Study of Child Pornography and Electronic Solicitation of Minors Crimes in Virginia
Request by Attorney General

- In April 2006, the Commission received a letter from Attorney General Robert McDonnell asking the Commission to consider establishing sentencing guidelines for child pornography and online child exploitation offenses.
  - General McDonnell expressed his desire for consistent and appropriate punishment for offenders committing these crimes and his concern that sentences in these cases have become increasingly disparate.
- The Commission considered General McDonnell’s request at its June meeting and approved a special study of these offenses to determine if guidelines are feasible.
Federal Cases from Virginia
Federal Cases from Virginia

- Staff reviewed data from the US Sentencing Commission
  - Virginia cases involving sexual abuse, exploitation, prostitution or pornography offenses (FY1999-2003)
- Total of 128 cases identified
  - Nearly 81% of the federal cases originated in Eastern District of Virginia
  - 19% of the federal cases were related to sexual abuse, including transportation with intent to engage in illicit sexual conduct (US Code 2423B)
  - 81% of the federal cases were related to pornography, material involving sexual exploitation of minors, or prostitution
- Overall, 99% of the federal offenders received a prison term.
- In sexual abuse cases, the median sentence was 36 months.
- In pornography/prostitution cases, the median sentence was 30 months.
Federal Data and Virginia’s Sentencing Guidelines

- While informative, federal data cannot be used to assess the feasibility of adding child pornography and online solicitation of minors crimes to Virginia’s guidelines system.

- Virginia’s sentencing guidelines reflect historical sentencing practices in circuit courts around the Commonwealth.

- Development of Virginia’s sentencing guidelines has never included federal case data.
Virginia Circuit Court Cases
Offenses included in the Guideline Analysis

- **Convictions for child pornography**
  - Possession of child pornography (§ 18.2-374.1:1)
    - Class 6 felony – first offense
    - Class 5 felony – second or subsequent offense
  - Enticement of minor to perform – Class 5 felony (§ 18.2-374.1B1)
  - Production of sexually explicit materials involving minor Class 5 felony (§ 18.2-374.1B2)
  - Participation in filming – Class 5 felony (§ 18.2-374.1B3)
  - Sale or distribution – Class 5 felony (§ 18.2-374.1B4)
  - Finance – Class 4 felony (§ 18.2-374.1C)
  - Permitting minors in obscene performances, subsequent offense – Class 6 felony (§ 18.2-379)
- **Production or possession of obscene pictures for sale – second or subsequent offense – Class 6 felony (§ 18.2-374)**
Offenses included in the Guideline Analysis

- Convictions for electronic/online solicitation of minors
  - Electronic means for procuring minors for obscene material, etc. – Class 6 felony (§ 18.2-374.3A)
  - Electronic means to solicit minors for prostitution, sodomy, etc. – Class 5 felony (§ 18.2-374.3B)
Data Sources

- **Pre/Post-Sentencing Investigation (PSI) report database**
  - Reports are available for most offenders sentenced in circuit courts
  - Reports contain detail on offense, offender, victim and criminal history
  - FY2002 – FY2006 (incomplete)

- **Local Inmate Data System (LIDS) database**
  - Database of prisoners entering and exiting all local and regional jails in Virginia
  - No offense detail, victim information, or criminal history
  - FY2002 – FY2006
Special Data Collection Completed

- The LIDS database was used to identify additional offenders not found in the PSI data.
- Staff requested information from Commonwealth’s attorneys’ files
- Data collection instrument designed to record detail that may affect sentencing outcomes
  - Was the case the result of a police operation?
  - Did the offender actually meet or arrange to meet the victim?
  - What was the victim’s age?
  - Were there multiple victims?
  - Was the offender a registered sex offender?
- Criminal history was requested and received from State Police
## Cases Analyzed

<table>
<thead>
<tr>
<th>Offense</th>
<th>Seriousness</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electronic means to solicit minors for sodomy, etc. (§ 18.2-374.3 B)</td>
<td>Class 5 felony</td>
<td>38</td>
<td>24%</td>
</tr>
<tr>
<td>Electronic means for procuring minors for obscene material (§ 18.2-374.3 A)</td>
<td>Class 6 felony</td>
<td>29</td>
<td>18%</td>
</tr>
<tr>
<td>Possession of child pornography - 1st offense (§ 18.2-374.1:1 A)</td>
<td>Class 6 felony</td>
<td>28</td>
<td>17%</td>
</tr>
<tr>
<td>Produce sexually explicit materials involving minor (§ 18.2-374.1B2)</td>
<td>Class 5 felony</td>
<td>25</td>
<td>16%</td>
</tr>
<tr>
<td>Possession of child pornography - 2nd offense (§ 18.2-374.1:1 D)</td>
<td>Class 5 felony</td>
<td>16</td>
<td>10%</td>
</tr>
<tr>
<td>Participate in filming sexually explicit material of minor (§ 18.2-374.1 B3)</td>
<td>Class 5 felony</td>
<td>9</td>
<td>6%</td>
</tr>
<tr>
<td>Sell, give, distribute or transmit sexually explicit material of minor (§ 18.2-374.1 B4)</td>
<td>Class 5 felony</td>
<td>8</td>
<td>5%</td>
</tr>
<tr>
<td>Entice minor to perform in sexually explicit material (§ 18.2-374.1 B1)</td>
<td>Class 5 felony</td>
<td>3</td>
<td>2%</td>
</tr>
<tr>
<td>Finance sexually explicit material involving minor (§ 18.2-374.1 C)</td>
<td>Class 4 felony</td>
<td>2</td>
<td>1%</td>
</tr>
<tr>
<td>Produce or possess obscene pictures for sale - 2nd offense (§ 18.2-374)</td>
<td>Class 6 felony</td>
<td>2</td>
<td>1%</td>
</tr>
<tr>
<td>Unlawful filming, videotaping, photographing, etc., minor (§ 18.2-386.1)</td>
<td>Class 6 felony</td>
<td>1</td>
<td>0%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td>161</td>
<td>100%</td>
</tr>
</tbody>
</table>
Child Pornography/Online Solicitation Cases by Disposition

- Prison 1 year or more: 43%
- Jail up to 12 mos.: 29%
- Probation/No Incar.: 28%

Number of cases = 161
## Child Pornography/Online Solicitation Cases by Disposition

<table>
<thead>
<tr>
<th>Crime Description</th>
<th>Probation/No Incar.</th>
<th>Jail up to 12 mos.</th>
<th>Prison 1 year or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Possession of child pornography - 2nd offense (16 cases)</td>
<td>6%</td>
<td>31%</td>
<td>63%</td>
</tr>
<tr>
<td>Class 4 &amp; Class 5 felony child pornography related offenses - except 2nd offense</td>
<td>19%</td>
<td>26%</td>
<td>55%</td>
</tr>
<tr>
<td>possession (47 cases)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electronic means to solicit minors for sodomy, etc. (38 cases)</td>
<td>24%</td>
<td>37%</td>
<td>39%</td>
</tr>
<tr>
<td>Class 6 felony child pornography related offenses (31 cases)</td>
<td>40%</td>
<td>30%</td>
<td>30%</td>
</tr>
<tr>
<td>Electronic means to procure minor for obscene material (29 cases)</td>
<td>45%</td>
<td>24%</td>
<td>31%</td>
</tr>
</tbody>
</table>

Note: Sentence data reflects the total effective sentence (imposed less suspended time) for all charges in the sentencing event.
Child Pornography/Online Solicitation Cases Resulting in Prison – Median prison sentence in months

- Possession of child pornography - 2nd offense (10 cases) - 48 months
- Class 4 & Class 5 felony child pornography related offenses - except 2nd offense possession (26 cases) - 42 months
- Class 6 felony child pornography related offenses (10 cases) - 35 months
- Electronic means to solicit minors for sodomy, etc. (15 cases) - 24 months
- Electronic means to procure minor for obscene material (9 cases) - 20 months

Note: Data represents only those cases resulting in a prison term. Sentence data reflects the median effective sentence (imposed less suspended time) including all charges in the sentencing event.
Online Solicitation of Minors Crimes in Virginia
Who is being convicted of online solicitation?

- Offenders under age 25: 27%
- Offenders age 25 to 40: 43%
- Offenders over age 40: 30%
- White offenders: 84%
- Male offenders: 100%
- Offenders with prior adult record: 28%
- Offenders with prior adult sex or obscenity conv.: 9%

Number of cases = 67
Case Facts

**Was the case the result of a police operation?**

- Electronic means to solicit minors for sodomy, etc. (38 cases) - 87%
- Electronic means to procure minor for obscene material (29 cases) - 79%

**Did the defendant make contact with a particular victim/police officer?**

- Electronic means to solicit minors for sodomy, etc. (38 cases) - 82%
- Electronic means to procure minor for obscene material (29 cases) - 59%
Case Facts

Did the defendant travel to meet an actual or assumed minor?

- Electronic means to solicit minors for sodomy, etc. (38 cases)
  - Within county/metro area: 50%
  - To another city/county: 13%
  - To another state: 5%

- Electronic means to procure minor for obscene material (29 cases)
  - Within county/metro area: 35%
  - To another city/county: 17%
  - To another state: 3%
Case Facts

What was the age of the actual or portrayed victim?

- Electronic means to solicit minors for sodomy, etc. (38 cases)
  - Age 11-12: 29%
  - Age 13-14: 16%
  - Age 15-17: 71%

- Electronic means to procure minor for obscene material (25 cases)
  - Age 11-12: 4%
  - Age 13-14: 16%
  - Age 15-17: 80%

What was the gender of the actual or portrayed victim?

- Electronic means to solicit minors for sodomy, etc. (38 cases)
  - Female: 97%
  - Male: 3%
  - Both: 0%

- Electronic means to procure minor for obscene material (28 cases)
  - Female: 86%
  - Male: 11%
  - Both: 3%

Note: Analysis includes only those cases for which actual or portrayed age or gender is known.
Case Facts

What, if any, sexual conduct occurred?

- Electronic means to solicit minors for sodomy, etc.
  - Touching: 5%
  - Exposure: 16%
  - Verbal (Phone): 11%
  - Written (E-mail): 82%
  (38 cases)

- Electronic means to procure minor for obscene material
  - Touching: 3%
  - Exposure: 24%
  - Verbal (Phone): 3%
  - Written (E-mail): 79%
  (29 cases)
Child Pornography-Related Offenses in Virginia
Who is being convicted for child pornography?

- Offenders under age 25: 21%
- Offenders age 25 to 40: 42%
- Offenders over age 40: 37%
- White offenders: 89%
- Male offenders: 100%
- Offenders with prior adult record: 52%
- Offenders with prior adult sex or obscenity conv.: 20%

Number of cases = 94
Was the case the result of a police operation?

- Possession of child porn - 2nd offense (16 cases): 19%
- Class 4/5 felony child porn offenses - except 2nd off possession (47 cases): 17%
- Class 6 felony child porn related offenses (31 cases): 19%
Besides police stings, how else do these crimes get discovered?

- **Possession of child porn - 2nd offense (16 cases):**
  - Reported: 25%
  - Computer Repair: 13%
  - Sex Abuse Case: 19%
  - Email: 6%

- **Class 4/5 felony child porn offenses - except 2nd offense possession (47 cases):**
  - Reported: 60%
  - Computer Repair: 4%
  - Sex Abuse Case: 4%
  - Email: 0%

- **Class 6 felony child porn related offenses (31 cases):**
  - Reported: 52%
  - Computer Repair: 7%
  - Sex Abuse Case: 3%
  - Email: 0%
Case Facts

What ages of children are depicted in the pornographic material?

- Infant (under 1): 6%
- Toddler (1 to 3): 6%
- Preschool (4 to 5): 12%
- School age (6 to 12): 21%
- Teenage (13 to 17): 56%

Note: Analysis includes only those cases for which age is reported (52 out of total 94 pornography cases studied).

What gender of children are depicted in the pornographic material?

- Female: 67%
- Male: 13%
- Both: 20%

Note: Analysis includes only those cases for which gender is reported (54 out of total 94 pornography cases studied).
Case Facts

What sexual conduct is depicted in the image(s)?

- Exposure: 100%
- Penetration: 55%
- Adults & minors: 34%
- Violence: 7%
- Defendant appears: 9%

Note: Analysis includes only those cases for which information on sexual conduct is reported (58 out of total 94 pornography cases studied).
Case Facts

What is the relationship between the offender and the subject of the sexually explicit material?

- Known: 28%
- Parent: 2%
- Step-parent: 2%
- Other relative: 5%
- Stranger: 1%
- Internet: 2%
- None: 62%

Note: Analysis includes only those cases for which information on relationship is reported (89 out of total 94 pornography cases studied).
In possession of pornography cases, how many images did the offender possess?

- 1 to 5: 33%
- 6 to 25: 37%
- 26 to 100: 10%
- More than 100: 20%

Note: Analysis includes only those cases for which age is reported (30 out of total 44 pornography possession cases studied).
Proposed Recommendations for Sentencing Guidelines
Proposals for Sentencing Guidelines

- Staff recommends adding child pornography and online solicitation of minors offenses to the Other Sexual Assault sentencing guidelines.
  - These guidelines encompass offenses such as indecent liberties, carnal knowledge and aggravated sexual battery.
  - Crimes of rape, forcible sodomy and object sexual penetration are not included in this offense category, but are captured on another guidelines worksheet.

- The proposals reflect the best fit for the historical data.

Steps
- Reviewed existing worksheet
- Tested various scoring scenarios
- Maximized compliance (and balance departures, if possible)
Because child pornography and online solicitation offenses were not included in the original risk assessment study, it is recommended that these offenders be excluded from risk assessment evaluation on Part 1 of Section A of the Other Sexual Assault Guidelines.
Proposed Recommendation - Section A (Part II)

<table>
<thead>
<tr>
<th>Other Sexual Assault - Section A (Part II)</th>
<th>Offender Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Primary Offense</strong></td>
<td>Score</td>
</tr>
<tr>
<td>A. Other than listed below (1 count)</td>
<td></td>
</tr>
<tr>
<td>B. Non-forcible sodomy, parent/grandparent to child or grandchild age 13 to 17 (1 count)</td>
<td>7</td>
</tr>
<tr>
<td>C. Non-forcible sodomy, no parental relationship</td>
<td>3</td>
</tr>
<tr>
<td>D. Indecent liberties with child</td>
<td></td>
</tr>
<tr>
<td>D. Indecent liberties with child 1 - 2 counts</td>
<td>2</td>
</tr>
<tr>
<td>D. Indecent liberties with child 3 counts</td>
<td>3</td>
</tr>
<tr>
<td>E. Non-forcible carnal knowledge of child age 13, 14 (statutory rape)</td>
<td></td>
</tr>
<tr>
<td>E. Non-forcible carnal knowledge of child age 13, 14 (statutory rape) 1 count</td>
<td>2</td>
</tr>
<tr>
<td>E. Non-forcible carnal knowledge of child age 13, 14 (statutory rape) 2 counts</td>
<td>3</td>
</tr>
<tr>
<td>E. Non-forcible carnal knowledge of child age 13, 14 (statutory rape) 3 counts</td>
<td>4</td>
</tr>
<tr>
<td>F. Aggravated sexual battery</td>
<td></td>
</tr>
<tr>
<td>F. Aggravated sexual battery 1 count</td>
<td>2</td>
</tr>
<tr>
<td>F. Aggravated sexual battery 2 counts</td>
<td>3</td>
</tr>
<tr>
<td>F. Aggravated sexual battery 3 counts</td>
<td>4</td>
</tr>
<tr>
<td>G. Incest with own child/grandchild (1 count)</td>
<td></td>
</tr>
<tr>
<td>G. Incest with own child/grandchild (1 count) 1 count</td>
<td>2</td>
</tr>
<tr>
<td>H. Incest with own child/grandchild age 13 to 17 (1 count)</td>
<td></td>
</tr>
<tr>
<td>H. Incest with own child/grandchild age 13 to 17 (1 count) 1 count</td>
<td>3</td>
</tr>
<tr>
<td>I. Sexual assault (1 count)</td>
<td></td>
</tr>
<tr>
<td>I. Sexual assault (1 count)</td>
<td>3</td>
</tr>
<tr>
<td><strong>Primary Offense Additional Counts</strong></td>
<td></td>
</tr>
<tr>
<td>Years: 5 - 26</td>
<td>1</td>
</tr>
<tr>
<td>Years: 27 - 50</td>
<td>2</td>
</tr>
<tr>
<td>Years: 51 or more</td>
<td>3</td>
</tr>
<tr>
<td><strong>Additional Offenses</strong></td>
<td></td>
</tr>
<tr>
<td>Years: Less than 1</td>
<td>0</td>
</tr>
<tr>
<td>Years: 1 - 26</td>
<td>1</td>
</tr>
<tr>
<td>Years: 27 - 50</td>
<td>2</td>
</tr>
<tr>
<td>Years: 51 or more</td>
<td>3</td>
</tr>
<tr>
<td><strong>Victim Less than Age 13 at Time of Offense</strong></td>
<td></td>
</tr>
<tr>
<td>If YES, add 5 to Total Score</td>
<td></td>
</tr>
<tr>
<td><strong>Victim Injury</strong></td>
<td></td>
</tr>
<tr>
<td>Threatened or emotional</td>
<td>2</td>
</tr>
<tr>
<td>Physical or serious physical</td>
<td>4</td>
</tr>
<tr>
<td><strong>Prior Convictions/Adjudications</strong></td>
<td></td>
</tr>
<tr>
<td>Years: Less than 3</td>
<td>0</td>
</tr>
<tr>
<td>Years: 3 - 18</td>
<td>1</td>
</tr>
<tr>
<td>Years: 19 - 31</td>
<td>2</td>
</tr>
<tr>
<td>Years: 32 - 44</td>
<td>3</td>
</tr>
<tr>
<td>Years: 45 or more</td>
<td>4</td>
</tr>
<tr>
<td><strong>Prior Felony Sexual Assault Convictions/Adjudications</strong></td>
<td></td>
</tr>
<tr>
<td>Number: 1</td>
<td>1</td>
</tr>
<tr>
<td>Number: 2</td>
<td>2</td>
</tr>
<tr>
<td>Number: 3</td>
<td>3</td>
</tr>
<tr>
<td>Number: 4</td>
<td>1</td>
</tr>
<tr>
<td>Number: 2 or more</td>
<td>2</td>
</tr>
<tr>
<td>Number: 3 or more</td>
<td>3</td>
</tr>
<tr>
<td><strong>Prior Incarcerations/Commitments</strong></td>
<td></td>
</tr>
<tr>
<td>If YES, add 3 to Total Score</td>
<td></td>
</tr>
<tr>
<td><strong>Legally Restrained at Time of Offense</strong></td>
<td></td>
</tr>
<tr>
<td>None</td>
<td>0</td>
</tr>
<tr>
<td>Other than parole/post-release, supervised probation or CCOA</td>
<td>2</td>
</tr>
<tr>
<td>Parole/post-release, supervised probation or CCOA</td>
<td>3</td>
</tr>
<tr>
<td><strong>Risk Assessment Score (From Section A Part I)</strong></td>
<td></td>
</tr>
<tr>
<td>Less than 28</td>
<td>0</td>
</tr>
<tr>
<td>28 or more (Level 1, 2, or 3)</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total Score</strong></td>
<td></td>
</tr>
</tbody>
</table>
| If total is 0 or less, go to Section B. If total is 9 or more, go to Section C. | ME
Proposed Recommendation - Section A (Part II)

Other Sexual Assault - Section A (Part II)

Other than listed below (1 count) .......................................................... 1

A. Non-forcible sodomy, parent/grandparent to child or grandchild age 13 to 17 (1 count) ......................................................... 7

B. Non-forcible sodomy, no parental relationship
   1 count .................................................................................................. 3
   2 counts ................................................................................................. 4
   3 counts ................................................................................................. 13

D. Indecent liberties with child
   1 - 2 counts ........................................................................................ 2
   3 counts ................................................................................................. 3

E. Non-forcible carnal knowledge of child age 13, 14 (statutory rape)
   1 count .................................................................................................. 2
   2 counts ................................................................................................. 8
   3 counts ................................................................................................. 12

F. Aggravated sexual battery
   1 count .................................................................................................. 3
   2 counts ................................................................................................. 6
   3 counts ................................................................................................. 9

H. Incest with own child/grandchild (1 count) ....................................... 3

I. Marital sexual assault (1 count) ......................................................... 3

J. Finance sexually explicit material involving minor (§ 18.2-374.1 C)
   Produce sexually explicit materials involving minor (§ 18.2-374.1 B2)
   Entice, etc., minor to perform in sexually explicit material (§ 18.2-374.1 B1)
   Participate in filming, etc., of sexually explicit material involving
   minor (§ 18.2-374.1 B3)
   Sell, give, distribute, transmit sexually explicit material involving
   minor (§ 18.2-374.1 B4) ........................................................................... 5

K. Electronic means for procuring minor for obscene material, etc. (§ 18.2-374.3 A)
   Electronic means to solicit minors for sodomy, etc. (§ 18.2-374.3 B)
   Possess obscene material - child pornography, 1st offense (§ 18.2-374.1:1 A) ........ 6

L. Possess obscene material - child pornography,
   2nd or subsequent offense (§ 18.2-374.1:1 A) ........................................... 9
**Proposed Recommendation - Section B**

**Other Sexual Assault - Section B**

**Primary Offense**
- A. Other than listed below (1 count)
- B. Aggravated sexual battery
  - 1 count: Score 1
  - 2 counts: Score 2
  - 3 counts: Score 3

**Primary Offense Additional Counts**
- Total the maximum penalties for counts of the primary not scored above
  - Years:
    - 5 - 7: Score 2
    - 8 - 11: Score 3
    - 12 - 15: Score 4
    - 16 - 19: Score 5
    - 20 - 22: Score 6
    - 23 - 26: Score 7

**Additional Offenses**
- Total the maximum penalties for additional offenses, including counts
  - Years:
    - Less than 1: Score 0
    - 1 - 2: Score 1
    - 3 - 4: Score 2
    - 5 - 11: Score 3
    - 12 - 15: Score 4
    - 16 - 19: Score 5
    - 20 - 22: Score 6

**Victim Less than Age 13 at Time of Offense**
- If YES, add 3

**Prior Convictions / Adjudications**
- Total the maximum penalties for the 5 most recent and serious prior record events
  - Years:
    - Less than 3: Score 0
    - 3 - 19: Score 1
    - 20 - 29: Score 2
    - 49 or more: Score 3

**Prior Incarcerations / Commitments**
- If YES, add 1

**Score the Following Factors Only if Primary Offense at Conviction is Marital Sexual Assault**
- **Victim Injury**
  - Physical or Serious Physical: If YES, add 2
- **Weapon Used, Brandished, Feigned or Threatened**
  - If YES, add 1

**Total Score**

*See Other Sexual Assault Section B Recommendation Table to correct score to guidelines sentence.*
### Other Sexual Assault - Section B

<table>
<thead>
<tr>
<th>Primary Offense</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Other than listed below (1 count)</td>
<td>2</td>
</tr>
<tr>
<td>B. Aggravated sexual battery</td>
<td>3</td>
</tr>
<tr>
<td>1 count</td>
<td>5</td>
</tr>
<tr>
<td>2 counts</td>
<td>7</td>
</tr>
<tr>
<td>C. Finance sexually explicit material involving minor (§ 18.2-374.1 C)</td>
<td>0</td>
</tr>
<tr>
<td>Produce sexually explicit materials involving minor (§ 18.2-374.1 B2)</td>
<td></td>
</tr>
<tr>
<td>Entice, etc., minor to perform in sexually explicit material (§ 18.2-374.1 B1)</td>
<td></td>
</tr>
<tr>
<td>Participate in filming, etc., of sexually explicit material involving minor</td>
<td></td>
</tr>
<tr>
<td>minor (§ 18.2-374.1 B3)</td>
<td></td>
</tr>
<tr>
<td>Sell, give, distribute, transmit sexually explicit material involving minor</td>
<td></td>
</tr>
<tr>
<td>minor (§ 18.2-374.1 B4)</td>
<td></td>
</tr>
<tr>
<td>Electronic means for procuring minor for obscene material, etc. (§ 18.2-374.3 A)</td>
<td></td>
</tr>
<tr>
<td>Electronic means to solicit minors for sodomy, etc. (§ 18.2-374.3 B)</td>
<td></td>
</tr>
<tr>
<td>Possess obscene material - child pornography, 1&lt;sup&gt;st&lt;/sup&gt; offense (§ 18.2-374.1:1 A)</td>
<td>1</td>
</tr>
<tr>
<td>Possess obscene material - child pornography, 2&lt;sup&gt;nd&lt;/sup&gt; or subsequent offense (§ 18.2-374.1:1 A)</td>
<td></td>
</tr>
</tbody>
</table>
### Proposed Recommendation - Section B Recommendation Table

<table>
<thead>
<tr>
<th>Score</th>
<th>Guideline Sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 2</td>
<td>Probation/No Incarceration</td>
</tr>
<tr>
<td>3 – 4</td>
<td>Incarceration 1 Day up to 3 Months</td>
</tr>
<tr>
<td>5+</td>
<td>Incarceration 3 to 6 Months</td>
</tr>
</tbody>
</table>
Proposed Recommendation - Section C
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Other Sexual Assault ◆ Section C

◆ Primary Offense

A. All attempted or conspired sexual assault (1 count) ........................................ 24 ........ 12 ........ 6
B. Completed sexual assault other than listed below (1 count) ...................... 36 ........ 18 ........ 9
C. Non-forcible sodomy, no parental relationship
   1 count ........................................ 24 ........ 12 ........ 6
   2 counts ...................................... 40 ........ 20 ........ 10
   3 counts ...................................... 104 .......... 52 ........ 26
D. Non-forcible sodomy, parent/grandparent to child/grandchild age 13 - 17
   1 count ...................................... 36 ........ 18 ........ 9
E. Indecent liberties with child
   1 count ...................................... 24 ........ 12 ........ 6
   2 counts ...................................... 40 ........ 20 ........ 10
   3 counts ...................................... 104 .......... 52 ........ 26
F. Non-forcible carnal knowledge of child age 13 - 14 (statutory rape)
   1 count ...................................... 36 ........ 18 ........ 9
G. Incest with own child/grandchild (1 count) ........................................ 104 .......... 52 ........ 26
H. Incest with own child/grandchild age 13 - 17 (1 count) ...................... 104 .......... 52 ........ 26
I. Aggravated sexual battery
   1 count ...................................... 90 ........ 60 ........ 34
   2 counts ...................................... 132 .......... 88 ........ 50
   3 counts ...................................... 288 .......... 192 .......... 108
J. Participate in filming, etc., of sexually explicit material involving minor (§ 18.2-374.1 B3)
   Electronic means for procuring minor for obscene material, etc. (§ 18.2-374.3 A)
   Electronic means to solicit minors for sodomy, etc. (§ 18.2-374.3 B)
   Possess obscene material - child pornography, 1st offense
   (§ 18.2-374.1:1 A) ........................................ 68 ........ 34 ........ 17 (1 count)
K. Produce sexually explicit materials involving minor (§ 18.2-374.1B2)
   Possess obscene material - child pornography, 2nd or subsequent offense (§ 18.2-374.1:1 D)
   Sell, give, distribute, transmit sexually explicit material involving minor (§ 18.2-374.1 B4)
   Finance sexually explicit material - minor (§ 18.2-374.1 C) .......... 100 ........ 50 ........ 25 (1 count)

Score

Offender Name: ____________________________

Prior Record Classification
☐ Category I  ☐ Category II  ☐ Other
Proposed Recommendation

Amend the Other Sexual Assault sentencing guidelines to add child pornography and online solicitation of minors offenses