

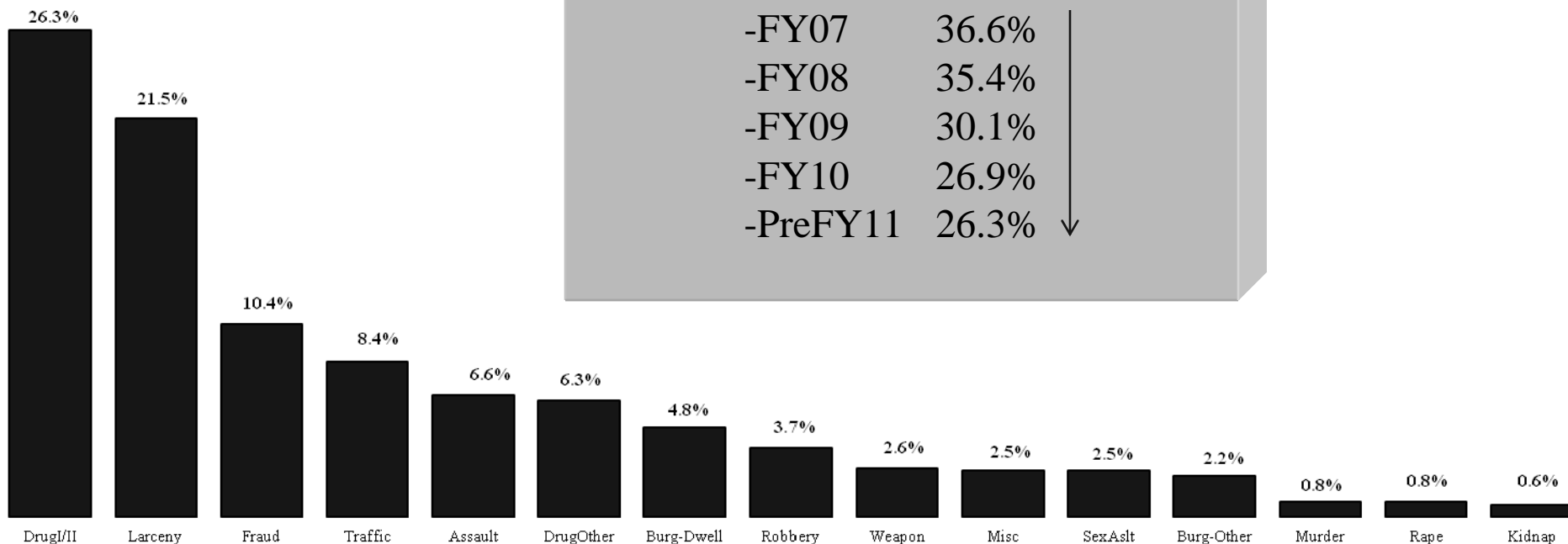
Judicial Concurrence with Sentencing Guidelines

Preliminary FY2011

Preliminary FY2011 Guideline Worksheets Keyed as of 3/1/11 (n=11,375)

Proportion of Drug Schedule I/II
worksheets has decreased since FY07

-FY05	29.9%
-FY06	32.7%
-FY07	36.6%
-FY08	35.4%
-FY09	30.1%
-FY10	26.9%
-PreFY11	26.3%



General Compliance

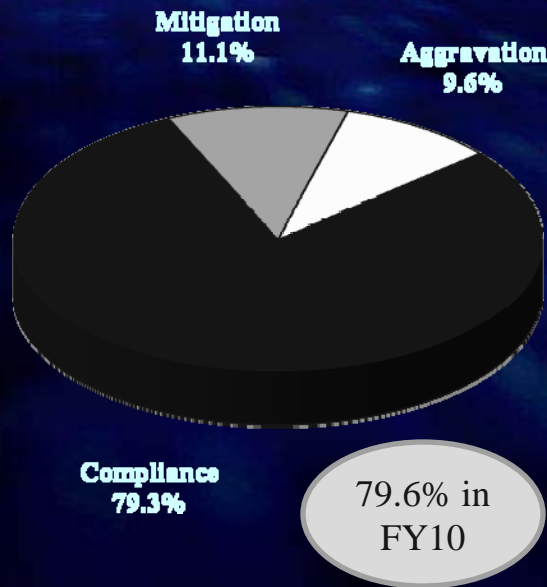
Preliminary FY2011

Preliminary FY2011 Judicial Agreement with Guideline Recommendations

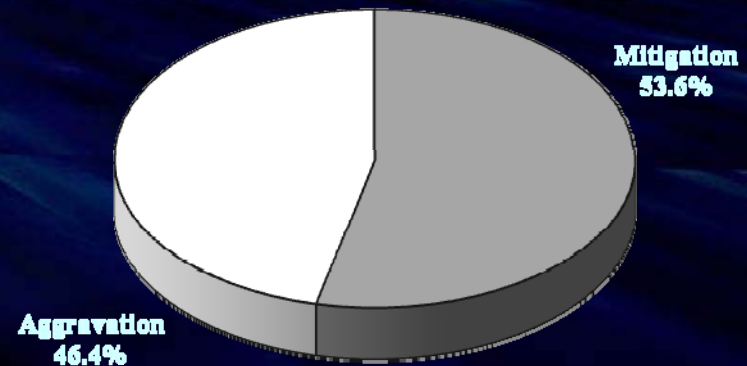
General Compliance:

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

Overall Compliance Rate



Direction of Departures



Preliminary FY2010 Judicial Agreement with Type of Recommended Disposition

Dispositional Compliance:

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

ACTUAL DISPOSITION

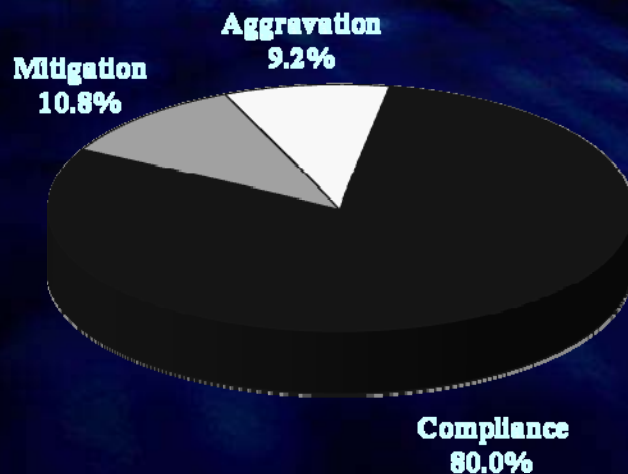
RECOMMENDED DISPOSITION	<i>Probation/ No Incarceration</i>	<i>Incarceration 6 months or less</i>	<i>Incarceration over 6 months</i>
<i>Probation / No Incarceration</i>	73.8%	21.7%	4.5%
<i>Incarceration 6 months or less</i>	13.3%	75.4%	11.3%
<i>Incarceration over 6 months</i>	6.4%	7.8%	85.8%

Preliminary FY2010

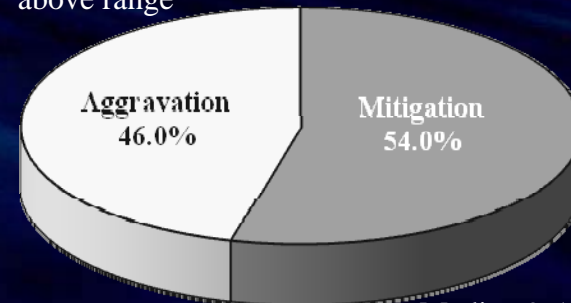
Judicial Agreement with Sentence Length

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.



Median 10 months
above range



Median 9.5 months
below range

Departure Reasons

Preliminary FY2011

Preliminary FY2011

Most Frequently Cited Departure Reasons

Mitigation (n=1,262)

(n=230 missing reason)

- Plea agreement 421 (25%*)
- Cooperated with authorities 94 (8%)
- Facts of case 89 (7%)
- Minimal prior record 80 (6%)
- Sentenced to alternative 75 (6%)
- Offender to serve sentence in other jurisdiction 62 (5%)
- Recommendation of CA 54 (4%)
- Offender health 51 (4%)

* Of mitigating cases requiring departure reason

Aggravation (n=1,093)

(n=191 missing reason)

- Plea agreement 234 (21%*)
- Severity/type of prior record 179 (16%)
- Flagrancy of offense/facts of case 131 (12%)
- Poor rehabilitation potential 75 (7%)
- Recommendation of jury 68 (6%)
- Multiple counts involved in event 62 (6%)
- Degree of victim injury 54 (5%)

* Of aggravating cases requiring departure reasons

Compliance by Circuit

Preliminary FY2011

Preliminary FY2011

Most cases received:

-Circuit 15 (Fredericksburg)

-Circuit 26 (Harrisonburg)

-Circuit 19 (Fairfax)

Highest compliance:

-Circuit 28 (Bristol) 87.5%

-Circuit 27 (Radford) 86.8%

Lowest compliance:

-Circuit 9 (Williamsburg) 70.6%

Highest aggravation:

-Circuit 9 (Williamsburg) 22.3%

Highest mitigation:

-Circuit 21 (Martinsville) 19.3%

Circuit Name	Circuit Number	Compliance	Mitigation	Aggravation	Number of Cases
Chesapeake	1	77.0%	10.5%	12.5%	495
Virginia Beach	2	80.8%	12.1%	7.1%	553
Portsmouth	3	76.1%	12.4%	11.4%	306
Norfolk	4	80.2%	13.9%	5.9%	505
Suffolk Area	5	80.8%	7.7%	11.5%	234
Sussex Area	6	73.5%	13.0%	13.6%	162
Newport News	7	85.4%	7.0%	7.6%	342
Hampton	8	79.6%	15.9%	4.5%	157
Williamsburg Area	9	70.6%	7.1%	22.3%	269
South Boston Area	10	80.6%	11.6%	7.8%	268
Petersburg Area	11	82.2%	7.6%	10.2%	118
Chesterfield Area	12	80.2%	9.5%	10.3%	536
Richmond City	13	76.6%	15.3%	8.1%	581
Henrico	14	83.8%	8.9%	7.3%	463
Fredericksburg Area	15	73.8%	13.1%	13.1%	787
Charlottesville Area	16	79.8%	12.0%	8.3%	326
Arlington Area	17	78.9%	8.6%	12.6%	175
Alexandria	18	76.1%	17.0%	6.9%	159
Fairfax	19	78.0%	10.8%	11.1%	628
Loudoun Area	20	83.3%	5.4%	11.2%	294
Martinsville Area	21	76.5%	19.3%	4.2%	166
Danville Area	22	74.9%	5.4%	19.7%	203
Roanoke Area	23	71.3%	18.8%	9.9%	394
Lynchburg Area	24	78.3%	13.9%	7.9%	433
Staunton Area	25	73.9%	16.3%	9.8%	398
Harrisonburg Area	26	83.9%	10.6%	5.5%	652
Radford Area	27	86.8%	8.4%	4.8%	546
Bristol Area	28	87.5%	5.1%	7.4%	296
Buchanan Area	29	76.4%	8.2%	15.3%	365
Lee Area	30	80.3%	5.5%	14.2%	183
Prince William Area	31	86.2%	7.2%	6.6%	362

Compliance by Type of Offense

Preliminary FY2011

Preliminary FY2011 Compliance by Type of Offense



NONVIOLENT OFFENDER RISK ASSESSMENT

Preliminary FY2011

NONVIOLENT OFFENDER RISK ASSESSMENT

Implemented statewide
July 1, 2002

◆ **Ineligibility Conditions**

- A. Was the offender recommended for Probation/No Incarceration on Section B? Yes No
- B. Do any of the offenses at sentencing involve the sale, distribution, or possession with intent, etc. of cocaine of a combined quantity of 28.35 grams (1 ounce) or more? Yes No
- C. Are any prior record offenses violent (Category I/II listed in Table A of the Guidelines Manual)? Yes No
- D. Are any of the offenses at sentencing violent (Category I/II listed in Table A of the Guidelines Manual)? Yes No
- E. Do any of the offenses at sentencing require a mandatory term of incarceration? Yes No

If answered YES to ANY, go to "Nonviolent Risk Assessment Recommendations" on cover sheet and check Not Applicable. If answered NO to ALL, complete remainder of Section D worksheet.

◆ **Offense Type** Select the type of primary offense _____

- Drug 3
- Fraud 3
- Larceny 11

--	--

◆ **Additional Offense(s)** _____ If YES, add 5 →

0	
---	--

◆ **Offender** Score factors A to D and enter the total score _____

- A. Offender is a male 8
- B. Offender's age at time of offense
 - Younger than 30 years 13
 - 30 - 40 years 8
 - 41 - 46 years 1
 - Older than 46 years 0
- C. Offender not regularly employed 9
- D. Offender age 26 or more & never married (at time of offense) 6

Enter A to D Total =

--	--

◆ **Arrest or Confinement Within Past 18 Months** (prior to instant offenses) _____ If YES, add 6 →

0	
---	--

◆ **Prior Felony Convictions and Adjudications** Select the combination of adult and juvenile felony convictions/adjudications that characterizes the offender's prior record. _____

- Adult felony convictions only 3
- Juvenile felony convictions or adjudications only 6
- Both adult and juvenile felony convictions/adjudications 9

0	
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◆ **Prior Adult Incarcerations** _____

- Periods: 1 - 2 3
- 3 - 4 6
- 5 or more 9

0	
---	--

Total Score _____ →

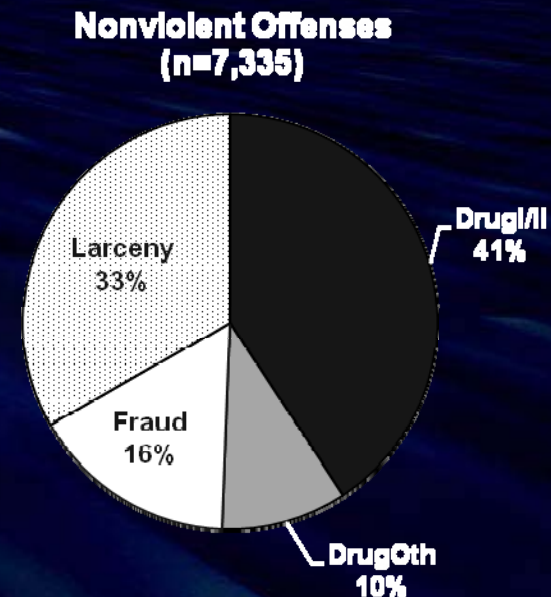
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- 38 or less, check Recommended for Alternative Punishment.
- 39 or more, check NOT Recommended for Alternative Punishment.

Nonviolent Offender Risk Assessment

Preliminary FY2011

- Drug, Fraud, & Larceny
- Purpose
 - To recommend alternative sanctions for offenders who are recommended for jail or prison and are statistically less likely to recidivate
- Type of alternative at discretion of judge



◆ SENTENCING GUIDELINES RECOMMENDATIONS

Section B

- Probation / No Incarceration
- Incarceration 1 Day to 3 Months
- Incarceration 1 Day to 6 Months
- Incarceration 3 to 6 Months
- Probation / No Incarceration or Incarceration to 6 Months

Mandatory Minimum _____

Section C

- Life Sentence
- Incarceration *(Enter Midpoint and Range Below)*

Range Midpoint

Years

Months

Sentence Range

Months

TO

Years

Months

- Recommendation Adjusted for **Mandatory Minimum**



◆ NONVIOLENT RISK ASSESSMENT Section D of Drug, Fraud, and Larceny Worksheets

- Recommended for Alternative Punishment
- NOT Recommended for Alternative Punishment

Not Applicable

Nonviolent Offenders Eligible for Risk Assessment Evaluation

Preliminary FY2011

Eligible for Assessment

- Recommended for incarceration
- No violent offenses—current or prior
- No current distribution of ≥ 1 oz cocaine
- No current mandatory minimum

Offense	Mitigation	Compliance		Aggravation	Number of Cases
		Traditional	Alternative		
Drug	6%	62%	24%	8%	1447
			86%		
Fraud	7%	51%	37%	5%	509
			88%		
Larceny	9%	75%	9%	7%	1015
			84%		
Overall	7%	65%	21%	7%	2971
			86%		

Nonviolent Offenders Eligible for Risk Assessment Evaluation

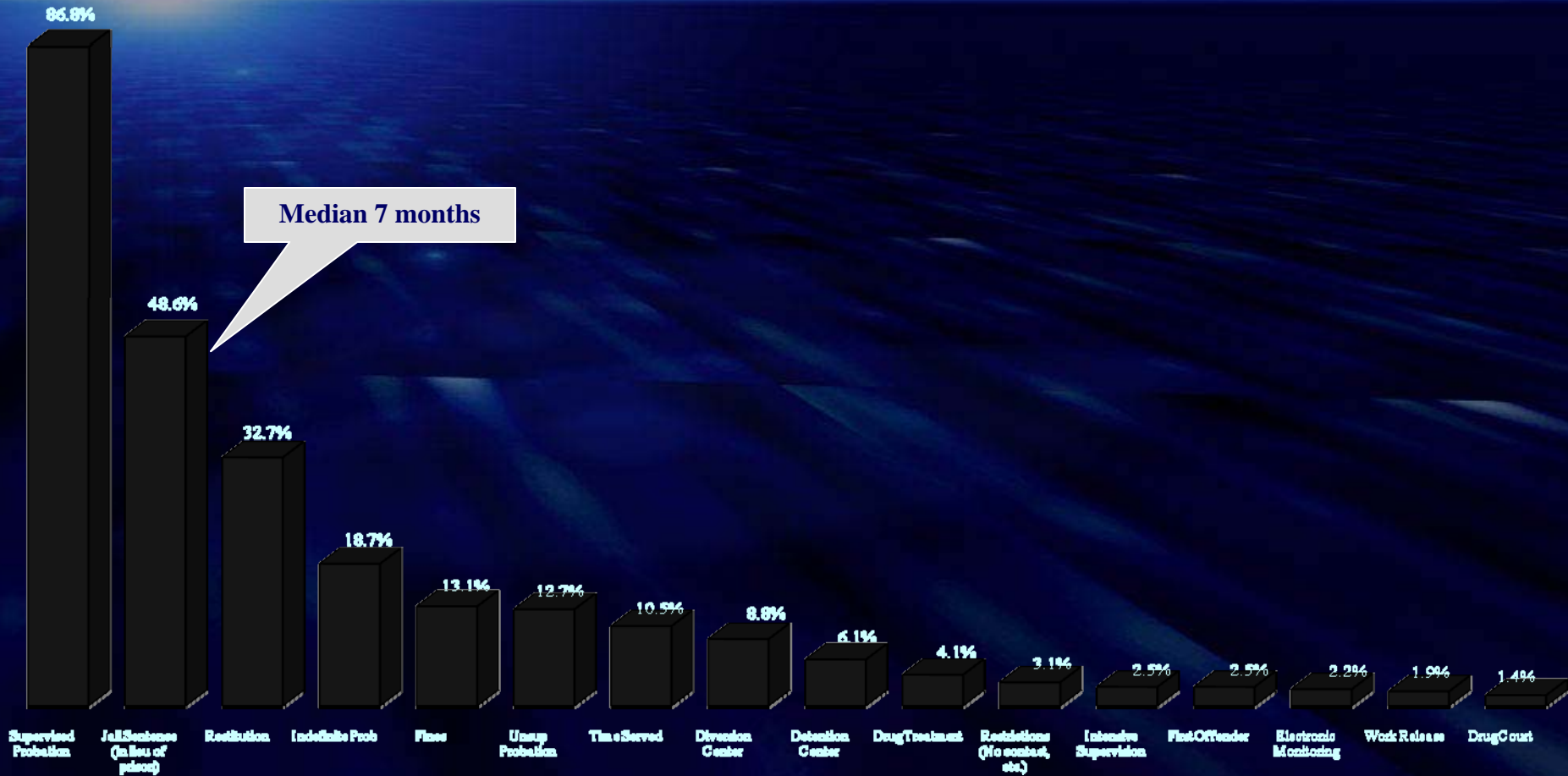
Preliminary FY2011

Offense	Mitigation	Compliance		Aggravation	Number of Cases
		Traditional	Alternative		
Drug	6%	62%	24%	8%	1447
		86%			
Fraud	7%	51%	37%	5%	509
		88%			
Larceny	9%	75%	9%	7%	1015
		84%			
Overall	7%	65%	21%	7%	2971
		86%			

Preliminary FY2011

Nonviolent Offenders Eligible for Risk Assessment Evaluation

Most Frequent Sanctions Imposed in Risk Assessment Cases Recommended for and Receiving Alternatives
(n=636)



SEX OFFENDER RISK ASSESSMENT

Preliminary FY2011

SEX OFFENDER RISK ASSESSMENT

*Implemented statewide
July 1, 2001*

Other Sexual Assault ~~→~~ Section A (Part I) Offender Name: _____

Offenses Not Applicable for Risk Assessment:

Risk Assessment is **NOT APPLICABLE** if the primary offense is adultery, bestiality, bigamy, non-forcible sodomy, or prostitution.
(Go to Section A (Part II))

◆ **Offender's Age at Time of Offense** _____

Younger than 35 years	12	<input type="text"/>	<input type="text"/>
35 to 46 years	4	<input type="text"/>	<input type="text"/>
Older than 46 years	0	<input type="text"/>	<input type="text"/>

◆ **Less than 9th Grade Education** _____ If YES, add 4 →

◆ **Not Regularly Employed** _____ If YES, add 5 →

◆ **Offender's Relationship with Victim** _____

Victim Under Age 10	Relative	0	<input type="text"/>
	Known to victim (not relative or step-parent)	4	
	Stranger	4	
	Step-parent	9	
Victim Age 10 or more	Relative	2	<input type="text"/>
	Known to victim (not relative or step-parent)	3	
	Stranger	8	
	Step-parent	2	

◆ **Aggravated Sexual Battery (Primary Offense §18.2-67.3)** _____

No penetration or attempted penetration of victim	0	<input type="text"/>	<input type="text"/>
Penetration or attempted penetration of victim	4	<input type="text"/>	<input type="text"/>

◆ **Location of Offense** _____

Place of employment	0	<input type="text"/>
Shared victim/offender residence	3	
Outdoors	3	
Motor Vehicle	4	
Victim's residence (not offender's)	5	
Offender's residence or other residence	9	
Location other than listed	3	

◆ **Prior Adult Felony/Misdemeanor Arrests for Crimes Against Person** _____

Number: 0 Felonies	1 - 3 Misdemeanors	1	<input type="text"/>
	4+ Misdemeanors	8	
1 Felony	0 - 2 Misdemeanors	5	<input type="text"/>
	3+ Misdemeanors	8	
2+ Felonies	0 - 3 Misdemeanors	8	<input type="text"/>
	4+ Misdemeanors	15	

◆ **Prior Incarcerations/Commitments** _____ If YES, add 3 →

◆ **Prior Treatment** _____

Prior mental health commitment	0	<input type="text"/>
Prior mental health treatment	2	
Prior alcohol or drug treatment	3	
No prior treatment	4	

Risk Score _____ →

- Risk Level (Risk Score)**
- 44 or more Level 1
 - 34 - 43 Level 2
 - 28 - 33 Level 3
 - up to 27 No Adjustment

Go to Section A (Part II)

Sex Offender Risk Assessment

Preliminary FY2011

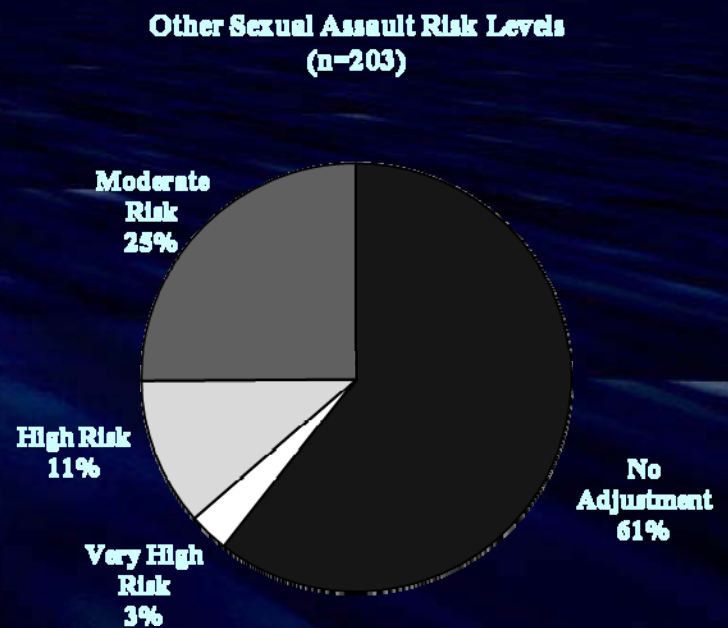
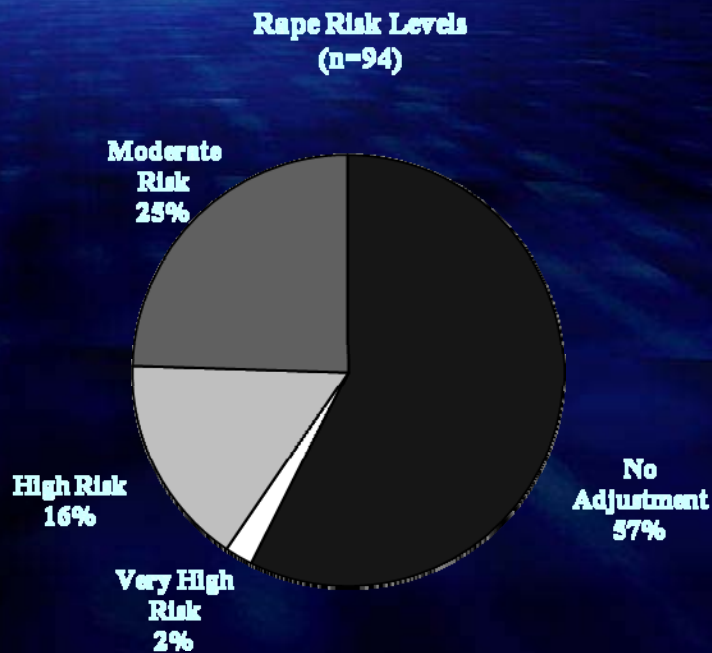
- Rape & Other Sexual Assault Guidelines
- Purpose:
 - To extend the upper end of the guidelines recommendation for sex offenders who are statistically more likely to recidivate
- Enhancements
 - Level 1
 - 300% Increase in upper end of guidelines range
 - Level 2
 - 100% Increase in upper end of guidelines range
 - Level 3
 - 50% Increase in upper end of guidelines range

❖ Other Sexual Assault • Section C Recommendation Table

Score	Sentence Range		Low		High		Level 3 High	Level 2 High	Level 1 High
	Midpoint								
up to 7	0 yr.	7 mo.	0 yr.	7 mo.	1 yr.	2 mo.	1 yr. 9 mo.	2 yr. 4 mo.	4 yr. 8 mo.
8	0 yr.	8 mo.	0 yr.	7 mo.	1 yr.	3 mo.	1 yr. 11 mo.	2 yr. 6 mo.	5 yr. 0 mo.
9	0 yr.	9 mo.	0 yr.	7 mo.	1 yr.	4 mo.	2 yr. 0 mo.	2 yr. 8 mo.	5 yr. 4 mo.
10	0 yr.	10 mo.	0 yr.	7 mo.	1 yr.	4 mo.	2 yr. 0 mo.	2 yr. 8 mo.	5 yr. 4 mo.
11	0 yr.	11 mo.	0 yr.	7 mo.	1 yr.	5 mo.	2 yr. 2 mo.	2 yr. 10 mo.	5 yr. 8 mo.
12	1 yr.	0 mo.	0 yr.	7 mo.	1 yr.	6 mo.	2 yr. 3 mo.	3 yr. 0 mo.	6 yr. 0 mo.
13	1 yr.	1 mo.	0 yr.	7 mo.	1 yr.	8 mo.	2 yr. 6 mo.	3 yr. 4 mo.	6 yr. 8 mo.
14	1 yr.	2 mo.	0 yr.	7 mo.	1 yr.	10 mo.	2 yr. 9 mo.	3 yr. 8 mo.	7 yr. 4 mo.
15	1 yr.	3 mo.	0 yr.	7 mo.	2 yr.	0 mo.	3 yr. 0 mo.	4 yr. 0 mo.	8 yr. 0 mo.
16	1 yr.	4 mo.	0 yr.	7 mo.	2 yr.	2 mo.	Level 3 50%	Level 2 100%	Level 1 300%
17	1 yr.	5 mo.	0 yr.	7 mo.	2 yr.	4 mo.			
18	1 yr.	6 mo.	0 yr.	8 mo.	2 yr.	6 mo.			
19	1 yr.	7 mo.	0 yr.	9 mo.	2 yr.	8 mo.	4 yr. 0 mo.	5 yr. 4 mo.	11 yr. 8 mo.
20	1 yr.	8 mo.	0 yr.	9 mo.	2 yr.	9 mo.	4 yr. 2 mo.	5 yr. 6 mo.	11 yr. 0 mo.
21	1 yr.	9 mo.	0 yr.	10 mo.	2 yr.	10 mo.	4 yr. 3 mo.	5 yr. 8 mo.	11 yr. 4 mo.
22	1 yr.	10 mo.	0 yr.	10 mo.	2 yr.	11 mo.	4 yr. 5 mo.	5 yr. 10 mo.	11 yr. 8 mo.
23	1 yr.	11 mo.	0 yr.	11 mo.	3 yr.	0 mo.	4 yr. 6 mo.	6 yr. 0 mo.	12 yr. 0 mo.
24	2 yr.	0 mo.	1 yr.	0 mo.	3 yr.	2 mo.	4 yr. 9 mo.	6 yr. 4 mo.	12 yr. 8 mo.
25	2 yr.	1 mo.	1 yr.	1 mo.	3 yr.	3 mo.	4 yr. 11 mo.	6 yr. 6 mo.	13 yr. 0 mo.
26	2 yr.	2 mo.	1 yr.	1 mo.	3 yr.	5 mo.	5 yr. 2 mo.	6 yr. 10 mo.	13 yr. 8 mo.
27	2 yr.	3 mo.	1 yr.	2 mo.	3 yr.	6 mo.	5 yr. 3 mo.	7 yr. 0 mo.	14 yr. 0 mo.
28	2 yr.	4 mo.	1 yr.	3 mo.	3 yr.	8 mo.	5 yr. 6 mo.	7 yr. 4 mo.	14 yr. 8 mo.
29	2 yr.	5 mo.	1 yr.	4 mo.	3 yr.	9 mo.	5 yr. 8 mo.	7 yr. 6 mo.	15 yr. 0 mo.
30	2 yr.	6 mo.	1 yr.	5 mo.	3 yr.	11 mo.	5 yr. 11 mo.	7 yr. 10 mo.	15 yr. 8 mo.
31	2 yr.	7 mo.	1 yr.	6 mo.	4 yr.	1 mo.	6 yr. 2 mo.	8 yr. 2 mo.	16 yr. 4 mo.

Sex Offender Risk Assessment

Preliminary FY2011



Preliminary FY2011

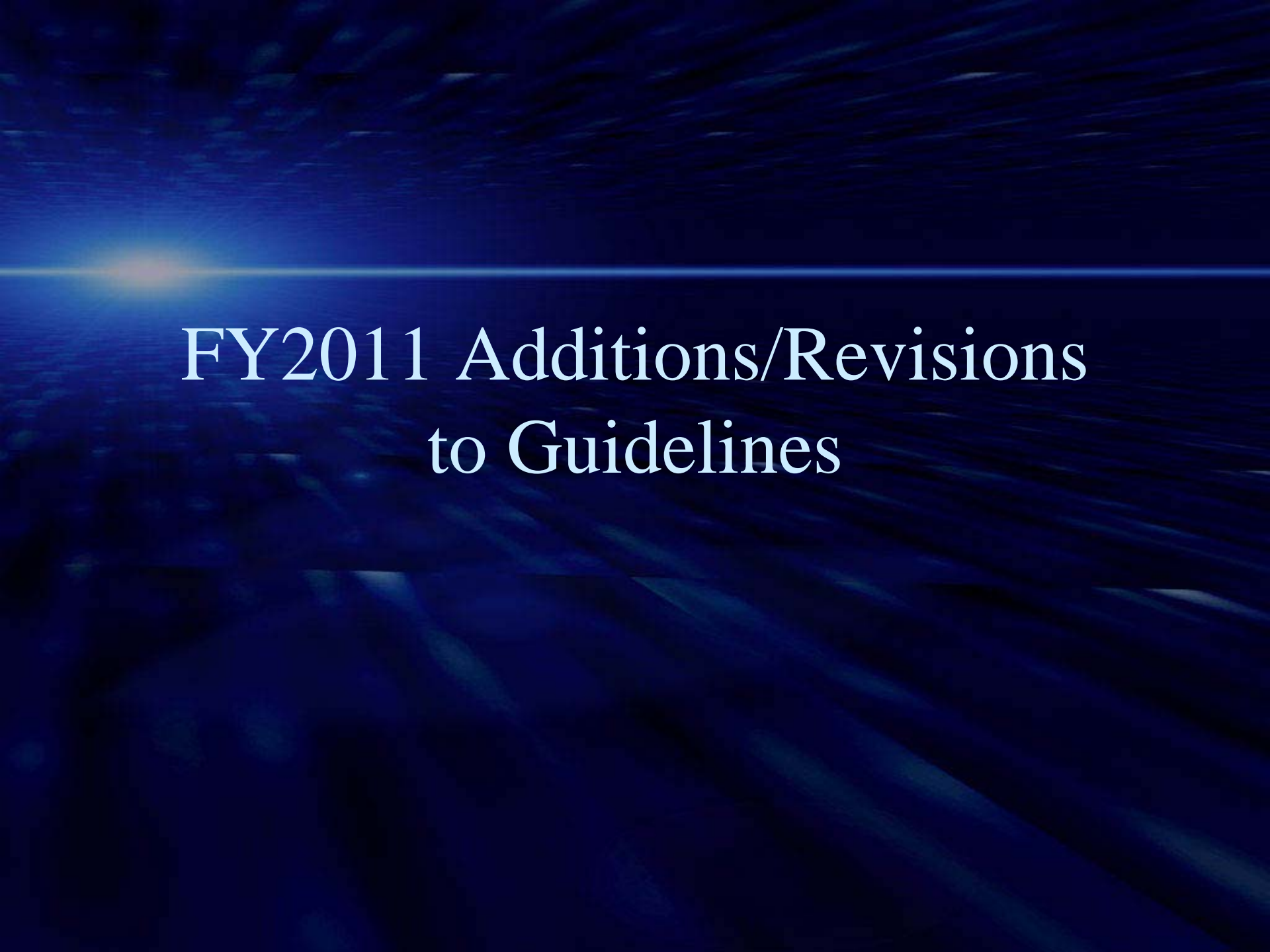
Compliance Rates by Risk Level for Rape Offenders
(n=94)

Risk Level	Mitigation	Compliance		Aggravation	Number of Cases
		Traditional	Adjusted		
Very High Risk	0%	100%	100%	0%	2
High Risk	7%	53%	80%	13%	15
Moderate Risk	17%	70%	74%	9%	23
No Level	26%	54%	---	20%	54

Preliminary FY2011

**Compliance Rates by Risk Level for Other Sexual Assault Offenders
(n=203)**

Risk Level	Mitigation	Compliance		Aggravation	Number of Cases
		Traditional	Adjusted		
Very High Risk	0%	83%	100%	17%	6
High Risk	13%	42%	83%	42%	24
Moderate Risk	14%	69%	86%	16%	22
No Level	10%	60%	---	30%	124



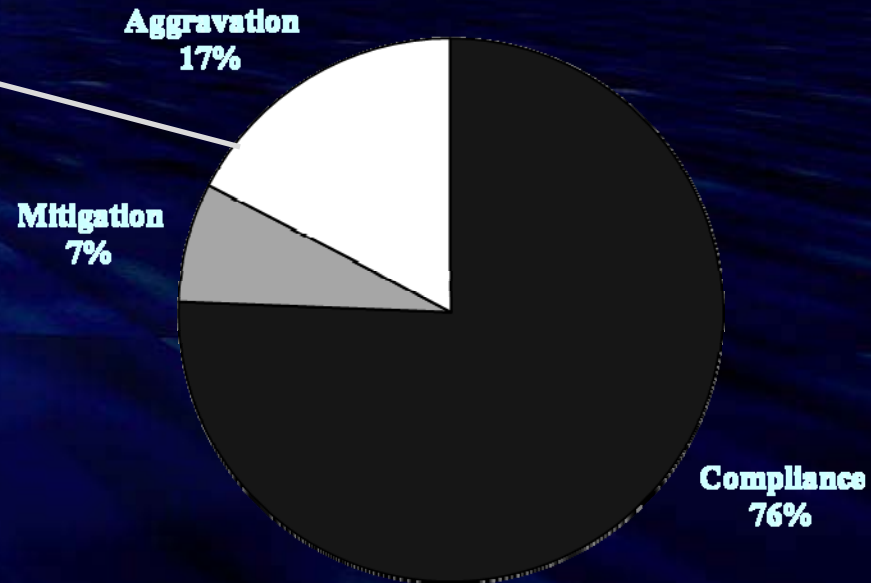
FY2011 Additions/Revisions to Guidelines

Preliminary FY2011
Hit & Run—Property Damage
\$1,000 or more
(§ 46.2-894)

Hit & Run, Property Damage \$1,000 or more (§ 46.2-894)
Preliminary FY2011
(n=86)

Most Frequent Reasons Cited
for Aggravation

- Flagrancy of the offense
- Plea agreement
- Prior record
- Degree of victim injury
- Real offense more serious than conviction



Preliminary FY2011

Hit & Run—Victim Injury

(§ 46.2-894)

Hit & Run, Victim Injury (§ 46.2-894)

Added points for Prior Criminal Traffic Misdemeanors on Sections B & C and Legal Restraint on Section C

Section B

SCORE THE FOLLOWING FACTOR ONLY IF PRIMARY OFFENSE IS HIT AND RUN (§ 46.2-894)

◆ **Prior Criminal Traffic Convictions/Adjudications** _____

Number: 0 Felonies:	1 - 4 Misdemeanors	1	<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> 0 <div style="border-left: 1px solid black; width: 20px; height: 20px;"></div> </div>
	5+ Misdemeanors	2	
1+ Felonies: 0 Misdemeanors		1	
	1 - 4 Misdemeanors	2	
	5+ Misdemeanors	3	

Section C

◆ **Legally Restrained at Time of Offense** _____

Primary offense hit and run (§ 46.2-894) If YES, add 4	Primary offense OTHER THAN hit and run If YES, add 2	<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> 0 0 <div style="border-left: 1px solid black; width: 20px; height: 20px;"></div> </div>
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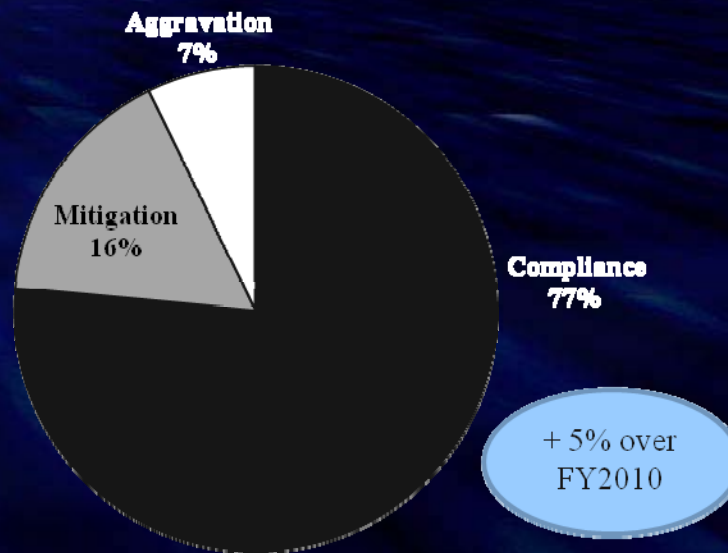
SCORE THE FOLLOWING FACTOR ONLY IF PRIMARY OFFENSE IS HIT AND RUN (§ 46.2-894)

◆ **Prior Criminal Traffic Convictions/Adjudications** _____

Number: 0 Felonies:	1 - 4 Misdemeanors	4	<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> <div style="border-right: 1px solid black; width: 20px; height: 20px;"></div> <div style="width: 20px; height: 20px;"></div> </div>
	5+ Misdemeanors	8	
1+ Felonies: 0 Misdemeanors		4	
	1 - 4 Misdemeanors	8	
	5+ Misdemeanors	12	

Hit & Run, Victim Injury (§ 46.2-894)
Preliminary FY2011
(n=55)

FY2011 Preliminary
(n=55)

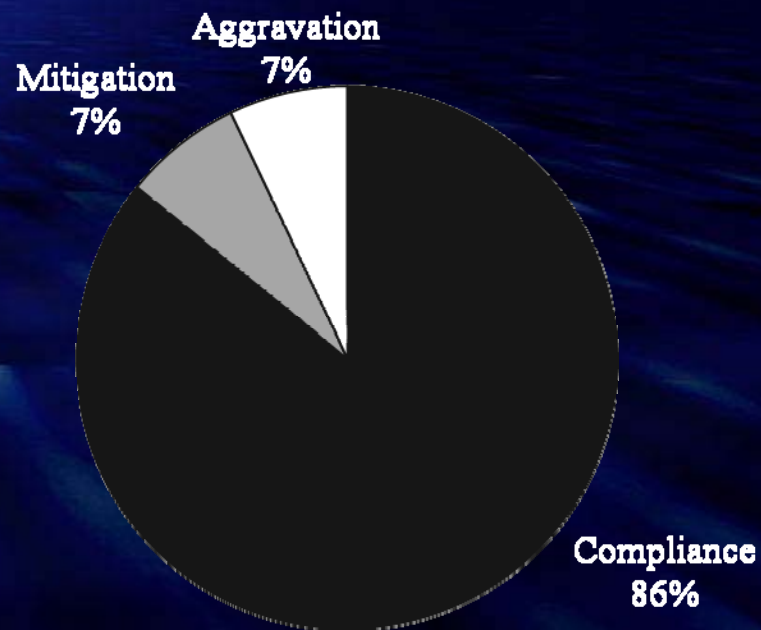


Preliminary FY2011

Arson of Occupied Dwelling/Church

§ 18.2-77(A,i)

Arson of Occupied Dwelling/Church (§ 18.2-77(A,i))
Preliminary FY2011
(n=14)



Preliminary FY2011

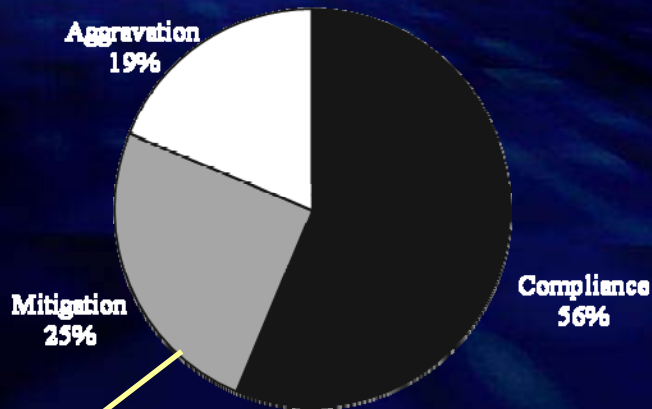
Gang Offenses

§ 18.2-46.2

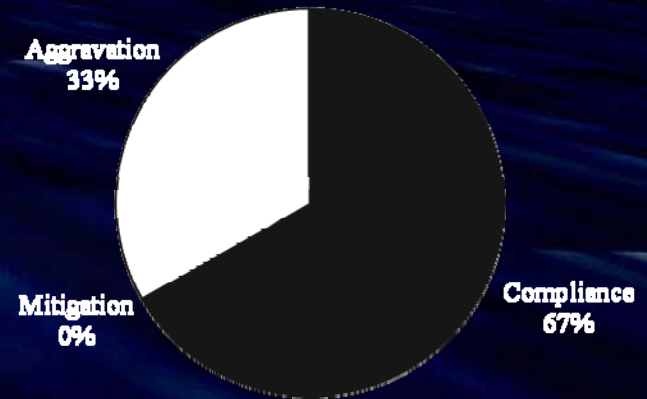
Gang Offenses (§ 18.2-46.2)

Preliminary FY2011

Participation in criminal act to benefit gang--no juvenile member
(n=16)



Participation in criminal act to benefit gang--
with juvenile member
(n=3)



Reasons Cited

- Plea agreement
- Sentenced to DJJ

Preliminary FY2011
Distribution of Schedule III Drug
§ 18.2-248(E1)

Distribution of Schedule III Drug (§ 18.2-248(E1))
Preliminary FY2011
(n=14)

