



# Probation and Supervised Release

The United States Code (U.S.C.) and the Guidelines Manual both address the imposition of probation and supervised release, and the response to violations of their conditions. This document serves as a quick reference to both the statutes and guidelines. Note that Chapter Seven of the Guidelines Manual, Violations of Probation and Supervised Release, contains a series of policy statements that must be correctly applied and considered, but are advisory.

## Terms of Supervised Release and Probation

	Imprisonment Range 18 U.S.C. § 3559	Statutorily Authorized TSR 18 U.S.C. § 3583(b)	Guideline Authorized TSR USSC §5D1.2*	Imprisonment Upon Revocation 18 U.S.C. § 3565(e)(3)	Probation 18 U.S.C. § 3561
Class A Felony	Life Imprisonment or Death	Not more than 5 years	2-5 years	5 years	Prohibited
Class B Felony	25 years or more	Not more than 5 years	2-5 years	3 years	Prohibited
Class C Felony	10 years < term < 25 years	Not more than 3 years	1-3 years	2 years	1-5 years
Class D Felony	5 years < term < 10 years	Not more than 3 years	1-3 years	2 years	1-5 years
Class E Felony	1 years < term < 5 years	Not more than 1 year	1 year	1 year	1-5 years
Class A Misd.	6 months < term < 1 year	Not more than 1 year	1 year	1 year	Not Applicable

\*USSC §5D1.2(b) provides that the TSR shall not be less than any statutory term of TSR.

Should the defendant violate his probation term, the maximum sentence that may be imposed is the statutory maximum for the original offense of conviction.

## Classification and Reporting of Violations - §§7B1.1 & 7B1.2

### GRADE A

Conduct constituting a federal, state, or local offense either: Shall be promptly reported to the court.

1. Punishable by imprisonment exceeding one year, if
  - a. Crime of Violence;
  - b. Controlled substance offense; and/or
  - c. Possession of § 5845(a) firearm or device.
2. Any other offense punishable by imprisonment exceeding 20 years.

### GRADE B

Conduct constituting any other federal, state, or local offense punishable by imprisonment exceeding one year. Shall be promptly reported to the court.

### GRADE C

Conduct constituting any other federal, state, or local offense punishable by imprisonment of one year or less -or- Shall be promptly reported unless:  
 A violation of any other condition of supervision (i.e., "technical violations").  
 USPO determines violation is minor and not part of a continuing pattern of violations,  
 -and-  
 Non-reporting will not present an undue risk to an individual or the public or be inconsistent with any direction of the court.



## Revocation of Probation and Supervised Release

### GRADE A OR B VIOLATIONS

The court shall revoke supervision.

### GRADE B OR C VIOLATIONS

#### Minimum term - 3, 4, 5, or 6 months

Minimum term may be satisfied by:

1. Imprisonment.
2. Imprisonment with TSR that substitutes community confinement or home detention according to schedule in §7B1.3(c)(1) for any portion of the minimum term.

In the case of a revocation based, at least in part, on a violation of a condition specifically pertaining to community confinement, intermittent confinement, or home detention, use of the same or a less restrictive sanction is not recommended.

### GRADE C VIOLATIONS

Revoke supervision or extend the term of supervision and/or modify conditions of supervision.

§7B1.3(f) - The revocation of probation or supervised release shall be ordered to be served consecutively to any sentence of imprisonment that the defendant is serving.

#### Minimum term - 7 or 8 months

Minimum term may be satisfied by:

1. Imprisonment.
2. Imprisonment with TSR that substitutes community confinement or home detention according to schedule in §7B1.3(c)(2) provided that one half of minimum term involves imprisonment.

## Mandatory Revocation - 18 U.S.C. §§ 3565(b) and 3583(g)

The court must revoke for certain violations of probation and supervised release:

1. firearms possession;
2. drug possession;
3. refusal to take drug test; and/or
4. four positive drug tests in a year.

However, §§ 3563(e) and 3583(d) provide a treatment exception for failed drug tests.

## Revocation Table - §7B1.4

Grade of Violation	Criminal History Category*					
	I	II	III	IV	V	VI
Grade C	3-9	4-10	5-11	6-12	7-13	8-14
Grade B	4-10	6-12	8-14	12-18	18-24	21-27
Grade A (1)	Except as provided in subdivision (2) below:					
	12-18	15-21	18-24	24-30	30-37	33-41
(2)	Where the defendant was on probation or supervised release as a result of a sentence for a Class A felony:					
	24-30	27-33	30-37	37-46	46-57	51-63

\*The criminal history category is the category applicable at the time the defendant originally was sentenced to a term of supervision.

