

**§7B1.1. Classification of Violations (Policy Statement)**

- (a) There are three grades of probation and supervised release violations:
- (1) **Grade A Violations** — conduct constituting (A) a federal, state, or local offense punishable by a term of imprisonment exceeding one year that (i) is a crime of violence, (ii) is a controlled substance offense, or (iii) involves possession of a firearm or destructive device of a type described in 26 U.S.C. § 5845(a); or (B) any other federal, state, or local offense punishable by a term of imprisonment exceeding twenty years;
  - (2) **Grade B Violations** — conduct constituting any other federal, state, or local offense punishable by a term of imprisonment exceeding one year;
  - (3) **Grade C Violations** — conduct constituting (A) a federal, state, or local offense punishable by a term of imprisonment of one year or less; or (B) a violation of any other condition of supervision.
- (b) Where there is more than one violation of the conditions of supervision, or the violation includes conduct that constitutes more than one offense, the grade of the violation is determined by the violation having the most serious grade.

Commentary

Application Notes:

1. Under 18 U.S.C. §§ 3563(a)(1) and 3583(d), a mandatory condition of probation and supervised release is that the defendant not commit another federal, state, or local crime. A violation of this condition may be charged whether or not the defendant has been the subject of a separate federal, state, or local prosecution for such conduct. The grade of violation does not depend upon the conduct that is the subject of criminal charges or of which the defendant is convicted in a criminal proceeding. **Rather, the grade of the violation is to be based on the defendant's actual conduct.**
2. "Crime of violence" is defined in §4B1.2 (Definitions of Terms Used in Section 4B1.1). See §4B1.2(a) and Application Note 1 of the Commentary to §4B1.2.
3. "Controlled substance offense" is defined in §4B1.2 (Definitions of Terms Used in Section 4B1.1). See §4B1.2(b) and Application Note 1 of the Commentary to §4B1.2.
4. A "firearm or destructive device of a type described in 26 U.S.C. § 5845(a)" includes a shotgun, or a weapon made from a shotgun, with a barrel or barrels of less than 18 inches in length; a weapon made from a shotgun or rifle with an overall length of less than 26 inches; a rifle, or a weapon made from a rifle, with a barrel or barrels of less than 16 inches in length; a machine gun; a muffler or silencer for a firearm; a destructive device; and certain large bore weapons.
5. Where the defendant is under supervision in connection with a felony conviction, or has a prior felony conviction, possession of a firearm (other than a firearm of a type described in 26 U.S.C. § 5845(a)) will generally constitute a Grade B violation, because 18 U.S.C. § 922(g) prohibits a convicted felon from possessing a firearm. The term "generally" is used in the preceding sentence, however, because there are certain limited exceptions to the applicability of 18 U.S.C. § 922(g). See, e.g., 18 U.S.C. § 925(c).

CommentaryApplication Note:

1. Under subsection (b), a Grade C violation must be promptly reported to the court unless the probation officer makes an affirmative determination that the alleged violation meets the criteria for non-reporting. For example, an isolated failure to file a monthly report or a minor traffic infraction generally would not require reporting.

Historical Note: Effective November 1, 1990 (see Appendix C, amendment 362).

**§7B1.3. Revocation of Probation or Supervised Release (Policy Statement)**

- (a)
  - (1) Upon a finding of a Grade A or B violation, the court shall revoke probation or supervised release.
  - (2) Upon a finding of a Grade C violation, the court may (A) revoke probation or supervised release; or (B) extend the term of probation or supervised release and/or modify the conditions of supervision.
- (b) In the case of a revocation of probation or supervised release, the applicable range of imprisonment is that set forth in §7B1.4 (Term of Imprisonment).
- (c) In the case of a Grade B or C violation—
  - (1) Where the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is at least one month but not more than six months, the minimum term may be satisfied by (A) a sentence of imprisonment; or (B) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in §5C1.1(e) for any portion of the minimum term; and
  - (2) Where the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than six months but not more than ten months, the minimum term may be satisfied by (A) a sentence of imprisonment; or (B) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in §5C1.1(e), provided that at least one-half of the minimum term is satisfied by imprisonment.
  - (3) 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.
- (d) Any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation

**§7B1.4. Term of Imprisonment (Policy Statement)**

- (a) The range of imprisonment applicable upon revocation is set forth in the following table:

**Revocation Table**  
(in months of imprisonment)

<u>Grade of Violation</u>	<u>Criminal History Category*</u>					
	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.