



VIRGINIA CRIMINAL SENTENCING COMMISSION



Probation Violation Guidelines Study Sample & DOC Data Agreement

June 5, 2019

Probation Violation Guidelines Study Sample & DOC Data Agreement

- **The Sample has Been Selected**
 - **4,000 Cases**
 - **2,000 New Law (Condition 1) Violators**
 - **2,000 Technical Violators**
 - **FY2014 - FY2018**
 - **In the Process of Requesting State Police Virginia Criminal Record Data**



Probation Violation Guidelines Study Sample & DOC Data Agreement

- **Department of Corrections Agreed to Provide Access to Violation Data (Late Summer):**
 - **Presentence Reports**
 - **Major Violation Reports**
 - **Drug and Mental Health Treatment Information**
 - **Arrest Dates and Dates Returned to Supervision**
 - **COMPAS Scores**
 - **Officer's Notes After Violation Submitted to the Court**





VIRGINIA CRIMINAL SENTENCING COMMISSION



Probation Violation Guidelines

Commonwealth's Attorneys, Probation Officers, and Defense Attorneys
Survey Results

June 5, 2019

Probation Violation Guidelines Survey of Probation Officers, Commonwealth's Attorneys, and Defense Attorneys Responses

- **The survey was sent to all 2,414 guidelines users and generic accounts in the VCSC database on April 25.**
 - **Reminder was sent on May 7.**
- **Users completed the survey online through Survey Monkey.**
- **Overall, 822 users responded to the survey.**
 - **Response rate was 34.1%. (Typical Response Rate)**
 - **Average completion time was 10 minutes.**
 - **Average completion rate was 89%.**



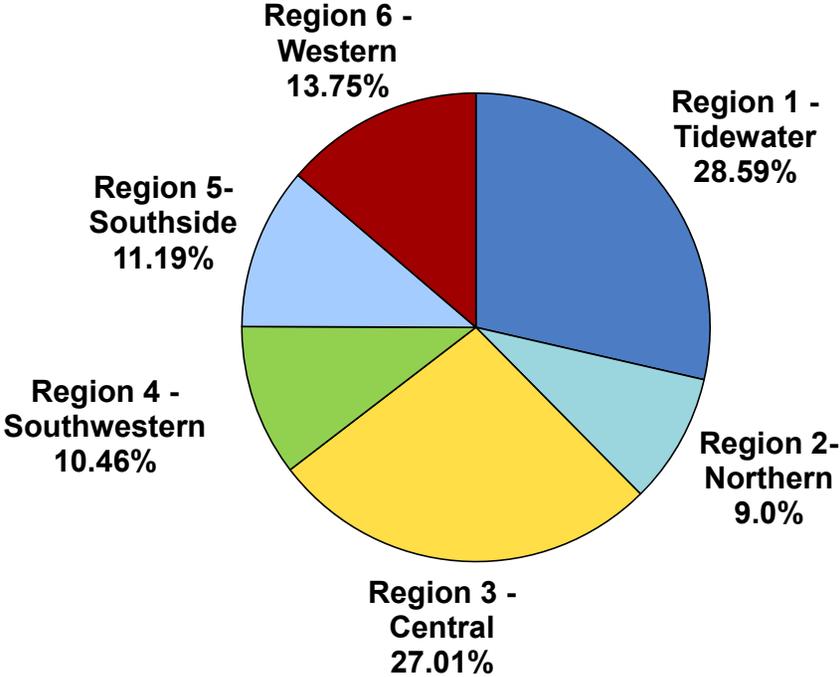


Commonwealth's Attorneys, Probation Officers
and Defense Attorneys

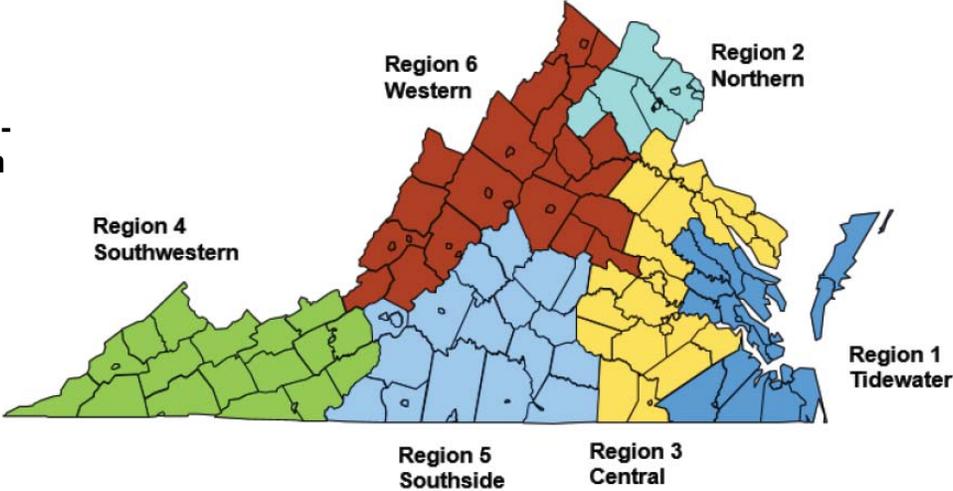
Survey Results

1: In which region are you located?

Answered: 822 Skipped: 0

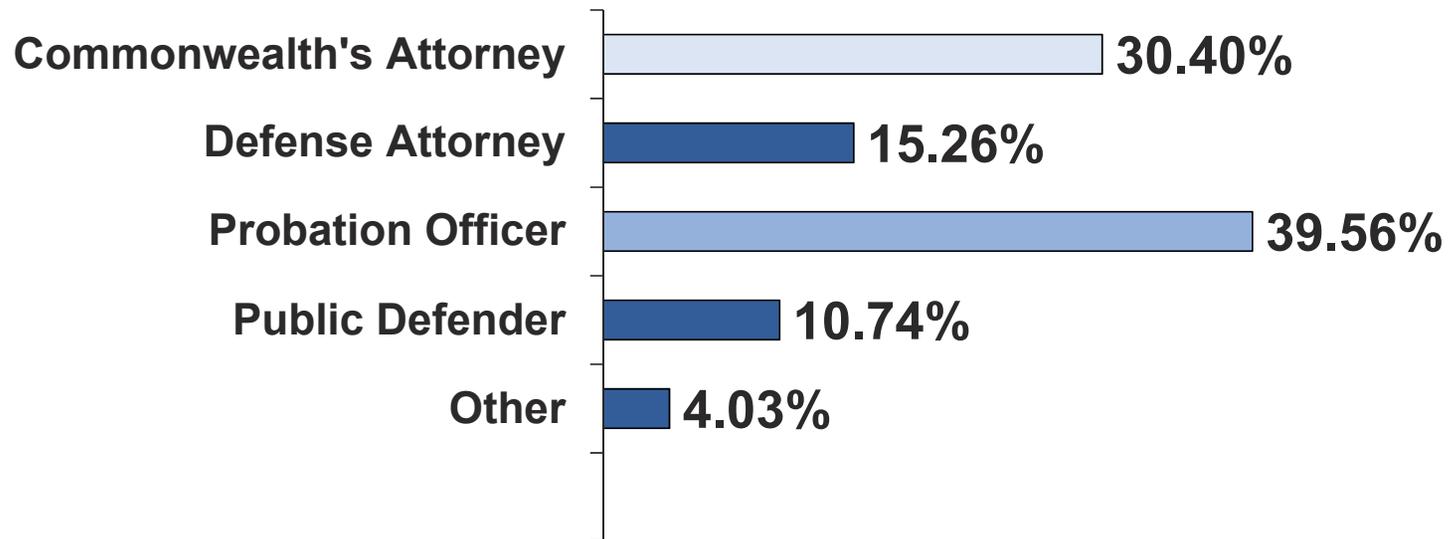


Similar to Judicial Survey, Except Northern Region is Underrepresented



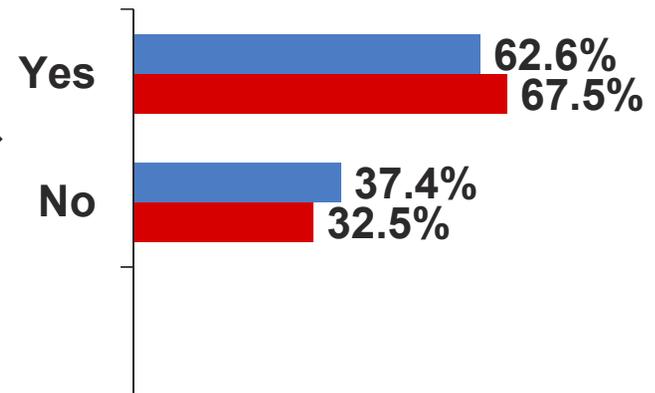
2: What is your job title?

Answered: 819 Skipped: 3



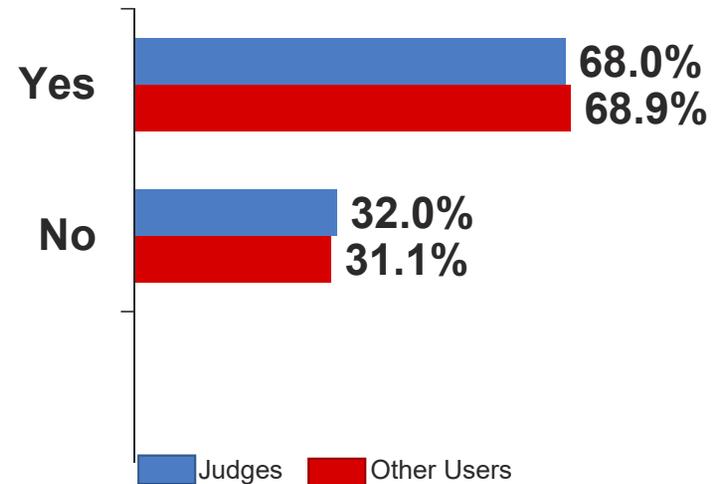
3: Does the jurisdiction in which you sit most often have a Public Defender Office?

Answered: 821 Skipped: 1



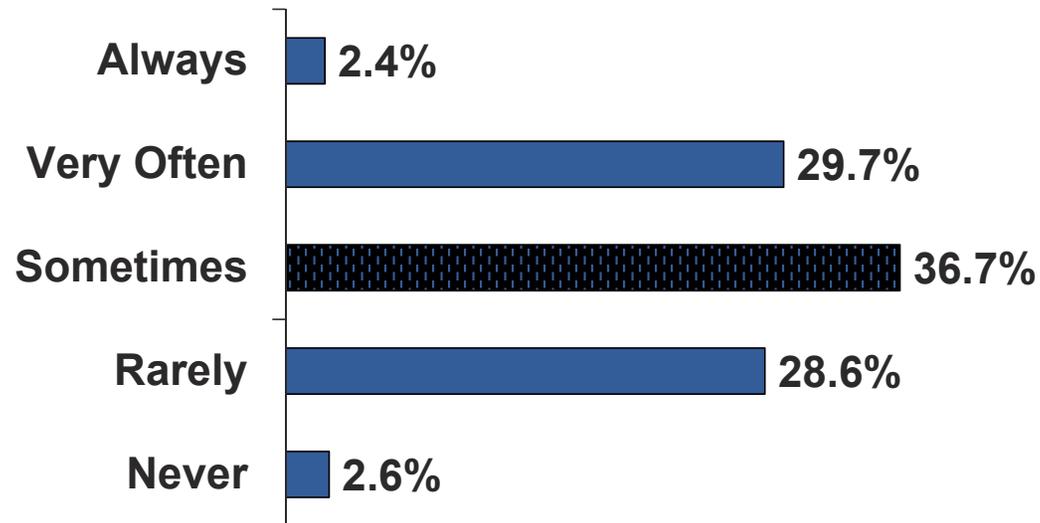
4: Does the jurisdiction in which you sit most often have a Drug Court program?

Answered: 820 Skipped: 2



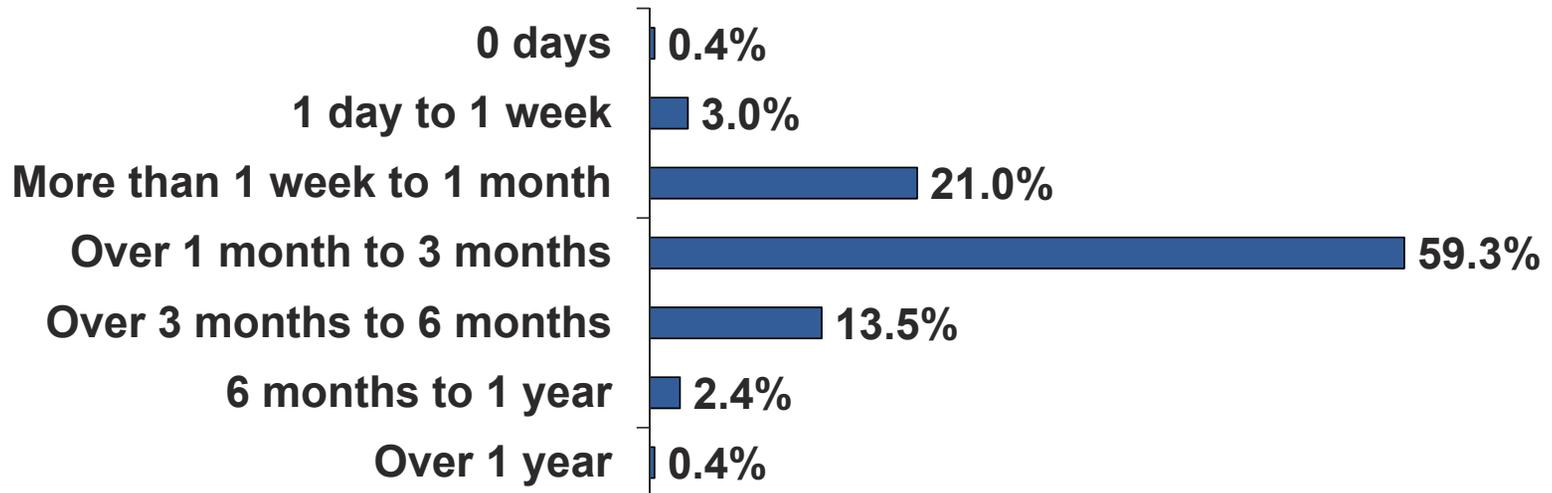
5: How often do you think probationers, in your primary jurisdiction, are released from pretrial confinement (e.g., personal recognizance, secured bond, or pretrial supervision) after being arrested for a probation violation?

Answered: 807 Skipped: 15



6: How long is the typical probation violator, not released from pretrial confinement, incarcerated from the time he or she is arrested on the PB15 or Probation Violation?

Answered: 799 Skipped: 23



7: In your opinion, do judges in your primary court view certain violations of probation, other than a new law violation, as more serious than others?

Answered: 806 Skipped: 16

Yes - Probation technical conditions are viewed at different seriousness levels



No - All technical conditions are viewed at the same seriousness level



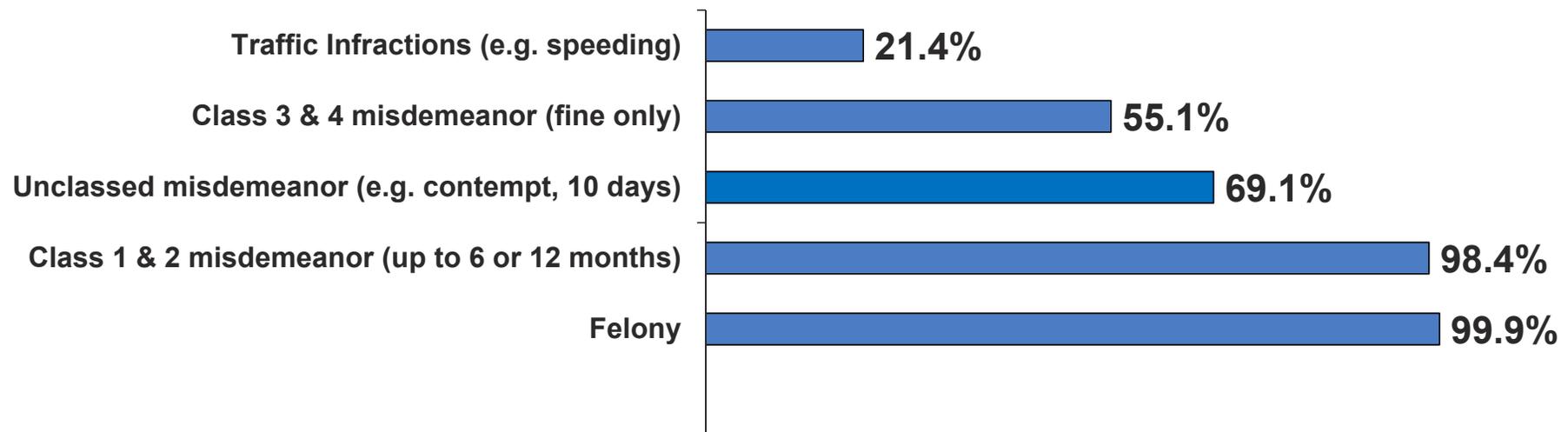
8: If you answered yes on the previous question, please rank the top condition of probation based on your opinion of what conditions the judges in your primary court view as the most serious technical violations (Anything other than Condition 1: New Law Violation). Answered: 646 Skipped: 176

Answer Choices	Frequency	Percent
Condition 11: Not abscond from supervision	353	54.9%
Condition 8: Not use, possess, distribute controlled substances	132	20.5%
Condition 13: Abide by special sex offender conditions	68	10.6%
Condition 9: Not use, own, possess, transport or carry a firearm	33	5.1%
Condition 6: Follow the Probation and Parole Officer's instructions	15	2.3%
Condition 12: Abide by special conditions	13	2.0%
Condition 2: Report any arrest to the Probation and Parole Officer	7	1.1%
Condition 4: Report to the Probation and Parole Officer as instructed	5	0.8%
Condition 3: Maintain regular employment	1	0.2%
Condition 10: Not change my residence or leave the state without permission	1	0.2%
Condition 5: Permit the Probation and Parole Officer to visit my home, etc.	0	0.0%
Condition 7: Not use alcoholic beverages in excess	0	0.0%



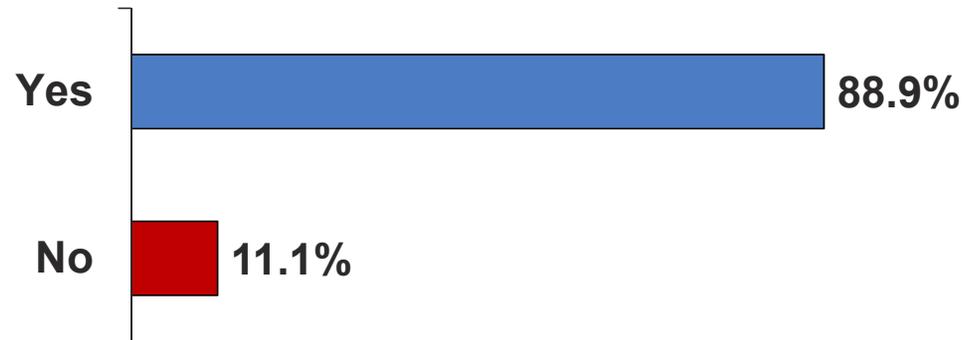
9: Do the judges in your primary court consider the following new convictions as a violation of Condition 1 (new law violation)?

Answered: 775 Skipped: 47



10: In your primary court, does the number of prior probation violations influence the length and type of sentence imposed for a probation violation?

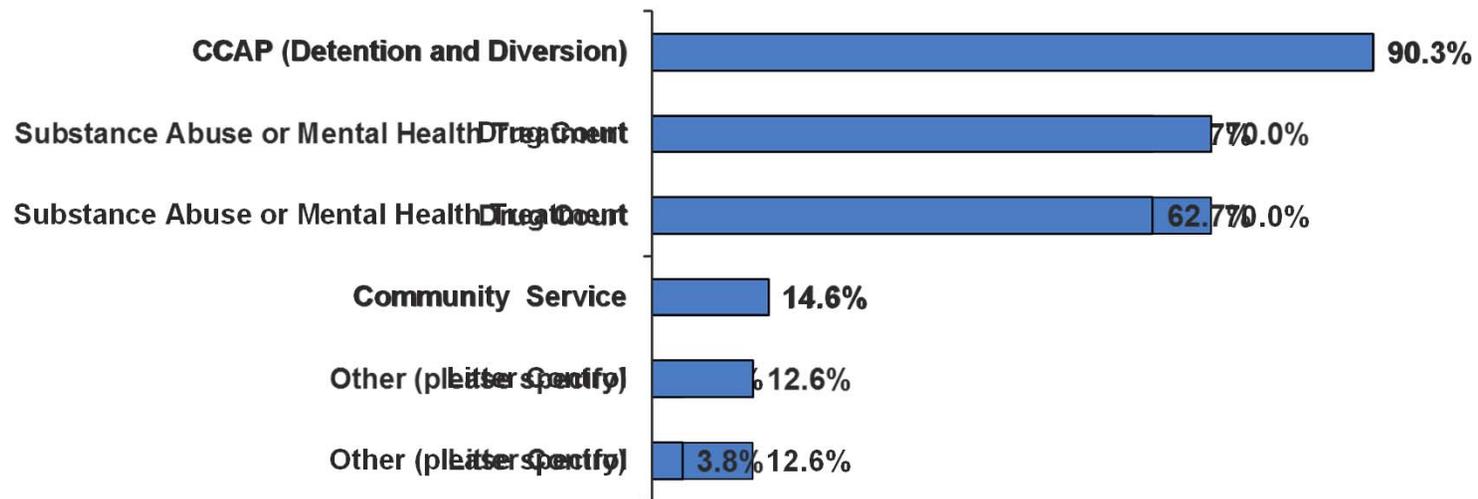
Answered: 784 Skipped: 38



11: What alternatives are used in your primary court in place of imposing a prison or jail sentence for probation violations?

(More than one alternative may have been identified and the total will not add to 100%)

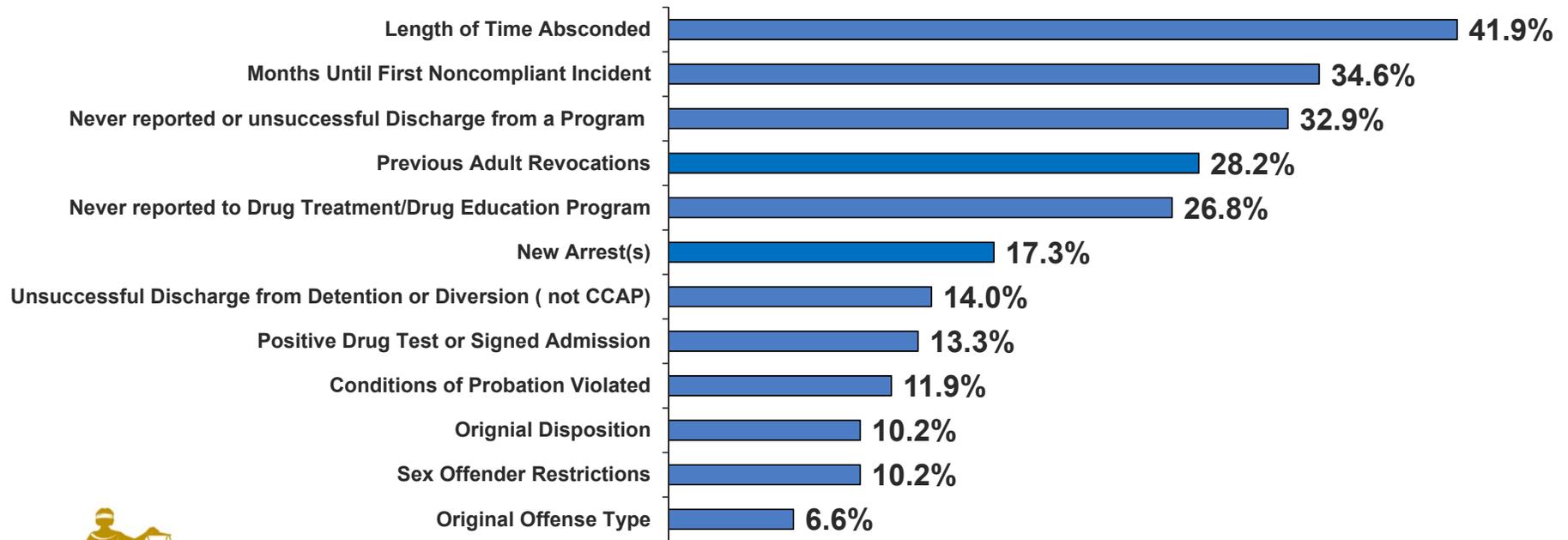
Answered: 713 Skipped: 109



12: Thinking about the current probation violations guidelines, are there any factors that are problematic to score accurately?

(More than one factor may have been identified and the total will not add to 100%)

Answered: 422 Skipped: 400



Please explain why any factor identified in Question 12 is difficult to score:
(240 Responses)

SELECTED RESPONSES SHOWN

 **Major Violation Report missing information**

- It is sometimes unclear what is considered the first “noncompliant incident”, as the majority of Offenders are noncompliant from the very beginning; however, it may not be something that is necessarily documented
- Absconding- it is hard to tell if that’s from the last report date, first missed, first missed without a confirmation phone call, date of report, etc.
- Previous revocations are difficult to score because we often don’t receive any information regarding the defendants’ criminal histories other than the history of the immediate case for which he/she is on probation
- Sex offender restrictions- there needs to be some type of differentiation between the sex offender restrictions. The severity of risk is greatly different from having prohibited contact with a minor or victim than risk level of violating their curfew. It would be great if the points assigned corresponded with the actual restriction violated.
- Never reported to a Drug Treatment, at times gets confusing, especially if they went, for an assessment, but just never followed through with that process

13: What other factors, not currently on the probation violation guidelines, should be on the probation violation guidelines?

Answered: 328 Skipped: 494

1. Substance or Mental Health Treatment (32)
2. Positive Behavior (24)
3. Amenable to Supervision (20)
4. Employment - Employed or Unemployed (20)
5. Same New Offense Conviction/Arrest (18)
6. Total Number of Probation Violations (15)
7. Length of Time on Supervision Before Violation (12)
8. Include Condition One (10)
9. Restitution (10)
10. Drug Type (9)
11. CCAP (7)
12. Number of Noncompliance Incidents (7)
13. Administrative Probation Issues (6)



14: What information is routinely provided to the judge in your primary court before or during the violation hearing?

(More than one source of information may have been identified and the total will not add to 100%)

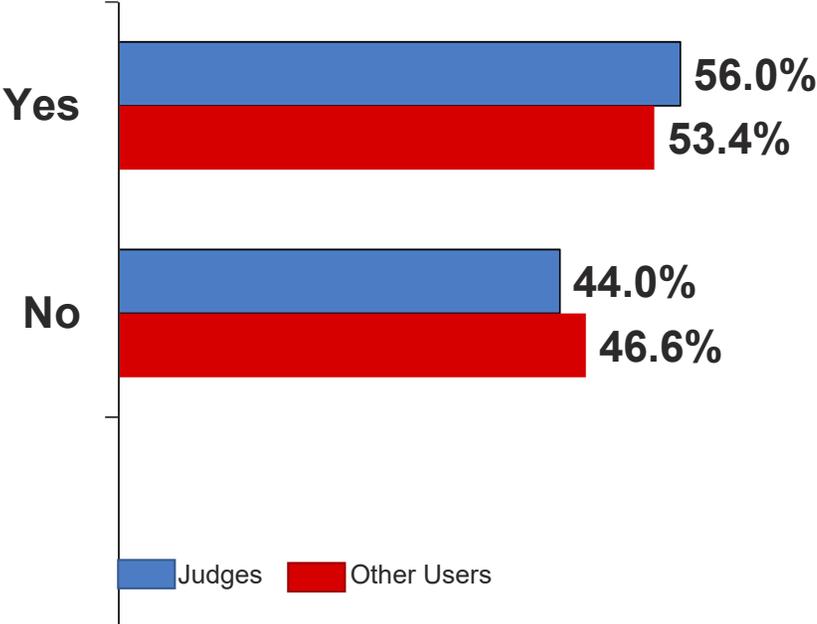
Answered: 747 Skipped: 75

Answer Choices	Judges	Other Users
Major Violation Report prepared by the Probation Officer	99.3%	97.5% ✓
Testimony from the probationer	89.7%	57.0%
Probation Violation Guidelines (for “technical” violators only)	88.3%	91.8%
Previous court records	73.1%	28.9% ✓
Testimony from the Probation Officer	62.1%	46.5%
Testimony from other parties	46.9%	N/A
COMPAS risk/needs assessment results	21.4%	4.0% ✓
Other (please specify)	17.2%	13.0%



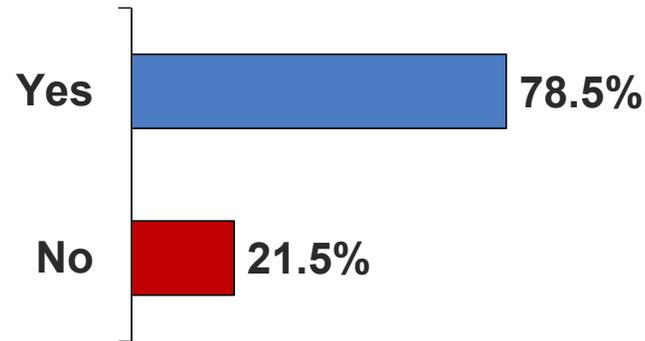
16: Does the amount of suspended time (revocable time) that the court may impose impact the effective sentence (active time) given for a violation?

Answered: 732 Skipped: 90



17: Does the availability of alternatives other than incarceration influence the type and length of sentence imposed for probation violations by the judge(s) in your primary court?

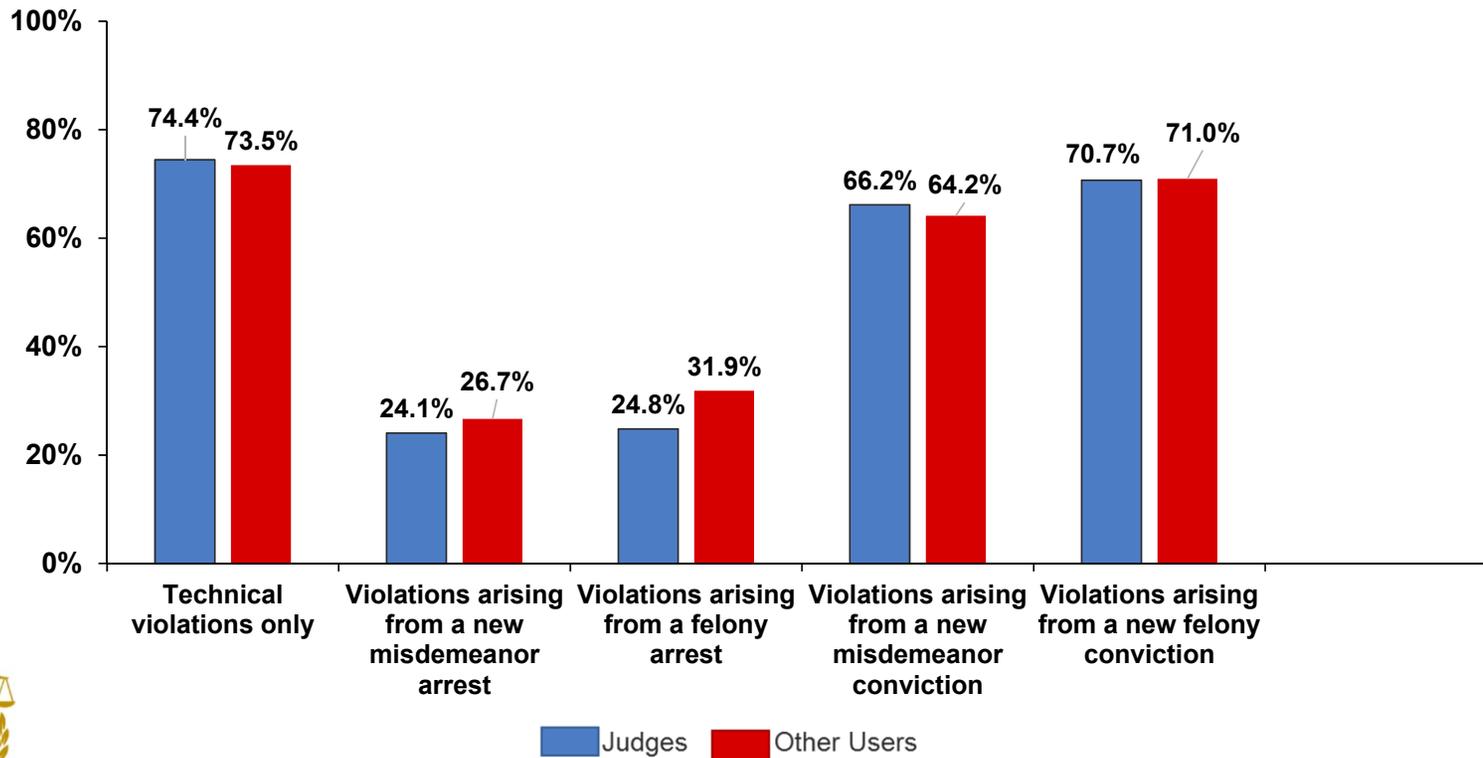
Answered: 721 Skipped: 101



18: In your opinion, in what circumstances should the probation violation guidelines apply?

(Please check all that apply)

Answered: 675 Skipped: 147



19: What do you think would make the probation violation guidelines more helpful?

Answered: 288 Skipped: 534

1. Make them for all circumstances (include new convictions) (45)
2. Base on type and degree of violation (e.g., drug use vs. sex offender violations) (26)
3. Eliminate them/they are not helpful (24)
4. If the court actually trusted and used the instrument (10)
5. Factor in positive behavior while on probation (e.g., number of negative urine screens) (9)
6. Make the ranges more similar to sentencing guidelines (8)
7. Include a risk assessment to determine who is amenable to probation (7)
8. Recommend some time for a violation (7)
9. Include drug treatment failures (6)
10. Define absconding and measure up to when located, not hearing date (6)
11. Do not score arrest (5)
12. Guidelines are fine as is (5)
13. Probation Officers do not have the information/knowledge to complete (5)
14. Other (e.g., unsure, CCAP, points, MVR, drug type, alternatives, etc.) (125)



Probation Violation Guidelines Survey of Probation Officers, Commonwealth's Attorneys, and Defense Attorneys Responses

■ Summary

- ✓ **Major Violation Report: A significant source of information for the judge is missing information needed to complete the PVG.**
- ✓ **Violations of Condition 1, new law convictions, need to be part of the PVG.**
- ✓ **Absconding should be clearly defined as from last known contact to the date the probationer is located, reported in person to the officer or arrested on the capias.**
- ✓ **Criminal history should be updated and included with the PVG submitted to the court.**

