Part A - Sentencing Table

135-168 months (11 years, 3 months to 14 years) (Based on Offense Level 31 and Criminal History Category III)

Zone D - no imprisonment substitutions provided for under the guidelines, pursuant to §5C1.1(f), because the guideline range of 135-168 months is in Zone D on the Sentencing Table

Supervised Release

Three to five years of supervised release to follow imprisonment, pursuant to §5D1.2(a)(1), based on the statutory classification of the offense as a Class B felony

Restitution

\$10,000 restitution to the bank for the unrecovered bank loot; payment to the injured teller in the amount of the medical expenses and the lost income resulting from the offense; and, payment to victims for lost income, child care, transportation and other expenses incurred during participation in the investigation, prosecution, and proceedings relating to the offense, pursuant to 18 U.S.C. § 3663A (Mandatory restitution) and § 5E1.1

Fine

\$15,000 to \$150,000, assuming an ability to pay, pursuant to §5E1.2(c)(3)(A)&(B), based on offense level 31