

## §3D1.1

to other offenses (*e.g.*, independent instances of assault or robbery), start with the offense level for the most serious count and use the number and severity of additional counts to determine the amount by which to increase that offense level.

*Historical  
Note*

Effective November 1, 1987. Amended effective November 1, 1989 (amendment 121); November 1, 2007 (amendment 707); November 1, 2023 (amendment 824).

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### §3D1.1. Procedure for Determining Offense Level on Multiple Counts

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- (a) When a defendant has been convicted of more than one count, the court shall:
  - (1) Group the counts resulting in conviction into distinct Groups of Closely Related Counts (“Groups”) by applying the rules specified in §3D1.2.
  - (2) Determine the offense level applicable to each Group by applying the rules specified in §3D1.3.
  - (3) Determine the combined offense level applicable to all Groups taken together by applying the rules specified in §3D1.4.
- (b) Exclude from the application of §§3D1.2–3D1.5 the following:
  - (1) Any count for which the statute (A) specifies a term of imprisonment to be imposed; and (B) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment. Sentences for such counts are governed by the provisions of §5G1.2(a).
  - (2) Any count of conviction under 18 U.S.C. § 1028A. *See* Application Note 2(B) of the Commentary to §5G1.2 (Sentencing on Multiple Counts of Conviction) for guidance on how sentences for multiple counts of conviction under 18 U.S.C. § 1028A should be imposed.

#### Commentary

#### Application Notes:

1. **In General.**—For purposes of sentencing multiple counts of conviction, counts can be (A) contained in the same indictment or information; or (B) contained in different indictments or informations for which sentences are to be imposed at the same time or in a consolidated proceeding.
2. **Application of Subsection (b).**—Subsection (b)(1) applies if a statute (A) specifies a term of imprisonment to be imposed; and (B) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment. *See, e.g.*, 18 U.S.C. § 924(c) (requiring mandatory minimum terms of imprisonment, based on the conduct involved, to run consecutively). The multiple count rules set out under this part do not apply to a count of conviction covered by