



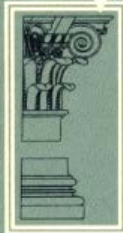
VIRGINIA CRIMINAL SENTENCING COMMISSION

Proposed Recommendation 4:

Add a Primary Offense factor to the Assault Worksheet B to distinguish between a missing worksheet and a recommendation of Probation/No Incarceration.



VIRGINIA
SENTENCING
GUIDELINES



Recommendation 4 – Assault Worksheet B

ISSUE

Currently, on Assault Section B, a total score of zero is possible. But appropriate only when the victim reports no injury – including intimidation – and the defendant has no prior record.

Does this indicate:

1. A historically based recommendation of Probation/No Incarceration? or
2. Guidelines were not scored?

Recommendation 4 – Assault Worksheet B

PROPOSAL

Add Primary Offense

Any felony assault 1 point

Assault ❖ Section B		Offender Name: _____											
◆ Victim Injury _____													
		Score ▼											
Threatened, emotional, physical or serious physical 2		<table border="1"><tr><td>0</td><td></td></tr></table>	0										
0													
Life threatening 4													
◆ Additional Offenses <u>Total</u> the maximum penalties for additional offenses, including counts _____													
Primary offense: Strangulation (§ 18.2-51.6)	Primary offense: All other offenses _____	Score ▼ <table border="1"><tr><td>0</td><td></td></tr></table>	0										
0													
<table border="1"><thead><tr><th>Maximum Penalty (years)</th><th>Points</th></tr></thead><tbody><tr><td>Less than 5</td><td>5</td></tr><tr><td>5 or more</td><td>6</td></tr></tbody></table>	Maximum Penalty (years)	Points	Less than 5	5	5 or more	6	<table border="1"><thead><tr><th>Maximum Penalty (years)</th><th>Points</th></tr></thead><tbody><tr><td>Less than 5</td><td>1</td></tr><tr><td>5 or more</td><td>2</td></tr></tbody></table>	Maximum Penalty (years)	Points	Less than 5	1	5 or more	2
Maximum Penalty (years)	Points												
Less than 5	5												
5 or more	6												
Maximum Penalty (years)	Points												
Less than 5	1												
5 or more	2												
◆ Weapon Used or Brandished _____ If YES, add 2 →		<table border="1"><tr><td>0</td><td></td></tr></table>	0										
0													

Recommendation 4 – Assault Worksheet B

Modified Assault Section B Recommendation Table

<u>Score</u>	<u>Guideline Sentence</u>
(0-4) 1-5	Probation/No Incarceration
(5-6) 6-7	Incarceration 1 Day up to 3 Months
(7+) 8+	Incarceration 3 to 6 Months



VIRGINIA CRIMINAL SENTENCING COMMISSION

Proposed Recommendation 4:

Approve proposal to modify the Assault Worksheet B to distinguish between a missing worksheet and a recommendation of Probation/No Incarceration.





VIRGINIA CRIMINAL SENTENCING COMMISSION

Proposed Recommendation 5:

**Rescore Probation Violation
Guidelines when a judge
determines that violations not
arising from a single course of
conduct should be heard
separately.**



PRESENT: All the Justices

COMMONWEALTH OF VIRGINIA

v. Record No. 230829

SILFREDO CASTILLO CANALES

SILFREDO CASTILLO CANALES

v. Record No. 230934

COMMONWEALTH OF VIRGINIA

OPINION BY
JUSTICE TERESA M. CHAFIN
APRIL 10, 2025

FROM THE COURT OF APPEALS OF VIRGINIA

These appeals involve the interpretation of certain provisions of Code § 19.2-306.1, a statute that places limitations on the sentence that a court may impose when an individual violates the terms of his probation. For the following reasons, we affirm the judgment of the Court of Appeals in part, reverse the judgment of the Court of Appeals in part, and reinstate the judgment of the Circuit Court of Arlington County.

I. MATERIAL FACTS AND PROCEEDINGS

A. THE PROBATION VIOLATIONS

In 2017, Silfredo Antonio Castillo Canales (“Castillo Canales”) was convicted of statutory burglary and grand larceny. Castillo Canales was sentenced to five years of incarceration for each conviction, with the sentences running concurrently. The circuit court suspended two years and six months of each sentence and placed Castillo Canales on supervised probation.

Castillo Canales began supervised probation upon his release from incarceration in 2019. On October 29, 2021, Castillo Canales’ probation officer filed a major violation report addressing numerous probation violations. The major violation report asserted that Castillo

III. CONCLUSION

In summary, we conclude that Code § 19.2-306.1 does not require a court to address all of the probation violations that are set forth in a major violation report in the same revocation hearing. Furthermore, we conclude that the circuit court permissibly determined that the probation violations at issue were not part of a “single course of conduct” under Code § 19.2-306.1.

We affirm the judgment of the Court of Appeals in part, reverse the judgment of the Court of Appeals in part, and reinstate the judgment of the circuit court. We affirm the judgment of the Court of Appeals to the extent that it affirmed the circuit court’s judgment regarding the probation violations that were addressed in the hearings held on March 11, 2022 (Circuit Court Case Nos. CR17000076-01 and CR17000077-01 through CR17000076-04 and CR17000077-04). However, we reverse the judgment of the Court of Appeals to the extent that it reversed the circuit court’s judgment regarding the probation violations that were addressed in the hearings held on May 13, 2022, and we reinstate the circuit court’s judgment in these cases (Circuit Court Case Nos. CR17000076-05 and CR17000077-05; CR17000076-06 and CR17000077-06; and CR17000076-08 and CR17000077-08).

*Affirmed in part,
reversed in part,
and reinstated.*



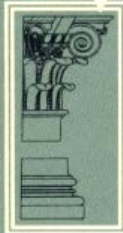
VIRGINIA CRIMINAL SENTENCING COMMISSION

Proposed Recommendation 5:

Adjust the rules governing completion of Probation Violation Guidelines to align with the Virginia Supreme Court's Ruling in *Canales v. Commonwealth*, No. 230934 (Va. June 6, 2024).



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Recommendation 5 – Probation Violation Guidelines

ISSUE

Currently, probation officers are instructed to submit identical copies of the Probation Violation Sentencing Guidelines when a court elects to address multiple violations stemming from one or more major violation reports in separate revocation hearings.

This practice is based on the assumption that all violations listed in a major violation report were analyzed together as a single event, and therefore, one set of Guidelines should be presented to the court.

Recommendation 5 – Probation Violation Guidelines

In *Canales v. Commonwealth*, No. 230934 (Va. June 6, 2024), the Supreme Court of Virginia clarified that Code § 19.2-306.1 does not mandate a court to adjudicate all probation violations listed in a major violation report during the same revocation hearing.

More significantly, the Court upheld the circuit court’s finding that the violations in question did not constitute a “single course of conduct,” affirming the court’s discretion to sever the allegations and address them in distinct sentencing proceedings.

Recommendation 5 – Probation Violation Guidelines

Guidelines rule:

Separate Guidelines for each sentencing event.

A sentencing event is defined as all cases heard before the *same judge* at the *same date and time*.

Recommendation 5 – Probation Violation Guidelines

- To bring Guidelines procedures into full compliance with the holding in *Canales* and to ensure consistency across all revocation and Guidelines matters, it is proposed that:
- Separate and updated Probation Violation Sentencing Guidelines must be prepared and submitted for each distinct probation violation sentencing event.

Recommendation 5 – Probation Violation Guidelines

Challenges:

Courts may decide to sever violation hearings with minimal notice and may conduct separate hearings only minutes apart. This compressed timeline presents logistical challenges for probation officers who must:

- Determine which violations are to be addressed in each hearing;
- Accurately calculate remaining revocable time based on sentences imposed moments earlier;
- Update the Guidelines scoring and recommendations accordingly between proceedings.

Recommendation 5 – Probation Violation Guidelines

Communications:

A procedural mechanism must be established to ensure that probation officers are:

- Promptly notified when the court decides to proceed with separate hearings;
- Clearly informed about the order in which violations will be addressed;
- Given access to sentencing outcomes from earlier hearings to update revocation history and remaining revocable time for subsequent Guideline preparation.

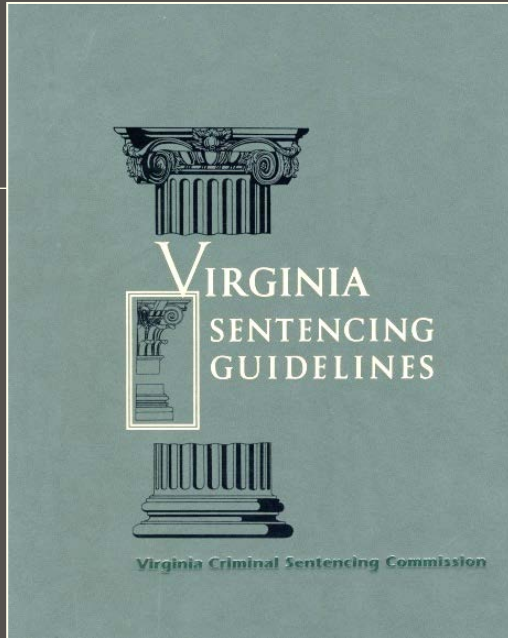


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**Rescore Probation Violation
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separately.**





Information on the New Recommendation Tables

Update the method used to create the Section C recommendation tables

Updating the Section C Recommendation Tables



Was an update to the method for calculating the recommendation tables necessary?

YES!

Original Calculation Method – Issues

- Incomplete reference material
- Difficult to replicate
- Decades old and outdated

Updating the Section C Recommendation Tables

STEP 1:

Calculate the standard deviation (SD) in effective sentence across all Section C scores

EXAMPLE: Cases which score 10 points on Section C might have a standard deviation of 4 months of incarceration, while those who score 20 points might have an SD of 6 months.

STEP 2:

SD is used to set the upper and lower bounds of guidelines concurrence for each score.

EXAMPLE: For cases which have an SD of 4 months, the lower bound is their Section C score less 4 months. The upper bound is their Section C score plus 4 months.

STEP 3:

Upper and lower bounds are smoothed using a moving average, eliminating large jumps in recommendations.

Updating the Section C Recommendation Tables

Benefits of the new method:

- **Simpler**
- **Easily communicable to users and academia if needed**
- **Continues to reflect historical sentencing patterns and concurrence rates**

