

UNIVERSITY OF VIRGINIA
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POLICY

CIVIL COMMITMENT HEARINGS IN FY 2012:
DISTRICT COURT VARIATIONS

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Introduction

In previous reports, the Commission on Mental Health Law Reform called attention to the startling variations in disposition of civil commitment hearings among the Commonwealth's district courts. The initial findings documenting these variations were presented in the Commission's report on Civil Commitment hearings conducted during May, 2007. That report can be found at

http://www.courts.state.va.us/programs/cmh/2007_05_civil_commitment_hearings.pdf.

After the first wave of commitment law reforms enacted by the General Assembly went into force on July 1, 2008, the Supreme Court began collecting data on the dispositions of civil commitment hearings as part of its Case Management System. During FY 2009, the Commission's research staff worked closely with the Office of the Executive Secretary of the Supreme Court to monitor the coding and reporting of disposition data by the district court clerks and to assure that the reported data are accurately interpreted. The Commission relied on these data in its progress reports on mental health law reform until it expired at the bend of FY 2011.

The Commission previously prepared public reports on the subject of variations in the disposition of commitment hearings for FY 2010 and 2011. This report addresses variations in the disposition of commitment hearings for FY 2012. It has been prepared by the Institute of Law, Psychiatry and Public Policy of the University of Virginia under a contract with the Virginia Department of Behavioral Health and Developmental Services.

The data presented below pertain only to hearings involving adult respondents not already under a commitment order or in penal confinement at the time of the hearing. (In other words, the data exclude recommitment hearings as well as cases involving juveniles or persons in jail.) We refer to these hearings as "initial commitment hearings."

Summary of Findings

There were a total of 20,239 initial commitment hearings conducted during FY 2012 (5,314 in the first quarter; 4,755 in the second quarter; 5,115 in the third quarter; and 5,055 in the fourth quarter). Statewide, 16.45% of these hearings resulted in dismissal, 60.84% resulted in involuntary commitment to a hospital, 22.45% resulted in an agreement for the respondent to remain in the hospital voluntarily, and less than 0.5% resulted in mandatory outpatient treatment orders. The data displayed below present the dispositional rates for the 35 district courts that conducted at least 100 hearings during the four quarters. (See Appendices A and B for tables and charts showing hearing dispositions for district courts with at least 100 hearings.)

Rate of Dismissal

As indicated, commitment petitions were dismissed in 16.45% of the hearings conducted throughout the Commonwealth during FY 2012. However, there were significant variations in dismissal rates among the district courts, including three district courts where the dismissal rate was more than twice the state average (See Table 1). Conversely, there were twelve district

courts where the dismissal rate was less than 5%, including four districts with no dismissals. (See Table 2.)

Table 1: District Courts with Dismissal Rates More Than Twice State Average (Initial Hearings Only)

	Total Hearings	Dismissals	
		Count	%
Fredericksburg	592	347	58.6
Montgomery (Christiansburg)	1013	470	46.4
Charlottesville	370	153	41.4

Table 2: District Courts with Dismissal Rates Less Than 5% (Initial Hearings Only)

	Total Hearings	Dismissals	
		Count	%
Dinwiddie	215	0	0.0
Mecklenburg	155	0	0.0
Smyth	946	0	0.0
Danville	483	0	0.0
Virginia Beach	1125	4	0.4
Hanover	103	1	1.0
Roanoke City	730	8	1.1
Norfolk	382	8	2.1
Roanoke County	135	3	2.2
Salem	981	23	2.3
Loudoun	175	5	2.9
Staunton	135	4	3.0

Rate of Involuntary Commitment

Involuntary admission to a mental health facility (also called involuntary commitment) was ordered in 60.84% of all the initial hearings across the Commonwealth. However, there were significant variations in the involuntary commitment rate among the district courts. As shown in Table 3 and Table 4, eleven district courts had involuntary commitment rates higher than 70% and nine had rates lower than 35%. In one district, all 215 of 215 respondents were committed involuntarily.

Table 3: District Courts with Involuntary Commitment Rates Greater Than 70% (Initial Hearings Only)

	Total Hearings	Involuntary Commitments	
		Count	%
Dinwiddie	215	215	100.0
Smyth	946	897	94.8
Roanoke County	135	127	94.1
Staunton	135	126	93.3
Hanover	103	92	89.3
Hopewell	479	411	85.8
Petersburg	1100	890	80.9
Virginia Beach	1125	906	80.5
Richmond City	2323	1784	76.8
Roanoke City	730	532	72.9
Salem	981	712	72.6

Table 4: District Courts with Involuntary Commitment Rates Less Than 35% (Initial Hearings Only)

	Total Hearings	Involuntary Commitments	
		Count	%
Winchester	210	28	13.3
Montgomery (Christiansburg)	1013	191	18.9
Russell	252	57	22.6
Mecklenburg	155	38	24.5
Fredericksburg	592	155	26.2
Fairfax County	757	202	26.7
Galax	123	36	29.3
Prince William	548	165	30.1
Arlington	321	110	34.3

Rate of Mandatory Outpatient Treatment

There are two types of mandatory outpatient treatment (MOT) authorized by the Virginia Code. The first type is a “*direct*” MOT order. This type of order is used for a person who is not under a commitment order at the time of the hearing and *the MOT order is issued as a “less restrictive alternative” for a person who meets in criteria for involuntary admission at the time of the hearing.* The second type of MOT order is called a “*step down*” MOT order. This type of procedure, which went into effect in FY 2011, *is used to allow a person to “step down” from an inpatient hospitalization order to an order for mandatory outpatient treatment.* A “step down” MOT order is accomplished procedurally by entry of a dual order (usually at the time of the involuntary commitment hearing) whereby the special justice (i) enters an order for involuntary admission and simultaneously (ii) authorizes the physician in charge of the person’s treatment at the inpatient facility to discharge the individual to the responsible CSB under an MOT order. This can be accomplished without an additional judicial hearing if the physician concludes that the prescribed criteria have been met. Authority for a physician to authorize step down MOT can be conferred at the time of an initial commitment hearing (for a person not then under a commitment order) or at the time of a recommitment hearing.

There were only 51 direct MOT orders during FY12. Direct MOT orders were issued by only 13 district courts; however, almost half of the 51 MOT cases took place in a single jurisdiction (Prince William – 25). Districts with direct MOTs are shown in Table 5.

Table 5: District Courts with Direct MOT Dispositions (Initial Hearings Only)

	Total Hearings	MOT	
		Count	%
Prince William	548	25	4.6
Henrico	301	4	1.3
Rockingham/Harrisonburg	266	4	1.5
Charlottesville	370	3	0.8
Lynchburg	832	3	0.4
Staunton	135	3	2.2
Alexandria	210	2	1.0
Augusta	314	2	0.6
Bristol	509	1	0.2
Fairfax County	757	1	0.1
Montgomery (Christiansburg)	1013	1	0.1
Roanoke County	135	1	0.7
Smyth	946	1	0.1
State of Virginia	20239	51	0.3

The new “step-down” MOT procedure went into effect in FY11. There were 55 “step-down” MOTs in FY12. Staunton accounted for most of the step-down MOTs. (See Table 6.) Table 7 shows the district court numbers for FY09-FY12.

Table 6: Locality MOT Counts by Type, FY12 (CMS)

	MOT TYPE				Total
	Direct	"Step-Down"			
		New Hearing*	Discharge		
			Initial	Recommi ment	
Alexandria	2	0	0	0	2
Augusta	2	0	0	0	2
Bristol	1	0	0	0	1
Charlottesville	3	0	0	0	3
Danville	0	1	0	0	1
Fairfax County	1	0	0	0	1
Henrico	4	0	0	0	4
Lynchburg	3	0	3	0	6
Montgomery (Christiansburg)	1	0	0	0	1
Prince William	25	0	0	0	25
Roanoke County	1	0	0	0	1
Rockingham/Harrisonburg	4	0	0	0	4
Smyth	1	0	0	0	1
Staunton	3	4	3	44	54
State of Virginia	51	5	6	44	106

* This is a type of step-down MOT that has been used almost exclusively in Staunton, beginning even prior to enactment of the special procedures that went into effect in FY 2011. Under this legal model, a person under an inpatient order is committed to MOT at a recommitment hearing based on the standard civil commitment criteria without a two-step procedure. As can be seen, it appears to have been largely displaced by the two-step procedure for a discharge MOT

Table 7: Locality MOT Counts by Type, FY09 - FY12 (CMS)

	MOT TYPE				Total
	Direct	"Step-Down"			
		New Hearing*	Discharge		
			Initial	Recommitment	
Augusta	11	1	0	0	12
Carroll	1	0	0	0	1
Dickenson	1	0	0	0	1
Fairfax County	8	0	0	0	8
Fauquier	1	0	0	0	1
Gloucester	1	0	0	0	1
Henrico	5	0	0	0	5
Lancaster	0	1	0	0	1
Montgomery (Christiansburg)	4	0	0	0	4
Patrick	2	0	0	0	2
Prince William	78	0	0	0	78
Roanoke County	3	0	0	0	3
Rockingham/Harrisonburg	6	0	0	0	6
Russell	6	0	0	0	6
Smyth	15	0	0	0	15
Sussex	1	0	0	0	1
Washington	1	0	0	0	1
Wythe	1	0	0	0	1
Alexandria	4	0	0	0	4
Bristol	1	0	0	0	1
Charlottesville	5	0	0	0	5
Danville	4	2	0	0	6
Lynchburg	8	0	6	0	14
Martinsville	1	0	0	0	1
Richmond City	1	0	0	0	1
Roanoke City	4	0	0	0	4
Salem	4	0	0	0	4
Staunton	27	13	6	74	120
Williamsburg/James City County	1	0	0	0	1
State of Virginia	205	17	12	74	308

* This is a type of step-down MOT that has been used almost exclusively in Staunton, beginning even prior to enactment of the special procedures that went into effect in FY 2011. Under this legal model, a person under an inpatient order is committed to MOT at a recommitment hearing based on the standard civil commitment criteria without a two-step procedure. As can be seen, it appears to have been largely displaced by the two-step procedure for a discharge MOT

Rate of Voluntary Hospitalizations among Persons Hospitalized

Because there were so few MOT orders, cases that were not dismissed typically resulted in continued hospitalization after the TDO. In about 73% of these 16,858 cases, the respondents were placed under an involuntary commitment order, while the remaining 27% were allowed to agree to voluntary hospitalization. However, whether respondents were allowed to agree to voluntary hospitalization is another source of substantial variation among district courts. Among people who were hospitalized, certain districts were much more inclined to allow voluntary admission rather than issue a commitment order. In district courts with at least 100 hearings, the average rate for voluntary admissions among hospitalizations was about 27%. However, the voluntary admission rate was 50% or more in nine district courts and 10% or less in seven district courts. These districts are shown in Table 8 and Table 9.

Table 8: District Courts with Voluntary Admission Rates Greater Than 50% (Initial Hearings Only)

	Total Hearings	Hospitalizations		
		# of Hospitalizations	# Voluntary Hospitalizations	% Voluntary Hospitalizations
Winchester	210	171	143	83.6
Mecklenburg	155	155	117	75.5
Russell	252	218	161	73.9
Fairfax County	757	620	418	67.4
Montgomery (Christiansburg)	1013	542	351	64.8
Galax	123	95	59	62.1
Prince William	548	398	233	58.5
Arlington	321	238	128	53.8
Loudoun	175	170	89	52.4

Table 9: District Courts with Voluntary Admission Rates Less Than 10% (Initial Hearings Only)

	Total Hearings	Hospitalizations		
		# of Hospitalizations	# Voluntary Hospitalizations	% Voluntary Hospitalizations
Dinwiddie	215	215	0	0.0
Staunton	135	128	2	1.6
Roanoke County	135	131	4	3.1
Smyth	946	945	48	5.1
Hopewell	479	447	36	8.1
Petersburg	1100	985	95	9.6
Hanover	103	102	10	9.8

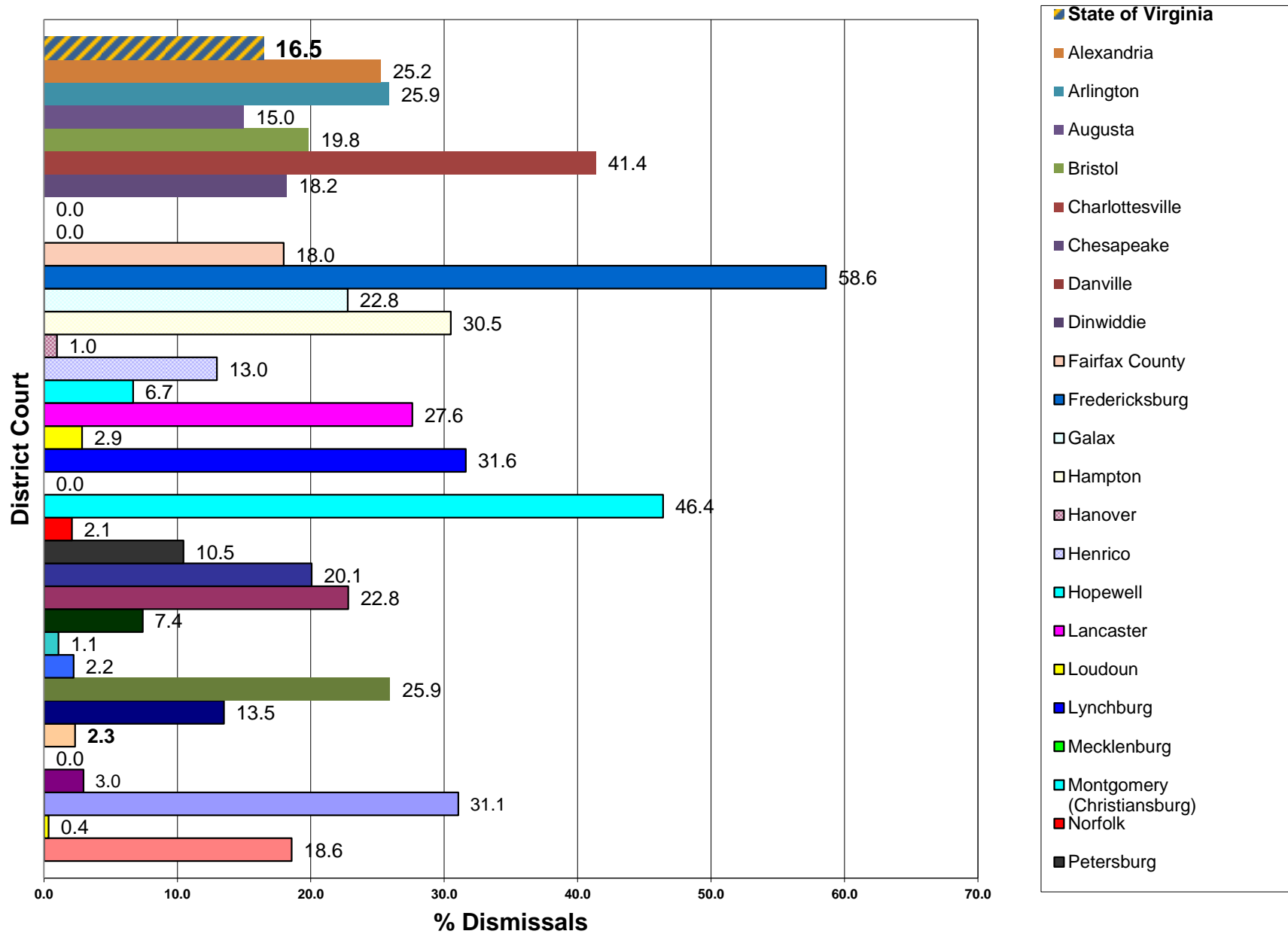
Appendix A: FY12 CMS Hearing Dispositions by District Court ($n \geq 100$)

District		Dismissals	Involuntary Commitments	Mandatory Outpatient	Voluntary Hospitalizations	Total
Arlington	Count	83	110	0	128	321
	% in FIPS	25.9%	34.3%	0.0%	39.9%	
Dinwiddie	Count	0	215	0	0	215
	% in FIPS	0.0%	100.0%	0.0%	0.0%	
Fairfax County	Count	136	202	1	418	757
	% in FIPS	18.0%	26.7%	0.1%	55.2%	
Hanover	Count	1	92	0	10	103
	% in FIPS	1.0%	89.3%	0.0%	9.7%	
Henrico	Count	39	209	4	49	301
	% in FIPS	13.0%	69.4%	1.3%	16.3%	
Lancaster	Count	45	103	0	15	163
	% in FIPS	27.6%	63.2%	0.0%	9.2%	
Loudoun	Count	5	81	0	89	175
	% in FIPS	2.9%	46.3%	0.0%	50.9%	
Mecklenburg	Count	0	38	0	117	155
	% in FIPS	0.0%	24.5%	0.0%	75.5%	
Montgomery (Christiansburg)	Count	470	191	1	351	1013
	% in FIPS	46.4%	18.9%	0.1%	34.6%	
Prince William	Count	125	165	25	233	548
	% in FIPS	22.8%	30.1%	4.6%	42.5%	
Roanoke County	Count	3	127	1	4	135
	% in FIPS	2.2%	94.1%	0.7%	3.0%	
Rockingham / Harrisonburg	Count	69	112	4	81	266
	% in FIPS	25.9%	42.1%	1.5%	30.5%	
Russell	Count	34	57	0	161	252
	% in FIPS	13.5%	22.6%	0.0%	63.9%	
Smyth	Count	0	897	1	48	946
	% in FIPS	0.0%	94.8%	0.1%	5.1%	
Alexandria	Count	53	103	2	52	210
	% in FIPS	25.2%	49.0%	1.0%	24.8%	
Bristol	Count	101	214	1	193	509
	% in FIPS	19.8%	42.0%	0.2%	37.9%	
Charlottesville	Count	153	180	3	34	370
	% in FIPS	41.4%	48.6%	0.8%	9.2%	
Chesapeake	Count	34	112	0	41	187
	% in FIPS	18.2%	59.9%	0.0%	21.9%	
Danville	Count	0	286	0	197	483

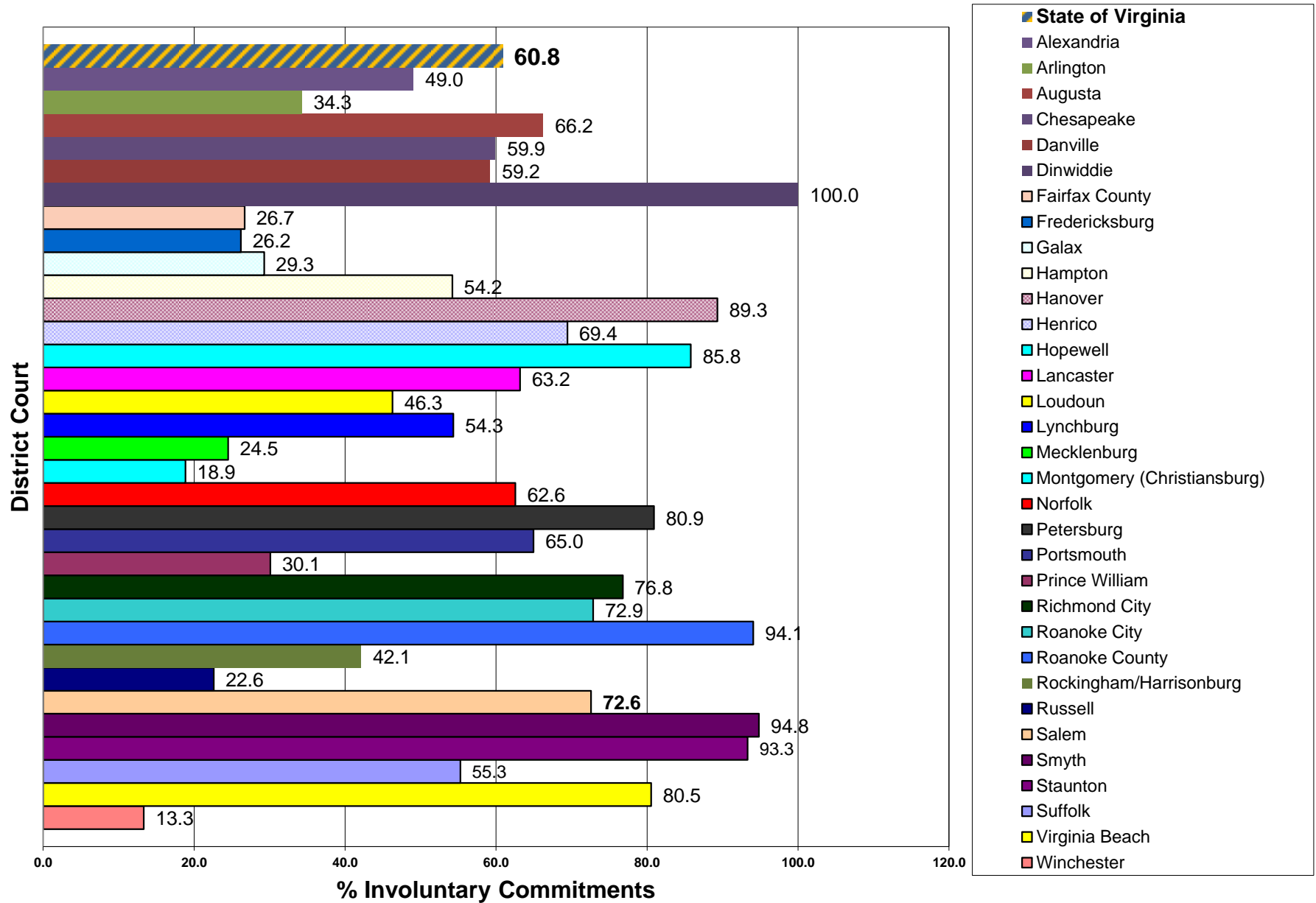
Appendix A: FY12 CMS Hearing Dispositions by District Court ($n \geq 100$)

District		Dismissals	Involuntary Commitments	Mandatory Outpatient	Voluntary Hospitalizations	Total
	% in FIPS	0.0%	59.2%	0.0%	40.8%	
Fredericksburg	Count	347	155	0	90	592
	% in FIPS	58.6%	26.2%	0.0%	15.2%	
Galax	Count	28	36	0	59	123
	% in FIPS	22.8%	29.3%	0.0%	48.0%	
Hampton	Count	390	693	0	196	1279
	% in FIPS	30.5%	54.2%	0.0%	15.3%	
Hopewell	Count	32	411	0	36	479
	% in FIPS	6.7%	85.8%	0.0%	7.5%	
Lynchburg	Count	263	452	3	114	832
	% in FIPS	31.6%	54.3%	0.4%	13.7%	
Norfolk	Count	8	239	0	135	382
	% in FIPS	2.1%	62.6%	0.0%	35.3%	
Petersburg	Count	115	890	0	95	1100
	% in FIPS	10.5%	80.9%	0.0%	8.6%	
Portsmouth	Count	340	1101	0	254	1695
	% in FIPS	20.1%	65.0%	0.0%	15.0%	
Richmond City	Count	172	1784	0	367	2323
	% in FIPS	7.4%	76.8%	0.0%	15.8%	
Roanoke City	Count	8	532	0	190	730
	% in FIPS	1.1%	72.9%	0.0%	26.0%	
Salem	Count	23	712	0	246	981
	% in FIPS	2.3%	72.6%	0.0%	25.1%	
Staunton	Count	4	126	3	2	135
	% in FIPS	3.0%	93.3%	2.2%	1.5%	
Suffolk	Count	50	89	0	22	161
	% in FIPS	31.1%	55.3%	0.0%	13.7%	
Virginia Beach	Count	4	906	0	215	1125
	% in FIPS	0.4%	80.5%	0.0%	19.1%	
Winchester	Count	39	28	0	143	210
	% in FIPS	18.6%	13.3%	0.0%	68.1%	
Augusta	Count	47	208	2	57	314
	% in FIPS	15.0%	66.2%	0.6%	18.2%	
State of Virginia	Count	3330	12314	51	4544	20239
	% in State	16.5%	60.8%	0.3%	22.5%	

District Courts Dismissal Rates at Initial Hearings in FY12



District Courts Involuntary Commitment Rates at Initial Hearings in FY12



Appendix B: Figures of FY 2012 District Court Variations

District Courts Voluntary Hospitalizations Rates Among Persons Hospitalized at Initial Hearings in FY12

