

**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION**

Indigent Defense

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

Senator Ken Stolle
Chairman

Rich Savage
Director

February 22, 2002

TO: The Honorable Mark Warner, Governor of Virginia

And

Members of the Virginia General Assembly

The 2000 General Assembly, through House Joint Resolution 178, requested the Virginia State Crime Commission examine the existing methods for providing indigent defense in the Commonwealth. Specifically, the study was to examine three broad areas: quality of representation, efficiency of service, and cost effectiveness.

Enclosed for your review and consideration is the report which has been prepared in response to this request. The Commission received assistance from all affected agencies and gratefully acknowledge their input into this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "K. Stolle", written over a horizontal line.

Kenneth W. Stolle
Chairman

CRIME COMMISSION

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I. Authority for Study

Section 30-156 of the *Code of Virginia*¹ establishes and directs the Virginia State Crime Commission to “study, report, and make recommendations on all areas of public safety and protection.” Section 30-158, paragraph 3, of the *Code of Virginia*² provides that “the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in §156, and to formulate its recommendations to the Governor and the General Assembly.” Section 30-158, paragraph 2, of the *Code of Virginia*³ authorizes the Commission to “conduct private and public hearings, and to designate a member of the Commission to preside over such hearings.” The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of the existing methods for providing indigent defense in the Commonwealth.

The 2000 session of the Virginia General Assembly enacted House Joint Resolution 178 (HJR 178) directing the Virginia State Crime Commission to study the existing methods for providing indigent defense in the Commonwealth (*see Appendix A*). Specifically, the study was to examine three broad areas: quality of representation, efficiency of service, and cost effectiveness.

In the area of quality of representation, the study shall include:

- workloads of the existing Public Defender Offices;
- any experience disparity between defense attorneys and Commonwealth’s Attorneys; and,
- whether full-time specialization on criminal defense as a Public Defender puts the defense on an equal footing with the Commonwealth’s Attorney who concentrates on prosecution.

In the area of consideration of efficiency in providing defense services, the study shall include:

- determination of any advantages of having salaried defense attorneys working in a structured environment;
- whether Public Defenders should be the primary means of providing indigent defense within each circuit in the Commonwealth;
- whether the courts that currently have Public Defenders are more efficient in handling criminal cases because of the existence of the office; and,
- whether the standards of practice are more uniform in those circuits with Public Defender Offices.

Finally, in the area of cost effectiveness, the study shall include:

- a focus on the impact of current pay rates for Court Appointed Attorneys on the quality of indigent defense;
- the point at which it is cost effective to establish a Public Defender’s Office and what the criteria is for this determination;

¹ This *Code* Section was formerly found in *Virginia Code* §9-125. The new statute designation went into effect on October 1, 2001.

² The cited language from this *Code* Section was formerly found in *Virginia Code* §9-127. The new statute went into effect on October 1, 2001.

³ The cited language from this *Code* Section was formerly found in *Virginia Code* §9-134. The new statute went into effect on October 1, 2001.

- the current budgetary commitment by the Commonwealth to increase court appointed fees;
- the impact of an increase in fees on the level of participation by attorneys in court appointed work; and,
- the recognized goal of pay rates for Court Appointed Counsel.

In fulfilling its legislative mandate, the Virginia State Crime Commission conducted the study of Indigent Defense Services in Virginia.

II. Executive Summary

The HJR 178 study, using the study resolution directives, addressed two overall issues: the respective levels of quality between Court Appointed Counsel and Public Defenders, and the cost effectiveness of Public Defender Offices versus the court appointed system. The Virginia State Crime Commission used both statistical and survey analyses to address these issues. First, Pre-Sentence Investigation (PSI) reports were used to conduct multivariate regression analyses to determine if there were any statistically significant differences in sentencing outcomes between those defendants who had been represented by a Court Appointed Attorney, and those who had been represented by a Public Defender. Second, to examine the cost effectiveness of Public Defenders versus Court Appointed Counsel, Virginia Supreme Court reimbursements data paid to Court Appointed Counsel for Fiscal Year (FY) 2000 and Public Defender Commission data was analyzed to compare the relative costs of indigent services by both groups of counsel. Finally, attitudinal survey results were examined to determine the perceived need for change in providing indigent defense services in Virginia.

Based on the study findings, the following recommendations were made to modify and improve the current indigent defense system in Virginia.

Recommendation 1

Support the installation of Public Defenders offices in Chesterfield County, Hampton, Henrico County, Newport News, Norfolk, and Prince William County.

It was determined that, on average for the year examined, Public Defenders obtain lower sentences for their clients than do Court Appointed Counsel. This statistically significant difference remained, even when a large number of variables, such as type of trial, were taken into account. It was also determined that the Public Defender Offices typically are able to handle charges at a lower cost than Court Appointed Counsel. Based upon the latter findings, the Crime Commission identified the above six localities as areas in the state that might generate a cost savings to the Commonwealth were Public Defender offices to be established.

Recommendation 2

Modify the *Code of Virginia*, §16.1-267, to eliminate the current financial disincentive to appeal cases from Juvenile and Domestic Relations District Courts to Circuit Courts.

A review of the *Code of Virginia* revealed a discrepancy between the amounts paid to Court Appointed Counsel in juvenile cases. The *Code* in §16.1-267 sets the per case amount for representing a juvenile in a Juvenile and Domestic Relations District Court at \$112. However, the amount authorized for an appeal of that case to a Circuit Court is \$100. It was the recommendation of the Crime Commission to eliminate this discrepancy from the *Virginia Code*.

Recommendation 3

Modify the current disparity in pay for attorneys who represent juvenile defendants as compared to those attorneys who represent adults.

Currently, the amount of pay authorized for Court Appointed Attorneys who represent juveniles in Juvenile and Domestic Relations District Courts is less than the pay authorized for attorneys who represent adults in Circuit Courts, even when the juvenile is the subject of a petition alleging a similarly serious crime. Along with Recommendation 2 above, the Crime Commission recommended that §16.1-267 of the *Code of Virginia* be modified to eliminate this disparity.

Recommendation 4

Allow trial courts to waive, in appropriate cases, the current caps on fees paid to Court Appointed Attorneys.

A review of the fees paid to Court Appointed Counsel revealed that the amounts authorized by §19.2-163 of the *Code of Virginia* have not been fully funded. The actual amounts authorized for Court Appointed Counsel are lower, and are arguably among the lowest in all 50 states. Due to the varying systems of providing indigent defense services in other states, exact comparisons are difficult; however, Virginia is one of only two states which does not allow the maximum fees authorized in a case to be “waived,” or exceeded, in special circumstances. Allowing a trial court to waive the statutory cap in individual cases would help to remedy the generally low fees that are paid to Court Appointed Counsel in Virginia.

Recommendation 5

Include appellate and habeas work within a fee payment structure similar to that outlined in §19.2-163 of the *Code of Virginia*.

The current fee structure for court appointed work is found in §19.2-236 of the *Code of Virginia*. However, the manner in which payment is calculated for appellate and habeas work is arbitrary and does not require the submission of time sheets or vouchers. It was the recommendation of the Crime Commission that compensation for these types of cases be handled in a manner resembling that used in cases at the trial court level.

Recommendation 6

Establish minimum training and qualifications for attorneys who are eligible for appointment as Court Appointed Counsel in criminal cases.

The survey responses received indicated wide disparities between judicial circuits as to the minimum levels of experience needed before an attorney would be assigned to court appointed cases. While some judges indicated that they would only assign cases to an attorney who they felt could handle the work, others indicated that they assigned cases to whomever asked, regardless of the level of difficulty of the case or the experience of the attorney. The Crime Commission recommended that certain minimum standards be implemented for those attorneys who wish to accept court appointed work. Those standards could be similar in nature to the standards required to accept Guardian Ad-Litem (GAL) work on behalf of children. The current GAL standards require certain specialized training classes, minimal previous experience, and an obligation to continue receiving additional training every few years.

Recommendation 7

Create a special task force to examine the feasibility of implementing a system of quality review for those attorneys who do court appointed work in Virginia.

The literature review and survey analysis revealed problems with attorneys failing to maintain minimal standards of quality in their representation of indigent clients. The issue of whether a procedure for the review of Court Appointed Attorneys could be instituted in Virginia, and how such a system would operate, should be studied further and data should be gathered from the various entities in the criminal justice process. It is the recommendation of the Crime Commission that a task force be assembled to investigate this issue and its policy implications.

Recommendation 8

Establish specialized capital defense units for the handling of capital cases within the Public Defender Commission.

While the Supreme Court of Virginia and the Public Defender Commission maintain a list of attorneys who are deemed qualified to be appointed to capital cases, there is no requirement in the *Code of Virginia* that judges appoint attorneys from this list in capital cases. Other studies and reports have indicated that this may have impacted negatively on the quality of defense provided in these cases. The Crime Commission recommends that specialized, semi-autonomous capital defender units be established within the Public Defender system in order to help provide quality representation to indigents throughout the state who have been charged with capital offenses.

Recommendation 9

Create a task force to determine the feasibility of delineating caseload limits for attorneys who are appointed in capital cases, as well as for all attorneys who work in Public Defender offices.

Currently, there are no limits set forth in the *Code of Virginia* as to the number of capital cases an attorney can be assigned to at one time. Similarly, there are no fixed policies in place at the Public Defender Commission as to the number of cases that an Assistant Public Defender can

be expected to handle at any given time. Handling too many cases undoubtedly affects the quality of representation. Thus, it was the recommendation of the Crime Commission to assemble a task force to examine this issue in more detail in order to determine if any absolute standards or caseload limits should be created.

Recommendation 10

Improve criminal justice data collection in Virginia.

In the course of conducting research and examining various criminal justice data bases in Virginia, it was discovered that in several instances, the quality of data maintained was lacking in cohesiveness from data base to data base. Individual cases could not be tracked from one data base to another. In some instances, valuable information was collected, but not automated. The Crime Commission made several recommendations regarding data collection:

- 1) the Public Defender Commission offices automate all relevant case specific data;
- 2) the Department of Corrections revise the Pre-Sentence Investigation Reports to use Bar Numbers to specify counsel; and,
- 3) the Virginia Supreme Court automate all caseload data related to reimbursement of Court Appointed Counsel.

III. Study Methodology

The Virginia State Crime Commission, working with the Thomas Jefferson School of Public Policy from the College of William and Mary, used several research methodologies to design the Indigent Defense study project. These methodologies included:

- Interviews with state agency personnel, assistant Public Defenders, private defense attorneys who accept court appointed cases and Commonwealth's Attorneys;
- Literature review of prior national and state studies on indigent defense;
- Analysis of statewide data for all persons convicted of felony offenses during Calendar Year 2000 (N = 18,911 cases);
- Analysis of statewide reimbursement data for Court Appointed Counsel during FY00;
- Analysis of statewide surveys to groups and individuals involved with the criminal justice process and indigent defense in Virginia (N = 1,369);⁴ and,
- Analysis of statewide arrest and demographic data for CY00.

A discussion of each of these research methodologies will follow later in the report.

⁴ Surveys were sent to: all General District Court Judges, Juvenile and Domestic Relations District Court Judges, Circuit Court Judges, Public Defenders, Assistant Public Defenders and Commonwealth's Attorneys; and, a sample of Court Appointed Counsel and private defense counsel.

In addition to Crime Commission and William and Mary staff, technical assistance was obtained from staff of the Public Defender Commission, the Office of the Executive Secretary of the Supreme Court of Virginia and the Commonwealth's Attorneys' Services Council.

IV. Background

The Sixth Amendment of the United States Constitution provides that all criminal defendants be represented by legal counsel.⁵ While there is no specific mention of the right to counsel in the Constitution of Virginia, the Supreme Court of Virginia first acknowledged the practice of judges appointing lawyers to represent indigent defendants in a nineteenth century case.⁶ Subsequently, the Court explicitly held the right of counsel to be fundamental under Virginia's Constitution in 1940.⁷

In 1962, in the famous case of Gideon v. Wainwright, the United States Supreme Court expressly mandated that states appoint an attorney to represent all defendants charged with a felony, even if they were indigent.⁸ This fundamental right was later extended in 1967 by the United States Supreme Court to include the right for juvenile defendants being tried in juvenile courts.⁹ In 1972 the right was guaranteed to persons in misdemeanor cases.¹⁰

Appointment of Counsel

Indigent defendants are those unable to pay for an attorney to represent them in criminal cases. The Commonwealth of Virginia employs two separate systems to provide them with legal representation.¹¹ One is the Public Defender Offices and the other consists of Court Appointed Attorneys. Public Defender Offices operate where local authorities have chosen to create and fund them. Court Appointed Attorneys operate everywhere else in the state.¹² The Public Defender Offices operate much like a law firm, utilizing support staff, investigative staff, and a hierarchy of employment from senior to junior attorneys. Court Appointed Attorneys, on the other hand, are independent attorneys who may work for a law firm, or may be solo practitioners. These Court Appointed Attorneys are assigned to represent defendants by the judge during the preliminary phases of the trial, usually during arraignment.

⁵ The Sixth Amendment specifically provides that "in all criminal prosecutions, the accused shall enjoy the right . . . to have the assistance of counsel for his defense."

⁶ Barnes v. Commonwealth, 92 Va. 794, 803 (1895). Even earlier, by 1849 the Virginia General Assembly was authorizing the appointment of and payment for counsel in indigent felony cases. *Code of Virginia*, Chapter 212 (1849) (establishing a fee cap of \$25.00 for these cases).

⁷ Watkins v. Commonwealth, 174 Va. 518 (1940).

⁸ Gideon v. Wainwright, 372 U.S. 335 (1962). The United States Supreme Court had earlier held that the right to counsel existed whenever an indigent defendant was charged with a capital crime. Powell v. Alabama, 287 U.S. 45 (1932).

⁹ In re Gault, 387 U.S. 1 (1967).

¹⁰ Argersinger v. Hamlin, 407 U.S. 25 (1972).

¹¹ See *Virginia Code* §19.2-159.

¹² *Id.*

Currently, the statutory procedures governing the appointment of counsel for indigents charged with a crime in Virginia are found in *Virginia Code* §§16.1-266 through 16.1-268 for juvenile defendants and *Virginia Code* §§19.2-157 through 19.2-163 for adult defendants. When an adult charged with any offense punishable by death or incarceration appears before a court, it is the duty of the court to inform him of his right to counsel and, if appropriate, to fill out a statement of indigence.¹³ The determination of indigency is governed by *Virginia Code* §19.2-159, which contains a presumption that a current recipient of a public assistance program is eligible for the assistance of a Court Appointed Attorney. If this presumption does not apply, the court is required to make an oral examination of the accused, giving consideration to specified factors such as income, assets and any exceptional expenses.¹⁴ If the defendant's available funds are "equal to or below 125% of the federal poverty income guidelines prescribed for the size of the household of the accused by the federal Department of Health and Human Services," the court is required to appoint counsel.¹⁵

The court may also appoint counsel when there are "exceptional circumstances, and the ends of justice so require."¹⁶ *Virginia Code* §19.2-159 states that, except in jurisdictions having a Public Defender, the counsel appointed shall be:

...selected by a fair system of rotation among members of the bar practicing before the court whose practice regularly includes representation of persons accused of crimes and who have indicated their willingness to accept such appointments.

In those areas where there is a Public Defender's Office, it is presumed that the Public Defender shall handle the representation of all indigent clients barring conflicts or other unusual circumstances.¹⁷

For juvenile defendants, appointment of counsel is covered by *Virginia Code* §16.1-266(B). The court is required to advise the child and his or her parent or guardian of the child's right to be represented by an attorney. If the parent or legal custodian of the child indicates that they will not hire an attorney, and the court determines that the child is indigent as measured by the guidelines in *Virginia Code* §19.2-159, then the court will appoint an attorney for the child.¹⁸ In instances where the parent is able to pay for the services of the court appointed attorney, but refuses to do so, the court may order reimbursement for the final attorney's fee awarded.¹⁹

Payment of Court Appointed Counsel Fees

Payments awarded to attorneys for court appointed work are based upon a fee scale determined by the *Code of Virginia* and the Appropriations Act. The Virginia Supreme Court

¹³ *Virginia Code* §§19.2-157, 19.2-158.

¹⁴ *Virginia Code* §19.2-159.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Virginia Code* §§19.2-163.3(b); 19.2-163.4.

¹⁸ *Virginia Code* §16.1-266(B)(2). As a practical matter, almost all children who are still in school will qualify for a court appointed attorney.

¹⁹ *Virginia Code* §16.1-267(A).

has set hourly fees of \$55 for work performed outside of court and \$75 for work performed in court. The maximum fee that can be awarded to an attorney is dependant on the nature of the charges and the court involved. The fee limits per case are set forth in *Virginia Code* §19.2-163. However, the statutory amounts that are authorized in the *Code* are not completely funded in Virginia’s budget.²⁰ At the present time, attorneys can only receive a total reimbursement per charge that is less than the statutory authorization. Table 1 sets forth the statutory amounts and the actual amounts that attorneys can receive for court appointed work.

It should be noted that *Virginia Code* §19.2-163 does not include any listed fee limits for work done for either the Court of Appeals of Virginia or the Supreme Court of Virginia. For appellate work done by Court Appointed Counsel, payment is authorized by *Virginia Code* §19.2-326, which provides that “the court to which an appeal is taken shall order the payment of

Court	Type of Charge	Statutory Amount	Actual Amount
District Court	All charges	\$120	\$112
Circuit Court	Misdemeanor Appeals	\$158	\$132
	Carries up to 20 years	\$445	\$395
	Carries more than 20 years	\$1,235	\$1,096
	Capital Case	Reasonable fees- No Cap Set	Reasonable fees- No Cap Set

Source: Virginia State Crime Commission analysis of House Bill 30 and the Code of Virginia, January 2002.

such attorneys’ fees in an amount not less than \$300.” As with the statutory fees set for the District and Circuit Courts, this amount has not been fully funded. Currently, the Supreme Court of Virginia is not required to adhere to this minimum \$300 limit.²¹ Unlike the District and Circuit Courts, there is no requirement for attorneys to submit to these courts standardized time sheets of hours spent working on either appellate work or habeas petitions. A much more informal process of how payment amounts are derived is used for appellate and habeas cases. Instead of submitting a payment voucher for approval, with the requested amount based upon the number of hours worked and any unusual expenses, a judge or justice simply awards a fee to the court appointed attorney. The *ad hoc* nature of how payment is authorized by the appellate courts can result in statewide inequities for the fees awarded in similar cases. Identical fees can be awarded for different cases, regardless of the complexity of the issues involved or the time spent working on the briefs. Such inequities could result in attorneys declining to accept appointments for appellate work.

The work done by Court Appointed Attorneys on behalf of juvenile clients is also not covered by *Virginia Code* §19.2-163. Payment is authorized in those cases by *Virginia Code*

²⁰ *Virginia Code Annotated* §19.2-163 (Michie 2000), p. 121, Editor’s note.

²¹ 2000 Virginia Acts of Assembly Chapter 1073, item 23 “provides that notwithstanding the provisions of this section, the amount of attorney’s fees allowed counsel for indigent defendants in appeals to the Supreme Court shall be in the discretion of the Supreme Court.” *Virginia Code Annotated* §19.2-326 (Michie 2000), p. 393, Editor’s note.

§16.1-267, which refers back to *Virginia Code* §19.2-163 as to the maximum amount allowed for work done in a District Court.²² For cases handled in a Circuit Court on behalf of a juvenile, the amount allowed is actually less at \$100.²³

The discrepancy between fees for cases in Juvenile and Domestic Relations District Court and cases in General District and Circuit Courts appears to be an oversight on the part of the legislature. At the time when the language of “\$100 if the action is in Circuit Court” was added to *Virginia Code* §16.1-267, the amount allowable for a case handled in a Juvenile and Domestic Relations District Court was \$100²⁴. This was greater than the amount that could be paid for handling a case in a district court²⁵. A special report of the joint subcommittees studying indigent defense issues pointed out this incongruity, and recommended that the maximum amount awarded to an attorney in a Juvenile and Domestic Relations District Court case not exceed the maximum amount awarded to an attorney in a District Court case.²⁶ As a result, during the 1986 General Assembly regular session, *Virginia Code* §16.1-267 was modified to stipulate that an attorney would receive “the maximum amount specified in paragraph (1) of §19.2-163 if the action is in District Court;” otherwise, he would receive “\$100 if the action is in Circuit Court.”²⁷ Thus, an attorney would receive \$75 for handling a case in a Juvenile Court and \$100 if he appealed the case to the Circuit Court.²⁸ The legislative intent, then, was not for attorneys to receive lower fees when appealing a juvenile client’s case from a Juvenile Court to a Circuit Court.

Since 1986, the maximum fee allowed for handling a District Court case pursuant to *Virginia Code* §19.2-163 has increased.²⁹ However, while the maximum fees allowed pursuant to *Virginia Code* §19.2-163 for handling Circuit Court cases have also increased, the 1986 language inserted into the *Code* §16.1-267 has not been modified with the result that a juvenile appeal to a Circuit Court is still limited to a maximum fee of \$100, less than the fee allowed for originally handling the case in the Juvenile Court.

Public Defender System

In areas where a Public Defender’s Office is established, it is expected that a Public Defender, rather than Court Appointed Counsel, will handle the representation of the majority of the indigent defendants.³⁰ Public Defenders work under a statewide system supervised by the

²² The amount is \$120 according to the statute; of which \$112 is actually funded and could be paid to the attorney.

²³ *Virginia Code* §16.1-267.

²⁴ 1986 Virginia Acts Chapter 425 and *Virginia Code Annotated* §16.1-267 (Michie 1982).

²⁵ The fee for handling a District Court case at that time was \$75. *Virginia Code Annotated* §19.2-163 (Michie 1982).

²⁶ Source: Joint Report of the Joint Subcommittees Studying: Virginia’s Public Defender Program and Alternative Indigent Defense Systems, House Document 14 and Senate Document 11, 1986, p. 7.

²⁷ 1986 Virginia Acts Chapter 425.

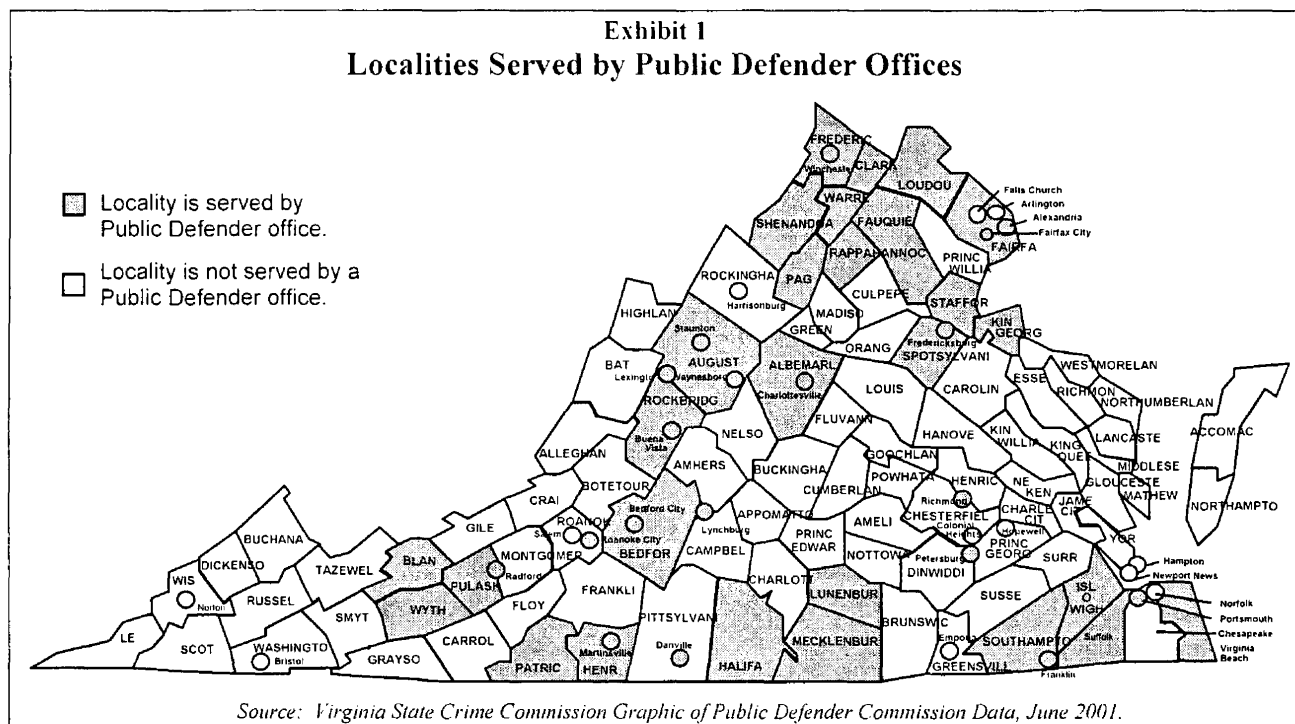
In other words, an attorney handling a J&DR case could receive the same maximum amount as an attorney handling a case in a district court.

²⁸ *Virginia Code* §§16.1-267, 19.2-163 (Michie 1982 & Supp. 1986).

²⁹ Currently the amount allowed by statute is \$120. *Virginia Code* §19.2-163. However, as discussed above, the District Court fees are only funded for up to \$112. See note 12, *supra*.

³⁰ *Virginia Code* §19.5-163.3(B).

Public Defender Commission.³¹ However, each local Public Defender Office is under the control and supervision of a full-time Public Defender who is selected by the Public Defender Commission. The Public Defender Commission was created in 1972.³² The original mandate of the Commission was to open Public Defender Offices in three locations.³³ Since that time, additional offices have been sporadically opened in various localities, pursuant to expansions in the authorizing statute of *Virginia Code* §19.2-163.2. Exhibit 1 illustrates the 20 Public Defender Offices serving 47 localities.



The 47 localities which encompass the current 20 Public Defender Offices contain approximately 48.3% of Virginia's population. The average criminal population covered by the current Public Defender Offices is 110,851 persons.³⁴ Additionally, the current average per capita arrest rate for the areas covered by a Public Defender office is 4,245 arrests per 100,000 persons.³⁵

The annual salaries and office expenses for Public Defender Offices are paid by appropriations administered by the Public Defender Commission.³⁶ On the other hand, the fees

³¹ *Virginia Code* §19.2-163.2(2).

³² 1972 Virginia Acts, Chapter 800; see *Virginia Code* §19.2-163.1.

³³ For a brief description of the evolution of the Public Defender system in Virginia, see Report of the Virginia State Crime Commission: Cost Effectiveness of Public Defender Offices, House Document 46, 1997, p 6-7. Since that report was completed, an additional office was installed in 1998 to handle cases in the City of Charlottesville and Albemarle County. Source: 1998 Virginia Acts of Assembly, Chapters 519, 526, and 530.

³⁴ Criminal population is ages ten and above which reflects the earliest jurisdiction of the courts for delinquency acts. Source: U.S. Census 2000.

³⁵ Source: Virginia State Police-Uniform Crime Reports, 2000 and U.S. Census 2000.

³⁶ *Virginia Code* §19.2-163.2(6).

paid to Court Appointed Counsel are taken from the Criminal Fund administered by the Supreme Court.³⁷

Quality of Counsel

It is the role of the judiciary to ensure that court appointed attorneys are competent to handle those cases which are assigned to them. While competency of counsel is not specifically addressed in the *Code of Virginia*, it is indicated indirectly and through case law.³⁸ There are no other ready mechanisms, other than the oversight of judges, to provide any type of quality review for Court Appointed Attorneys. Although the Virginia State Bar regulates itself and has the authority to revoke an attorney's bar license for violations of the Virginia Rules of Professional Conduct, this is a different standard than one of quality representation.³⁹ In some cases, an attorney might provide less than effective assistance of counsel to his client, and yet not violate any of the ethical rules promulgated by the Bar. However, in other cases, an attorney might breach his ethical duties but still provide his client with an excellent defense.⁴⁰

The issue of court appointed attorneys who repeatedly perform in a less than adequate manner frequently arose during the course of the HJR 178 study. Interviews with criminal justice professionals, analysis of survey findings and reports in articles and the press addressed the topic of quality of counsel. In particular, this issue was the reason for Court Appointed Counsel being replaced in a recent court case in Virginia.⁴¹

The issue of quality of Public Defenders also was addressed during the HJR 178 study. In the Public Defender system, oversight of the Assistant Public Defenders' performance is the responsibility of the appointed Public Defenders and the Public Defender Commission. Currently there are no mandatory caseload limits for Assistant Public Defenders. A 1990 study conducted by the Virginia Department of Planning and Budget derived what were deemed to be acceptable caseload figures for Virginia's Assistant Public Defenders.⁴² However, interviews with both the staff of the Public Defender Commission and individual Assistant Public

³⁷ Source: Virginia 2000 State of the Judiciary Report, "Indigent Defense Services." p. A-144.

³⁸ *Virginia Code §19.2-159* directs a judge to appoint to an indigent defendant an attorney "whose practice regularly includes representation of persons accused of crimes."

Also see, e.g. Dowell v. Commonwealth, 3 Va. App. 555, 351 S.E.2d 915 (1987) (standing for the proposition that when circumstances warrant, a trial judge has an affirmative duty to ensure that defense counsel does not have a conflict of interest in a case which would prohibit him from providing effective assistance of counsel to his clients).

³⁹ *Virginia Code §54.1-3934 et seq.*

⁴⁰ For a case where the difference between an attorney's ethical standards and the right to effective assistance of counsel was contrasted, *see, e.g., Lux v. Commonwealth*, 24 Va. App. 561, 484 S.E.2d 145 (1997). Thus, while an attorney might breach his ethical duties and come under the review of the State Bar for certain, extremely negligent lapses in his performance, this will not always be the case.

⁴¹ *See, e.g. Matthew Dolan, Judge takes court-named attorney off murder case*, Virginian Pilot Online, October 5, 2001; in the first degree murder case, after the preliminary hearing, Court Appointed Counsel met with his client only once before hearing date.

⁴² Report of the Department of Planning and Budget: Indigent Defense Systems in Virginia, House Document 44, 1990. It should be noted that the recommended figures for Virginia's assistant Public Defenders were larger than the caseload standards recommended by the National Legal Aid and Defender Association. *Id.* at p. iii, 6.

Defenders indicate that while this study has been used for the purpose of staffing projections, it has not led to the adoption of any formal work limits within offices.

Statutory provisions have been enacted in capital cases to help ensure a greater degree of reliability in the competence of appointed counsel. The *Code of Virginia* §19.2-163.7 provides that in capital cases, the judge “shall appoint one or more attorneys from the list or lists established by the Supreme Court and the Public Defender Commission.” The *Code* requires that the list include attorneys who are deemed to be “qualified to represent defendants charged with murder or sentenced to death” demonstrate, among other things:

- experience in felony practice at trial and appeal;
- experience in death penalty litigation;
- current training in death penalty litigation; and,
- demonstrated proficiency and commitment to quality representation.

However, there are no limits on the number of capital cases to which an attorney can be appointed at one time.

While *Virginia Code* §19.2-163.7 sets forth a statutory framework for ensuring competent capital defense counsel, its intended purpose may be impacted by a conflict with *Virginia Code* §19.2-163.8(C). Section 19.2-163.8(C) subsequently allows a judge of the Circuit Court to “appoint counsel who is not included on the list or lists.”⁴³ In addition, it should also be noted that the Supreme Court of Virginia and the Public Defender Commission rely upon self-reporting of eligibility; thus, no independent verification is made to ensure that applicants have honestly stated their qualifications.

Previous studies and court cases have found that the quality of representation for capital defendants in Virginia has at times failed to meet minimum standards of competence. In Williams v. Taylor, the United States Supreme Court reversed, on the basis of constitutionally ineffective assistance of counsel, a Virginia conviction where the death penalty had been imposed.⁴⁴ Writing for the majority, Justice Stevens noted:

The record establishes that counsel did not begin to prepare for that phase of the proceeding [sentencing] until a week before trial. They failed to conduct an investigation that would have uncovered extensive records. . . not because of any strategic calculation but because they incorrectly thought that state law barred access to such records. . . Counsel failed to introduce available evidence that Williams was “borderline mentally retarded” and did not advance beyond sixth grade in school. They failed to seek prison records recording Williams’ commendations for helping to crack a prison drug ring and for returning a guard’s missing wallet, or the testimony of prison officials who described Williams as among the inmates “least likely to act in a violent, dangerous or provocative way.” Counsel failed even to return the phone call of a certified

⁴³ *Virginia Code* §19.2-163.8(D) then provides that “Noncompliance with the requirements of this article shall not form the basis for a claim of error at trial, on appeal, or in any habeas corpus proceeding.”

⁴⁴ Williams v. Taylor, 120 S.Ct. 1495, 529 U.S. 362, 146 L.Ed.2d 389 (2000).

*public accountant who had offered to testify that he had visited Williams frequently when Williams was incarcerated as part of a prison ministry program, that Williams “seemed to thrive in a more regimented and structured environment,” and that Williams was proud of the carpentry degree he earned while in prison.*⁴⁵

Also mentioned in the decision was the fact that one of the witnesses called was a neighbor who “had not been previously interviewed by defense counsel, but was noticed by counsel in the audience during the proceedings and asked to testify on the spot.”⁴⁶ Finally, “[t]he weight of defense counsel’s closing...was devoted to explaining that it was difficult to find a reason why the jury should spare Williams’ life.”⁴⁷

Other capital cases from Virginia have evoked similar comments from the Federal Judiciary:

- Chichester v. Pruett, United States District Court Judge, Robert E. Payne, described the direct appeal brief filed in a death penalty case as “a shameful disgrace;”⁴⁸ and,
- Stout v. Thompson, United States District Court Judge, James C. Turk, described counsel’s “deficient performance” as amounting to “virtually a complete absence of representation.”⁴⁹

In addition, habeas counsel for the defendants in six capital cases missed filing deadlines for the Virginia Supreme Court.⁵⁰

One recent report found that trial attorneys, who represented capital defendants receiving a death sentence, were six times more likely to be the subject of bar disciplinary proceedings than are other attorneys. Additionally, in one of every ten trials resulting in a death sentence, an attorney for the defendant would later lose his law license.⁵¹

An earlier study by the Crime Commission looked at the issue of improving the quality of representation given to indigent defendants charged with capital murder.⁵² One solution that was proposed was the establishment of a single capital defense unit within the Public Defender Commission. This idea was ultimately not endorsed by the Crime Commission, not because of any findings that such a framework could not be effective in providing quality representation, but

⁴⁵ Williams, 120 S.Ct. at 1514 (2000).

⁴⁶ *Id.* at 1500.

⁴⁷ *Id.* at 1500.

⁴⁸ 3:97cv155 (E.D. Va., Richmond Div., Apr. 4, 1998), cited in Laura LaFay, *Unequal, Unfair and Irreversible: The Death Penalty in Virginia*, A.C.L.U. of Virginia, 2000, p. 19.

⁴⁹ Civil Action No. 91-0719-R (W.D. Va., Roanoke Div., July 31, 1995), cited in Laura LaFay, *Unequal, Unfair and Irreversible: The Death Penalty in Virginia*, A.C.L.U. of Virginia, 2000, p. 19.

⁵⁰ “The condemned Virginia prisoners in whose [sic] petitions were not timely filed in state habeas proceedings are Roger Coleman, Joseph O’Dell, Joe Wise, Tony Mackall, Mario Murphy and Lonnie Weeks.” Laura LaFay, *Unequal, Unfair and Irreversible: The Death Penalty in Virginia*, A.C.L.U. of Virginia, 2000, p. 24, n. 24.

⁵¹ *Id.* at p. 18-19.

⁵² Report of the Virginia State Crime Commission: Capital Representation of Indigent Defendants, House Document 60, 1999.

due to concerns over costs and the conflicts of interest that could arise if one unit were to handle multiple capital cases at once.⁵³

Indigent Defense Caseloads and Costs

The number of indigent clients served by Court Appointed Counsel has increased 40% in the past seven years from 134,591 in FY94 to 188,499 in FY00.⁵⁴ Public Defender Offices also show an increase in workload associated with indigent clients in recent years. While the Public Defender Commission tracks criminal charges, as opposed to defendants, they too have had an increase in the number of charges handled statewide. From FY96 to FY00 the number of criminal charges increased 41% from 101,030 charges to 142,733 charges (*see Appendix B*).⁵⁵

The total expenditures for the indigent defense services provided by both Court Appointed Counsel and Public Defenders have increased 57% since FY94. Total costs for indigent defense services in FY94 were \$36.7 million and by FY00 the total costs were \$58.2 million.⁵⁶ As Table 2 illustrates, the statewide costs for the Public Defender Offices and the costs for payment of Court Appointed Counsel have both increased during this time period.⁵⁷ Due to population growth in Virginia, and the strict constitutional requirements that indigent defendants be provided with counsel, there is no indication that these costs will decrease at any point in the immediate future.⁵⁸

V. Survey Results

The Virginia State Crime Commission surveyed: all General District Court Judges, Circuit Court Judges, Juvenile and Domestic Relations District Court Judges, Commonwealth's Attorneys, Public Defenders, Assistant Public Defenders, and a sample of Court Appointed Counsel and Private Defense Counsel. A total of 1,369 surveys were administered statewide. Table 3 illustrates the response rates from the various groups surveyed.⁵⁹ The surveys were designed with the assistance and consultation of private practice attorneys, Court Appointed Counsel, Public Defenders, Commonwealth's Attorneys and staff from the Public Defender Commission. In addition, staff from the Office of the Executive Secretary of the Supreme Court and the Commonwealth's Attorney Services Training Counsel edited, approved and assisted in dissemination of the surveys statewide. Copies of several representative survey instruments can be found in Appendix C.

⁵³ *Id.* at p. 14-15. The workgroup chairman that prepared the report did not concur in this recommendation.

⁵⁴ Virginia Supreme Court, State of the Judiciary Reports 1994-2000.

⁵⁵ The distinction between cases and charges is that one criminal case may involve two or more criminal charges. All of the charges would usually be tried together at the same time.

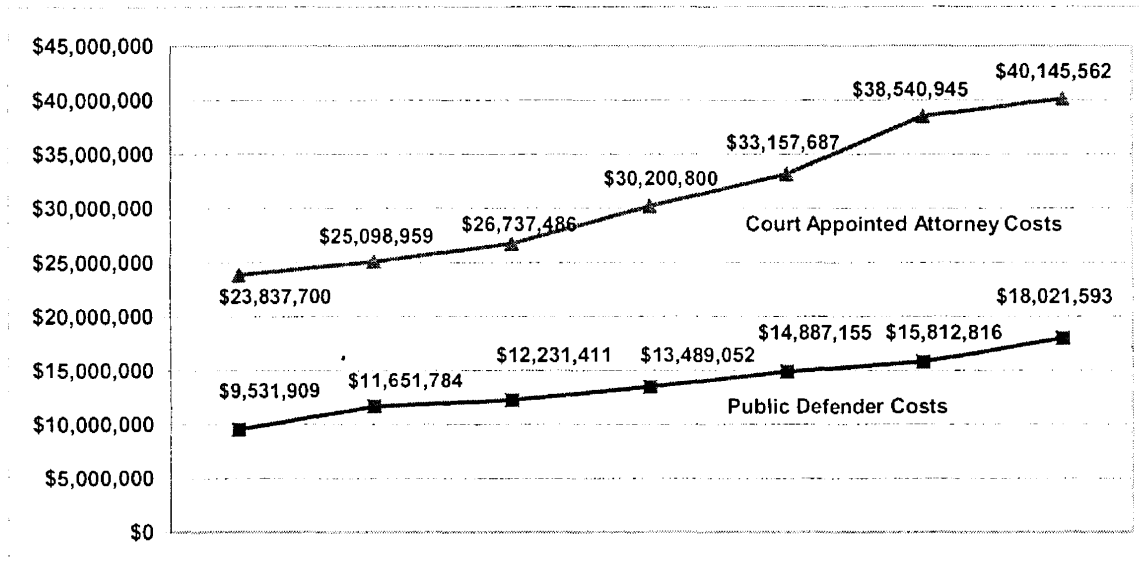
⁵⁶ Virginia Supreme Court, State of the Judiciary Reports.

⁵⁷ Virginia Supreme Court, State of the Judiciary Reports.

⁵⁸ Source: Virginia Quick Facts from the US Census Bureau, at <http://quckfacts.census.gov/qfd/states/51000.html>; Virginia's population increased by 14.4% from 1990 to 2000, while the increase for the nation as a whole was only 13.1%.

⁵⁹ The total number of survey responses to individual questions will vary due to 1) missing values and 2) the respondent groups asked the individual survey questions; percentages may not always total 100% due to rounding.

Table 2
Costs for Indigent Defense in Virginia
FY 1994-FY 2000



Source: Virginia State Crime Commission graphic and analysis of Virginia State Supreme Court *State of the Judiciary Reports 1994-2000*.

The judges were asked both open and closed questions. The judicial surveys focused on:

- the methods used for the selection and appointment of counsel;
- the qualifying criteria needed before an attorney could be appointed to a case;
- the criteria used in determining indigency; and,
- opinions on the quality of representation provided by Public Defenders, Court Appointed Counsel, privately retained counsel, and prosecutors.

The surveys also inquired as to whether any improvements could or should be made to the current indigent defense system in Virginia. A similar instrument, tailored to prosecutors, was sent out to all elected Commonwealth's Attorneys in Virginia.

Two slightly different surveys, with both open and closed questions, were also sent out to each Public Defender and Assistant Public Defender in Virginia. These surveys focused upon:

- office staff and resources;
- office caseloads;
- the selection and appointment of Court Appointed Counsel; and,
- whether any improvements could or should be made to the current indigent defense system in Virginia.

Lastly, surveys were distributed to a random sample of attorneys from the two types of attorneys in private practice who handle criminal defense cases: Court Appointed Counsel and private defense counsel. The questions, both open and closed, focused on their practice and workload, their representation of indigent clients, the local judicial appointment processes for court appointed counsel is selection, and whether any improvements could or should be made to

Table 3
HJR 178 Survey Response Rates

Overall Response Rate:	614 of 689 (89%)
Assistant Public Defenders	153 of 167 (92%)
Public Defenders	20 of 20 (100%)
Commonwealth's Attorneys	103 of 121 (85%)
Juvenile and Domestic Relations Court Judges	89 of 109 (82%)
General District Court Judges	112 of 122 (92%)
Circuit Court Judges	137 of 150 (91%)
Court Appointed Counsel & Private Defense Bar:	274 of 678 (40%) ⁶⁰

Source: Virginia State Crime Commission HJR 178 surveys.

the current system. The samples of Court Appointed Attorneys were selected from the names of attorneys reimbursed by the Virginia State Supreme Court in 2000. In addition, a sample of private defense counsel was selected from the Virginia State Bar's Criminal Bar Association, the Virginia College of Criminal Defense Attorneys and the Virginia Trial Lawyers Association. Every attempt was made to ensure that attorneys in multiple associations were only surveyed once.

In order to allow methodologically valid comparisons of the responses from the different groups of surveys, the questions contained in the seven sets of instruments mirrored each other as closely as possible.

As Table 3 illustrates, the Public Defenders had the highest response rate, at 100%, while the second highest response rate came from the General District Court Judges and the Assistant Public Defenders, each at 92%. The lowest response rate was from the attorneys in private practice. As this was anticipated, based upon previous experience with surveying private practice attorneys in unrelated studies, the sample size of private practice attorneys surveyed was doubled to ensure a statistically valid sample and sufficiently high response rate.⁶¹ The final response rate for the representative private attorney survey was 40%.

Appointment of Counsel

Analysis of the survey results, found that 88% (298 of 338) of the judges reported maintaining a list of eligible Court Appointed Attorneys. As shown below, a lower percentage of Circuit Court Judges responded to maintaining a list than did the judges in the lower courts:

- 104 of 137 (76%) Circuit Court Judges used a formal list;
- 106 of 112 (95%) General District Court Judges used a formal list; and
- 88 of 89 (99%) Juvenile and Domestic Relations District Court Judges used a formal list.

⁶⁰ A representative sample of court appointed attorneys, private criminal bar attorneys, VCCDA and VTLA was 678.

⁶¹ General Sample Size = $4PQ/25$ assuming maximum variation (50:50) is 400; then finite population correction where: $n_0 / (1 + ((n_0 - 1) / N))$ and n_0 = the general sample size and N = population size.

When asked if a rotation process was used for assigning counsel to cases, more than three-fourths of the district court judges reported doing so. This contrasted with slightly less than half of the circuit court judges:⁶²

- 56 of 137 (41%) Circuit Court Judges used a rotation process;
- 89 of 112 (79%) General District Court Judges used a rotation process; and,
- 75 of 89 (84%) Juvenile and Domestic Relations District Court Judges used a rotation process.

Three-fourths of all judges reported that there was a sufficient number of attorneys available for court appointed work in their judicial district. One exception to this trend was in the Fifth Judicial District, where each of the five district court judges responded that there were not enough available attorneys.⁶³

Qualifications of Counsel

When asked if the court imposed any qualifications on attorneys prior to making them eligible for court appointments, 63% of judges replied that there were. However, when asked more specifically as to what criteria was used, the answers varied widely and no single qualification was required by the majority of judges:

- Resume (23%);
- Formal interview (14%);
- Have office in that judicial district (39%);
- Have main law office in that judicial district (13%);
- Have a minimum level of criminal defense experience (29%);
- The judge must previously approve an attorney for court appointed work (31%);
- Mandated CLE or training classes before becoming eligible (15%); and,
- Other criteria (30%).⁶⁴

Two-thirds (205 of 338) of the judges responded that they had previously removed an attorney from the court appointed list.⁶⁵ The most often reported reasons for removal were incompetence (29%), failure to appear/timeliness (24%), and failure to keep in contact with clients (21%).

⁶² The use of a “fair system of rotation among members of the bar practicing before the court” is technically a requirement under *Virginia Code* §19.2-159.

⁶³ The fifth judicial district is made up of the cities of Franklin and Suffolk and the counties of Isle of Wight and Southampton. *Virginia Code* §16.1-69.6.

⁶⁴ Other requirements included: good standing in the Bar, supervision by an experienced attorney prior to felony appointments (mentoring), interview with the Clerk, maintain a local business license, provision of a social security card and/or bar card, membership in the local Bar and certification as a Guardian Ad Litem (Juvenile Court).

⁶⁵ Results: 79 of 137 (58%) Circuit Court Judges, 68 of 112 (61%) General District Court Judges and 58 of 89 (65%) Juvenile and Domestic Relations District Court Judges.

Experience of Counsel

Both Public Defenders and private defense counsel were surveyed to determine their respective levels of experience. Survey results indicated that the appointed Public Defenders had the most years of experience of all attorneys representing indigent clients. However, as Table 4 illustrates, private practice attorneys that handled court appointed cases had, on average, almost twice as many years of practicing law as did the Assistant Public Defenders.

Appointed Public Defenders	
<i>Average years practicing law</i>	<i>20.6 years</i>
<i>Average years as a Public Defender</i>	<i>11.1 years</i>
Assistant Public Defenders	
<i>Average years practicing law</i>	<i>7.9 years</i>
<i>Average years as a Public Defender</i>	<i>4.0 years</i>
Court Appointed Counsel	
<i>Average years practicing law</i>	<i>15.8 years</i>

Source: Virginia State Crime Commission analysis of HJR 178 surveys, Fall 2001.

The survey results regarding the experience levels of Court Appointed Counsel are consistent with a 1997 study completed by the Crime Commission. In 1997, the Supreme Court's voucher payment database was examined and a statistical sample of attorneys was selected to determine their years of experience through records at the Virginia State Bar Association. This study found that the average number of years of experience for attorneys who performed court appointed work in FY95 was 13.9 years and in FY96 it was 12.1 years.⁶⁶

Counsel Workload

Two-thirds of the criminal defense attorneys, who performed court appointed work during CY00, had less than 25% of their open files be court appointed cases. Only 1% of the court appointed attorneys statewide reported having more than 76% of their open files be for court appointed work. Also, it should be noted that on a statewide basis, the percentage of total salary attributable to court appointed work was relatively small. The majority of attorneys who did court appointed work (58%) reported that less than 25% of their income was from court appointed cases.

⁶⁶Report of the Virginia State Crime Commission: Cost Effectiveness of Public Defender Offices, House Document 46, 1997, p 10. The similarity with the numbers obtained through surveys would indicate the HJR 178 sample population was representative of the group of court appointed attorneys as a whole.

Establishment of Public Defender Offices

When asked if there should be a Public Defender's Office established in every judicial district in Virginia, only 32% of all survey respondents agreed (see Table 5). Public Defenders and Assistant Public Defenders were the only groups not following this trend, instead indicating that they felt there should be an office in each district.⁶⁷

Table 5
Survey Responses

Question: Should there be a Public Defender Office in every Judicial District?

RESPONDENTS	YES	NO	DON'T KNOW
Juvenile Ct. Judges	17 of 89 (19%)	39 of 89 (44%)	33 of 89 (37%)
General District Ct. Judges	29 of 112 (26%)	45 of 112 (40%)	29 of 112 (26%)
Circuit Ct. Judges	44 of 137 (32%)	51 of 137 (37%)	35 of 137 (26%)
Public Defenders	14 of 20 (70%)	3 of 20 (15%)	0 of 20
Asst. Public Defenders	102 of 153 (67%)	36 of 153 (24%)	0 of 153
Commonwealth's Attnys.	19 of 103 (18%)	59 of 103 (57%)	22 of 103 (21%)
Court Appointed Counsel	34 of 198 (17%)	118 of 198 (60%)	31 of 198 (16%)
TOTALS	259 of 812 (32%)	351 of 812 (43%)	150 of 812 (18%)

Source: Virginia State Crime Commission graphic and analysis of HJR 178 surveys. Fall 2001.

The three most often reported reasons for why there should not be a Public Defender Office in each district were:

- Different localities have different caseloads and needs;
- The current system works well; and,
- Public Defenders lack experience/do not provide quality representation.

On the other hand, the three most often reported reasons for why there should be a Public Defender's Office in each district were:

- To provide better representation and quality of defense;
- To provide for expertise and skill in the area of indigent defense; and,
- To have a more cost effective system for indigent defense.

Standardization of Appointment Process

Statewide survey respondents were asked if the procedures used for selecting Court Appointed Counsel should be standardized throughout the state. As Table 6 illustrates, a majority of the survey respondents (54%) felt there should not be a standardization of the appointment process across the state. The only respondent groups with a majority favoring a standardization of process were the Public Defenders and Assistant Public Defenders reporting just the opposite.⁶⁸

⁶⁷ Percentages in chart do not total 100% due to missing values.

⁶⁸ Percentages do not total 100% due to missing values.

Table 6
Survey Responses

Question: Should the appointment process for Court Appointed Counsel be standardized across the state?

RESPONDENTS	Yes	No
Juvenile Ct. Judges	30 of 89 (34%)	56 of 89 (63%)
General District Ct. Judges	37 of 112 (33%)	67 of 112 (60%)
Circuit Ct. Judges	45 of 137 (33%)	80 of 137 (58%)
Public Defenders	14 of 20 (70%)	5 of 20 (25%)
Asst. Public Defenders	96 of 153 (63%)	50 of 153 (33%)
Commonwealth's Attorneys	36 of 103 (35%)	64 of 103 (62%)
Court Appointed Counsel	63 of 198 (32%)	113 of 198 (57%)
TOTALS	321 of 812 (40%)	435 of 812 (54%)

Source: Virginia State Crime Commission graphic and analysis of HJR 178 surveys. Fall 2001.

When asked what procedures should be implemented if there were to be some sort of statewide standardization in the appointment of counsel in indigent defense cases, the following criteria were reported for inclusion:

- CLE training prior to eligibility (78%);
- Orientation to local court procedures (70%);
- Prior courtroom experience (65%);
- Maintaining a formal district list of credentialed attorneys (54%);
- Formal review of credentials by Judge (49%);
- Formal written application by attorneys who wish to be considered for court appointments (43%);
- Maintenance of a supplemental list of attorneys available for court appointed work maintained by the Supreme Court (29%); and,
- Formal interview of applicant by Judge before becoming eligible (26%).

VI. Case and Sentencing Analysis

In addition to the attitudinal responses regarding quality gathered through surveys, the Crime Commission also undertook a statistical data analysis of felony cases and sentencing results for CY00. The Crime Commission entered into an agreement with the Thomas Jefferson School for Public Policy at the College of William and Mary to conduct the case and sentence analysis. A total of 18,911 Pre-Sentence Investigation (PSI) reports from CY00 were used in the analysis. PSI reports are completed on persons convicted of a felony offense and they include information such as offender demographics, prior record, conviction offenses and sentence (*see Appendix D*).

There were three overall objectives in conducting the multi-variate regression analyses used in the HJR 178 study. These objectives included:

- a determination of whether Public Defenders or Court Appointed Counsel provide better defense for indigent defendants; and,
- a determination of whether Public Defenders or Court Appointed Counsel generate lower court sentences for their clients as measured in years.

It should be noted that the PSI data base only contains records for felony offenders who were convicted of an offense, and not those for whom an acquittal was rendered. Thus, any discussion of quality of representation applies only to the length of sentence received by offenders who were found guilty of a felony and not those either acquitted or found guilty of misdemeanor offenses during CY00.

The Commonwealth of Virginia has created a set of optional sentencing guidelines, which are based on many different factors including those dealing with the offender's criminal history, the nature of the crime, and weapons information. Theoretically, the offender's sentence should be based on nothing more than the score he or she receives from this sentencing process. Thus, to determine quality of representation, the HJR 178 study examined the amount of movement from this pre-determined length of sentence to the actual sentence imposed on felony offenders during 2000. In addition, the study also examined the simple length of sentence without regard to score to measure quality of attorney.

Methodology

The two data sets used for the caseload analysis part of the HJR 178 study were the Pre-Sentence Investigation (PSI) file and the State Guideline Pre-Sentence Investigation (SGPSI) file. The PSI is a report completed by an officer of the court for every convicted felon. The officer then fills in details of the person, the crime for which they were arrested, prior convictions, and basic demographic data, among numerous other variables. The SGPSI is the same as the PSI dataset but includes a computer program with the calculated score presented in court.

Several methodological decisions were made regarding the PSI data to ensure an accurate analysis of the effect of type of counsel on the ultimate length of sentence. Accordingly, there were several data deletions made to the original 18,911 files in the PSI data base. The first of these was a deletion of any case where the type of counsel was not provided on the PSI form. It is imperative that in a study comparing the effectiveness of counsel that the type of counsel be listed. Second, data was also eliminated in cases where the race or gender of the defendant was not listed. Third, capital cases were deleted from the regression due to the potential for these few cases to skew the overall statewide findings. There were 175 capital cases with 220 total capital charges removed from the statewide analysis. Finally, one case was deleted where the defendant was listed as having received a sentence of 19,000 years due to the obvious data entry error and the effect such a number had on skewing the results. In addition, to data deletions there were data truncations. Data in both the PSI and SGPSI dataset were truncated to 100 years if the sentence exceeded 100 years.

Even after the data deletions and truncations there was still some difficulty with the type of counsel. Instead of classifying the data into just three types of counsel: Court Appointed Attorneys, privately retained attorneys, and Public Defenders, a fourth category emerged. The additional counsel type came in the form of “CA – Missing” which meant that the type of indigent defense counsel was not available and could not be ascertained for a particular case. The PSI data base does list whether each defendant is indigent and in need of indigent counsel. However, as seen in Table 7, approximately 13.3% of all the indigent cases had missing information regarding the type of indigent counsel used.

Table 7
Felony Indigent Cases and Types of Counsel
CY 2000

Type of Counsel	Number of Cases	Percent of Cases
Public Defender	3,690	19.50%
Court Appointed	7,321	38.70%
CA - Missing	2,516	13.30%
Private	5,384	28.50%
Total	18,911	100.00%

Source: William and Mary Analysis of Pre-Sentence Investigation Data Base, HJR 178 Study of Indigent Defense, December 2001.

In examining the PSI data to determine the effect of counsel on sentence, it should also be noted that the imposed sentence represents the actual time to be spent in jail or prison whereas the total sentence includes the time spent in jail or prison plus any suspended sentence. For example, a convicted felon could have an imposed sentence of 12 years, but a total sentence of 22 years (twelve years actual and ten years suspended).

Mean Sentencing Comparison

To compare the representative quality of the Public Defender system and Court Appointed Attorney system, the sentences of the two different types of counsel were compared. Only results at the three percent significant level are shown. The term “CA” refers to Court Appointed Attorneys, “PD” to Public Defender attorneys, “PRIVATE” to privately retained counsel, and “MISSCA” to those clients represented by an unknown type of indigent counsel, either Public Defenders or Court Appointed Counsel.

The first set of average sentences were run to compare the truncated imposed sentence (IMPTOT) and the truncated total sentence (ACTOT) by controlling for the type of counsel. There are significantly different mean sentences for defendants represented by the various types of counsel. The results are shown in Table 8 below. As can be seen in this table, Public Defenders achieve a better sentence for their clients than Court Appointed Attorneys by at least 19 months on a statewide basis.

Table 8

Average Sentence Comparison By Type of Counsel

Counsel type		Truncated Imposed Sentence	Truncated Total Sentence
CA	Mean	8.50 years	14.25 years
	N	7,215	7,215
	Std. Deviation	12.71	17.80
MISSCA	Mean	6.27 years	10.92 years
	N	2,499	2,499
	Std. Deviation	10.70	15.32
PD	Mean	6.87 years	11.31 years
	N	3,655	3,655
	Std. Deviation	11.24	15.12
PRIVATE	Mean	7.26 years	12.38 years
	N	5,305	5,305
	Std. Deviation	12.31	17.64
Total	Mean	7.53 years	12.70 years
	N	18,674	18,674
	Std. Deviation	12.09	16.99

Variable Significance

The PSI dataset was used to conduct multivariate regression models to compare the means of the sentences. Regression is a statistical analysis which is used to determine the predictive impact of one or more independent variables on a dependent variable.⁶⁹ The difference in means test employed in Table 8 compared only gross differences, and were not adjusted for any other factors. The data used was from the PSI data file and SGPSI data file. The regression model controlled for many different considerations, including location of case, offender demographics, type of counsel and the convicted scores. Appendix E provides definitions for all the variables used in the regression models. The general regression results are shown in Tables 9 through 14.

To interpret the regression model, analysis started with the base sentence. The base sentence was the value of the constant. In Model 1, the base sentence was 1.58 years. This sentence is based on the assumption that the attorney will be a Public Defender. If the attorney is not a Public Defender, but is a Private Attorney, then the coefficient of .27 implies

⁶⁹ SPSS Base 9.0 User's Guide, p. 289, 1999.

Table 9
Regression Model Results Comparison for Imposed Sentences

VARIABLE	Model 1: PSI		Model 2: SGPSI		Model 3: SGPSI with Score	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	1.58	.029	3.21	.025	3.09	.000
Private Attorney	.27	.300	.46	.346	.95	.001
CAA	1.07	.000	1.78	.000	1.51	.000
MISSCA	-.24	.501	-1.31	.108	.31	.407
TRSCORE					.19	.000
DMHTREAT	.53	.010	.291	.448	-.30	.180
GUILTPLE	1.20	.000	1.08	.009	.97	.000
JURY	6.32	.000	9.21	.000	2.04	.011
REGION2	-3.56	.000	-3.63	.000	-2.22	.000
REGION3	.42	.103	1.64	.001	1.59	.000
REGION4	-1.19	.002	-.55	.521	.03	.940
REGION5	-1.06	.000	-.84	.092	-.19	.527
REGION6	1.58	.000	.47	.466	1.46	.000
Age	-.006	.574	-.008	.703	-.03	.016
Education	-.05	.207	-.07	.419	-.04	.368
MILIRES	-1.01	.494	1.57	.706	.17	.927
MILIACT	5.54	.000	3.84	.207	2.61	.143
Prior Felony	.28	.000	.09	.189	-.24	.000
DRUG	1.12	.000	.91	.015	.06	.766
ALCOHOL	-.06	.790	-1.05	.010	-.37	.109
MARRIED	-.39	.138	.06	.905	.27	.333
ALONE	-.32	.191	-.51	.265	-.08	.750
MALE	1.02	.000	.51	.306	-.02	.909
BLACK	-.02	.919	.14	.725	-.13	.565
HISPANIC	.02	.978	.55	.673	-.45	.487
OTHERACE	.33	.686	-.29	.870	-.38	.687
UNEMP	.63	.002	1.18	.001	.27	.207
UNLABOR	.52	.133	1.03	.129	.83	.028
DEAD	2.72	.132	4.24	.310	-4.55	.078
PHYSICAL	5.60	.000	6.52	.000	-.19	.640
EMOTION	12.76	.000	12.84	.000	1.09	.077
THREATEN	6.91	.000	6.43	.000	-1.33	.017
FIREARM	8.44	.000	6.92	.000	1.84	.000
KNIFE	1.58	.035	3.27	.013	.83	.309
Seriousness of Indicted Crime	4.82	.000	5.15	.000		
N		16182		5159		8427
R-Squared		0.17		0.18		0.39
F – Value		102.97		34.48		161.84

Source: William and Mary analysis of Pre-Sentence Investigation Data Base, Fall 2001.

that the client's sentence will be .27 years longer. If the attorney is a Court Appointed attorney, then the coefficient implies the sentence will be 1.07 years longer. This continues for all variables in the list. For instance, if the offender used a firearm, then the sentence will be 8.44 years longer. As Table 9 illustrates, the type of counsel, type of trial, location, whether a firearm is used, unemployment status, prior felony sentence, drug use, and alcohol use are all statistically

significantly related to the imposed sentences. Subsequently when the TRSCORE variable is introduced into our regression model, the R-Squared is more than doubled, from 0.17 to 0.39.

Table 10
Regression Model Results Comparison for Total Sentences

VARIABLE	Model 1: PSI		Model 2: SGPSI		Model 3: SGPSI with Score	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	4.72	.000	8.03	.000	7.38	.000
Private Attorney	.90	.015	1.58	.024	1.98	.000
CAA	1.96	.000	2.93	.000	2.72	.000
MISSCA	-.25	.618	-1.63	.163	.29	.618
TRSCORE					.25	.000
DMHTREAT	.64	.028	.45	.416	-.44	.198
GUILTPLE	2.05	.000	2.10	.000	1.91	.000
JURY	2.62	.008	4.93	.003	-3.95	.001
REGION2	-6.10	.000	-6.68	.000	-4.32	.000
REGION3	1.00	.006	2.50	.000	2.81	.000
REGION4	-2.12	.000	-1.82	.137	-.37	.592
REGION5	-1.63	.000	-1.77	.014	-.38	.406
REGION6	2.13	.000	-.17	.851	2.06	.000
Age	-.03	.050	-.05	.134	-.07	.000
Education	-.07	.210	-.03	.777	-.05	.451
MILIRES	-1.70	.415	4.11	.489	.81	.773
MILIACT	6.13	.003	7.43	.088	5.13	.060
Prior Felony	.32	.000	-.04	.707	-.40	.000
DRUG	1.71	.000	1.63	.002	.28	.390
ALCOHOL	-.32	.284	-1.70	.004	-.64	.069
MARRIED	-.48	.194	.04	.954	.46	.292
ALONE	-.28	.406	-.54	.406	-.002	.995
MALE	1.42	.000	.24	.737	.06	.877
BLACK	-.02	.932	-.20	.726	-.31	.349
HISPANIC	-.27	.738	.66	.725	-.95	.341
OTHERACE	.17	.883	-.02	.993	-.50	.731
UNEMP	1.01	.000	1.80	.001	.48	.137
UNLABOR	1.15	.018	2.33	.017	1.88	.001
DEAD	3.25	.200	8.07	.177	-5.26	.184
PHYSICAL	7.01	.000	8.10	.000	-.58	.348
EMOTION	16.87	.000	17.37	.000	2.25	.017
THREATEN	8.50	.000	8.02	.000	-1.67	.050
FIREARM	11.03	.000	8.98	.000	2.57	.000
KNIFE	1.99	.058	4.46	.018	1.32	.292
Seriousness of Indicted Crime	7.37	.000	7.55	.000		
N	16,182		5,159		8,460	
R – Squared	0.17		0.16		0.32	
F – Value	98.94		31.39		121.04	

Source: William and Mary analysis of Pre-Sentence Investigation Data Base, Fall 2001.

When examining the impact of counsel on the total sentences, the regression results were nearly the same as those for the imposed sentences. Table 10 illustrates this fact that the findings that in general, type of counsel, type of trial, location, whether a firearm is used, unemployment status, prior felony sentence, drug use, and alcohol use are statistically significantly related to the

total sentences. When the TRSCORE variable was introduced into the regression model, the R-Squared is nearly doubled, from 0.17 to 0.32.

When the mean unadjusted comparison results and the regression results are placed together, the statistical comparisons among the types of defense counsel are evident. In both tables, the number represented is the number of years higher or lower that a client will receive depending on type of counsel. When examining the coefficients in the regression tables, a higher number represents the imposition of a sentence with more years and a negative number fewer years based on the type of attorney. For example, clients with Court Appointed Counsel receive 2.02 years longer imposed sentences than those with Public Defenders. Conversely, defendants with Private Defense Attorneys receive .65 less years than those with Public Defenders. Table 11 illustrates the comparison of the imposed sentences by type of counsel and Table 12 illustrates the comparison of total sentences by type of counsel. Both tables have consistent results and show that the Public Defenders statewide achieve shorter sentences for their clients, compared with Court Appointed Attorneys.

**Table 11
Comparison of the Imposed Sentences**

	Difference in Mean Imposed Sentences		
	Compared to PD		
	CA	MISSCA	PRIVATE
Overall	2.02	-2.24	-0.65
Truncated Overall	1.63	-0.61	0.38
Regression Results:			
PSI	1.07		
SGPSI	1.78		
SGPSI with Score	1.51		0.95
SGPSI with Midpoint	1.47		1.02

**Table 12
Comparison of the Truncated Total Sentences**

Overall	3.08	-2.22	0.59
Truncated Overall	2.94	-0.40	1.07
Regression Results:			
PSI	1.96		0.90
SGPSI	2.93		1.58
SGPSI with Score	2.72		1.98
SGPSI with Midpoint	2.57		2.33

Other Model Type Regressions

A third set of regression analyses were executed which were similar to the original regressions, but accounted for different types of offenses, different serious crimes, different localities, different genders, and different races, using separate regression models for each of these considerations. The comparison results are shown in Tables 13 through 18.

All of the results in Tables 13 through 18 represent the significant differences between the average sentences of the cases handled by other types of counsel and the average sentences of the cases handled by the Public Defender System. For example, in Table 13, the number 2.18 means the average of imposed sentences of the assault cases handled by Court Appointed Attorney System is 2.18 years longer than the average of the imposed sentences of the assault cases handled by the Public Defender System. If there is no number, it means there is no significant difference between the average sentences of the cases handled by other types of counsel and the average sentences of the cases handled by the Public Defender System.

From Tables 13 through 18 there are fairly robust results; if there are significant differences between the average sentences of the cases handled by the Court Appointed Attorney System and the average sentences of the cases handled by the Public Defender System, then the Public Defender always receives a shorter sentence for his or her client than does the Court Appointed Attorney. In other categories, there was no statistically significant difference between the Public Defender and the other attorney types.

Table 13
Mean Imposed Sentence Comparison – Offense Type

Type		PSI (Without Score)			SGPSI (With Score)		
		CA	MISSCA	PRIVATE	CA	MISSCA	PRIVATE
1	Assault	2.18					
2	Burglary – Dwelling		-6.34				
3	Burglary - Other Structure						
4	Drug - Schedule I/II	1.39		1.41	1.46		1.32
5	Fraud						
6	Kidnapping						
7	Larceny				0.90		1.15
8	Murder						
9	Other Sexual Assault						
10	Rape						
11	Robbery						
12	Miscellaneous						
13	Drug – Others						
14	Traffic	1.79			0.89		

Source: William and Mary Analysis of Pre-Sentence Investigation Data Base, Fall 2001.

Table 14
Mean Total Sentence Comparison – Offense Type

Type		PSI (Without Score)			SGPSI (With Score)		
		CA	MISSCA	PRIVATE	CA	MISSCA	PRIVATE
1	Assault	3.34					
2	Burglary - Dwelling		-9.50				
3	Burglary - Other Structure						
4	Drug - Schedule I/II	2.47		2.38	2.57		2.41
5	Fraud						
6	Kidnapping						
7	Larceny				1.67		2.25
8	Murder						
9	Other Sexual Assault						
10	Rape						20.52
11	Robbery						
12	Miscellaneous						
13	Drug – Others						
14	Traffic	2.86			1.59		

Source: William and Mary analysis of Pre-Sentence Investigation Data Base, Fall 2001.

Several additional analyses were run to look at the impact of counsel. As Table 15 illustrates, when the possible sentence is one year to life, the Public Defender achieves a sentence of almost two years less than a Court Appointed Attorney when using the score. Additionally, as Table 16 shows, when analyzing the same sentence category the Public Defender receives a sentence of a little more than three years less than the Court Appointed Attorney.

Table 15
Mean Imposed Sentence Comparison – Seriousness of Crime

Rank		PSI (Without Score)			SGPSI (With Score)		
		CA	MISSCA	PRIVATE	CA	MISSCA	PRIVATE
1	Life or Death						
2	20 to Life						
3	5 to Life						
4	1 to Life	1.28			1.86		1.29
5	5 to 20						
6	2 to 10						
7	1 to 10	0.82			1.28		
8	1 to 5	0.80		0.90			0.81
9	Up to 12mos			-1.38			
10	Up to 6 mos						
11	Fine						
12	S9*						

**S9 are out of state violations that cannot be equated to Virginia sentences and in effect their severity cannot be compared using the sentencing guidelines.*

Source: William and Mary analysis of Pre-Sentence Investigation Data Base, Fall 2001.

Table 16
Mean Total Sentence Comparison – Seriousness of Crime

Rank	PSI (Without Score)			SGPSI (With Score)		
	CA	MISSCA	PRIVATE	CA	MISSCA	PRIVATE
1	Life or Death					
2	20 to Life					
3	5 to Life					
4	1 to Life	2.39		1.80	3.12	2.53
5	5 to 20					
6	2 to 10					
7	1 to 10	1.44		2.58		
8	1 to 5	1.46		1.61		1.54
9	Up to 12mts			-2.10		
10	Up to 6 moths					
11	Fine					
12	S9*					

**S9 are out of state violations that cannot be equated to Virginia sentences and in effect their severity cannot be compared using the sentencing guidelines.
Source: William and Mary analysis of Pre-Sentence Investigation Data Base, Fall 2001.*

When comparing the performance of the various types of counsel by region, gender and race, the same results can be seen again. As Tables 17 and 18 illustrate, Public Defenders get their clients a shorter sentence in all statistically significant regions, and regardless of gender or race. The difference ranges from as little .9 years to as much as 8.03 years.

Table 17
Mean Imposed Sentence Comparison – Region, Gender, and Race

VARIABLE	PSI (Without Score)			SGPSI (With Score)		
	CA	MISSCA	PRIVATE	CA	MISSCA	PRIVATE
Region 1		-3.70		1.18		
Region 2	0.92			1.04		
Region 3		-2.03		1.67		
Region 4						
Region 5	1.41					
Region 6	5.64	8.03	3.27	3.88	5.55	
Richmond	1.31					
Gender						
Female	1.41			1.77		
Male	1.04			1.47		0.98
Race						
White	1.48			1.68		1.07
Black	0.77			1.40		
Hispanic						
Other						

Source: William and Mary analysis of Pre-Sentence Investigation Data Base, Fall 2001.

Table 18
Mean Total Sentence Comparison – Region, Gender, and Race

VARIABLE	PSI (Without Score)			SGPSI (With Score)		
	CA	MISSCA	PRIVATE	CA	MISSCA	PRIVATE
Region 1		-6.08		2.31		
Region 2	1.71		1.08	1.93		1.84
Region 3		-2.81		3.19		2.55
Region 4						
Region 5	2.63			1.90		
Region 6	8.26	10.57	5.25	5.95	8.34	
Richmond	2.42		1.21			
Sex						
Female	2.13			2.95		
Male	2.01		0.96	2.70		2.11
Race						
White	2.42			2.94		1.98
Black	1.68		1.12	2.63		2.00
Hispanic						
Other						

Source: William and Mary analysis of Pre-Sentence Investigation Data Base, Fall 2001.

Sentencing Analyses

The Pre-Sentence Investigation Data Base was also used to examine the effect of counsel on the length of sentence at conviction versus the potential sentence at indictment. Examining the length of sentence at conviction could be misleading if there was a change in the crime from indictment to conviction. The offender's sentence could be high on the scale of recommended sentences for the crime for which he or she was convicted. For instance, the sentence could be ten years for simple possession of a controlled substance. But this sentence could be low compared to the recommended sentence for the originally indicted crime. If the offender was originally charged with distribution of a controlled substance, with a recommended sentence of twenty years, a ten year sentence for possession would be a lesser sentence and a better result for the defendant. The best way to examine the difference between the two was to compute the score for the most serious charge at indictment and then compare it to the score received at conviction, and analyze the difference.

Because the score on the PSI form is crime-dependent, the score obtained at conviction could be absolutely unrelated to the score he or she would have received if convicted of the crime originally charged in the indictment. As the score is roughly equivalent to the number of months of the sentence, it can be used as a proxy for the length of sentence. After initially analyzing the SGPSI data base for the computed score for crimes indicted, it was discovered that the score was recorded in less than half of all felony convictions. Even if the guidelines are followed in 75% of the cases, as court officials have claimed, there is no way to verify this, as it is often unrecorded. The score is recorded in less than half the cases in the SGPSI file; this

would seem to indicate that the guidelines are followed in fewer than half the cases. However, it is equally likely that the scores are used but not recorded in an undeterminable number of cases. That is, the score is used in the sentencing phase, but not recorded anywhere after being used.

SPSS syntax programming was used to compute each offender's score at indictment. There were limitations involved in this, however. The most important and influential of these is when the score is computed, the court official does not necessarily use the PSI form. Court officials have other options available including: asking the offender, examining his or her prior convictions on court information sheets, asking the attorney, and looking at other written documents. A proxy score could only be computed by using the available PSI files. These files contain over 700 demographic and crime-specific variables and provided a reasonable source for most of the actual information available at the time of scoring. There were instances however, where exact answers to questions on the worksheet were missing and the information was not therefore available in the calculated scores.

The process by which the PSI score is calculated depends on the worksheets completed. First, the court official calculates the offender's score on Worksheet A (*see Appendix F*). If the total on Sheet A is less than 11, then the sentence is calculated through the score obtained on Sheet B. If the total from Sheet A is greater than ten, the offender's sentence is calculated through Sheet C. Using the sentencing worksheets, the SPSS syntax editor was utilized as a computer-programming tool to calculate the score for a conviction of Narcotics, Class I/II. This crime was selected because it is the group of offenses for which people are most commonly convicted in Virginia. The score was calculated for everyone for whom this was the most serious offense at indictment.

SPSS was programmed to calculate the total on Sheet A for all offenders whose most serious crime at indictment was a Narcotics Class I/II offense. The program would continue to the Sheet B sub-routines if the Sheet A score was equal to or less than ten. If the Sheet A total was greater than ten, the Sheet C sub-routines would be enacted. Sheet B scores are significantly less than those of Sheet C, as Sheet A screens out more serious offenders and sends these to the Sheet C scoring process that is very detailed.⁷⁰ Those who are less serious offenders are sentenced under Sheet B's scoring process, which is much more lenient and tends to give sentences of probation, or jail time of under one year.⁷¹

The sentencing analysis found, after automating the process for Narcotics Class I/II, that the changes in score were not significantly different for the different types of attorneys. The findings indicated no significant difference in results for the different types of attorneys, based on the possible score at indictment versus the score at sentencing. Thus, the analyses did not suggest that either group is more successful than the other in getting their clients found guilty of lesser offenses than originally charged.

⁷⁰ For example, those trafficking large amounts of narcotics, those intending to distribute the narcotics, or those who are repeat offenders that have been sentenced before for narcotics or other offenses.

⁷¹ Examples include: first time offenders or those with small amounts of narcotics in possession.

PSI Analyses Summary

In summary, the various analyses of the Pre-Sentence Investigation Data Base revealed that Public Defender clients, when sentenced for felonies, receive a shorter sentence than those with the Court Appointed Attorneys. In addition, the sentences of clients with Public Defenders were also comparable to the sentences of clients with Retained Counsel. Depending on the statistical method employed to examine this issue, the estimated value of the difference varied. However, the smallest difference was 1.1 years between the Court Appointed Attorney and the Public Defender. The largest difference occurred when felony assault was examined. The difference between Public Defender clients and Court Appointed Counsel clients for felony assault was 2.2 years longer for defendants with Court Appointed Attorneys.

The analyses examined the sentences on a simple means test and also using multivariate regression analysis to control for: offender demographics (including race, gender, age, etc.), location of court, specifics of the crime, type of trial, offender criminal history and others. The HJR 178 study analyses of PSI data used over 400 different regression models to examine the data and estimate the results. While results varied in degree, every regression model returned a longer sentence for clients of Court Appointed Attorneys than those of Public Defender Attorneys.

The HJR 178 statistical analysis also found that there was no statistically significant difference in the change from charge at indictment to charge at conviction. The differences in the change between charges at indictment and at conviction were examined in two ways. First, the ranking of the seriousness of the crimes, using state defined crime suffixes, was examined and compared the seriousness of the crime at indictment to seriousness at conviction.⁷² For both types of attorneys there was a general decline in seriousness from indictment to conviction. There was no statistically significant difference in changes between the two types of attorneys.

To further test for the differences between indictment and conviction, the HJR 178 study calculated the score at indictment for a sample of offenders using the information on the pre-sentence investigation forms and compared this score with the sentence. The sample consisted of Narcotics Class I/II drug offenders because they represented the single largest proportion of offenders statewide. Because the score is roughly equivalent to the number of months of sentence, the score was used as a proxy for what the length of sentence would have been if convicted of the indicted offense and the length received at the actual sentencing. Again, there was no statistically significant difference between scores for Court Appointed Attorneys and Public Defender Attorneys.

⁷² A crime is classified by the state according to the type of offense, the specific offense, and the seriousness of the offense. For instance, entering a bank armed with intent to commit larceny is coded as "BUR-2207-F2." This means the type of offense is Burglary, the specific offense is coded as 2207, and the seriousness is a class 2 Felony. It is this final suffix that describes The Seriousness Index. See, Virginia Sentencing Guidelines, Virginia Sentencing Commission, page 259.

VII. Cost Analysis

House Joint Resolution 178 directed the Virginia State Crime Commission to examine the cost effectiveness of Court Appointed Counsel versus Public Defenders as sources for providing indigent defense in the Commonwealth. Thus, the Virginia State Supreme Court Cost Reimbursement Data Base for FY00 was analyzed to examine the following information related to Court Appointed Counsel:

- payments to Court Appointed Attorney on a per case and per charge basis;
- payment for Court Appointed Attorneys by district and region within the state; and,
- cost savings that could result using one system of indigent defense versus another.

The Supreme Court data base includes the following information: the locality of the attorney, the court district, the type of case, the number of charges, and the amount reimbursed. In addition to the Supreme Court data base, the Public Defender Data Base and annual caseload statistics were also obtained and analyzed to establish a baseline for per charge costs to compare both Public Defenders and Court Appointed Attorneys.

While a Court Appointed Attorney is representing an indigent client, he or she tracks the hours spent in court and out of court working on that client's case. The attorney then submits this report to the presiding judge for approval and the reimbursement request is forwarded to the Supreme Court of Virginia for payment. The information in the Court Appointed Attorney Reimbursement Data Base is collected after an attorney has finished a case.

The FY00 Supreme Court Data Base contained over 102,000 cases. For some of the cost comparisons, deletions were made in the dataset to limit the effect of outliers and non-criminal cases handled by Court Appointed Counsel. Both capital cases and Guardian Ad Litum (GAL) cases were removed from the cost analysis. In addition, cases were deleted:

- (1) when the reimbursement or the number of defendants or charges was negative,
- (2) when data was missing, or
- (3) when the reimbursement exceeded \$3,000.

It should be noted that the capital cases and cases where the reimbursement exceeded \$3,000 were later analyzed separately. Some additional recoding was done to determine which region each locality is in and the amount spent per locality in those regions.

Cost Per Charge

The first data analyzed was the cost per charge for both Court Appointed Attorneys and Public Defenders using the relative data sets. It should be noted that the Public Defender data set does not differentiate between the types of cases when looking at the average cost per charge due to the fact that they are not reimbursed by type of charge. However, as Table 19 illustrates,

when comparing the per charge costs of Court Appointed Counsel versus those for Public Defenders, Court Appointed Attorneys fees for FY00 were higher.⁷³

The second result generated from the dataset was a breakdown in the type of charge a defendant had. Type of charge can be separated into four categories: felony cases, juvenile cases, misdemeanors, and appeals. As Table 20 illustrates, Court Appointed Attorneys statewide handled more misdemeanor charges than other types of charges. Almost half, 43.4% of the charges that Court Appointed Attorneys were reimbursed for were misdemeanor charges.

Table 19
Average Charge Costs Per Charge by Attorney Type
FY00

Type of Attorney	Average Cost Per Charge
Public Defender (All Cases)	\$115.26
Court Appointed Attorneys (All Cases)	\$129.77
Court Appointed Attorneys (Misdemeanor Cases)	\$87.83
Court Appointed Attorneys (Felony Cases)	\$197.61
Court Appointed Attorneys (Appeal Cases)	\$416.75

Source: Virginia State Crime Commission analysis of Virginia State Supreme Court and Public Defender Commission cost data for FY 2000, Fall 2001.

Table 20
Distribution of Type of Charge by Court Appointed Attorney Fee

Type of Crime	Total Number of Cases	Percentage
Felony	38074	37.60%
Juvenile	15823	15.60%
Misdemeanor	43871	43.40%
Other	3382	3.30%

Source: William and Mary analysis of Supreme Court Cost Reimbursement Data Base, Fall 2001.

As Table 21 illustrates, however, it should be noted that in FY00 the overwhelming majority of the charges statewide were handled by Public Defender Offices. The 20 Public Defender Offices handled 77% of the statewide charges against indigent defendants during FY00.

Regional Characteristics of Attorney Reimbursement

Cost comparisons of reimbursements for Court Appointed Counsel were analyzed on a regional basis to determine if there were geographic disparities to the fees being charged. The analysis used six geographic regions in Virginia and a seventh region representing fees paid to

⁷³ Per charge cost figures presented at December 18, 2001 meeting included the additional reimbursements paid to attorneys in those misdemeanor and felony cases appealed to appellate courts; and thus, were slightly higher.

Table 21
Percent of Statewide Indigent Charges Represented by Counsel

Type of Charge	Percent Served By Court Appointed Counsel	Percent Served By Public Defenders
Misdemeanor Charges	25%	75%
Felony Charges	19%	81%
Appeal Charges	51%	49%
Statewide Total Charges	23%	77%

Source: Virginia State Crime Commission graphic of Public Defender Commission and Supreme Court Cost Reimbursement Data, Fall 2001.

Court Appointed Attorneys living outside of Virginia. The geographic breakdown of the region is the same as used by the Public Defender's Office, so as to facilitate an accurate comparison. Region One roughly represents the Tidewater and Eastern Shore areas of Virginia, Region Two represents Northern Virginia, Region Three the Piedmont area of Virginia, Region Four the western tip of Virginia, Region Five South Central Virginia, and Region Six the Blue Ridge Mountain area of Virginia (*see Appendix G*). Region Seven included Court Appointed Attorneys living in the District of Columbia, Pennsylvania, Tennessee, West Virginia, and in one case Hong Kong.

As can be seen in Table 22, Region three (Piedmont) accounted for 31% of all cases handled by court appointed attorneys. However, when comparing cost per case rates by region, Region one (Tidewater) was the most expensive at \$328.07 and Region three was the least expensive region at \$229.94 per case.

Table 22
Regional Costs and Percentages by Case

Region	Average Cost of CA Cases Per Region	Percentage of Cases Per Region
Region 1	\$328.07	26.40%
Region 2	\$249.70	13.70%
Region 3	\$229.94	31.30%
Region 4	\$293.03	9.80%
Region 5	\$275.35	10.20%
Region 6	\$292.61	8.30%
Other	\$207.82	0.30%

Source: William and Mary analysis of Virginia State Supreme Court Cost Reimbursement Data on FY 2000 cases, Fall 2001.

Capital Case Reimbursement Analysis

Capital cases were analyzed separately to determine the total expenditures for these specialized cases. Table 23 illustrates the localities with the highest number of capital cases. The capital cases statewide were analyzed to determine which localities in Virginia had the

highest number of cases and the expenditures associated with each. There were a total of 175 capital cases and 220 total capital charges in FY00. The total expenditure for capital cases in the state was \$1,572,359. The average reimbursement per case was \$8,985 and the average reimbursement per charge was \$7,147. However, the average per case cost for a capital case in the City of Norfolk was \$12,544.

**Table 23
Localities With The Most Capital Cases**

Locality	Number of Cases	Percentage of State Capital Cases
Norfolk	41	23.40%
Chesapeake	23	13.10%
Emporia	13	7.40%
Arlington	11	6.30%
Hampton	10	5.70%
Ashland	7	4.00%
Newport News	7	4.00%
Charlottesville	6	3.40%
Fredericksburg	6	3.40%
Lynchburg	5	2.90%

Source: William and Mary analysis of Virginia State Supreme Court Cost Reimbursement Data, Fall 2001.

Locality Cost Comparisons

Based on the findings of the analysis of average cost per charge between Court Appointed Counsel and Public Defenders, the Crime Commission analyzed where the state could maximize cost savings through the establishment of new Public Defender Offices. To determine the need for, and potential costs savings applicable in new offices, the current workloads of existing Public Defender Offices were first used as a baseline for identifying localities where a potential Public Defender Office could be established.

Currently, in the 20 areas where there are Public Defender Offices, the average population served is 110,851 persons.⁷⁴ In addition, the average Uniform Crime Rate Per Capita Arrest Rate in these same 20 areas is 4,245 per 100,000 persons aged ten and above.⁷⁵ Using the current standards for workload, six localities in Virginia met the thresholds for existing offices.⁷⁶ As Table 24 illustrates, the City of Norfolk's per capita arrest rate is higher than that of any

⁷⁴ Source: Virginia State Crime Commission analysis of the 2000 U.S. Census for persons ages ten and above and the Public Defender Commission office profile reports, Fall 2001.

⁷⁵ Source: Virginia State Crime Commission analysis of Virginia State Police Uniform Crime Reports 2000, U.S. Census 2000 and Public Defender Commission office profile reports.

⁷⁶ It should be noted the Crime Commission did not examine the feasibility of establishing multi-jurisdictional offices due to study time constraints.

existing area currently being served by a Public Defender Office and more than twice the average of current offices.

The total expenditures to the Criminal Fund for Indigent Defense in FY00 were \$58,167,155.⁷⁷ Of this total, \$40,145,562 (69%) of the expenditures was attributable to Court Appointed Counsel Fees and expenses. As Table 24 also shows, \$12,941,365 (32%) of the statewide expenses for Court Appointed Counsel in 2000 came from the six localities identified

Table 24
Localities with Workload to Justify Public Defender Offices

Locality	Population	UCR Per Capita Arrest Rate	Total Court Appointed Counsel Fees and Expenses FY 2000
Chesterfield	221,753	6,958.19	\$1,942,128
Henrico	225,556	5,063.04	\$1,673,139
Prince William	232,345	4,656.01	\$1,883,930
Hampton	127,122	6,025.71	\$1,348,659
Newport News	151,518	6,261.96	\$2,310,910
Norfolk	201,349	9,618.62	\$3,782,599
			\$12,941,365

Source: Virginia State Crime Commission analysis of 2000 U.S. Census data, Virginia State Police UCR data, and Virginia State Supreme Court Indigent Defense cost data, Fall 2001.

as having the workload to justify a Public Defender Office. In addition, the average cost per charge for the six localities is higher than the average charge in Public Defender Offices statewide. The average cost per charge in Public Defender Offices in FY00 was \$115.26. As Table 25 shows, the average cost per charge for indigent defense in the six localities with workloads justifying offices is higher than the average cost per charge in Public Defender offices.

Table 25
Cost Per Charge for Indigent Defense
Localities with Workload Justifying Public Defender Offices

Locality	Counsel/Expenses	Charges	Avg. Cost Per Charge
Chesterfield	\$1,942,128	10,236	\$189.73
Henrico	\$1,673,139	13,138	\$127.35
Prince William	\$1,883,930	10,393	\$181.27
Hampton	\$1,348,659	8,535	\$158.02
Newport News	\$2,310,910	12,701	\$181.95
Norfolk	\$3,782,599	16,467	\$229.71
TOTALS FOR 6 LOCALITIES	\$12,941,365	71,470	\$181.07

⁷⁷ Source: Virginia State Supreme Court, State of the Judiciary Report 2000.

VIII. Conclusion

Based on the survey findings, data analyses and cost analyses there are three main conclusions resulting from the HJR 178 study. First, there are no current statewide criteria or processes for the appointment of Court Appointed Counsel. Thus, procedural mechanisms to ensure quality and fair and equal distribution of Court Appointed work are needed. Second, quality of defense for indigent defendants will not suffer if there are more Public Defender Offices in Virginia. In fact, Public Defenders get their clients better sentences than Court Appointed Attorneys on average. Regression analyses found that clients with Public Defenders received on average a sentence of 1.6 years less than they would with Court Appointed Counsel. Third, Public Defenders are less expensive on a per case and a per charge basis than are Court Appointed Counsel. Adding more Public Defender Offices, particularly in localities with the workload to justify them, would be cost efficient.

IX. Acknowledgements

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Virginia Trial Lawyers Association

Appendix A

House Joint Resolution 178

HOUSE JOINT RESOLUTION NO. 178

Directing the Virginia State Crime Commission to study existing methods for providing indigent defense in the Commonwealth.

Agreed to by the House of Delegates, February 15, 2000

Agreed to by the Senate, March 2, 2000

WHEREAS, in the past, studies have concentrated primarily on the costs of the different methods of providing indigent defense within the criminal justice system; and

WHEREAS, it is imperative to look at the quality of the services provided, experience disparity, if any, between public defenders, court appointed attorneys, and attorneys for the Commonwealth, hiring criteria for public defenders and the minimum requirements for court appointment, and workloads within the public defender offices and how this may impact the quality of legal representation; and

WHEREAS, in theory, it would seem that attorneys in a public defender office are more closely supervised, more able to focus their talents on specific areas of the law and have a clearer managerial perspective in managing caseloads whereas private attorneys have to focus their attentions in many different areas of the business of practicing law; and

WHEREAS, debate continues over whether an increase in the fees of court appointed attorneys increases the quality of representation, and when it is prudent to create a public defender office in a particular circuit; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study existing methods for providing indigent defense in the Commonwealth. The Commission shall direct its study to three broad areas: quality of representation, efficiency of service, and cost effectiveness. The area of quality of representation shall include the impact, if any, of the workloads of the existing public defender offices, any experience disparity between defense attorneys providing services to indigent defendants, both public defenders and court appointed attorneys, and Commonwealth's attorneys, and whether full-time specialization on criminal defense as a public defender puts the defense on an equal footing with the Commonwealth's attorney who concentrates on the prosecution side. Consideration of efficiency of providing defense services shall include determination of any advantages to having salaried defense attorneys working in a structured environment, whether public defenders should be the primary means of providing indigent defense within each circuit in the Commonwealth, are the courts that currently have public defenders more efficient in handling criminal cases because of the existence of the office, and are the standards of practice more uniform in those circuits. The cost effectiveness area of consideration should focus on the impact of current pay rates for court appointed attorneys on the quality of indigent defense, at what point is it cost effective to establish a public defender office and what is the criteria for this determination, and what is the current budgetary commitment by the Commonwealth to increase court appointed fees and how that may increase the level of participation by attorneys in court appointed work, and what is the recognized goal in terms of pay rates.

All agencies of the Commonwealth shall provide assistance to the Commission for this study, upon request.

The Commission shall complete its work in time to submit its findings and recommendations to the

Governor and the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Legislative Information System

Appendix B

Indigent Criminal Charges FY96 to FY01

COMPARISON REPORT
ALL PUBLIC DEFENDER OFFICES

<u>1995-96</u>																
	SUPREME COURT				PUBLIC DEF.				W/O PUB.DEF				COMPUTED			
	%			AVG	%			AVG	%		TOTAL	AVG	TOTAL	AVG	SAVINGS	
	SERVED	CHARGES	COSTS	COST	SERVED	CHARGES	COSTS	COST	SERVED	CHARGES	COSTS	COST	CHARGES	COSTS	COST	(COST)
MIS	29%	21,183	1,845,132	87.10	71%	53,098			100%	74,281			74,281	6,470,200	87.10	1,508,741
FEL	19%	12,400	1,948,139	157.11	81%	51,305			100%	63,705			63,705	10,008,564	157.11	
APPEAL	34%	444	151,052	340.21	66%	862			100%	1,306			1,306	444,311	340.21	
TOTAL	24%	34,027	3,944,323	115.92	76%	105,265	11,470,011	108.96	100%	139,292	15,414,334	110.66	139,292	16,923,075	121.49	
<u>1996-97</u>																
	SUPREME COURT				PUBLIC DEF.				W/O PUB.DEF				COMPUTED			
	PERCENT			AVG	PERCENT			AVG	PERCENT		TOTAL	AVG	TOTAL	AVG	SAVINGS	
	SERVED	CHARGES	COSTS	COST	SERVED	CHARGES	COSTS	COST	SERVED	CHARGES	COSTS	COST	CHARGES	COSTS	COST	(COST)
MIS	25%	22,277	1,942,200	87.18	75%	67,832			100%	90,109			90,109	7,856,071	87.18	2,694,314
FEL	19%	12,526	1,996,324	159.37	81%	53,411			100%	65,937			65,937	10,508,671	159.37	
APPEAL	32%	444	168,231	378.90	68%	938			100%	1,382			1,382	523,638	378.90	
TOTAL	22%	35,247	4,106,755	116.51	78%	122,181	12,087,311	98.93	100%	157,428	16,194,066	102.87	157,428	18,888,380	119.98	
<u>1997-98</u>																
	SUPREME COURT				PUBLIC DEF.				W/O PUB.DEF				COMPUTED			
	PERCENT			AVG	PERCENT			AVG	PERCENT		TOTAL	AVG	TOTAL	AVG	SAVINGS	
	SERVED	CHARGES	COSTS	COST	SERVED	CHARGES	COSTS	COST	SERVED	CHARGES	COSTS	COST	CHARGES	COSTS	COST	(COST)
MIS	22%	22,495	1,984,748	88.23	78%	78,931			100%	101,426			101,426	8,948,880	88.23	2,406,909
FEL	20%	12,701	2,074,131	163.30	80%	51,358			100%	64,059			64,059	10,461,126	163.30	
APPEAL	41%	622	191,601	308.04	59%	912			100%	1,534			1,534	472,534	308.04	
TOTAL	21%	35,818	4,250,480	118.67	79%	131,201	13,225,150	100.80	100%	167,019	17,475,630	104.63	167,019	19,882,539	119.04	
<u>1998-99</u>																
	SUPREME COURT				PUBLIC DEF.				W/O PUB.DEF				COMPUTED			
	PERCENT			AVG	PERCENT			AVG	PERCENT		TOTAL	AVG	TOTAL	AVG	SAVINGS	
	SERVED	CHARGES	COSTS	COST	SERVED	CHARGES	COSTS	COST	SERVED	CHARGES	COSTS	COST	CHARGES	COSTS	COST	(COST)
MIS	27%	28,248	2,458,587	87.04	73%	76,797			100%	105,045			105,045	9,142,675	87.04	1,935,406
FEL	24%	16,221	2,930,130	180.64	76%	51,905			100%	68,126			68,126	12,306,149	180.64	
APPEAL	39%	707	307,284	434.63	61%	1,114			100%	1,821			1,821	791,463	434.63	
TOTAL	26%	45,176	5,696,001	126.08	74%	129,816	14,608,879	112.54	100%	174,992	20,304,880	116.03	174,992	22,240,286	127.09	

<u>1999-00</u>															
SUPREME COURT				PUBLIC DEF.				W/O PUB.DEF				<u>1999-00</u>			
PERCENT				PERCENT				PERCENT	TOTAL	AVG	W/O PUB.DEF		COMPUTED		
SERVED	CHARGES	COSTS	AVG COST	SERVED	CHARGES	COSTS	AVG COST	SERVED	CHARGES	COSTS	AVG COST	CHARGES	COSTS	AVG COST	SAVINGS (COST)
MIS	25%	28,106	2,468,660	87.83	75%	82,638		100%	110,744			110,744	9,727,079	87.83	2,837,182
FEL	19%	14,265	2,818,913	197.61	81%	59,390		100%	73,655			73,655	14,554,997	197.61	
APPEAL	51%	735	306,311	416.75	49%	705		100%	1,440			1,440	600,120	416.75	
TOTAL	23%	43,106	5,593,884	129.77	77%	142,733	16,451,130	115.26	100%	185,839	22,045,014	118.62	185,839	24,882,196	133.89
<u>2000-01</u>															
SUPREME COURT				PUBLIC DEF.				W/O PUB.DEF				<u>2000-01</u>			
PERCENT				PERCENT				PERCENT	TOTAL	AVG	W/O PUB.DEF		COMPUTED		
SERVED	CHARGES	COSTS	AVG COST	SERVED	CHARGES	COSTS	AVG COST	SERVED	CHARGES	COSTS	AVG COST	CHARGES	COSTS	AVG COST	SAVINGS (COST)
MIS	24%	25,725	2,328,646	90.52	76%	81,396	0	100%	107,121	0	0	107,121	9,696,672	90.52	2,570,696
FEL	20%	14,891	3,030,897	203.54	80%	58,143	0	100%	73,034	0	0	73,034	14,865,256	203.54	
APPEAL	37%	487	329,342	676.27	63%	833	0	100%	1,320	0	0	1,320	892,672	676.27	
TOTAL	23%	41,103	5,688,885	138.41	77%	140,372	17,195,020	122.50	100%	181,475	22,883,905	126.10	181,475	25,454,601	140.27
															13,953,248

Appendix C
Survey Instruments



VIRGINIA STATE CRIME COMMISSION

CIRCUIT COURT JUDGES' SURVEY ON INDIGENT DEFENSE

Section 9-125 of the *Code of Virginia* authorizes the Virginia State Crime Commission to study and make recommendations on all areas of public safety in the Commonwealth. The 2000 Session of the Virginia General Assembly enacted House Joint Resolution 178 requesting the Virginia State Crime Commission conduct a comprehensive study of indigent defense in Virginia. Senator Kenneth W. Stolle, Chairman of the Virginia State Crime Commission, has dedicated a significant portion of the Crime Commission's resources to this study with the expressed goal of improving the indigent defense services in the Commonwealth. As part of this study, the Commission is surveying all Circuit Court Judges to collect opinions and information on issues related to quality of representation and method of appointment.

Please return the survey by July 27, 2001. If you have any questions, contact Stewart Petoe, Staff Attorney, at (804) 225-4534. The General Assembly of Virginia and the Virginia State Crime Commission thank you for your assistance in this important study effort.

SECTION 1: COURT CASELOAD

1. Please list the locations of each court over which you preside. *(Please provide the city and/or county names.)*

1A. In your role as Judge, do you preside over criminal cases(s)? *(Please check one.)*

- Yes *(If YES, proceed to question 2.)*
 No *(If NO, proceed to question 1B and you are finished with this survey. Thank you.)*

1B. Why do you not preside over criminal cases? *(Please explain.)*

2. Are criminal defendants regularly represented by public defenders in your court? *(Please check one.)*

- Yes No

2A. In approximately what percentage of your court's criminal cases is the defendant represented by a public defender? *(Please check one.)*

- 0-10% 51-75%
 11-25% 76% and above
 26-50% Not Applicable; there are no public defenders

2B. In approximately what percentage of your court's criminal cases is the defendant represented by court appointed counsel? *(Please check one.)*

- 0-10% 51-75%
 11-25% 76% and above
 26-50% Not Applicable

2C. In approximately what percentage of your court's criminal cases is the defendant represented by privately retained counsel? *(Please check one.)*

- | | |
|---------------------------------|---|
| <input type="checkbox"/> 0-10% | <input type="checkbox"/> 51-75% |
| <input type="checkbox"/> 11-25% | <input type="checkbox"/> 76% and above |
| <input type="checkbox"/> 26-50% | <input type="checkbox"/> Not Applicable |

3. Do you personally ever appoint attorneys to represent indigent defendants? *(Please check one.)*

- Yes No

SECTION 2: SELECTION AND APPOINTMENT OF COUNSEL
--

4. Does your court have a formal list of attorneys for purposes of assigning criminal defendants court appointed counsel? *(Please check one.)*

- Yes *(If YES, proceed to questions 4B and 4C.)*
 No *(If NO, proceed to question 4A.)*
 Don't know

4A. If NO, what is the usual appointment process for selecting court appointed attorneys? *(Please select one.)*

- Attorneys who are present in the courtroom during pre-trial/arraignment are chosen
 Clerk suggests attorneys who have done court appointed work in the past
 Judge selects attorneys who have done court appointed work in the past
 Other _____ *(Explain.)*
 I do not know how the attorneys are selected

4B. If YES, who maintains this list of court appointed counsel? *(Please check one.)*

- I maintain the list
 Another Judge maintains the list
 Clerk of the District Court maintains the list
 Clerk of the Circuit Court maintains the list
 One of the secretaries maintains the list
 Court Services Unit Intake office/officers maintain the list
 Other _____ *(Explain.)*
 I do not know who maintains the list

4C. How many attorneys are currently on the list of court appointed counsel? *(Please check one.)*

- | | |
|--|-------------------------------------|
| <input type="checkbox"/> 0 to 10 | <input type="checkbox"/> 31-40 |
| <input type="checkbox"/> 11-20 | <input type="checkbox"/> 41-50 |
| <input type="checkbox"/> 21-30 | <input type="checkbox"/> 50 or more |
| <input type="checkbox"/> I do not know the number of attorneys on the list | |

5. Does your court use a regular rotation process for the appointment of counsel to indigent defendants? *(Please check one.)*

- Yes *(If YES, proceed to questions 5B through 5F.)*
 No *(If NO, proceed to question 5A.)*

5A. If there is no regular rotation system for appointed attorneys, which of the following best represents the selection criteria for the majority of the cases you assign counsel? *(Please check one.)*

- Attorneys are chosen from a list at random
- Attorneys are equitably assigned the same number of cases
- Attorneys are chosen based on the type of case
- Attorneys are chosen based on the severity of the charge(s)
- Other _____ *(Explain.)*

5B. Which of the following best describes the rotation process for the appointment of counsel? *(Please check one.)*

- Regular rotation among firms (i.e. weekly, monthly)
- Regular rotation among attorneys (i.e. weekly, monthly)
- Other _____ *(Explain.)*
- I do not know the process used

5C. Which of the following describes the length of time for one rotation in the schedule? *(Please check one.)*

- One Week
- One Month
- One term of Court
- Other _____ *(Explain.)*

5D. How far in advance are attorneys notified that they will be handling a rotation period? *(Please check one.)*

- Just before the rotation starts
- 3 months in advance
- 6 months in advance
- One year in advance
- Other _____ *(Explain.)*
- I do not know

5E. How often is there a deviation from the rotation schedule? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

5F. How many attorneys are used in one rotation period? _____ *(Please write in number.)*

6. Who among the following actually selects the court appointed attorney who will handle a particular case in the majority of the cases in the various courts in your district? *(Please check one.)*

- Judge presiding at pre-trial hearing/arraignment
- Clerk of the District Court
- Clerk of the Circuit Court
- One of the Judicial secretaries
- Court Services Unit Intake office/officers
- Other _____ *(Explain.)*
- Attorney selected by rotation, no individual selection required
- I do not know who selects the court appointed attorneys

7. Do you feel there are enough attorneys available to accept court appointments? *(Please check one.)*

- Yes *(If YES, proceed to question 8.)*
- No *(If NO, proceed to question 7A.)*

7A. If NO, describe the level of shortage. *(Please check one.)*

- Major shortage
- Minor shortage
- Shortages vary throughout the year

8. How often is a court appointed attorney, who represented a defendant on a charge in the district court, replaced with a different court appointed counsel in the Circuit Court? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

8A. Which of the following best represent the most common reason why a court appointed counsel is replaced in Circuit Court? *(Please check one.)*

- Attorney requests to be replaced
- Defendant requests a new attorney
- Original attorney does not have the expertise and experience to handle the particular case
- Other _____ *(Explain.)*
- Not applicable; first attorney is never replaced
- Don't know

SECTION 3: CRITERIA FOR APPOINTED COUNSEL

9. Does your court have requirements for attorneys who want to be selected as court appointed counsel? *(Please check one.)*

- Yes *(If YES, proceed to question 9A.)*
- No *(If NO, proceed to question 9B.)*

9A. Which of the following requirements do candidates for court appointed counsel have to meet? *(Please check all that apply.)*

- Provide a resume
- Provide law school transcript
- Formal interview with myself and/or other judges in the district
- Must have an office in the district
- Must have his/her main office in the district
- Must have practiced in the district for a minimum period of time (months, years, etc.)
_____ *(Please specify the time period required.)*
- Must have a minimum level of experience in criminal defense
_____ *(Please specify the minimum level of experience required.)*
- Judge must personally know and approve the applicant
- Applicant must attend CLE/training class
- Other _____ *(Explain.)*
- Don't know

9B. How does the court ensure that qualified candidates are chosen as court appointed counsel? *(Please explain.)*

10. When it comes to appointing counsel in capital murder cases, how often is counsel chosen from the list of attorneys maintained pursuant to Va. Code §19.2-163.8? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't know
- Not relevant; this court has not had a capital case in over ten years

11. When it comes to appointing counsel in capital cases, how often are attorneys chosen who meet the standards established by the Public Defender Commission, even though they are not on the formal list? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't know
- Not relevant; only attorneys on the formal list are chosen
- Not relevant; this court has not had a capital case in over ten years

12. When it comes to appointing counsel in capital cases, who makes the appointment? *(Please check one.)*

- Judge presiding at pre-trial hearing/arraignment in the District Court makes the selection on his own
- Judge presiding at pre-trial hearing in the District Court makes the selection after consulting with Circuit Court judge
- A Circuit Court judge makes the formal appointment
- One of the District Court clerks makes the arrangements to have counsel appointed
- One of the Circuit Court clerks makes the arrangements to have counsel appointed
- Other _____ *(Explain.)*
- Not relevant; this court has not had a capital case in over ten years

12A. Do you ever substitute court appointed counsel, assigned at the District Court level, for other counsel in capital cases?

- Yes *(If YES, proceed to question 12B.)*
- No *(If NO, proceed to question 13.)*

12B. If YES, please explain the circumstances which typically lead to the reappointment of counsel in capital cases.

13. Outside of capital cases, when appointing counsel for particular cases, how often are the cases with the most serious charges given to more experienced attorneys (outside of the rotation schedule if there is one)? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

13A. To which kinds of cases would this apply? (Please check all that apply.)

- Murder
- Manslaughter
- Rape
- Child abuse/aggravated sexual battery
- Other _____ (Explain.)
_____ (Explain.)
_____ (Explain.)
- Not relevant; special appointment of counsel is not done

14. How often is more than one attorney appointed to represent a client? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

14A. In what situations are more than one attorney appointed to represent a client? (Please check all that apply.)

- Whenever an attorney asks
- Whenever the defendant is difficult (i.e. hard to handle, wants another attorney)
- When a young attorney is appointed to a serious case, a more experienced attorney is assigned for guidance
- For all serious cases

14B. If two attorneys are appointed for serious cases, to which types of cases would this apply? (Please check all that apply.)

- Capital Murder
- Murder
- Manslaughter
- Rape
- Child abuse/aggravated sexual battery
- Other _____ (Explain.)
_____ (Explain.)
_____ (Explain.)
- Not relevant; indigent defendants are never assigned more than one attorney

15. In your court, are newly licensed attorneys allowed to represent adult defendants who are charged with felonies? *(Please check one.)*

- Yes *(If YES, proceed to question 15A.)*
- No *(If NO, proceed to question 16.)*

15A. Which of the following best represents the type of case that can be assigned to newly licensed attorneys in your court? *(Please check one.)*

- Crimes that carry 10 years or less
- Crimes that carry 20 years or less
- All felonies except those mentioned in question 13 above
- All felonies without exception
- Other _____ *(Explain.)*
- Don't know

16. Have you ever had to remove an attorney from the court appointed counsel list? *(Please check one.)*

- Yes *(If YES, proceed to question 16A.)*
- No *(If NO, proceed to question 17.)*

16A. If YES, why was the attorney removed from the list? *(Please explain.)*

SECTION 4: CRITERIA FOR INDIGENCY

17. When it comes to requests for court appointed counsel by adult defendants, how often does your court employ the worksheet distributed by the Supreme Court to establish indigency? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

17A. Under what circumstances is the worksheet not employed? *(Please check all that apply.)*

- The defendant claims he receives some form of public assistance
- The court recognizes the defendant from previous court cases where counsel was appointed
- The defendant claims he has a court appointed lawyer in a pending case
- Other _____ *(Explain.)*

18. How often are the requirements of §19.2-159 of the *Code of Virginia* followed when requests for court appointed counsel are made by defendants, even when a worksheet is not completed? *(Please check all that apply.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

18A. Who examines the defendant to establish indigency when a request for court appointed counsel is made? *(Please check all that apply.)*

- Myself or another judge
- Sheriff's deputy
- Clerk of the court
- Intake officer/pre-trial services
- Other _____ *(Explain.)*
- Don't know

18B. How often is an attempt made to verify the information provided by the defendant who requested court appointed counsel? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

18C. If efforts are made to verify indigency, who usually does the verification? *(Please check one.)*

- Sheriff's office
- Commonwealth's Attorney's office
- Local police department
- Pre-trial services unit
- Clerk of court
- Other _____
- Not Applicable; information is not verified

18D. How often is there a departure from the guidelines established by §19.2-159 of the *Code of Virginia*, such that a defendant is appointed counsel even though his assets and income are in excess of the qualifying amount? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

18E. When this happens, what are the usual circumstances? *(Please check all that apply.)*

- Charges are very serious
- Defendant has had one particular lawyer on a ct appointed basis in the past, who knows def. well
- Defendant requests a particular court appointed attorney
- Defendant claims he has contacted a number of attorneys, and cannot afford any of them
- Defendant is already being represented by ct. appointed counsel on pending charges
- Other _____ *(Explain.)*

19. When a defendant is about to be assigned court appointed counsel, how often is he asked if he has pending charges in that local jurisdiction? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

20. When a defendant does have pending charges, how often is that same attorney assigned for the new charges? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

21. When a request is made, how often do you appoint expert witnesses to assist court appointed counsel in the representation of their defendants? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

21A. In which of the following types of cases do you appoint expert witnesses? *(Please check all that apply.)*

- Capital Murder
- Murder/Manslaughter
- Rape
- Aggravated Sexual Battery/Child Molestation
- Embezzlement/Financial Crimes
- Other _____ *(Explain.)*
_____ *(Explain.)*

21B. Which of the following circumstances typically result in your appointment of expert witnesses? *(Please check all that apply.)*

- Defendant's Mental Condition is an Issue
- Commonwealth will be Calling an Expert Witness
- Subject Matter Requires Technical Assistance for Counsel to Prepare Case
- Court feels the Expert is Needed for the Trier of Fact to Properly Consider the Case
- Other _____ *(Explain.)*
_____ *(Explain.)*

SECTION 5: QUALITY OF REPRESENTATION

22. After an attorney has submitted his voucher and time sheet for court appointed work, how often do you approve an amount that is lower than what the attorney requested? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

22A. Under what circumstances is this done? *(Please check all that apply.)*

- Poor performance on the part of the attorney
- The attorney appears to have overbilled
- Concern over taxpayer dollars; state budget concerns
- Other _____ *(Explain.)*

23. Based on your experience, rate the overall performance of the public defenders that have practiced in your court for each of the following categories. *(Circle the appropriate choice in each category by ranking with 1 being the lowest level of performance and 5 being the highest level of performance.)* **NOTE: If there are no public defenders in your court please check this box and go to question 24.**

Category	Below Average	Average			Above Average
Familiarity with local court rules/customs	1	2	3	4	5
Preparation of cases <i>(i.e. prior interview of witnesses/ knowledge of facts of case)</i>	1	2	3	4	5
Ability to negotiate beneficial plea agreements for clients	1	2	3	4	5
Knowledge of rules of evidence and case law	1	2	3	4	5
Ability to examine and cross-examine witnesses	1	2	3	4	5
Courtroom presentation and demeanor	1	2	3	4	5

23A. How would you rate the overall performance of public defenders in representing their clients? *(Please check one.)*

- Excellent
- Fair
- Good
- Poor

24. Based on your experience, rate the overall performance of the court appointed counsel that have practiced in your court for each of the following categories. *(Circle the appropriate choice in each category by ranking with 1 being the lowest level of performance and 5 being the highest level of performance.)*

Category	Below Average	Average			Above Average
Familiarity with local court rules/customs	1	2	3	4	5
Preparation of cases <i>(i.e. prior interview of witnesses/ knowledge of facts of case)</i>	1	2	3	4	5
Ability to negotiate beneficial plea agreements for clients	1	2	3	4	5
Knowledge of rules of evidence and case law	1	2	3	4	5
Ability to examine and cross-examine witnesses	1	2	3	4	5
Courtroom presentation and demeanor	1	2	3	4	5

24A. How would you rate the overall performance of court appointed counsel in representing their clients? *(Please check one.)*

- Excellent
 Fair
 Good
 Poor

25. Based on your experience, rate the overall performance of the privately retained counsel that have practiced in your court for each of the following categories. *(Circle the appropriate choice in each category by ranking with 1 being the lowest level of performance and 5 being the highest level of performance.)*

Category	Below Average	Average			Above Average
Familiarity with local court rules/customs	1	2	3	4	5
Preparation of cases <i>(i.e. prior interview of witnesses/ knowledge of facts of case)</i>	1	2	3	4	5
Ability to negotiate beneficial plea agreements for clients	1	2	3	4	5
Knowledge of rules of evidence and case law	1	2	3	4	5
Ability to examine and cross-examine witnesses	1	2	3	4	5
Courtroom presentation and demeanor	1	2	3	4	5

25A. How would you rate the overall performance of privately retained counsel in representing their clients? *(Please check one.)*

- Excellent
 Fair
 Good
 Poor

26. Based on your experience, rate the overall performance of the Commonwealth's Attorneys that have practiced in your court for each of the following categories. *(Circle the appropriate choice in each category by ranking with 1 being the lowest level of performance and 5 being the highest level of performance.)*

Category	Below Average	Average			Above Average
Familiarity with local court rules/customs	1	2	3	4	5
Preparation of cases <i>(i.e. prior interview of witnesses/ knowledge of facts of case)</i>	1	2	3	4	5
Ability to negotiate beneficial plea agreements for clients	1	2	3	4	5
Knowledge of rules of evidence and case law	1	2	3	4	5
Ability to examine and cross-examine witnesses	1	2	3	4	5
Courtroom presentation and demeanor	1	2	3	4	5

26A. How would you rate the overall performance of Commonwealth's Attorneys in representing the interests of the Commonwealth? *(Please check one.)*

- Excellent
 Fair
 Good
 Poor

27. Which of the following groups has historically been the most likely to request a continuance in your court? *(Please check one.)*

- Public Defender(s)
 Court Appointed Counsel
 Privately Retained Counsel

28. Which of the following groups has historically completed their cases the most expeditiously? *(Please check one.)*

- Public Defender(s)
- Court Appointed Counsel
- Privately Retained Counsel

29. Which of the following groups has historically been the most likely to file request(s) for additional hearing(s), beyond trial and sentencing? *(Please check one.)*

- Public Defender(s)
- Court Appointed Counsel
- Privately Retained Counsel

SECTION 6: PROCEDURES FOR APPOINTMENT

30. Do you feel it would be beneficial to standardize the procedures for appointing counsel to indigent cases statewide? *(Please check one.)*

- Yes *(if YES, proceed to question 30A.)*
- No *(if NO, proceed to question 30B.)*

30A. Which of the following should be mandated in any standardization of the procedures statewide for court appointed counsel? *(Please check all that apply.)*

- CLE training prior to eligibility to accept court appointments
- Orientation on local court procedures
- Courtroom experience prior to any appointments
- Formal written application
- Formal review of credentials by Judge
- Formal interview of applicant by Judge
- Formal maintenance of a district list of credentialed candidates
- Statewide supplemental list of attorneys maintained by the Supreme Court
- Other _____ *(Explain.)*
- _____ *(Explain.)*
- _____ *(Explain.)*

30B. Which of the following are reasons why it would not be beneficial to standardize the procedures for appointing counsel in indigent cases statewide? *(Please check all that apply.)*

- Current system works fine as it is currently established
- Diversity of courts statewide make standardization problematic
- It would further limit the pool of attorneys eligible to accept these types of cases
- Lack of time and staff in the court to oversee a formal, standard process
- Other _____ *(Explain.)*
- _____ *(Explain.)*
- _____ *(Explain.)*

31. Is the current level of compensation appropriate in indigent cases? *(Please check one.)*

- Yes
- No

31A. Does the current level of compensation limit the availability of qualified applicants for court appointed representation? *(Please check one.)*

- Yes
- No

31B. Does the current level of compensation impact the quality of representation of indigent defendants? *(Please check one.)*

Yes

No

32. Should there be a public defender's office established in every judicial district? *(Please check one.)*

Yes *(If YES, proceed to question 32A.)*

No *(If NO, proceed to question 32B.)*

Do not know

32A. Why should there be an office in every judicial district? *(Please explain.)*

32B. Why shouldn't there be an office in every judicial district? *(Please explain.)*

33. Are there additional factors, not mentioned in this survey, that should be considered when determining whether public defenders should be used as the primary means of providing indigent defense statewide? *(Please explain.)*

The following space is for you to address any issues or concerns you may have regarding the use of court appointed counsel and indigent defense in the Commonwealth. Please feel free to attach additional pages as necessary.

Judge's Signature

PLEASE RETURN THE COMPLETED SURVEY BY JULY 27, 2001 TO:

G. Stewart Petoe, Staff Attorney
Virginia State Crime Commission
Suite 915, General Assembly Building
910 Capitol Street
Richmond, Virginia 23219

FAX (804) 786-7872
Phone (804) 225-4534



VIRGINIA STATE CRIME COMMISSION

COMMONWEALTH'S ATTORNEY SURVEY ON INDIGENT DEFENSE

Section 9-125 of the *Code of Virginia* establishes the Virginia State Crime Commission to study and make recommendations on all areas of public safety in the Commonwealth. The 2000 Session of the Virginia General Assembly enacted House Joint Resolution 178 requesting the Virginia State Crime Commission conduct a comprehensive study of indigent defense in Virginia. Senator Kenneth W. Stolle, Chairman of the Virginia State Crime Commission, has dedicated a significant portion of the Crime Commission's resources to this study with the expressed goal of improving the indigent defense services in the Commonwealth. As part of this study, the Commission is surveying all Commonwealth's Attorneys to collect opinions and information on issues related to quality of representation and method of appointment.

Please return the survey by **August 24, 2001**. If you have any questions, contact Stewart Petoe, Staff Attorney, at (804) 225-4534. The General Assembly of Virginia and the Virginia State Crime Commission thank you for your assistance in this important study effort.

SECTION 1: OFFICE CASELOAD

1. Do the attorneys in your office specialize in certain types of caseload? *(Please check one.)*

- Yes *(if YES, proceed to question 1A.)*
 No *(if NO, proceed to question 2.)*

1A. Provide the basis for the specialization. *(Please check all that apply.)*

- By Type of Court *(Proceed to question 1B.)*
 By Type of Caseload *(Proceed to question 1C.)*

1B. In which courts do you have attorneys specializing? *(Please check all that apply.)*

- Juvenile and Domestic Relations District Court Cases
 General District Court Cases
 Circuit Court Cases
 Court of Appeals
 Other _____ *(Explain.)*

1C. In which types of cases do attorneys in your office specialize? *(Please check all that apply.)*

- Sex offense cases
 Drug offense cases
 Domestic violence cases
 Financial crime cases
 Violent felony cases
 Capital murder cases
 Traffic cases
 Other _____ *(Explain.)*
_____ *(Explain.)*

2. Estimate the number of jury trials the attorneys in your office conducted during FY 2001. (Please list.)

_____ Cases

2A. Of the jury trials conducted during FY 2001, estimate the number that were requested by your office. (Please list.)

_____ Cases

3. Rate each of the following issues based on the extent to which they affect your office's ability to manage the current caseload. (Please check one response per issue.)

Issue	Not a Problem	Minor Problem	Moderate Problem	Serious Problem
Financial Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Office Space	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Number of Attorneys	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Number of Support Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Formal Training Opportunities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mentoring Opportunities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (Explain.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Did any of your Assistant Commonwealth's Attorneys receive more than 12 hours of CLE training during FY 2001? (Please check one.)

Yes

No

SECTION 2: SELECTION AND APPOINTMENT OF COUNSEL

5. Are criminal defendants regularly represented by public defenders in the courts in your locality? (Please check one.)

Yes

No

Part A. Juvenile Court Appointments

6. Based on your observations, does the Juvenile Court in your locality have a formal list of attorneys for purposes of assigning criminal defendants court appointed counsel? (Please check one.)

Yes (If YES, proceed to questions 6A and 6B.)

No (If NO, proceed to question 6C.)

Don't know

6A. If YES, who maintains this list of court appointed counsel? (Please check one.)

The Juvenile Judge presiding over the preliminary hearing

Another Judge in the district maintains the list

Clerk of the JDR District Court maintains the list

Clerk of the Circuit Court maintains the list

One of the Judicial secretaries maintains the list

Court Services Unit Intake office/officers maintain the list

Other _____ (Explain.)

I do not know who maintains the list

6B. Does the Juvenile Court appear to have an adequate number of attorneys on the list of court appointed counsel? (Please check one.)

Yes

No

6C. If NO, what is the usual appointment process for selecting court appointed attorneys in the Juvenile Court? (Please select one.)

- Attorneys who are present in the courtroom during pre-trial/arraignment are chosen
- Clerk suggests attorneys who have done court appointed work in the past
- Judge selects attorneys who have done court appointed work in the past
- Other _____ (Explain.)
- I do not know how the attorneys are selected

7. Based on your observations, does the Juvenile Court use a regular rotation process for the appointment of counsel to indigent defendants? (Please check one.)

- Yes (If YES, proceed to question 8.)
- No (If NO, proceed to question 7A.)

7A. If there is no regular rotation system to appointed attorneys, which of the following best represents the selection criteria for the majority of the Juvenile Court cases you have seen assigned counsel? (Please check one.)

- Attorneys are chosen from a list at random
- Attorneys are equitably assigned the same number of cases
- Attorneys are chosen based on the type of case
- Attorneys are chosen based on the severity of the charge(s)
- Other _____ (Explain.)

8. When it comes to requests for court appointed counsel by an adult defendant, how often do the Judges in the Juvenile Court employ the worksheet distributed by the Supreme Court to establish indigency? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

9. How often are the requirements of §19.2-159 followed when requests for court appointed counsel are made by defendants in the Juvenile Court, even when a worksheet is not completed? (Please check all that apply.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

9A. Who examines the defendant to establish indigency when a request for court appointed counsel is made? (Please check all that apply.)

- Judge
- Sheriff's deputy
- Clerk of the court
- Intake officer/pre-trial services
- Other _____ (Explain.)
- Don't know

9B. How often does the Juvenile Court attempt to verify the information provided by the defendant who requested court appointed counsel? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

9C. How often is there a departure from the guidelines established by § 19.2-159, such that a defendant is appointed counsel even though his assets and income are in excess of the qualifying amount? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

9D. When this happens, what are the usual circumstances? *(Please check all that apply.)*

- Charges are very serious
- Defendant has had one particular lawyer on a ct appointed basis in the past, who knows def. well
- Defendant requests a particular court appointed attorney
- Defendant claims he has contacted a number of attorneys, and cannot afford any of them
- Defendant is already being represented by ct. appointed counsel on pending charges
- Other _____ *(Explain.)*

10. When a juvenile has been assigned court appointed counsel, how often will the Judge(s) in Juvenile Court assess the parents or guardian of the juvenile the costs of counsel if there is a subsequent adjudication of guilt? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

11. When a defendant is about to be assigned court appointed counsel in the Juvenile Court, how often is he asked if he has pending charges in that local jurisdiction? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

Part B. General District Court Appointments

12. Based on your observations, does the General District Court in your locality have a formal list of attorneys for purposes of assigning criminal defendants court appointed counsel? *(Please check one.)*

- Yes *(If YES, proceed to questions 12A and 12B.)*
- No *(If NO, proceed to question 12C.)*
- Don't know

12A. If YES, who maintains this list of court appointed counsel? *(Please check one.)*

- The General District Court Judge presiding over the preliminary hearing
- Another Judge in the district maintains the list
- Clerk of the General District Court maintains the list
- Clerk of the Circuit Court maintains the list
- One of the Judicial secretaries maintains the list
- Other _____ *(Explain.)*
- I do not know who maintains the list

12B. Does the General District Court appear to have an adequate number of attorneys on the list of court appointed counsel? *(Please check one.)*

- Yes
- No

12C. If NO, what is the usual appointment process for selecting court appointed attorneys in the General District Court? *(Please select one.)*

- Attorneys who are present in the courtroom during pre-trial/arraignment are chosen
- Clerk suggests attorneys who have done court appointed work in the past
- Judge selects attorneys who have done court appointed work in the past
- Other _____ *(Explain.)*
- I do not know how the attorneys are selected

13. Based on your observations, does the General District Court use a regular rotation process for the appointment of counsel to indigent defendants? *(Please check one.)*

- Yes *(If YES, proceed to questions 14.)*
- No *(If NO, proceed to questions 13A.)*

13A. If there is no regular rotation system to appointed attorneys, which of the following best represents the selection criteria for the majority of the General District Court cases you have seen assigned counsel? *(Please check one.)*

- Attorneys are chosen from a list at random
- Attorneys are equitably assigned the same number of cases
- Attorneys are chosen based on the type of case
- Attorneys are chosen based on the severity of the charge(s)
- Other _____ *(Explain.)*

14. When it comes to requests for court appointed counsel by an adult defendant, how often do the Judges in the General District Court employ the worksheet distributed by the Supreme Court to establish indigency? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

by defendants in the General District Court, even when a worksheet is not completed? (Please check all that apply.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

16. Who examines the defendant to establish indigency when a request for court appointed counsel is made? (Please check all that apply.)

- Judge
- Sheriff's deputy
- Clerk of the court
- Other _____ (Explain.)
- Don't know

16A. How often does the General District Court attempt to verify the information provided by the defendant who requested court appointed counsel? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

16B. How often is there a departure from the guidelines established by § 19.2-159, such that a defendant is appointed counsel even though his assets and income are in excess of the qualifying amount? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

16C. When this happens, what are the usual circumstances? (Please check all that apply.)

- Charges are very serious
- Defendant has had one particular lawyer on a ct appointed basis in the past, who knows def. well
- Defendant requests a particular court appointed attorney
- Defendant claims he has contacted a number of attorneys, and cannot afford any of them
- Defendant is already being represented by ct. appointed counsel on pending charges
- Other _____ (Explain.)

17. When a defendant is about to be assigned court appointed counsel in the General District Court, how often is he asked if he has pending charges in that local jurisdiction? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

Part C. Circuit Court Appointments

18. Based on your observations, does the Circuit Court in your locality have a formal list of attorneys for purposes of assigning criminal defendants court appointed counsel? *(Please check one.)*

- Yes *(If YES, proceed to questions 18A and 18B.)*
- No *(If NO, proceed to question 18C.)*
- Don't know

18A. If YES, who maintains this list of court appointed counsel? *(Please check one.)*

- The Circuit Court Judge presiding over the case maintains the list
- Another Judge in the district maintains the list
- Clerk of the Circuit Court maintains the list
- One of the Judicial secretaries maintains the list
- Other _____ *(Explain.)*
- I do not know who maintains the list

18B. Does the Circuit Court appear to have an adequate number of attorneys on the list of court appointed counsel? *(Please check one.)*

- Yes
- No

18C. If NO, what is the usual appointment process for selecting court appointed attorneys in the Circuit Court? *(Please select one.)*

- Attorneys who were appointed at the pre-trial/arraignment are continued
- Clerk suggests attorneys who have done court appointed work in the past
- Judge selects attorneys who have done court appointed work in the past
- Other _____ *(Explain.)*
- I do not know how the attorneys are selected

19. Based on your observations, does the Circuit Court use a regular rotation process for the appointment of counsel to indigent defendants? *(Please check one.)*

- Yes *(If NO, proceed to question 20.)*
- No *(If NO, proceed to question 19A.)*

19A. If there is no regular rotation system to appointed attorneys, which of the following best represents the selection criteria for the majority of the Circuit Court cases you have seen assigned counsel? *(Please check one.)*

- Attorneys are chosen from a list at random
- Attorneys are equitably assigned the same number of cases
- Attorneys are chosen based on the type of case
- Attorneys are chosen based on the severity of the charge(s)
- Other _____ *(Explain.)*

20. How often is a court appointed attorney, who represented a defendant on a charge in the district court, replaced with a different court appointed counsel in the Circuit Court? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

20A. Which of the following best represents the most common reason why a court appointed counsel is replaced in Circuit Court? (Please check one.)

- Attorney requests to be replaced
- Defendant requests a new attorney
- Original attorney does not have the expertise and experience to handle the particular case
- Other _____ (Explain.)
- Not applicable; first attorney is never replaced
- Don't know

21. When it comes to requests for court appointed counsel by an adult defendant, how often do the Judges in the Circuit Court employ the worksheet distributed by the Supreme Court to establish indigency? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

22. How often are the requirements of §19.2-159 followed when requests for court appointed counsel are made by defendants in the Circuit Court, even when a worksheet is not completed? (Please check all that apply.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

22A. Who examines the defendant to establish indigency when a request for court appointed counsel is made? (Please check all that apply.)

- Judge
- Sheriff's deputy
- Clerk of the court
- Other _____ (Explain.)
- Don't know

22B. How often does the Circuit Court attempt to verify the information provided by the defendant who requested court appointed counsel? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

22C. How often is there a departure from the guidelines established by § 19.2-159, for defendants in Circuit Court, such that a defendant is appointed counsel even though his assets and income are in excess of the qualifying amount? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

22D. When this happens, what are the usual circumstances? *(Please check all that apply.)*

- Charges are very serious
- Defendant has had one particular lawyer on a ct appointed basis in the past, who knows def. well
- Defendant requests a particular court appointed attorney
- Defendant claims he has contacted a number of attorneys, and cannot afford any of them
- Defendant is already being represented by ct. appointed counsel on pending charges
- Other _____ *(Explain.)*

23. When a defendant is about to be assigned court appointed counsel in the Circuit Court, how often is he asked if he has pending charges in that local jurisdiction? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

23A. When a defendant does have pending charges, how often is that same attorney assigned for the new charges in Circuit Court? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

SECTION 3: QUALITY OF REPRESENTATION

24. Based your office's experiences, which of the following persons has historically been the most likely to request a continuance? *(Please check one.)*

- Public Defender(s)
- Court Appointed Counsel
- Privately Retained Counsel

25. Which of the following historically have completed their cases the most expeditiously? *(Please check one.)*

- Public Defender(s)
- Court Appointed Counsel
- Privately Retained Counsel

26. Which of the following historically has been the most likely to file request(s) for additional hearing(s), beyond trial and sentencing? (Please check one.)

- Public Defender(s)
- Court Appointed Counsel
- Privately Retained Counsel

27. Based on your experience, rate the overall performance of the public defenders that have practiced in your court for each of the following categories. (Circle the appropriate choice in each category by ranking with 1 being the lowest level of performance and 5 being the highest level of performance.) **NOTE: If there are no public defenders in your court please check this box and go to question 28.**

Category	Below Average	Average			Above Average
Familiarity with local court rules/customs	1	2	3	4	5
Preparation of cases (i.e. prior interview of witnesses/ knowledge of facts of case)	1	2	3	4	5
Ability to negotiate beneficial plea agreements for clients	1	2	3	4	5
Knowledge of rules of evidence and case law	1	2	3	4	5
Ability to examine and cross-examine witnesses	1	2	3	4	5
Courtroom presentation and demeanor	1	2	3	4	5

27A. How would you rate the overall performance of public defenders in representing their clients? (Please check one.)

- Excellent
- Good
- Fair
- Poor

28. Based on your experience, rate the overall performance of the court appointed counsel that has practiced in your court for each of the following categories. (Circle the appropriate choice in each category by ranking with 1 being the lowest level of performance and 5 being the highest level of performance.)

Category	Below Average	Average			Above Average
Familiarity with local court rules/customs	1	2	3	4	5
Preparation of cases (i.e. prior interview of witnesses/ knowledge of facts of case)	1	2	3	4	5
Ability to negotiate beneficial plea agreements for clients	1	2	3	4	5
Knowledge of rules of evidence and case law	1	2	3	4	5
Ability to examine and cross-examine witnesses	1	2	3	4	5
Courtroom presentation and demeanor	1	2	3	4	5

28A. How would you rate the overall performance of court appointed counsel in representing their clients? (Please check one.)

- Excellent
- Good
- Fair
- Poor

29. Based on your experience, rate the overall performance of the privately retained counsel that has practiced in your court for each of the following categories. (Circle the appropriate choice in each category by ranking with 1 being the lowest level of performance and 5 being the highest level of performance.)

Category	Below Average	Average	Average	Above Average
Familiarity with local court rules/customs	1	2	3	4 5
Preparation of cases (i.e. prior interview of witnesses/ knowledge of facts of case)	1	2	3	4 5
Ability to negotiate beneficial plea agreements for clients	1	2	3	4 5
Knowledge of rules of evidence and case law	1	2	3	4 5
Ability to examine and cross-examine witnesses	1	2	3	4 5
Courtroom presentation and demeanor	1	2	3	4 5

29A. How would you rate the overall performance of privately retained counsel in representing their clients? (Please check one.)

- Excellent
 Fair
 Good
 Poor

SECTION 4: PROCEDURES FOR APPOINTMENT

30. Do you feel it would be beneficial to standardize the procedures for appointing counsel to indigent cases statewide? (Please check one.)

- Yes (If YES, proceed to question 30A.)
 No (If NO, proceed to question 30B.)

30A. Which of the following should be mandated in any standardization of the procedures statewide for court appointed counsel? (Please check all that apply.)

- CLE training prior to eligibility to accept court appointments
 Orientation on local court procedures
 Courtroom experience prior to any appointments
 Formal written application
 Formal review of credentials by Judge
 Formal interview of applicant by Judge
 Formal maintenance of a district list of credentialed candidates
 Statewide supplemental list of attorneys maintained by the Supreme Court
 Other _____ (Explain.)
 _____ (Explain.)
 _____ (Explain.)

30B. Which of the following are reasons why it would not be beneficial to standardize the procedures for appointing counsel in indigent cases statewide? (Please check all that apply.)

- Current system works fine as it is currently established
 Diversity of courts statewide makes standardization problematic
 It would further limit the pool of attorneys eligible to accept these types of cases
 Lack of time and staff in the court to oversee a formal, standard process
 Other _____ (Explain.)
 _____ (Explain.)
 _____ (Explain.)

31. Is the current level of compensation appropriate in indigent cases? *(Please check one.)*

Yes

No

31A. Does the current level of compensation limit the availability of qualified applicants for court appointed representation? *(Please check one.)*

Yes

No

31B. Does the current level of compensation impact the quality of representation of indigent defendants? *(Please check one.)*

Yes

No

32. Should there be a public defender's office established in every judicial district? *(Please check one.)*

Yes *(If YES, proceed to question 32A.)*

No *(If NO, proceed to question 32B.)*

Do not know

32A. Why should there be an office in every judicial district? *(Please explain.)*

32B. Why shouldn't there be an office in every judicial district? *(Please explain.)*

SECTION 5: OFFICE STAFF AND RESOURCES

33. How many years have you been Commonwealth's Attorney? *(Please provide the years.)*

_____ Years

33A. How many years of prosecutorial experience did you have prior to your election as Commonwealth's Attorney? *(Please provide the years.)*

_____ Years

33B. In total, how many years have you been practicing law? *(Please provide the years.)*

_____ Years

34. Provide the following number of total staff in your office (State, Federal and locally funded) during FY 2001. *(Please provide full-time equivalent position counts; use .5 for part-time positions of 20 hours or less a week.)*

Position Type	Full-time Equivalent Positions	Part-time Positions
Assistant Commonwealth's Attorney(s)	_____ FTEs	_____ Positions
Paralegal Assistant(s)	_____ FTEs	_____ Positions
Victim/Witness Coordinator(s)/Assistants	_____ FTEs	_____ Positions
Support Staff (Secretaries, Office Assistants, etc.)	_____ FTEs	_____ Positions

35. Provide the following information on your office budget for FY 2001. (Please round figures to the nearest dollar.)

State Appropriation from Compensation Board FY 2001	\$ _____ .00
Local Government Supplemental Appropriation FY 2001	\$ _____ .00
Appropriations from Other Sources FY 2001	\$ _____ .00
(Please explain the source) _____	
Total Office Budget FY 2001	\$ _____ .00

35A. Are the local government appropriations used to supplement the salaries of the prosecutors in your office? (Please check one.)

- Yes
- No
- Not Applicable; do local appropriations

36. Provide the number of Assistant Commonwealth's Attorneys in each position type and the salary ranges for the attorneys in your office. (Please provide the number and salary range.)

Position	Number of Attorneys	Current Salary Range (Minimum and Maximum Salaries Including all Sources of Funds)
Asst. Attorney I		
Career Prosecutor		
Asst. Attorney II		
Asst. Attorney III		
Asst. Attorney IV		

37. Are there additional factors, not mentioned in this survey that should be considered when determining whether public defenders should be used as the primary means of providing indigent defense statewide? (Please explain; attach additional sheets if necessary.)

PLEASE RETURN THE COMPLETED SURVEY BY AUGUST 24, 2001 TO:

G. Stewart Petoe, Staff Attorney
 Virginia State Crime Commission
 Suite 915, General Assembly Building
 910 Capitol Street
 Richmond, Virginia 23219

FAX (804) 786-7872
 Phone (804) 225-4534



VIRGINIA STATE CRIME COMMISSION

PUBLIC DEFENDER'S SURVEY ON INDIGENT DEFENSE

Section 9-125 of the *Code of Virginia* establishes the Virginia State Crime Commission to study and make recommendations on all areas of public safety in the Commonwealth. The 2000 Session of the Virginia General Assembly enacted House Joint Resolution 178 requesting the Virginia State Crime Commission conduct a comprehensive study of indigent defense in Virginia. Senator Kenneth W. Stolle, Chairman of the Virginia State Crime Commission, has dedicated a significant portion of the Crime Commission's resources to this study with the expressed goal of improving the indigent defense services in the Commonwealth. As part of this study, the Commission is surveying all Public Defenders to collect opinions and information on issues related to quality of representation and method of appointment.

Please return the survey by **September 10, 2001**. If you have any questions, contact Stewart Petoe Staff Attorney, at (804) 225-4534. The General Assembly of Virginia and the Virginia State Crime Commission thank you for your assistance in this important study effort.

SECTION 1: OFFICE STAFF AND RESOURCES

1. Please list the localities that your office serves. *(Please provide the city and/or county names.)*

2. How many years have you been the Public Defender? *(Please provide the years.)*

____ Years

2A. How many years of criminal defense experience did you have prior to your appointment as the Public Defender? *(Please provide the years.)*

____ Years

2B. In total, how many years have you been practicing law? *(Please provide the years.)*

____ Years

3. Provide the following number of total staff in your office (State, Federal and locally funded) during FY 2001. *(Please provide full-time equivalent position counts; use .5 for part-time positions of 20 hours or less a week).*

Position Type	Full-time Equivalent Positions	Part-time Positions
Assistant Public Defender(s)	_____ FTEs	_____ Positions
Paralegal Assistant(s)	_____ FTEs	_____ Positions
Support Staff (Secretaries, Office Assistants, etc.)	_____ FTEs	_____ Positions
Other <i>(Explain.)</i> _____	_____ FTEs	_____ Positions

7A. Provide the basis for the specialization. (Please check all that apply.)

- By Type of Court (Proceed to question 7B.)
- By Type of Caseload (Proceed to question 7C.)

7B. In which type courts do you have attorneys specializing? (Please check all that apply.)

- Juvenile and Domestic Relations District Court Cases
- General District Court Cases
- Circuit Court Cases
- Court of Appeals
- Other _____ (Explain.)

7C. In which types of cases do attorneys in your office specialize? (Please check all that apply.)

- Sex offense cases
- Drug offense cases
- Domestic violence cases
- Financial crime cases
- Violent felony cases
- Capital murder cases
- Traffic cases
- Other _____ (Explain.)
_____ (Explain.)

8. On average, what is the maximum number of open files each attorney in your office is allowed to handle at any given time? (Please provide the number of cases).

_____ Number of Felony Cases _____ Number of Misdemeanor Cases

9. Estimate the number of jury trials the attorneys in your office conducted during FY 2001. (Please provide the number of trials).

_____ Number of Jury Trials

9A. Of the jury trials conducted during FY 2001, estimate the number that were requested by your office. (Please list).

_____ Number of Jury Trials

10. How long after being appointed to a case, do you personally wait to make contact with your client in a typical case? (Please check one.)

- Within 24 hours
- Within 48 hours
- Within a week
- Within 2 working weeks

10A. How many times do you typically meet with a client during the course of your representation on misdemeanor cases? (Please check one.)

- Once
- 2-3 times
- 4-5 times
- 6 or more times
- Not applicable; I do not handle misdemeanor cases

10B. How many times do you typically meet with a client during the course of your representation on felony cases? (Please check one.)

- Once
- 2-3 times
- 4-5 times
- 6 or more times
- Not applicable; I do not handle felony cases

10C. How many times do you typically meet with a client during the course of your representation on juvenile cases? (Please check one.)

- Once
- 2-3 times
- 4-5 times
- 6 or more times
- Not applicable; I do not handle juvenile cases

11. How often do you have a chance to interview witnesses in misdemeanor cases prior to the day of court? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Not applicable; I do not handle misdemeanor cases

12. How often do you have a chance to interview witnesses in felony cases prior to the preliminary hearing? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Not applicable; I do not handle felony cases

12A. How often do you have a chance to interview witnesses in felony cases prior to the trial? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Not applicable; I do not handle felony cases

13. How often do you have a chance to interview witnesses in juvenile cases prior to the day of the adjudicatory hearing? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Not applicable; I do not handle juvenile cases

SECTION 3: SELECTION AND APPOINTMENT OF COUNSEL

14. Please provide the Judicial Circuits and Districts where your office represents indigent clients. *(Please list the circuit and district numbers.)*

District(s)	Circuit(s)
_____	_____
_____	_____

15. Are criminal defendants also regularly represented by court appointed counsel in the courts in the localities where you practice? *(Please check one.)*

- Yes *(If YES, proceed to the remainder of Section 3 and the remainder of survey.)*
- No *(If NO, proceed to question 36 on p.14.)*

15A. In approximately what percentage of those courts' criminal cases is the defendant represented by a public defender? *(Please check one.)*

- | | |
|---------------------------------|--|
| <input type="checkbox"/> 0-10% | <input type="checkbox"/> 51-75% |
| <input type="checkbox"/> 11-25% | <input type="checkbox"/> 76% and above |
| <input type="checkbox"/> 26-50% | <input type="checkbox"/> Do Not Know |

15B. In approximately what percentage of those courts' criminal cases is the defendant represented by court appointed counsel? *(Please check one.)*

- | | |
|---------------------------------|--|
| <input type="checkbox"/> 0-10% | <input type="checkbox"/> 51-75% |
| <input type="checkbox"/> 11-25% | <input type="checkbox"/> 76% and above |
| <input type="checkbox"/> 26-50% | <input type="checkbox"/> Do Not Know |

15C. In approximately what percentage of those courts' criminal cases is the defendant represented by privately retained counsel? *(Please check one.)*

- | | |
|---------------------------------|--|
| <input type="checkbox"/> 0-10% | <input type="checkbox"/> 51-75% |
| <input type="checkbox"/> 11-25% | <input type="checkbox"/> 76% and above |
| <input type="checkbox"/> 26-50% | <input type="checkbox"/> Do Not Know |

Part A. Juvenile Court Appointments

16. Based on your observations, does the Juvenile Court in your locality have a formal list of attorneys for purposes of assigning criminal defendants court appointed counsel when your office cannot handle a case? *(Please check one.)*

- Yes *(If YES, proceed to questions 16B and 16C.)*
- No *(If NO, proceed to question 16A.)*
- Don't know *(Proceed to question 17.)*

16A. If NO, what is the usual appointment process for selecting court appointed attorneys in the Juvenile Court? *(Please select one.)*

- Attorneys who are present in the courtroom during pre-trial/arraignment are chosen
- Clerk suggests attorneys who have done court appointed work in the past
- Judge selects attorneys who have done court appointed work in the past
- Other _____ *(Explain.)*
- I do not know how the attorneys are selected

10B. If YES, who maintains this list of court appointed counsel? (Please check one.)

- The Juvenile Judge presiding over the preliminary hearing
- Another Judge in the district maintains the list
- Clerk of the JDR District Court maintains the list
- Clerk of the Circuit Court maintains the list
- One of the Judicial secretaries maintains the list
- Court Services Unit Intake office/officers maintain the list
- Other _____ (Explain.)
- I do not know who maintains the list

16C. Does the Juvenile Court appear to have an adequate number of attorneys on the list of court appointed counsel? (Please check one.)

- Yes
- No
- Don't know

17. Based on your observations, does the Juvenile Court use a regular rotation process for the appointment of counsel to indigent defendants when your office cannot handle a case? (Please check one.)

- Yes (If YES, proceed to question 18.)
- No (If NO, proceed to question 17A.)
- Don't know (If YES, proceed to question 18.)

17A. If there is no regular rotation system to appointed attorneys, which of the following best represents the selection criteria for the majority of the Juvenile Court cases you have seen assigned counsel? (Please check one.)

- Attorneys are chosen from a list at random
- Attorneys are equitably assigned the same number of cases
- Attorneys are chosen based on the type of case
- Attorneys are chosen based on the severity of the charge(s)
- Other _____ (Explain.)

18. When it comes to requests for indigent counsel by an adult defendant, how often do the Judges in the Juvenile Court employ the worksheet distributed by the Supreme Court to establish indigency? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

19. How often are the requirements of §19.2-159 followed when requests for indigent counsel are made by defendants in the Juvenile Court, even when a worksheet is not completed? (Please check all that apply.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

19A. Who examines the defendant to establish indigency when a request for indigent counsel is made? *(Please check all that apply.)*

- Judge
- Sheriff's deputy
- Clerk of the court
- Intake officer/pre-trial services
- Other _____ *(Explain.)*
- Don't know

19B. How often does the Juvenile Court attempt to verify the information provided by the defendant who requested indigent counsel? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

19C. How often is there a departure from the guidelines established by §19.2-159, such that a defendant is appointed indigent counsel even though his assets and income are in excess of the qualifying amount? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

19D. When there is a departure from the guidelines in §19.2-159, what are the usual circumstances? *(Please check all that apply.)*

- Charges are very serious
- Defendant has had one particular lawyer on a ct appointed basis in the past, who knows def. well
- Defendant requests a particular court appointed attorney
- Defendant claims he has contacted a number of attorneys, and cannot afford any of them
- Defendant is already being represented by ct. appointed counsel on pending charges
- Other _____ *(Explain.)*

20. When a juvenile has been assigned indigent counsel, how often do the Judge(s) in Juvenile Court assess the parents or guardian of the juvenile the costs of counsel if there is a subsequent adjudication of guilt? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

21. When a defendant is about to be assigned indigent counsel in the Juvenile Court, how often is he asked if he has pending charges in that local jurisdiction? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

Part B. General District Court Appointments

22. Based on your observations, does the General District Court in your locality have a formal list of attorneys for purposes of assigning criminal defendants court appointed counsel when your office cannot handle cases? *(Please check one.)*

- Yes *(If YES, proceed to questions 22B and 22C.)*
- No *(If NO, proceed to question 22A.)*
- Don't know *(Proceed to question 23.)*

22A. If NO, what is the usual appointment process for selecting court appointed attorneys in the General District Court? *(Please select one.)*

- Attorneys who are present in the courtroom during pre-trial/arraignment are chosen
- Clerk suggests attorneys who have done court appointed work in the past
- Judge selects attorneys who have done court appointed work in the past
- Other _____ *(Explain.)*
- I do not know how the attorneys are selected

22B. If YES, who maintains this list of court appointed counsel? *(Please check one.)*

- The General District Court Judge presiding over the preliminary hearing
- Another Judge in the district maintains the list
- Clerk of the General District Court maintains the list
- Clerk of the Circuit Court maintains the list
- One of the Judicial secretaries maintains the list
- Other _____ *(Explain.)*
- I do not know who maintains the list

22C. Does the General District Court appear to have an adequate number of attorneys on the list of court appointed counsel? *(Please check one.)*

- Yes
- No
- Don't Know

23. Based on your observations, does the General District Court use a regular rotation process for the appointment of counsel to indigent defendants when your office cannot handle a case? *(Please check one.)*

- Yes *(If YES, proceed to question 24.)*
- No *(If NO, proceed to question 23A.)*
- Don't Know *(Proceed to question 24.)*

23A. If there is no regular rotation system to appointed attorneys, which of the following best represents the selection criteria for the majority of the General District Court cases you have seen assigned counsel? *(Please check one.)*

- Attorneys are chosen from a list at random
- Attorneys are equitably assigned the same number of cases
- Attorneys are chosen based on the type of case
- Attorneys are chosen based on the severity of the charge(s)
- Other _____ *(Explain.)*

24. When it comes to requests for indigent counsel by an adult defendant, how often do the Judges in the General District Court employ the worksheet distributed by the Supreme Court to establish indigency? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

25. How often are the requirements of §19.2-159 followed when requests for indigent counsel are made by defendants in the General District Court, even when a worksheet is not completed? *(Please check all that apply.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

25A. Who examines the defendant to establish indigency when a request for indigent counsel is made? *(Please check all that apply.)*

- Judge
- Sheriff's deputy
- Clerk of the court
- Other _____ *(Explain.)*
- Don't know

25B. How often does the General District Court attempt to verify the information provided by the defendant who requested indigent counsel? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

25C. How often is there a departure from the guidelines established by § 19.2-159, such that a defendant is indigent counsel even though his assets and income are in excess of the qualifying amount? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

25D. When there is a departure from the guidelines in §19.2-159, what are the usual circumstances? (Please check all that apply.)

- Charges are very serious
- Defendant has had one particular lawyer on a ct appointed basis in the past, who knows def. well
- Defendant requests a particular court appointed attorney
- Defendant claims he has contacted a number of attorneys, and cannot afford any of them
- Defendant is already being represented by ct. appointed counsel on pending charges
- Other _____ (Explain.)

26. When a defendant is about to be assigned indigent counsel in the General District Court, how often is he asked if he has pending charges in that local jurisdiction? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

Part C. Circuit Court Appointments

27. Based on your observations, does the Circuit Court in your locality have a formal list of attorneys for purposes of assigning criminal defendants court appointed counsel when your office cannot handle cases? (Please check one.)

- Yes (If YES, proceed to questions 27B and 27C.)
- No (If NO, proceed to question 27A.)
- Don't know (Proceed to question 28.)

27A. If NO, what is the usual appointment process for selecting court appointed attorneys in the Circuit Court? (Please select one.)

- Attorneys who were appointed at the pre-trial/arraignment are continued
- Clerk suggests attorneys who have done court appointed work in the past
- Judge selects attorneys who have done court appointed work in the past
- Other _____ (Explain.)
- I do not know how the attorneys are selected

27B. If YES, who maintains this list of court appointed counsel? (Please check one.)

- The Circuit Court Judge presiding over the case maintains the list
- Another Judge in the district maintains the list
- Clerk of the Circuit Court maintains the list
- One of the Judicial secretaries maintains the list
- Other _____ (Explain.)
- I do not know who maintains the list

27C. Does the Circuit Court appear to have an adequate number of attorneys on the list of court appointed counsel? *(Please check one.)*

- Yes
- No
- Don't Know

28. Based on your observations, does the Circuit Court use a regular rotation process for the appointment of counsel to indigent defendants? *(Please check one.)*

- Yes *(if YES, proceed to question 29.)*
- No *(if NO, proceed to question 28A.)*

28A. If there is no regular rotation system to appointed attorneys, which of the following best represents the selection criteria for the majority of the Circuit Court cases you have seen assigned counsel? *(Please check one.)*

- Attorneys are chosen from a list at random
- Attorneys are equitably assigned the same number of cases
- Attorneys are chosen based on the type of case
- Attorneys are chosen based on the severity of the charge(s)
- Other _____ *(Explain.)*

29. How often is a court appointed attorney, who represented a defendant on a charge in the district court, replaced with a different court appointed counsel in the Circuit Court? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't know

29A. Which of the following best represent the most common reason why a court appointed counsel is replaced in Circuit Court? *(Please check one.)*

- Attorney requests to be replaced
- Defendant requests a new attorney
- Original attorney does not have the expertise and experience to handle the particular case
- Other _____ *(Explain.)*
- Not applicable; first attorney is never replaced
- Don't know

30. When it comes to requests for court appointed counsel by an adult defendant, how often do the Judges in the Circuit Court employ the worksheet distributed by the Supreme Court to establish indigency? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

31. How often are the requirements of §19.2-159 followed when requests for indigent counsel are made by defendants in the Circuit Court, even when a worksheet is not completed? *(Please check all that apply.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

31A. Who examines the defendant to establish indigency when a request for indigent counsel is made? *(Please check all that apply.)*

- Judge
- Clerk of the court
- Don't know
- Sheriff's deputy
- Other _____ *(Explain.)*

31B. How often does the Circuit Court attempt to verify the information provided by the defendant who requested indigent counsel? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

31C. How often is there a departure from the guidelines established by §19.2-159, for defendants in Circuit Court, such that a defendant is appointed counsel even though his assets and income are in excess of the qualifying amount? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

31D. When there is a departure from the guidelines in §19.2-159, what are the usual circumstances? *(Please check all that apply.)*

- Charges are very serious
- Defendant has had one particular lawyer on a ct appointed basis in the past, who knows def. well
- Defendant requests a particular court appointed attorney
- Defendant claims he has contacted a number of attorneys, and cannot afford any of them
- Defendant is already being represented by ct. appointed counsel on pending charges
- Other _____ *(Explain.)*

32. When a defendant is about to be assigned indigent counsel in the Circuit Court, how often is he asked if he has pending charges in that local jurisdiction? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

32A. When a defendant does have pending charges, how often is that same attorney assigned for the new charges in Circuit Court? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never
- Don't Know

SECTION 4: APPOINTMENT AND COMPENSATION

33. Do you feel it would be beneficial to standardize the procedures for appointing court appointed counsel to indigent cases statewide? *(Please check one.)*

- Yes *(If YES, proceed to question 33A.)*
- No *(If NO, proceed to question 33B.)*

33A. Which of the following should be mandated in any standardization of the procedures statewide for court appointed counsel? *(Please check all that apply.)*

- CLE training prior to eligibility to accept court appointments
- Orientation on local court procedures
- Courtroom experience prior to any appointments
- Formal written application
- Formal review of credentials by Judge
- Formal interview of applicant by Judge
- Formal maintenance of a district list of credentialed candidates
- Statewide supplemental list of attorneys maintained by the Supreme Court
- Other _____ *(Explain.)*

33B. Which of the following are reasons why it *would not* be beneficial to standardize the procedures for appointing counsel in indigent cases statewide? *(Please check all that apply.)*

- Current system works fine as it is currently established
- Diversity of courts statewide makes standardization problematic
- It would further limit the pool of attorneys eligible to accept these types of cases
- Lack of time and staff in the court to oversee a formal, standard process
- Other _____ *(Explain.)*

34. Is the current level of compensation for court appointed counsel in indigent cases appropriate? (Please check one.)

- Yes
- No
- Don't Know

34A. Does the current level of compensation limit the availability of qualified applicants for court appointed representation? (Please check one.)

- Yes
- No
- Don't Know

34B. Does the current level of compensation impact the quality of representation of indigent defendants? (Please check one.)

- Yes
- No
- Don't Know

35. Should there be a public defender's office established in every judicial district? (Please check one.)

- Yes (If YES, proceed to question 35A.)
- No (If NO, proceed to question 35B.)
- Do not know

35A. Why should there be an office in every judicial district? (Please explain.)

35B. Why shouldn't there be an office in every judicial district? (Please explain.)

36. Is the current level of compensation for assistant public defenders appropriate? (Please check one.)

- Yes
- No

36A. Does the current level of compensation limit the availability of attorneys for you to hire as assistant public defenders? (Please check one.)

- Yes
- No

36B. Have you ever dismissed or terminated an assistant attorney because of poor performance? (Please check one.)

- Yes
- No

37. Do you think your office's level of training and technical assistance provided by the Public Defender Commission is appropriate? (Please check one.)

- Yes (If YES, proceed to question 41.)
- No (If NO, proceed to question 40A.)

37A. In what area(s) would like additional training and technical assistance provided? *(Please explain.)*

38. Do you think the Public Defender Commission provides the appropriate level of oversight to the workload in your office? *(Please check one.)*

Yes

No

39. How many hours of CLE training did you personally receive in FY 2001 (July 1, 2000-June 30, 2001)? *(Please provide the number of hours.)*

_____ Hours of CLE Training

40. Does your office have a private investigator? *(Please check one.)*

Yes

No

41. Do you, as the Public Defender, receive an annual written evaluation of your performance by the Public Defender Commission as the basis for determining pay raises and continued employment status? *(Please check one.)*

Yes

No

42. How would you rate the morale in your office? *(Please check one.)*

High

Medium

Low

43. Are there additional factors, not mentioned in this survey that should be considered when determining whether public defenders should be used as the primary means of providing indigent defense statewide? *(Please explain.)*

The following space is for you to address any issues or concerns you may have regarding the use of court appointed counsel and indigent defense in the Commonwealth. Please feel free to attach additional pages as necessary.

PLEASE RETURN THE COMPLETED SURVEY BY SEPTEMBER 10, 2001 TO:

G. Stewart Petoe, Staff Attorney
Virginia State Crime Commission
Suite 915, General Assembly Building
910 Capitol Street
Richmond, Virginia 23219

FAX (804) 786-7872
Phone (804) 225-4534

Appendix D
Pre-Sentence Investigation Report

PPS - 38
Revised 5/85

VIRGINIA DEPARTMENT OF CORRECTIONS

INVESTIGATION REPORT
OFFENDER INFORMATION

DISTRICT NUMBER _____

PREPARED BY _____

DATE OF SENTENCING _____

DATE TYPED _____

OFFENDER SUMMARY		OFFENDER'S NAME (LAST, FIRST, MIDDLE)			
NICKNAME/STREET NAME		ALIAS (AKA)		MAIDEN NAME	
RACE	SEX	PLACE OF BIRTH (CITY OR COUNTY)	LOC / STATE	AGE	DATE OF BIRTH (MM/DD/YY)
SOCIAL SECURITY NUMBER		STATE ID NUMBER (CCRE)		FBI NUMBER	
PERMANENT ADDRESS					
LOCAL ADDRESS (IF DIFFERENT)					
COURT INFORMATION		COURT	JUDGE HONORABLE		
PROSECUTING ATTORNEY		DEFENSE ATTORNEY		TYPE OF COUNSEL COURT APPOINTED <input type="checkbox"/> RETAINED <input type="checkbox"/>	
DATE OF CONVICTION (MM/DD/YY)	METHOD OF ADJUDICATION GUILTY PLEA <input type="checkbox"/> 1 JUDGE <input type="checkbox"/> 2 JURY <input type="checkbox"/> 3		PRETRIAL STATUS ON BOND <input type="checkbox"/> 1 OWN RECOGNIZANCE <input type="checkbox"/> 2 CONFINEMENT <input type="checkbox"/> 3 THIRD PARTY RELEASE <input type="checkbox"/> 4		
PRETRIAL JAIL STATUS (MM/DD/YY) FROM _____ TO _____ NA <input type="checkbox"/>		SOURCE OF BOND PERSONAL <input type="checkbox"/> 1 FAMILY <input type="checkbox"/> 2 OTHER <input type="checkbox"/> 3 BONDSMAN <input type="checkbox"/> 4 NA <input type="checkbox"/>		POST TRIAL STATUS CONFINED <input type="checkbox"/> NOT CONFINED <input type="checkbox"/>	
OFFENSE INFORMATION					
DOCKET NUMBER		OFFENSE AT INDICTMENT		OFFENSE CODE (VCC)	PLEA PER OFFENSE
1.	_____	_____		_____	_____
2.	_____	_____		_____	_____
3.	_____	_____		_____	_____
4.	_____	_____		_____	_____
5.	_____	_____		_____	_____
OFFENSE AT CONVICTION		OFFENSE CODE (VCC)	PLEA AGREEMENT	VIRGINIA CODE SECTION	
1.	_____	_____	_____	_____	
2.	_____	_____	_____	_____	
3.	_____	_____	_____	_____	
4.	_____	_____	_____	_____	
5.	_____	_____	_____	_____	
CODEFENDANTS		NAME(S) (LAST, FIRST, MIDDLE)		DISPOSITION	
1.	_____		_____		
2.	_____		_____		
3.	_____		_____		
4.	_____		_____		

VIRGINIA DEPARTMENT OF CORRECTIONS
Continuation Sheet for Post Short Form

Offense at Indictment	Offense (VCC) Code	Plea per Offense	Plea Agreement
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CURRENT OFFENSE INFORMATION

REF _____

MOST SERIOUS OFFENSE INFORMATION		MOST SERIOUS OFFENSE CHARGE AT INDICTMENT		OFFENSE CODE (VCC)
DATE OF OFFENSE (MM/DD/YY)	NO. OF CODEFENDANTS	RESISTING ARREST CHARGE NO <input type="checkbox"/> YES <input type="checkbox"/>	TYPE OF OFFENSE PERSON <input type="checkbox"/> 1 PROPERTY <input type="checkbox"/> 2 OTHER <input type="checkbox"/> 3	
LEGAL STATUS AT TIME OF OFFENSE ESCAPE <input type="checkbox"/> 0 INMATE <input type="checkbox"/> 1 MANDATORY PAROLE <input type="checkbox"/> 2 DISCRETIONARY PAROLE <input type="checkbox"/> 3 PROBATION <input type="checkbox"/> 4 BOND <input type="checkbox"/> 5 RELEASED <input type="checkbox"/> 8 RELEASED RECOGNIZANCE <input type="checkbox"/> 7 OTHER <input type="checkbox"/> 5 NONE <input type="checkbox"/> 9				
WEAPON USE NONE <input type="checkbox"/> 1 USED TO INJURE <input type="checkbox"/> 2 USED TO THREATEN <input type="checkbox"/> 3		WEAPON TYPE FIREARM <input type="checkbox"/> 1 KNIFE <input type="checkbox"/> 2 EXPLOSIVE <input type="checkbox"/> 3 SIMULATED WEAPON <input type="checkbox"/> 4 OTHER <input type="checkbox"/> 5 NA <input type="checkbox"/>		
OFFENDER'S ROLE IN OFFENSE ALONE <input type="checkbox"/> 1 LEADER <input type="checkbox"/> 2 ACCOMPLICE <input type="checkbox"/> 3 NOT DETERMINED <input type="checkbox"/> 4				CURRENT ARREST DATE (MM/DD/YY)
MOST SERIOUS OFFENSE VICTIM INFORMATION (CRIME AGAINST PERSON) NA <input type="checkbox"/>		INJURY TO VICTIM DEATH <input type="checkbox"/> 1 SERIOUS PHYSICAL <input type="checkbox"/> 2 PHYSICAL <input type="checkbox"/> 3 EMOTIONAL <input type="checkbox"/> 4 THREATENED <input type="checkbox"/> 5 NONE <input type="checkbox"/> 6		
VICTIM RELATIONSHIP TO OFFENDER NONE <input type="checkbox"/> 1 FRIEND <input type="checkbox"/> 2 FAMILY <input type="checkbox"/> 3 POLICE OFFICER <input type="checkbox"/> 4		PHYSICALLY HANDICAPPED VICTIM NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 UNKNOWN <input type="checkbox"/>		VICTIM INFORMATION SEX _____ RACE _____ AGE _____
VICTIM IMPACT STATEMENT REQUESTED YES. ATTACH TO LAST PAGE OF PSL NO <input type="checkbox"/> YES <input type="checkbox"/>				

NARRATIVE OF CURRENT OFFENSE

Juvenile Criminal History

Ref _____

Juvenile Record	Prior juvenile record No <input type="checkbox"/> _1 Yes <input type="checkbox"/> _2 Unknown <input type="checkbox"/>	Type of record Delinquent <input type="checkbox"/> Status <input type="checkbox"/>	Age at first juvenile delinquent adjudication
Number prior juvenile delinquent adjudications			
Crimes against person _____ Crimes against property _____ Drug crimes _____ Other _____			
Type of disposition(s) Probation <input type="checkbox"/> _1 Revoked <input type="checkbox"/> _2 State ward <input type="checkbox"/> _3 Other <input type="checkbox"/> _4			
Verified information No <input type="checkbox"/> Yes <input type="checkbox"/>		Source of information if unverified Family member/relative <input type="checkbox"/> _1 Defendant <input type="checkbox"/> _2 Other <input type="checkbox"/> _3	

ADULT RECORD	PRIOR ADULT RECORD Yes [] No [] Unknown []	NO. OF PRIOR FELONY SENTENCING EVENTS
NO. OF PRIOR FELONY CONVICTIONS:		Crimes Against Persons [] Property Crimes [] Drug Crimes [] Other []
NO. OF PRIOR FELONY CONVICTIONS FOR INSTANT OFFENSE AT CONVICTION		NO. OF PREVIOUS FELON COMMITMENTS Virginia [] Out of State []
MOST RECENT AND SERIOUS PRIOR CRIMINAL ADULT CONVICTIONS		
Description		Offense Code (VCC)
1.	_____	1. _____
2.	_____	2. _____
3.	_____	3. _____
4.	_____	4. _____
5.	_____	5. _____
NO. OF PRIOR PROBATIONS Completed [] Revoked []		NO. OF PRIOR PAROLES Completed [] Revoked []
		NO. OF PRIOR INCARCERATIONS Under 1 Year [] 1 Year or More []
LAST PREVIOUS ARREST DATE (OR RELEASE FROM CONFINEMENT)		PRIOR MISDEMEANANT CONVICTIONS Criminal [] Criminal Traffic []

NARRATIVE OF ADULT CRIMINAL HISTORY SUMMARY:

1. Date of Birth: _____

FAMILY/ENVIRONMENTAL INFORMATION

REF _____

MARITAL/RESIDENTIAL STABILITY	NUMBER OF DEPENDENTS	MARITAL STATUS				
		SINGLE NEVER MARRIED <input type="checkbox"/> 1	MARRIED <input type="checkbox"/> 2	SEPARATED <input type="checkbox"/> 3	DIVORCED <input type="checkbox"/> 4	WIDOWED/REMAARRIED <input type="checkbox"/> 7
		WIDOW/WIDOWER <input type="checkbox"/> 5	DIVORCED/REMAARRIED <input type="checkbox"/> 6	OTHER <input type="checkbox"/> 8	UNKNOWN <input type="checkbox"/>	
LIVING STATUS						
ALONE <input type="checkbox"/> 1 SINGLE PARENT/HEAD HOUSEHOLD <input type="checkbox"/> 2 WITH SPOUSE <input type="checkbox"/> 3 WITH PARENT/OTHER RELATIVE <input type="checkbox"/> 4 OTHER <input type="checkbox"/> 5						
LENGTH OF RESIDENCE AT CURRENT ADDRESS	LENGTH OF RESIDENCE IN LOCAL AREA	LENGTH OF RESIDENCE APART FROM PARENTS	HAS ANY MEMBER OF OFFENDER'S FAMILY EVER BEEN CONVICTED OF A FELONY			
YEARS _____ MONTHS _____	YEARS _____ MONTHS _____	YEARS _____ MONTHS _____	NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 UNKNOWN <input type="checkbox"/>			

SPOUSE NAME/ADDRESS _____

NARRATIVE OF FAMILY/ENVIRONMENTAL INFORMATION

OFFENDER PERSONAL HISTORY

REF _____

EDUCATION	HIGHEST EDUCATION ACHIEVEMENT YEARS													NAME/LOCATION OF LAST SCHOOL ATTENDED		
	1	2	3	4	5	6	7	8	9	10	11	12	13		14	15

EDUCATION NARRATIVE

MILITARY HISTORY NA <input type="checkbox"/>	CURRENT MILITARY STATUS			LENGTH OF SERVICE
	NONE <input type="checkbox"/>	1. RESERVE <input type="checkbox"/>	2. ACTIVE <input type="checkbox"/>	YEARS _____ MONTHS _____

DATES OF SERVICE MM/DD/YY TO MM/DD/YY	TYPE OF DISCHARGE			
	UNKNOWN <input type="checkbox"/>	HONORABLE <input type="checkbox"/>	MEDICAL <input type="checkbox"/>	GENERAL <input type="checkbox"/>
	BAD CONDUCT <input type="checkbox"/>	DISHONORABLE <input type="checkbox"/>	MEMBER AT TIME OFFENSE <input type="checkbox"/>	UNDESIRABLE <input type="checkbox"/>
				NONE <input type="checkbox"/>

MILITARY HISTORY NARRATIVE

SOCIAL/RELIGIOUS ACTIVITIES	SOCIAL ACTIVITIES		
	NONE SPECIFIED <input type="checkbox"/>	1. CONSTRUCTIVE <input type="checkbox"/>	2. NON-CONSTRUCTIVE <input type="checkbox"/>

RELIGION ACTIVE <input type="checkbox"/> INACTIVE <input type="checkbox"/> NONE <input type="checkbox"/>	RELIGIOUS PREFERENCE			
	PROTESTANT <input type="checkbox"/>	CATHOLIC <input type="checkbox"/>	JEWISH <input type="checkbox"/>	OTHER <input type="checkbox"/>
	MOSLEM <input type="checkbox"/>	MUSLIM <input type="checkbox"/>	NO PREFERENCE <input type="checkbox"/>	UNKNOWN <input type="checkbox"/>

SOCIAL/RELIGIOUS ACTIVITIES NARRATIVE

PERSONAL HISTORY CONTINUED

Ref:

EMPLOYMENT HISTORY	EMPLOYMENT AT TIME OF OFFENSE					
	Full-Time	[]1	Part-Time	[]2		
	Full-Time Student	[]3	Housewife	[]4		
	Retired/Disabled	[]5	Unemployed	[]6		
TYPE OF EMPLOYMENT		Skilled	[]1	DESCRIPTION OF OCCUPATION	OCCUPATION CODE	
Semi-Skilled		[]2	Unskilled	[]3	Student	[]
LENGTH OF LONGEST EMPLOYMENT			LONGEST EMPLOYMENT PERIOD WITHIN PAST TWO YEARS			
Years [] Months []			Years [] Months []			
EMPLOYMENT RECORD OVER PAST TWO YEARS						
Regular, Few Changes					[]1	
Regular, Many Changes					[]2	
Irregular					[]3	
Odd Jobs Only					[]4	
No Work Record					[]5	

EMPLOYMENT HISTORY NARRATIVE:

FINANCIAL STATUS	RESIDENCE		CHECKING ACCOUNT	SAVINGS ACCOUNT	GROSS MONTHLY INCOME CLAIMED							
	Own	[]1				Rent	[]2	No	[]	Yes	[]	No
	Other	[]3										
TOTAL INDEBTEDNESS CLAIMED: \$ 0			TOTAL MONTHLY PAYMENTS CLAIMED: \$									
SOURCE OF SUBSISTENCE		Job	[]1	Assistance	[]2	Spouse	[]3					
		Family	[]4	Other	[]5	None	[]6					

FINANCIAL STATUS NARRATIVE:

PERSONAL HISTORY CONTINUED

REF _____

HEALTH INFORMATION	PHYSICAL HEALTH CONDITION GOOD <input type="checkbox"/> ₁ FAIR <input type="checkbox"/> ₂ POOR <input type="checkbox"/> ₃	PHYSICAL HANDICAPS NO <input type="checkbox"/> YES <input type="checkbox"/>	MENTAL HEALTH TREATMENT NO <input type="checkbox"/> YES <input type="checkbox"/>	MENTAL HEALTH COMMITMENT NO <input type="checkbox"/> YES <input type="checkbox"/>
TYPE OF MENTAL HEALTH TREATMENT INPATIENT <input type="checkbox"/> ₁ OUTPATIENT <input type="checkbox"/> ₂ NA <input type="checkbox"/>		TYPE OF MENTAL HEALTH COMMITMENT INVOLUNTARY <input type="checkbox"/> ₁ COURT ORDERED EVALUATION <input type="checkbox"/> ₂ VOLUNTARY <input type="checkbox"/> ₃ NA <input type="checkbox"/>		
DRUG USE CLAIMED NOT USED <input type="checkbox"/> (NO) HEAVY USE <input type="checkbox"/> (Y1) MODERATE USE <input type="checkbox"/> (Y2) OCCASIONAL USE <input type="checkbox"/> (Y3) EXTENT UNKNOWN <input type="checkbox"/> (Y4)				
DRUG ABUSE APPARENT NO <input type="checkbox"/> YES <input type="checkbox"/>		DRUG TREATMENT NO <input type="checkbox"/> YES <input type="checkbox"/>		
TYPE OF SUBSTANCE CLAIMED NOT USED <input type="checkbox"/> (NO) HALLUCINOGENS <input type="checkbox"/> (Y1) HEROIN <input type="checkbox"/> (Y2) OPIUM <input type="checkbox"/> (Y3) COCAINE <input type="checkbox"/> (Y4) SYNTHETIC NARCOTICS <input type="checkbox"/> (Y5)				
MARIJUANA <input type="checkbox"/> (Y6) AMPHETAMINES <input type="checkbox"/> (Y7) BARBITURATES <input type="checkbox"/> (Y8) DRUG TYPE UNKNOWN (E.G. HYPNOTIC SEDATIVE) <input type="checkbox"/> (Y9) NOT AVAILABLE <input type="checkbox"/> (NA)				
ALCOHOL USE CLAIMED NOT USED <input type="checkbox"/> (NO) HEAVY USE <input type="checkbox"/> (Y1) MODERATE USE <input type="checkbox"/> (Y2) OCCASIONAL USE <input type="checkbox"/> (Y3) EXTENT UNKNOWN <input type="checkbox"/> (Y4)				
ALCOHOL ABUSE APPARENT NO <input type="checkbox"/> YES <input type="checkbox"/>		ALCOHOL TREATMENT NO <input type="checkbox"/> YES <input type="checkbox"/>		
HEIGHT ____ FT ____ IN	WEIGHT	COLOR EYES BLACK <input type="checkbox"/> (BLK) BLUE <input type="checkbox"/> (BLU) BROWN <input type="checkbox"/> (BRO) GREY <input type="checkbox"/> (GRY) GREEN <input type="checkbox"/> (GRN) HAZEL <input type="checkbox"/> (HAZ) PINK <input type="checkbox"/> (PNK) MISMATCHED <input type="checkbox"/> (MIS)		
COLOR HAIR BLACK <input type="checkbox"/> (BLK) BROWN <input type="checkbox"/> (BRO) BLONDE <input type="checkbox"/> (BLN) RED <input type="checkbox"/> (RED) WHITE <input type="checkbox"/> (WHI) GREY <input type="checkbox"/> (GRY) SANDY <input type="checkbox"/> (SNY) BALD <input type="checkbox"/> (BAL) AUBURN <input type="checkbox"/> (AUB)				
SCARS, MARKS, TATTOOS				

HEALTH INFORMATION NARRATIVE

COMMUNITY SUPERVISION PLAN AND SUMMARY

REF _____

COMMUNITY SUPERVISION PLAN	RESIDENCE PLAN				
	ALONE <input type="checkbox"/> 1	PARENTS <input type="checkbox"/> 2	SPOUSE <input type="checkbox"/> 3	SPOUSE AND DEPENDENTS <input type="checkbox"/> 4	OTHER RELATIVES <input type="checkbox"/> 5
				EMPLOYER <input type="checkbox"/> 6	OTHER <input type="checkbox"/> 7
RESIDENCE			EMPLOYMENT		
NAME _____			NAME _____		
ADDRESS _____			ADDRESS _____		
TELEPHONE () _____			TELEPHONE () _____		
OFFENDER'S PLAN OF RESTITUTION					
OFFENDER'S COMMUNITY PLAN TO HELP SELF					
COMMUNITY RESOURCES PROPOSED FOR OFFENDER ASSISTANCE					
RECOMMENDATION					
PROBATION <input type="checkbox"/> 1		COMMUNITY PLAN <input type="checkbox"/> 2		INCARCERATION <input type="checkbox"/> 3	
		OTHER <input type="checkbox"/> 4		NO RECOMMENDATION <input type="checkbox"/> 5	
RECOMMENDATION SUMMARY:					

**POSTSENTENCE REPORT
Criminal History Attachment**

Ref _____

Prior Record	Offender's Name				FBI Number
State ID Number (CCRE) VA	Local P. D. Number	Race	Sex	Date of Birth	Social Security Number

Criminal History Narrative - (Include arrest, conviction and sentencing dates when available; probation and parole openings, closings with adjustments, and revocations; and any pending charges including instant offense.)

Date	Jurisdiction	Charged Offense	Convicted Offense	Sentencing Date	Sentencing Information
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Appendix E

PSI Regression Variable List

Appendix E
Variables Used in Multiple Regression Analyses

Name	Label
Private Attorney	If the type of counsel is private attorney, Private Attorney =1, else 0.
CAA	If the type of counsel is court appointed attorney, CAA =1, else 0.
MISSCA	If the type of counsel is court appointed, but whether public or private is unknown, MISSCA =1, else 0.
TRSCORE	Some indicator of sentences for judges' reference.
DMHTREAT	If the defender receives mental health treatment, DMHTREAT = 1, else 0
GUILTPLE	If the type of trial is guilt plea, then GUILTPLE = 1, else 0.
JURY	If the type of trial is jury, then JURY =1, else 0.
REGION2	If the region = 2, then REGION2 = 1, else 0
REGION3	If the region = 3, then REGION3 = 1, else 0
REGION4	If the region = 4, then REGION4 = 1, else 0
REGION5	If the region = 5, then REGION5 = 1, else 0
REGION6	If the region = 6, then REGION6 = 1, else 0
Age	Offender's age.
Education	Offender's education years.
MILIRES	If Offender's military status is reserve, MILIRES = 1, else 0.
MILIACT	If Offender's military status is active, MILIACT =1, else 0.
Prior Felony	Number of prior felony sentences.
DRUG	If offender claims to be drug user or is apparently a drug user, DRUG = 1, else 0.
ALCOHOL	If offender claims to be alcohol user or is apparently a alcohol user, ALCOHOL = 1, else 0.
MARRIED	If offender is married or remarried at sentencing, MARRIED = 1, else 0.
ALONE	If offender was married but separated, widowed, or alone, ALONE = 1, else 0.
MALE	If offender is male, MALE = 1, else 0.
BLACK	If offender is black, BLACK = 1, else 0.
HISPANIC	If offender is Hispanic, HISPANIC = 1, else 0.
OTHERACE	If offender is not white, black, or Hispanic, OTHERACE = 1, else 0.
UNEMP	If offender is in labor force but unemployed, UNEMP = 1, else 0.
UNLABOR	If offender is not in labor force, UNLABOR = 1, else 0.
DEAD	If the victim is dead, DEAD = 1, else 0.
PHYSICAL	If the victim is physically harmed, PHYSICAL = 1, else 0.
EMOTION	If the victim is emotionally harmed, EMOTION = 1, else 0.
THREATEN	If the victim is threatened with some type of harm, THREATEN = 1, else 0.
FIREARM	If offender used firearm, FIREARM = 1, else 0.
KNIFE	If offender used knife, KNIFE = 1, else 0.
Seriousness of Indicted Crime	If the highest recommended sentence is life sentence, seriousness of indicted crime is 1, else 0.

Appendix F
Sentencing Guideline Worksheet

Drug/Schedule I/II



The sentencing guidelines for this section apply to the following offenses:

Relevant Code of Virginia Statutes

Relevant Virginia Crime Codes (VCC)

18.2-248(A)/(C)	NAR-3038-F9 (5 yrs.-life)
	NAR-3042-F9 (5-40 yrs.)
	NAR-3043-F9 (5-40 yrs.)
	NAR-3044-F9 (5-40 yrs.)
	NAR-3045-F9 (5-40 yrs.)
18.2-248(A)/(D)	NAR-3035-F5 (1-10 yrs.)
18.2-248(G)	NAR-3061-F6 (1-5 yrs.)
18.2-250(a)	NAR-3022-F5 (1-10 yrs.)
18.2-251	NAR-3073-F9 (First Offender)
18.2-255(a)	NAR-3062-F9 (10-50 yrs.)
18.2-256	Use VCC for actual offense and change "F" to "C" in the code.
18.2-257(a)	Use VCC for actual offense and change "F" to "A" in the code.

Conspiracies or attempts to commit the offenses appearing in the above table are guidelines offenses. A worksheet should be completed.

If the statute number and VCC for the primary offense do not appear on this table, sentencing guidelines do not apply. No worksheets should be completed.

Step 1: Primary Offense

(See Drug Exception Rule under additional offenses)

- A. Enter the score corresponding to the number of counts if the primary offense at conviction was the possession of a Schedule I or II drug [§18.2-250(a) NAR-3022-F5] or violation of first offender statute [§18.2-251 NAR-3073-F9].
- B. Enter the score corresponding to the number of counts if the primary offense at conviction was the sale [§18.2-248(C) NAR-3045-F9], distribution [§18.2-248(C) NAR-3042-F9], manufacture [§18.2-248(C) NAR-3044-F9], gift or possession with intent to sell, give or distribute a Schedule I or II drug for profit [§18.2-248(C) NAR-3043-F9] or [§18.2-248(C) NAR-3036-F9 or NAR-3038-F9].
- C. Enter "11" if the primary offense at conviction was the sale, distribution, manufacture, gift or possession with intent to sell, distribute, manufacture or give a Schedule I or II drug to a minor at least three years younger than the offender, any number of counts [§18.2-255(A) NAR-3062-F9].
- D. Enter the score corresponding to the number of counts if the primary offense at conviction was the manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give or distribute a Schedule I or II drug for accommodation [§18.2-248(D) NAR-3035-F5].
- E. Enter "4" if the primary offense at conviction was the sale, distribution, manufacture, gift or possession with intent to sell etc., an imitation Schedule I or II drug.

Step 2: Additional Offenses

Additional offenses are those offenses in the same sentencing event that have a VCC that differs from the primary offense. Drug Exception Rule: the *only exception* is the sale, distribution, manufacture, or possession with intent to sell or distribute a Schedule I or II drug for profit. If more than one of the following VCC's appear in the sentencing event, they represent multiple counts of the offense, not additional offenses (NAR-3036-F9, NAR-3042-F9, NAR-3043-F9, NAR-3044-F9, or NAR-3045-F9).

Add the maximum penalties for all additional offenses (including counts). Score misdemeanors with a maximum penalty of 12 months as 1 year.

Locate the total in the maximum penalty range and record the corresponding points.

Step 3: Knife or Firearm in Possession at Time of Offense

Enter "2" if the offender or a codefendant was in possession of a knife or firearm during the commission of any offense at conviction. Do not score feigned or simulated firearms (e.g., toy guns).

Step 4: Mandatory Firearm Conviction for Current Event

Enter "7" if the offender was convicted under a mandatory firearm statute [§18.2-53.1 ASL-1319-F9, ASL-1323-F9 or §18.2-308.1 WPN-5300-F9 or §18.2-308.2 WPN-5296-F6, WPN-5297-F6, WPN-5298-F6 or §18.2-308.4, WPN-5277-F9, WPN-5256-F9, WPN-5299-F6, WPN-5257-F6, WPN-5278-F6]. The mandatory firearm conviction must be part of the current event being scored.

Step 5: Prior Convictions / Adjudications

Select the five most recent adult convictions, delinquency adjudications or sentencing events (*hereafter referred to as events*).

If there are fewer than five prior felony events, use all of them plus the most recent prior misdemeanor events, arriving at a total of up to five prior events (e.g., four prior felony events plus one misdemeanor event, two prior felony events plus three misdemeanor events, and so on). If the offender has a juvenile record, score only delinquency adjudications.

For each prior event, identify the offense with the highest maximum penalty. Select only one offense per event.

Once the relevant prior convictions/delinquency adjudications have been identified, add the years of the statutory maximum penalties for these prior offenses. Score misdemeanors with a maximum penalty of 12 months as 1 year.

Locate the total in the maximum penalty range and record the corresponding points.

Step 6: Prior Incarcerations / Commitments

Enter "2" if one or more periods of incarcerations resulted from a sentence. Score boot camp, diversion center incarceration, detention center incarceration, or any other incarceration sentence that the offender is currently serving. Commitments to juvenile institutions or post-dispositional confinements in secure detention following an adjudication of delinquency are also scored. Pre-trial or pre-sentence time are not scored unless the offender was sentenced to "time-served."

Step 7: Prior Felony Drug Convictions / Adjudications

Enter the score corresponding to the number of prior felony drug convictions or delinquency adjudications (including counts). Applicable offenses must have a VCC prefix of "NAR."

Step 8: Prior Juvenile Record

Enter "1" if the offender has any adjudications of delinquency. These include any violation that has a VCC. Criminal traffic adjudications are delinquency offenses. Do not score this factor if the offender has a prior juvenile record consisting of only status offenses (e.g., incorrigibility, truancy, etc.).

Step 9: Legally Restrained at Time of Offense

Enter "0" if the offender was not under any type of legal restraint when any of the offenses were committed.

Enter "1" if the offender was under any type of legal restraint other than post-release supervision, parole, supervised probation, CDI or CCCA.

This includes unsupervised probation, pre-trial release, suspended sentence, outstanding detainer or warrant, imposition of sentence suspended, or any other form of community control or participation in an Alcohol Safety Action Program (e.g., VASAP). Inmates, escapees and fugitives are also legally restrained. Scoring for other types of legal restraint may be authorized by the judge.

Enter "4" if the offender was under any type of post-release supervision, mandatory or discretionary parole, supervised probation, CDI or community-based corrections program such as those under the Comprehensive Community Corrections Act (CCCA) when any of the offenses were committed. Juveniles on supervised probation, parole or aftercare for delinquency offenses are also considered under legal restraint. Scoring for other types of legal restraint may be authorized by the judge.

Step 10: Two or More Prior Felony Convictions/Adjudications for Possession, Sale, Etc. of a Schedule I/II Drug

Score this factor only if the primary offense at conviction is possession of a Schedule I or II drug

Enter "2" if the offender's prior record includes two or more possessions [§18.2-250(a) NAR-3022-F5] or sales of Schedule I or II drug convictions/adjudications [§18.2-248(C) NAR-3038-F9, NAR-3042-F9, NAR-3043-F9, NAR-3044-F9, NAR-3045-F9] or sales for accommodation [§18.2-248(D) NAR-3035-F5] or sales to a minor [§18.2-255(A) NAR-3077-F9] or violation of the first offender statute [§18.2-251 NAR-3073-F9] (including counts).

Step 11: Go to the next appropriate section.

If the total score is "10" or less, go to the Drug Section B. If the total score is "11" or more, go to the Drug Section C.

Drug/Schedule I/II **Section A**

Offender Name: _____

◆ Primary Offense

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

Score

--	--

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

- Years:
- Less than 4 0
 - 4 - 10 1
 - 11 - 21 2
 - 22 - 30 3
 - 31 - 42 4
 - 43 or more 5

0	
---	--

◆ Knife or Firearm in Possession at Time of Offense

If YES, add 2 →

0	
---	--

◆ Mandatory Firearm Conviction for Current Event

If YES, add 7 →

0	
---	--

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

- Years:
- Less than 7 0
 - 7 - 26 1
 - 27 - 48 2
 - 49 or more 3

0	
---	--

◆ Prior Incarcerations/Commitments

If YES, add 2 →

0	
---	--

◆ Prior Felony Drug Convictions/Adjudications

- Number:
- 1 - 2 1
 - 3 - 4 2
 - 5 3
 - 6 or more 4

0	
---	--

◆ Prior Juvenile Record

If YES, add 1 →

0	
---	--

◆ Legally Restrained at Time of Offense

- None 0
- Other than parole, supervised probation or CCCA 1
- Parole, supervised probation or CCCA 4

0	
---	--

SCORE THE FOLLOWING FACTOR ONLY IF PRIMARY OFFENSE IS POSSESSION OF SCHEDULE I/II DRUG

◆ Two or More Prior Felony Convictions/Adjudications

If YES, add 2 →

For Possession, Possession with Intent, Distribution, Manufacture or Sale of Schedule I or II Drug

0	
---	--

Total Score

→ If total is 10 or less, go to Section B. If total is 11 or more, go to Section C.

--	--

Eff. 7-1-99

Step 1: Primary Offense

- A. Enter the score corresponding to the number of counts if the primary offense at conviction was the possession of a Schedule I or II drug [§18.2-250(a) NAR-3022-F5] or violation of first offender statute [§18.2-251 NAR-3073-F9].
- B. Enter the score corresponding to the number of counts if the primary offense at conviction was the manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give or distribute a Schedule I or II drug for accommodation [§18.2-248(D) NAR-3035-F5].
- C. Enter "4" if the primary offense at conviction was the sale, distribution, manufacture, gift or possession with intent to sell etc., an imitation Schedule I or II drug.

Step 2: Additional Offenses

Additional offenses are those offenses in the same sentencing event that have a VCC that differs from the primary offense.

Add the maximum penalties for all additional offenses (including counts). Score misdemeanors with a maximum penalty of 12 months as 1 year.

Locate the total in the maximum penalty range and record the corresponding points.

Step 3: Knife or Firearm in Possession at Time of Offense

Enter "2" if the offender or a codefendant was in possession of a knife or firearm during the commission of any offense at conviction. Do not score feigned or simulated firearms (e.g., toy guns).

Step 4: Prior Convictions / Adjudications

Select the five most recent adult convictions, delinquency adjudications or sentencing events (*hereafter referred to as events*).

If there are fewer than five prior felony events, use all of them plus the most recent prior misdemeanor events, arriving at a total of up to five prior events (e.g., four prior felony events plus one misdemeanor event, two prior felony events plus three misdemeanor events, and so on). If the offender has a juvenile record, score only delinquency adjudications.

For each prior event, identify the offense with the highest maximum penalty. Select only one offense per event.

Once the relevant prior convictions/delinquency adjudications have been identified, add the years of the statutory maximum penalties for these prior offenses. Score misdemeanors with a maximum penalty of 12 months as 1 year.

Locate the total in the maximum penalty range and record the corresponding points.

Step 5: Prior Misdemeanor Convictions / Adjudications

Enter the score corresponding to the total number of prior adult convictions and delinquency adjudications (including counts) for non-traffic misdemeanors. Do not score criminal traffic misdemeanors. (*See Virginia Crime Code Section in this manual.*)

Step 6: Prior Incarcerations / Commitments

Enter "1" if one or more periods of incarcerations resulted from a sentence. Score boot camp, diversion center incarceration, detention center incarceration, or any other incarceration sentence that the offender is currently serving. Commitments to juvenile institutions or post-dispositional confinements in secure detention following an adjudication of delinquency are also scored. Pre-trial or pre-sentence time are not scored unless the offender was sentenced to "time-served."

Step 7: Prior Juvenile Record

Enter "1" if the offender has any adjudications of delinquency. These include any violation that has a VCC. Criminal traffic adjudications are delinquency offenses. Do not score this factor if the offender has a prior juvenile record consisting of *only* status offenses (e.g., incorrigibility, truancy, etc.).

Step 8: Legally Restrained at Time of Offense

Enter "0" if the offender was not under any type of legal restraint when any of the offenses were committed.

Enter "2" if the offender was under any type of legal restraint other than post-release supervision, parole, supervised probation, CDI, or CCCA.

This includes unsupervised probation, pre-trial release, suspended sentence, outstanding detainer or warrant, imposition of sentence suspended, or any other form of community control or participation in an Alcohol Safety Action Program (e.g., VASAP). Inmates, escapees, and fugitives are also legally restrained. Scoring for other types of legal restraint may be authorized by the judge.

Enter "3" if the offender was under any type of post-release supervision, mandatory or discretionary parole, supervised probation, CDI or community-based corrections program such as those under the Comprehensive Community Corrections Act (CCCA) when any of the offenses were committed. Juveniles on supervised probation, parole or aftercare for delinquency offenses are also considered under legal restraint. Scoring for other types legal restraint may be authorized by the judge.

Step 9: Two or More Prior Felony Convictions/Adjudications for Possession, Sale, Etc. of a Schedule I/II Drug

Score this factor only if the primary offense at conviction is possession of a Schedule I or II drug

Enter "2" if the offender's prior record includes two or more possessions [§18.2-250(a) NAR-3022-F5] or sales of Schedule I or II drug convictions/adjudications [§18.2-248(C) NAR-3038-F9, NAR-3042-F9, NAR 3043-F9, NAR 3044-F9, NAR 3045-F9] 248(C) NAR-3038-F9, NAR-3042-F9, NAR 3043-F9, NAR 3044-F9, NAR 3045-F9] or sales for accommodation [§18.2-248(D) NAR-3035-F5] or sales to a minor [§18.2-255(A) NAR-3062-F9] or violation of the first offender statute [§18.2-251 NAR-3073-F9] (including counts).

Step 10: Record the guidelines sentence

Refer to the Drug Section B Recommendation Table which follows these instructions to convert the total score to the guidelines recommendation. On the cover sheet, record the guidelines sentence recommendation.

Drug/Schedule I/II Section B

Offender Name: _____

◆ Primary Offense

- A. Possess Schedule I or II drug
 - 1 count 3
 - 2 or more counts 6
- B. Accommodation - Sell, Distribute, Possession with Intent, Schedule I or II drug
 - 1 count 8
 - 2 or more counts 9
- C. Sell, etc. imitation Schedule I or II drug (all counts) 4

Score

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

- Years:
- Less than 1 0
 - 1 - 9 2
 - 10 - 19 3
 - 20 - 28 4
 - 29 - 38 5
 - 39 or more 6

0	
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◆ Knife or Firearm in Possession at Time of Offense

If YES, add 2 →

0	
---	--

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

- Years:
- Less than 1 0
 - 1 - 22 1
 - 23 - 43 2
 - 44 or more 3

0	
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◆ Prior Misdemeanor Convictions/Adjudications

- Number:
- 1 - 4 1
 - 5 - 9 2
 - 10 or more 3

0	
---	--

◆ Prior Incarcerations/Commitments

If YES, add 1 →

0	
---	--

◆ Prior Juvenile Record

If YES, add 1 →

0	
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◆ Legally Restrained at Time of Offense

- None 0
- Other than parole, supervised probation or CCCA 2
- Parole, supervised probation or CCCA 3

0	
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SCORE THE FOLLOWING FACTOR ONLY IF PRIMARY OFFENSE IS POSSESSION OF SCHEDULE I/II DRUG

◆ Two or More Prior Felony Convictions/Adjudications

If YES, add 2 →

For Possession, Possession with Intent, Distribution, Manufacture or Sale of Schedule I or II Drug

0	
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Total Score

See Drug Section B Recommendation Table to convert score to guidelines sentence.

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Recommendation Table

Score	Guideline Sentence
0 - 8	Probation/No Incarceration
9 - 11	Incarceration 1 Day up to 3 Months
12+	Incarceration 3 to 6 Months

Step 1: Primary Offense

(See Drug Exception Rule under additional offenses)

Determine whether the offender's prior record includes a Category I or Category II crime and mark the corresponding box.

If the offender's prior record includes a Category I crime, record the points located in the Category I column corresponding to the primary offense at conviction and its associated counts.

If the offender's prior record includes a Category II crime, and no Category I crimes, record the points located in the Category II column corresponding to the primary offense at conviction and its associated counts.

If the offender's prior record does not include a Category I or II crime, record the points located in the "Other" column corresponding to the primary offense at conviction and its associated counts.

Enter the score corresponding to the number of counts completed or attempted/conspired, and the appropriate prior record category if the primary offense at conviction was:

- A. Possession of a Schedule I or II drug [§18.2-250(a) NAR-3022-F5] or violation of first offender statute [§18.2-251 NAR-3073-F9].
- B. Sale [§18.2-248(C) NAR-3045-F9], distribution [§18.2-248(C) NAR-3042-F9], manufacture [§18.2-248(C) NAR-3044-F9], gift or possession with intent to sell, distribute or give a Schedule I or II drug for profit [§18.2-248(C) NAR-3043-F9] or [§18.2-248(C) NAR-3036-F9].
- C. Second or subsequent sale of a Schedule I or II drug [§18.2-248(C) NAR-3038-F9].
- D. Sale, distribution, manufacture, gift or possession with intent to sell, distribute, manufacture or give a Schedule I or II drug to a minor at least three years younger than the offender [§18.2-255(A) NAR-3062-F9].
- E. Manufacture, sale, gift, distribution, or possession with intent to sell, give or distribute a Schedule I or II drug for accommodation [§18.2-248(D) NAR-3035-F5].
- F. Sale, distribution, manufacture, gift or possession with intent to sell, etc., an imitation Schedule I or II drug.

Step 2: Additional Offenses

Additional offenses are those offenses in the same sentencing event that have a VCC that differs from the primary offense. Drug Exception Rule: the *only exception* is the sale, distribution, manufacture, or possession with intent to sell or distribute a Schedule I or II drug for profit. If more than one of the following VCC's appear in the sentencing event, they represent multiple cts. of the primary offense *not* additional offenses (NAR-3036, 3042, 3043, 3044, or 3045).

Identify each additional offense and its maximum penalty.

Assign points to each additional offense (including counts) based on the statutory maximum penalty.

Once points have been assigned to each additional offense (including counts), total the points and record total.

Step 3: Firearm in Possession at Time of Offense

Enter "5" if the offender or a codefendant was in possession of a firearm during the commission of any offense at conviction. Do not score feigned or simulated firearms (e.g., toy guns).

Step 4: Prior Convictions / Adjudications

Select the five most recent adult convictions, delinquency adjudications or sentencing events (*hereafter referred to as events*).

If there are fewer than five prior felony events, use all of them plus the most recent prior misdemeanor events, arriving at a total of up to five prior events. If the offender has a juvenile record, score only delinquency offenses.

For each prior event, identify the offense with the highest maximum penalty. Select only one offense per event.

For each offense identified, locate the maximum penalty in the table and assign the corresponding points.

Total the points and record the total.

Step 5: Prior Felony Drug Convictions / Adjudications

Enter the score corresponding to the number of prior *felony* drug convictions or delinquency adjudications (including counts). Applicable offenses must have a VCC prefix of "NAR."

Step 6: Prior Felony Convictions / Adjudications Against Person

Enter the score corresponding to the number of prior *felony* person convictions and delinquency adjudications (including counts). Applicable offenses include those with a prefix of "ASL," "FAM," "MUR," "KID," "ROB," "RAP," or "SEX." Some crimes with other VCC prefixes are also person felonies, such as certain burglaries (e.g., BUR-2215-F2).

Step 7: Prior Felony Property Convictions / Adjudications

Enter the score corresponding to the number of prior *felony* property convictions and delinquency adjudications (including counts). Applicable crimes include those with a prefix of "LAR," "BUR," and "FRD." Some crimes with other VCC prefixes are also property felonies, such as certain acts of vandalism (e.g., VAN-2930-F6).

Step 8: Prior Juvenile Record

Enter "1" if the offender has any adjudications of delinquency. These include any violation that has a VCC. Criminal traffic adjudications are delinquency offenses. Do not score this factor if the offender has a prior juvenile record consisting of only status offenses (e.g., incorrigibility, truancy, etc.).

Step 9: Legally Restrained at Time of Offense

Enter "3" if the offender was under legal restraint. Forms of legal restraint include: mandatory or discretionary parole, post-release supervision, supervised or unsupervised probation, pretrial release, suspended sentence, outstanding detainer or warrant, and imposition of sentence suspended. Offenders participating in an Alcohol Safety Action Program (e.g., VASAP) or a community-based corrections program such as those under the Comprehensive Community Corrections Act (CCCA) are legally restrained. Inmates, escapees, and fugitives are also under legal restraint. Juveniles on probation, parole or aftercare for a delinquency offense are legally restrained. Scoring for other types of legal restraint may be authorized by the judge.

Step 10: Sale/Quantity of Cocaine

Score this factor for **cocaine** convictions under §18.2-248(C) (primary and additional offenses). This factor applies to attempted, conspired and completed drug offenses. No distinction is made between crack and powder cocaine. Do not include other Schedule I/II drugs (e.g., heroin). Drug quantity may be verified by a certificate of analysis from a forensic laboratory or a police report. The court may also establish standards for verification of drug quantity.

Check the **Boot Camp/Detention Center incarceration box**, if the offender sold, etc. 1 gram or less of cocaine and has no prior felony convictions or adjudications.

Enter "0" if the offender sold, etc. a quantity of cocaine totaling more than 1 gram but less than 28.35 grams (1 ounce).

Enter "0" if the offender sold, etc. less than 1 gram of cocaine and has a prior felony conviction or adjudication.

Enter "36" if the offender sold, etc. a quantity of cocaine totaling 28.35 grams (1 ounce) to less than 226.8 grams (7.999 ounces or 0.49 pounds).

Enter "60" if the offender sold, etc. a quantity of cocaine totaling 226.8 grams (8 ounces or .5 pounds) or more.

If the cocaine quantity does not total an amount enumerated above enter zeros. For multiple counts add the amounts together to determine the quantity of cocaine/crack sold.

Note: Offenders with no prior felony convictions or adjudications and who are convicted of selling 1 gram or less of cocaine *will be recommended for detention center incarceration or any traditional incarceration period.*

Step 11: Record the guidelines sentence

Refer to the Drug Section C Recommendation Table which follows these instructions to convert the total score to the guidelines sentence. Record the guidelines midpoint and range on the cover sheet in the Sentencing Guidelines Recommendation Section. Also, if applicable, check Detention Center incarceration or Boot Camp.

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 or more counts	36	18	9
B. Sell, Distribute, Possession with Intent, Schedule I or II drug			
Completed:			
1 count	60	36	12
2 counts	80	48	16
3 counts	95	57	19
4 or more counts	130	78	26
Attempted or conspired:			
1 count	48	24	12
2 counts	64	32	16
3 counts	76	38	19
4 or more counts	104	52	26
C. Sell, etc. Schedule I or II drug, subsequent offense			
Completed:			
1 count	110	66	22
2 or more counts	310	186	62
Attempted or conspired:			
1 count	88	44	22
2 or more counts	248	124	62
D. Sell, etc. Schedule I or II drug to minor at least three years younger than offender			
Attempted, conspired or completed: (all counts)			
	60	30	15
E. Accommodation-Sell, etc. Schedule I or II drug - Attempted, conspired or completed:			
1 count	32	16	8
2 or more counts	40	20	10
F. Sell, etc. imitation Schedule I or II drug - Attempted, conspired or completed:			
1 count	12	6	3
2 or more counts	20	10	5

Score

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◆ Additional Offenses

Assign points to each additional offense (including counts) and total the points

Maximum Penalty	Less than 5	0
(years)	5, 10	1
	20	2
	30	4
	40 or more	5

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◆ Firearm in Possession at Time of Offense

If YES, add 5 →

0	0	
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◆ Prior Convictions/Adjudications

Assign points to the 5 most recent and serious prior record events and total the points

Maximum Penalty	Less than 5	0
(years)	5, 10	1
	20	2
	30	3
	40 or more	4

0		
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◆ Prior Felony Drug Convictions/Adjudications

Number:	1	2
	2	3
	3	5
	4	7
	5	8
	6 or more	10

0		
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◆ Prior Felony Convictions/Adjudications Against Person

Number:	1	3
	2	6
	3	9
	4 or more	12

0		
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◆ Prior Felony Property Convictions/Adjudications

Number:	1, 2	1
	3	2
	4 or more	3

0	0	
---	---	--

◆ Prior Juvenile Record

If YES, add 1 →

0	0	
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◆ Legally Restrained at Time of Offense

If YES, add 3 →

0	0	
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SCORE THE FOLLOWING FACTORS ONLY IF PRIMARY OFFENSE IS SELL, ETC. (§18.2-248(C) COCAINE ONLY

◆ Sale/Quantity of Cocaine (§18.2-248(C) 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		
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Sell, etc. 1 gram or less of cocaine & NO PRIOR FELONY CONVICTIONS/ADJUDICATIONS
 If YES, check box here and on cover sheet Detention Center/Boot Camp

Total Score

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See Drug Section C Recommendation Table for guidelines sentence range.

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◆ Drug/Schedule I/II • Section C Recommendation Table

Offense	Sentence Recommendation
Sell, etc. (18.2-248C) 1 Gram or Less of Cocaine	Detention Center/ Boot Camp Incarceration
OR	
AND No Prior Felony Convictions/ Adjudications	Incarceration Corresponding to Midpoint and Range from Section C Total Score
MARK BOTH RECOMMENDATIONS ON COVER SHEET AND ENTER CORRE- SPONDING MIDPOINT AND RANGE.	

Score	Sentence Range Midpoint	Sentence Range
7	0 yr. 7 mo.	0 yr. 7 mo. - 0 yr. 10 mo.
8	0 yr. 8 mo.	0 yr. 7 mo. - 0 yr. 11 mo.
9	0 yr. 9 mo.	0 yr. 7 mo. - 1 yr. 1 mo.
10	0 yr. 10 mo.	0 yr. 7 mo. - 1 yr. 3 mo.
11	0 yr. 11 mo.	0 yr. 7 mo. - 1 yr. 4 mo.
12	1 yr. 0 mo.	0 yr. 7 mo. - 1 yr. 4 mo.
13	1 yr. 1 mo.	0 yr. 7 mo. - 1 yr. 5 mo.
14	1 yr. 2 mo.	0 yr. 8 mo. - 1 yr. 5 mo.
15	1 yr. 3 mo.	0 yr. 8 mo. - 1 yr. 6 mo.
16	1 yr. 4 mo.	0 yr. 9 mo. - 1 yr. 6 mo.
17	1 yr. 5 mo.	0 yr. 9 mo. - 1 yr. 7 mo.
18	1 yr. 6 mo.	0 yr. 9 mo. - 1 yr. 8 mo.
19	1 yr. 7 mo.	0 yr. 9 mo. - 1 yr. 9 mo.
20	1 yr. 8 mo.	0 yr. 9 mo. - 1 yr. 10 mo.
21	1 yr. 9 mo.	0 yr. 10 mo. - 1 yr. 11 mo.
22	1 yr. 10 mo.	0 yr. 11 mo. - 2 yr. 1 mo.
23	1 yr. 11 mo.	0 yr. 11 mo. - 2 yr. 2 mo.
24	2 yr. 0 mo.	1 yr. 0 mo. - 2 yr. 3 mo.
25	2 yr. 1 mo.	1 yr. 0 mo. - 2 yr. 4 mo.
26	2 yr. 2 mo.	1 yr. 0 mo. - 2 yr. 5 mo.
27	2 yr. 3 mo.	1 yr. 1 mo. - 2 yr. 7 mo.
28	2 yr. 4 mo.	1 yr. 2 mo. - 2 yr. 8 mo.
29	2 yr. 5 mo.	1 yr. 2 mo. - 2 yr. 9 mo.
30	2 yr. 6 mo.	1 yr. 3 mo. - 2 yr. 10 mo.
31	2 yr. 7 mo.	1 yr. 4 mo. - 2 yr. 11 mo.
32	2 yr. 8 mo.	1 yr. 5 mo. - 3 yr. 0 mo.
33	2 yr. 9 mo.	1 yr. 6 mo. - 3 yr. 2 mo.
34	2 yr. 10 mo.	1 yr. 7 mo. - 3 yr. 4 mo.
35	2 yr. 11 mo.	1 yr. 8 mo. - 3 yr. 6 mo.
36	3 yr. 0 mo.	1 yr. 9 mo. - 3 yr. 8 mo.

Score	Sentence Range		Sentence Range
	Midpoint		
39	3 yr. 3 mo.		2 yr. 0 mo. - 3 yr. 11 mo.
40	3 yr. 4 mo.		2 yr. 1 mo. - 4 yr. 0 mo.
41	3 yr. 5 mo.		2 yr. 2 mo. - 4 yr. 1 mo.
42	3 yr. 6 mo.		2 yr. 4 mo. - 4 yr. 2 mo.
43	3 yr. 7 mo.		2 yr. 6 mo. - 4 yr. 4 mo.
44	3 yr. 8 mo.		2 yr. 9 mo. - 4 yr. 6 mo.
45	3 yr. 9 mo.		2 yr. 9 mo. - 4 yr. 7 mo.
46	3 yr. 10 mo.		2 yr. 10 mo. - 4 yr. 8 mo.
47	3 yr. 11 mo.		2 yr. 11 mo. - 4 yr. 9 mo.
48	4 yr. 0 mo.		3 yr. 0 mo. - 4 yr. 11 mo.
49	4 yr. 1 mo.		3 yr. 0 mo. - 5 yr. 0 mo.
50	4 yr. 2 mo.		3 yr. 1 mo. - 5 yr. 1 mo.
51	4 yr. 3 mo.		3 yr. 2 mo. - 5 yr. 2 mo.
52	4 yr. 4 mo.		3 yr. 3 mo. - 5 yr. 3 mo.
53	4 yr. 5 mo.		3 yr. 3 mo. - 5 yr. 5 mo.
54	4 yr. 6 mo.		3 yr. 4 mo. - 5 yr. 6 mo.
55	4 yr. 7 mo.		3 yr. 5 mo. - 5 yr. 7 mo.
56	4 yr. 8 mo.		3 yr. 6 mo. - 5 yr. 8 mo.
57	4 yr. 9 mo.		3 yr. 6 mo. - 5 yr. 10 mo.
58	4 yr. 10 mo.		3 yr. 7 mo. - 5 yr. 11 mo.
59	4 yr. 11 mo.		3 yr. 8 mo. - 6 yr. 0 mo.
60	5 yr. 0 mo.		3 yr. 9 mo. - 6 yr. 1 mo.
61	5 yr. 1 mo.		3 yr. 9 mo. - 6 yr. 3 mo.
62	5 yr. 2 mo.		3 yr. 10 mo. - 6 yr. 4 mo.
63	5 yr. 3 mo.		3 yr. 11 mo. - 6 yr. 5 mo.
64	5 yr. 4 mo.		4 yr. 0 mo. - 6 yr. 6 mo.
65	5 yr. 5 mo.		4 yr. 0 mo. - 6 yr. 7 mo.
66	5 yr. 6 mo.		4 yr. 1 mo. - 6 yr. 9 mo.
67	5 yr. 7 mo.		4 yr. 2 mo. - 6 yr. 10 mo.
68	5 yr. 8 mo.		4 yr. 3 mo. - 6 yr. 11 mo.
69	5 yr. 9 mo.		4 yr. 3 mo. - 7 yr. 0 mo.
70	5 yr. 10 mo.		4 yr. 4 mo. - 7 yr. 2 mo.
71	5 yr. 11 mo.		4 yr. 5 mo. - 7 yr. 3 mo.
72	6 yr. 0 mo.		4 yr. 6 mo. - 7 yr. 4 mo.
73	6 yr. 1 mo.		4 yr. 6 mo. - 7 yr. 5 mo.
74	6 yr. 2 mo.		4 yr. 7 mo. - 7 yr. 7 mo.
75	6 yr. 3 mo.		4 yr. 8 mo. - 7 yr. 8 mo.
76	6 yr. 4 mo.		4 yr. 9 mo. - 7 yr. 9 mo.
77	6 yr. 5 mo.		4 yr. 9 mo. - 7 yr. 10 mo.
78	6 yr. 6 mo.		4 yr. 10 mo. - 7 yr. 11 mo.
79	6 yr. 7 mo.		4 yr. 11 mo. - 8 yr. 1 mo.
80	6 yr. 8 mo.		5 yr. 0 mo. - 8 yr. 2 mo.
81	6 yr. 9 mo.		5 yr. 0 mo. - 8 yr. 3 mo.
82	6 yr. 10 mo.		5 yr. 1 mo. - 8 yr. 4 mo.
83	6 yr. 11 mo.		5 yr. 2 mo. - 8 yr. 6 mo.
84	7 yr. 0 mo.		5 yr. 3 mo. - 8 yr. 7 mo.
85	7 yr. 1 mo.		5 yr. 3 mo. - 8 yr. 8 mo.
86	7 yr. 2 mo.		5 yr. 4 mo. - 8 yr. 9 mo.

Score	Sentence Range Midpoint	Sentence Range	Score	Sentence Range Midpoint	Sentence Range
87	7 yr. 3 mo.	5 yr. 5 mo. - 8 yr. 11 mo.	135	11 yr. 3 mo.	8 yr. 5 mo. - 13 yr. 10 mo.
88	7 yr. 4 mo.	5 yr. 6 mo. - 9 yr. 0 mo.	136	11 yr. 4 mo.	8 yr. 6 mo. - 13 yr. 11 mo.
89	7 yr. 5 mo.	5 yr. 6 mo. - 9 yr. 1 mo.	137	11 yr. 5 mo.	8 yr. 6 mo. - 14 yr. 0 mo.
90	7 yr. 6 mo.	5 yr. 7 mo. - 9 yr. 2 mo.	138	11 yr. 6 mo.	8 yr. 7 mo. - 14 yr. 1 mo.
91	7 yr. 7 mo.	5 yr. 8 mo. - 9 yr. 3 mo.	139	11 yr. 7 mo.	8 yr. 8 mo. - 14 yr. 2 mo.
92	7 yr. 8 mo.	5 yr. 9 mo. - 9 yr. 5 mo.	140	11 yr. 8 mo.	8 yr. 9 mo. - 14 yr. 4 mo.
93	7 yr. 9 mo.	5 yr. 9 mo. - 9 yr. 6 mo.	141	11 yr. 9 mo.	8 yr. 9 mo. - 14 yr. 5 mo.
94	7 yr. 10 mo.	5 yr. 10 mo. - 9 yr. 7 mo.	142	11 yr. 10 mo.	8 yr. 10 mo. - 14 yr. 6 mo.
95	7 yr. 11 mo.	5 yr. 11 mo. - 9 yr. 8 mo.	143	11 yr. 11 mo.	8 yr. 11 mo. - 14 yr. 7 mo.
96	8 yr. 0 mo.	6 yr. 0 mo. - 9 yr. 10 mo.	144	12 yr. 0 mo.	9 yr. 0 mo. - 14 yr. 9 mo.
97	8 yr. 1 mo.	6 yr. 0 mo. - 9 yr. 11 mo.	145	12 yr. 1 mo.	9 yr. 0 mo. - 14 yr. 10 mo.
98	8 yr. 2 mo.	6 yr. 1 mo. - 10 yr. 0 mo.	146	12 yr. 2 mo.	9 yr. 1 mo. - 14 yr. 11 mo.
99	8 yr. 3 mo.	6 yr. 2 mo. - 10 yr. 1 mo.	147	12 yr. 3 mo.	9 yr. 2 mo. - 15 yr. 0 mo.
100	8 yr. 4 mo.	6 yr. 3 mo. - 10 yr. 3 mo.	148	12 yr. 4 mo.	9 yr. 3 mo. - 15 yr. 2 mo.
101	8 yr. 5 mo.	6 yr. 3 mo. - 10 yr. 4 mo.	149	12 yr. 5 mo.	9 yr. 3 mo. - 15 yr. 3 mo.
102	8 yr. 6 mo.	6 yr. 4 mo. - 10 yr. 5 mo.	150	12 yr. 6 mo.	9 yr. 4 mo. - 15 yr. 4 mo.
103	8 yr. 7 mo.	6 yr. 5 mo. - 10 yr. 6 mo.	151	12 yr. 7 mo.	9 yr. 4 mo. - 15 yr. 5 mo.
104	8 yr. 8 mo.	6 yr. 6 mo. - 10 yr. 7 mo.	152	12 yr. 8 mo.	9 yr. 5 mo. - 15 yr. 6 mo.
105	8 yr. 9 mo.	6 yr. 6 mo. - 10 yr. 9 mo.	153	12 yr. 9 mo.	9 yr. 6 mo. - 15 yr. 7 mo.
106	8 yr. 10 mo.	6 yr. 7 mo. - 10 yr. 10 mo.	154	12 yr. 10 mo.	9 yr. 6 mo. - 15 yr. 8 mo.
107	8 yr. 11 mo.	6 yr. 8 mo. - 10 yr. 11 mo.	155	12 yr. 11 mo.	9 yr. 7 mo. - 15 yr. 10 mo.
108	9 yr. 0 mo.	6 yr. 9 mo. - 11 yr. 0 mo.	156	13 yr. 0 mo.	9 yr. 8 mo. - 15 yr. 11 mo.
109	9 yr. 1 mo.	6 yr. 9 mo. - 11 yr. 2 mo.	157	13 yr. 1 mo.	9 yr. 9 mo. - 16 yr. 0 mo.
110	9 yr. 2 mo.	6 yr. 10 mo. - 11 yr. 3 mo.	158	13 yr. 2 mo.	9 yr. 9 mo. - 16 yr. 1 mo.
111	9 yr. 3 mo.	6 yr. 11 mo. - 11 yr. 4 mo.	159	13 yr. 3 mo.	9 yr. 10 mo. - 16 yr. 3 mo.
112	9 yr. 4 mo.	7 yr. 0 mo. - 11 yr. 5 mo.	160	13 yr. 4 mo.	9 yr. 11 mo. - 16 yr. 4 mo.
113	9 yr. 5 mo.	7 yr. 0 mo. - 11 yr. 6 mo.	161	13 yr. 5 mo.	10 yr. 0 mo. - 16 yr. 5 mo.
114	9 yr. 6 mo.	7 yr. 1 mo. - 11 yr. 8 mo.	162	13 yr. 6 mo.	10 yr. 0 mo. - 16 yr. 6 mo.
115	9 yr. 7 mo.	7 yr. 2 mo. - 11 yr. 9 mo.	163	13 yr. 7 mo.	10 yr. 1 mo. - 16 yr. 7 mo.
116	9 yr. 8 mo.	7 yr. 3 mo. - 11 yr. 10 mo.	164	13 yr. 8 mo.	10 yr. 2 mo. - 16 yr. 9 mo.
117	9 yr. 9 mo.	7 yr. 3 mo. - 11 yr. 11 mo.	165	13 yr. 9 mo.	10 yr. 3 mo. - 16 yr. 10 mo.
118	9 yr. 10 mo.	7 yr. 4 mo. - 12 yr. 1 mo.	166	13 yr. 10 mo.	10 yr. 3 mo. - 16 yr. 11 mo.
119	9 yr. 11 mo.	7 yr. 5 mo. - 12 yr. 2 mo.	167	13 yr. 11 mo.	10 yr. 4 mo. - 17 yr. 0 mo.
120	10 yr. 0 mo.	7 yr. 6 mo. - 12 yr. 3 mo.	168	14 yr. 0 mo.	10 yr. 5 mo. - 17 yr. 2 mo.
121	10 yr. 1 mo.	7 yr. 6 mo. - 12 yr. 4 mo.	169	14 yr. 1 mo.	10 yr. 6 mo. - 17 yr. 3 mo.
122	10 yr. 2 mo.	7 yr. 7 mo. - 12 yr. 6 mo.	170	14 yr. 2 mo.	10 yr. 6 mo. - 17 yr. 4 mo.
123	10 yr. 3 mo.	7 yr. 8 mo. - 12 yr. 7 mo.	171	14 yr. 3 mo.	10 yr. 7 mo. - 17 yr. 5 mo.
124	10 yr. 4 mo.	7 yr. 9 mo. - 12 yr. 8 mo.	172	14 yr. 4 mo.	10 yr. 8 mo. - 17 yr. 6 mo.
125	10 yr. 5 mo.	7 yr. 9 mo. - 12 yr. 9 mo.	173	14 yr. 5 mo.	10 yr. 9 mo. - 17 yr. 8 mo.
126	10 yr. 6 mo.	7 yr. 10 mo. - 12 yr. 10 mo.	174	14 yr. 6 mo.	10 yr. 9 mo. - 17 yr. 9 mo.
127	10 yr. 7 mo.	7 yr. 11 mo. - 13 yr. 0 mo.	175	14 yr. 7 mo.	10 yr. 10 mo. - 17 yr. 10 mo.
128	10 yr. 8 mo.	8 yr. 0 mo. - 13 yr. 1 mo.	176	14 yr. 8 mo.	10 yr. 11 mo. - 17 yr. 11 mo.
129	10 yr. 9 mo.	8 yr. 0 mo. - 13 yr. 2 mo.	177	14 yr. 9 mo.	11 yr. 0 mo. - 18 yr. 1 mo.
130	10 yr. 10 mo.	8 yr. 1 mo. - 13 yr. 3 mo.	178	14 yr. 10 mo.	11 yr. 0 mo. - 18 yr. 2 mo.
131	10 yr. 11 mo.	8 yr. 2 mo. - 13 yr. 5 mo.	179	14 yr. 11 mo.	11 yr. 1 mo. - 18 yr. 3 mo.
132	11 yr. 0 mo.	8 yr. 3 mo. - 13 yr. 6 mo.	180	15 yr. 0 mo.	11 yr. 2 mo. - 18 yr. 4 mo.
133	11 yr. 1 mo.	8 yr. 3 mo. - 13 yr. 7 mo.	181	15 yr. 1 mo.	11 yr. 3 mo. - 18 yr. 6 mo.
134	11 yr. 2 mo.	8 yr. 4 mo. - 13 yr. 8 mo.	182	15 yr. 2 mo.	11 yr. 3 mo. - 18 yr. 7 mo.

◆ Drug/Schedule I/II • Section C Recommendation Table

Score	Sentence Range		Sentence Range	Score	Sentence Range		Sentence Range
	Midpoint				Midpoint		
183	15 yr.	3 mo.	11 yr. 4 mo. - 18 yr. 8 mo.	247	20 yr.	7 mo.	15 yr. 4 mo. - 25 yr. 2 mo.
184	15 yr.	4 mo.	11 yr. 5 mo. - 18 yr. 9 mo.	248	20 yr.	8 mo.	15 yr. 5 mo. - 25 yr. 4 mo.
185	15 yr.	5 mo.	11 yr. 6 mo. - 18 yr. 10 mo.	249	20 yr.	9 mo.	15 yr. 5 mo. - 25 yr. 5 mo.
186	15 yr.	6 mo.	11 yr. 6 mo. - 19 yr. 0 mo.	250	20 yr.	10 mo.	15 yr. 6 mo. - 25 yr. 6 mo.
187	15 yr.	7 mo.	11 yr. 7 mo. - 19 yr. 1 mo.	251	20 yr.	11 mo.	15 yr. 7 mo. - 25 yr. 7 mo.
188	15 yr.	8 mo.	11 yr. 8 mo. - 19 yr. 2 mo.	252	21 yr.	0 mo.	15 yr. 8 mo. - 25 yr. 9 mo.
189	15 yr.	9 mo.	11 yr. 9 mo. - 19 yr. 3 mo.	253	21 yr.	1 mo.	15 yr. 8 mo. - 25 yr. 10 mo.
190	15 yr.	10 mo.	11 yr. 9 mo. - 19 yr. 5 mo.	254	21 yr.	2 mo.	15 yr. 9 mo. - 25 yr. 11 mo.
191	15 yr.	11 mo.	11 yr. 10 mo. - 19 yr. 6 mo.	255	21 yr.	3 mo.	15 yr. 10 mo. - 26 yr. 0 mo.
192	16 yr.	0 mo.	11 yr. 11 mo. - 19 yr. 7 mo.	256	21 yr.	4 mo.	15 yr. 11 mo. - 26 yr. 2 mo.
193	16 yr.	1 mo.	12 yr. 0 mo. - 19 yr. 8 mo.	257	21 yr.	5 mo.	15 yr. 11 mo. - 26 yr. 3 mo.
194	16 yr.	2 mo.	12 yr. 0 mo. - 19 yr. 9 mo.	258	21 yr.	6 mo.	16 yr. 0 mo. - 26 yr. 4 mo.
195	16 yr.	3 mo.	12 yr. 1 mo. - 19 yr. 11 mo.	259	21 yr.	7 mo.	16 yr. 1 mo. - 26 yr. 5 mo.
196	16 yr.	4 mo.	12 yr. 2 mo. - 20 yr. 0 mo.	260	21 yr.	8 mo.	16 yr. 2 mo. - 26 yr. 6 mo.
197	16 yr.	5 mo.	12 yr. 3 mo. - 20 yr. 1 mo.	261	21 yr.	9 mo.	16 yr. 2 mo. - 26 yr. 8 mo.
198	16 yr.	6 mo.	12 yr. 3 mo. - 20 yr. 2 mo.	262	21 yr.	10 mo.	16 yr. 3 mo. - 26 yr. 9 mo.
199	16 yr.	7 mo.	12 yr. 4 mo. - 20 yr. 4 mo.	263	21 yr.	11 mo.	16 yr. 4 mo. - 26 yr. 10 mo.
200	16 yr.	8 mo.	12 yr. 5 mo. - 20 yr. 5 mo.	264	22 yr.	0 mo.	16 yr. 5 mo. - 26 yr. 11 mo.
201	16 yr.	9 mo.	12 yr. 6 mo. - 20 yr. 6 mo.	265	22 yr.	1 mo.	16 yr. 5 mo. - 27 yr. 1 mo.
202	16 yr.	10 mo.	12 yr. 6 mo. - 20 yr. 7 mo.	266	22 yr.	2 mo.	16 yr. 6 mo. - 27 yr. 2 mo.
203	16 yr.	11 mo.	12 yr. 7 mo. - 20 yr. 9 mo.	267	22 yr.	3 mo.	16 yr. 7 mo. - 27 yr. 3 mo.
204	17 yr.	0 mo.	12 yr. 8 mo. - 20 yr. 10 mo.	268	22 yr.	4 mo.	16 yr. 8 mo. - 27 yr. 4 mo.
205	17 yr.	1 mo.	12 yr. 9 mo. - 20 yr. 11 mo.	269	22 yr.	5 mo.	16 yr. 8 mo. - 27 yr. 5 mo.
206	17 yr.	2 mo.	12 yr. 9 mo. - 21 yr. 0 mo.	270	22 yr.	6 mo.	16 yr. 9 mo. - 27 yr. 7 mo.
207	17 yr.	3 mo.	12 yr. 10 mo. - 21 yr. 1 mo.	271	22 yr.	7 mo.	16 yr. 10 mo. - 27 yr. 8 mo.
208	17 yr.	4 mo.	12 yr. 11 mo. - 21 yr. 3 mo.	272	22 yr.	8 mo.	16 yr. 11 mo. - 27 yr. 9 mo.
209	17 yr.	5 mo.	13 yr. 0 mo. - 21 yr. 4 mo.	273	22 yr.	9 mo.	16 yr. 11 mo. - 27 yr. 10 mo.
210	17 yr.	6 mo.	13 yr. 0 mo. - 21 yr. 5 mo.	274	22 yr.	10 mo.	17 yr. 0 mo. - 28 yr. 0 mo.
211	17 yr.	7 mo.	13 yr. 1 mo. - 21 yr. 6 mo.	275	22 yr.	11 mo.	17 yr. 1 mo. - 28 yr. 1 mo.
212	17 yr.	8 mo.	13 yr. 2 mo. - 21 yr. 8 mo.	276	23 yr.	0 mo.	17 yr. 2 mo. - 28 yr. 2 mo.
213	17 yr.	9 mo.	13 yr. 3 mo. - 21 yr. 9 mo.	277	23 yr.	1 mo.	17 yr. 2 mo. - 28 yr. 3 mo.
214	17 yr.	10 mo.	13 yr. 3 mo. - 21 yr. 10 mo.	278	23 yr.	2 mo.	17 yr. 3 mo. - 28 yr. 5 mo.
215	17 yr.	11 mo.	13 yr. 4 mo. - 21 yr. 11 mo.	279	23 yr.	3 mo.	17 yr. 4 mo. - 28 yr. 6 mo.
216	18 yr.	0 mo.	13 yr. 5 mo. - 22 yr. 0 mo.	280	23 yr.	4 mo.	17 yr. 5 mo. - 28 yr. 7 mo.
217	18 yr.	1 mo.	13 yr. 6 mo. - 22 yr. 2 mo.	281	23 yr.	5 mo.	17 yr. 5 mo. - 28 yr. 8 mo.
218	18 yr.	2 mo.	13 yr. 6 mo. - 22 yr. 3 mo.	282	23 yr.	6 mo.	17 yr. 6 mo. - 28 yr. 9 mo.
219	18 yr.	3 mo.	13 yr. 7 mo. - 22 yr. 4 mo.	283	23 yr.	7 mo.	17 yr. 7 mo. - 28 yr. 11 mo.
220	18 yr.	4 mo.	13 yr. 8 mo. - 22 yr. 5 mo.	284	23 yr.	8 mo.	17 yr. 8 mo. - 29 yr. 0 mo.
221	18 yr.	5 mo.	13 yr. 9 mo. - 22 yr. 7 mo.	285	23 yr.	9 mo.	17 yr. 8 mo. - 29 yr. 1 mo.
222	18 yr.	6 mo.	13 yr. 9 mo. - 22 yr. 8 mo.	286	23 yr.	10 mo.	17 yr. 9 mo. - 29 yr. 2 mo.
223	18 yr.	7 mo.	13 yr. 10 mo. - 22 yr. 9 mo.	287	23 yr.	11 mo.	17 yr. 10 mo. - 29 yr. 4 mo.
224	18 yr.	8 mo.	13 yr. 11 mo. - 22 yr. 10 mo.	288	24 yr.	0 mo.	17 yr. 11 mo. - 29 yr. 5 mo.
225	18 yr.	9 mo.	14 yr. 0 mo. - 23 yr. 0 mo.	289	24 yr.	1 mo.	17 yr. 11 mo. - 29 yr. 6 mo.
226	18 yr.	10 mo.	14 yr. 0 mo. - 23 yr. 1 mo.	290	24 yr.	2 mo.	18 yr. 0 mo. - 29 yr. 7 mo.
227	18 yr.	11 mo.	14 yr. 1 mo. - 23 yr. 2 mo.	291	24 yr.	3 mo.	18 yr. 1 mo. - 29 yr. 8 mo.
228	19 yr.	0 mo.	14 yr. 2 mo. - 23 yr. 3 mo.	292	24 yr.	4 mo.	18 yr. 2 mo. - 29 yr. 10 mo.
229	19 yr.	1 mo.	14 yr. 2 mo. - 23 yr. 4 mo.	293	24 yr.	5 mo.	18 yr. 2 mo. - 29 yr. 11 mo.
230	19 yr.	2 mo.	14 yr. 3 mo. - 23 yr. 6 mo.	294	24 yr.	6 mo.	18 yr. 3 mo. - 30 yr. 0 mo.

Score	Sentence Range Midpoint	Sentence Range
279	23 yr. 3 mo.	17 yr. 5 mo. - 28 yr. 8 mo.
280	23 yr. 4 mo.	17 yr. 6 mo. - 28 yr. 9 mo.
281	23 yr. 5 mo.	17 yr. 7 mo. - 28 yr. 11 mo.
282	23 yr. 6 mo.	17 yr. 8 mo. - 29 yr. 0 mo.
283	23 yr. 7 mo.	17 yr. 8 mo. - 29 yr. 1 mo.
284	23 yr. 8 mo.	17 yr. 9 mo. - 29 yr. 2 mo.
285	23 yr. 9 mo.	17 yr. 10 mo. - 29 yr. 4 mo.
286	23 yr. 10 mo.	17 yr. 11 mo. - 29 yr. 5 mo.
287	23 yr. 11 mo.	17 yr. 11 mo. - 29 yr. 6 mo.
288	24 yr. 0 mo.	18 yr. 0 mo. - 29 yr. 7 mo.
289	24 yr. 1 mo.	18 yr. 1 mo. - 29 yr. 8 mo.
290	24 yr. 2 mo.	18 yr. 2 mo. - 29 yr. 10 mo.
291	24 yr. 3 mo.	18 yr. 2 mo. - 29 yr. 11 mo.
292	24 yr. 4 mo.	18 yr. 3 mo. - 30 yr. 0 mo.
293	24 yr. 5 mo.	0 yr. 0 mo. - 0 yr. 0 mo.
294	24 yr. 6 mo.	0 yr. 0 mo. - 0 yr. 0 mo.
295	24 yr. 7 mo.	18 yr. 4 mo. - 30 yr. 1 mo.
296	24 yr. 8 mo.	18 yr. 5 mo. - 30 yr. 3 mo.
297	24 yr. 9 mo.	18 yr. 5 mo. - 30 yr. 4 mo.
298	24 yr. 10 mo.	18 yr. 6 mo. - 30 yr. 5 mo.
299	24 yr. 11 mo.	18 yr. 7 mo. - 30 yr. 6 mo.
300	25 yr. 0 mo.	18 yr. 8 mo. - 30 yr. 8 mo.
301	25 yr. 1 mo.	18 yr. 8 mo. - 30 yr. 9 mo.
302	25 yr. 2 mo.	18 yr. 9 mo. - 30 yr. 10 mo.
303	25 yr. 3 mo.	18 yr. 10 mo. - 30 yr. 11 mo.
304	25 yr. 4 mo.	18 yr. 10 mo. - 31 yr. 0 mo.
305	25 yr. 5 mo.	18 yr. 11 mo. - 31 yr. 2 mo.
306	25 yr. 6 mo.	19 yr. 0 mo. - 31 yr. 3 mo.
307	25 yr. 7 mo.	19 yr. 1 mo. - 31 yr. 4 mo.
308	25 yr. 8 mo.	19 yr. 1 mo. - 31 yr. 5 mo.
309	25 yr. 9 mo.	19 yr. 2 mo. - 31 yr. 7 mo.
310	25 yr. 10 mo.	19 yr. 3 mo. - 31 yr. 8 mo.
311	25 yr. 11 mo.	19 yr. 4 mo. - 31 yr. 9 mo.
312	26 yr. 0 mo.	19 yr. 4 mo. - 31 yr. 10 mo.
313	26 yr. 1 mo.	19 yr. 5 mo. - 31 yr. 11 mo.
314	26 yr. 2 mo.	19 yr. 6 mo. - 32 yr. 1 mo.
315	26 yr. 3 mo.	19 yr. 7 mo. - 32 yr. 2 mo.
316	26 yr. 4 mo.	19 yr. 7 mo. - 32 yr. 3 mo.
317	26 yr. 5 mo.	19 yr. 8 mo. - 32 yr. 4 mo.
318	26 yr. 6 mo.	19 yr. 9 mo. - 32 yr. 6 mo.
319	26 yr. 7 mo.	19 yr. 10 mo. - 32 yr. 7 mo.
320	26 yr. 8 mo.	19 yr. 10 mo. - 32 yr. 8 mo.
321	26 yr. 9 mo.	19 yr. 11 mo. - 32 yr. 9 mo.
322	26 yr. 10 mo.	20 yr. 0 mo. - 32 yr. 10 mo.
323	26 yr. 11 mo.	20 yr. 1 mo. - 33 yr. 0 mo.
324	27 yr. 0 mo.	20 yr. 1 mo. - 33 yr. 1 mo.
325	27 yr. 1 mo.	20 yr. 2 mo. - 33 yr. 2 mo.
326	27 yr. 2 mo.	20 yr. 3 mo. - 33 yr. 3 mo.

Score	Sentence Range Midpoint	Sentence Range
327	27 yr. 3 mo.	20 yr. 4 mo. - 33 yr. 5 mo.
328	27 yr. 4 mo.	20 yr. 4 mo. - 33 yr. 6 mo.
329	27 yr. 5 mo.	20 yr. 5 mo. - 33 yr. 7 mo.
330	27 yr. 6 mo.	20 yr. 6 mo. - 33 yr. 8 mo.
331	27 yr. 7 mo.	20 yr. 7 mo. - 33 yr. 10 mo.
332	27 yr. 8 mo.	20 yr. 7 mo. - 33 yr. 11 mo.
333	27 yr. 9 mo.	20 yr. 8 mo. - 34 yr. 0 mo.
334	27 yr. 10 mo.	20 yr. 9 mo. - 34 yr. 1 mo.
335	27 yr. 11 mo.	20 yr. 10 mo. - 34 yr. 2 mo.
336	28 yr. 0 mo.	20 yr. 10 mo. - 34 yr. 4 mo.
337	28 yr. 1 mo.	20 yr. 11 mo. - 34 yr. 5 mo.
338	28 yr. 2 mo.	21 yr. 0 mo. - 34 yr. 6 mo.
339	28 yr. 3 mo.	21 yr. 1 mo. - 34 yr. 7 mo.
340	28 yr. 4 mo.	21 yr. 1 mo. - 34 yr. 9 mo.
341	28 yr. 5 mo.	21 yr. 2 mo. - 34 yr. 10 mo.
342	28 yr. 6 mo.	21 yr. 3 mo. - 34 yr. 11 mo.
343	28 yr. 7 mo.	21 yr. 4 mo. - 35 yr. 0 mo.
344	28 yr. 8 mo.	21 yr. 4 mo. - 35 yr. 1 mo.
345	28 yr. 9 mo.	21 yr. 5 mo. - 35 yr. 3 mo.
346	28 yr. 10 mo.	21 yr. 6 mo. - 35 yr. 4 mo.
347	28 yr. 11 mo.	21 yr. 7 mo. - 35 yr. 5 mo.
348	29 yr. 0 mo.	21 yr. 7 mo. - 35 yr. 6 mo.
349	29 yr. 1 mo.	21 yr. 8 mo. - 35 yr. 8 mo.
350	29 yr. 2 mo.	21 yr. 9 mo. - 35 yr. 9 mo.
351	29 yr. 3 mo.	21 yr. 10 mo. - 35 yr. 10 mo.
352	29 yr. 4 mo.	21 yr. 10 mo. - 35 yr. 11 mo.
353	29 yr. 5 mo.	21 yr. 11 mo. - 36 yr. 1 mo.
354	29 yr. 6 mo.	22 yr. 0 mo. - 36 yr. 2 mo.
355	29 yr. 7 mo.	22 yr. 1 mo. - 36 yr. 3 mo.
356	29 yr. 8 mo.	22 yr. 1 mo. - 36 yr. 4 mo.
357	29 yr. 9 mo.	22 yr. 2 mo. - 36 yr. 5 mo.
358	29 yr. 10 mo.	22 yr. 3 mo. - 36 yr. 7 mo.
359	29 yr. 11 mo.	22 yr. 4 mo. - 36 yr. 8 mo.
360	30 yr. 0 mo.	22 yr. 4 mo. - 36 yr. 9 mo.
361	30 yr. 1 mo.	22 yr. 5 mo. - 36 yr. 10 mo.
362	30 yr. 2 mo.	22 yr. 6 mo. - 37 yr. 0 mo.
363	30 yr. 3 mo.	22 yr. 7 mo. - 37 yr. 1 mo.
364	30 yr. 4 mo.	22 yr. 7 mo. - 37 yr. 2 mo.
365	30 yr. 5 mo.	22 yr. 8 mo. - 37 yr. 3 mo.
366	30 yr. 6 mo.	22 yr. 9 mo. - 37 yr. 4 mo.
367	30 yr. 7 mo.	22 yr. 10 mo. - 37 yr. 6 mo.
368	30 yr. 8 mo.	22 yr. 10 mo. - 37 yr. 7 mo.
369	30 yr. 9 mo.	22 yr. 11 mo. - 37 yr. 8 mo.
370	30 yr. 10 mo.	23 yr. 0 mo. - 37 yr. 9 mo.
371	30 yr. 11 mo.	23 yr. 1 mo. - 37 yr. 11 mo.
372	31 yr. 0 mo.	23 yr. 1 mo. - 38 yr. 0 mo.
373	31 yr. 1 mo.	23 yr. 2 mo. - 38 yr. 1 mo.
374	31 yr. 2 mo.	23 yr. 3 mo. - 38 yr. 2 mo.

◆ Drug/Schedule I/II • Section C Recommendation Table

Score	Sentence Range		Sentence Range	
	Midpoint			
375	31 yr.	3 mo.	23 yr.	4 mo. - 38 yr. 4 mo.
376	31 yr.	4 mo.	23 yr.	4 mo. - 38 yr. 5 mo.
377	31 yr.	5 mo.	23 yr.	5 mo. - 38 yr. 6 mo.
378	31 yr.	6 mo.	23 yr.	6 mo. - 38 yr. 7 mo.
379	31 yr.	7 mo.	23 yr.	6 mo. - 38 yr. 8 mo.
380	31 yr.	8 mo.	23 yr.	7 mo. - 38 yr. 10 mo.
381	31 yr.	9 mo.	23 yr.	8 mo. - 38 yr. 11 mo.
382	31 yr.	10 mo.	23 yr.	9 mo. - 39 yr. 0 mo.
383	31 yr.	11 mo.	23 yr.	9 mo. - 39 yr. 1 mo.
384	32 yr.	0 mo.	23 yr.	10 mo. - 39 yr. 3 mo.
385	32 yr.	1 mo.	23 yr.	11 mo. - 39 yr. 4 mo.
386	32 yr.	2 mo.	24 yr.	0 mo. - 39 yr. 5 mo.
387	32 yr.	3 mo.	24 yr.	0 mo. - 39 yr. 6 mo.
388	32 yr.	4 mo.	24 yr.	1 mo. - 39 yr. 7 mo.
389	32 yr.	5 mo.	24 yr.	2 mo. - 39 yr. 9 mo.
390	32 yr.	6 mo.	24 yr.	3 mo. - 39 yr. 10 mo.
391	32 yr.	7 mo.	24 yr.	3 mo. - 39 yr. 11 mo.
392	32 yr.	8 mo.	24 yr.	4 mo. - 40 yr. 0 mo.
393	32 yr.	9 mo.	24 yr.	5 mo. - 40 yr. 2 mo.
394	32 yr.	10 mo.	24 yr.	6 mo. - 40 yr. 3 mo.
395	32 yr.	11 mo.	24 yr.	6 mo. - 40 yr. 4 mo.
396	33 yr.	0 mo.	24 yr.	7 mo. - 40 yr. 5 mo.
397	33 yr.	1 mo.	24 yr.	8 mo. - 40 yr. 6 mo.
398	33 yr.	2 mo.	24 yr.	9 mo. - 40 yr. 8 mo.
399	33 yr.	3 mo.	24 yr.	9 mo. - 40 yr. 9 mo.
400	33 yr.	4 mo.	24 yr.	10 mo. - 40 yr. 10 mo.

Appendix G
Regional Composition

Appendix G

Regions Used in Regression and Cost Analysis

Region 1: Circuits 1,2,3,4,5,7,8,9

Region 2: Circuits 17,18,19,20,31

Region 3: Circuits 6,11,12,13,14,15

Region 4: Circuits 27,28,29,30

Region 5: Circuits 10,21,22,23,24

Region 6: Circuits 16,25,26