

Criminal Sentencing  
By Albert C. Pollard, Jr.  
April 26, 2010

Now that the General Assembly (and a rather uneventful Reconvened Session) is behind me, it is a good time to catch up on my personal business, catch up on my actual business, spend time with the family, answer those really hard to get to letters, relax, and, oh yeah, read those reports which have been piling up in the box beside my desk.

One of those reports is the 2009 Annual Report of the Virginia Criminal Sentencing Commission. It has all kinds of information that is interesting – if you find arcane information interesting.

For instance, the 15<sup>th</sup> Judicial Circuit (which encompasses Fredericksburg region, the Northern Neck and much of the Middle Peninsula) has the highest caseload as a percentage of cases that are “received by the circuit”. However, it appears to have one of the lower percentages (75%) of compliance with the recommended sentencing guidelines.

This means the judge has opted to impose a sentence that is outside of the recommended guidelines. Keep in mind, however, that Virginia Code requires the judge to provide written reason for each instance they chose not to follow the sentencing guidelines. It is from these written statements that the Commission can determine if sentencing guidelines need to be changed.

Statewide, the compliance rate was highest for the crime of fraud and drug charges (85% and 84% compliant sentences, respectively) and lowest for murder and robbery (64% and 62% compliant, respectively).

Since 1986, there has been a declining trend of jury trials for felonies but the percent of felony convictions by jury has been going down. This is a trend that particularly started after Virginia’s truth in sentencing laws kick in. This leads the reader to believe that the tougher sentences imposed in 1994 led more criminals to pick judges over juries.

In the back of this report is a handy guide that helps you figure out why there was judicial deviation from the guidelines. Looking at the table makes one think that plea agreements are popular for perpetrators of assault (93 of 224 sampled statewide) and with homicide (13 of 32 sampled statewide).

In some cases, assault again being prevalent, the victims request leniency for the criminal. And only rarely did the judge rule that the recommended guidelines seem too harsh.

In all, the report is a good window into sentencing trends in Virginia’s judicial system. All you need to do is to find time to read the report, [www.vcsc.virginia.gov/2009AnnualReport.pdf](http://www.vcsc.virginia.gov/2009AnnualReport.pdf).

###