Use of Closed-Circuit Television in Virginia Courtrooms

1994-2003

Department of Criminal Justice Services

Introduction

The History of Closed-Circuit Television in Virginia

In 1988 the Virginia General Assembly enacted legislation permitting the use of two-way, closed-circuit testimony in child abuse cases. The Department of Criminal Justice Services (DCJS), conducted an assessment of the use of closed-circuit television in 1992–1993, to determine whether the technology was being used. The assessment revealed that most of the professionals surveyed were aware of the closed-circuit television statute but had not utilized it. At the time, no service was in place making the equipment available to localities that requested it. Between 1988 and 1993, there were only six instances in which closed-circuit testimony was used. The primary reasons for non-use were that the respondent did not have an appropriate case; the technology was not available; or the respondent was not aware of the statute. In two of the six instances in which closed-circuit equipment was used, the Virginia Department of State Police (Virginia State Police) provided the equipment and technical assistance to local jurisdictions.

In October 1993, the Commonwealth of Virginia received funding from the Federal Bureau of Justice Assistance (BJA) for DCJS and the Virginia State Police to expand the use of closed-circuit testimony by child abuse victims. Under the grant, three mobile closed-circuit television units were purchased; an informational brochure and protocol for the use of closed-circuit testimony were developed; and training on the use of the equipment was provided to criminal justice professionals. The program was implemented in May of 1994, and there were 17 requests for the equipment by the end of that year. The Virginia State Police house and maintain the equipment and continue to respond to requests for this service. In 1997, another BJA grant was used to purchase fiber optic equipment to upgrade the three mobile systems and purchase replacement components. In 2004, additional BJA funding was used for equipment upgrades.

In an effort to evaluate the use of this technology in the Commonwealth of Virginia, the Virginia State Police special agents complete a survey form on each request and installation of the equipment. The surveys are submitted to DCJS. This report does not represent a complete account of all requests. If a verbal inquiry was made and it was determined that the equipment was not available, no survey was completed on the verbal request. Nor does this report account for all uses of closed-circuit technology in Virginia because some localities have their own equipment and DCJS has no statistics on the use of locally owned equipment. This report contains a summary of information extracted from the surveys submitted to DCJS about the cases for which closed-circuit equipment was requested between May 1994 and December 2003.

I. Insights From Ten Years of Closed-Circuit Use

- Court preparation is important in all child witness cases and especially when using closed-circuit testimony. It is important to introduce the child to the judge in addition to seeing the courtroom where the child will testify. Allow time to familiarize the child with the equipment and technicians.

- It is important to contact the Virginia State Police as soon as the possibility arises that closed-circuit equipment will be needed, even if a formal request has not been made to the court. The Virginia State Police need as much advance notice as possible in order to schedule the equipment and technicians.

- The statute requires that the party seeking the order from the court allowing the use of closed-circuit testimony file a motion at least seven days in advance of criminal cases and two days in advance of a civil hearing. Prior to the installation of closed-circuit equipment, motion hearings for the determination for use of closed-circuit testimony should be completed.

- If a court hearing is cancelled or adjourned, the Virginia State Police should be notified as soon as possible, preferably at least 24 hours prior to

the court date. This will avoid unnecessary travel and installation time for the Virginia State Police special agents and allow for scheduling of other assignments.

- The Virginia State Police are eminently qualified to administer this program. The special agents who install the closed-circuit systems are knowledgeable, efficient, flexible and highly professional. Prosecutors appreciate the professionalism and service.

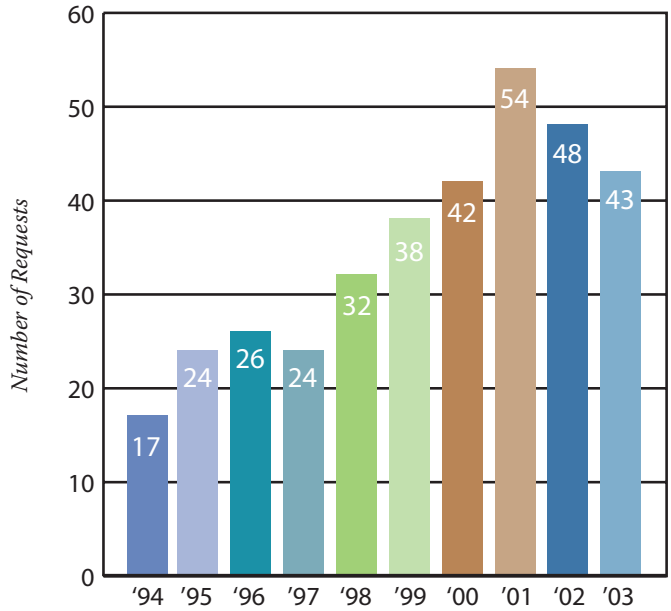
- A statutory change in 1999 increasing the age limit for use of closed-circuit television for victims from 12 and under to 14 and under at the time of the offense and less than 16 at the time of trial, as well as allowing the use of closed-circuit television for witnesses who are 14 and under at the time of trial, has resulted in greater access to justice and reduced trauma for adolescents.

II. General Case Information

In the first decade since assistance using closed-circuit technology has been provided through the collaboration between the Department of Criminal Justice Services and the Virginia State Police, there were 348 requests for the service.[1] A comparison of the number of requests from the first full year for which data are available (1995) and data from 2003 reveals that the number of requests doubled in that time. The increase in the number of requests has been incremental over time and is most likely attributed to increased awareness about the availability of closed-circuit equipment and the process for obtaining the service.

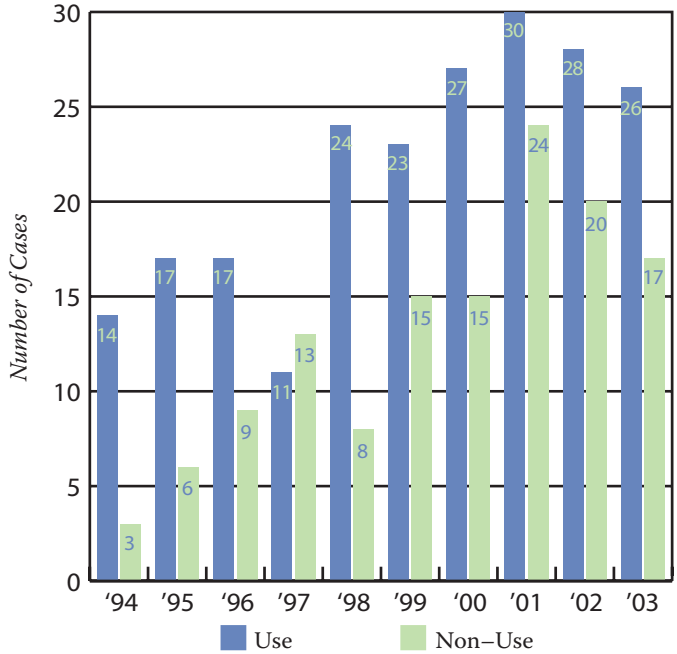
In July 2001, a legislative change to the criminal closed-circuit statute[2] permitting children age fourteen and under that witness a murder to testify via closed-circuit television took effect. Adding an entire category of cases (murder cases) in which closed-circuit testimony could be used increased the pool of cases for which the equipment can be requested. Since enactment of this law, there have been four requests for closed-circuit technology for a child witness to a murder. As more attorneys and victims services professionals become aware of the change to the statute, there may be more requests for closed-circuit television for these cases.

Requests for Closed-Circuit Equipment



Total: 348

Use of Closed-Circuit Equipment



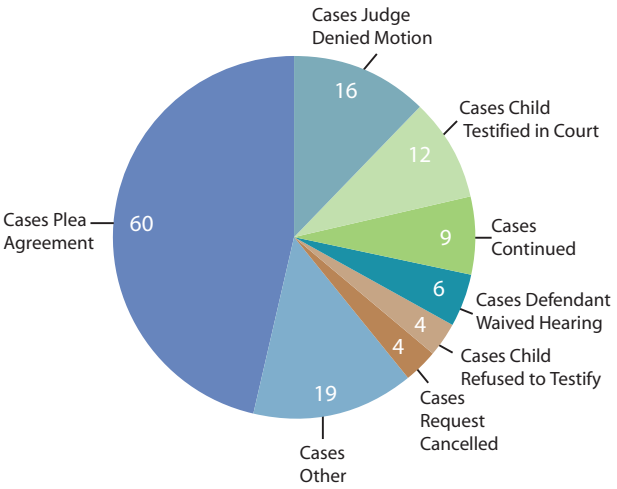
Total Use = 217 Total Non-Use = 130
Total Unreported = 1

[1] Information in this report is provided based on the calendar year. Data presented covers May 1994 through December 2003.

[2] *Virginia Code* §18.2–67.9.

While the equipment was requested 348 times over the ten year period, it was utilized only 217 times. In 130 cases the equipment was not used.[3] The most frequently reported reason for non-use was that the defendant entered a guilty plea.[4] Additional reasons for non-use included denial of motion by the judge (16 cases); the child was able to testify in court (12 cases); instances where the case was continued (9 cases); and other[5] reasons (19 cases).

Reasons for Non-Use



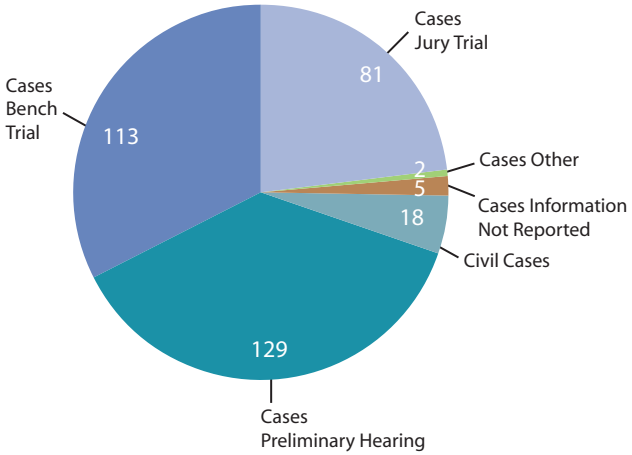
The requests for equipment are fairly evenly split between preliminary hearings and trials. It is a logical assertion based on typical case flow that some of the children who testify by closed-circuit television at a preliminary hearing, testify by closed-circuit television again when the case goes to trial. Thus, it is possible that some children are counted twice in the data, once for the preliminary hearing and again for the trial. While similarities in data on request forms suggest that this is true, the data reported do not uniquely identify the child, so it is impossible to know if one child is the subject of two requests.

[3] In one case there was no indication whether the equipment had been used or not.

[4] A guilty plea was entered in 46% of the cases for which closed-circuit equipment was requested, but not used.

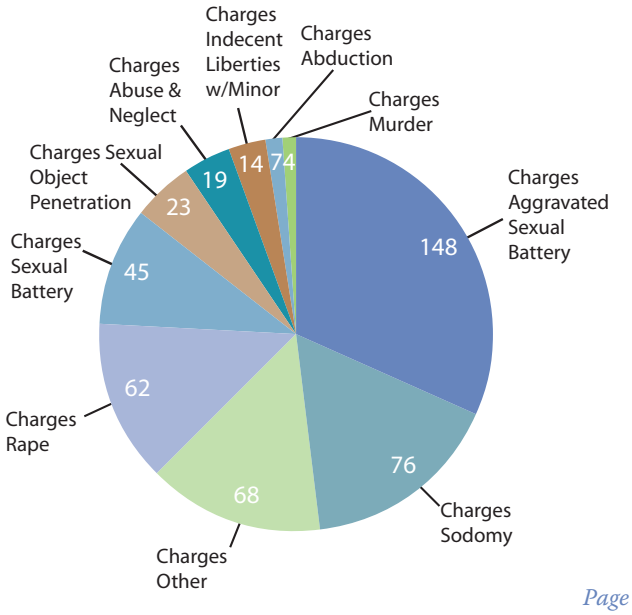
[5] Other reasons include cases where it was reported that the prosecutor moved to nolle prosequi the case or the defendant failed to appear or there was no reason reported.

Types of Cases



The most frequently reported charge was the felony offense, aggravated sexual battery. Many cases included multiple victims and multiple charges, thus the total number of reported charges (466) exceeds the number of requests (348) and the number of victims (415). The chart below depicts the number of charges for a reported offense. In some cases the charge was listed in general terms such as "fondling" or "sexual assault" rather than legal terms. These charges have been included in the "Other" category along with charges that were reported much less frequently, such as carnal knowledge.

Types of Charges

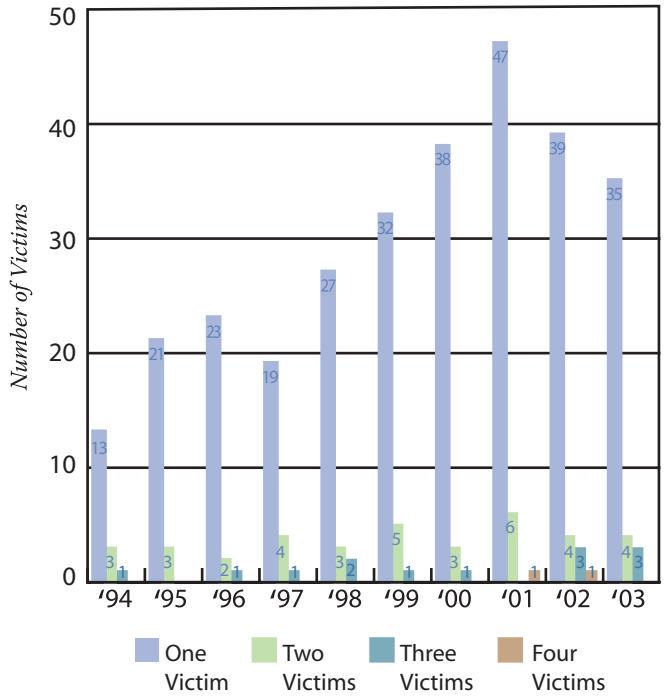


Overall, 79 jurisdictions were involved with the 348 requests for closed-circuit technology. Some localities use closed-circuit equipment repeatedly while other jurisdictions use it more sporadically. A map of jurisdictions that have made a request for closed-circuit equipment, for which DCJS received a survey, is included in Appendix A.

III. Child Specific Data

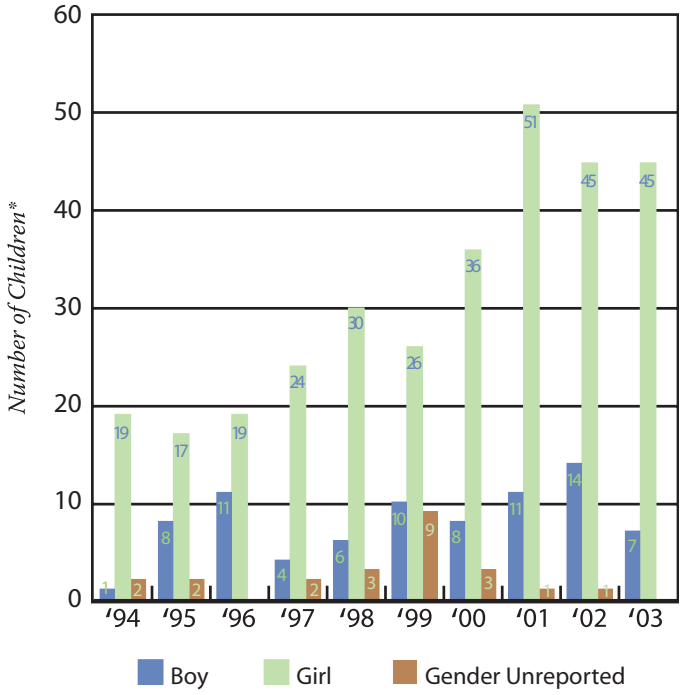
Four hundred and fifteen children were the subjects of closed-circuit equipment requests over the ten-year period. The number of children served per year has increased steadily since 1994, and is expected to increase more with time.

Number of Cases with Single and Multiple Victims



Excluding the 23 cases in which no gender information was reported, 80% of the requests for closed-circuit equipment involved female children. It is possible that there are culturally based reasons why use of closed circuit technology would be employed more often for girls. However, national data suggest that girls are at a much higher risk for the types of crimes for which closed-circuit television may be utilized.[6] Thus, it is likely that girls are receiving the benefits of the technology more because they are victimized more.

Gender of Victims



**This graph may contain some duplication. For example, if the equipment was requested for a child for a preliminary hearing and later for trial, each request would be separate, and counted separately. If we could determine that one child was the subject of both requests, the child was only counted once.*

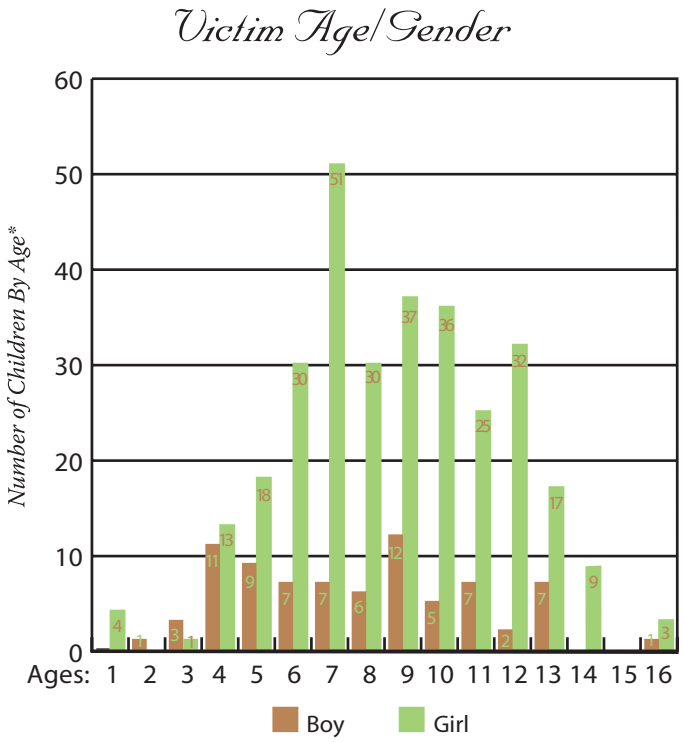
Information related to the child's age was provided in 384 instances. There were 20 cases where no information related to the child's age or gender was reported.

Closed-circuit equipment is being used in cases involving children as young as one year old, up to 16. Comparing data on boys and girls over the ten-year period, it seems that seven-year-old girls are the benefactors of the closed-circuit equipment more than girls of other ages or boys.

The equipment does not seem to be requested as often for teenage children. Part of the reason for this is that until a 1999 change to the *Code of Virginia*, victims

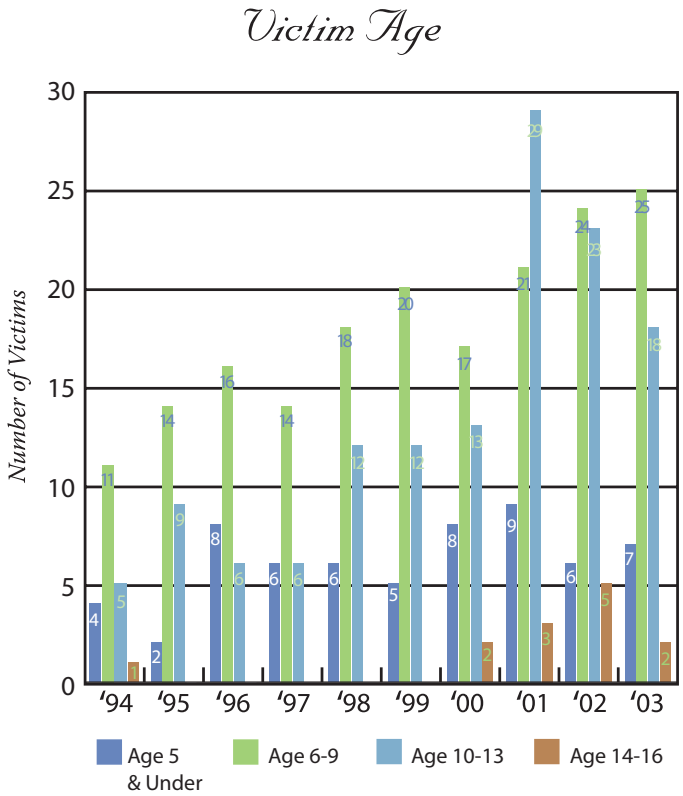
[6] The rate for sexual abuse rate was 1.7 victims per 1,000 female children compared to 0.4 victims per 1,000 male children. Child Maltreatment 2000, Chapter 1, p.4.

over the age of 14 could not receive the benefit of closed-circuit equipment. Since the code change, closed-circuit equipment has only been used for children over 14 in four cases. While some older children are mature enough to testify in open court without much difficulty, there are certainly cases with particularly egregious circumstances or particularly sensitive adolescents where children can benefit from the service.



**There were six cases where the child was identified as a female and two where the child was identified as a male, where no age information was provided. There were three cases where the child's age was provided but no gender information was given. These 11 cases, along with the 20 cases excluding age and gender, have been excluded from the chart titled "Victim Age/Gender."*

When the data are reviewed on an annual basis, bundling the ages into ranges, an interesting pattern emerges. Children age six to nine are consistently the most frequent subjects for whom use of closed-circuit technology is sought, with the exception of 2001, where the equipment was requested more for 10 to 13 year olds.

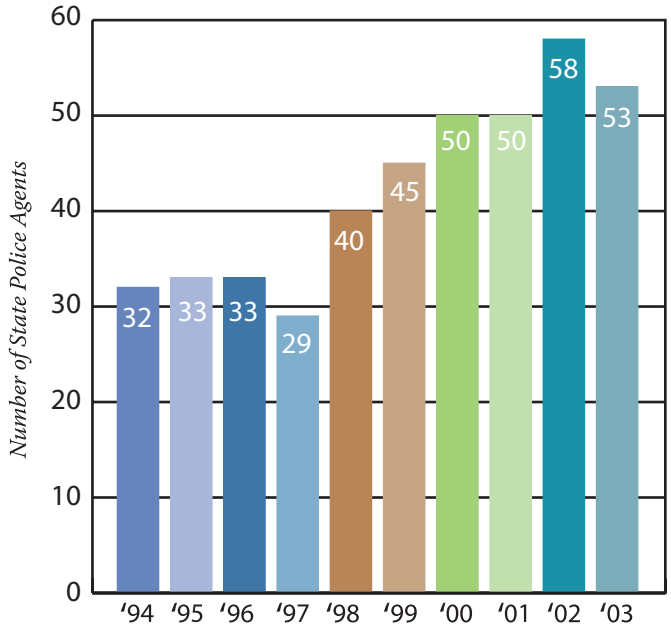


IV. Operational Statistics

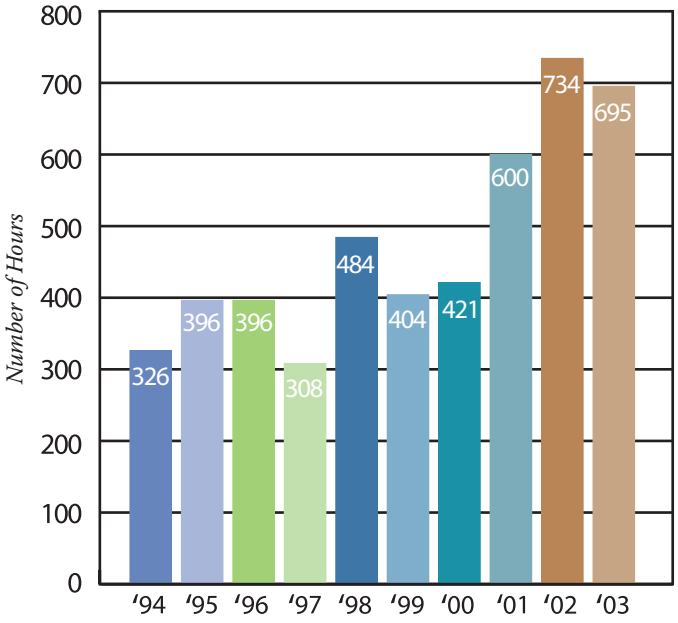
The Virginia State Police have provided the onsite technical assistance and service necessary to enable the use of closed-circuit technology pursuant to the statute. While we are unable to measure the trauma these professionals have spared children, we can measure the effort they put into each case to some degree. Some requests require two Virginia State Police special agents to install the equipment and provide technical assistance, while others require only one. As the number of requests increases, the number of special agents needed to fulfill the requests increases.

Likewise, as the number of requests increases, so does the number of hours of manpower invested by the Virginia State Police. On average the Virginia State Police special agents spend 13 hours per case. This includes the time for set-up and breakdown of equipment, as well as travel. It does not include administrative time involved in calendaring cases.

Number of Agents



State Police Hours



This service is provided at no cost to the court, the prosecution or defense, on a first-come first-served basis.

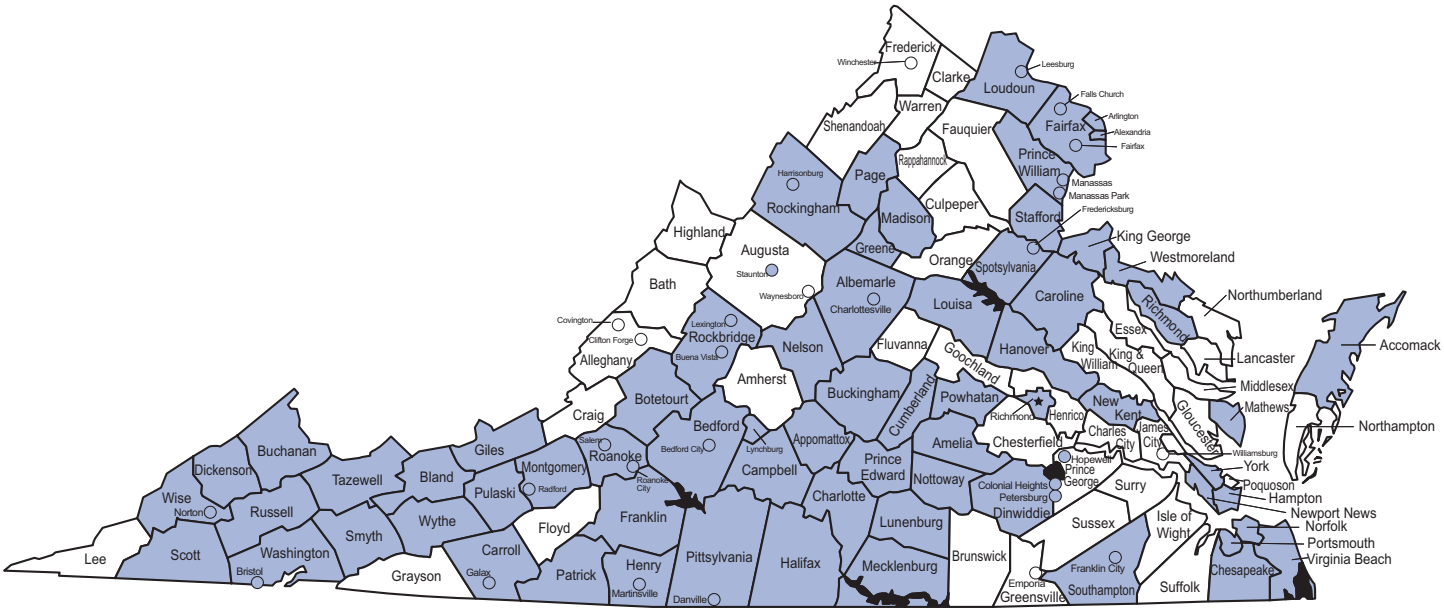
Requests for this service should be submitted in writing to: Department of State Police, Bureau of Criminal Investigations, Criminal Intelligence Division, P.O. Box 27472, Richmond, VA 23261. Requests can also be faxed to (804) 323-2021. Do not e-mail requests to the State Police.

Request forms are available on the Internet at: www.vsp.state.va.us/Forms/CCTrequest.pdf. A copy of this form is included in Appendix B.

Questions about this service may be directed to the Assistant Special Agent In-Charge of the Virginia State Police Technical Unit, at (804) 323-2027, or the Virginia Department of Criminal Justice Services, Juvenile Services Section, at (804) 371-0534.

Appendix A

Locality/Court Jurisdictions that have Requested Closed Circuit Court Equipment



Appendix B

Request for Use of Closed-Circuit Equipment

Request closed-circuit equipment by completing this form and submitting by mail or FAX to:

Virginia Department of State Police
Bureau of Criminal Investigations, Criminal Intelligence Division
P.O. Box 27472, Richmond, Virginia 23261
Phone: (804) 323-2027 • FAX: (804) 323-2021

Person Requesting Equipment

Name _____ Title _____

Address _____

_____

Phone _____ Fax _____

Signature *(required)* _____

Case Information

Locality/Jurisdiction _____ Date of Offense _____

Name of Case *State vs.* _____

Has a Motion been filed to use closed-circuit testimony? ☐ Yes ☐ No

Has it been approved? ☐ Yes ☐ No

Date _____ (please attach copy of the motion)

Type of court hearing (check all that apply)

☐ Preliminary Hearing Date/Time _____ ☐ Jury Trial Date/Time _____

☐ Bench Trial Date _____ ☐ Civil Child Protection Date _____

Installation Information

Note: Installation of equipment takes approximately 2 hours. Please provide the following information to aid in the installation process.

Location of the Courthouse _____

Courtroom Location or Room number _____

When will court room be available for installation? _____

Local contact person regarding scheduling and installation of equipment:

Name _____ Agency _____

Phone _____ Fax _____

Please direct questions about this service, cancellations, or rescheduling requests to:

Assistant Special Agent-in-Charge • Virginia State Police Technical Unit

(804) 323-2027