

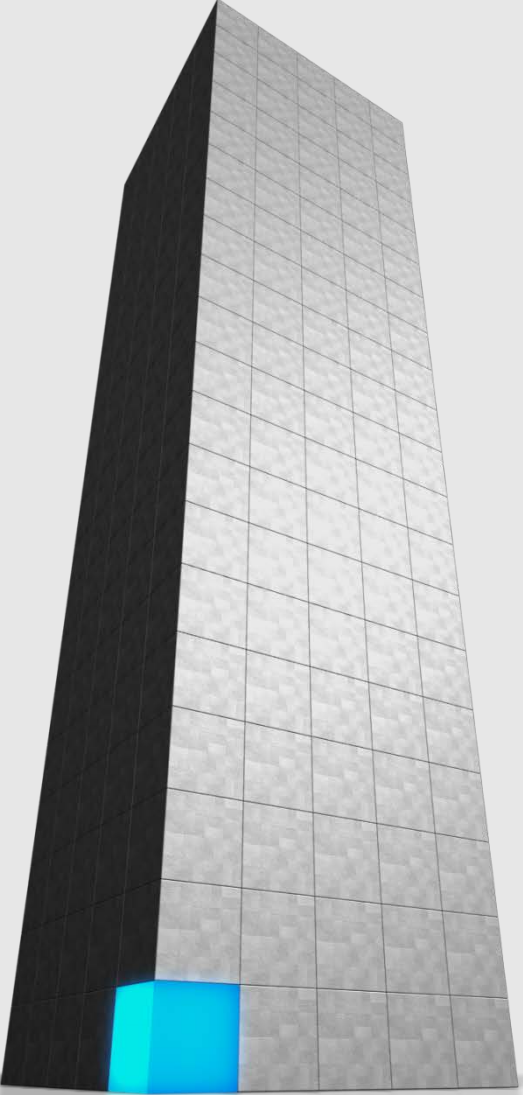
Probation **Violations**



Rules for Completing Guidelines



THE RULES **1**



Beginning July 1, 2018, probation violations **are not to be scored as additional offenses on the sentencing guidelines** for new offenses. The judge must receive guidelines for the new felony offense(s), if covered by the sentencing guidelines, and a copy of the Sentencing Revocation Report (SRR). The SRR must identify the alleged conditions of probation violated and, when appropriate, include the VCC for the new law violation conviction. Sentencing for new law violations and probation violations may occur on the same day in the same court, but the following two forms are submitted to the court:

1. Sentencing guidelines for the new felony conviction and
2. SRR to identify the reasons for the probation, good behavior or suspended sentence violations.

THE RULES²

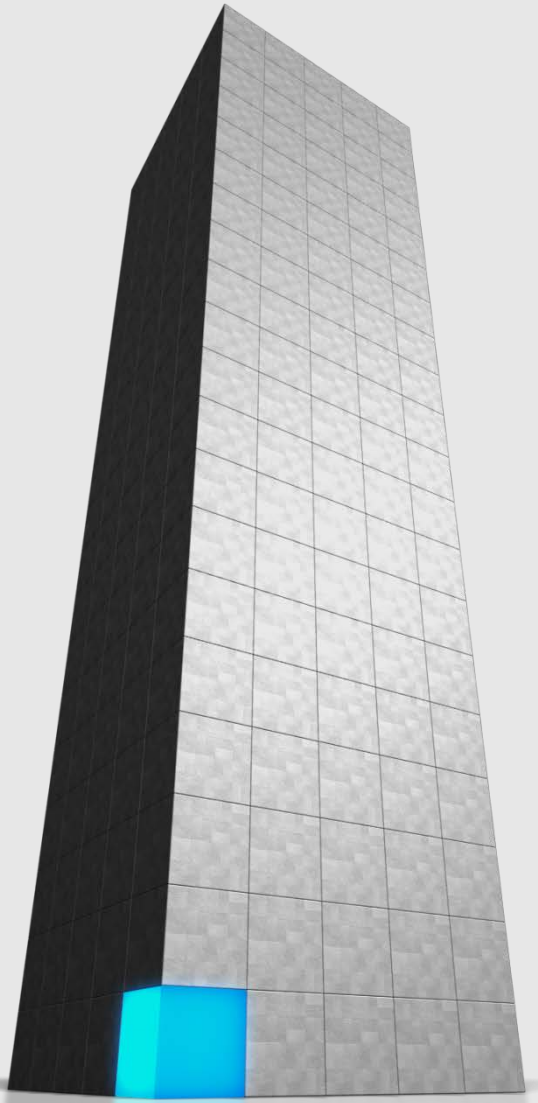
Guidelines do not apply under the following circumstances:

- A. Condition 1
- B. First Offender (§ 18.2-251)
- C. Deferred Finding
- D. Parole Eligible Cases*
- E. Misdemeanor Cases*
- F. Local Probation for Felonies or Misdemeanors*

*Sentencing Revocation Report must be submitted

Within 30 Days of Hearing/Sentencing

If Condition 1 is not cited, then the SRR should be prepared and attached to the probation violation guidelines and submitted to the court, through locally established procedures, no more than thirty (30) days prior to the violation hearing. In this case, the SRR and probation guidelines cannot be prepared outside the 30 days. **Any forms prepared in advance are invalid and must be updated and completed within the established time frames before being submitted to the court.** There is no timeframe for completing the SRR for a Condition 1, new law conviction.



THE RULES HAVE A PURPOSE

- 1 Objective:**
Same Recommendation for the Same Violation & Behavior
- 2 Function:**
Instrument Should be Used as Researched and Designed
- 3 Consistency:**
Factors are Time Sensitive and Must be Scored as Intended



Probation Violation Guidelines ❖ Section A

Offender Name:

◆ Original Disposition was Incarceration

If YES, add 1

◆ Original Felony Offense Type *select the type of most serious original felony offense*

- A. Person 15
- B. Property 3
- C. Traffic/Weapon 24
- D. Other 1
- E. Drug 13

Score

◆ Previous Adult Probation Revocation Events

- Number of Violation Events: 1 - 2 7
- 3 or more 10

◆ New Felony Arrests

- Number of Counts: 1 - 3 4
- 4 or more 18

◆ **Never Reported to/Unsuccessful Discharge from following Programs**

Community service, day reporting, employment programs and/or residential programs.....	15
Detention or Diversion Center.....	18

◆ **Condition Violated** *score only the violation receiving the highest points*

2. Fail to report any arrests within 3 days to probation officer	17
3. Fail to maintain employment/report changes in employment	17
4. Fail to report as instructed	18
5. Fail to allow probation officer to visit home or place of employment	17
6. Fail to follow instructions and be truthful and cooperative	18
7. Use alcoholic beverages to excess	17
8. Use, possess, distribute controlled substances or paraphernalia	31
9. Use, own, possess, transport or carry firearm	17
10. Change of residence or leave Commonwealth of Virginia	1
11. Abscond from supervision	34
Fail to follow special conditions (sex offender)	19
Fail to follow special conditions (other than sex offender conditions)	11

◆ **Absconded 13 months or more**

If YES, add 5

3 out of 7 Factors on Worksheet A Are Time Sensitive

Total Score

_____ If total is 36 or less, the recommendation is **Probation/No Incarceration.**

VIOLATION TIMELINE

Probation Violation Guidelines

MAJOR VIOLATION

- DRUG USE
- INSTRUCTIONS

FEB 2017

CAPIAS ISSUED

CANNOT BE LOCATED

MAR 2017

ABSCONDER

FUGITIVE

APR 2017

NEW OFFENSES

POSS. SCHD. I/II DRUG
DUI
ASSAULT ON LEO

JAN 2019

ARRESTED

PROBATION & CAPIAS

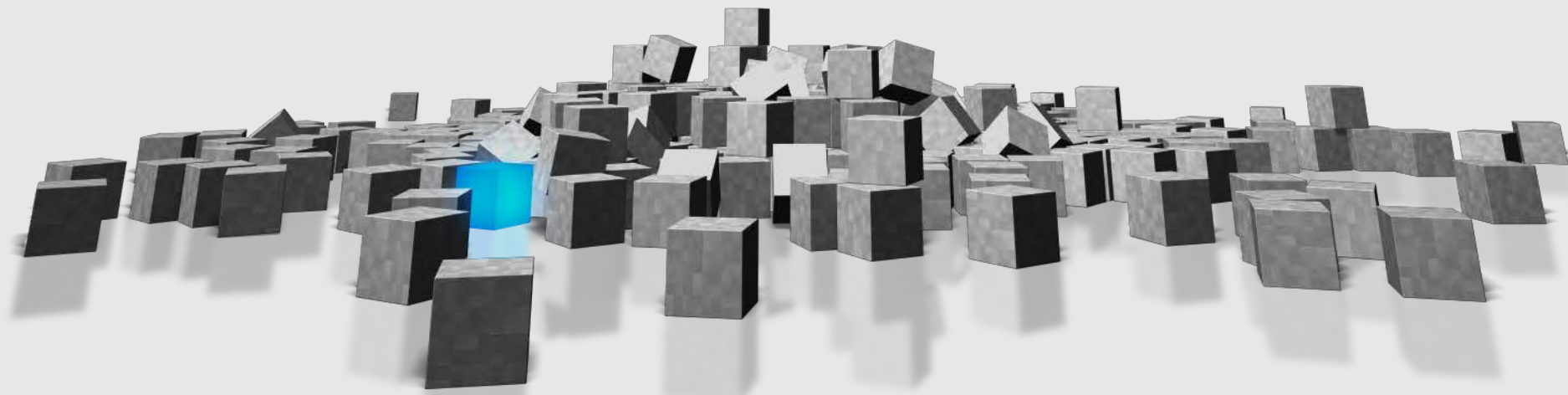
JAN 2019

Adopted Practice

Current Rules

THE RULES WHEN NOT FOLLOWED

- **Random Results**
- **Impacts the Credibility of the Instrument**
- **Inappropriate Recommendations**



- ***SWIFT!*** is designed based on the rules, & guidelines cannot be populated before a court date is established.
- If probation officers are alerted when defendants are arrested on capiases, when and how are they notified by the police and or court?
- Should the rules be enforced or should new procedures be developed?