

Legal Ethics

MCLE Training Component



Policy or Ethics Decisions



• Standard Response •

• Develop Training •



Categories



- Obligation to Reveal Errors, Information, Etc.
- Risk Assessment
- Factor Bargaining & Established Guidelines Rules
- Plea Agreements
- Miscellaneous

Policy

Refer for LEO

No Action

LEGAL ETHICS OPINION REQUEST FORM

VIRGINIA STATE BAR STANDING COMMITTEE ON LEGAL ETHICS

Eighth & Main Building 707 East Main Street, Suite 1500 Richmond, Virginia 23219-2800 (804) 775-0564

Name: _____

Firm: _____

Address: _____

Telephone: (_____) _____ VSB Membership Number: _____

Pursuant to Section 10(b)(i) of Part Six: Section IV of the Rules of the Supreme Court of Virginia, an advisory legal ethics opinion may be requested by any member of the Virginia State Bar concerning contemplated or actual professional conduct which may be violative of the Virginia Rules of Professional Conduct. Please indicate the nature of your inquiry.

The Rules of Court require that requests for advisory opinions shall state in detail all operative facts, in the hypothetical, upon which the request is based. Please provide a brief and concise statement of the facts with no identifying information as to persons or entities involved.



Scenarios

- **Obligation to reveal errors**

- 1. Public Defender: error result in higher score
- 2. CA: Error would take SG out plea agreement
- 3. Defense is aware of Category I

- **Risk Assessment**

- 4. Gender ruled unconstitutional
- 5. Defense obligated to release dispositional information
- 6. Risk Assessment not Completed (20% missing)
- 7. Risk assessment is not included when recommendation is an alternative

- **Factor Bargaining**

- 8. Drug Quantity
- 9. Type of Weapon Used
- 10. Defense attorney prepares guidelines
- 11. Guidelines completed after sentencing
- 12. Marijuana as a Schedule I/II drug
- 13. Judge disagrees with Category I/II enhancements
- 14. Judge orders PO to adjust scores

- **Plea Agreement**

- 15. Facts of case vs. Agreed upon facts
- 16. Plea limits sentence within guidelines range

- **Miscellaneous**

- 17. Prior record information: Who is responsible for presenting evidence?
- 18. When should defense receive probation violation guidelines?

June 12, 2006

Obligation to Reveal Errors, Information, Etc.





Ethics: 1

1. **Ethics:** The public defender, an officer of the court, realizes that there is an error on the guidelines that results in a significantly higher score.

Is the defense, as an officer of the court, required to identify the sentencing guideline error to the court?



Ethics: 2

2. **Ethics:** The Commonwealth's attorney realizes that there is an error on the guidelines that results in a significant change in the guidelines score. However, the correct scoring would make the recommended sentence outside the current plea agreement, and the judge would need to depart from the guidelines to accept the plea.

Is the Commonwealth required to notify the court of errors on the sentencing guidelines?

Ethics: 3

3. **Ethics:** The defense is aware of a previous conviction not known to the Commonwealth that would enhance the guidelines recommendation by classifying the defendant as a Category I violent offender.

Drug/Schedule I/II ❖ **Section C** Offender Name: _____

Primary Offense _____

Prior Record Classification: Category I Category II Other

A. Possess Schedule I or II drug - Attempted, conspired or completed:

1 count	20	10	5
2 counts	28	14	7
3 counts	36	18	9

B. Sell, Distribute, possession with intent, Schedule I or II drug

Completed:	1 count	40	20	10
	2 counts	80	48	24
	3 counts	95	57	19
	4 counts	130	78	26
Attempted or conspired:	1 count	48	24	12
	2 counts	64	32	16
	3 counts	76	38	19
	4 counts	104	52	26

C. Sell, etc. Schedule I or II drug, subsequent offense; third and subsequent offense

Completed:	1 count	110	66	22
	2 counts	310	186	62
Attempted or conspired:	1 count	88	44	22
	2 counts	248	124	62

D. Sell, etc. Schedule I or II drug to minor

Attempted, conspired or completed:	1 count	60	30	15
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E. Accommodation-Sell, etc. Schedule I or II drug - Attempted, conspired or completed:

1 count	32	16	8
2 counts	40	20	10

F. Sell, etc. imitation Schedule I or II drug - Attempted, conspired or completed:

1 count	12	6	3
2 counts	20	10	5

Score

▼

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Is the defense required to provide prior record information to the court after the guilt phase, but before sentencing?

Risk Assessment



Ineligibility Conditions

- A. Was the offender recommended for Probation/No Incarceration on Section B?
- B. Do any of the offenses at sentencing involve the sale, distribution, or possession with intent, etc. of cocaine of a combined quantity of 28.35 grams (1 ounce) or more?
- C. Are any prior record offenses violent (Category I/II listed in Table A of the Guidelines Manual)?
- D. Are any of the offenses at sentencing violent (Category I/II listed in Table A of the Guidelines Manual)?
- E. Do any of the offenses at sentencing require a mandatory term of incarceration?

If answered YES to ANY, go to "Nonviolent Risk Assessment Recommendations" on cover sheet and Not Applicable. If answered NO to ALL, complete remainder of Section D worksheet.

Offense Type Select the type of primary offense _____

- Drug _____
- Fraud _____
- Larceny _____

Additional Offense(s) _____ If YES, add _____

Offender Score factors A to D and enter the total score _____

- A. Offender is a male 8
- B. Offender's age at time of offense
 - Younger than 30 years 13
 - 30 - 40 years 8
 - 41 - 46 years 1
 - Older than 46 years 0
- C. Offender not regularly employed 9
- D. Offender at least 26 years of age & never married 6

Arrest or Confinement Within Past 18 Months (prior to instant offenses) _____ If YES _____

Prior Felony Convictions and Adjudications Select the combination of adult and juvenile felony convictions/adjudications that characterizes the offender's prior record. _____

- Adult felony convictions only
- Juvenile felony convictions or adjudications only
- Both adult and juvenile felony convictions/adjudications

Prior Adult Incarcerations _____

- Periods: 1 - 2
- 3 - 4
- 5 or more

Total Score _____

38 or less, check Recommended for Alternatives
 39 or more, check NOT Recommended for Alternatives

Go to Cover Sheet and fill out Nonviolent Risk Assessment Recommendations

Other Sexual Assault Section A (Part I) Offender Name: _____

Offenses Not Applicable for Risk Assessment:
 Risk Assessment is NOT APPLICABLE if the primary offense is adultery, bestiality, bigamy, non-forcible sodomy, or prostitution.
 (Go to Section A (Part II))

Offender's Age at Time of Offense _____

- Younger than 35 years 12
- 35 to 46 years 4
- Older than 46 years 0

Less than 9th Grade Education _____

Not Regularly Employed _____ If YES, add 4 → _____

Offender's Relationship with Victim _____ If YES, add 5 → _____

- Victim Under Age 10
 - Relative 0
 - Known to victim (not relative or step-parent) 4
 - Stranger 9
 - Step-parent 2
- Victim Age 10 or more
 - Relative 4
 - Known to victim (not relative or step-parent) 9
 - Stranger 3
 - Step-parent 2

Aggravated Sexual Battery (Primary Offense §18.2-67.3) _____

- No penetration or attempted penetration of victim 0
- Penetration or attempted penetration of victim 4

Location of Offense _____

- Place of employment 0
- Shared victim/offender residence 3
- Outdoors 3
- Motor Vehicle 4
- Victim's residence (not offender's) 5
- Offender's residence or other residence 9
- Location other than listed 3

Prior Adult Felony/Misdemeanor Arrests for Crimes Against Person _____

- 0 Felonies
 - 1 - 3 Misdemeanors 1
 - 4+ Misdemeanors 6
- 1 Felony
 - 0 - 2 Misdemeanors 5
 - 3+ Misdemeanors 8
- 2+ Felonies
 - 0 - 3 Misdemeanors 8
 - 4+ Misdemeanors 15

Prior Incarcerations/Commitments _____

Prior Treatment _____ If YES, add 3 → _____

- Prior mental health commitment 0
- Prior mental health treatment 2
- Prior alcohol or drug treatment 3
- No prior treatment 4

Risk Score _____

- Risk Level (Risk Score)
 - 44 or more Level 1
 - 34 - 43 Level 2
 - 28 - 33 Level 3
 - up to 27 No Adjustment

Go to Section A (Part II)

Policy: 4

4. **Policy:** A judge concludes that in his/her court the scoring of the offender's gender is unconstitutional.

◆ **Offender** Score factors A to D and enter the total score _____

A. Offender is a male	8	<input type="text"/>	+	<input type="text"/>	
B. Offender's age at time of offense					
Younger than 30 years	13	<input type="text"/>	+	<input type="text"/>	
30 - 40 years	8				
41 - 46 years	1				
Older than 46 years	0				
C. Offender not regularly employed	9	<input type="text"/>	+	<input type="text"/>	
D. Offender at least 26 years of age & never married	6	<input type="text"/>			
				=	Enter A to D Total <input type="text"/>

How should the guidelines be prepared if a judge concludes that scoring gender is unconstitutional?

Ethics/Policy: 5

5. **Ethics/Policy:** Sentencing guidelines require information on the defendant's work record, education level, marital status, treatment history and other demographic information.

When a pre-sentence is not ordered by the court:

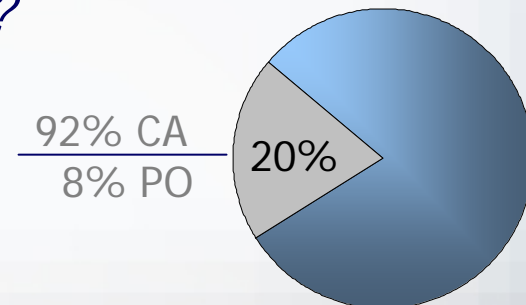
- Is the defense obligated to release information?*
- Even when the information is detrimental to the client?*
- Is the court obligated to obtain the information from the defendant in open court?*

◆	Offender Score factors A to D and enter the total score _____
A.	Offender is a male
B.	Offender's age at time of offense
	Younger than 30 years
	30 - 40 years
	41 - 46 years
	Older than 46 years
C.	Offender not regularly employed
D.	Offender at least 26 years of age & never married

Ethics: 6

6. **Ethics:** The Commonwealth prepares guidelines and risk assessment without a pre-sentence report. The risk assessment is routinely not completed due to lack of information or other reasons. In one-quarter of the cases, individuals should be recommended for an alternative sanction (or a traditional period of incarceration).

Are the Rules of Professional Conduct being violated if the risk assessment is not completed?



7. **Ethics:** The Commonwealth routinely excludes Section D, Nonviolent Risk Assessment, from the guidelines when the recommendation is an alternative other than prison.

Is the defense obligated to prepare the risk assessment and present it to the court?

Are the Rules of Professional Conduct being violated if completed forms, including risk assessment, are not submitted to the court?

Factor Bargaining & Established Guideline Rules



Policy: 8

◆ Drug Quantity

• The factor Sale/Quantity of Cocaine is found on Section C of the Drug Schedule I/II guidelines. This factor applies to attempted, conspired and completed cocaine offenses under §18.2-248(C). No distinction is made between crack and powder cocaine. Other Schedule I/II drugs such as heroin are not scored. If there are multiple counts of selling, etc., cocaine/crack, add the amounts together to determine quantity sold. If a specific quantity is not credited to each codefendant, then the total weight of all cocaine or crack will be scored for all codefendants.

The following cocaine quantities are applicable:

- Offenders convicted of selling, etc., 1 gram or less of cocaine who have no prior felony convictions or adjudications will be recommended for detention center incarceration or any traditional incarceration period. Offenders who have felony convictions or adjudications will score zero for this factor.
- Offenders convicted of selling, etc., more than 1 gram but less than 28.35 grams of cocaine are not recommended for detention center incarceration or for an enhanced sentence. Zeros must be entered for this factor.
- Offenders convicted of selling, etc., 28.35 grams to less than 226.8 grams of cocaine are subject to a sentencing guidelines midpoint enhancement of three years (36 points).
- Offenders convicted of selling, etc., 226.8 grams or more of cocaine are subject to a sentencing guidelines midpoint enhancement of five years (60 points).

Drug quantity may be verified by a certificate of analysis from a forensic science laboratory or police report. The court may also establish standards for verification of drug quantity.

Convicted of Selling
28.35 grams
to less than
226.8 grams

The court may establish standards for verification of drug quantity

Policy: 8

8. **Policy:** The quantity of cocaine seized in a series of three controlled sales was 45.32 grams of cocaine. The police report, the forensic lab report, and the pre-sentence report are entered into evidence to verify the quantity of cocaine as 45.32 grams (the purity level is not available).

The Commonwealth offers a plea that combines the multiple sales of cocaine into one charge and agrees that the quantity of cocaine would be less than 28 grams -- but more than the quantity seized from one controlled buy.

What quantity of cocaine should be scored on the guidelines?

SCORE THE FOLLOWING FACTORS **ONLY** IF PRIMARY OR ADDITIONAL OFFENSE INVOLVES THE SELL, ETC. OF COCAINE

◆ Sale/Quantity of Cocaine (§18.2-248(C) or §18.2-255(A) convictions only)

Quantity of Cocaine	Less than 28.35 grams	0
	28.35 grams to less than 226.8 grams	36
	226.8 grams or more	60

0

Policy: 9

"Type of
weapon used"

Weapon Factors

There are seven different weapon factors that appear in the guidelines worksheets.

◆ Weapon Used

This factor requires the preparer to enter a score based on the type of weapon used. In general, the categories are firearm, knife, simulated weapon, and "other than listed." The "other" category includes any article or device which is capable of causing physical injury. This includes explosives (listed as a separate category on the Robbery worksheet), incendiaries, automobiles, and makeshift weapons such as tire irons or bricks.

Feigned weapons (e.g., finger in pocket to indicate a gun) are scored the same as simulated weapons (e.g., toy guns.) Parts of the body such as hands are not scored as weapons and weapons simply in the possession of an offender are not scored.



Policy: 9

9. **Policy:** The defendant used a gun to “pistol whip” the victim causing a broken nose, severe swelling and treatment in an emergency room.

The Commonwealth and the defense agree not to score that a firearm was used in the assault.

The probation officer completed the pre-sentence investigation and the guidelines worksheets and reflected that a firearm was used in the assault – per sentencing guideline rules.

The judge agrees that since the weapon was not fired that the officer should remove the points assigned for weapon used.

Are the Rules of Professional Conduct being violated if the established guideline rules are not followed? What are the consequences if the Commission’s policies are not followed?

Ethics/Policy: 10

Probation Officer
or
Commonwealth's
Attorney

§19.2-298.01. Use of discretionary sentencing guidelines.

- A. In all felony cases, other than Class 1 felonies, the court shall (i) have presented to it the appropriate discretionary sentencing guidelines worksheets and (ii) review and consider the suitability of the applicable discretionary sentencing guidelines established pursuant to Chapter 8 (§17.1-800 et seq.) of Title 17.1. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In cases tried by a jury, the jury shall not be presented any information regarding sentencing guidelines.
- B. In any felony case, other than Class 1 felonies, in which the court imposes a sentence which is either greater or less than that indicated by the discretionary sentencing guidelines, the court shall file with the record of the case a written explanation of such departure.
- C. In felony cases, other than Class 1 felonies, tried by a jury and in felony cases tried by the court without a jury upon a plea of not guilty, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets. In felony cases tried upon a plea of guilty, including cases which are the subject of a plea agreement, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets, or, with the concurrence of the accused, the court and the attorney for the Commonwealth, the worksheets shall be prepared by the attorney for the Commonwealth.
- D. Except as provided in subsection E, discretionary sentencing guidelines worksheets prepared pursuant to this section shall be subject to the same distribution requirements as



Ethics/Policy: 10

10. **Ethics/Policy:** In certain jurisdictions the judge has the defense prepare the guidelines.
By statute, Commonwealth's attorneys and probation officers are the two authorized preparer groups.

Does the statute authorize the judge to allow the defense to prepare sentencing guidelines?

If so, what is the professional responsibility of the Commonwealth attorney to ensure their accuracy?

Before imposing a sentence

§19.2-298.01. Use of discretionary sentencing guidelines.

- A. In all felony cases, other than Class 1 felonies, the court shall (i) have presented to it the appropriate discretionary sentencing guidelines worksheets and (ii) review and consider the suitability of the applicable discretionary sentencing guidelines established pursuant to Chapter 8 (§17.1-800 et seq.) of Title 17.1. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In cases tried by a jury, the jury shall not be presented any information regarding sentencing guidelines.
- B. In any felony case, other than Class 1 felonies, in which the court imposes a sentence which is either greater or less than that indicated by the discretionary sentencing guidelines, the court shall file with the record of the case a written explanation of such departure.
- C. In felony cases, other than Class 1 felonies, tried by a jury and in felony cases tried by the court without a jury upon a plea of not guilty, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets. In felony cases tried upon a plea of guilty, including cases which are the subject of a plea agreement, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets, or, with the concurrence of the accused, the court and the attorney for the Commonwealth, the worksheets shall be prepared by the attorney for the Commonwealth.
- D. Except as provided in subsection E, discretionary sentencing guidelines worksheets prepared pursuant to this section shall be subject to the same distribution requirements as



Ethics/Policy: 11

11. Ethics/Policy: In certain jurisdictions it is reported that guidelines are completed after sentencing at the instruction of the court.

By statute, the guidelines are to be completed prior to sentencing.

Does the statute allow for sentencing guidelines to be completed after sentencing?

If so, does this invalidate the purpose of the sentencing guidelines?



Ethics/Policy: 12

12. Ethics/Policy: A defendant accepts a plea for possession of Schedule I/II drug, but the drug is marijuana as confirmed by a state forensic lab.

The judge accepts the plea and orders a pre-sentence report.

The Commission did not include marijuana in the simple possession of a Schedule I/II drug and developed a separate worksheet for marijuana and other drugs.

Which guidelines should be prepared—possession of Schedule I/II drugs or distribution of marijuana?

Drug/Schedule I/II Section A

Offender Name: _____

Primary Offense

- A. Possess Schedule I or II drug
 - 1 count 1
 - 2 counts 3
 - 3 counts 8
- B. Sell, Distribute, Possession with Intent Schedule I or II drug
 - 1 count 12
 - 2 counts 13
 - 3 counts 14
 - 4 counts 15
- C. Sell, etc. Schedule I, II drug to minor (1 count) 11
- D. Accommodation - Sell, Distribute, Possession with Intent Schedule I or II drug
 - 1 count 5
 - 2 counts 7
- E. Sell, etc. imitation Schedule I or II drug (1 count) 4

Score

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Primary Offense Additional Counts Total the maximum penalties for counts of the primary not scored above

- | | |
|-----------------------|--------------------|
| Years: 5 - 10 1 | 31 - 42 4 |
| 11 - 21 2 | 43 or more 5 |
| 22 - 30 3 | |

0	
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Drug/Other Section A

Offender Name: _____

Primary Offense

- A. Other than listed below (1 count) 1
- B. Sell, etc. 1/2 ounce - 5 pounds of marijuana for profit; Sell, etc. marijuana to inmate for accommodation
 - 1 count 3
 - 2 counts 8
- C. Sell, etc. more than 5 pounds of marijuana for profit; Sell, etc. third or subsequent felony (1 count) 12
- D. Sell, etc. marijuana to minor (1 count) 11
- E. Manufacture marijuana not for personal use (1 count) 8
- F. Transport 5 pounds or more of marijuana into Commonwealth (1 count) 12
- G. Sell, etc. Schedule III or IV drug to minor (1 count) 11

Score

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Primary Offense Additional Counts Total the maximum penalties for counts of the primary not scored above

- | | |
|-----------------------|--|
| Years: 5 - 10 0 | |
| 11 - 21 2 | |
| 22 - 30 3 | |
| 31 - 42 4 | |
| 43 or more 5 | |

0	
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§ 17.1-805.

Adoption of initial discretionary sentencing guideline midpoints. —

For purposes of this chapter, violent felony offenses shall include ...

... any felony violation of §§ 18.2-308.1 and 18.2-308.2; ...

Possession of a Firearm by a Convicted Felon



Ethics: 13

13. Ethics: Possession of a firearm by a convicted felon is a Category II violent offense, as defined by § 17.1-805. However, the court agrees with the defense that the individual is not a violent offender. The Commonwealth does not disagree. The judge adjusts the guidelines to reflect no enhancement for a violent offender, and sentences the defendant to the adjusted recommendation.

Are the Rules of Professional Conduct violated if the judge adjusts the guidelines scores based on his/her interpretation of what is a violent offense?

What are the consequences if the Commission's policies are not followed?

Ethics: 14



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 guideline 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. The explanation should identify the specific factor and the reason the factor is being questioned.

Score
According to
the Rules



Ethics: 14

14. Ethics: A judge orders the probation officer to adjust the guidelines (e.g., victim injury, weapon use, legal restraint) to place the court's sentence in compliance. The probation officer makes the adjustment as instructed but calls the Commission and asks if this is correct policy.

Are the Rules of Professional Conduct violated if the judge adjusts the guidelines scores in order to be in compliance with the recommendation?

What are the consequences if the Commission's policies are not followed?

Plea Agreements





Ethics/Policy: 15

15. **Ethics/Policy:** Factor bargaining is increasingly being used in the negotiation of plea agreements. The statement of facts, police reports, and the pre-sentence report do not support the agreed upon factor scores.

Is the probation officer obligated to complete guidelines based on the facts of the case or the facts as agreed to in the plea bargaining process?



Ethics: 16

16. **Ethics:** A plea agreement is reached that states that sentencing is limited to the range established by the sentencing guidelines recommendation.

No specific sentence within the range is stated in the written plea agreement. The judge accepts the plea agreement and orders a pre-sentence investigation.

In preparing the pre-sentence report, the probation officer discovers a robbery conviction as a juvenile and several other felony type property crimes from other states.

Instead of a 1 day to 3 months recommendation, the recommendation is now between 5 years 3 months to 9 years 4 months.

Should plea agreements be so lacking in specifics that would allow for this to occur?

Miscellaneous



Policy: 17

- **Changes at Sentencing** – If a preparation error is detected at sentencing or the charges are altered at sentencing, 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.*





Policy: 17

17. **Policy:** The defendant has a robbery conviction in another state. The probation officer, not trained in the law, prepares the guidelines and scores the robbery as a Category I offense with a maximum penalty of life. The defense argues that a review of that state's Code indicates that the robbery is more closely related to a grand larceny from the person. The Commission's policy states that the judge is responsible for the accuracy of the sentencing guidelines, but the judge instructs the probation officer to contact the Commission for a decision.

When there is a disagreement about how prior record should be scored, who is responsible (i.e., probation officer, defense, attorney for the Commonwealth or the Commission staff) for researching and presenting the facts of the case to the judge?

Code vs. Facts of the Case

Ethics/Policy: 18



Completion Responsibility

A Sentencing Revocation Report (SRR) is prepared for every capias, warrant or revocation request submitted to the court for an offender who has violated the conditions of a suspended sentence for a felony offense. The Commonwealth's attorney or probation officer, whoever 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 seven (7) calendar days prior to the violation hearing, based on all information available to the preparer at that time.

The completed Probation Violation Guidelines should be attached to the SRR and forwarded to the court, through locally-established procedures, no more than seven (7) calendar days prior to the violation hearing.

- **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, 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.*

18. Ethics/Policy: The Commission policy on probation violation guidelines is to allow each jurisdiction to develop a distribution process.

As a result, several jurisdictions do not provide the defense with copies of the guidelines until the case is before the judge.

Is the probation officer or the Commonwealth obligated to provide the defense with copies of the violation guidelines?

(i.e., Ever? Before the hearing? or at the hearing?)