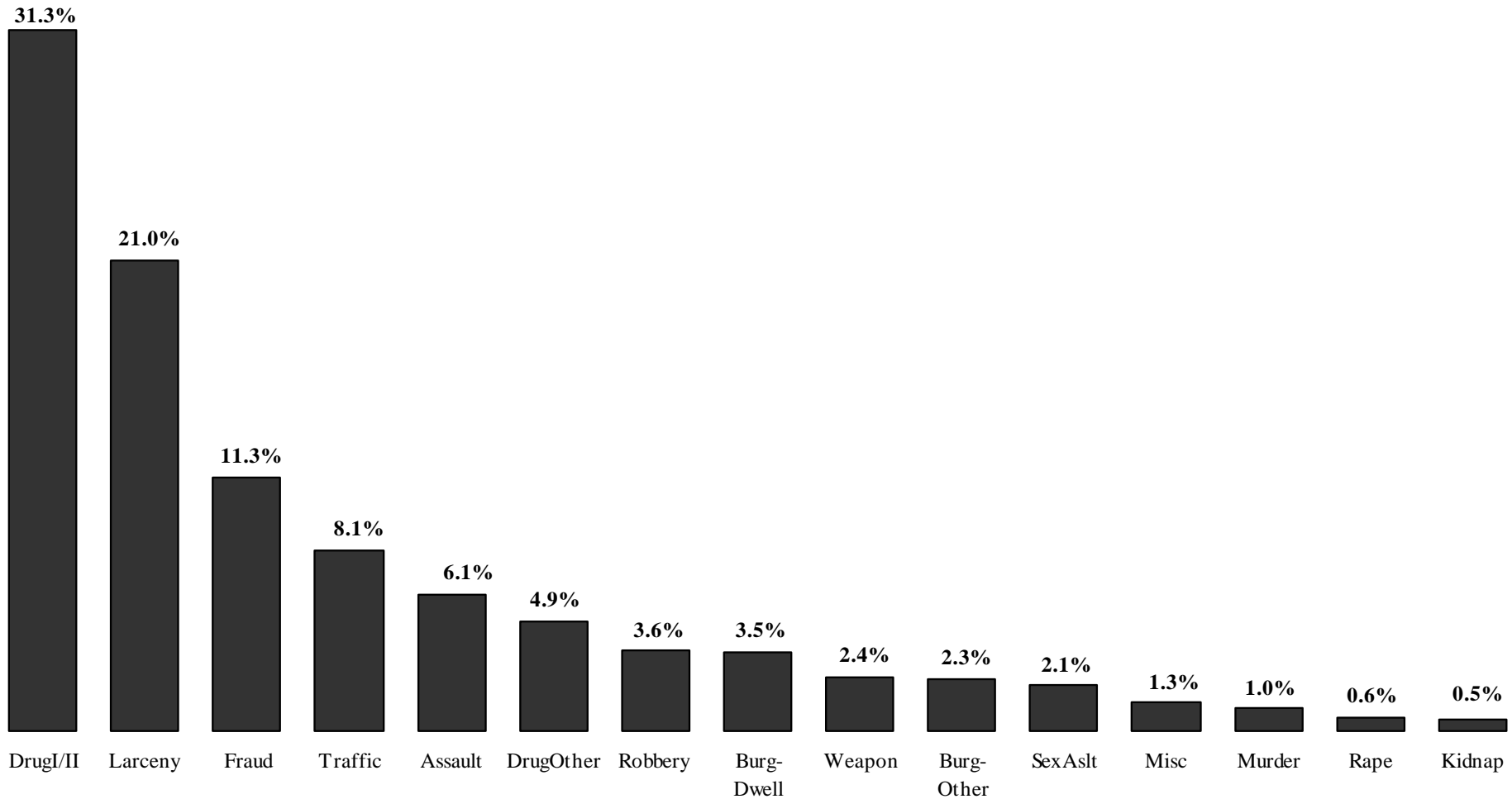


Judicial Concurrence with Sentencing Guidelines

Preliminary FY2009



Preliminary FY2009
Guideline Worksheets Keyed as of 5/31/09
(n=11,426)



General Compliance

Preliminary FY2009

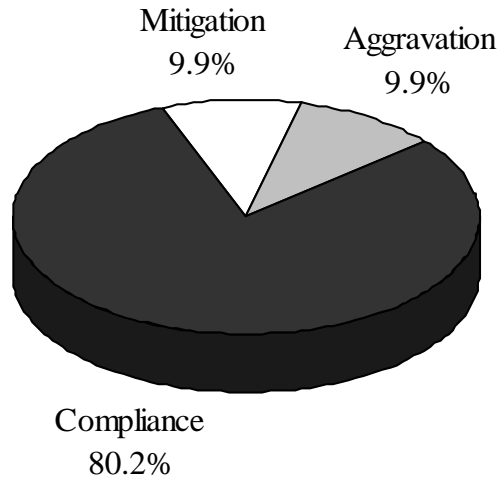


Preliminary FY2009 Judicial Agreement with Guideline Recommendations

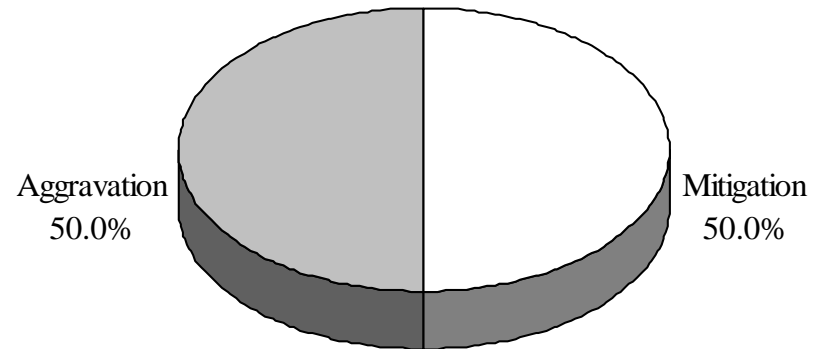
General Compliance:

The degree to which judges agree with the overall guidelines recommendation.

Overall Compliance Rate



Direction of Departures



Preliminary FY2008
**Judicial Agreement with
 Type of Recommended Disposition**

Dispositional Compliance:

The degree to which judges agree with the type of sanction recommended.

ACTUAL DISPOSITION

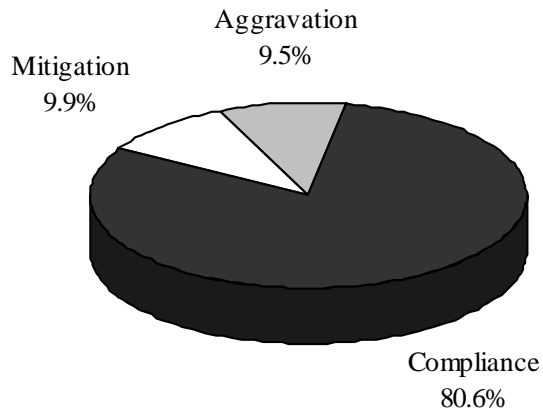
RECOMMENDED DISPOSITION	<i>Probation/ No Incarceration</i>	<i>Incarceration 6 months or less</i>	<i>Incarceration over 6 months</i>
<i>Probation / No Incarceration</i>	70.8%	24.4%	4.8%
<i>Incarceration 6 months or less</i>	11.1%	78.6%	10.3%
<i>Incarceration over 6 months</i>	5.8%	7.5%	86.7%

Preliminary FY2008 Judicial Agreement with Sentence Length

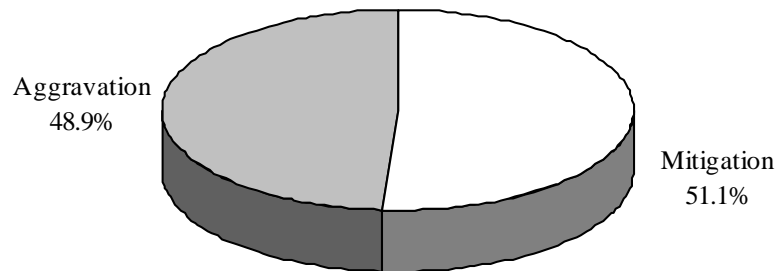
Durational Compliance:

The degree to which judges agree with the sentence length in cases in which defendants are recommended for jail/prison and receive at least one day incarceration.

Durational Compliance



Direction of Departures



Departure Reasons



Preliminary FY2009

Most Frequently Cited Departure Reasons

Mitigation (9.9%)

- Plea agreement
- Cooperated with authorities
- Facts of case
- Recommendation of CA
- Sentenced to alternative
- Minimal prior record
- Sentence to serve in another case

Aggravation (9.9%)

- Plea agreement
- Severity/type of prior record
- Facts of case
- Poor rehabilitation potential
- Recommendation of jury
- Current offense involved drugs/alcohol
- Sentenced to alternative

Compliance by Judicial Circuit

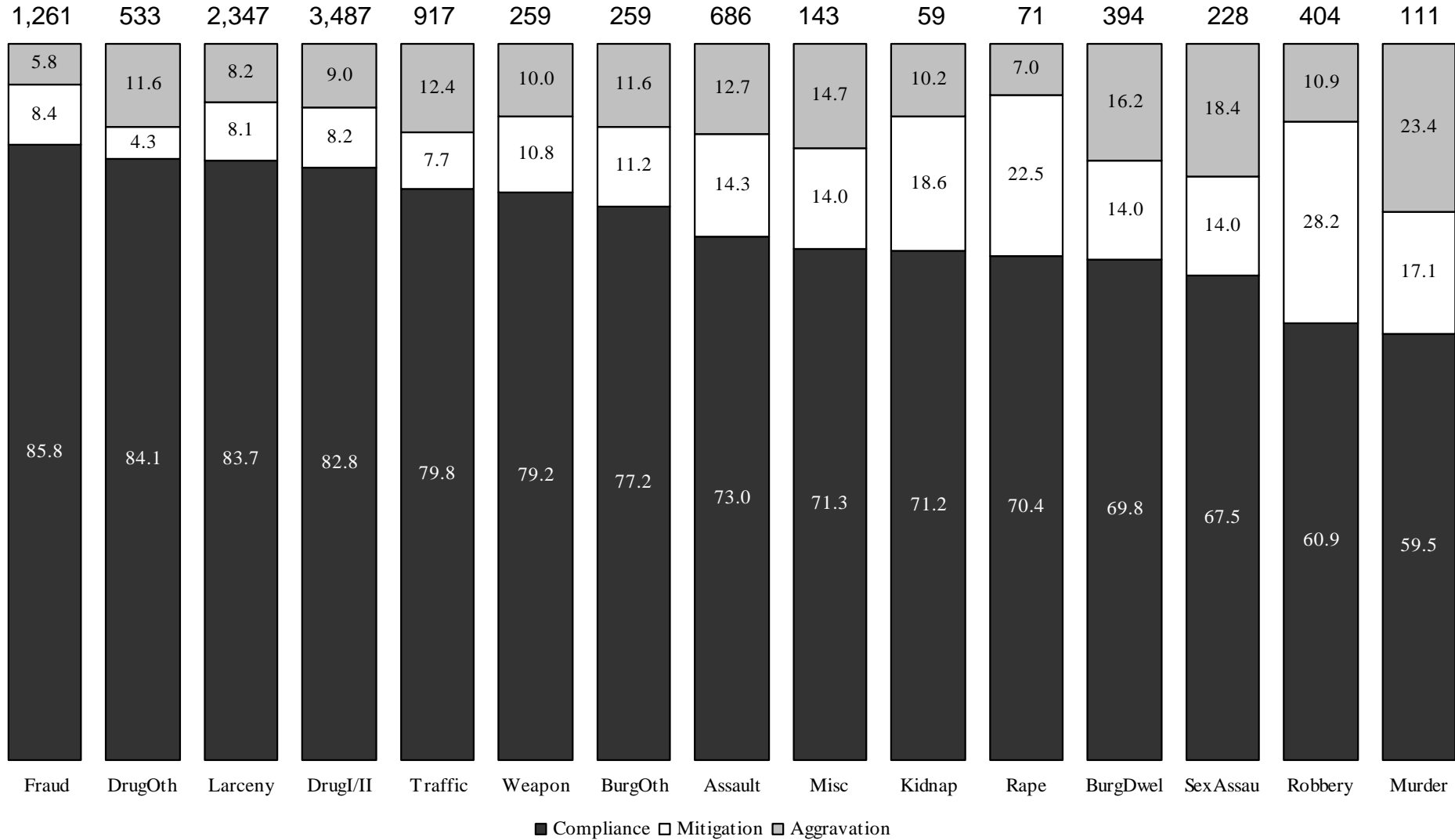


	Circuit Name	Circuit Number	Compliance	Mitigation	Aggravation	Number of Cases
<i>Preliminary FY2009</i>	Chesapeake	1	80.7	6.6	12.7	393
	Virginia Beach	2	85.1	8.4	6.5	663
	Portsmouth	3	79.0	8.9	12.1	372
<u>Most cases received:</u>	Norfolk	4	76.5	13.6	9.9	626
-Circuit 15 (Fredericksburg)	Suffolk Area	5	76.7	10.2	13.1	245
-Circuit 2 (VA Beach)	Sussex Area	6	74.7	15.3	10.0	150
-Circuit 13 (Richmond)	Newport News	7	86.3	7.4	6.4	299
	Hampton	8	80.7	11.4	7.9	228
	Williamsburg Area	9	74.4	6.7	18.9	270
	South Boston Area	10	80.7	11.1	8.2	280
	Petersburg Area	11	78.8	7.1	14.2	113
<u>Highest compliance:</u>	Chesterfield Area	12	77.7	10.1	12.2	377
-Circuit 27 (Radford) 91.5%	Richmond City	13	78.3	15.0	6.7	653
-Circuit 28 (Bristol) 90.9%	Henrico	14	84.1	10.6	5.3	511
	Fredericksburg Area	15	75.6	7.7	16.7	765
<u>Lowest compliance:</u>	Charlottesville Area	16	77.9	7.5	14.6	253
-Circuit 22 (Danville) 74%	Arlington Area	17	78.7	7.1	14.2	183
	Alexandria	18	81.5	10.8	7.6	157
	Fairfax	19	79.2	11.2	9.6	543
	Loudoun Area	20	86.2	6.0	7.8	232
<u>Highest aggravation:</u>	Martinsville Area	21	80.4	13.6	6.0	184
-Circuit 22 (Danville) 22.1%	Danville Area	22	74.0	3.9	22.1	281
	Roanoke Area	23	79.0	14.1	6.9	481
<u>Highest mitigation:</u>	Lynchburg Area	24	74.4	15.5	10.1	426
-Circuit 24 (Lynchburg) 15.5%	Staunton Area	25	77.1	13.2	9.7	423
	Harrisonburg Area	26	82.3	10.4	7.4	598
	Radford Area	27	91.5	4.7	3.8	447
	Bristol Area	28	90.9	4.3	4.8	231
	Buchanan Area	29	79.5	6.0	14.6	268
	Wise County Area	30	76.6	11.4	12.0	167
	Prince William Area	31	87.9	5.9	6.2	339

Compliance by Type of Offense



Preliminary FY2009 Compliance by Type of Offense



FY2009 Changes & Additions to Guidelines

Recommendation 1



Recommendation 1

- Add a factor to Section C of the sentencing guidelines for Schedule I/II and other drugs to increase the prison sentence recommendation for offenders who have an accompanying weapons offense requiring a mandatory minimum term.

◆ **Mandatory Minimum for Weapon Conviction(s) in Current Event** Assign points to each additional offense with a mandatory minimum and total the points

2 Year Mandatory Minimum 13
5 Year Mandatory Minimum 32

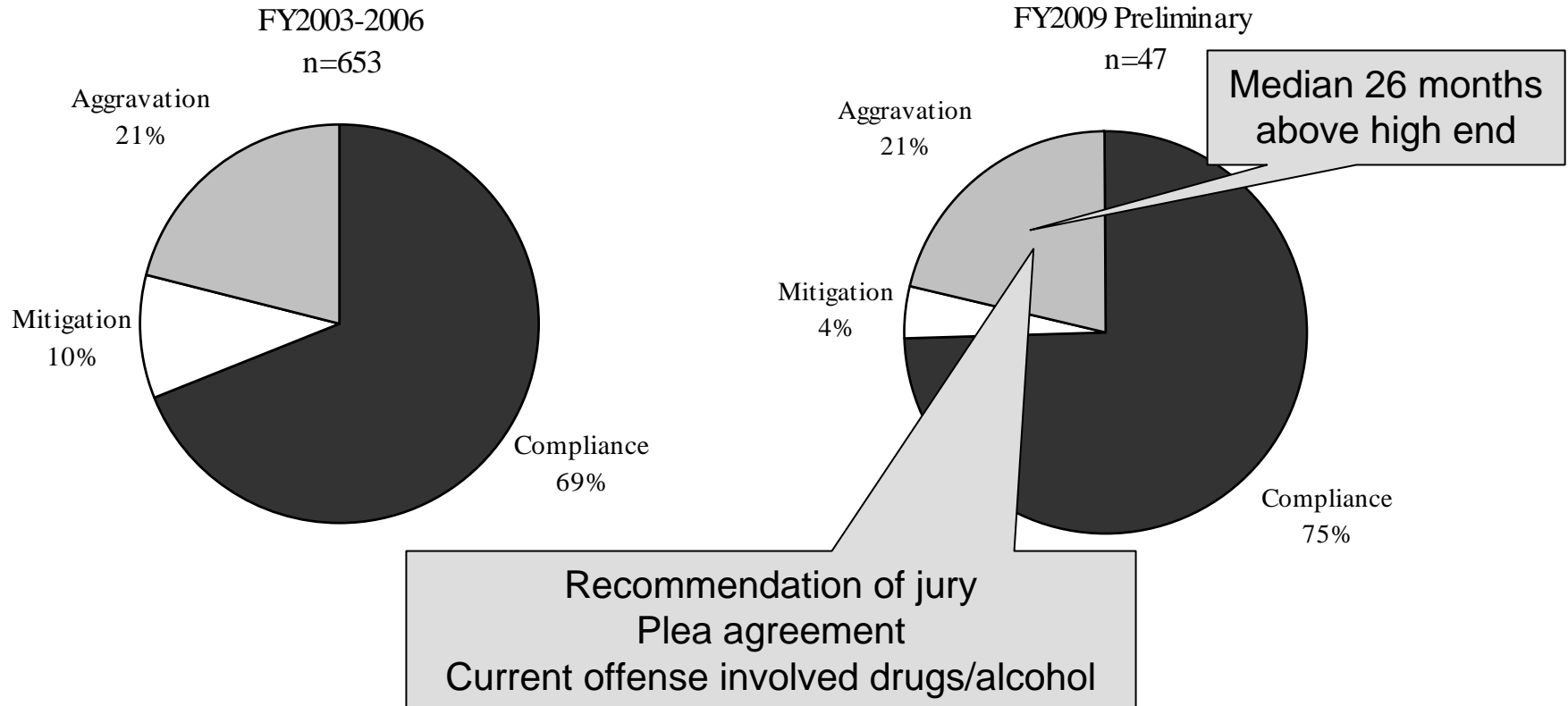
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Additional 13 months on the midpoint for each
2-year mandatory minimum

Additional 32 months on the midpoint for each
5-year mandatory minimum

Recommendation 1

Compliance for Drug Crimes Accompanied by Weapons Offense Requiring Mandatory Minimum



FY2009 Changes & Additions to Guidelines

Recommendation 2



Recommendation 2

- Revise the weapons sentencing guidelines to increase the likelihood that some offenders convicted of making a false statement on a criminal history consent form required for purchasing a firearm will be recommended for probation or up to six months of incarceration rather than incarceration for a term of more than six months.
- Changed the score for the primary offense on Section A of the Weapon/Firearm worksheet

**SCORE THE FOLLOWING ONLY IF PRIMARY OFFENSE AT CONVICTION IS
FALSE STATEMENT ON A FIREARM CONSENT FORM (§ 18.2-308.2:2(K))**

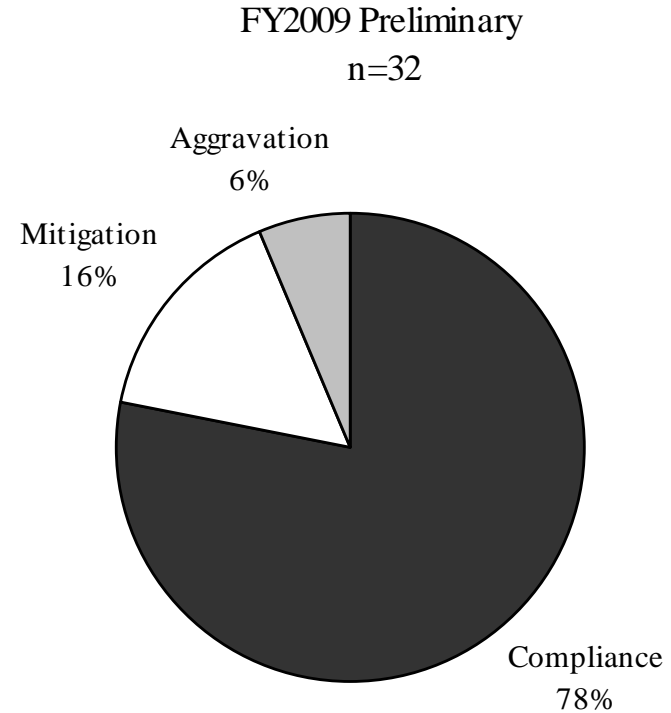
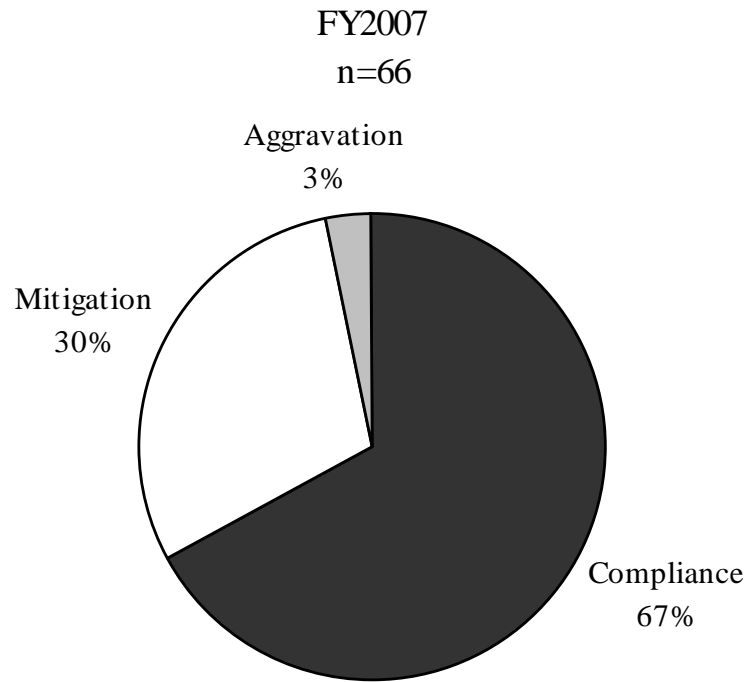
◆ **Basis of False Statement on Consent Form (listed below)** _____ If YES, add 3 →

0	
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Prior felony conviction for crime against person
Other prior felony conviction within 4 years of current offense
Prior domestic assault misdemeanor conviction
Subject to protective order at time of offense

Recommendation 2

Compliance for Making a False Statement on a Consent Form Required for Purchase of a Firearm



FY2009 Changes & Additions to Guidelines

Recommendation 3

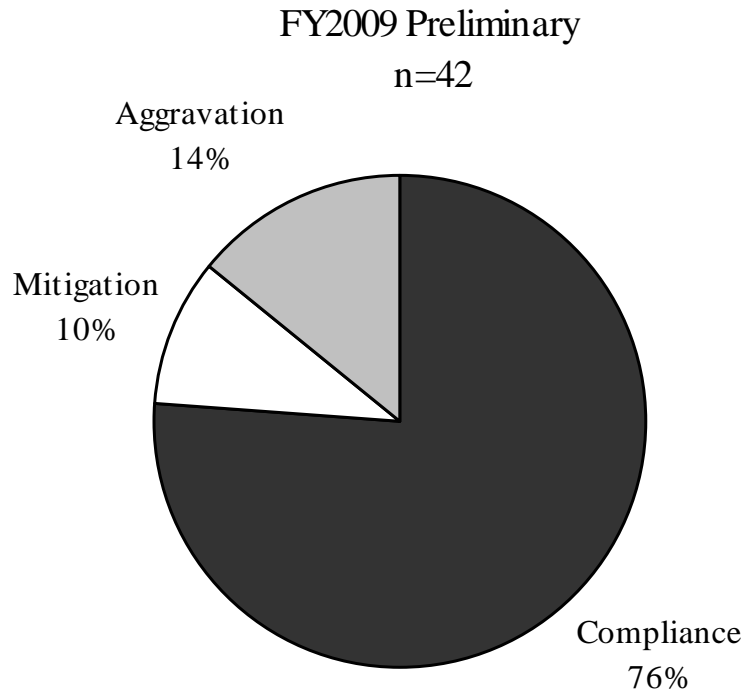


Recommendation 3

- Amend the miscellaneous guidelines to add two new guidelines offenses:
 - Gross, wanton, or reckless care for a child (§18.2-371.1(B))
 - Cruelty and injuries to children (§40.1-103)
- Adjust points assigned to the child abuse/neglect offense currently covered by the guidelines resulting in serious injury (§18.2-371.1(A))

Recommendation 3

Compliance for new miscellaneous guidelines offenses:
Gross, wanton, or reckless care for a child (§18.2-371.1(B))
& Cruelty and injuries to children (§40.1-103)



Recommendation 3

- Amend the miscellaneous guidelines to add two new guidelines offenses:
 - Gross, wanton, or reckless care for a child (§18.2-371.1(B))
 - Cruelty and injuries to children (§40.1-103)
- Adjust points assigned to the child abuse/neglect offense currently covered by the guidelines resulting in serious injury (§18.2-371.1(A))



Recommendation 3

Adjust points assigned to current child abuse/neglect resulting in serious injury
(§18.2-371.1(A))

- Increased primary offense points on Sections A, B & C for child abuse/neglect resulting in serious physical injury (§18.2-371.1(A))
- Increased victim injury points on Sections A & C for all child abuse offenses

Recommendation 3

Adjust points assigned to current child abuse/neglect resulting in serious injury
(§18.2-371.1(A))

FY2009 Preliminary
n=12

