



GUIDELINES MATTERS



SWIFT ISSUES

GUIDELINES NOT AVAILABLE AT SENTENCING

Presently, the Court writes out the sentence just prior to announcing it. Then either that same day or certainly within a day or two later, the Court inputs the electronic guidelines submission. The Court then holds the paper until the Court verifies that the submission actually is in the JIS file. The green check indicator only proves guidelines were submitted. It does not verify that guidelines are actually in the file as has been discovered from time to time.

1 Most criminal days, the Court is emailing the courtroom clerk asking her to track down missing or incorrect SWIFT submissions from either probation or the Commonwealth when the Court has paper guidelines in hand. The reasons for the failures are many, but frankly, the reasons are unimportant. If the Court just hands in paper guidelines, all that administrative checking and verifying is no longer needed. Missing guidelines at sentencing are obvious – there is no paper.

The courtroom clerk uses the sentencing guidelines as a check behind her notes to insure sentencing orders are accurate. The Court certainly use them in this way when verifying sketch sentencing orders. The Court repeatedly finds 2 electronic form constrains the accurate reporting of sentences. How is a sentence that 3 concurrent with another sentence but not every other sentence disclosed 4 Where are differing periods of good behavior noted 5 How are mandatory minimums indicated as complied with? There are others, but these examples will suffice for the moment. The Court can certainly comply with the reporting rules, but fitting square electronic reporting peg into round sentence adjudged hole is yet more research and time. Unlike the electronic version, on paper the Court can just write what was done in English and the data folks at the Sentencing Commission can decide how to code and enter to suit their needs.

SWIFT is not improving data accuracy. Many data fields are notoriously incomplete. The Court has long since stopped chasing down a defendant's age, gender, race, attorney status, time served, disability, and so forth. Which Court has time for that investigative or research task in bulk? Whatever data beyond sentencing is being collected in the Capital, if the worksheets there look like the worksheets here, that data is highly suspect and entirely unreliable.

SWIFT-ISSUES

Possible Solutions



1 – GUIDELINES ARE BASED ON SENTENCING EVENTS

NEVER DESIGNED TO CAPTURE EVERY COUNT, BUT
SENTENCING FOR THE EVENT

First _____ Middle _____ Last _____ Suffix _____

Date of Birth: / / Social Security Number: --

CCRE: CORIS Offender ID: PSI:

◆ COURT

Judicial Circuit City/County _____ FIPS Code:
 Sentencing Judge's Name _____ For Office Use Only
 Preparer Name _____ Commonwealth's Attorney Probation Officer
 Prosecuting Commonwealth's Attorney _____ Defense Attorney _____

◆ CONVICTIONS

Please check this box and change the F or M in the Virginia Crime Code (VCC) to a D if one or more offenses is in violation of deferred dispositions §§ 18.2-251, 18.2-258.1, 19.2-298.02, or 19.2-303.6 (e.g. NAR-3022-F5 to NAR-3022-D5).
Offense **Counts** **VCC** **Offense Date**
 Primary Offense

For a comprehensive list of all offenses in the sentencing event, please refer to the **Docket Details** page following **Section D**.

Primary Offense Code Section § _____ Docket Number _____

◆ METHOD OF ADJUDICATION

SUM OF ALL MANDATORY MINIMUMS

Life Mandatory Minimum: yyy/mm/ddd Manual Override

VCC	Life	Years	Months	Days	Count
RAP-1153-F9	1	0	0	0	1
OBS-3748-F9	0	5	0	0	1

◆ NONVIOLENT RISK ASSESSMENT Section D of Drug, Fraud, and Larceny Worksheets

Recommended for Alternative Punishment Not Applicable (INELIGIBILITY CONDITIONS marked on Section D)
 NOT Recommended for Alternative Punishment Not a DRUG, FRAUD or LARCENY Offense

◆ Final Disposition Fill In After Sentence Has Been Pronounced

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

◆ **SENTENCE (For All Offenses in the Event)**

Taken under Advisement/Continued

Total Time Imposed Before Suspension Life Sentence +

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Total Effective Time to Serve Life Sentence +

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Sentenced to Time Served

Incarceration Sentence to Run Concurrently With Another Event

Restitution \$ _____ Fine \$ _____

Post Release

Post Release Incarceration Term § 18.2-10 (suspended)

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(6 months to 3 years)

Post Release Supervision Period § 19.2-295.2(A)

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(6 months to 3 years)



Probation (Sentenced to no time, probation up to statutory maximum; Sentenced to incarceration, probation up to 5 years)

Probation Period (Supervised) Indeterminate Not to Exceed § 19.2-303

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Good Behavior

Good Behavior Period (sum or longest length imposed) § 19.2-306

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Fixed at Statutory Maximum § 19.2-306

Agreements and Other Details (check all that apply)

Written Plea Agreement Accepted = Rule 3A:8(c)(1) (A) or (C)

Plea and Recommendation Accepted = Rule 3A:8(c)(1)(B)

Oral Sentence Recommendation Accepted

Other Sentencing Programs (check all that apply)

Day Reporting

Electronic Monitoring

Intensive Probation

Substance Abuse Treatment

§ 18.2-251/§ 18.2-258.1

Community-Based Program _____

CCAP

Drug Court

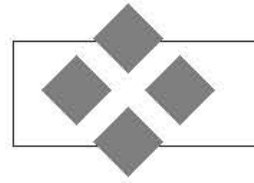
Youthful Offender

DJJ Commitment Indeterminate Determinate

Other _____

Office Use Only

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Final Decision/Disposition

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

RULING ON APPLICATION OF § 19.2-306.1

- Statutory Requirement (no time imposed or 0 to 14 days). Case is in compliance with statutory limits.
- Statutory Requirement Does Not Apply. Guidelines Recommended Range _____ to _____

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 or post release
- Taken Under Advisement/Continued
- Not in Violation

SENTENCE FOR REVOCATION *(For All Violations in this Event)*

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

- Total Amount of Time Imposed..... Life +

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

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 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 or extended period of....

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 Indeterminate Not to Exceed § 19.2-303
- Released from supervised probation

Conditions

- Good behavior *(sum or longest length imposed)* Life

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 Fixed at Statutory Maximum § 19.2-306
- New conditions of probation _____
- Continued on same conditions

Other Sentencing Programs *(check all that apply)*

- Day Reporting
- Electronic Monitoring
- Community-Based Program _____
- CCAP

SWIFT-ISSUES

Possible Solutions



1 – GUIDELINES ARE BASED ON SENTENCING EVENTS

NEVER DESIGNED TO CAPTURE EVERY COUNT, BUT SENTENCING FOR THE EVENT



2 – GAVEL ICON ON ALL OFFENSES IN THE EVENT

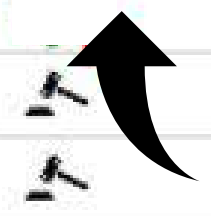
PROGRAM SWIFT SO THAT THE GAVEL ICON WILL APPEAR FOR EVERY OFFENSE IN THE SENTENCING EVENT AND LINK WITH THE SAME GUIDELINES

Menu

Case File Search | 11/1/2023 | Civil, Criminal, Ju... | Get Hearings | Show Hearings w/ Result Code: [] | Go Back 1 Day | Go Forward 1 Day | Go to Current Date | Clear List | Print | Group Cells | Open Multiple Cases | Filter Judges

Judicial Options | View Docket for Date And Division | Options

Time	Name	Case Number	Charge	SWIFT!	Hearing On For	R
	SMITH	CL19000029-00	DELINQUENT TAXES		JURY TRI...	7
	SMITH	<u>CR23000143-00</u>	DRUGS: POSSESS SCH I OR II		HEARING	
	SMITH	CR23000142-00	VIOL PROBATION ON FEL OFF			
	SMITH	<u>CR23000144-00</u>	ENTER HOUSE TO COMMIT A&B ...			



SWIFT Probation Violation Intake Management

GOAL: Identify the Probation Violation records in the defendant search results that share the same hearing date and subsequently populate the Probation Violation worksheet with the root offenses of those violations.

SPECIFICS: Probation Violation records are identified by the first three characters of the Virginia Crime Code (VCC) referred to as the Broad offense code. The five Broad Offense codes that qualify as a probation violation are

1. CBC
2. CDI
3. PRB
4. PRE
5. SSV

In some jurisdictions failure to appear and contempt charges are used as place holders

EXAMPLE: We conduct a search for a defendant named "CLARK, ██████████". The results yield four records, two of which are felony probation violations that occur on 3/3/20. The docket numbers for the two violations are CR1100099405 & CR1400176101. Clicking on either of those records in the search results will submit a query that searches for all cases in that jurisdiction with docket numbers like '11000994%' and '14001761%' identifying the root offenses associated with the selected probation violations. The results of this query are collected and deduplicated on offense description. The resulting array of root offense descriptions are then included as options in a select menu on the Probation Violation form.

SPECIAL CASE-IDS: Some courts include a variation in the syntax of case-ids for revocation and root offenses. We'll use Chesterfield as an example. The revocation case-id will include a character other than an 'F' whereas the root offense will include an 'F'. In some jurisdictions special Case IDs are used

STEP BY STEP EXAMPLE (SEARCH FOR GRAHAM, ██████████ IN CHESTERFIELD AND CLICK ON EITHER OF THE RECORDS RETURNED):

STEP 1: IDENTIFY THE REVOCATIONS FOR THE DEFENDANT IN THE SWIFT SEARCH RESULTS

```
2024/03/13 16:48:24 INFO> /opt/SraApp/lib/Sra/Vcsc/Ajax.pm:400 Sra::Vcsc::Ajax::worksheet - $VAR1 = [  
    'CR19C0017001:PRB-4850-F9:2018-09-10:GRAND%20LARCENY%2F%20SC',  
    'CR19C0095701:PRB-4850-F9:2018-09-10:POSS%20SCH%20I%2FII%20CONTR%20SUB%2FSC'  
];
```

STEP 2: PROCESS EACH REVOCATION CASE-ID, SUBSTITUTE THE 'C' FOR 'F'

```
2024/03/13 16:48:24 INFO> /opt/SraApp/lib/Sra/Vcsc/Ajax.pm:436 Sra::Vcsc::Ajax::worksheet - CR19F0017001
```

STEP 3: STRIP THE FIRST TWO AND LAST TWO CHARACTERS

```
2024/03/13 16:48:24 INFO> /opt/SraApp/lib/Sra/Vcsc/Ajax.pm:438 Sra::Vcsc::Ajax::worksheet - 19F00170%
```

STEP 4: QUERY FOR cms ROOT OFFENSE RECORDS FOR THE DEFENDANT USING THE CASE-ID W/WILDCARD IN STEP 3

```
2024/03/13 16:48:24 INFO> /opt/SraApp/lib/Sra/Vcsc/Ajax.pm:446 Sra::Vcsc::Ajax::worksheet - $VAR1 = {  
    'NAME' => 'GRAHAM, ██████████',  
    'JUDGE_INIT' => 'TJH',  
    'VA_CRIME_CD' => 'LAR2359F9',  
    'CHRG_DESC' => 'GRAND LARCENY',
```

When Probation Guidelines are completed and attached to the Major Violation Report there is usually no case id or docket number available. Users are forced to use the docket number for one of the root offenses.

SWIFT-ISSUES

Possible Solutions



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2 – GAVEL ICON ON ALL OFFENSES IN THE EVENT

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3 – JIS (Judicial Information System)

VCSC REAL TIME RESPONSE TO CORRECT GUIDELINES WITH INCORRECT DOCKET (CASE ID) NUMBERS

“we will not be able to accommodate #6 on your list, “VCSC access to JIS to assist the court and the preparer in getting the Guidelines on the docket without delay.” Access to CIS/JIS/OCRA is at the sole discretion of the clerk. Furthermore, CIS/JIS (one in the same application) is only an internal facing application with access roles only provided to clerk and judge staff.”

SWIFT-ISSUES

ANY SUGGESTIONS?



GUIDELINES LABELS

RESOLVE SCORING ERRORS



C. Forcible sodomy, victim under age 13			
1 - 2 counts	354	236	133
3 counts	882	588	331
D. Forcible rape or object sexual penetration, victim age 13 or older			
1 count	402	268	151
2 counts	882	588	331
E. Forcible sodomy, victim age 13 or older			
1 count	324	216	122
2 counts	882	588	331

Score

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◆ **Primary Offense Remaining Counts** Assign points to each count of the primary not scored above and total the points

Maximum Penalty:	10	5
(years)	Life	18

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◆ **Additional Offenses** Assign points to each additional offense (including counts) and total the points

Maximum Penalty:	Less than 2	0
(years)	2, 3	1
	4, 5	2
	10, 15	5
	20	9
	30	14
	40, 50, Life	18

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40, 50, Life because "40 or more" caused scoring errors

◆ **Weapon Used, Brandished, Feigned or Threatened** If YES, add 39

0		
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◆ **Victim Injury**

Level 4 or Level 3	3
Level 2	20
Level 1	76

0		
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Injury was scored based on the labels: Life-Threatening, Physical/Serious Physical, Emotional or Threatened
The new labels require preparers to read the complete definitions

Number of Counts:	1	13
	2	26
	3 or more	39

0		
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Total Score

See Rape Section C Recommendation Table for guidelines sentence range.

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Rape/Section C

◆ If necessary, on the cover sheet also enter the adjusted high end of the guidelines sentence range based on Risk Level: 1 2 3 or n/a

D. Grand larceny auto	1 count	5
	2 counts	7
	3 counts	10
E. Grand larceny from person or conspire to commit or assist in larceny with an aggregate value over \$1,000	1 count	4
	2 counts	11
F. Grand larceny of a firearm (1 count)	1
G. Failure of bailee to return animal, aircraft, vehicle or boat (1 count)	4
H. Larceny of bank notes, checks or any book of accounts; Any other larceny offense with maximum penalty of 20 years	1 count	2
	2 - 3 counts	4
	4 counts	6

Score

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◆ **Primary Offense Remaining Counts** Total the maximum penalties for counts of the primary not scored above

Years: 5 - 11	1	34 - 44	4
12 - 22	2	45 or more	5
23 - 33	3		

0	
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◆ **Additional Offenses** Total the maximum penalties for additional offenses, including counts

(12 Months = 1 year) Years: Less than 1	0	23 - 33	3
1 - 11	1	34 - 44	4
12 - 22	2	45 or more	5

0	
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12 Months is scored the same as 1 Year

Years: Less than 2	0	21 - 30	3
2 - 11	1	37 or more	4
12 - 20	2		

0	
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◆ **Prior Felony Larceny Convictions/Adjudications**

Number of Counts: 1	2
2 - 3	3
4 or more	4

0	
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◆ **Other Prior Felony Property Convictions/Adjudications**

Number of Counts: 1 - 4	1
5 or more	2

0	
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◆ **Prior Felony Convictions/Adjudications Against Person**

Number of Counts: 1	1
2 or more	2

0	
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◆ **Prior Misdemeanor Convictions/Adjudications (Excludes Traffic)**

Number of Counts: 1 - 4	1
5 - 8	2
9 or more	3

0	
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◆ **Prior Incarcerations/Commitments**

If YES, add 5

0	
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◆ **Prior Juvenile Record**

If YES, add 1

0	
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◆ **Legally Restrained at Time of Offense**

None	0
Other than parole/post-release, supervised probation or CCCA	1
Parole/post-release, supervised probation or CCCA	2

0	
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SEALED RECORDS

2025 – IMPACT ON GUIDELINES



SEALED-RECORDS

2025



1 – GUIDELINES ARE PUBLIC RECORDS

CURRENTLY RELEASED WITHOUT SSN AND DATE OF BIRTH



2 – COVERSHEET & WORKSHEETS MAY CONTAIN CONVICTIONS THAT ARE NOW SEALED (Except for Criminal Justice Purposes)

DO WE CONTINUE TO RELEASE THE COVER SHEET AND
WORKSHEETS EVEN IF A VIEWER MAY BE ABLE TO
IDENTIFY A SEALED CONVICTION?

DO WE RELEASE JUST THE COVER SHEET MINUS ANY
SEALED OFFENSES ON THE COVER?

DO WE DEVELOP A SUMMARY SHEET WITH THE
RECOMMENDATION, SENTENCE, AND DEPARTURE
REASONS?

Larceny Section A

Offender Name: _____

◆ **Primary Offense** _____ (scores for attempted/conspired offenses are in parentheses)

A. Attempted or conspired larceny (1 count).....	(1)	
B. Statutory maximum penalty equals 5 years		
1 count.....	1	
2 counts.....	4	
3 counts.....	6	
C. Statutory maximum penalty equals 10 years (1 count).....	3	
D. Grand larceny auto		
1 count.....	5	
2 counts.....	7	
3 counts.....	10	
E. Grand larceny from person		
1 count.....	4	
2 counts.....	11	
F. Grand larceny of a firearm (1 count).....	1	
G. Failure of bailee to return animal, aircraft, vehicle or boat (1 count).....	4	
H. Larceny of bank notes, checks or any book of accounts; Any other larceny offense with maximum penalty of 20 years		
1 count.....	2	
2 - 3 counts.....	4	
4 counts.....	6	

Score

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◆ **Primary Offense Remaining Counts** Total the maximum penalties for counts of the primary not scored above

Years: 5 - 11.....	1	34 - 44.....	4
12 - 22.....	2	45 or more.....	5
23 - 33.....	3		

0	
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◆ **Additional Offenses** Total the maximum penalties for additional offenses, including counts

Years: Less than 1.....	0	23 - 33.....	3
1 - 11.....	1	34 - 44.....	4
12 - 22.....	2	45 or more.....	5

0	
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◆ **Prior Convictions/Adjudications** Total the maximum penalties for the 5 most recent and serious prior record events

Years: Less than 2.....	0	21 - 36.....	3
2 - 11.....	1	37 or more.....	4
12 - 20.....	2		

0	
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◆ **Prior Felony Larceny Convictions/Adjudications**

Number of Counts: 1.....	2
2 - 3.....	3
4 or more.....	4

0	
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◆ **Other Prior Felony Property Convictions/Adjudications**

Number of Counts: 1 - 4.....	1
5 or more.....	2

0	
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◆ **Prior Felony Convictions/Adjudications Against Person**

Number of Counts: 1.....	1
2 or more.....	2

0	
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◆ **Prior Misdemeanor Convictions/Adjudications (Excludes Traffic)**

Number of Counts: 1 - 4.....	1
5 - 8.....	2
9 or more.....	3

0	
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◆ **Prior Incarcerations/Commitments** _____ If YES, add 5 →

0	
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◆ **Prior Juvenile Record** _____ If YES, add 1 →

0	
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◆ **Legally Restrained at Time of Offense**

None.....	0
Other than parole/post-release, supervised probation or CCCA.....	1
Parole/post-release, supervised probation or CCCA.....	2

0	
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SCORE THE FOLLOWING FACTOR ONLY IF PRIMARY OFFENSE IS H: EMBEZZLEMENT (§ 18.2-111)

◆ **Amount of Embezzlement**

Amount: Less than \$10,000.....	0
\$10,000-\$19,999.....	3
\$20,000-\$74,999.....	6
\$75,000-\$119,999.....	9
\$120,000 or more.....	14

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Total Score _____ If total is 15 or less, go to Section B. If total is 16 or more, go to Section C.

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Larceny/Section A





STAFF SUMMARY

PROBATION, POST RELEASE, AND
GOOD BEHAVIOR PERIODS

↓ Original Sentencing Date

↓ Released From Incarceration

Violations Started 7/1/21 & After

Sentenced to Time in a Correctional Facility (July 1, 2021 & After)

Good Behavior	Up to Sum of Statutory Maximums ¹
Probation	Up to 5 Years from Release (Each Count) Not To Exceed Good Behavior ²
Post-Release	6 Months Up to 3 Years for Each Count

Sentenced to No Time to Serve (July 1, 2021 & After)

Good Behavior	Up to Sum of Statutory Maximums ¹
Probation	Up to the Statutory Maximum (Each Count) Not To Exceed Good Behavior ²
Post-Release	N/A

Prior to July 1, 2021

Good Behavior	As Established Prior to 7/1/21 Up to Indefinite (Sum of Statutory Maximums)
Probation	As Established Prior to 7/1/21 Up to Indefinite (Sum of Statutory Maximums)
Post-Release	6 Months Up to 3 Years for Each Count

After 1st Violation of Probation or Good Behavior (If Process Began 7/1/21 or After)
Supervision and Good Behavior Restricted as Follows

¹ Under § 19.2-303, for certain sex offenses and kidnapping, the maximum supervision period must be the statutory maximum and can be indefinite.

² § 19.2-303: The court may fix the period of probation for up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned. Any period of supervised probation shall not exceed five years from the release of the defendant from any active period of incarceration. The limitation on the period of probation shall not apply to the extent that an additional period of probation is necessary (i) for the defendant to participate in a court-ordered program or (ii) if a defendant owes restitution and is still subject to restitution compliance review hearings in accordance with § 19.2-305.1.

Probation: Statutory Maximum for the Offense(s) Minus Time Served in Prison/Jail^{1,2}

Good Behavior: Can Never Exceed the Sum of the Statutory Maximums from Date of Entry on Original Court Order, Unless Otherwise Specified in the Court Order ¹



STAFF CODING

DEPARTURE REASONS &
ALTERNATIVES

STAFF-CODING AUTOMATION



1 – ELECTRONICALLY IDENTIFY CASES NOT IN STRICT CONCURRENCE OR CASES MISSING INFORMATION



2 – USE SYNTAX TO IDENTIFY KEY WORDS AND PHRASES AND GENERATE APPROPRIATE CODES (Dr. Chen)

NOW UNTIL JUNE 30, 2024, (FY2024) COMPARE ACCURACY OF SYNTAX TO STAFF CODING

JULY 1, 2024, (FY2025) MOVE TO AUTOMATED REVIEW AND CODING OF GUIDELINES

STAFF WILL FOCUS ON CLEANING DATA AND FINDING MISSING INFORMATION