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Sentencing Revocation Report

Background

Under § 17.1-803(7) of the *Code of Virginia*, it is the responsibility of the Commission to monitor sentencing practices in felony cases throughout the Commonwealth. While the Commonwealth maintains a wide array of sentencing information on felons at the time they are initially sentenced in circuit court, information on the re-imposition of suspended prison time for felons returned to court for violation of the conditions of community supervision was, until 1997, largely unavailable and its impact difficult to assess.

In 1997, the Commission teamed with the Department of Corrections (DOC) to implement a procedure for systematically gathering data on the reasons for, and the outcome of, community supervision violation proceedings in Virginia's circuit courts. With DOC's assistance, the Commission developed a simple one-page form (the Sentencing Revocation Report, or SRR) to capture this information. Following the violation hearing, the completed form is submitted to the Commission.

The Commission believes that the re-imposition of suspended time is a vital facet in the punishment of offenders. Together, the SRR and the Commission's community corrections revocation data system serve as an important link in our knowledge of the sanctioning of offenders from initial sentencing through release from community supervision.

In 2010 the General Assembly included the requirement to complete and review the Sentencing Revocation Report in all suspended sentence, good behavior and probation violation cases and to review applicable Probation Violation Guidelines before sentencing. Below are the requirements included in the budget language.

Completion Responsibility

Offender, Court and Case Information

The Sentencing Revocation Report (SRR) is prepared for every capias, show cause or revocation request submitted to the court for an offender who has violated the conditions of a suspended sentence for a felony offense. This includes violations of probation, post-release supervision administered by the court, good behavior terms, community-based programs and suspended sentences. The Commonwealth's attorney or probation officer, whoever initiates the capias or revocation request, completes the front side of the SRR and forwards it to the court, through locally-established procedures. The front side of the SRR documents offender, court, and case information, including the reasons for capias, show cause or revocation requests. If Condition 1 is cited, "Fail to obey all Federal, State, and local laws and ordinances," then the SRR should be attached to the capias or revocation request.

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.

The judge must receive a SRR for every felony violation case. If none is available in the case file, either the attorney for the Commonwealth or probation officer must be prepared to provide a copy to the court.

Decision of the Court

- **Disposition** - The sentencing judge or his designee is responsible for completing the back side of the SRR. The back side of the SRR specifies the actual conditions violated, the decision of the court, and the sentence or other sanction imposed if the offender is found in violation. Complete the back page of the SRR even if the decision is to take the case under advisement or defer any action for a specific amount of time.

- **Preparation Errors** - If a preparation error is detected at sentencing, the Commission requests that the form be revised in order to incorporate the changes. *The ultimate responsibility for ensuring that the form is completed accurately rests with the judge.*

Mailing Responsibility

The Circuit Court Clerk is to forward the completed Sentencing Revocation Report (SRR) and a copy of the court order to the Virginia Criminal Sentencing Commission within five days following the entry of a final order of conviction and sentence. When the Probation Violation Guidelines are completed, the guidelines forms must be attached to the completed SRR. Forms are then mailed to: Virginia Criminal Sentencing Commission • 100 North Ninth Street • 5th Floor • Richmond, VA 23219

Worksheet Supplies

Commonwealth's attorneys and probation officers can contact the Commission for hard copies at 804.225.4398. Copies of the worksheets and instructions also are available on our website at www.vcsc.virginia.gov.

◆ Completing the Sentencing Revocation Report

This section of the SRR should be completed by a probation officer or attorney for the Commonwealth and submitted to the court, through locally established procedures. If Condition 1 is cited, "Fail to obey all Federal, State, and local laws and ordinances," then the SRR should be attached to the capias or revocation request.

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.

❶ Enter the offender's first, middle and last name.

❷ Fill in the offender's date of birth. If unknown, leave blank. If there are multiple birthdates reported, attempt to identify the "true" birthdate and enter only one.

❸ Fill in the offender's social security number. If unknown, leave blank. If there are multiple social security numbers, attempt to identify the "true" number and enter only one.

❹ Fill in the offender's Central Criminal Records Exchange (CCRE) number. If no Virginia number has been assigned by the State Police, leave blank.

❺ Enter the circuit number of the sentencing court.

❻ Enter the name of the city or county that the court serves.

❼ Enter the FIPS Code that corresponds to the city or county where the sentencing court is located. For a FIPS code listing, refer to Appendix F of the Sentencing Guidelines Manual.

❽ Enter the first and last name of the judge who will hear the revocation case.

❾ Identify the sentencing event or events for which the offender's suspended sentence is being revoked. Select the most serious original felony offense. The most serious offense is the conviction that has the highest statutory maximum penalty. If two or more offenses in a sentencing event carry the same statutory maximum penalty, select the most serious felony based on the following order: person crime, property crime, victimless crime (i.e., perjury), and drug crime.

- Record the offense description.
- Enter the VCC that corresponds to the offense description.
- Enter the original sentencing date corresponding to that offense.

❿ If a Pre/Post-Sentence Investigation (PSI) report was completed for the most serious felony offense using the Department of Corrections automated PSI system, enter the system-generated report number in the space provided.

⓫ Check the appropriate box to indicate the type of sanction the offender originally received. Jail or prison incarceration includes sentences to jail, prison or time served for any offense in the original sentencing event or events. Detention or Diversion Center Incarceration should be checked only if the offender was ordered to complete one of these programs and did not receive any active jail or prison time.

⓬ Check the appropriate boxes indicating what types of revocations are being considered by the court.

⓭ Check the appropriate boxes indicating the conditions that the offender is accused of violating.

⓮ If the offender has been convicted for a new law or ordinance violation, enter up to two Virginia Crime Codes (VCC) identifying the crimes. For out-of-state convictions use an analogous offense listed in the VCCs. If the arrest VCC is different from the conviction VCC, use the VCC that identifies the offense at conviction. In addition, indicate whether the conviction occurred in Virginia, outside of Virginia, or in violation of federal laws.

⓯ Check the appropriate box indicating the Probation Violation Guidelines recommendation, if applicable in the case.

The guidelines apply if the offender has violated the conditions of probation (or post-release supervision, if administered by the court) without violating a federal, state, or local law, or ordinance. Violations of Conditions 2 through 11 of the Conditions of Probation/Post-Release Supervision, and violations of any special conditions set by the court, are covered by the guidelines. A copy of the Conditions of Probation/Post-Release Supervision used by the Department of Corrections can be found in Appendix 1.

⓰ In some cases the guidelines recommendation may exceed the total amount of time that can be revoked and re-imposed by the court. When this occurs, check the box for "Recommendation Exceeds Revocable Time" and enter the total amount of revocable time for all violations for which the offender will be sentenced at the revocation hearing. This becomes the upper end of the guidelines recommended range. "Revocable time" refers to the total amount of suspended time that could be revoked. For purposes of the SRR, jail credit is irrelevant unless the defendant previously was sentenced to time served. In these cases, the local jail should have information on the amount of suspended time remaining for a defendant.

⓱ If the guidelines do not apply, check the appropriate box to indicate this. The guidelines do not apply under the following circumstances:

- The offender is found in violation of Condition 1 of the terms and conditions of Probation/Post-Release Supervision (i.e., the offender has failed to obey all federal, state, and local laws and ordinances).
- The offender is in violation of § 18.2-251 or § 18.2-258.1(H) (first offender status) or any deferred finding/sentence. For first offender violation cases or any deferred case, please prepare the appropriate Sentencing Guidelines Worksheet.
- The offender is on probation for a crime committed prior to January 1, 1995.
- The offender is revoked for something other than probation (i.e., good behavior).

Sentencing Revocation Report

❒ IMSP Case

Date Form Completed: _____

◆ OFFENDER

❶ First: _____ Middle: _____

Last: _____ Suffix: ___

❷ Date of Birth: ___ / ___ / ___ (Month / Day / Year) ❸ Social Security Number: ___ – ___ – ____

❹ SID/CCRE: _____

◆ COURT

❺ Judicial Circuit: ___ ❻ City/County: _____ ❼ FIPS Code: ___

❽ Judge's Name: _____

Office Use Only

❾ ◆ MOST SERIOUS ORIGINAL FELONY OFFENSE INFORMATION

Primary Offense _____ VCC ___ – ____ – __ Sentencing Date (Original) ___ / ___ / ___ (Month / Day / Year)

❿ PSI NUMBER: _____

⓫ ◆ ORIGINAL DISPOSITION INFORMATION

❒ No Incarceration ❒ Detention or Diversion Center Incarceration (no active incarceration) ❒ Jail or Prison

⓬ ◆ TYPE OF REVOCATION *(check all that apply)*

❒ Probation ❒ Post Release ❒ Good Behavior ❒ Suspended Sentence ❒ Community-Based Program

⓭ ◆ CONDITIONS CITED IN VIOLATION *(check all that apply)*

❒ 1. Fail to obey all Federal, State, and local laws and ordinances →
❒ 2. Fail to report any arrests within 3 days to probation officer
❒ 3. Fail to maintain employment or to report changes in employment
❒ 4. Fail to report as instructed
❒ 5. Fail to allow probation officer to visit home or place of employment
❒ 6. Fail to follow instructions and be truthful and cooperative
❒ 7. Use alcoholic beverages
❒ 8. Use, possess, distribute controlled substances or paraphernalia
❒ 9. Use, own, possess, transport or carry firearm
❒ 10. Change residence or leave State of Virginia without permission
❒ 11. Abscond from supervision
❒ Fail to follow special conditions (specify) _____

⓮ *Complete if there are any new law or ordinance convictions:*

VCCs for most serious convictions

___ – ____ – __

___ – ____ – __

Location of Arrest:

❒ Virginia ❒ Out of State or Federal

◆ VIOLATION GUIDELINES RECOMMENDATION

⓯ ❒ Probation/No Incarceration

❒ Incarceration *(Enter Range Below)*

Range ___ Years ___ Months ___ Days to ___ Years ___ Months ___ Days

⓰ ❒ Recommendation Exceeds Revocable Time of ___ Years ___ Months ___ Days

⓱ ❒ Probation Violation Guidelines Do Not Apply (check reason)

___ Condition 1 Violation
___ Deferred Finding/Sentence - ***Do not complete this form*** *(Complete original sentencing guidelines)*
___ Parole Eligible Case
___ Revocation Other Than Probation

◆ Final Decision/Disposition — Fill In After Sentence Has Been Pronounced

This section of the SRR should be completed by the sentencing judge or the judge's designee. All information should be completed prior to being mailed to the Virginia Criminal Sentencing Commission.

18 Check the appropriate box indicating the decision of the court.

Found in Violation of Conditions Cited – The court determines that the defendant violated all conditions cited in the capias, warrant or revocation request.

Found in Violation of the Following Conditions Cited - If the court determines that the defendant violated selected conditions of probation supervision, the court is asked to identify which conditions were violated (check all that apply).

Taken Under Advisement/Deferred – The court determines that no decision will be made at this point on the alleged violation. If the court takes the decision under advisement or defers the case on the condition that the defendant complete a program or follow instructions and that a subsequent violation would require another request for capias or revocation, then submit the Sentencing Revocation Report (and guidelines when appropriate) to the Commission. If the court takes the decision under advisement or defers the case until appropriate counsel can be selected or appointed, or for other court procedural issues, do not submit the Sentencing Revocation Report (with guidelines when appropriate) until after a decision is made.

Not in Violation - The court finds that the defendant did not violate any of the conditions cited in the capias or revocation request. See the "Sentence for Revocation" section to record if the defendant is continued under the same conditions or released from all supervision or restrictions.

19 Enter the years, months and days for the amount of revocable time that the court could have imposed.

20 Enter the length of active incarceration the defendant is to serve for the violation(s) (i.e., the imposed sentence less any suspended time).

21 If the period of supervised probation has changed, enter the amount of time the defendant will be under supervision from the date of the revocation sentencing. If the supervision period is indefinite, check the "Indefinite" box. If the defendant is continued on the same period of supervision, do not enter the number of years, months, or days in the box, but check the "Continued on Same Period of Supervision" box.

22 If the court finds the defendant in violation and elects to continue the defendant under the same conditions, check the box to indicate this. The court is still responsible for entering the total amount of revocable time.

23 If the court releases the defendant from supervision, check the "Released from Supervision" box. The court is still responsible for entering the total amount of revocable time.

24 Check the appropriate boxes indicating all other sanctions applicable in the sentencing event. If "Other" or "Community-Based Program" is checked, please specify the type and name of program.

25 If the Probation Violation Guidelines apply and the judge sentences above or below the recommendation, the judge is asked to provide a reason for departing. The judge can also use this space for judicial comments about the case.

26 Enter the month, day and year of the revocation decision.

27 The judge must sign each report after the decision has been completed.

Final Decision/Disposition

To be completed by the sentencing judge or judge's designee.

18 ◆ DECISION OF THE COURT

❒ Found in Violation of Conditions Cited — OR →
❒ Taken Under Advisement or Deferred
❒ Not in Violation

❒ Found in Violation of the Following Conditions: (check all that apply)

___ Fail to obey all laws and ordinances
___ Fail to report any arrests within 3 days
___ Fail to maintain employment/report changes
___ Fail to report as instructed
___ Fail to allow probation officer to visit
___ Fail to follow instructions and be truthful
___ Use alcoholic beverages
___ Use, possess, distribute drugs or paraphernalia
___ Use, own, possess firearm
___ Change residence/leave State without permission
___ Abscond from supervision
___ Fail to follow special conditions _____

◆ SENTENCE FOR REVOCATION

		Years	Months	Days	
19	Amount of Revocable Time at Hearing/Sentencing... ❒ Life +				
20	Amount of Time to Serve for Violation..... ❒ Life +				❒ Sentenced to Time Served
21	Placed on Supervised Probation For: ..... ❒ Indefinite				❒ Continued on Same Period of Supervision

22 ❒ Continued Under Same Conditions 23 ❒ Released from Supervision/Restrictions

24 ◆ SANCTIONS IMPOSED FOR REVOCATION *(Check all that apply)*

Office Use Only — Other ___ CBP ___

❒ Electronic Monitoring
❒ Day Reporting
❒ Detention Center Incarceration
❒ Community-Based Program_____
Specify type or name of program

❒ Drug Court
❒ Intensive Probation
❒ Diversion Center Incarceration

❒ Other_____
Specify type or name of program

25 ◆ REASON FOR DEPARTURE FROM GUIDELINES

Office Use Only

_____

_____

_____

_____

_____

_____

26 ◆ DATE OF REVOCATION DECISION

___ / ___ / ___
Month Day Year

27 _____
Judge's Signature

Probation Violation Guidelines

Legislative Directive

In 2003, the General Assembly directed the Commission to develop, with due regard for public safety, discretionary sentencing guidelines for application in cases involving felony offenders who are determined by the court to be in violation of probation or post-release supervision for reasons other than a new criminal conviction (Chapter 1042 of the Acts of Assembly 2003). Often these offenders are referred to as "technical violators." In determining the guidelines, the Commission was to examine historical judicial sanctioning patterns in revocation hearings for such cases.

In 2010, the General Assembly included the requirement to complete and review the Sentencing Revocation Report in all suspended sentence, good behavior and probation violation cases and to review applicable Probation Violation Guidelines before sentencing. Below are the requirements included in the budget language.

Completion Responsibility

One Sentencing Revocation Report (SRR) is prepared for each hearing event or sentencing event. A hearing event or sentencing event consists of all probation or suspended sentence violations before the same judge, in the same court at the same time. The Commonwealth's attorney or probation officer who initiates the capias or revocation request completes the front side of the SRR and the Probation Violation Guidelines, if applicable.

Due to the time-sensitive nature of factors on the Probation Violation Guidelines, the worksheets should be prepared within thirty (30) calendar days prior to the violation hearing.

The completed Probation Violation Guidelines should be attached to the SRR and forwarded to the court, through locally-established procedures, no more than thirty (30) calendar days prior to the violation hearing.

The judge must receive probation violation guidelines when required. When guidelines are not required, the judge must receive a SRR. If any of the required documents are not available in the case file, either the attorney for the Commonwealth or probation officer should be prepared to provide the court a copy of the missing document.

Defense counsel should receive copies of the probation violation guidelines. Local procedures will dictate when the guidelines are distributed to defense counsel.

- **Preparation Errors** - If a scoring error is detected prior to sentencing, the Virginia Criminal Sentencing Commission requests that the worksheet preparer be contacted so that an amended worksheet can be prepared and circulated to all parties prior to sentencing or at sentencing.

- **Changes at Sentencing** - If a preparation error is detected at sentencing or additional conditions are cited, the Commission requests that the worksheet be re-scored in order to incorporate the changes. If a worksheet is re-scored, the final worksheet presented to the judge for consideration is the version to be submitted to the Commission. *The ultimate responsibility for ensuring that the worksheets are completed accurately rests with the judge.*

Judicial Disagreement with Worksheet Scoring Rules

Guidelines worksheets must be scored according to the rules contained in the manual. It is not appropriate to adjust the guidelines scores to reflect judicial discretion. If a judge disagrees with the recommendation because of the inclusion of, or the weights assigned to, a factor on a particular worksheet, the Commission suggests that the judge depart from the recommended sentence and state the reason(s) for departure on the reverse side of the Sentencing Revocation Report (SRR). The explanation should identify the specific factor and the reason the factor is being questioned.

Recording Departure Reasons

When the court imposes a sentence greater or less than the guidelines recommendation, the judge is asked to provide a written departure explanation with the record of the case. Space is provided on the back of the Sentencing Revocation Report (SRR) for entering reasons for departure.

Reasons for departure should be specific. Specific departure reasons provide useful feedback to the Commission and will alert the Commission to concerns of the users.

Mailing Responsibility

Code of Virginia § 19.2-298.01 (E) requires the Circuit Court Clerk to forward the original sentencing guidelines form and a copy of the court order to the Virginia Criminal Sentencing Commission within five days following the entry of a final order of conviction and sentence. When the Probation Violation Guidelines are applicable, the guidelines forms must be attached to the completed Sentencing Revocation Report (SRR). Forms are mailed to: Virginia Sentencing Commission, 100 N. 9th Street, 5th Floor, Richmond, VA 23219

Determining If Guidelines Apply

The guidelines apply if the offender has violated the conditions of probation (or post-release supervision, if administered by the court) without violating a federal, state or local law or ordinance. Violations of Conditions 2 through 11 of the Conditions of Probation/Post-Release Supervision, and violations of any special conditions set by the court, are covered by the guidelines. A copy of the Conditions of Probation/Post-Release Supervision used by the Department of Corrections can be found in Appendix 1.

The guidelines do not apply under the following circumstances:

- The offender is found in violation of Condition 1 of the Terms and Conditions of Probation/Post-Release Supervision (i.e., the offender has failed to obey all federal, state, and local laws and ordinances)*, or
- The offender is in violation of § 18.2-251 (first offender status) or § 18.2-258.1(H) (first offender prescription fraud), or any deferred finding/sentence**, or
  The offender is on probation for a crime committed prior to January 1, 1995, or
- The offender is on probation for only misdemeanor offenses.

*If a probation violation is being sentenced in the same sentencing event as a new felony law violation, score the probation violation as an additional offense on the felony sentencing guidelines. After sentencing, forward the completed SRR, as well as the Sentencing Guidelines worksheets, to the Commission.

**If an offender's first offender status is being revoked under §18.2-251, complete the Drug Schedule I/II worksheet and submit it to the court. If an offender's first offender prescription fraud status is being revoked under §18.2-258.1(H), complete the Drug/Other worksheet and submit it to the court. Also, if a deferred sentence is before the court for possible revocation or resentencing for failure to abide by or complete the conditions of the deferral, complete the guidelines for the original primary offense. Do not complete an SRR in first offender or deferred finding/sentencing violation cases.

One Worksheet per Revocation/Sentencing/Hearing Event

Only complete one worksheet per probation violation, suspended sentence violation or hearing event. The one worksheet will result in one recommendation for multiple offenses or multiple periods of probation. Do not complete guidelines for every offense or every period of probation when the court is considering the violations together, at the same time, in the same court.

Current Supervision Period

Unless otherwise instructed, score factors for the current supervision period only. The current supervision period begins on the most recent date the defendant was placed, or continued, on probation or post-release conditions by the court and ends on the date the court renders its decision for the current violation. If the defendant was previously found in violation of probation supervision (or post-release supervision, if the violation was handled by the court), the current period starts when the court placed the defendant back on supervision.

> Example: Defendant was placed on probation on 6/1/03 as a condition of a suspended sentence. He was later found in violation of his probation on 2/1/04, but was continued on probation. Sentencing for a new probation violation is set for 5/1/04. The current period of supervision is between 2/1/04 (not the original start date of 6/1/03) with a new violation sentence date of 5/1/04.

Original Felony Offense Type

This factor appears on both Section A and Section C of the Probation Violation Guidelines. Identify the sentencing event or events that resulted in the offender's supervision in a particular jurisdiction. Include only those sentencing events that served as the basis for the revocation hearing. The offenses that comprise these sentencing events are defined as the "original" offenses for the purposes of completing the Probation Violation Guidelines. Determine the most serious felony offense among these crimes. Please note that the rules for selecting the most serious original felony offense type on the Probation Violation Guidelines are different than the rules for selecting the primary offense on the traditional felony Sentencing Guidelines.

Use the following hierarchy to determine the most serious original felony offense for the Probation Violation Guidelines:

1) Highest Statutory Maximum
2) Person Crimes
3) Property Crimes
4) Victimless/Other Crimes
5) Drug Crimes

The most serious offense is the felony conviction that has the highest statutory maximum penalty. If two or more offenses in a sentencing event carry the same statutory maximum penalty, select the most serious felony based on the hierarchy of offense types mentioned above: person, property, victimless/other, and then drug.

> Example: An offender is on probation for an unlawful wounding (Penalty: 1-5 years) and a grand larceny (Penalty: 1-20 years). The grand larceny is the most serious original felony offense because it has the highest statutory maximum penalty.
>
> Example: An offender is on probation for malicious wounding (Penalty: 1-20 years) and a grand larceny (Penalty: 1-20 years). Both offenses have the same maximum penalty (20 years). Therefore, malicious wounding is the most serious original felony offense because it is a person crime, whereas grand larceny is a property offense.

If two or more offenses have the same maximum penalty and are classified in the same crime category, choose as the most serious original felony offense the one that has the highest score under the "Original Felony Offense Type" factor on Section C of the Probation Violation Guidelines.

> Example: An offender is on probation for DWI-3rd (Penalty: 1-5 years) and Possession of a Firearm by a Convicted Felon (Penalty: 1-5 years). Both have the same statutory maximum penalty and both are classified as victimless/other crimes. On Section C, however, Possession of a Firearm by a Convicted Felon receives 16 points under the "Original Felony Offense Type" factor, while DWI-3rd receives 3 points on that factor. Therefore, choose Possession of a Firearm by a Convicted Felon as the most serious felony offense for scoring the Probation Violation Guidelines.

On Section A, the preparer must place the most serious felony offense into one of the following categories:

- Drug
- Person
- Traffic/Weapon
- Other, or Property

The offense type is Drug if the VCC prefix is "NAR." Felony prisoner offenses that involve drugs are also considered drug offenses.

The offense type is Person if the most serious offense involves a crime where the victim is harassed, abducted, injured, killed, sexually assaulted, or is the subject of a sex offense. Threats, conspiracies, and attempts, and the intent to do the above are included. Offenses from which the offender takes property directly from a victim (in person) or entices a minor to participate in sexually explicit material are categorized as person. Person offenses include assault, child or adult neglect, murder, homicide, kidnapping, robbery, rape, sexual assault, grand larceny from person, burglary with intent to assault, murder, rape or rob, and arson of an occupied building. This is not an exhaustive list. See Appendix 3 of this manual for more detail.

The offense type is Traffic/Weapon if the offense has a VCC prefix of "WPN", "LIC", "DWI", or "HIT." This is not an exhaustive list. See Appendix 3 of this manual for more detail. Offenses such as shooting into an occupied building and hit and run with personal injury are scored as person offenses.

If the most serious original offense does not fall into the previous categories, the offense is categorized as "Other".

On Section C, the preparer must place the most serious felony offense into one of these categories:

- DWI or Habitual Offender
- Property
- Drug
- Person
- Weapon, or
- Other

The offense type is DWI if the VCC code has a "DWI" prefix. The offense type is habitual offender if the VCC is "LIC6832F9", "LIC6848F9", or "LIC6834F9".

The offense type generally is Property if the VCC prefix is "COM", "FRD", "LAR", "TAX", "TRS", "VAN", or if the crime is burglary with intent to commit larceny, hit and run without personal injury, and grand larceny not from person.

The offense type is Weapon if the offense has a VCC prefix of "WPN".

If the most serious original offense does not fall into the specific categories, classify the offense as "Other".

Prior Record Factors

Prior record factors on the Probation Violation Guidelines relate specifically to the offender's original disposition and history of supervision violations and revocations.

Original Disposition was Incarceration

Points are assigned on Section A if the defendant was sentenced to incarceration for any of the original offense(s) at the time of the original sentencing event. Incarceration includes sentences to jail, prison, or time served for any offense in the original sentencing event(s). Sentences to Detention and Diversion Centers are also scored as periods of incarceration.

Previous Adult Probation Revocation Events

This factor appears on both Section A and Section C of the Probation Violation Guidelines. **Previous adult probation revocation events are all felony and misdemeanor violation events for either state or local probation periods in the defendant's adult criminal history.** Score each revocation event that occurred prior to sentencing for the current violation case. Include previous post-release revocations handled by the court. Include only those events for which the defendant was found by the court to be in violation. Prior probation violations may be for any offense, not just the original felony offense(s) for which the offender is currently on probation. Score each violation event regardless of the specific sanction imposed (e.g., they were continued on probation with no time revoked). Do not include violation events in which violations were dismissed, nolle prosequi, or there were no findings of guilt. Do not score other types of suspended sentence revocations. Do not score parole violations. Do not score first offender violations under § 18.2-251 or § 18.2-258.1 (H) as probation violations. Only score revocations after a defendant is placed on probation as the result of a conviction.

A violation event is defined as a violation sentencing hearing before a particular judge on a particular date in a particular court, regardless of the number of offenses for which the offender is on supervision. If the offender was found in violation of supervision for several offenses during the same violation sentencing hearing, score only one revocation event.

Note: Any probation violation handled under § 19.2-303.5, while the offender participated in the Immediate Sanction Probation Pilot is not scored as an adult probation revocation event. Any probation revocation that occurs after removal from the Immediate Sanction Probation Pilot Program and handled under § 19.2-306 must be scored.

Arrest Factors

Arrest factors on the Probation Violation Guidelines refer to new arrests incurred by the offender during the current supervision period. Specific rules for scoring each factor are noted below.

- Arrests for offenses that occurred prior to the defendant being placed on probation are also scored, as long as the arrest occurred during the current supervision period.
- Each offense count is equal to one arrest.
- Arrests are scored regardless of the disposition (e.g., guilty, not guilty, dismissed, nolle prosequi, etc.).
- New arrests do not include arrests for probation violations and traffic infractions.
- Arrests that have been expunged are not scored.

New Felony Arrests

On Section A, score the number of new felony arrests during the current supervision period. The current supervision period begins on the most recent date the defendant was placed, or continued, on supervision conditions by the court and ends on the date of sentencing for the current violation.

Score new felony arrests regardless of disposition (e.g., guilty, not guilty, dismissed, nolle prosequi, etc.). Each offense count is equal to one arrest. For example, if a defendant is arrested at the same time for three counts of unlawful wounding, the defendant has three felony arrests. Score out-of-state, federal, or military arrests based on Virginia's penalty structure. If the offense is a felony in Virginia, score the arrest as a felony. The felony designation or sentence received in the other jurisdiction may be unrelated to its treatment under Virginia law.

New Arrests for Crimes Against Person

For this factor, which appears on Section C, score the number of new felony and misdemeanor arrests for crimes against a person occurring during the current supervision period. The current supervision period begins on the most recent date the defendant was placed, or continued, on supervision conditions by the court and ends on the date of sentencing for the current violation.

Person offenses include the following: assault, child or adult neglect, murder, homicide, kidnapping, robbery, rape, sexual assault, grand larceny from a person, burglary with intent to commit assault, murder, rape, or rob, and arson of an occupied building. This is not an exhaustive list. See Appendix 3 of this manual for more detail.

New Arrests for Nonperson Crimes

On Section C, score the number of counts of felony and misdemeanor arrests for nonperson crimes during the current supervision period. Nonperson crimes are all offenses not designated as person crimes in Appendix 3. They include criminal traffic offenses (i.e., offenses listed in the traffic section of the VCC Book), but not traffic infractions (e.g., speeding, fail to stop at stop sign, etc.).

Program Factors

Program factors appear on both Section A and Section C of the Probation Violation Guidelines. These factors relate to the offender's failure to report to, or unsuccessful discharge from, certain programs ordered by the court or probation officer, as part of the offender's probation.

Never Reported to/Unsuccessful Discharge from Community Service, Day Reporting, etc.

Assign points on Section A if the defendant never reported to, or was unsuccessfully discharged from, one or more of the following programs: community service, day reporting, Detention or Diversion Center, employment and/or residential programs (not associated with treatment). Only score unsuccessful discharge from Detention or Diversion Center if the defendant resigned or was discharged for disciplinary reasons, not medical reasons. Also score unsuccessful discharge if the defendant is before the court for violating conditions while enrolled in the Day Reporting Program. Employment programs include job counseling or job corps training. Failure to obtain or maintain employment is not scored for this factor. Residential programs, not associated with treatment, may include an adult home, halfway house, or homeless shelter from which the defendant was discharged or to which the defendant failed to report. Do not score treatment programs specifically designed for drug, alcohol, substance abuse, sex offender, or medical/mental health treatment.

Unsuccessful Discharge from Detention Center

This factor appears on Section C. Assign points if the defendant was unsuccessfully discharged from the Detention Center Program during the current supervision period. Score only if the defendant was discharged for disciplinary reasons, not medical reasons. Score voluntary resignations from Detention as unsuccessful discharges.

Never Reported to Drug Treatment or Drug Education Program

For this factor, also found on Section C, score the number of times the defendant never reported to a drug treatment/drug education program after being ordered to do so during the current supervision period. Drug treatment/drug education programs include inpatient and outpatient drug treatment, N.A., as well as group programs such as those offered in-house at local probation and parole offices. This may involve different programs. However, it may be one program that the probation officer told the defendant on several occasions to attend, but the defendant failed to ever attend. Score this factor if the defendant failed to show up for intake or went through the process, but then failed to show up for the treatment program.

Do not score programs designed solely for alcohol treatment.

Do not score this factor if the defendant started attending a program but missed sessions or dropped out after attending at least one session.

Do not score this factor for drug treatment that is conducted as a part of Day Reporting, Detention or Diversion programs.

Score A.A. as a drug education program if the offender is referred to the program for the abuse of a drug other than alcohol.

General Violation Factors

Condition(s) Violated

On Section A, enter the score corresponding to the type of condition violated. For this factor, score only one condition violated. When there are multiple conditions violated, score the condition that receives the highest number of points for the factor. The Conditions Violated refer to the Conditions of Probation/Post-Release Supervision established by the Department of Corrections (See Appendix 1 of this Manual):

Condition 2: Fail to report any arrests within three days to probation officer.
Condition 3: Fail to maintain employment or report any changes in employment.
Condition 4: Fail to report as instructed.
Condition 5: Fail to allow probation officer to visit home or place of employment.
Condition 6: Fail to follow instructions and be truthful and cooperative.
Condition 7: Use alcoholic beverages to excess.
Condition 8: Use, possess, distribute controlled substances or paraphernalia.
Condition 9: Use, own, or possess a firearm.
Condition 10: Change residence/leave state without permission
Condition 11: Abscond from supervision.
Special Condition(s):

- Fail to follow special conditions (sex offender)
- Fail to follow special conditions (other than sex offender conditions)

This factor separates sex offender conditions/restrictions imposed or authorized by the court from other types of conditions. Examples of sex offender restrictions/conditions include: unsuccessful discharge from sex offender treatment, prohibited contact with a minor or victim, access to computers or the internet, entrance into prohibited areas, etc. This is not an exhaustive list.

Note: Score defendants who never report to sign their conditions of probation as absconding from supervision, for guidelines purposes.

Months until First Noncompliant Incident

For Section C, determine the number of months between the start of the current supervision period and the date of the first noncompliant incident. The current supervision period begins on the most recent date the defendant was placed, or continued, on supervision conditions by the court and ends on the date of sentencing for the current violation. If the defendant never reported for supervision, use the date the defendant was ordered to report for supervision. Round down to the next lowest month. For example, score 5 months 29 days as 5 months.

Noncompliance includes any revocable act/behavior that violates supervision conditions. The noncompliant incident does not have to be reported to the court for it to be scored; however, it needs to be documented in the probation officer's case file.

Substance Abuse Factors

Positive Drug Test or Signed Admission (not marijuana or alcohol)

On Section C, assign points if the defendant tested positive (urine, blood, etc.) for any controlled substance other than marijuana or alcohol during the current supervision period. Do not score positive tests for controlled substances prescribed for the defendant by a medical practitioner. Score refusal to take a drug test as a positive test.

Also score signed admissions for a controlled substance other than marijuana or alcohol during the current supervision period. (see Appendix 2 of this Manual for the DOC "Substance Abuse Admission Form").

This factor can be scored even if the capias/revocation request did not specifically cite use of a controlled substance (Condition 8 of the Conditions of Probation/Post-Release Supervision) by the offender.

Absconding Factors

Absconded 13 Months or More and Time Absconded

For these factors, assign points if the offender was cited for absconding from supervision in violation of Condition 11 of the Conditions of Probation/Post-Release Supervision. If the defendant signed conditions of probation prior to the enactment of Condition 11, the defendant may still be scored for this factor as long as the capias/revocation request informs the judge that the defendant did abscond from supervision.

Score defendants who never report to sign their conditions of probation as absconding from supervision for Violation Guideline purposes.

Time absconded is calculated from the date of last contact the probation officer had with the defendant up to the date of sentencing for the current violation. Round down to the next lowest month. For example, score 5 months 29 days as 5 months.

Contact may include verbal, written, or face-to-face communication with probation officer or court official at which time the officer/official knew the whereabouts of the defendant. If the defendant never reported to probation, use the most recent date the defendant was ordered to report for supervision. The original date of last contact cited in the capias/revocation request should be used even if the probationer reappears in the probation office, etc., at a later date.

> Example: A defendant last reported to his probation officer on 3/1/00 and was arrested on the capias on 7/1/00. The sentencing takes place on 8/1/00; therefore, the time absconded is 5 months between 3/1/00 and 8/1/00.

Sex Offender Factors

Violated Sex Offender Restrictions

This factor appears on Section C of the guidelines. Assign points for this factor if, during the current supervision period, the offender violated sex offender restrictions or conditions placed on him/her by the court or probation officer. Examples of restrictions/conditions include unsuccessful discharge from sex offender treatment, prohibited contact with a minor or victim, access to computers or the internet, entrance into prohibited areas, etc. This is not an exhaustive list.

Please note that points will be assigned if the offender violates any sex offender restrictions, even if the original offense(s) for which the offender is being supervised is not a sex offense.

Total Score

If the Section A total score is 36 points or less, the recommendation is Probation/No Incarceration. On the Sentencing Revocation Report, check the “Probation/No Incarceration” block under the section entitled “Violation Guidelines Recommendation.” If the Section A total score is 37 points or more, complete the Section C worksheet.

If Section C is completed, total the score and refer to the Section C Recommendation Table, which follows the Section C worksheet in this manual. Use the table to convert the total score to the guidelines sentence range. On the Sentencing Revocation Report, check the “Incarceration” block under the “Violation Guidelines Recommendation” section and record the guidelines range in the spaces provided.

Probation Violation Guidelines Section A

❶ Original Disposition

Enter "1" if the defendant was sentenced to incarceration, for the original offense(s). Incarceration includes jail, prison, time served, and Detention and Diversion Centers.

❷ Original Felony Offense Type

Identify the sentencing event or events for which the offender is on supervision. Determine the most serious felony offense. The most serious offense is the conviction that has the highest statutory maximum penalty. If two or more offenses in a sentencing event carry the same statutory maximum penalty, select the most serious felony based on the following order of importance: person crime, property crime, victimless crime (i.e., perjury), and drug crime.

A. Enter "15" if the offense type is Person. Person offenses include: assault, child or adult neglect, murder, homicide, kidnapping, robbery, rape, and sexual assault. Furthermore, crimes such as grand larceny from a person, burglary with the intent to assault, murder, rape or rob, and arson of an occupied building are also scored as crimes against the person. This is not an exhaustive list. See Appendix 3 for more detail.

B. Enter "3" if the offense type is property. Applicable offenses include those with a VCC prefix of "LAR", "FRD", "VAN", or "BUR." This is not an exhaustive list. See Appendix 3 for more detail.

C. Enter "24" if the offense type is Traffic/ Weapon. Applicable offenses must have a VCC prefix of "WPN", "DWI", "LIC" or "HIT." This is not an exhaustive list. Offenses such as shooting into an occupied building and hit and run with personal injury are scored as person offenses.

D. Enter "1" if the most serious original felony does not fall into the other categories.

E. Enter "13" if the offense type is Drug. Applicable offenses must have a VCC prefix of "NAR." Felony prisoner offenses that involve drugs are also considered drug offenses.

❸ Previous Adult Probation Revocation Events

Previous probation revocations are all felony or misdemeanor probation violation events in the defendant's adult criminal history that occurred prior to sentencing for the current violation case. Include previous post-release revocations handled by the court. Include only those events for which the defendant was found by the court to be in violation. Prior state and local probation violations may be for any offense. Score each violation regardless of the sanctions imposed (e.g., they were continued on probation with no time revoked). Do not include violation events in which violations were dismissed, nolle prosequi, or there were no findings of guilt. Do not score other types of suspended sentence revocations or violations under § 19.2-303.5.

A violation event is defined as a violation sentencing hearing before a particular judge on a particular date in a particular court, regardless of the number of offenses for which the offender is on supervision.

❹ New Felony Arrests

Enter the score corresponding to the number of new felony arrests during the current supervision period. The current supervision period begins on the most recent date the defendant was placed, or continued, on supervision conditions by the court and ends on the date of sentencing for the current violation.

Score new felony arrests regardless of disposition, (e.g., guilty, not guilty, dismissed, nolle prosequi, etc.). Each count is equal to one arrest. Score out-of-state arrests based on Virginia's penalty structure and felony designations.

❺ Never Reported to/Unsuccessful Discharge from Community Service, Day Reporting, etc.

Enter "15" if the defendant never reported to, or was unsuccessfully discharged from, community service, day reporting, employment and/or residential programs during the current supervision period. Employment programs include job counseling or job corps training. Failure to obtain or maintain employment is not scored for this factor.

Enter "18" if the defendant never reported to, or was unsuccessfully discharged from, a Detention or Diversion Center during the current supervision period.

Score an unsuccessful discharge from a Detention or Diversion Incarceration Center program if the discharge was for disciplinary reasons (not medical). Assign points if the defendant voluntarily withdrew.

Do not score treatment programs specifically designed for drug, alcohol, substance abuse, sex offender, or medical/mental health treatment.

❻ Condition(s) Violated

Enter the score corresponding to the type of condition violated. Score <u>only</u> the violation receiving the highest number of points for the factor.

Condition 2 (the offender has failed to report an arrest to the probation officer within 3 days);

Condition 3 (the offender has failed to maintain employment or to report changes in employment);

Condition 4 (the offender has failed to report as instructed);

Condition 5 (the offender has failed to allow the probation officer to visit the offender's home or place of employment);

Condition 6 (the offender has failed to follow instructions and be truthful and cooperative);

Condition 7 (the offender has used alcoholic beverages to excess);

Condition 8 (the offender has used, possessed, or distributed controlled substances or paraphernalia);

Condition 9 (the offender has used, owned, possessed or transported a firearm);

Condition 10 (change of residence or leave Commonwealth of Virginia);

Condition 11 (the offender has absconded from supervision); or

Special conditions (sex offender)

Examples include unsuccessful discharge from sex offender treatment, prohibited contact with a minor or victim, access to computers/internet, entrance into prohibited areas, etc. This is not an exhaustive list.

Special conditions (other than sex offender)

❼ Absconded 13 Months or More

Enter "5" if the offender absconded 13 months or more from supervision, in violation of Condition 11 of the conditions of probation/post-release supervision.

Assign points for the amount of time between the date of last contact with the defendant and the date of sentencing for the current violation. Round to the next lowest whole month. For example, score 5 months 29 days as 5 months.

Contact may include verbal, written, or face-to-face communication with probation office or court official at which time the officer knew the whereabouts of the defendant. If the defendant never reported to probation, use the most recent date the defendant was ordered to report for supervision.

❽ Go to next appropriate section

If the total score is 36 or less, the guidelines recommendation is: Probation/No Incarceration. (There is no Section B for these guidelines.) If the total score is 37 or more, go to Section C.

Probation Violation Guidelines ❖ Section A

Offender Name:_____

❶ ◆ **Original Disposition was Incarceration** — **If YES, add 1** → [ ][ ]

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

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

❸ ◆ **Previous Adult Probation Revocation Events**

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

❹ ◆ **New Felony Arrests**

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

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

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

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

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

[ ][ ]

❼ ◆ **Absconded 13 months or more** — **If YES, add 5** → [ ][ ]

❽ **Total Score** → [ ][ ][ ]

If total is 36 or less, the recommendation is **Probation/No Incarceration.**
If total is 37 or more, go to **Section C Worksheet.**

❶ Original Felony Offense Type

Identify the sentencing event or events for which the offender is on supervision. Determine the most serious felony offense. The most serious offense is the conviction that has the highest statutory maximum penalty. If two or more offenses in a sentencing event carry the same statutory maximum penalty, select the most serious felony based on the following order of importance: person crime, property crime, victimless crime (i.e., perjury), and drug crime.

A. Enter "13" if the offense type is Person. Person offenses include: assault, child or adult neglect, murder, homicide, kidnapping, robbery, rape, and sexual assault. Score crimes such as grand larceny from a person, burglary with the intent to assault, murder, rape or rob, and arson of an occupied building as crimes against the person. This is not an exhaustive list. See Appendix 3 for more detail.

B. Enter "4" if the offense type is Property. Applicable offenses include those offenses with a VCC prefix of "LAR", "BUR" and "FRD". Some offenses with other VCC prefixes are also property felonies, like certain acts of arson (e.g., ARS-2018-F4) & vandalism (e.g., VAN-2930-F6).

C. Enter "16" if the offense type is Weapon. Applicable offenses include those offenses with a VCC prefix of "WPN". Score offense such as shooting into an occupied building as a person offense.

D. Enter "3" if the offense type is DWI or Habitual Offender.

E. If the most serious original felony does not fall into the previous categories, enter "1".

F. Enter "5" if the offense type is Drug. Applicable offenses include those offenses with a VCC prefix of "NAR." Score felony prisoner offenses that involve drugs here.

❷ Previous Adult Probation Revocation Events

Previous probation revocations include all felony or misdemeanor probation violation events in the defendant's adult criminal history that occurred prior to sentencing for the current violation case. Include previous post-release revocations handled by the court. Include only those events for which the defendant was found by the court to be in violation. Prior state and local probation violations may be for any offense. Score each violation regardless of the sanctions imposed (e.g., they were continued on probation with no time revoked). Do not include violation events in which violations were dismissed, nolle prosequi, or there were no findings of guilt. Do not score other types of suspended sentence revocations or violations under § 19.2-303.5.

A violation event is defined as a violation sentencing hearing before a particular judge on a particular date in a particular court, regardless of the number of offenses for which the offender is on supervision.

❸ New Arrests for Crimes Against Person

Enter the score corresponding to the number of counts of felony and misdemeanor person-crime arrests during the current supervision period. The current supervision period begins on the most recent date the defendant was placed, or continued, on supervision conditions by the court and ends on the date of sentencing for the current violation.

Score arrests regardless of the disposition (guilty, not guilty, dismissed, nolle prosequi, etc.). Score out-of-state arrests based on Virginia's penalty structure and felony designations.

Person offenses include: assault, child or adult neglect, murder, homicide, kidnapping, robbery, rape, and sexual assault. Score crimes such as grand larceny from a person, burglary with the intent to assault, murder, rape or rob, and arson of an occupied building as crimes against the person. This is not an exhaustive list. See Appendix 3 for more detail.

❹ New Arrests for Nonperson Crimes

Enter the score corresponding to the number of counts of felony and misdemeanor arrests for non-person crimes (including criminal traffic misdemeanors) during the current supervision period. Do not score traffic infractions such as speeding.

Arrests are scored regardless of the disposition (guilty, not guilty, dismissed, nolle prosequi, etc.). Score out-of-state arrests based on Virginia's penalty structure and felony designations.

❺ Months Until First Noncompliant Incident

Enter the score corresponding to the number of months between the start of the current supervision period and the date of the first noncompliant incident. The current supervision period begins on the most recent date the defendant was placed, or continued, on supervision conditions by the court and ends on the date of sentencing for the current violation. If the defendant never reported for supervision, use the date the defendant was ordered to report for supervision. Noncompliance includes any revocable act/behavior that violates supervision conditions. The noncompliant incident does not have to be reported to the court for it to be scored. Round down to the next lowest month.

❻ Unsuccessful Discharge from Detention Center Program

Enter "30" if the defendant was unsuccessfully discharged from the detention center program during the current supervision period. Score only if the defendant was discharged due to disciplinary reasons not medical reasons. Assign points if the defendant voluntarily withdrew.

❼ Never Reported to Drug Treatment/Education Program

Score the number of times the defendant never reported to a drug treatment/drug education program after being ordered to do so during the current supervision period. Drug treatment/drug education programs include inpatient and outpatient drug treatment, as well as group programs such as those offered in-house at local probation and parole offices. Do not score programs designed solely for alcohol treatment. Do not score this factor if the defendant started attending a program but missed sessions or dropped out after attending at least one session.

❽ Positive Drug Test or Signed Admission (not marijuana or alcohol)

Enter "10" if the defendant had a drug test (urine, blood, etc.) that tested positive for any controlled substance other than marijuana or alcohol during the current supervision period. Do not score positive tests for controlled substances prescribed for the defendant by a medical practitioner. Score signed Substance Abuse Admission Forms (see Appendix 2) admitting use of a controlled substance, other than marijuana or alcohol, during the current supervision period. This factor can be scored even if the capias or revocation request did not specifically cite use of a controlled substance by the offender.

❾ Violated Sex Offender Restrictions

Enter "5" if, during the current supervision period, the offender violated sex offender restrictions placed on him/her by the court or probation officer. Examples include unsuccessful discharge from sex offender treatment, prohibited contact with a minor or victim, access to computers/internet, entrance into prohibited areas, etc. This is not an exhaustive list.

Assign points if the offender violated sex offender restrictions, even if the original offense(s) is not a sex offense.

❿ Time Absconded

Score this factor only if the offender absconded from supervision in violation of Condition 11 of the Conditions of Probation/Post-Release Supervision.

Assign points for the amount of time between the date of last contact with the defendant and the date of sentencing for the current violation. Round to the next lowest whole month.

Contact may include verbal, written, or face-to-face communication with the probation office or court official at which time the officer knew the whereabouts of the defendant. If the defendant never reported to probation, use the most recent date the defendant was ordered to report for supervision.

⓫ Record the Guidelines Sentence

Total the score. Refer to the Probation Violation Guidelines Section C Recommendation Table for the guidelines sentence range. Enter the guidelines recommendation on the Sentencing Revocation Report.

Probation Violation Guidelines ❖ Section C

Offender Name:_____

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

Score

A.	Person	13
B.	Property	4
C	Weapon	16
D.	DWI or Habitual Offender	3
E.	Other	1
F.	Drug	5

❷ ◆ Previous Adult Probation Revocation Events

Number of Violation Events:		
	1 - 2	4
	3 or more	16

❸ ◆ New Arrests for Crimes Against Person

Number of Counts:		
	0	0
	1	4
	2	15
	3 - 4	30
	5 or more	38

❹ ◆ New Arrests for Nonperson Crimes

Number of Counts:		
	0 - 1	0
	2	9
	3 - 4	12
	5 or more	19

❺ ◆ Months until First Noncompliant Incident

10 months or less	28
11 months to 22 months	22
23 months or more	0

❻ ◆ Unsuccessful Discharge from Detention Center Program — **If YES, add 30** →

❼ ◆ Never Reported to Drug Treatment/Drug Education Program

Number:		
	1 - 2	9
	3 or more	16

❽ ◆ Positive Drug Test or Signed Admission (not marijuana or alcohol) — **If YES, add 10** →

❾ ◆ Violated Sex Offender Restrictions — **If YES, add 5** →

❿ ◆ Time Absconded

2 months or less	0
3 months to 24 months	9
25 months or more	12

⓫ Total Score →

See Probation Violation Guidelines Section C Recommendation Table for guidelines sentence range.

RECOMMENDATION TABLE

Score	Guideline Sentence Range
Up to 40	Incarceration 1 Day to 3 Months
41 - 45	3 Months to 6 Months
46 - 48	6 Months to 12 Months
49 - 56	1 Year to 1 Year 6 Months
57 - 59	1 Year 6 Months to 2 Years
60 - 67	2 Years to 3 Years
68 - 73	3 Years to 4 Years
74+	4 Years or more

APPENDIX 1

Conditions of Probation/Post-Release Supervision

To: _____ **VACCIS #** _____
Last *First* *Middle* **VSP #** _____

Under the provisions of the Code of Virginia, the Court has placed you on probation/post release supervision this date _____, for a period of _____ by the Honorable _____, Judge, presiding in the _____ Court at _____ .

Special conditions ordered by the Court are:

Offense & Sentence:

You are being placed on probation/post release supervision subject to the conditions listed below. The Court or Parole Board may revoke or extend your probation/post release supervision and you are subject to arrest upon cause shown by the Court, the Parole Board and/or by the Probation and Parole Officer.

Probation/Post Release Supervision conditions are as follows:

1. I will obey all Federal, State and local laws and ordinances.
2. I will report any arrest, including traffic tickets, within 3 days to my Probation and Parole Officer.
3. I will maintain regular employment and notify my Probation and Parole Officer within 3 days of any changes in my employment.
4. I will report in person, by telephone, and as otherwise instructed by my Probation and Parole Officer.
5. I will permit my Probation and Parole Officer to visit my home and place of employment.
6. I will follow my Probation and Parole Officer's instructions and be truthful, cooperative.
7. I will not use alcoholic beverages to the extent that it disrupts or interferes with my employment or orderly conduct.
8. I will not unlawfully use, possess, or distribute controlled substances, or related paraphernalia.
9. I will not use, own, possess, transport or carry a firearm.
10. I will not change my residence without permission of my Probation and Parole Officer. I will not leave the State of Virginia or travel outside of a designated area without permission of my Probation and Parole Officer.
11. I will not abscond from supervision. I understand I will be considered an absconder when my whereabouts are no longer known to my supervising Probation and Parole Officer. I freely, voluntarily and intelligently waive any right I may have to extradition if arrested outside of Virginia.

Your minimum date of release from supervision is _____ but you will remain under supervision until you receive a final release.

You will report as follows:

I have read the above, and/or had the above read and explained to me, and by my signature or mark below, acknowledge receipt of these Conditions and agree to the Conditions set forth.

Signed: _____ _____
Probation and Parole Officer

Date: _____ Date: _____

APPENDIX 2

Substance Abuse Admission Form

COMMONWEALTH of VIRGINIA

TELEPHONE

PROBATION AND PAROLE
District Address

Department of Corrections

SUBSTANCE ABUSE ADMISSION FORM

Any admission recorded below was given voluntarily and without duress. I understand that this admission may be used in violation proceedings. Either or both Sections I and II may be completed whenever applicable.

I. I, _____ VACCIS # _____ ,
Name on Conditions/Agreements

voluntarily admit to using the substances checked below within the last 30 days:

- ☐ Cocaine, including Crack
- ☐ Marijuana
- ☐ Alcohol
- ☐ Amphetamines, including Ice
- ☐ Barbiturates
- ☐ Heroin
- ☐ Phencyclidine (PCP)
- ☐ _____

By: _____
Signature of Client

Witnessed by: _____
Signature of Staff

Date: _____

District/Unit: _____

II. I, _____ VACCIS # _____ ,
Name on Conditions/Agreements

voluntarily confirm that the positive (dirty) on-site test findings for the substances checked below are based on test samples provided by me:

- ☐ Cocaine, including Crack
- ☐ Marijuana
- ☐ Alcohol
- ☐ Amphetamines, including Ice
- ☐ Barbiturates
- ☐ Heroin
- ☐ Phencyclidine (PCP)
- ☐ _____

By: _____
Signature of Client

Witnessed by: _____
Signature of Staff

Date: _____

District/Unit: _____

CCOP PPS-15

APPENDIX 3

(Identical to Appendix E in the Guidelines Manual)

Offense Types

Offense Types

This is NOT intended to be an exhaustive list of all crimes. This list is to be used as a starting reference only. Please call the Commission for classification of crimes not listed.

General Definitions:

Person Crime: generally defined as a crime where the victim is harassed, abducted, injured, killed, sexually assaulted, or is the subject of a sex offense. Threats, conspiracies, attempts, and the intent to do the above are included. Offenses in which the offender takes property directly from a victim (in person) or entices a minor to participate in sexually explicit material are categorized as person offenses.

Property Crime: where the crime involves property attainment, destruction, etc., and the elements of a person or traffic crime (see definitions) are not involved.

Drug Crime: where the crime involves narcotics.

Traffic Crime: where the crime involves traffic offenses that are not person crimes. Hit and run with property damage counts as a traffic crime, not a property crime.

Other Crime: where the crime does not meet the definitions above.

Person Crimes

This is NOT intended to be an exhaustive list of all person crimes. This list is to be used as a starting reference only.

Offenses with the following VCC prefixes:

ABU ..... • Abusive & Insulting Language
ASL ..... • Assault (Except Use of firearm in comm. of felony)
EXT ..... • Extortion
FAM ..... • Family Offenses
KID ..... • Kidnapping
MUR ..... • Murder/Homicide
PRT ..... • Protective Orders
RAP ..... • Rape/Sexual Assault
ROB ..... • Robbery
SEX ..... • Sex Offenses (Except: Adultery, Bestiality, Bigamy, Cohabitation, Proximity to Children Restrictions, and Prostitution between adults)
STK ..... • Stalking
TER ..... • Terrorism
VIO ..... • Violent Activities (Except VIO5340M3)

Specific VCCs for Crimes Against Persons

* Indicates offense MAY be a person crime if facts of case meet general definition standards

ARS2015F5* ..... Enticement to bomb
ARS2025F6* ..... Hoax firebomb, construct, use or send
ARS2022M2 ..... Smoke bomb in public building
ARS2004F9 ..... Arson of occupied dwelling/church, aid burning
ARS2003F9 ..... Arson of occupied dwelling/church, burn
ARS2001F3 ..... Arson of occupied building, other
ARS2008F3 ..... Arson of occupied building, public
ARS2023F5 ..... Arson/bomb threat/false comm., offender 15+
ARS2024M1 ..... Arson/bomb threat or false comm., offender <15

BUR2211F3 ..... Dwelling w/ intent to murder/rape/rob
BUR2212F2 ..... Dwelling w/ intent to murder/rape/rob—w/ deadly wpn
BUR2218F3 ..... Other structure w/ intent to murder/rape, etc.
BUR2215F2 ..... Other structure w/ intent to murder,etc—w/ deadly wpn

COM2997M1 ..... Coerce, intimidate or harass person by computer
COM2965F3 ..... Malicious computer use—intent to physically injure
COM2966F6 ..... Unlawful computer use—intent to physically injure

CON3281S9 ..... Insulting language about judge
CON3280S9 ..... Violence or threats to judge, witness, etc.
CONXXXXXX ..... Any disobedience directed towards a person

ESC4910F4* ..... Escape or attempt to escape by setting fire to jail
ESC4908F6* ..... Escape by force or violence from jail
ESC4927F6* ..... Escape from juvenile facility/detention with force
ESC4911F6* ..... Escape from jail by force or violence, not convicted

HIT6608F5 ..... Hit & run, victim injured, driver fails to stop
HIT6614F6 ..... Hit & run, victim injured, passenger fails to report

JUS4820F5 ..... Resisting arrest by force, etc. in drug/gang/violent offenses
JUS4828M1 ..... Resisting arrest, obstructing justice by threats or force
JUS4832F5 ..... Resisting arrest, obstructing justice by threats or force

LAR2361F9 ..... Grand larceny from person
LAR2367M1 ..... Petit larceny from person
LAR2369F6* ..... Larceny, etc. third or subsequent conviction-If underlying offense is a person crime

MOB1284F5 ..... Use force/threats to encourage membership in gang-school zone
MOB1285F5 ..... Use force/threats to encourage continued membership in gang-school zone
MOB1286F5 ..... Use force/threats to encourage person to commit felony-school zone
MOB1296F6 ..... Use force/threats to encourage person to commit felony
MOB1294F6 ..... Use force/threats to encourage membership in gang
MOB1295F6 ..... Use force/threats to encourage continued membership in gang

continued

Specific VCCs for Crimes Against Persons, continued

* Indicates offense MAY be a person crime if facts of case meet general definition standards

OBSXXXXX ..... All obscenity charges involving minors
OBS3733M1 ..... Unlawful filming of another
OBS3704F6 ..... Unlawful filming of another, 3rd/subsequent

REC6655M1 ..... Aggressive driving with intent to injure
REC6640F4 ..... Law-enforcement officer killed as result of pursuit
REC6624F6 ..... Disregard police command to stop, endangerment
REC6626F6 ..... Drive recklessly w/o license causes death of another
REC6633F9 ..... Racing, cause death of another
REC6635F6 ..... Racing, causes serious bodily injury
REC6625M1 ..... Reckless driving, endanger life or limb
REC6630M1 ..... Reckless driving, parking lot, endanger life or limb

SOL7200F6* ..... Solicitation to commit a felony person crime
SOL7201F5* ..... Solicitation to commit a felony person crime - adult solicits juvenile
SOL7202F9 ..... Solicitation to commit murder
(any solicitation to commit a person crime under § 18.2-29)

TEL3245M1 ..... Abusive, profane, threatening calls on phone

TRS5700M1 ..... Use peephole to view nonconsenting person
TRS5707F6 ..... Trespass w/ intent to abduct from school property
TRS5718M1* ..... Peep or spy into dwelling place

VAN2939F4 ..... Shoot/throw missile at train/car w/ malice
VAN2940F6 ..... Shoot/throw missile at train/car w/o malice
VAN2905F4 ..... Shoot/throw missile at law enf/emerg vehicle w/ malice
VAN2906F6 ..... Shoot/throw missile at law enf, etc., vehicle w/o malice

WPN5210M1 ..... Brandish machete or knife
WPN5287F6 ..... Brandish machete or knife on school property
WPN5251M1* ..... Brandish or point firearm
WPN5274F6* ..... Brandish or point firearm, 3rd conviction
WPN5242F6 ..... Discharge firearm, etc., at occupied bldg, unlawfully
WPN5229F4 ..... Discharge firearm, etc., at occupied bldg, malicious
WPN5221M1* ..... Discharge firearm in public place, no injury
WPN5301F6 ..... Discharge firearm in public place, results in injury
WPN5273F6* ..... Discharge firearm in public place, 3rd conviction
WPN5249M3 ..... Reckless/leave loaded firearm, endanger child<14
WPN5258F6* ..... Brandish or point firearm on school property
WPN5255F4 ..... Discharge firearm in/at occupied school
WPN5239F3 ..... Malicious release of dangerous gas resulting in injury
WPN5240F6 ..... Unlawful release of dangerous gas resulting in injury
WPN5248F5* ..... Discharge firearm from motor vehicle
WPN5201F4* ..... Discharge firearm on public prop w/in 1,000 ft of school
WPN5200F4* ..... Discharge firearm upon buildings/grounds

Property Crime Examples

Offenses that may have the following VCC prefixes:

- Arson ..... ARS (when not listed as a person crime.)
- Burglary w/ intent to commit larceny ..... BUR (not w/intent to murder, rape, etc.)
- Computer Crime ..... COM (not w/intent to injure or harass)
- Embezzlement ..... LAR
- Fraud ..... FRD (including forging public document)
- Larceny ..... LAR (not larceny from a person)
- Money Laundering ..... MON
- Solicitation to commit a property offense .... SOL
- Tax Crimes ..... TAX
- Trespass ..... TRS
- Vandalism ..... VAN (not shoot/throw missle at train, etc.)

Drug Crimes

- All Offenses with 'NAR' VCC prefix.
- Also, drug crimes involving prisoners with 'PRI' prefix.
- Drug paraphernalia crimes with 'PHA' prefix.
- Solicitation to commit a drug offense.

Traffic Crime Examples

Offenses that may have the following VCC prefixes:

- Buses & Trucks ..... BUS
- DMV Documents ..... DMV
- Driver Improvement Program ..... DVP
- Drive While Intoxicated ..... DWI
- Equipment Violations ..... EQU
- Highways ..... HWY
- Hit & Run w/ property damage ..... HIT (not with personal injury)
- Motorcycles & Bicycles ..... CYC
- Moving Violations ..... MOV
- Operator's License LIC
- Parking ..... PRK
- Passenger Carriers ..... PAS
- Reckless Driving ..... REC
- Registration, Plates, etc. ..... REG
- Signs & Signals ..... SIG
- Size & Weight Violations ..... SIZ
- Traffic Schools ..... CDT
- Traffic - Smoking near gas pumps .. SMK
- Trailer Dealers ..... TRL

Weapon Crimes

• All Offenses with 'WPN' VCC prefix (when not listed as person crime.)
• Use of firearm in the comission of a felony (ASL1319F9 and ASL1323F9)

Other Crime Examples

Offenses that may have the following VCC prefixes:

• Alcohol Violations ..... ALC (including drunk in public)
• Bribery ..... BRI
• Disorderly Conduct ..... DIS
• Escape ..... ESC (not with personal injury)
• Gambling ..... GAM
• Perjury ..... PER
• Pornography/Obscenity ..... OBS (excluding those involving minors)
• Prison Offenses ..... PRI (not involving drugs)
• Prostitution between adults/Adultery /Bestiality/ Bigamy/Cohabitation/Proximity to Children Restrictions** ..... SEX
• Sex Offender Registry ..... SOR
• Trade and Commerce ..... TRC
• Unlawful Assembly/Riot ..... RUA

***The code sections for proximity, if needed, are: §§ 18.2-370.2, 18.2-370.3, 18.2-370.4 & 18.2-370.5.*

NOTES: Accessory after the fact to a Felony (ACC3203M1), etc. is categorized based on the underlying felony offense.
(i.e. Accessory after the fact to murder (ACC-0900-F6) is a person crime).

An ordinance violation is categorized based on the comparable offense under Virginia law. Ordinances with only civil penalties are not scored.