

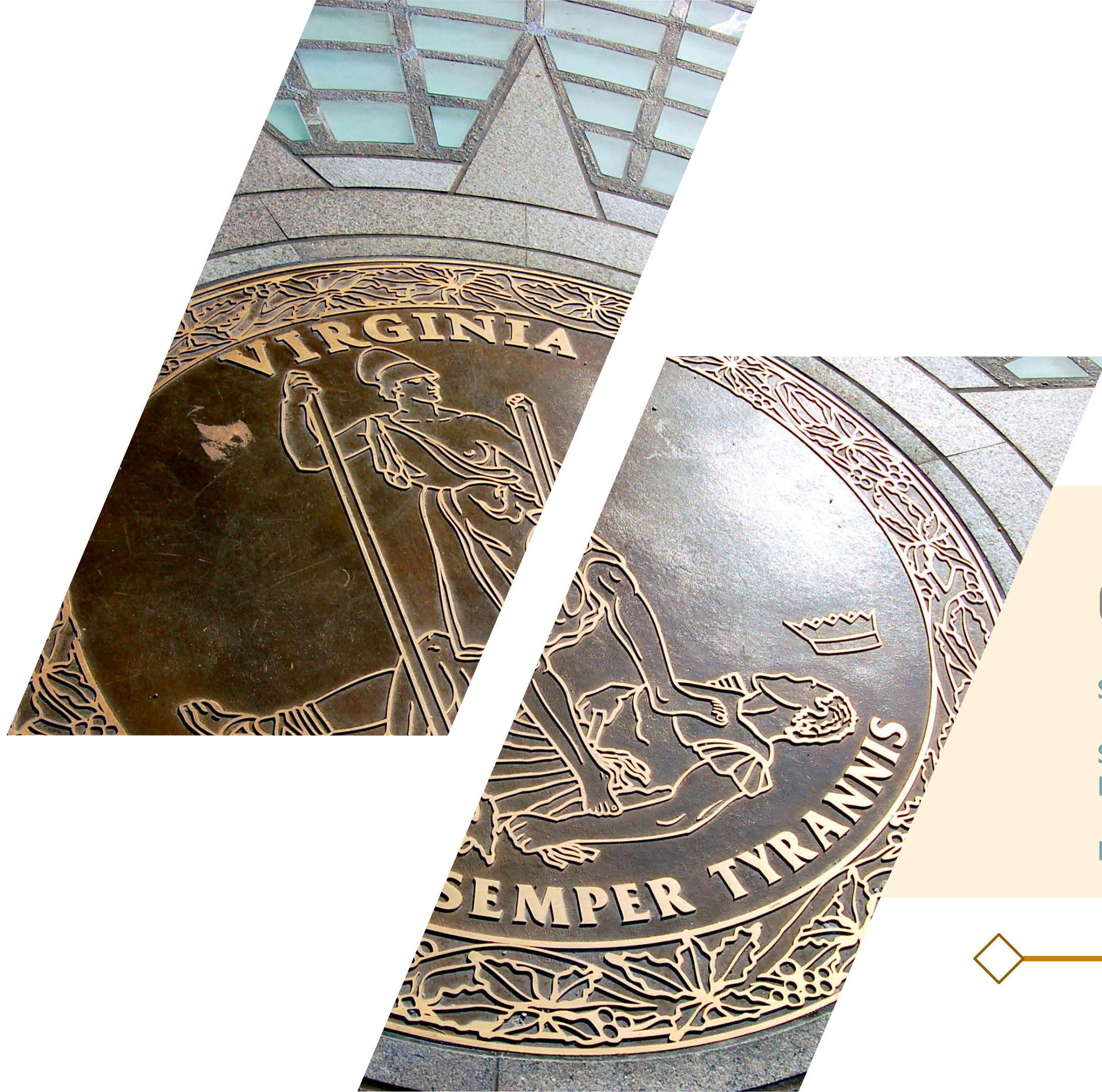
CONCURRENCE

STATUTORY REQUIREMENTS AND GUIDELINES RECOMMENDATION

PRELIMINARY ANALYSIS

GUIDELINES FOR FY 2023 ARE STILL
BEING SUBMITTED BY THE COURTS
AND CODED BY STAFF.





G U I D E L I N E S

SENTENCING CONCURRENCE

**SUBSTANTIAL ASSISTANCE/
RESPONSIBILITY FACTOR**

PROBATION VIOLATION CONCURRENCE



FY 2023 - Cases Coded and Keyed*

Month	2022	2023	Total
JAN		1,163	
FEB		611	
MAR		691	
APR		444	
MAY		175	
JUN		12	
JUL	1,319		
AUG	1,579		
SEP	1,348		
OCT	1,349		
NOV	1,163		
DEC	971		
TOTAL	7,729	3,096	10,825

* As of July 1, 2023

Modification of Recommendation

Substantial Assistance, Acceptance of Responsibility or Remorse

Definitions Based on Departure Reasons Were Added to the Instructions in July 2022

1. Showed positive or promising behavior while awaiting sentencing (e.g., drug free, employment, education, lifestyle change, etc.).
2. Began rehabilitation process without court intervention; took initiative to make change (e.g., enrolled in or completed drug treatment, mental health counseling, found housing, etc.).
3. Demonstrated responsibility for the support and care of family members (e.g., providing financial support, working with social services, etc.).
4. Maintained or secured employment or obtained job skills before sentencing.
5. Completed school, college, or a training program before sentencing.
6. Admitted guilt shortly after the offense, during arrest, etc., and prior to an appearance in court.
7. Prevented the crime from escalating into more serious offense (e.g., prevented a death, rape, etc.)
8. Current offense is an old crime that was committed when the defendant had a different lifestyle.
9. Behavior was out of the norm and likelihood of recidivism is low (e.g., no prior record or limited record; extremely young or elderly).
10. Time served is sufficient based on the defendant's demeanor in court or the defendant's demonstrated acceptance of responsibility/expression of remorse prior to appearance in court.
11. Substantial assistance as determined by the Commonwealth and accepted by the judge.

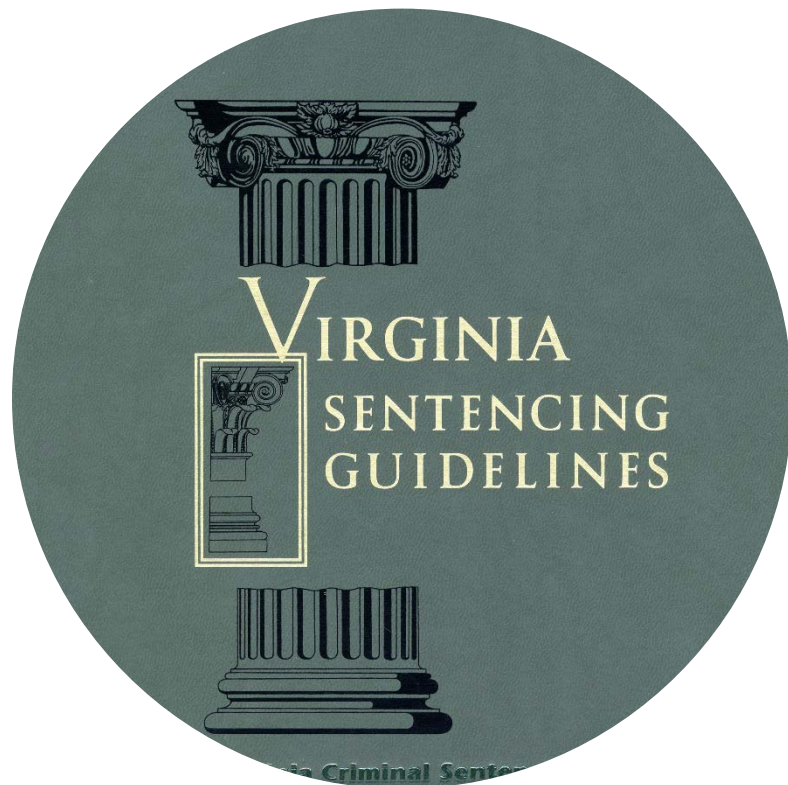
Substantial Assistance, Acceptance of Responsibility or Remorse

BOX CHECKED

1,554 ON 9,933 WORKSHEETS

16% OF THE WORKSHEETS

If the judge did not check the modification box, and the sentence was below the historical based guidelines recommendation, a departure reason would be required.



Substantial Assistance, Acceptance of Responsibility or Remorse

CONCURRENCE

755 CASES NOW IN CONCURRENCE

706 WERE ALREADY IN CONCURRENCE

41 CASES NO CHANGE (MITIGATING)

52 CASES NO CHANGE (AGGRAVATING)

◆ Final Disposition Fill In After Sentence Has Been Pronounced EXAMPLE,

Modification of Recommendation Based on Substantial Assistance, Acceptance of Responsibility or Expression of Remorse

The decision to modify the guidelines recommendation must be made by the judge. If the recommended low end is 3 years or less, the low end is adjusted to no incarceration. If recommended low end is more than 3 years, the low end is reduced by 50%.

If accepted by the court the

Adjusted Range is:

____ TO ____

Years

Months

Days

Years

Months

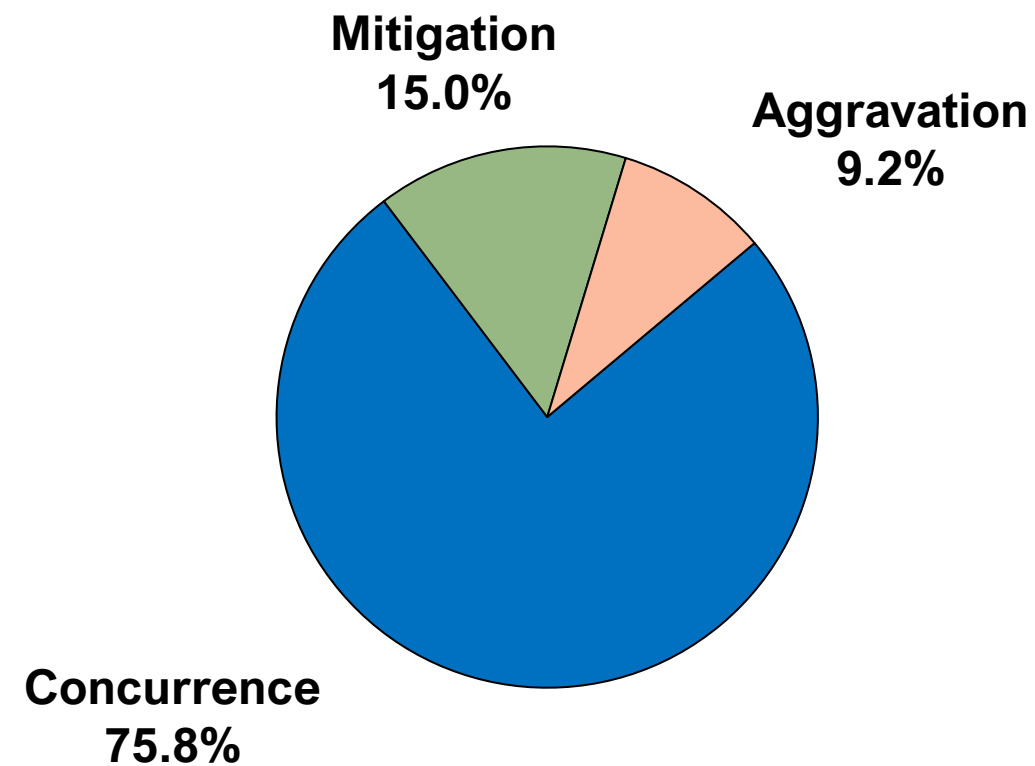
Days

Preliminary FY 2023 Judicial Agreement with Guideline Recommendations

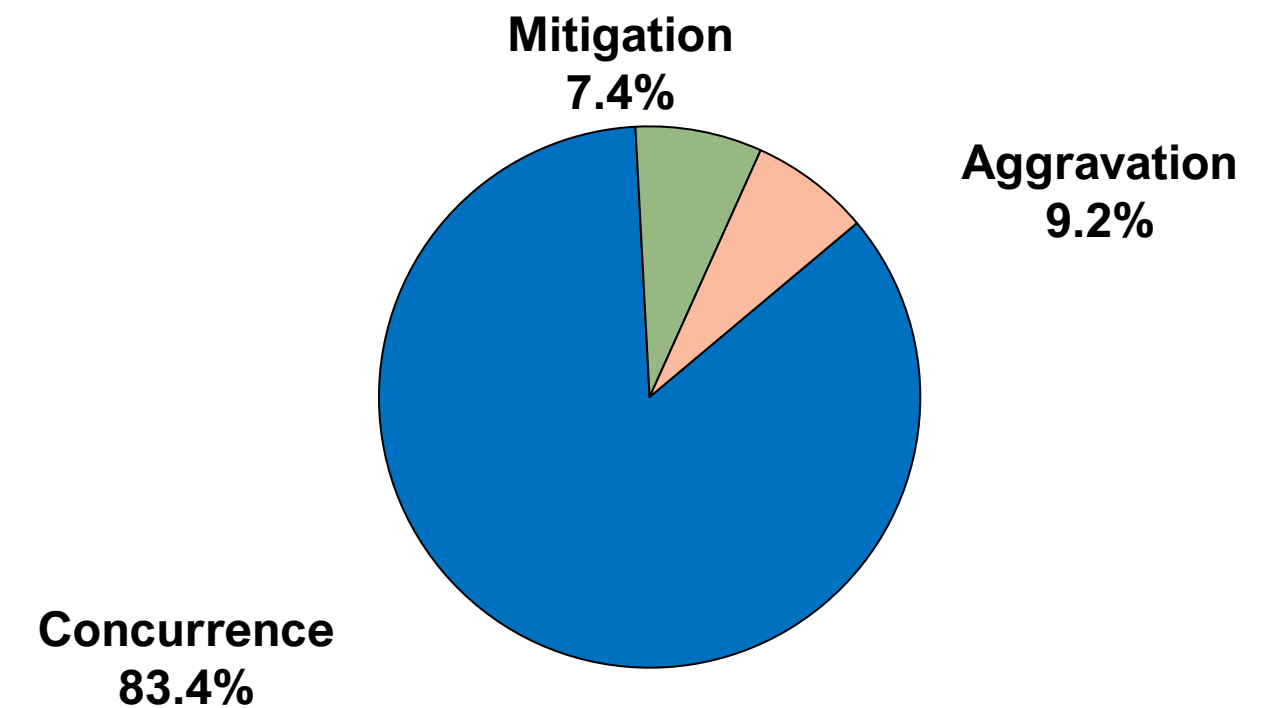
General Concurrence:

The degree to which judges agree with the overall Guidelines recommendation.

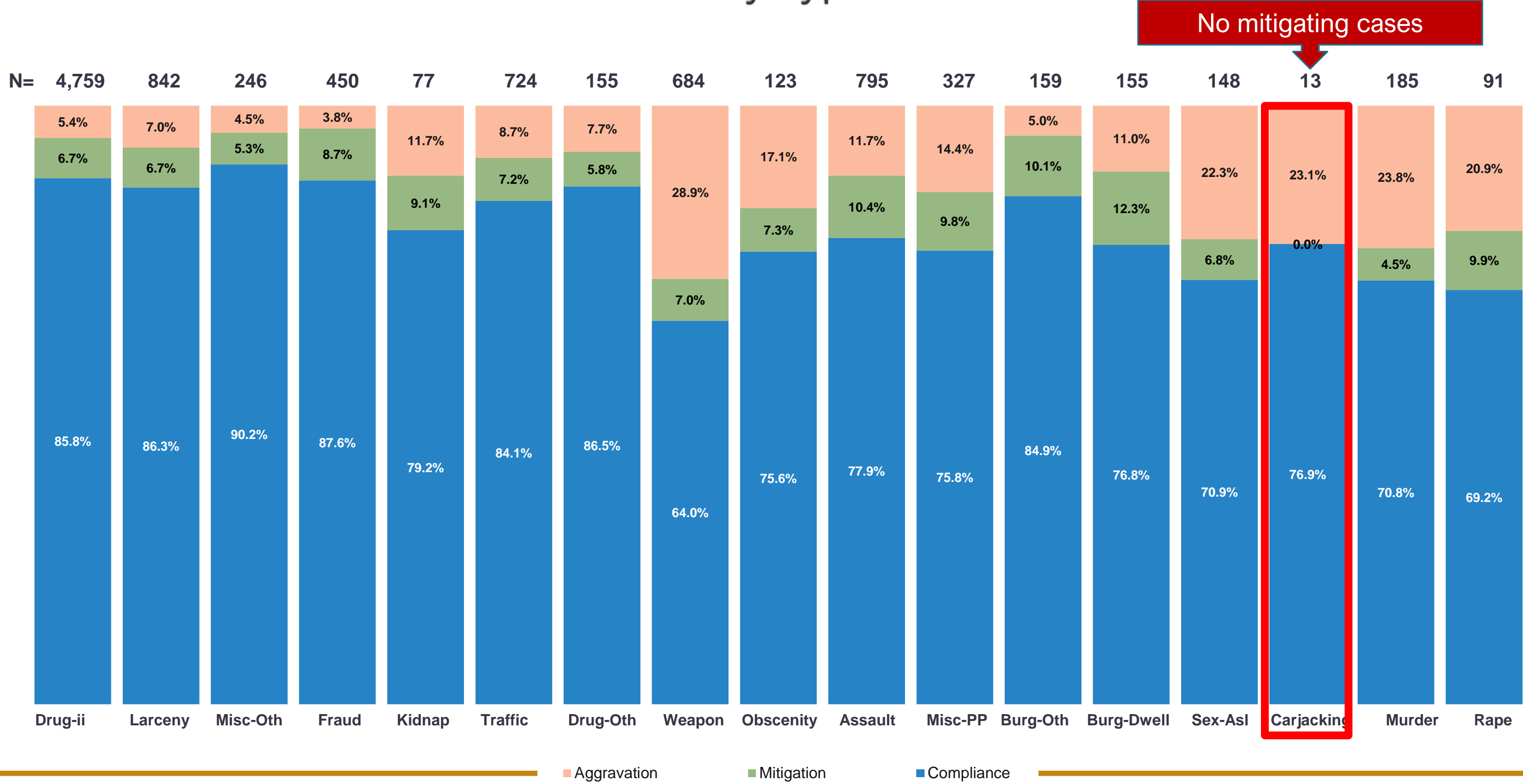
Overall Concurrence Rate



Overall Concurrence Rate Substantial Assistance, Acceptance of Responsibility or Remorse

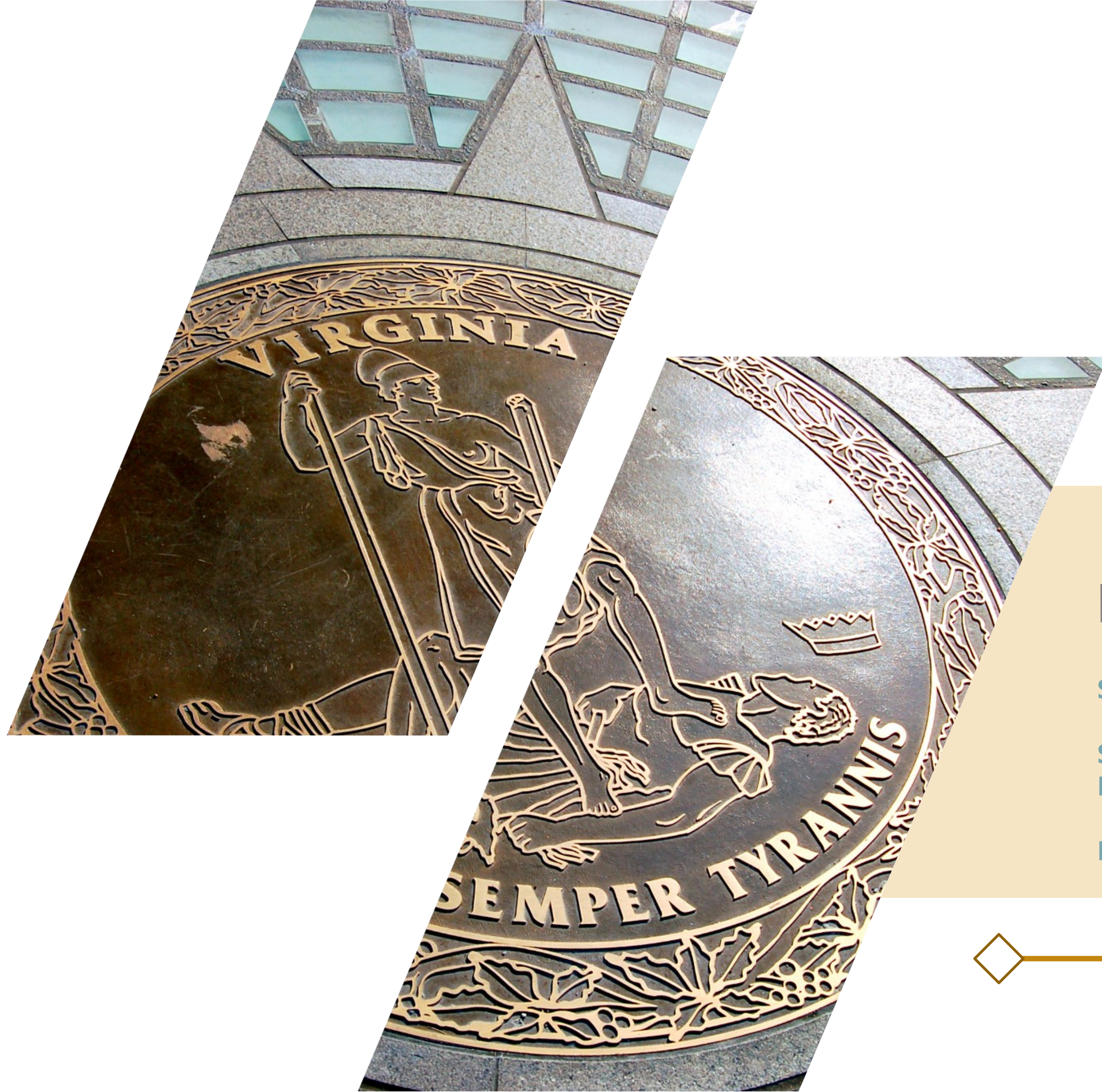


Preliminary FY 2023 Concurrence* by Type of Offense



* Concurrence includes Substantial Assistance, Acceptance of Responsibility or Remorse factor (FY23)





P R O B A T I O N

SENTENCING CONCURRENCE

SUBSTANTIAL ASSISTANCE/
RESPONSIBILITY FACTOR

PROBATION VIOLATION CONCURRENCE



NUMBER OF PROBATION SRRs & PVGs RECEIVED

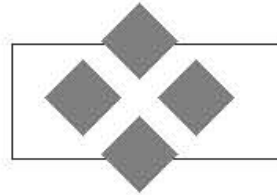
TOTAL NUMBER OF ALL FORMS RECEIVED. INCLUDES, PROBATION VIOLATIONS, GOOD BEHAVIOR AND PROCEDURAL FORMS.

FORMS RECEIVED AND KEYED BY JULY 1, 2023, ARE INCLUDED.

Month	2022	2023	Total
JAN		600	
FEB		535	
MAR		599	
APR		530	
MAY		263	
JUN			
JUL	863		
AUG	694		
SEP	731		
OCT	615		
NOV	637		
DEC	583		
TOTAL	4,123	2,527	6,650

N=8,927 (49 missing information)

ACCOMACK	14	FREDERICKSBURG	146	PATRICK	8
ALBEMARLE	18	GILES	55	PETERSBURG	56
ALLEGHANY	88	GLOUCESTER	90	PITTSYLVANIA	120
AMELIA	19	GOOCHLAND	2	PORTSMOUTH	23
AMHERST	3	GRAYSON	62	POWHATAN	13
APPOMATTOX	14	GREENE	25	PRINCE EDWARD	8
ARLINGTON	25	GREENSVILLE	21	PRINCE GEORGE	54
AUGUSTA	137	HALIFAX	25	PRINCE WILLIAM	92
BATH	17	HAMPTON	3	PULASKI	11
BEDFORD	101	HANOVER	201	RADFORD	8
BLAND	5	HENRICO	266	RAPPAHANNOCK	2
BOTETOURT	29	HENRY	251	RICHMOND CITY	105
BRISTOL	180	HIGHLAND	2	RICHMOND COUNTY	104
BRUNSWICK	16	HOPEWELL	31	ROANOKE CITY	34
BUCHANAN	10	ISLE OF WIGHT	15	ROANOKE COUNTY	132
BUCKINGHAM	7	JAMES CITY	4	ROCKBRIDGE	103
BUENA VISTA	46	KING & QUEEN	9	ROCKINGHAM	19
CAMPBELL	56	KING GEORGE	31	RUSSELL	80
CAROLINE	26	KING WILLIAM	20	SALEM	17
CARROLL	17	LANCASTER	7	SCOTT	26
CHARLES CITY	9	LEE	140	SHENANDOAH	62
CHARLOTTE	3	LOUDOUN	35	SMYTH	98
CHARLOTTESVILLE	10	LOUISA	24	SOUTHAMPTON	21
CHESAPEAKE	266	LUNENBURG	10	SPOTSYLVANIA	185
CHESTERFIELD	123	LYNCHBURG	57	STAFFORD	44
CLARKE	17	MADISON	1	STAUNTON	52
COLONIAL HEIGHTS	18	MARTINSVILLE	8	SUFFOLK	60
CRAIG	1	MATHEWS	8	SUSSEX	2
CULPEPER	21	MECKLENBURG	45	TAZEWELL	277
CUMBERLAND	0	MIDDLESEX	17	VIRGINIA BEACH	237
DANVILLE	211	MONTGOMERY	115	WARREN	92
DICKENSON	19	NELSON	2	WASHINGTON	154
DINWIDDIE	22	NEW KENT	27	WAYNESBORO	69
ESSEX	1	NEWPORT NEWS	57	WESTMORELAND	23
FAIRFAX COUNTY	5	NORFOLK	250	WILLIAMSBURG	19
FAUQUIER	28	NORTHAMPTON	2	WINCHESTER	37
FLOYD	11	NORTHUMBERLAND	3	WISE	6
FLUVANNA	21	NOTTOWAY	31	YORK	87
FRANKLIN COUNTY	340	PAGE	42		



Final Decision/Disposition

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

◆ DECISION OF THE COURT

- Found in Violation of Conditions as Cited
- Found in Violation of Conditions as Modified by the judge: Conditions Violated: _____
- Found in Violation of good behavior, suspended sentence, felony local probation
- Taken Under Advisement
- Not in Violation

◆ SENTENCE FOR REVOCATION

Rehabilitation Potential

- Court Finds that the defendant is a good candidate for rehabilitation (The low end of the guidelines is set to time served or zero)

Treatment Exception

- Sentenced to time required to participate in court ordered program/restitution review (§ 19.2-306.1 (D))

Revocable Time for Event

- Life +

Revocation Details

Amount of Time Imposed..... Life + Sentenced to Time Served

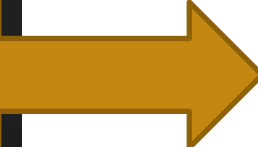
Amount of Time to Serve for this Violation (total effective sentence).. Life + Sentenced to Time Served

New/Revised Probation/Supervised Period

- Continued on same period of probation supervision (not extended)
- Placed on a probation supervision for a new period of..... Indefinite +
- Released from supervised probation

Conditions

Added July 1, 2021



6,650

FY23 GUIDELINES (JUL-JUNE)
USED TO CALCULATE CONCURRENCE

537 (8.1%)

IDENTIFIED AS HAVING
GOOD REHABILITATION POTENTIAL

R E H A B I L I T A T I O N
P O T E N T I A L

BASED ON DEPARTURE REASONS,
THE COMMISSION DEVELOPED A NEW FACTOR THAT ESTABLISHES THE LOW END OF
THE GUIDELINES RANGE TO ZERO OR TIME SERVED WHEN THE JUDGE BELIEVES THAT
THE DEFENDANT HAS GOOD REHABILITATION POTENTIAL

Separate from the main analysis, researchers examined the reasons cited by judges for departing from the current Probation Violation Guidelines. In particular, researchers were interested in the judge's assessment of the probationer's rehabilitation potential (good or poor) and the extent this was cited as the reason for departing from the guidelines. To do this, the analysts examined all FY2014-FY2019 SRR cover sheets (not just cases selected for the study sample). This analysis grouped offenders by judicial departure reasons - either good rehabilitation potential, poor rehabilitation potential, or neither cited - and compared effective revocation sentences for each group. Figure 48 shows the results. The median, mean, and maximum sentence for cases in which the judge cited good rehabilitation potential as the reason for departing from the PVGs are significantly lower than for the groups with poor potential or no such departure noted. Of particular note, the median or "typical" case with good potential noted received a sentence of zero (or time served). Based on these findings, the Commission concluded that a new factor could be added to the PVGs to allow the judge to adjust the low-end recommendation to "time served" (i.e., zero) if the judge finds the probationer has good rehabilitation potential. Because this factor would be based on judicial determination rather than currently available data sources, it is not possible to estimate the proportion of the study sample who would have been scored on this factor or how it might interact with other factors. Therefore, it was constructed as a standalone factor which does not contribute points to the total worksheet score. *VCSC Annual Report*, December 1, 2020, page 59.

CONCURRENCE **FY 2023**

TYPE VIOLATION	CONCURRENCE	MITIGATION	AGGRAVATION	N
Technical First	99.2%	0.0%	0.8%	845
Technical Second	97.2%	0.0%	2.8%	464
Technical Third +	84.3%	11.1%	4.6%	369
Technical 9 or 11 First	98.2%	0.0%	1.8%	549
Technical 9 or 11 Second +	86.3%	7.7%	6.0%	234
Special Conditions	85.8%	9.3%	4.9%	878
New Misdemeanor	88.9%	7.4%	3.7%	1,153
New Felony	85.2%	9.7%	5.1%	1,457
TOTAL	90.1%	6.2%	3.7%	5949

N=6038 (89 missing information)

CONCURRENCE

STATUTORY REQUIREMENTS AND
GUIDELINES RECOMMENDATIONS

