

Possible Recommendations for Guidelines Revisions

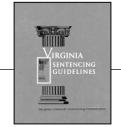
Modifications to the Sentencing Guidelines

- The Commission closely monitors the sentencing guidelines system and, each year, deliberates upon possible modifications to the guidelines.
- Under § 17.1-806 of the Code of Virginia, any modifications adopted by the Commission must be presented in its annual report, due to the General Assembly each December 1.
- Unless otherwise provided by law, the changes recommended by the Commission become effective on the following July 1.



Proposals for Revisions to Existing Guidelines Offenses

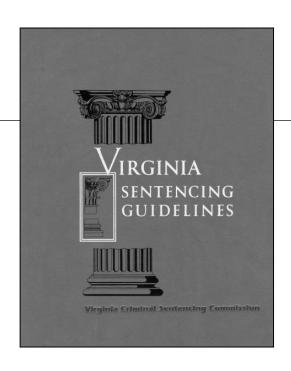
- Proposals are designed to maximize compliance and balance mitigation and aggravation rates to the extent possible.
- Current guidelines worksheets serve as the base for scoring historical cases, but the points assigned to those factors may be adjusted and new factors may be added.



Proposals for New Guidelines Offenses

- Proposals reflect the best fit for the historical data.
- Proposals are designed to closely match the historical rate of incarceration in prison and jail.
- Current guidelines worksheets serve as the base for scoring historical cases, but the points assigned to those factors may be different for the new offense and new factors may be added.



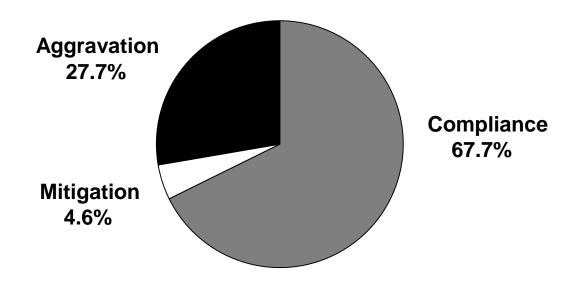


Proposed Recommendation 1:

Revise guidelines for Maliciously Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279)

Compliance with Guidelines for Maliciously Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) FY2012-FY2016

130 Sentencing Events



Compliance with the current guidelines for this offense is below the overall compliance rate and, when judges depart, they are significantly more likely to sentence above the guidelines than below.

Actual versus Recommended Sentences for Maliciously Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) FY2012-FY2016

Probation or Incarceration

Incarceration more than 6 Months up to 6 Months (Range includes prison)

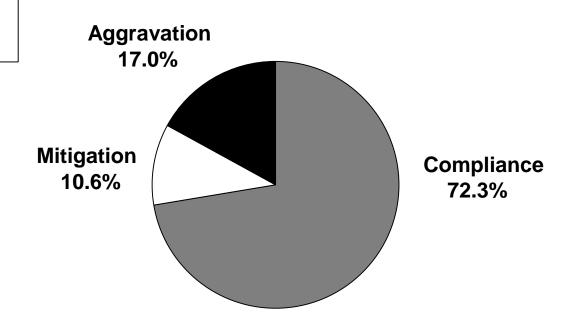
Actual Practice —— 50.0% ——— 50.0%

Recommended 36.2% under Current 63.8% **Guidelines**

Current guidelines could be more closely aligned with the actual prison incarceration rate

Actual versus Recommended Sentences for Maliciously Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) FY2012-FY2016

Cases in which guidelines recommend incarceration of more than 6 months (range includes prison)



47 Sentencing Events

	rimary Offense	
A.	Maliciously discharge firearm, etc., in/at occupied building (1 count)	
В.	Discharge firearm from vehicle (1 count)	
C.	Possess firearm on school property (1 count)	
D.	Possession of sawed-off shotgun (1 count)2	
Ε.	False statement on firearm consent form (1 count)	Score
F.	Possession of firearm, other weapon, explosives or ammunition by convicted felon	_
	1 count	_
	2 counts4	0
	rimary Offense Remaining Counts	

SPLIT Primary Offense Remaining Counts factor and assign higher points for target offense

Primary Offense Remaining Counts

Primary offense OTHER THAN Maliciously discharge firearm, etc., in/at occupied building § 18.2-279

Total Maximum Penalties Points Years: 5 - 7 1 8 - 18 2 19 - 28 3 29 - 38 4 39 or more 5

Primary offense Maliciously discharge firearm, etc., in/at occupied building § 18.2-279

Total M	laximum Penalties	Points
Years:	5 - 7	2
	8 - 18	3
	19 - 28	4
	29 - 38	5
	39 or more	6

Legally Restrained at Time of Offense

A.	Maliciously discharge firearm, etc., in/at occupied building (1 count)	2	
B.	Discharge firearm from vehicle (1 count)	1	_
C.	Possess firearm on school property (1 count)	1	
D.	Possession of sawed-off shotgun (1 count)	2	
E.	False statement on firearm consent form (1 count)	1	Score
F.	Possession of firearm, other weapon, explosives or ammunition by convicted felon		Score
	1 count	3	
Pr	2 counts	the primary not scored abo	ve
Pr	Primary Offense Remaining Counts Total the maximum penalties for counts of the Years: 5 - 7	the primary not scored abo	ve 0
	Years: 5 - 7 8 - 18 19 - 28 29 - 38	the primary not scored abo1 2 3 4 5	
	Years: Less than 1	the primary not scored abo	
	Years: 5 - 7	the primary not scored abo	

SPLIT Additional Offenses factor and assign higher points for target offense

♦ Additional Offenses

Primary offense OTHER THAN

Maliciously discharge firearm, etc.,
in/at occupied building § 18.2-279

i otai w	aximum Penaities	Points
Years:	1 - 7	1
	8 - 18	2
	19 - 28	3
	29 - 38	4
	39 or more	5

Primary offense

Maliciously discharge firearm, etc., in/at occupied building § 18.2-279

Total M	laximum Penalties	Points
Years:	1 - 7	3
	8 - 18	4
	19 - 28	5
	29 - 38	6
	39 or more	7

If total is 8 or less, go to SECTION B. If total is 9 or more, go to SECTION C.

B. Discharge firearm from vehicle (1 count)	C. Possess firearm on school property (1 count)	A.	Maliciously discharge	e firearm, etc., in/at occupied building (1 count)2	
D. Possession of sawed-off shotgun (1 count)	D. Possession of sawed-off shotgun (1 count)	В.	Discharge firearm fron	n vehicle (1 count)	•
E. False statement on firearm consent form (1 count)	False statement on firearm consent form (1 count)	C. 1	Possess firearm on so	hool property (1 count)	
F. Possession of firearm, other weapon, explosives or ammunition by convicted felon 1 count	Primary Offense Remaining Counts Years: 5 - 7	D.	Possession of sawed	i-off shotgun (1 count)2	
1 count	1 count	Ε.	False statement on f	firearm consent form (1 count)1	Score
2 counts40	Primary Offense Remaining Counts Total the maximum penalties for counts of the primary not scored above Years: 5 - 7	F. 1	Possession of firear	m, other weapon, explosives or ammunition by convicted felon	30016
	Primary Offense Remaining Counts		1 00	unt3	_
	Primary Offense Remaining Counts Total the maximum penalties for counts of the primary not scored above Years: 5 - 7		2 00	unts4	0
	8 - 18		2 00		•
Years: 5 - 71	8 - 18	Pri			, —
	29 - 38	n	nary Offense Years: 5 - 7	Remaining Counts	,
40.00		Pri	mary Offense Years: 5 - 7	Remaining Counts Total the maximum penalties for counts of the primary not scored above	

SPLIT Legally Restrained factor and assign higher points for target offense

Points

♦ Legally Restrained at Time of Offense

Primary offense OTHER THAN
Maliciously discharge firearm, etc.,
in/at occupied building § 18.2-279

None	0
Other than post-incar supervision	2
Post-incarceration supervision	5

Primary offense
Maliciously discharge firearm, etc.,
in/at occupied building § 18.2-279

None	0
Other than post-incar supervision	3
Post-incarceration supervision	6

•	r Incarcerations/Commitments If YES, add 4 → 0
▼ Le	gally Restrained at Time of Offense
	Other than post-incarceration supervision

Points

A.	Maliciously dis	charge firearm, etc., in/at occupied building (1 count)	1
B.	Discharge firear	m from vehicle (1 count)	•
C.	Possess firearm	on school property (1 count)1	
D.	Possession of	sawed-off shotgun (1 count)2	
E.	False statemer	nt on firearm consent form (1 count)1	Score
F.	Possession of	firearm, other weapon, explosives or ammunition by convicted felon	30016
		1 count	_ <u> </u>
		2 counts4	0
		8 - 18	0
Α	Additional (Years:	Dffenses Total the maximum penalties for additional offenses, including counts Less than 1	
A			0
		Less than 1 0 1 - 7 1 8 - 18 2 19 - 28 3 29 - 38 4 39 or more 5	0
	Years:	Less than 1 0 1 - 7 1 8 - 18 2 19 - 28 3 29 - 38 4 39 or more 5	0
Vic	Years: ctim Injury	Less than 1	0
Vic	Years: ctim Injury onviction in	Less than 1 0 1 - 7 1 8 - 18 2 19 - 28 3 29 - 38 4 39 or more 5 Threatened, emotional or physical Life threatening 2	

ADD new factor for specific types of additional offenses

SCORE THE FOLLOWING FACTOR ONLY IF PRIMARY OFFENSE AT CONVICTION IS MALICIOUSLY DISCHARGING FIREARM, ETC., IN/AT OCCUPIED BUILDING § 18.2-279

♦ Type of Additional Offense(s)

Additional offense with VCC prefix of WPN or ASL

If YES, add 2

W	/ea	apon/Firearm - Section B Offender Name:	
•	P	rimary Offense	
L	A. B	Maliciously discharge firearm, etc., in/at occupied building (1 count)	
	C.	Possess firearm on school property (1 count)	
	D.	Possession of sawed-off shotgun (1 count)6	Score
	E.	False statement on firearm consent form (1 count)	▼

SPLIT Victim Injury factor and assign higher points for target offense

Victim Injury

Primary offense OTHER THAN

Maliciously discharge firearm, etc.,
in/at occupied building § 18.2-279

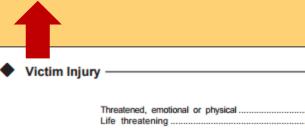
Points

Threatened, emotional or physical .. 2 Life threatening 3

Primary offense

Maliciously discharge firearm, etc., in/at occupied building § 18.2-279

Points



Threatened, emotional or physical 2 0

1 C -	Weapon/Firearm → Section C Offender Name:
ed	Primary Offense — Category I Category II Cother
	(scores for attempted bonspired offenses are in parentheses)
	Maliciously discharge firearm, etc. in/at occupied building
	Attempted or conspired: 1 count
	Completed: 1 count
	Discharge firearm from vehicle (1 count)
	Possess firearm on school property (1 count)
	Possession of sawed-off shotgun (1 count)
	False statement on consent form (1 count)
	Possession of firearm, other weapon, explosives or ammunition by convicted felon (1 count) 32
ICREASE	Primary Offense score for target offense
	Prior Record Classification
	Category I Category II Other
A. Malicio	ously discharge firearm, etc., in/at occupied building Completed: 1 count 15
A. Malicio	
A. Malicio	Completed: 1 count
A. Malicie	Completed: 1 count
A. Malicio	Completed: 1 count
A. Malicio	Completed: 1 count
A. Malicio	Completed: 1 count 60 3015 ♦ Firearm Used or Brandished If YES, add 2 → 0 0 • Victim Injury Threatened or emotional 2 0 0 0 Physical 4 0 0 0 Prior Convictions/Adjudications Assign points to the 5 most recent and serious prior record events and total the points
A. Malicio	Completed: 1 count
A. Malicio	♦ Firearm Used or Brandished If YES, add 2 → 0 0 ♦ Victim Injury Threatened or emotional Physical Life threatening 2 0 0 ♦ Prior Convictions/Adjudications Assign points to the 5 most recent and serious prior record events and total the points (years) 20, 30, 40 or more 0 0 0
A. Malicie	Completed: 1 count
A. Malicie	♦ Firearm Used or Brandished If YES, add 2 → 0 0 ♦ Victim Injury Threatened or emotional Physical Life threatening 2 0 0 ♦ Prior Convictions/Adjudications Assign points to the 5 most recent and serious prior record events and total the points (years) 20, 30, 40 or more 0 0 0
A. Malicie	Firearm Used or Brandished If YES, add 2 → 0 0 Firearm Used or Brandished Firearm Used or Brandished Firearm Used or emotional Physical Life threatening Prior Convictions/Adjudications Assign points to the 5 most recent and serious prior record events and total the points Maximum Penalty: Less than 20 (years) 20, 30, 40 or more Prior Felony Convictions /Adjudications Against Person Number 1 Number 1 Of Counts: 2 Number 2 Number 2 Number 2 Number 2 Number 3 Number 3 Number 3 Number 3 Number 4 Of Counts: 2 Number 3 Number 3 Number 4 Number 4 Number 4 Number 5 Number 5 Number 1 Number 2 Number 2 Number 3 Number 3 Number 4 Number 4 Number 4 Number 5 Number 5 Number 1 Number 2 Number 3 Number 3 Number 4 Number 4 Number 4 Number 5 Number 5 Number 6 Number 7 Number 9 Number 1 Number 1 Number 1 Number 2 Number 2 Number 3 Number 3 Number 3 Number 4 Number 4 Number 4 Number 5 Number 5 Number 6 Number 7 Number 7 Number 9 Nu
A. Malicie	♦ Firearm Used or Brandished If YES, add 2 → 0 0 ♦ Victim Injury If YES, add 2 → 0 0 Physical 2 Life threatening 4 O 0 Prior Convictions/Adjudications Assign points to the 5 most recent and serious prior record events and total the points Maximum Penaty: Less than 20
A. Malicie	Firearm Used or Brandished If YES, add 2 → 0 0 Firearm Used or Brandished Firearm Used or Brandished Firearm Used or emotional Physical Life threatening Prior Convictions/Adjudications Assign points to the 5 most recent and serious prior record events and total the points Maximum Penalty: Less than 20 (years) 20, 30, 40 or more Prior Felony Convictions /Adjudications Against Person Number 1 Of Counts: 2 Number 2 Number 2 Number 2 Number 3 Number 3 Number 3 Number 4 Of Counts: 2 Number 2 Number 3 Number 3 Number 3 Number 4 Number 4 Number 4 Number 5 Number 5 Number 1 Number 2 Number 2 Number 3 Number 3 Number 3 Number 4 Number 4 Number 4 Number 5 Number 5 Number 5 Number 1 Number 1 Number 2 Number 2 Number 3 Number 3 Number 3 Number 4 Number 4 Number 4 Number 5 Number 5 Number 6 Number 7 Number 9 Number 1 Number 1 Number 2 Number 2 Number 3 Number 3 Number 3 Number 4 Number 4 Number 4 Number 5 Number 5 Number 5 Number 6 Number 7 Number 7 Number 9 Number 9 Number 1 Number 1 Number 2 Number 2 Number 3 Number 3 Number 4 Number 4 Number 4 Number 5 Number 5 Number 7 Number 9 Nu
A. Malicie	♦ Firearm Used or Brandished If YES, add 2 → 0 0 ♦ Victim Injury Threatened or emotional
A. Malicie	♦ Firearm Used or Brandished If YES, add 2 → 0 0 ♦ Victim Injury Threatened or emotional Physical Life threatening 2 0 0 ♦ Prior Convictions/Adjudications Assign points to the 5 most recent and serious prior record events and total the points (years) 20, 30, 40 or more 0 0 ♦ Prior Felony Convictions /Adjudications Against Person 1 0 0 Number 1 of Counts: 2 3 3 4 5 or more 2 3 0 0 0 5 or more 5 0 0
A. Malicie	♦ Firearm Used or Brandished If YES, add 2 → 0 0 ♦ Victim Injury Threatened or emotional Physical Life threatening 2 0 0 ♦ Prior Convictions/Adjudications Assign points to the 5 most recent and serious prior record events and total the points (years) 20, 30, 40 or more 0 0 0 ♦ Prior Felony Convictions /Adjudications Against Person 1 0 0 0 Number 1 1 1 5 or more 2 0 0 0 ♦ Prior Felony Convictions /Adjudications Against Person 2 0 0 0 ♦ Prior Felony Convictions /Adjudications Against Person 2 0 0 0 ♦ Prior Felony Convictions/Adjudications with the Same VCC Prefix as Primary Offense 3 0 0 0
A. Malicie	Firearm Used or Brandished If YES, add 2 → 0 0 ♦ Victim Injury Threatened or emotional Life threatening 2 0 0 Physical Life threatening 4 0 0 Maximum Penalty: Less than 20 (years) 20, 30, 40 or more 0 0 0 Prior Felony Convictions /Adjudications Against Person 1 0 0 Number 1 (Counts: 2 (1 0 0 0) 2 (1 0 0 0) Prior Felony Convictions /Adjudications Against Person 2 (1 0 0 0) Prior Felony Convictions /Adjudications Against Person 2 (1 0 0 0) Number 1 (1 0 0 0) 3 (1 0 0 0) Prior Felony Convictions/Adjudications with the Same VCC Prefix as Primary Offense 2 (1 0 0 0)

Weapon/Firearm → Section C

Offender Name:

Primary Offense -

Category I Category II Other

INCREASE Primary Offense score for target offense

Prior Record Classification Category I Category II Other

---- Prior Record Classification ---

A. Maliciously discharge firearm, etc., in/at occupied building

Completed: 1 count 60 30 15

SPLIT Prior Convictions/Adjudications factor and assign higher points for target offense

Prior Convictions/Adjudications

Primary offense OTHER THAN Maliciously discharge firearm, etc., in/at occupied building § 18.2-279

Maximum Penalty Points

Years: Less than 20 0 20, 30, 40 or more 1

Primary offense

Maliciously discharge firearm, etc., in/at occupied building § 18.2-279

Maximum Penalty

Points

Years: Less than 20 0 20, 30, 40 or more 5

Prior Convictions/Adjudications Assign points to the 5 most recent and serious prior record events and total the points Maximum Penalty: Less than 20 (years) 20, 30, 40 or more.....

Prior Felony Convictions /Adjudications Against Person ————

Number of Counts:

Prior Felony Convictions/Adjudications with the Same VCC Prefix as Primary Offense

of Counts:

Primary Offense -

Category I Category II Other

INCREASE Primary Offense score for target offense

Prior Record Classification Category I Category II Other

---- Prior Record Classification --

A. Maliciously discharge firearm, etc., in/at occupied building

Completed: 1 count 60 30 15

SPLIT Prior Felony Convictions/Adjudications Against Person factor and assign higher points for target offense

Prior Felony Convictions/Adjudications Against Person

Primary offense OTHER THAN Maliciously discharge firearm, etc., in/at ccupied building § 18.2-279

Number of Counts **Points** 1 1 2 2 3 4 5 or more

Primary offense Maliciously discharge firearm, etc., in/at occupied building § 18.2-279

Number of Counts **Points** 5 6 5 or more

Prior Felony Convictions /Adjudications Against Person ——————			\neg	
Number 1	1			
of Counts: 2	2		Τ	
3	3		_	
5 or more	4	0	0	

Prior Felony Convictions/Adjudications with the Same VCC Prefix as Primary Offense

	-	•
Number	1	2
of Counts:	2	4
	3	6
	4	8
	5 or more	10

Actual versus Proposed Sentences for Maliciously Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) FY2012-FY2016

Probation or Incarceration

Incarceration of more than 6 Months up to 6 Months (Range includes prison)

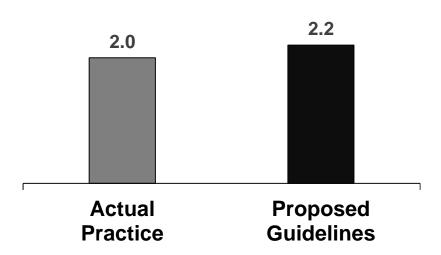
Actual Practice — 50.0% 50.0% Recommended 51.5% 48.5% under Proposed **Guidelines**

> Proposed guidelines are more closely aligned with the actual prison incarceration rate

Actual versus Proposed Sentences for Maliciously Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) FY2012-FY2016

Offenders Sentenced to Incarceration of More than 6 Months

Median Sentence (in years)



Compliance with Guidelines for Maliciously Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) FY2012-FY2016

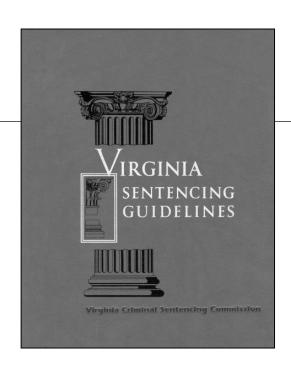
130 Sentencing Events

Dispositional Compliance			C	Overall ompliance)
	Current	Proposed		Current	Proposed
Compliance	69.2%	72.3%	Compliance	67.7%	69.2%
Mitigation	3.1%	14.6%	Mitigation	4.6%	14.6%
Aggravation	27.7%	13.1%	Aggravation	27.7%	16.2%

Proposed Recommendation 1

Revise guidelines for Maliciously Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) as proposed





Proposed Recommendation 2:

Add Unlawfully Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) to the Weapon/Firearm guidelines

Sentences for Unlawfully Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) FY2012-FY2016

60 Sentencing Events

Disposition	Percent	Median Sentence
No Incarceration	51.7%	NA
Incarceration up to 6 Months	28.3%	4 Months
Incarceration of More than 6 Months	20.0%	1.2 Years

Note: Data reflect cases in which this offense was the primary (or most serious) offense at sentencing. Two offenders were excluded because a rap sheet could not be located.

capon	Firearm Section A Offender Name:	
Primary Offe	fense ———————————————————————————————————	
A. Maliciously d	discharge firearm, etc., in/at occupied building (1 count)	
A BE-11-1		
A. Malicio	ously <u>or unlawfully</u> discharge firearm, etc., in/at occupied buil	ding
1 co	ount	
1 co	ount 2	
1 co	ount	0
1 co		0
		0
	2 counts4	0
Primary Off	2 counts4 fense Remaining Counts1 5 - 7	0
Primary Off	2 counts4 fense Remaining Countsthe maximum penalties for counts of the primary not scored above 5 - 71	0

SPLIT Primary Offense Remaining Counts factor and assign higher points for target offense

Primary Offense Remaining Counts

Primary offense OTHER THAN Maliciously or unlawfully discharge firearm in/at occupied building § 18.2-279

Total Maximum Penalties Po		
Years:	5 - 7	1
	8 - 18	2
	19 - 28	3
	29 - 38	4
	39 or more	5

Primary offense Maliciously or unlawfully discharge firearm in/at occupied building § 18.2-279

Total M	laximum Penalties	Points
Years:	5 - 7	2
	8 - 18	3
	19 - 28	4
	29 - 38	5
	39 or more	6

Total Maximum Panalties

nse —————	
scharge firearm, etc., in/at occupied building (1 count)	2
· · · · · · · · · · · · · · · · · · ·	
2 counts	4 0
8 - 18	2 3 0
Offenses Total the maximum penalties for additional of	fenses, including counts —
1-7	1
	usly or unlawfully discharge firear unt 2 counts Price Remaining Counts 1 - 7 2 - 38 3 or more Offenses Total the maximum penalties for additional off Less than 1 1 - 7 8 - 18 1 - 7 8 - 18

SPLIT Additional Offenses factor and assign higher points for target offense

Dointe

◆ Additional Offenses

Primary offense OTHER THAN

Maliciously or unlawfully discharge firearm
in/at occupied building § 18.2-279

Total Maximum Popaltics

i Otal IVI	axiiiiuiii Fenailies	Politis
Years:	1 - 7	1
	8 - 18	2
	19 - 28	3
	29 - 38	4
	39 or more	5

Primary offense
Maliciously or unlawfully discharge firearm
in/at occupied building § 18.2-279

Total Maximum Penaities	Points
Years: 1 - 7	3
8 - 18	4
19 - 28	5
29 - 38	6
39 or more	7

♦ Primary Offense
A. Maliciously discharge firearm, etc., in/at occupied building (1 count)2
A. Maliciously or unlawfully discharge firearm, etc., in/at occupied building
1 count 2
2 counts
Years: 5 - 7

SPLIT Legally Restrained factor and assign higher points for target offense

Points

♦ Legally Restrained at Time of Offense

Primary offense OTHER THAN

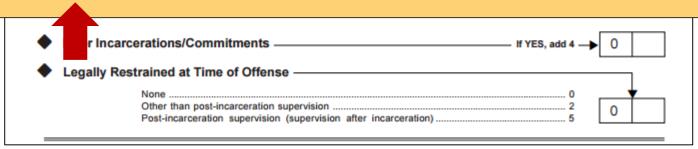
Maliciously or unlawfully discharge firearm
in/at occupied building § 18.2-279

None	0
Other than post-incar supervision	2
Post-incarceration supervision	5

<u>Primary offense</u>
<u>Maliciously or unlawfully discharge firearm</u>

Maliciously or unlawfully discharge firearm in/at occupied building § 18.2-279

PO	111115
None	0
Other than post-incar supervision	3
Post-incarceration supervision	6



If total is 8 or less, go to SECTION B. If total is 9 or more, go to SECTION C.

A. Malicio	usly or unlawfully discharge firearm, etc., in/at occupied building unt2
	2 counts40
Primary Offe	ense Remaining Counts
Years:	5 - 7
Additional	Offenses Total the maximum penalties for additional offenses, including counts —
Years:	Less than 1 0 1 -7 1 2 1 8 - 18 2 2 19 - 28 3 29 - 38 4 4 39 or more 5
◆ Victim Injury	
	Threatened, emotional or physical
Conviction in	Current Event Requiring Mandatory Minimum Term (6 mos or more) - If YES, add 8 -
Prior Convic	ctions/Adjudications Total the maximum penalties for the 5 most recent and serious prior record events
	1

New f

SCORE THE FOLLOWING FACTOR ONLY IF PRIMARY OFFENSE AT CONVICTION IS MALICIOUSLY DISCHARGING FIREARM, ETC., IN/AT OCCUPIED BUILDING § 18.2-279

Type of Additional Offense(s)

Additional offense with VCC prefix of WPN or ASL

If YES, add 2

	ffense ———————————————————————————————————	
 A. Maliciously 	discharge firearm, etc., in/at occupied building (1 count)	7
 B. Discharge fit 	rearm from vehicle (1 count)	8
	arm on school property (1 count)	
	of sawed-off shotgun (1 count)	Score
	ment on firearm consent form (1 count)	V
F. Possession	of firearm, other weapon, explosives or ammunition by convicted felon (1 count)	7
G. Unlaw	rfully discharge firearm, etc., in/at occupied building	
1 cc	ount	8
Primary O	ffense Remaining Counts	scored above —
Years:	5 - 9	2
	10 - 19	3
	20 - 29	
	30 - 39	()
	40 or more	6
	10"	
Additiona	I Offenses Total the maximum penalties for additional offenses, including counts	
Years:	Less than 1	
	1-9	
	10 - 19	
	20 - 29	
	30 - 39	1 0 1
	40 or more	
Victim Inju	ıry ————————————————————————————————————	
Victim Inju	ıry ————————————————————————————————————	
Victim Inju	Threatened, emotional or physical	2 0

If total is 10 or more, recommendation is JAIL up to 6 months.

1 1	A			Record Classification	
J	Primary Offe	nse —		Category II conspired offenses are	
	 Maliciously dis 	scharge firearm, etc. in/at occupied building	,		,
	Attempte	d or conspired: 1 count	(32)	(16)	(8)
		Completed: 1 count	60	30	15
	 B. Discharge fire 	arm from vehicle (1 count)	48	24	12
	 C. Possess firear 	m on school property (1 count)	32	16	8 Sco
	 D. Possession of 	sawed-off shotgun (1 count)	36	18	9 🔻
	 E. False statemer 	nt on consent form (1 count)	32	16	8
	 F. Possession of t 	firearm, other weapon, explosives or ammunition by c	onvicted felon (1 count) 32	16	8
ılawfı		rearm, etc., in/at occupied k	Category I ouilding		<u>Other</u>
lawfı			<u>Category I</u> puilding 40	Category II	<u>Other</u>
lawfu		count	Category I puilding 40	Category II	<u>Other</u> 10
lawfı	Completed: 1	30 40 or more	Category I puilding 40	20	10
lawfu	Completed: 1	30 40 or mored or Brandished	Category I Duilding	20	10 3 5 dd 2 → 0 0
lawfu	Completed: 1	30 40 or more	Category I Duilding	20	1 Other 10 3 dd 2 → 0 0

Prior Felony Convictions /Adjudications Against Person —

Prior Felony Convictions/Adjudications with the Same VCC Prefix as Primary Offense

Number of Counts:

Number of Counts:

Actual versus Proposed Sentences for Unlawfully Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) FY2012-FY2016

Probation or Incarceration

Incarceration of more than 6 Months up to 6 Months (Range includes prison)

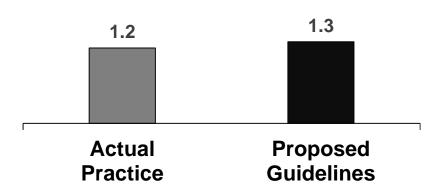
Actual Practice —— 80.0% 20.0% Recommended 81.7% 18.3% under Proposed **Guidelines**

> Proposed guidelines are closely aligned with the actual prison incarceration rate

Actual versus Proposed Sentences for Unlawfully Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) FY2012-FY2016

Offenders Sentenced to Incarceration of More than 6 Months

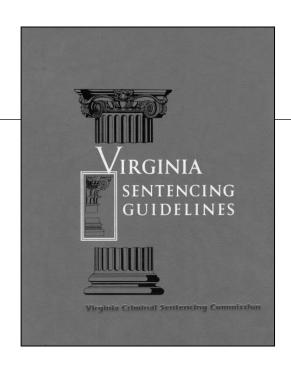
Median Sentence (in years)



Proposed Recommendation 2

Add Unlawfully Discharging a Firearm/Missile in/at an Occupied Building (§ 18.2-279) to the Weapon/Firearm guidelines as proposed



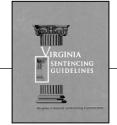


Proposed Recommendation 3:

Add Carrying a Concealed Weapon (§ 18.2-308) to the Weapon/Firearm guidelines

Carry concealed weapon (§ 18.2-308)

- First conviction for carrying a concealed weapon is a Class 1 misdemeanor.
- Second conviction for carrying a concealed weapon is a Class 6 felony.
- Third conviction for carrying a concealed weapon is a Class 5 felony.



Sentences for Carrying a Concealed Weapon (§ 18.2-308) FY2012-FY2016

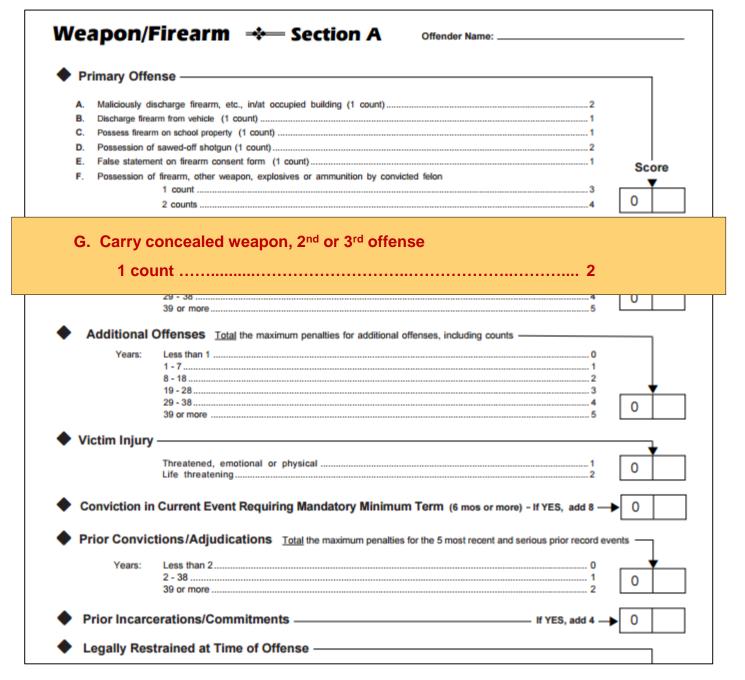
Concealed Weapon, 2nd offense 113 Sentencing Events

Concealed Weapon, 3rd offense 18 Sentencing Events

Disposition	Percent	Median Sentence	Disposition	Percent	Median Sentence
No Incarceration	39.8%	NA	No Incarceration	33.3%	NA
Incarceration up to 6 Months	35.4%	3 Months	Incarceration up to 6 Months	22.2%	3 Months
Incarceration of More than 6 Months	24.8%	1.0 Year	Incarceration of More than 6 Months	44.4%	1.0 Year

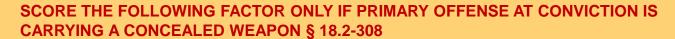
Note: Data reflect cases in which this offense was the primary (or most serious) offense at sentencing. Offenders convicted of being a felon in possession of a firearm (§ 18.2-308.2(A)) and carrying a concealed weapon (§ 18.2-308) were excluded. Four offenders were excluded because a rap sheet could not be located.

Source: Supreme Court of Virginia, Circuit Court Case Management System (CMS)



Weapon/	Firearm - Section A Offender Name:	
Primary Off	ense ———————————————————————————————————	
B. Discharge fire C. Possess fires D. Possession E. False staten	2 2 2 2 2 2 2 2 2 2	Score V
	concealed weapon, 2 nd or 3 rd offense unt	
◆ Additional Years:	29 - 38	
	8 - 18	0

ADD new criminal history factor



Prior Criminal Misdemeanor Convictions

Number	Points
0	0
1 - 6	1
7 or more	2

Section B - Proposed

	Offense —
A. Maliciousl	y discharge firearm, etc., in/at occupied building (1 count)7
 B. Discharge 	firearm from vehicle (1 count)
 C. Possess fi 	rearm on school property (1 count)
	on of sawed-off shotgun (1 count)
	ement on firearm consent form (1 count)
F. Possessio	on of firearm, other weapon, explosives or ammunition by convicted felon (1 count)7
G. Carry	ving concealed weapon, 2 nd or 3 rd offense
1 c	ount 7
Primary (Offense Remaining Counts
Years	5-9
	10 - 19
	20 - 29
	30 - 39
	40 or more
Addition	al Offenses Total the maximum penalties for additional offenses, including counts
Years	: Less than 1
	10-19 3
	20 - 29
	30 - 39
	40 or more
Victim In	jury ————————————————————————————————————
	Threatened, emotional or physical
	Inreatened, emotional or physical

Section B -**Proposed**

V	ffense —	
A. Maliciously	discharge firearm, etc., in/at occupied building (1 count)	,
 B. Discharge fire 	earm from vehicle (1 count)	3
C. Possess fires	arm on school property (1 count)	7
 D. Possession 	of sawed-off shotgun (1 count)	Score
 E. False staten 	nent on firearm consent form (1 count)	▼
G. Carryi	of firearm, other weapon, explosives or ammunition by convicted felon (1 count)	,
G. Carryi	ng concealed weapon, 2 nd or 3 rd offense ount	,
G. Carryi	ng concealed weapon, 2 nd or 3 rd offense	ve —
G. Carryii 1 co ◆ Primary Of	ng concealed weapon, 2 nd or 3 rd offense ount	ve2
G. Carryii 1 co ◆ Primary Of	ng concealed weapon, 2 nd or 3 rd offense ount	ve
G. Carryii 1 co ◆ Primary Of	ng concealed weapon, 2 nd or 3 rd offense ount	ve

ADD

SCORE THE FOLLOWING FACTOR ONLY IF PRIMARY OFFENSE AT CONVICTION IS **CARRYING A CONCEALED WEAPON § 18.2-308**

Prior Criminal Misdemeanor Convictions



If total is 10 or more, recommendation is JAIL up to 6 months.

Section C - Proposed

C -	Weapon/l	Firearm 🜞 Section	C Offender Name:
d			
u	Primary Offe	ense —	Category I Category II Other (scores for attempted/conspired offenses are in parentheses)
	A. Maliciously d	ischarge firearm, etc. in/at occupied building	(scores or an empreus or reinses are in parentineses)
			(32)(16)(8)
			56
	B. Discharge fire	perm from vehicle (1 count)	
			9 ▼
	1		
	F. Possession of	illearni, other weapon, explosives or animumitor by	convicied leight (1 county 32
			Prior Record Classification
			Category I Category II Other
		30	3
		40 or more	5
	Firearm Use	d or Brandished	If YES, add 2 → 0 0
	Victim Injury	ı 	
	,,		2
		Life threatening	5
	Prior Convi	ctions/Adjudications Assign points to the	5 most recent and serious prior record events and total the points
	Maximum Penalty	Less than 20	
	_		1 0 0
	◆ Prior Felony	Convictions /Adjudications Again	nst Person
	Number	_	1
	of Counts:		2
			3
			4 0 0 0
	A		
	Prior Felony	Convictions/Adjudications with the	ne Same VCC Prefix as Primary Offense ————
	Number		2
	of Counts:		4
		3	6

Actual versus Proposed Sentences for Carrying a Concealed Weapon (§ 18.2-308) FY2012-FY2016

Concealed Weapon, 2nd offense

Probation or Incarceration

Incarceration of more than 6 Months up to 6 Months (Range includes prison)

Actual Practice —— 75.2% ———— 24.8% Recommended

74.3% -

under Proposed Guidelines



25.7%

Proposed guidelines are closely aligned with the actual prison incarceration rate

Actual versus Proposed Sentences for Carrying a Concealed Weapon (§ 18.2-308) FY2012-FY2016

Concealed Weapon, 3rd offense

Probation or Incarceration

Incarceration of more than 6 Months up to 6 Months (Range includes prison)

8 offenders Actual Practice —— 55.6% 44.4%

7 offenders Recommended 61.1% under Proposed 38.9% Guidelines



Proposed guidelines are closely aligned with the actual prison incarceration rate

Actual versus Proposed Sentences for Carrying a Concealed Weapon (§ 18.2-308) FY2012-FY2016

Concealed Weapon, 2nd offense

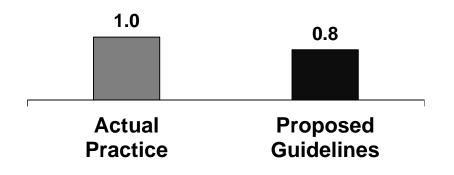
Offenders Sentenced to Incarceration of More than 6 Months

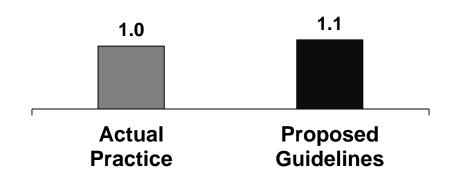
Median Sentence (in years)

Concealed Weapon, 3rd offense

Offenders Sentenced to Incarceration of More than 6 Months

Median Sentence (in years)

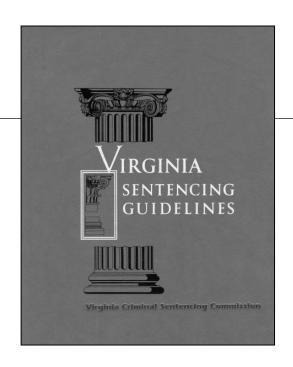




Proposed Recommendation 3

Add Carrying a Concealed Weapon (§ 18.2-308) to the Weapon/Firearm guidelines as proposed





Proposed Recommendation 4:

Revise the "Mandatory Minimum for Weapon Conviction(s)" factor on Section C of the Schedule I/II Drug guidelines to include convictions under § 18.2-53.1

Schedule I/II Drug Guidelines Section C Worksheet

- The factor "Mandatory Minimum for Weapon Conviction(s) in Current Event" does not include a conviction for "Use of a Firearm in the Commission of a Felony" (§ 18.2-53.1). The court must impose a mandatory sentence of 3 years for the first conviction and 5 years for a second or subsequent conviction.
- Only additional offenses that have a VCC prefix of "WPN" and a mandatory minimum of 2 years or 5 years are scored for this factor.

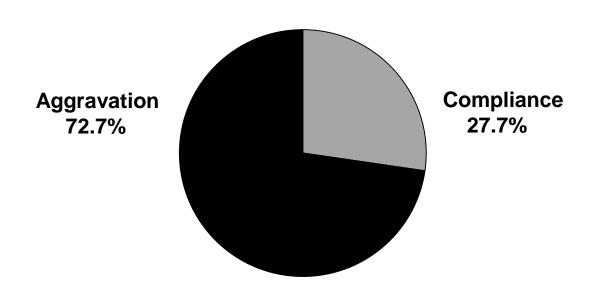
			Section C	Offende	ord Classification —	
Primary Of		100 Sept. (1850) 166 - 180 Marie (1851)		- Category I	Category II	Other —
A. Possess So Attempte	chedule I or II drug or Fi ed, conspired or completed:	irst offender violation 1 count 2 counts 3 counts		(scores for attempted/cons 20 28 36	pired offenses are in paren 1014	theses) 5 7 9
B. Sell, Distrib Completed (oute, Possession with in (Attempted or Conspired):	ntent, etc., Schedule I 1 count 2 counts 3 counts 4 counts	or II drug	60 (48) 80 (64) 95 (76) 130(104)	36 (24) 48 (32) 57 (38) 78 (52)	12 (12) 16 (16) 19 (19) 26 (26)
C. Sell, etc., S Completed (Schedule I or II drug, so (Attempted or Conspired):	econd offense 1 count 2 counts		110 (88)310(248)	66 (44) 186(124)	22 (22) 62 (62)
D. Sell, etc., S Attempted	Schedule I or II drug - d, conspired or completed:	third or subsequent of	fense		105	35
	re Methamphetamine, , conspired or completed:			145		
	Schedule I or II drug to , conspired or completed:					15
G. Accomodat Attempted	tion-Sell, etc., Schedul, , conspired or completed:	e I or II drug		32	16	Sc8
H. Sell, etc., i	imitation Schedule I or conspired or completed:	2 counts		12	20	3
	alty (years) 5,10					5 —
	Offenses Assign p		0.00		e points ———	
Primary off	fense D: Sell, etc., Sch. I/	II 3rd or Subsequent -	Primary offense:	All other offenses —		ste
Less than 5		0	Less than 5		Poir	0
20		4	20			2
40 or more						5
				ent Assign point	s to <u>each</u> additions	
offense with	a mandatory minimum Year Mandatory Minim Possession at Til	and total the points13		Mandatory Minimu	JM	.32 0
offense with 2 Firearm in Prior Convi	a mandatory minimum Year Mandatory Minim Possession at Til ictions/Adjudicati	and total the points um	3 5 Year	Mandatory Minimu	If YES, ad	d 5 → 0 0
offense with 2 Firearm in Prior Convi Maximum Per	a mandatory minimum Year Mandatory Minim Possession at Til ictions/Adjudicati	and total the points um	3 5 Year	Mandatory Minimu	If YES, ad	d 5 → 0 0
Firearm in Prior Convi Maximum Per	a mandatory minimum Year Mandatory Minim Possession at Til ictions/Adjudicati	and total the points um 13 me of Offense ions Assign points to	5 Year 5 the 5 most recent and 5 1 40 or 2	Mandatory Minimu	If YES, ad	d 5 → 0 0
Firearm in Prior Convi Maximum Per (ye) Prior Felon	a mandatory minimum Year Mandatory Minim Possession at Til ictions/Adjudicatinalty: Less than 5 5, 10	in and total the points um 15 me of Offense ions Assign points to	5 Year the 5 most recent and 0 130	serious prior record	If YES, ad events and total the	0 d d d d d d d d d d d d d d d d d d d
Firearm in Prior Convi Maximum Per (ye) Prior Felon	a mandatory minimum Year Mandatory Minim Possession at Tili ictions/Adjudicatinalty: Less than 5 5, 10	and total the points um 15 me of Offense ions Assign points to ons/Adjudications and or Subsequent —	5 Year b the 5 most recent and 0 30 1 40 or	serious prior record	If YES, add events and total the	32 0 0 d d 5 0 0 0 e points 0 0 0
offense with 2 Firearm in Prior Convi Maximum Per (ye Prior Felon Primary offen: Number of Convi	a mandatory minimum Year Mandatory Minim Possession at Tili ictions/Adjudicatinalty: Less than 5 5, 10	and total the points , um 15 me of Offense ions Assign points to ms/Adjudication: trd or Subsequent —	5 Year the 5 most recent and 0 130	serious prior record	If YES, ad events and total the	32 0 0 d d 5 0 0 0 e points 0 0 0
offense with 2 Firearm in Prior Convi Maximum Per (ye) Prior Felon Primary offen: Number of Cou 2 3 4	a mandatory minimum Year Mandatory Minim Possession at Til ictions/Adjudicatinalty: Less than 5 5, 10	and total the points , um 15 me of Offense ions Assign points to ons/Adjudication: ord or Subsequent — Score 9 10 17	5 Year 5 the 5 most recent and 0 30,	serious prior record	If YES, ad events and total the	32 0 d 5 0 0 0 p points 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
offense with 2 Firearm in Prior Convi Maximum Per (ye Prior Felon Primary offen Number of Cou 3 4 5 or more	a mandatory minimum Year Mandatory Minim Possession at Tili ictions/Adjudicatinality: Less than 5	and total the points , um 15 me of Offense ions Assign points to ms/Adjudication ord or Subsequent 5 17 20 djudications Aga	3 5 Year b the 5 most recent and 0 30,	serious prior record more	If YES, ad events and total the	32 0 d 5 0 0 0 p points 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
offense with 2 Firearm in Prior Convi Maximum Per (ye Prior Felon Primary offen Number of Cou 3 4 5 or more	a mandatory minimum Year Mandatory Minim Possession at Tili ictions/Adjudicatinality: Less than 5	and total the points , um	5 Year 5 the 5 most recent and 0 30,	serious prior record more	um If YES, ad events and total the	32 0 0 d 5 - 0 0 0 0 p points 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
Firearm in Prior Convil Maximum Per (ye) Prior Felon Primary offen: Number of Cou 3	a mandatory minimum Year Mandatory Minim Possession at Tiri ictions/Adjudicatinalty: Less than 5 5, 10	in and total the points of the points of the points to the	5 Year bthe 5 most recent and 0 30, 1 40 or 5 Frimary offense: Number of Counts 1 2 2 3 4 5 6 or more ainst Person 3 3 3 5 Year 4 5 6 or more 3 4 or 5 4 or m ttions	serious prior record more	um If YES, ad events and total the	32 0 0 d 5 - 0 0 0 p points 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
offense with 2 Firearm in Prior Convi Maximum Per (ye Prior Felon Number of Cou 2 3 4 5 or more Prior Felon	a mandatory minimum Year Mandatory Minim Possession at Tiri ictions/Adjudicatinalty: Less than 5. 20. by Drug Conviction See D: Sell, etc., Sch. I/II 3 unts ny Convictions/Ad unts: 1 2 unts: 1 1 1 2 y Property Convi	and total the points , um	3 5 Year othe 5 most recent and	serious prior record more	If YES, ad events and total the	32 0 0 d 5 - 0 0 0 points 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
Firearm in Prior Convi Maximum Per (ye Prior Felon Number of Cou 3 4 5 or more Number of Cou Number of Cou	a mandatory minimum Year Mandatory Minim Possession at Tiri ictions/Adjudicatinalty: Less than 5. 20. by Drug Conviction See D: Sell, etc., Sch. I/II 3 unts ny Convictions/Ad unts: 1 2 unts: 1 1 1 2 y Property Convi	and total the points , um	3 5 Year othe 5 most recent and	serious prior record more All other offenses	If YES, ad events and total the	32 0 0 d 5 - 0 0 0 0 p points 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
Prior Felon Number of Cou Prior Felon Prior Felon Prior Felon Number of Cou Prior Felon Number of Cou Prior Felon Number of Cou Prior Juvel	a mandatory minimum Year Mandatory Minim Possession at Tili ictions/Adjudicatinality: Less than 5	and total the points , um	3 5 Year othe 5 most recent and	serious prior record more All other offenses	If YES, ad events and total the	32 0 0 d 5 - 0 0 0 oppoints 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
Prior Felon Number of Cou Prior Juve Legally Res	a mandatory minimum Year Mandatory Minim Possession at Til ictions/Adjudicatinalty: Less than 5 20 10 by Drug Conviction se D: Sell, etc., Sch. I/II 3 ants Ty Convictions/Ad unts: 1 2 by Property Convi	and total the points , um	3 5 Year othe 5 most recent and 0 30	serious prior record more All other offenses -	If YES, ad events and total the	32 0 0 d 5 - 0 0 0 oppoints 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
Prior Felon Number of Cou Prior Juve Legally Res	a mandatory minimum Year Mandatory Minim Possession at Til ictions/Adjudicatinalty: Less than 5 20 10 10 10 10 10 10 10 10 10 10 10 10 10	and total the points , um	State Stat	serious prior record more All other offenses -	If YES, ad events and total the score	32 0 0 d 5 - 0 0 0 points 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
Prior Felon Number of Cou Number of Cou Prior Felon Prior Felon Number of Cou Prior Juve Legally Re: Type of Adc Additional offens Sale/Quanti	a mandatory minimum Year Mandatory Minim Possession at Til ictions/Adjudicatinalty: Less than 5 20 10 by Drug Conviction se D: Sell, etc., Sch. I/II 3 ants Ty Convictions/Ad unts: 1 2 by Property Convi unts: 1,2 nile Record strained at Time of ditional Offense (See of child present during	and total the points , um	Step	serious prior record more All other offenses ore fethamphetamine § 18.2-248(C) or §18	If YES, ad events and total the second secon	32 0 0 d 5 - 0 0 0 o points 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0

This is not a typical case, but it is a face validity problem.

In 10 years, there were 11 cases that included use of a firearm in the commission of a felony.

Compliance with Guidelines for Schedule I/II Drug Offenses with an Additional Offense under § 18.2-53.1 FY2009 – FY2016

11 Sentencing Events

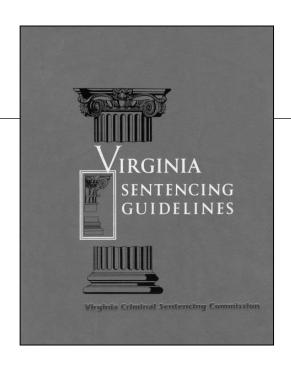


Primary Offense	— PriorRecord Classification —— Category I Category II Other
A. Possess Schedule I or II drug or First offender violation Attempted, conspired or completed: 1 count	on (scores for attempted/conspired offenses are in parentheses) 20 10 5 28 14 7 36 18 9
	e I or II drug 60 (48) 36 (24) 12 (12) 80 (64) 48 (32) 16 (16) 95 (76) 57 (38) 19 (19) 130(104) 78 (52) 26 (26)
D. Sell, etc., Schedule I or II drug - third or subsequent Attempted, conspired or completed: 1 count	t offense 175 105 35 390 234 78
E. Manufacture Methamphetamine, first or second offe Attempted, conspired or completed: 1 count	ense, § 18.2-248(C1)
and the state of t	
G. Accomodation-Sell, etc., Schedule I or II drug Attempted, conspired or completed: 1 count	32 16 8 V
H. Sell, etc., imitation Schedule I or II drug Attempted, conspired or completed: 1 count	
· · · · · · · · · · · · · · · · · · ·	, , , , , , , , , , , , , , , , , , , ,
Additional Offenses Assign points to each additional Offenses	tional offense (including counts) and total the points
Primary offense D: Sell, etc., Sch. I/II 3rd or Subsequent	
Years Less than 5	4 20 ▼
◆ Mandatory Minimum for Weapon Conviction offense with a mandatory minimum and total the point 2 Year Mandatory Minimum	
Mandatory Minimum factor to sco	ore convictions under § 18.2-53.1
◆ Mandatory Minimum for Weap	oon Conviction(s) in Current Event
	ffense with a mandatory minimum and total points
	Minimum 13
2 Year Mandatory	Minimum
3 Year Mandatory	w Minimum 25 w Minimum 32

Proposed Recommendation 4

Revise the "Mandatory Minimum for Weapon Conviction(s)" factor on Section C of the Schedule I/II Drug guidelines to include convictions under § 18.2-53.1 as proposed





Proposed Recommendation 5:

Revise § 19.2-298.01 to require circuit court clerks to submit sentencing guidelines forms when the judge defers the disposition in the case

Guidelines Submission Requirements § 19.2-298.01

■ Pursuant to § 19.2-298.01, following the entry of a final order of conviction and sentence in a felony case, circuit court clerks are required to send the sentencing guidelines worksheets, any departure reason, and a copy of the court order or orders, to the Commission.

Sentencing Guidelines Data Used by the Compensation Board

- The Compensation Board uses sentencing guidelines data to calculate the Commonwealth's Attorneys workload statistics.
- The workload statistics affect how resources are distributed to Commonwealth's Attorney's offices.
- Several years ago, the Commission agreed to accept guidelines forms for cases in which the judge placed the defendant on first offender status (§ 18.2-251).
 - Court does not enter a finding of guilt.
 - These cases are included in the data provided to the Compensation Board.

Worksheet Completion Responsibility § 19.2-298.01

Plea of Not Guilty

If an offender pleads not guilty and is tried by the court (bench trial), the probation officer will be responsible for completing the guidelines worksheet. The officer will provide the original to the judge and copies to the Commonwealth's attorney and defense attorney <u>before</u> sentencing. The officer also retains a copy.

Plea of Guilty or Plea Agreements

If the offender pleads guilty or accepts a plea agreement (including an oral sentence recommendation), the court has the option to direct the probation officer to prepare the worksheet or, when the accused, the court and the Commonwealth's attorney concur, the Commonwealth's attorney may prepare the worksheet. In either case, the original will be provided to the judge with copies given to the Commonwealth's attorney (if prepared by the probation officer) and the defense attorney before sentencing. The preparer also retains a copy.

Jury Sentences

If the offender has been convicted by a jury and the jury has recommended a sentence, a sentencing guidelines worksheet must then be provided to the judge. No sentencing guidelines information may be provided to the jury (§ 19.2-298.01(A)). The probation officer will be responsible for completing the guidelines worksheet. The officer will provide the original to the judge and copies to the Commonwealth's attorney and defense attorney before sentencing. The officer also retains a copy.

Recording Sentence Information

• Final Disposition – The sentencing judge, circuit court clerk, or other judicial designee is responsible for completing the back section of the cover sheet, which specifies the actual sentence.

Policy -

Sentencing for Multiple Jurisdictions

Convictions that occur in different jurisdictions, but result in one sentencing in one court, are still considered to be separate sentencing events. If the combined sentencing takes place on the same day, with the same judge, in the same court, separate worksheets must be prepared for each jurisdiction, reflecting the convictions arising in each locality. Policy does not prohibit a judge from reviewing one combined guideline, but the official guidelines must be prepared and submitted for each jurisdiction. If a judge departs from the recommendation for any jurisdiction, then a departure reason, as required by statute, must be provided.

Deferred Dispositions (e.g., First Offender)

When a court defers a finding of guilt for a guidelines offense, such as authorized under § 18.2-251, sentencing guidelines are to be submitted to the Commission after the court's decision to defer the finding. If the offender violates any condition of the deferral and the court finds the offender guilty of the guidelines offense, updated guidelines must be submitted to the court before sentencing. Guidelines must be sent to the Commission after each court action.

Factor Bargaining

The sentencing guidelines must be computed based on the rules stated within this manual. Guidelines rules are not to be circumvented by guidelines factor bargaining. Agreements that require the preparer to calculate guidelines factors in a manner that conflicts with established rules or procedures shall have no bearing on the completion of the official sentencing guidelines submitted to the court.

Departure Reasons

Guidelines Submission Requirements § 19.2-298.01

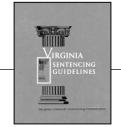
Language proposed at the September meeting

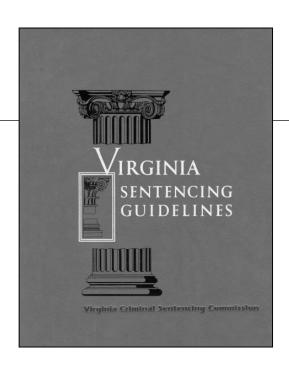
§ 19.2-298.01. Use of discretionary sentencing guidelines.

E. Following the entry of a final order of conviction and sentence in a felony case <u>or statutorily-sanctioned deferred dispositions</u>, the clerk of the circuit court in which the case was tried shall cause a copy of such order or orders, the original of the discretionary sentencing guidelines worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection B to be forwarded to the Virginia Criminal Sentencing Commission within five days. Similarly, the statement required by §§ 19.2-295 and 19.2-303 and regarding departure from or modification of a sentence fixed by a jury shall be forwarded to the Virginia Criminal Sentencing Commission.

Proposed Recommendation 5

Revise § 19.2-298.01 to require circuit court clerks to submit sentencing guidelines forms when the judge defers the disposition in the case





Proposed Changes to the Sentencing Guidelines Cover Sheet

SENTENCE Total Time Imposed Before Suspension	Life Sentence + Sentenced to
Total Effective Time to Serve	
Post Release	
Post Release Term § 18.2-10	
Post Release Supervision Period § 19.2-29	identify time served
Probation Period (Supervised) § 19.2 - 303	Indefinite
Check all that apply	Cond Roberton
☐ Incarceration Sentence to Run Concurrent	by With Another Sentencing Event
☐ Written Plea Agreement Accepted (Rule 3	A:8(c) (1) (A) or (C))
☐ Plea and Recommendation Accepted (Ru	lle 3A:8 (c) (1) (B))
☐ Oral Sentence Recommendation Accepted	i e
Restitution \$	☐ Fine \$
Other Sentencing Programs (check all that a	Indeterminate Commitment to DJJ
☐ Day Reporting	П о
☐ Diversion Center Incarceration	□ Determinant Commitment to DJJ
☐ Electronic Monitoring	☐ Drug Court
Unsupervised Probation/Good Behavior	☐ Intensive Probation
☐ § 18.2-251/§ 18.2-258.1	☐ Other Deferred Finding, Execution of Sentence Suspended (ESS
☐ Substance Abuse Treatment	Imposition of Sentence Suspended (ISS)
REASON FOR DEPARTURE	imposition of sentence suspended (133)
Must be completed pursuant to § 19.2-298.01(B)	
SENTENCING DATE	
SENTENCING DATE	Judge's Signature