



Special Rules for Revocations

§4A1.2(k) and Application Note 11

Original Time Imposed
+
Revocation Time Imposed

Generally, you add the amount of time imposed at the original sentencing with the time imposed upon revocation. In some cases, the amount of revocation may affect the time period under which some sentences are counted.

§4A1.2(k)(1)

In the case of a prior revocation of probation, parole, supervised release, special parole, or mandatory release, add the original term of imprisonment to any term of imprisonment imposed upon revocation. The resulting total is used to compute the criminal history points for §4A1.1(a), (b), or (c), as applicable.

§4A1.2(k)(2)

Revocation of probation, parole, supervised release, special parole, or mandatory release may affect the time period under which certain sentences are counted as provided in §4A1.2(d)(2) and (e). For the purposes of determining the applicable time period, use the following:

- (A) in the case of an adult term of imprisonment totaling more than one year and one month, the date of last release from incarceration on such sentence (see §4A1.2(e)(1));
- (B) in the case of any other confinement sentence for an offense committed prior to the defendant's eighteenth birthday, the date of the defendant's last release from confinement on such sentence (see §4A1.2(d)(2)(A)); and
- (C) in any other case, the date of the original sentence (see §4A1.2(d)(2)(B) and (e)(2)).

Example 1

	Arrest Date	Conviction	Date of imposition/Sentence	Guideline	 Points
Prior Convictions	04/09/2018	Terrorist Threats (Felony), Hennepin County Court, Minneapolis, MN 2018-CR-389)	11/02/2018: Pled guilty, 90 days jail 2 years supervised probation	§4A1.1(b) §4A1.2(k)(1)	
			04/22/2019: Probation revoked, 12 months jail		

90 days + 12 Months = 15 Months

- Original sentence was more than or equal to 60 days, so the initial sentence would score 2 points.
- When the defendant was revoked, we then added the revocation sentence of 12 months to the original sentence of 90 days.
- When we add the sentences together, the total length of the sentence imposed is now more than 13 months, as such, a total of 3 criminal history points are assigned.



Example 2

Instant Offense - March 15, 2019

Prior Conviction(s)	Arrest Date	Conviction	Date of imposition/Sentence	Guideline
Prior Conviction(s)	03/04/06	Importation of Marijuana (felony) / U.S. District Court, San Diego, CA	06/28/06: 4 months prison, 2 years TSR	§4A1.1(a), §4A1.2(k) and App. Note 11
			11/10/06: TSR violation, warrant issued	
			05/29/07: TSR revoked, 10 months prison, 1-year TSR reimposed	



Points

- Original sentence is too old to count.
- We can only look back 10 years from the date of the instant offense.
- When the defendant was revoked, we then added the revocation sentence of 10 months to the original sentence of 4 months.
- When we add the sentences together, the total length of the sentence imposed is now more than 13 months, as such, the time frame expands to 15-years.
- We now also look to the date of his last release from incarceration, which falls within the new 15-year time frame.

Example 3

Instant Offense - March 15, 2019

Prior Conviction(s)	Arrest Date	Conviction	Date of imposition/Sentence	Guideline
Prior Conviction(s)	09/14/07	Aggravated Assault (felony) / Ramsey County District Court, St. Paul, MN 2007-CR-34873	11/27/07: 8 months custody	§4A1.1(e)(2)
			12/25/08: Supervision revoked, 2 months custody	



Points

- Original sentence is too old to count.
- We can go look back 10 years from the date of the instant offense.
- The offender was then revoked and he received 2 more months of incarceration.
- However, even when we add the sentences together, the total sentence is less than 13 months, as such, the 10-year time frame remains the same and the sentence is still too old to count. §4A1.2(k)(2).

Example 4

Instant Offense - March 15, 2019

Prior Conviction(s)	Arrest Date	Conviction	Date of imposition/Sentence	Guideline
Prior Conviction(s)	07/13/2017	Theft (Misd), Hennepin County Court, Minneapolis, MN 2018-0405	09/18/2018: Pled guilty, 2 years' probation	§4A1.1(c)
	08/19/2017	Theft (Misd), Hennepin County Court, Minneapolis, MN 2018-0675	11/12/2018: Pled guilty, 3 years' probation	§4A1.1(c)



Points

The defendant has two prior convictions for Theft that are counted separately under §4A1.2(a)(2). For the first conviction, he was sentenced to 2 years' probation. On the second conviction, he received a sentence of 3 years' probation. Due to the defendant's instant federal offense, his probation terms were all revoked. The state judge revoked both probation terms and imposed 18 months' imprisonment for each of the cases. How many criminal history points?

In this case, each original sentence would have been scored separately as one point, for a total of 2 criminal history points, as noted above. Pursuant to §4A1.2(k) & App. Note 11, the revocation sentence is added to the sentence that will result in the greatest increase in criminal history points. In this case, since each sentence is the same, it doesn't matter which one you add it to, but the 18 months will result in one of the prior sentences now receiving 3 criminal history points, while the other prior sentence will still receive one criminal history point, for a total of 4 points. You can only add the revocation sentence to one criminal history conviction – not to both prior convictions.