



# DATA SOURCES

for future projects



PAST SOURCES



CURRENT SOURCES



FUTURE SOURCES

**&** WORKLOAD ISSUES  
FINANCIAL ISSUES





## Past Sources (Presentence Investigation Reports)

### § 19.2-299. Investigations and reports by probation officers in certain cases. —

A. When a person is tried in a circuit court (i) upon a charge of assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-266, and is adjudged guilty of such charge, unless waived by the court and the defendant and the attorney for the Commonwealth, the court may, or on motion of the defendant shall; or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall, unless waived by the defendant and the attorney for the Commonwealth, when the defendant pleads guilty or nolo contendere without a plea agreement or is found guilty by the court after a plea of not guilty or nolo contendere; or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of § 18.2-46.2, 18.2-46.3, 18.2-48, clause (2) or (3) of § 18.2-49, § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4:1, 18.2-67.5, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-361, 18.2-362, 18.2-366, 18.2-368, 18.2-370, 18.2-370.1, or 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of § 18.2-67.5, 18.2-67.5:2, or 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § 18.2-46.1, and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. Unless the defendant or the attorney for the Commonwealth objects, the court may order that the report contain no more than the defendant's criminal history, any history of substance abuse, any physical or health-related problems as may be pertinent, and any applicable sentencing guideline worksheets.



# Past Sources (Presentence Investigation Reports)

## Selected Amendments to the *Code of Virginia*

**The 1995 amendments:** upon a felony charge or upon a charge of assault and battery in violation of §§ 18.2-57, 18.2-57.1 or § 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-266, and is adjudged guilty of such charge, the court may, or on the motion of the defendant shall, before imposing sentence direct a probation officer of such court to thoroughly investigate

**The 1997 amendments** substituted "maiming or driving while intoxicated in violation of § 18.2-51.4 or § 18.2-266" for "driving while intoxicated in violation of § 18.2-266"



## Past Sources (Presentence Investigation Reports)

The 1999 amendments: the court **may**, or on motion of the defendant **shall**, or (ii) upon a felony charge, the court may when there is a plea agreement between the defendant and the Commonwealth and **shall** when the defendant pleads guilty without a plea agreement or is found guilty by the court after a plea of not guilty, ~~before imposing sentence~~ direct a probation officer of such court to thoroughly investigate



# Past Sources (Presentence Investigation Reports)

**The 2001 amendments:** (ii) upon a felony charge **not set forth in subdivision (iii) below**, the court may when there is a plea agreement between the defendant and the Commonwealth and shall when the defendant pleads guilty without a plea agreement or is found guilty by the court after a plea of not guilty, **or (iii) the court shall** when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.2:1, 18.2-67.3, 18.2-67.4:1, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-358, 18.2-361, 18.2-362, 18.2-366, 18.2-367, 18.2-368, 18.2-370, 18.2-370.1, or § 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of §§ 18.2-67.5, 18.2-67.5:2, or § 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate



## Past Sources (Presentence Investigation Reports)

**The 2003 amendments:** Unless waived by the court and the defendant and the attorney for the Commonwealth,

**The 2004 amendments:** (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of §§ 18.2-46.2, 18.2-46.3, 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.2:1, 18.2-67.3, 18.2-67.4:1, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, ~~18.2-358,~~ 18.2-361, 18.2-362, 18.2-366, ~~18.2-367,~~ 18.2-368, 18.2-370, 18.2-370.1, or § 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of §§ 18.2-67.5, 18.2-67.5:2, or § 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § 18.2-46.1





## Past Sources (Presentence Investigation Reports)

**The 2005 amendments:** Counsel for the accused may provide the accused with a copy of the presentence report. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been provided with a copy of the presentence report by his counsel or advised of its contents and be given the right to cross-examine the investigating officer

**The 2006 amendments:** Unless the defendant or the attorney for the Commonwealth objects, the court may order that the report contain no more than the defendant's criminal history, any history of substance abuse, any physical or health-related problems as may be pertinent, and any applicable sentencing guideline worksheets. This expedited report shall be subject to all the same procedures as all other sentencing reports and sentencing guidelines worksheets.

*Short PSI – Limited Information*



# Past Sources (Presentence Investigation Reports)

*Access to PSI*

**The 2010 amendments:** Subject to the limitations set forth in § 37.2-901, any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person (i) is charged with a felony subsequent to the time of the preparation of the report or (ii) has been convicted of the crime or crimes for which the report was prepared and is pursuing a post-conviction remedy.

*Limits Requirement*

**The 2017 amendments:** (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall, unless waived by the defendant and the attorney for the Commonwealth, when the defendant pleads guilty or nolo contendere without a plea agreement or is found guilty by the court after a plea of not guilty or nolo contendere;



# Past Sources (Presentence Investigation Reports)

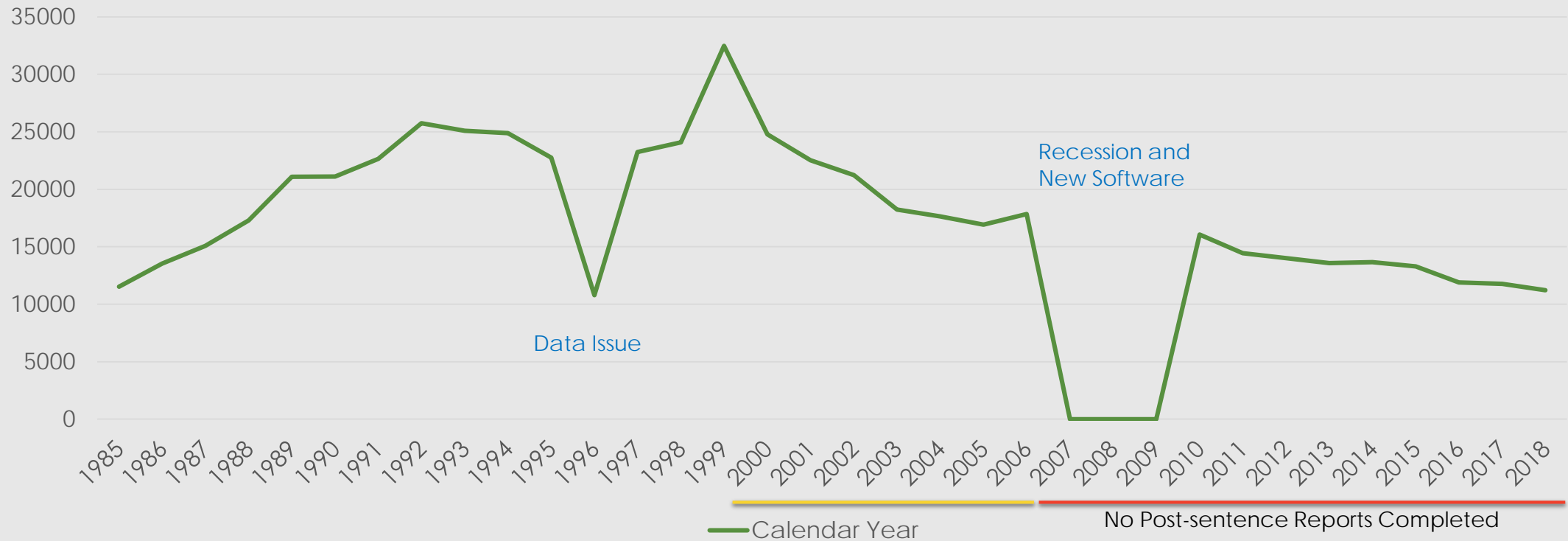
*Access to PSI*

**The 2019 amendments:** Such report shall be made available for review without a court order to incarcerated persons who are eligible for release by the Virginia Parole Board, or such person's counsel, pursuant to regulations promulgated by the Virginia Parole Board for that purpose.



# Past Sources (Presentence Investigation Reports)

Presentence Investigation Reports by Calendar Year





# Past Sources (Presentence Investigation Reports)

44.2%

P&P District	Probation Area	CY2018 PSIs	CY2018 SG	% with PSI*
31	Chesapeake P&P*	821	678	121.1%
10	Arlington P&P*	394	343	114.9%
35	Manassas P&P	616	623	98.9%
29	Fairfax P&P	1055	1155	91.3%
36	Alexandria P&P	111	134	82.8%
6	Suffolk P&P	292	361	80.9%
9	Charlottesville P&P	422	522	80.8%
14	Danville P&P	430	549	78.3%
34	Williamsburg P&P	321	457	70.2%
37	Rocky Mount P&P	93	134	69.4%
30	Hampton P&P	232	381	60.9%
4	Accomac P&P	90	155	58.1%
22	Martinsville P&P	288	496	58.1%
2	Norfolk P&P	519	921	56.4%
19	Newport News P&P	320	588	54.4%
25	Leesburg P&P	302	556	54.3%
5	Gloucester P&P	139	259	53.7%
43	Tazewell P&P	214	412	51.9%
42	Franklin P&P	63	124	50.8%
8	South Boston P&P	224	447	50.1%
26	Culpeper P&P	179	386	46.4%
23	Virginia Beach P&P	550	1247	44.1%

P&P District	Probation Area	CY2018 PSIs	CY2018 SG	% with PSI*
15	Roanoke P&P	371	849	43.7%
3	Portsmouth P&P	127	305	41.6%
13	Lynchburg P&P	357	881	40.5%
33	Warsaw P&P	69	174	39.7%
7	Petersburg P&P	116	306	37.9%
21	Fredericksburg P&P	506	1409	35.9%
27	Chesterfield P&P	375	1058	35.4%
18	Norton P&P	228	724	31.5%
32	Henrico P&P	349	1117	31.2%
38	Emporia P&P	128	443	28.9%
41	Ashland P&P	151	526	28.7%
40	Fincastle P&P	74	350	21.1%
20	Bedford P&P	32	159	20.1%
24	Farmville P&P	64	397	16.1%
12	Staunton P&P	172	1148	15.0%
1	Richmond P&P	92	823	11.2%
11	Winchester P&P	87	790	11.0%
17	Abingdon P&P	87	891	9.8%
28	Radford P&P	59	647	9.1%
16	Wytheville P&P	52	628	8.3%
39	Harrisonburg P&P	44	793	5.5%
All	Total	11215	25346	44.2%

\* Data issues caused by creation of multiple draft PSIs and the failure to submit SG forms to VCSC.



## Current Sources

- Sentencing Guidelines Database
  - Sentencing information
  - Factor information
  - Departure reasons
- Court Data (Except for Fairfax and Alexandria Circuit Court)
- Virginia criminal history from the State Police
- Presentence Investigation Reports
- Special Studies



## Future Sources

- National Criminal History Data
  - VCSC continues to work with other commissions
- Special Studies
  - DOC is excellent at providing electronic data, but data is not always based on sentencing date (i.e. behavior in prison)
  - Commonwealth's Attorneys' files
  - Court records



# Future Sources

- Court Records
  - Little detail, unless statement of facts included
  - No distinction between typical cases and extreme mitigation or aggravating cases
- Standardizing Court Records in Criminal Cases
  - Legislation to require written statement of facts to be included in file (prepared by the Commonwealth's Attorney)
  - Provide VCSC staff access to all courts (OCRA and paper files)
  - Establish Rule of Court to require written statement of facts





# Future Sources

Utilize What Is Available Now



Legislative Solution

Rule of Court

PROCEDURE

# RULE OF COURT

**STEVEN DALLE MURA** – DIRECTOR OF LEGAL RESEARCH  
**KRISTI S. WRIGHT** – DIRECTOR OF LEGISLATIVE & PUBLIC RELATIONS

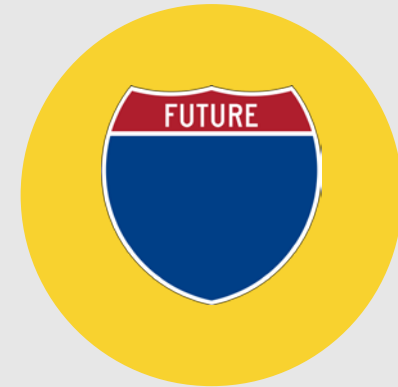
# DATA SOURCES FOR FUTURE PROJECTS



PAST SOURCES



CURRENT SOURCES



FUTURE SOURCES

**HOW DOES THE VCSC CAPTURE SENTENCING DATA IN 2020 AND BEYOND?**