



Study of Crimes Committed in the Presence of Children

Status Update

Background

- **Legislation was introduced during the 2008 General Assembly session that would have directed the Commission to study the nature and impact of the presence of children during an offense on the sentence received by an offender.**

- **Although SJ 28 did not pass both houses of the General Assembly, the Commission accepted Senator Marsh's proposal to conduct the study.**

Objectives of the Study

- **To identify crimes witnessed by children**
- **To describe the nature of such crimes**
- **To examine sentencing outcomes and compare them to sentences in cases that do not involve child witnesses**
- **To determine if, based on data analysis, a new factor should be added to guidelines to increase the sentence recommendation in cases involving child witnesses**

Identifying Cases

- **Although several avenues were explored, no existing data sources were adequate for efficiently detecting cases for inclusion in the study.**

- **In Fall 2008, the Commission contacted the leadership of the Commonwealth's Attorneys association and requested assistance in identifying cases.**

- **With consent of the association leadership, a letter was sent to all elected Commonwealth's Attorneys, asking them to report cases meeting the Commission's criteria.**
 - **To assist in reporting, the Commission placed an electronic version of the form on its website.**

Identifying Cases

- Beginning in fiscal year 2011, the Commission added a check box to the sentencing guidelines cover sheet to facilitate reporting of cases involving child witnesses.

◆ CONVICTIONS			
Offense	Counts	VCC	Offense Date
Primary Offense			Month Day Year
_____	<input type="text"/>	<input type="text"/>	<input type="text"/>
Additional Offenses	<input type="text"/>	<input type="text"/>	<input type="text"/>
_____	<input type="text"/>	<input type="text"/>	<input type="text"/>
_____	<input type="text"/>	<input type="text"/>	<input type="text"/>

Crime was Witnessed by or Committed in the Presence of a Child

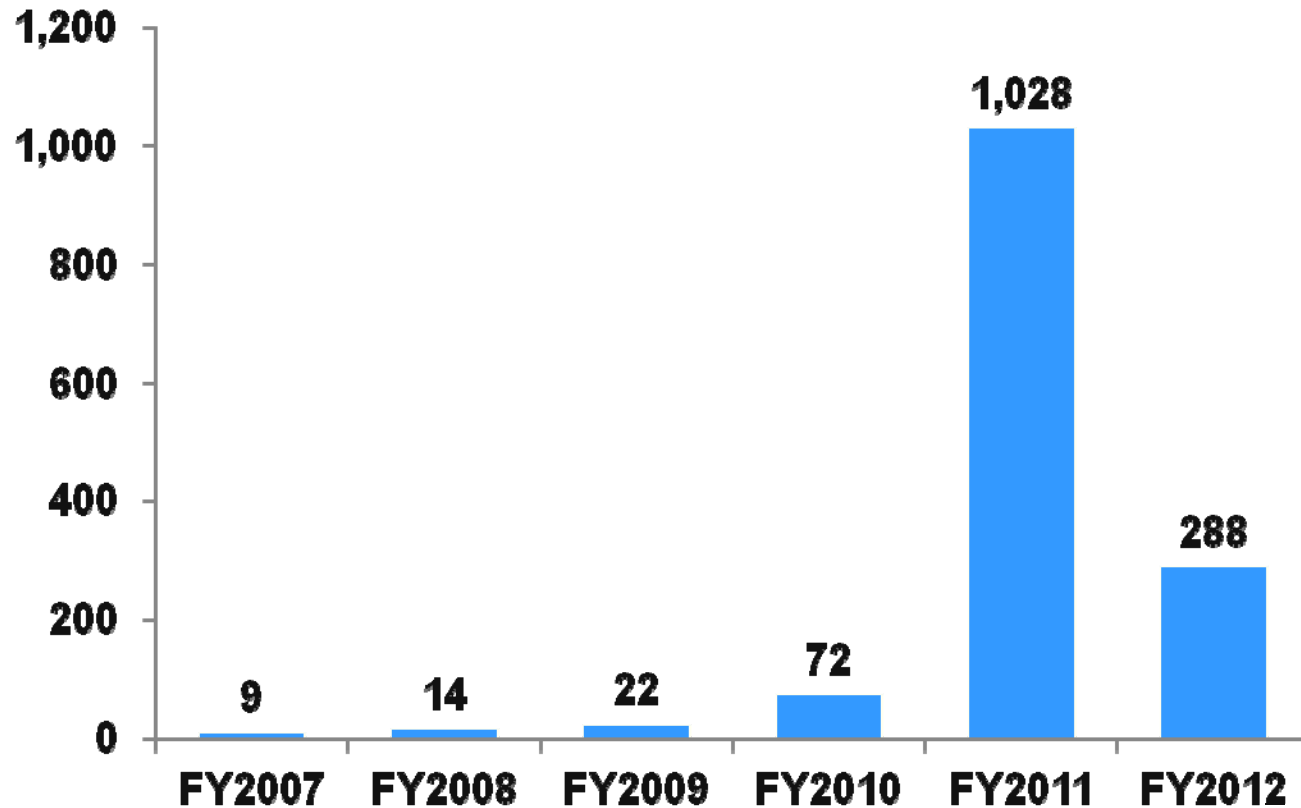
- Please check box if any crime(s) in current event were witnessed by or committed in the presence of a minor child (age 17 or under). A child is present if he or she is within sight or sound of the offense when it occurs. This information is for research purposes only.

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◆ METHOD OF ADJUDICATION

- Jury Trial Sentence Set by Jury: Years Months Days
 Life
 Juvenile
 Fine Only
- Bench Trial
 Guilty Plea
 Alford Plea/Nolo contendere

Cases Reported through March 9, 2012, by Fiscal Year



Total: 1,433

Note: 13 duplicate cases were identified and removed prior to analysis

Supplemental Data Collection

- **Commission staff have commenced supplemental data collection with the aim of describing the nature of crimes committed in the presence of children.**
- **As part of developing a comprehensive coding instrument, staff reviewed nearly 1,000 Pre/Post-Sentence Investigation Reports (PSIs) provided by the Department of Corrections.**
 - **Of these, slightly less than 800 PSIs were matched to sentencing events in the child witness study.**
 - **For the remaining cases, alternate information sources will be used.**

Data Collection Instrument

For cases where a PSI was not completed, certain PSI-like information will be gathered from alternative sources.

CHILD WITNESS STUDY – SUPPLEMENTAL DATA COLLECTION INSTRUMENT

SG DCN _____ Offender Last Name _____

Reason not a viable case for study:

PSI PAGE 2 INFORMATION (If no PSI available for this case)

CODEFENDANTS

Codefendants' Names (Last, First Middle)	Disposition

MOST SERIOUS OFFENSE INFORMATION

Most serious offense at indictment (VCC) _____ Offense date _____
MM/DD/YYYY

Number of codefendants # _____ Resisting arrest charge
0=No/1=Yes

Legal status at time of offense (check all that apply)

- Escaped Inmate Mandatory parole Discretionary parole Probation On bond
 Summons On recognizance Post-release Community program Good behavior
 Unsupervised probation Juvenile probation Missing/Unknown Other None

Weapon use Weapon type _____

Offender's role in the offense _____ Current arrest date _____
MM/DD/YYYY

MOST SERIOUS OFFENSE VICTIM INFORMATION (crime against person)

Injury to victim Victim relationship to offender _____ Physically handicapped victim
0=No/1=Yes

Gender of victim _____ Race of victim _____ Age of victim _____

DRUG OFFENSE

Alcohol/drug use at time of offense _____

Primary drug type _____ Amount _____ Unit _____
 Secondary drug type _____ Amount _____ Unit _____

Data Collection Instrument

SG DCN _____ Offender Last Name _____

Viability Case for Study Judge Aware of Child Witness

WITNESS # OF

0 = No
1 = Yes
9 = Uncertain

Witness-specific information as well as relative location and involvement in a given offense will be collected for each child.

OFFENSE #1	OFFENSE #2	OFFENSE #3
Offense (VCC) -----	Offense (VCC) -----	Offense (VCC) -----
CHILD INFORMATION <i>COMPLETE THIS SECTION FOR EACH VCC</i>	CHILD INFORMATION <i>COMPLETE THIS SECTION FOR EACH VCC</i>	CHILD INFORMATION <i>COMPLETE THIS SECTION FOR EACH VCC</i>
Age <input type="checkbox"/> or age group <input type="checkbox"/>	Age <input type="checkbox"/> or age group <input type="checkbox"/>	Age <input type="checkbox"/> or age group <input type="checkbox"/>
Gender <input type="checkbox"/> Race <input type="checkbox"/>	Gender <input type="checkbox"/> Race <input type="checkbox"/>	Gender <input type="checkbox"/> Race <input type="checkbox"/>
CHILD WITNESS INFORMATION	CHILD WITNESS INFORMATION	CHILD WITNESS INFORMATION
Level of witness involvement <input type="checkbox"/>	Level of witness involvement <input type="checkbox"/>	Level of witness involvement <input type="checkbox"/>
Witness relationship to offender <input type="checkbox"/>	Witness relationship to offender <input type="checkbox"/>	Witness relationship to offender <input type="checkbox"/>
Level/type of witnessing <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Level/type of witnessing <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Level/type of witnessing <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Location of offense <input type="checkbox"/>	Location of offense <input type="checkbox"/>	Location of offense <input type="checkbox"/>
Location of witness relative to offense <input type="checkbox"/>	Location of witness relative to offense <input type="checkbox"/>	Location of witness relative to offense <input type="checkbox"/>
Most serious injury sustained by victim other than this child witness <input type="checkbox"/>	Most serious injury sustained by victim other than this child witness <input type="checkbox"/>	Most serious injury sustained by victim other than this child witness <input type="checkbox"/>
Relationship b/witness and victim <input type="checkbox"/>	Relationship b/witness and victim <input type="checkbox"/>	Relationship b/witness and victim <input type="checkbox"/>
Weapon used <input type="checkbox"/>	Weapon used <input type="checkbox"/>	Weapon used <input type="checkbox"/>
CHILD WAS ALSO PARTICIPANT	CHILD WAS ALSO PARTICIPANT	CHILD WAS ALSO PARTICIPANT
Child was also participant in offense <input type="checkbox"/> <small>0=No/1=Yes</small>	Child was also participant in offense <input type="checkbox"/> <small>0=No/1=Yes</small>	Child was also participant in offense <input type="checkbox"/> <small>0=No/1=Yes</small>
Level of coercion used by offender <input type="checkbox"/>	Level of coercion used by offender <input type="checkbox"/>	Level of coercion used by offender <input type="checkbox"/>
Child was charged <input type="checkbox"/> <small>0=No/1=Yes</small>	Child was charged <input type="checkbox"/> <small>0=No/1=Yes</small>	Child was charged <input type="checkbox"/> <small>0=No/1=Yes</small>
Child was member of gang involved in the offense <input type="checkbox"/> <small>0=No/1=Yes</small>	Child was member of gang involved in the offense <input type="checkbox"/> <small>0=No/1=Yes</small>	Child was member of gang involved in the offense <input type="checkbox"/> <small>0=No/1=Yes</small>
CHILD WAS VICTIM	CHILD WAS VICTIM	CHILD WAS VICTIM
Child was a victim of this crime <input type="checkbox"/> <small>0=No/1=Yes</small>	Child was a victim of this crime <input type="checkbox"/> <small>0=No/1=Yes</small>	Child was a victim of this crime <input type="checkbox"/> <small>0=No/1=Yes</small>
Child was victim and witnessed others' victimization <input type="checkbox"/> <small>0=No/1=Yes</small>	Child was victim and witnessed others' victimization <input type="checkbox"/> <small>0=No/1=Yes</small>	Child was victim and witnessed others' victimization <input type="checkbox"/> <small>0=No/1=Yes</small>
Most serious injury sustained by this witness as result of the offense <input type="checkbox"/>	Most serious injury sustained by this witness as result of the offense <input type="checkbox"/>	Most serious injury sustained by this witness as result of the offense <input type="checkbox"/>
MULTIPLE CHILD WITNESSES	MULTIPLE CHILD WITNESSES	MULTIPLE CHILD WITNESSES
Multiple unidentified children witnessed offense under same facts <input type="checkbox"/> <small>0=No/1=Yes</small>	Multiple unidentified children witnessed offense under same facts <input type="checkbox"/> <small>0=No/1=Yes</small>	Multiple unidentified children witnessed offense under same facts <input type="checkbox"/> <small>0=No/1=Yes</small>
Total number of children <input type="checkbox"/>	Total number of children <input type="checkbox"/>	Total number of children <input type="checkbox"/>
MULTIPLE COUNTS	MULTIPLE COUNTS	MULTIPLE COUNTS
# of counts of this offense witnessed by this child under the same facts <input type="checkbox"/>	# of counts of this offense witnessed by this child under the same facts <input type="checkbox"/>	# of counts of this offense witnessed by this child under the same facts <input type="checkbox"/>
SOURCE OF INFORMATION	SOURCE OF INFORMATION	SOURCE OF INFORMATION
Original source of information <input type="checkbox"/>	Original source of information <input type="checkbox"/>	Original source of information <input type="checkbox"/>

Cases Reported through March 9, 2012, by Jurisdiction

Jurisdiction	No PSI	PSI	Total
ACCOMACK	4	7	11
ALBEMARLE	6	9	15
ALEXANDRIA	6	3	9
ALLEGHANY	0	1	1
AMELIA	0	1	1
AMHERST	12	9	21
ARLINGTON	3	9	12
AUGUSTA	4	6	10
BEDFORD	7	9	16
BLAND	0	2	2
BOTETOURT	7	4	11
BRISTOL	5	7	12
BRUNSWICK	4	4	8
BUCHANAN	5	2	7
BUENA VISTA	0	1	1
CAMPBELL	5	12	17
CAROLINE	5	2	7
CARROLL	4	1	5
CHARLOTTE	3	4	7
CHARLOTTESVILLE	3	8	11
CHESAPEAKE	5	24	29
CHESTERFIELD	26	18	44
CLARKE	1	2	3
COLONIAL HEIGHTS	6	1	7
CULPEPER	2	8	10
DANVILLE	0	7	7
DICKENSON	1	1	2
DINWIDDIE	4	1	5
ESSEX	4	0	4
FAIRFAX COUNTY	5	52	57
FAUQUIER	4	10	14
FLOYD	8	4	12
FLUVANNA	0	4	4
FRANKLIN COUNTY	1	10	11
FREDERICK	10	3	13
FREDERICKSBURG	9	2	11
GILES	3	2	5
GLOUCESTER	1	4	5

Jurisdiction	No PSI	PSI	Total
GOOCHLAND	0	2	2
GRAYSON	6	1	7
GREENE	1	4	5
GREENSVILLE	2	0	2
HALIFAX	2	5	7
HAMPTON	5	21	26
HANOVER	13	7	20
HARRISONBURG	2	0	2
HENRICO	43	21	64
HENRY	2	6	8
HOPEWELL	0	1	1
ISLE OF WIGHT	0	1	1
JAMES CITY	3	8	11
KING GEORGE	4	2	6
LANCASTER	1	0	1
LOUDOUN	8	6	14
LOUISA	0	1	1
LUNENBURG	7	1	8
LYNCHBURG	10	32	42
MADISON	4	2	6
MARTINSVILLE	2	7	9
MATHEWS	1	1	2
MECKLENBURG	5	11	16
MIDDLESEX	1	0	1
MONTGOMERY	19	2	21
NELSON	1	3	4
NEW KENT	2	3	5
NEWPORT NEWS	12	24	36
NORFOLK	20	47	67
NORTHAMPTON	0	2	2
NORTHUMBERLAND	5	1	6
NOTTOWAY	1	1	2
ORANGE	7	1	8
PAGE	3	2	5
PATRICK	0	6	6
PETERSBURG	5	3	8
PITTSYLVANIA	2	18	20
POQUOSON	1	0	1

Jurisdiction	No PSI	PSI	Total
PORTSMOUTH	8	23	31
POWHATAN	0	2	2
PRINCE GEORGE	5	2	7
PRINCE WILLIAM	4	40	44
PULASKI	5	0	5
RADFORD	7	0	7
RAPPAHANNOCK	0	3	3
RICHMOND CITY	29	27	56
RICHMOND COUNTY	1	1	2
ROANOKE CITY	15	6	21
ROANOKE COUNTY	5	9	14
ROCKBRIDGE	7	3	10
ROCKINGHAM	15	12	27
RUSSELL	11	1	12
SALEM	3	5	8
SCOTT	2	2	4
SHENANDOAH	5	1	6
SMYTH	16	1	17
SOUTHAMPTON	0	3	3
SPOTSYLVANIA	28	9	37
STAFFORD	12	14	26
STAUNTON	9	4	13
SUFFOLK	7	18	25
SURRY	1	1	2
SUSSEX	0	5	5
TAZEWELL	5	14	19
VIRGINIA BEACH	16	37	53
WARREN	2	2	4
WASHINGTON	19	3	22
WAYNESBORO	2	1	3
WESTMORELAND	3	4	7
WILLIAMSBURG	3	6	9
WINCHESTER	3	1	4
WISE	18	3	21
WYTHE	6	2	8
YORK	7	9	16
Total	652	781	1,433

Next Steps

- **Finish coding child witness information from PSIs**
- **Contact localities and gather additional information for cases without PSIs**
- **Key information into database**
- **Examine sentencing outcomes and compare them to sentences in cases that do not involve child witnesses**
- **Determine if, based on data analysis, a new factor should be added to guidelines to increase the sentence recommendation in cases involving child witnesses**

