Virginia Criminal Sentencing Commission

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Meeting of the Virginia Criminal Sentencing Commission
November 6, 2025
10:00 am – 12:15 pm

Meeting held at the Virginia Supreme Court Building

Meeting Minutes

Members Attending in Person: **Judge Dennis Hupp** (Chairman), **Judge Stacey Moreau** (Vice Chairman), **Delegate Rae C. Cousins**, **Bethany Harrison, Judge Robert J. Humphreys, Judge Jack S. Hurley, Jr., K. Scott Miles, Michon Moon, Nancy Parr, Senator Russet Perry, Judge Tania Saylor, Lakishi Stevenson, Judge Bryant L. Sugg, Theo Stamos** and **Judge Victoria A.B. Willis**

Members Absent: **Marcus Elam and Judge Steven C. Frucci**

WELCOME
Before calling the meeting to order, Judge Hupp, Chairman, welcomed Commission members. Judge Hupp announced that Maria Jankowski, Executive Director of the Indigent Defense Commission, has chosen Lakishi Stevenson as her designee to the Commission. She is a native of Portsmouth and now serves as the Public Defender for the City of Chesapeake. The meeting commenced promptly at 10:00am.

AGENDA
The meeting agenda is available at: http://www.vcsc.virginia.gov/2025Meetings/MtgAgenda110625.pdf

APPROVAL OF MINUTES FROM LAST COMMISSION MEETING
Minutes from the meeting held on September 3, 2025, were approved as submitted. The minutes are available at: http://www.vcsc.virginia.gov/2025Meetings/Minutes09032025.pdf

PROPOSED RECOMMENDATION: GUIDELINES & ASSAULT SECTION B AND CANALES V. COMMONWEALTH AND FRAUD AND LARCENY RECOMMENDATION TABLES
Presentation link: http://www.vcsc.virginia.gov/2025Meetings/Recomm110625.pdf

Mr. Thomas Barnes, Research Associate, presented the first proposed recommendation. Currently, on the Assault B worksheet, a total score of zero can represent either a historically based recommendation of probation/no incarceration, or that the Guidelines were not scored at all. A score of zero is appropriate only when the victim reports no injury—including intimidation—and the defendant has no prior record. Staff recommended resolving this issue by adding a Primary Offense factor and assigning one point for all assault guideline offenses. The recommendation table would be adjusted to account for this additional point without altering the historical recommendation.

Mr. Jody Fridley, the Commission's Director, provided background information on the next proposed recommendation. Staff proposed adjusting the rules governing completion of Probation Violation Guidelines to align with the Virginia Supreme Court's Ruling in Canales v. Commonwealth. Under current procedures, 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 assumes that all violations form part of a "single course of conduct" under Code § 19.2-306.1 and thus require a unified sentencing analysis.

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.

Based on the holding in Canales, the current practice of submitting identical copies of the Probation Violation Guidelines for multiple hearings no longer aligns with legal standards. When the court determines that the violations do not arise from a single course of conduct and elects to hold separate revocation hearings, individualized Guidelines should be prepared, at the judge's direction, for each hearing. These Guidelines must reflect only the violations and sentencing factors relevant to that specific proceeding.

Staff and Commission members recommended that the judge may order that separate and updated Probation Violation Sentencing Guidelines be prepared and submitted for each distinct probation violation sentencing event. In some instances, the judge may instead direct that the Guidelines be amended to reflect the specific sentencing event. A sentencing event is defined as all cases heard before the same judge on the same date and at the same time. If a court conducts multiple, sequential hearings on separate violations, each proceeding constitutes a distinct sentencing event and requires its own updated set of Guidelines.

Mr. Michael Massingill, Research Associate, presented the last proposed recommendation, updating the Fraud and Larceny Section C recommendation tables**.** A new method was devised to enable the Commission to update the Recommendation Table. This method generated the low end and high end of each sentencing recommendation by taking the Worksheet C total score and either adding or subtracting the standard deviation of the effective sentences for all cases based on the total score on Worksheet C. This approach more accurately reflects current sentencing ranges, given three decades of consistently high concurrence with the recommended guidelines. Historical data was processed through the Worksheet C model using the new Recommendation Table, and the results mirrored the FY2024 concurrence rate for fraud and larceny prior to accounting for nonviolent risk assessment cases.

COMMISSION'S USE OF MACHINE LEARNING

Presentation link: http://www.vcsc.virginia.gov/2025Meetings/DepartReasonsCode110625.pdf

Dr. Catherine Chen, Data Scientist, provided background information on the use of supervised machine learning to code judicial departures from sentencing guidelines recommendations.

She highlighted the benefits of automating departure reason coding with AI to improve efficiency and noted that 82% of sentences in Virginia align with guideline recommendations. It also addressed the complexities and potential biases in artificial intelligence applications within the legal system, including concerns about coding and data bias affecting outcomes. The importance of establishing consistent

definitions and fostering collaboration between legal professionals and software developers was emphasized. Additionally, current trends in sentencing guidelines and concurrence rates across various jurisdictions were reviewed, along with ongoing developments in machine learning aimed at improving data analysis in sentencing processes.

2025 ANNUAL REPORT - CONCURRENCE

Presentation link: http://www.vcsc.virginia.gov/2025Meetings/Compliance110625.pdf

Mr. Marc Leslie, Research Associate, began by saying that a draft of the 2025 Annual Report was included in the meeting materials, and he requested that members review the draft and provide any comments by November 21.

He presented a preliminary compliance report for fiscal year (FY) 2025. Mr. Leslie stated that a total of 17,867 Guidelines worksheets had been submitted to the Commission. He reported that the overall concurrence rate with the Guidelines among the FY2025 cases was 81.4%. Judges imposed sentences higher than the Guidelines in 9% of the cases and lower than the Guidelines in 9.6% of the cases. Mr. Leslie presented compliance by Circuit, and offense group.

Ms. Kim Thomas, Training Associate, then gave a preliminary report on FY2025 Sentencing Revocation Reports (SRRs) and Probation Violation Guidelines (PVGs) submitted to the Commission and automated through July 1, 2025. She reported that the overall concurrence rate with the Probation Violation Guidelines among the FY2025 cases was 85.5%. Judges imposed sentences higher than the Guidelines in 5.5% of the cases and lower than the Guidelines in 8.6% of the cases. A complete analysis of concurrence and departures for Guidelines and Probation Violation Guidelines will be included in the Commission's 2025 Annual Report, due December 1, 2025.

REVIEW OF VIRGINIA'S PRETRIAL DATA PROJECT

Presentation link: http://www.vcsc.virginia.gov/2025Meetings/PretrialData110625.pdf

Dr. Chang Kwon, Chief Methodologist, provided a brief overview of the Pretrial Data Project. The Project was established in 2018 to address the significant lack of data readily available to answer many important questions regarding Virginia's pretrial system. The Project was an unprecedented, collaborative effort between numerous state and local agencies representing all three branches of government. The 2021 General Assembly passed legislation directing the Commission to continue this work annually. Data for the Project is obtained from numerous agencies and more than 500 data elements are captured for each defendant.

Dr. Kwon explained that, for the 2025 study, staff selected individuals with pretrial contact events during calendar year 2023. A contact event is the point at which an individual comes into contact with the criminal justice system and that person is charged with a criminal offense, thus beginning the pretrial process. For individuals with more than one contact event in a calendar year, only the first event occurring within the calendar year was selected. Individuals were tracked for 15 months or until disposition of the case, whichever occurred first. Staff adhered to the previously-established data collection methods. Data for the Project were obtained from seven different data systems. Compiling the data into a unified dataset requires numerous iterations of matching, merging and data cleaning to ensure accuracy when linking information from the respective data systems to each defendant in the cohort. More than 500 data elements were captured for each defendant, including demographics, charging details, criminal history records, pretrial release status, bond type and amount, court appearance by the defendant, new criminal arrest during the pretrial period, and final dispositions.

Dr. Kwon reviewed the number of defendants across the CY2021, CY2022, and CY2023 cohorts and presented the overall pretrial release rates for each year. He also shared key findings and outlined directions for future research.

According to Dr. Kwon, the Commission's next Pretrial Data Project report was due to the General Assembly on December 1, 2025. The data dashboard tool will be updated, and the final data set will be available on the Commission's website on December 1, as required by statute.

MISCELLANEOUS ITEMS
Mr. Fridley recognized Dr. Michon Moon and noted that this would be her final meeting with the Commission. He also reported that the Speaker of the House has been notified that Scott Miles, who is eligible for reappointment, is interested in serving another term. He thanked them for their commitment and service to the Commission.

Mr. Fridley asked members to select tentative dates for the Commission's 2026 meetings. After some discussion, meetings were tentatively set for April 6, June 15, September 14, and November 9.

PUBLIC COMMENT
No member of the public wished to provide comment.

With no comments and there being no further business, the Commission adjourned at 12:15p.m.

Sentencing Commission Meeting Recording

NEXT VCSC MEETING:
Tentative Date: Monday, April 6, 2025
Time: 10:00 a.m.
Members of the public may request remote access or sign up for public comment by sending an e-mail to: Cwilliamson@vacourts.gov.

Respectfully submitted by:
Carolyn Williamson, Research Associate
Minutes Reviewed by:
Joseph Fridley, Director