



Implementation of Sentencing Guidelines Supplemental Case Information Form

March 22, 2021

During its November 2020 meeting, the Commission elected to implement the form on July 1, 2021. (Five Edits Needed)

Similar to Factors on Presentence Reports prepared by Probation Officers.

The Form will be included in the Commission's "What's New" seminars, which will be offered in virtual and in-person formats.



VIRGINIA CRIMINAL SENTENCING COMMISSION

Sentencing Guidelines Supplemental Form		SWIFT/DCN: _____
1. Defendant's Name: _____		
2. Defendant Information: Gender: _____ Race: _____ Ethnicity: _____ Age: _____ Handicapped: _____		
3. Type of Counsel: <input type="checkbox"/> Retained <input type="checkbox"/> Court Appointed <input type="checkbox"/> Public Defender <input type="checkbox"/> Other		
4. Pretrial Status: <input type="checkbox"/> Secured Bond <input type="checkbox"/> Unsecured Bond <input type="checkbox"/> Own Recognizance <input type="checkbox"/> Confinement <input type="checkbox"/> Third Party Release		
5. Pretrial Supervision by Pretrial Services Agency: <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Yes, ordered but did not complete/attend		
6. Posttrial Status: <input type="checkbox"/> Secured Bond <input type="checkbox"/> Unsecured Bond <input type="checkbox"/> Own Recognizance <input type="checkbox"/> Confinement <input type="checkbox"/> Third Party Release		
7. Source of Bond: <input type="checkbox"/> Personal <input type="checkbox"/> Family <input type="checkbox"/> Other <input type="checkbox"/> Bonding Company <input type="checkbox"/> N/A		
8. Total Time Served Prior to Sentencing: Years _____ Months _____ Days _____		
9. Number of Codefendants: _____		
10. Legal Status at Offense (check all that apply):		
<input type="checkbox"/> Escaped	<input type="checkbox"/> Inmate	<input type="checkbox"/> Mandatory Parole <input type="checkbox"/> Discretionary Parole
<input type="checkbox"/> Geriatric Release - § 53.1-40.01	<input type="checkbox"/> Post Release - §19.2-295.2	<input type="checkbox"/> Probation <input type="checkbox"/> Bond
<input type="checkbox"/> Recognizance	<input type="checkbox"/> Community Program	<input type="checkbox"/> Pre-Trial Supervision <input type="checkbox"/> Good Behavior
<input type="checkbox"/> Juvenile Probation	<input type="checkbox"/> Juvenile Parole	<input type="checkbox"/> Summons <input type="checkbox"/> Other _____ <input type="checkbox"/> None
11. Weapon Use: <input type="checkbox"/> None <input type="checkbox"/> Used to Injure <input type="checkbox"/> Used to Threaten (Includes by voice, note, text, etc.)		
12. Weapon Type: <input type="checkbox"/> Firearm <input type="checkbox"/> Knife <input type="checkbox"/> Explosive <input type="checkbox"/> Simulated/Feigned Weapon <input type="checkbox"/> Blunt Object		
<input type="checkbox"/> Note/Verbal <input type="checkbox"/> Vehicle <input type="checkbox"/> Animal <input type="checkbox"/> Other _____ <input type="checkbox"/> N/A		
13. Offender's Role <input type="checkbox"/> Alone <input type="checkbox"/> Leader <input type="checkbox"/> Accomplice <input type="checkbox"/> Police Officer/LEO <input type="checkbox"/> Not Determined		
14. Value of Property Taken/Damaged: Highest value for one item \$ _____ Total value of all items \$ _____		
15. Location: <input type="checkbox"/> Bank <input type="checkbox"/> Business <input type="checkbox"/> Residence <input type="checkbox"/> Street/Outside <input type="checkbox"/> Automobile <input type="checkbox"/> Other _____ <input type="checkbox"/> N/A		
16. Injury to Victim: <input type="checkbox"/> Death <input type="checkbox"/> Life Threatening <input type="checkbox"/> Serious Physical <input type="checkbox"/> Physical		
<input type="checkbox"/> Emotional <input type="checkbox"/> Threatened <input type="checkbox"/> None <input type="checkbox"/> N/A		
17. Victim Relationship to Offender: <input type="checkbox"/> None/Stranger <input type="checkbox"/> Known <input type="checkbox"/> Friend		
<input type="checkbox"/> Family <input type="checkbox"/> Police Officer/LEO <input type="checkbox"/> Other _____		
18. Victim Information: Gender: _____ Race: _____ Ethnicity: _____ Age: _____ Handicapped: _____		
19. Type of Primary Drug: _____ Quantity of Primary Drug: _____		
20. Number of Felony Juvenile Adjudications: Person _____ Property _____ Drug _____ Other _____		
Source for Question #21: <input type="checkbox"/> Defense Attorney <input type="checkbox"/> Defendant <input type="checkbox"/> PSI/PSR <input type="checkbox"/> Commonwealth's Attorney <input type="checkbox"/> Probation Officer		
21. Other factors known at the time of sentencing (check all that apply) Yes Treatment: (in or completed treatment)		
a. Drug abuse (admitted, family information, documented in reports)..... <input type="checkbox"/> prior to offense <input type="checkbox"/> after arrest		
b. Alcohol abuse (admitted, family information, documented in reports)..... <input type="checkbox"/> prior to offense <input type="checkbox"/> after arrest		
c. Mental health issues (admitted, family information, documented in reports)..... <input type="checkbox"/> prior to offense <input type="checkbox"/> after arrest		
d. Under the Influence of drugs/alcohol at the time of the offense <input type="checkbox"/>		
e. Employment (Last 2 years): <input type="checkbox"/> Full or part-time for at least 18 months <input type="checkbox"/> Full-time student <input type="checkbox"/> Disabled		
<input type="checkbox"/> Stay-at-home spouse/parent <input type="checkbox"/> Retired <input type="checkbox"/> Unemployed/Not stable		
f. Housing (Last 2 years): <input type="checkbox"/> Stable/same residence 1+ yrs <input type="checkbox"/> Multiple Changes <input type="checkbox"/> Homeless at the time of the offense		
g. Provides support: Enter Number dependents or family members supported _____		
h. Education: <input type="checkbox"/> Less than High school <input type="checkbox"/> High school/GED <input type="checkbox"/> Technical Training <input type="checkbox"/> Some College		
<input type="checkbox"/> College Degree <input type="checkbox"/> Post-graduate/Professional <input type="checkbox"/> Currently Enrolled (School, College Training)		
i. Military: <input type="checkbox"/> Active <input type="checkbox"/> Reserve <input type="checkbox"/> Honorably Discharged <input type="checkbox"/> Undesirable Discharge		
<input type="checkbox"/> Medical Discharge <input type="checkbox"/> General Discharge <input type="checkbox"/> Bad Conduct Discharge		
j. Defendant's Response: <input type="checkbox"/> Accepts Responsibility <input type="checkbox"/> Sought Treatment <input type="checkbox"/> Developed Rehabilitation Plans		
<input type="checkbox"/> Remorseful <input type="checkbox"/> Paid All or Part Restitution		
k. Other: _____		

Pretrial Information

Offense Information Needed to Complete Guidelines

1. Expanded to Include Most Weapons

2. Added Capture Types of Robberies, Etc.

3. Added Source of Information (Including Self Report)

Information

4. Expanded to Include Unemployed (Instead of Designating as Missing)

5. Expanded to Include Types of Degrees

Sentencing Guidelines Submitted to Commission by Preparer Type

Fiscal Year	Common-wealth's Attorney	Probation Officer	Missing	Total Guidelines Submitted
2017	55.7%	42.2%	2.0%	24,896
2018	57.5%	40.4%	2.1%	25,224
2019	55.4%	38.5%	6.1%	26,297
2020	57.3%	32.7%	10.0%	22,021
2021	60.8%	27.2%	12.1%	8,695
Total	56.8%	37.7%	5.5%	107,133

This Supplemental Case Information Form must be completed by the individual preparing the guidelines for the court and included in the sentencing guidelines packet submitted for sentencing. If the guidelines are prepared using the automated Sentencing Guidelines application (called SWIFT), the form can be completed within the automated system.



Input/Feedback from the Department of Corrections

- On September 22, 2020, the Commission's Director discussed the Guidelines Supplemental Case Information Form with the Deputy Director of the Department of Corrections, A. David Robinson.
- The Commission's Director provided background information regarding the need for the form.
- The Commission's Director and the DOC Deputy Director discussed implementation options and possible impact on DOC probation officers' workload.
- ✓ ■ DOC's Deputy Director acknowledged the potential impact on workload and stressed the importance of sufficient training for probation officers. (A. David Robinson, Chief of Corrections Operations)
- On March 9, 2021, DOC shared feedback provided by Chief Probation Officers and Regional Administrators.



VIRGINIA CRIMINAL
SENTENCING COMMISSION



Input/Feedback from the Department of Corrections

- **The form is less detailed than information that is already provided in a PSR.**
FY2019 PSI Completed in 39.8% of the Guidelines Cases (n= 10,472)
Note: In Federal System – Pre-Sentence Report is Completed in Every Case)
- **The Commonwealth Attorney’s (CA) Office should complete the form when no PSR is ordered.**
FY 2019 CAs Completed 55.4% - Local Policies Requires POs to Complete All SG for the CAs
- **The form requires a record check and an interview of the defendant. The Court should grant the 6-8 week timeframe to complete (same as PSR). No Interview is Required. Record Check Should Already Be Part of SG Process**
- **If no PSR is ordered and the defendant does not cooperate with the interview that is necessary to complete this form, how will this affect the outcome of sentencing?**
No Change to the Guidelines Recommendation;
Not Sure How the Court Will Respond to Uncooperative Defendants
- **Will the CA’s office be equipped (staffed) to complete the interview necessary to complete this form?**
No Interview is Required. Form Requires Information Currently Needed to Accurately Score Guidelines and Provide Judge With Pretrial Incarceration or Status Information. Answers for Q 21 May be Provided by Defense.
- **The form should be completed for a sentencing event, not specific cases. If a defendant has pending sentencing events in multiple jurisdictions, a single completion of this form should suffice.**
The Form is Specific to Each Sentencing Event, Even if the Primary Offense is the Same the Details May Not Be



Input/Feedback from the Department of Corrections

- In question #21, will the expectation be that this information be verified, or will self-report by the defendant be acceptable? Verification takes time. [Self Report is Acceptable & Source of Information is Identified on Form](#)
- The drug questions seem overly broad, as it asks about drug abuse, then lists admitted, family information, documented in reports. There could be discrepancies across these. Are officers expected to verify information? [The Questions are Broad: Can be Self Reported. May Provide Judge With Alternatives that Worked or Failed. At Least Trigger a Discussion During Sentencing.](#)
- Section J is subjective and should be eliminated. Suggestion: defendant could write a statement to the Court on his level of remorse. [This Factor Was Approved by the VCSC: Accepts Responsibility and/or Remorseful were Important in Past Analysis on Sentencing. This is Likely Self Report. Truly Determined by the Judge's Observation. Note: Added as a Factor on the SG Cover Sheet \(Remorse or Substantial Assistance\)](#)
- Will this form replace Sentencing Revocation Guidelines?
No
- Concern that the elimination of sentencing guidelines could encourage the Court to ask the opinion of probation officers in sentencing, which places the officer in a situation where their recommendation could be called into question by both the CA and defense counsel. [The Reason for the Form is so the VCSC Can Quickly Respond to Changing Sentencing Patterns and Not Pause Guidelines. Some Judges Want the PO's Opinion.](#)



If guidelines are no longer used, disparities may occur. A reason for the creation of sentencing guidelines was to eliminate that issue. [Absolutely Agree](#)

Input/Feedback from the Commonwealth's Attorneys



The Virginia Association of Commonwealth's Attorneys (VACA) is currently working with the Compensation Board to develop a new staffing standard (or "workload") formula.

- The formula is used by the Compensation Board to distribute funds to Commonwealth's Attorney Offices.**
- The new formula may be based on a time study of prosecutors' work; however, that time study has yet to be completed.**
- Completion of the Supplemental Case Information Form could be included as a task in the time study.**
- Letter sent to the President of VACA on December 3, 2020, responses received March 19, 2021.**



VIRGINIA CRIMINAL
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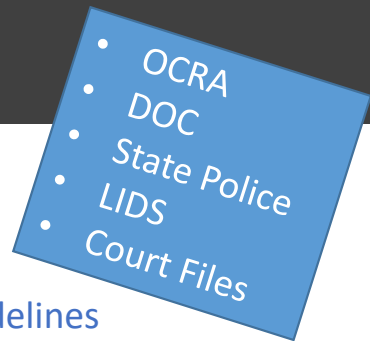
Input/Feedback from the Commonwealth's Attorneys



- **Information being sought is overly broad and burdensome. This is an unfunded mandate.**
The Information May Be Viewed As Such, But Needed to Effectively Respond to Criminal Justice Reforms
- **Commonwealth's attorneys will not know or have access to much of the information requested on the form, particularly for question #21.**
 - Answers to Most Questions Are Needed to Accurately Score Sentencing Guidelines*
 - **Prosecutors cannot speak to the defendant.**
Self Report is Acceptable for Q21 or Information May Be Provided by Defense
 - **Question #21a-c, regarding substance abuse and mental health issues, is too vague and will be unreliable.**
This is a Known Issue and VCSC Was Advised Defense Would or Could Provide Details
 - **Question #21j, pertaining to “defendant’s response,” will likely be a point of contention between prosecution and defense. Absent a plea agreement, judge should make the finding regarding acceptance of responsibility/remorse.**
The VCSC Has Departure Reasons to Capture the Judge’s Finding & Added a Factor to the Cover Sheet
- **Source of the bond and pretrial time served will be unknown in nearly every case, particularly when the defendant has charges in multiple jurisdictions.**
An Unknown Box Can Be Added for Source of Bond. Pretrial Time is Not Required on This Form. Knowing Amount of Pretrial Time is Required Before Sentencing in Some Newly Amended Statutes (e.g., Probation)



Input/Feedback from the Commonwealth's Attorneys



- **Most of the requested information is already available to the judge in some way.**
Not In Every Case. Not Consistently, Not Routinely Available and Not available to VCSC
- **Many of the questions are already asked on the sentencing guidelines worksheets.**
Not in Every Case and Not In the Detail Needed to Make Changes to the Sentencing Guidelines
- **When there is a plea agreement, there is really no need for the judge to have all of this information.** It is only relevant when the judge is making a decision on sentencing.
Even in Plea Agreements the Judge May Need to Make a Sentencing Decision. A Judge May Reject a Plea.
- **Even in a plea agreement, the facts of the case are given to the judge (weapons, injury, value of property).** Not in Every Case. See Comments Above
- **Prosecutor will not hand the form to the judge until after sentencing because, unless that evidence is introduced properly at a sentencing hearing, it's inappropriate for the judge to rely upon it.** Same Factors as on Pre-Sentence Reports. Judge Will Normally Ask If Anyone Has Additions or Corrections to the Guidelines. This is a Guidelines Form.
 - **If there's an agreement on sentencing, no additional evidence will be introduced.**
The Judge Will Need to Confirm the Sentence and Possibly Provide a Departure Reason
- **Data will be incomplete or inaccurate.**
Q10-20 Are Needed to Accurately Score Guidelines
 - **Form should ask how much time was expended to complete the form.**
Can be Added or Part of the Time Study



CONSISTENCY

- Provides Same Information to the Court for Each Defendant
- Identifies Changing Patterns Needed to Respond to and Implement Legislative Reforms & Policies
- Encourages a Discussion of the Defendant's Risks and Needs & Possible Sentencing Options to Address the Identified Issues
- There are Detailed Instructions for Answering Each Question



VIRGINIA CRIMINAL
SENTENCING COMMISSION

SWIFT/DCN: _____

Sentencing Guidelines Supplemental Form

1. Defendant's Name: _____

2. Defendant Information: Gender: _____ Race: _____ Ethnicity: _____ Age: _____ Handicapped: _____

3. Type of Counsel: Retained Court Appointed Public Defender Other

4. Pretrial Status: Secured Bond Unsecured Bond Own Recognizance Confinement Third Party Release

5. Pretrial Supervision by Pretrial Services Agency: No Yes Yes, ordered but did not complete/attend

6. Posttrial Status: Secured Bond Unsecured Bond Own Recognizance Confinement Third Party Release

7. Source of Bond: Personal Family Other Bonding Company N/A

8. Total Time Served Prior to Sentencing: Years _____ Months _____ Days _____

9. Number of Codefendants: _____

10. Legal Status at Offense (check all that apply):

<input type="checkbox"/> Escaped	<input type="checkbox"/> Inmate	<input type="checkbox"/> Mandatory Parole	<input type="checkbox"/> Discretionary Parole
<input type="checkbox"/> Geriatric Release - § 53.1-40.01	<input type="checkbox"/> Post Release - §19.2-295.2	<input type="checkbox"/> Probation	<input type="checkbox"/> Bond
<input type="checkbox"/> Recognizance	<input type="checkbox"/> Community Program	<input type="checkbox"/> Pre-Trial Supervision	<input type="checkbox"/> Good Behavior
<input type="checkbox"/> Juvenile Probation	<input type="checkbox"/> Juvenile Parole	<input type="checkbox"/> Summons	<input type="checkbox"/> Other _____ <input type="checkbox"/> None

11. Weapon Use: None Used to Injure Used to Threaten (Includes by voice, note, text, etc.)

12. Weapon Type: Firearm Knife Explosive Simulated/Feigned Weapon Blunt Object
 Note/Verbal Vehicle Animal Other _____ N/A

13. Offender's Role Alone Leader Accomplice Police Officer/LEO Not Determined

14. Value of Property Taken/Damaged: Highest value for one item \$ _____ Total value of all items \$ _____

15. Location: Bank Business Residence Street/Outside Automobile Other _____ N/A

16. Injury to Victim: Death Life Threatening Serious Physical Physical
 Emotional Threatened None N/A

17. Victim Relationship to Offender: None/Stranger Known Friend
 Family Police Officer/LEO Other _____

18. Victim Information: Gender: _____ Race: _____ Ethnicity: _____ Age: _____ Handicapped: _____

19. Type of Primary Drug: _____ Quantity of Primary Drug: _____

20. Number of Felony Juvenile Adjudications: Person _____ Property _____ Drug _____ Other _____

Source for Question #21: Defense Attorney Defendant PSI/PSR Commonwealth's Attorney Probation Officer

21. Other factors known at the time of sentencing (check all that apply)

	Yes	Treatment: (in or completed treatment)
a. Drug abuse (admitted, family information, documented in reports).....	<input type="checkbox"/>	<input type="checkbox"/> prior to offense <input type="checkbox"/> after arrest
b. Alcohol abuse (admitted, family information, documented in reports).....	<input type="checkbox"/>	<input type="checkbox"/> prior to offense <input type="checkbox"/> after arrest
c. Mental health issues (admitted, family information, documented in reports).....	<input type="checkbox"/>	<input type="checkbox"/> prior to offense <input type="checkbox"/> after arrest
d. Under the Influence of drugs/alcohol at the time of the offense	<input type="checkbox"/>	
e. Employment (Last 2 years):	<input type="checkbox"/> Full or part-time for at least 18 months	<input type="checkbox"/> Full-time student <input type="checkbox"/> Disabled
	<input type="checkbox"/> Stay-at-home spouse/parent	<input type="checkbox"/> Retired <input type="checkbox"/> Unemployed/Not stable
f. Housing (Last 2 years):	<input type="checkbox"/> Stable/same residence 1+ yrs	<input type="checkbox"/> Multiple Changes <input type="checkbox"/> Homeless at the time of the offense
g. Provides support:	Enter Number dependents or family members supported _____	
h. Education:	<input type="checkbox"/> Less than High school	<input type="checkbox"/> High school/GED <input type="checkbox"/> Technical Training <input type="checkbox"/> Some College
	<input type="checkbox"/> College Degree	<input type="checkbox"/> Post-graduate/Professional <input type="checkbox"/> Currently Enrolled (School, College Training)
i. Military:	<input type="checkbox"/> Active	<input type="checkbox"/> Reserve <input type="checkbox"/> Honorably Discharged <input type="checkbox"/> Undesirable Discharge
	<input type="checkbox"/> Medical Discharge	<input type="checkbox"/> General Discharge <input type="checkbox"/> Bad Conduct Discharge
j. Defendant's Response:	<input type="checkbox"/> Accepts Responsibility	<input type="checkbox"/> Sought Treatment <input type="checkbox"/> Developed Rehabilitation Plans
	<input type="checkbox"/> Remorseful	<input type="checkbox"/> Paid All or Part Restitution
k. Other:	_____	

