



• Virginia Criminal Sentencing Commission

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Meeting of the Virginia Criminal Sentencing Commission

September 3, 2025

10:00 am – 12:00 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, Marcus Elam, Bethany Harrison, Judge Robert J. Humphreys, Maria Jankowski, K. Scott Miles, Nancy Parr, Judge Tania Saylor, Judge Bryant L. Sugg, Theo Stamos and Judge Victoria A.B. Willis

Members Attending Virtually*:

Judge Steven C. Frucci – Reason cited: Principal residence is more than 60 miles from the meeting location / Participation location: Virginia Beach, Va

Senator Russet Perry – Reason cited: Principal residence is more than 60 miles from the meeting location / Participation location: Leesburg, Va

Dr. Michon Moon – Reason cited: Member has a temporary disability or other medical condition that prevents the member's physical attendance

Members Absent: Judge Jack S. Hurley

WELCOME

Before calling the meeting to order, Chairman Judge Hupp welcomed the Commission members and introduced two new members. He announced that the *Code of Virginia* was recently amended to require a representative from the Indigent Defense Commission to serve as a standing member. Maria Jankowski, Executive Director of the Indigent Defense Commission, will fulfill that role. Judge Hupp also welcomed Theo Stamos, Deputy Attorney General for the Criminal Division, who will serve as the Attorney General's representative to the Commission. The meeting commenced promptly at 10:00 a.m.

AGENDA

The meeting agenda is available at: <http://www.vcsc.virginia.gov/2025Meetings/AgendaSep0325.pdf>

APPROVAL OF MINUTES FROM LAST COMMISSION MEETING

Minutes from the meeting held on June 11, 2025, were approved as submitted. The minutes are available at: <http://www.vcsc.virginia.gov/2025Meetings/Minutes060925.pdf>

CLOSED SESSION

Judge Moreau moved that the Virginia Criminal Sentencing Commission enter a closed session to discuss personnel matters and receive legal advice (Ron Regnery, Assistant Executive Secretary and Counsel of the Supreme Court of Virginia) concerning the acting Executive Director of this body. Judge Humphreys seconded the motion. The Commission then convened in closed session. Upon returning to open

session, Judge Moreau affirmed that the members had discussed only the matters identified in the motion to enter the closed session.

During the closed session, the commission unanimously approved (16-0) the appointment of Jody Fridley as Executive Director effective September 10, 2025. Judge Hupp, Judge Moreau, Delegate Rae C. Cousins, Marcus Elam, Judge Frucci, Bethany Harrison, Judge Humphreys, Maria Jankowski, Scott Miles, Michon Moon, Nancy Parr, Senator Perry, Judge Saylor, Theo Stamos, Judge Sugg and Judge Willis voted in favor.

PROPOSED FRAUD AND LARCENY GUIDELINES

Presentation link: <http://www.vcsc.virginia.gov/2025Meetings/FrdandLarWS090325.pdf>

Mr. Fridley, the Commission's Deputy Director, said the staff closely monitors the sentencing guidelines system and, each year, deliberates upon possible modifications to the guidelines. Guidelines modifications adopted by the Commission must be presented in its annual report, due to the General Assembly each December 1. He encouraged members to ask questions about the recommendations and provide feedback on implementation and design. If the proposal is approved, staff will conduct a quality control review of the syntax, trainers will prepare instructions, IT will address any implementation issues in SWIFT, and staff will develop the Recommendation C Tables. Members will have another opportunity to review the recommendations and tables on November 6, 2025, with any changes requiring a final vote. If the proposal is not approved, staff will continue refining the models and recommendations.

Mr. Barnes, the Commission's Research Associate, provided an overview of the new Fraud worksheet. At its June 2025 meeting, the Commission approved a study designed to reanalyze fraud and larceny cases and completely revise the Fraud and Larceny worksheets. A stratified random sample of eligible cases was drawn from the fiscal year FY2021 through FY2025 Sentencing Guidelines database. Mr. Barnes displayed the proposed Guidelines Section A and C worksheets.

Nancy Parr made a motion to adopt this recommendation. The motion was seconded by Judge Humphreys. With no further discussion, the Commission voted 15 in favor with one abstention.

Mr. Massingill, the Commission's Research/Training Associate, provided an overview of the new Larceny worksheet. Specifically for the Larceny Guidelines, the Commission aimed to better reflect current sentencing practices following changes to the felony threshold for larceny offenses. The threshold for misdemeanor larceny escalating to felony was raised from \$200 to \$500 in 2018, and then from \$500 to \$1,000 in 2020. These changes affected the scoring in the current Larceny Guidelines, leading to inconsistent application and recommendations.

Following the standard set by last year's successful reanalysis of the robbery guidelines, this reanalysis of the larceny guidelines aimed to generate a Worksheet A, which would provide a recommendation of incarceration/no incarceration, and a Worksheet C, which would provide a recommended sentence, regardless of whether that sentence is served in jail or prison. Mr. Massingill displayed the proposed Larceny guidelines Section A and C worksheets.

Judge Humphreys made a motion to adopt this recommendation. The motion was seconded by Ms. Harrison. With no further discussion, the Commission voted 16-0 in favor.

NONVIOLENT OFFENDER RISK ASSESSMENT FOR FRAUD AND LARCENY

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

Dr. Chang Kwon, the Commission's Chief Methodologist, discussed the Nonviolent Offender Risk Assessment instrument that has been incorporated into the Larceny and Fraud Guidelines since 2001. The instrument is required by § 17.1-803. There is a need to revisit the Nonviolent Offender Risk Assessment (NVRA) instrument due to several developments since the last re-validation study. Some Fraud and Larceny felony offenses are now affected by changes in the felony threshold, which increased from \$200 to \$500 in 2018 and from \$500 to \$1,000 in 2020. Additionally, the COVID-19 pandemic significantly impacted court operations and judicial practices. These factors, along with the potential emergence of new patterns or practices, suggest that the NVRA may require updating to remain accurate and relevant.

The case selection approach identifies current Larceny and Fraud offenders using the most recent data. These offenders are then matched with individuals from earlier data who share very similar characteristics. This method allows for a follow-up study that reflects the current cohort of offenders while enabling meaningful comparisons over time.

The testing of scoring factors in the current model based on the new study data indicates that prior adult felony convictions and legally restrained status at time of offense are not found to be statistically significant, and their significances are often unstable when the model was retested based on certain subsets of the data. Gender is another factor that poses the higher level of multicollinearity with other socio-economic factors, so its statistical significance is often not stable throughout the subsequent re-testing of the model. Therefore, staff recommends taking out these three factors while preserving existing factors of prior incarceration and offender age. He noted the revised model proposes adding two additional legal factors: prior felony person convictions and criminal arrest within last 12 months. These two additional factors are consistently found to be statistically significant in the model. Dr. Kwon displayed the new recommended risk assessment worksheet.

The proposed worksheet establishes the total score threshold which is in line with the legislative goal of diverting 25% of nonviolent offenders from an active incarceration into other types of sanctions. Based on the data analysis, applying the recommended risk assessment worksheet would result in around 27% of larceny and fraud offenders being recommended for alternative punishment.

Nancy Parr made a motion to adopt this recommendation. The motion was seconded by Judge Humphreys. With no further discussion, the Commission voted 16-0 in favor.

FEE PROCESS FOR REQUESTING OFFICER OF THE COURT RECORD ACCESS (OCRA) ACCESS FOR STAFF

Presentation link: <http://www.vcsc.virginia.gov/2025Meetings/OCRAVCSC%20Staff.pdf>

Mr. Marc Leslie, the Commission's Research Associate, provided a brief overview of the process for requesting OCRA Access for all staff. He began by saying, in order to use the OCRA system, Commission staff must complete hundreds of applications and have them notarized. Mr. Leslie stated that circuit court clerks, in most jurisdictions, have granted Commission staff access to OCRA, which allows staff to access nonconfidential scanned court records. Using this system, staff can quickly resolve case-by-case Guidelines or research issues without contacting the clerks. Currently, each Commission staff member has to sign an OCRA agreement with each individual clerk. This adds up to hundreds of OCRA agreements that must be completed and notarized, and many clerks require this be done annually. Mr. Leslie stated that it would be much more efficient to sign one OCRA agreement with a clerk that covers all of our staff who need access. Senator Perry will work on potential legislative solutions to improve access to court data for the commission.

MISCELLANEOUS ITEMS

Mr. Fridley reminded members of the remaining 2025 meeting date: November 6.

He also reported that the National Association of Sentencing Commissions (NASC) has asked Virginia to host its annual conference in 2027 or 2028. He asked for the Commission members thoughts on the matter.

He noted that the Commission will review § 17.1-805 following the lunch break.

Finally, Judge Hupp recognized Meredith Farrar-Owens, who recently retired, and presented her with a gift from the Commission in appreciation of her years of service.

PUBLIC COMMENT

No member of the public wished to provide comment.

With no comments and there being no further business, the Commission adjourned at 12:30p.m.

Sentencing Commission Meeting Recording

NEXT VCSC MEETING:

Tentative Date: Thursday, November 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