



Virginia Sentencing Guidelines

Preliminary
FY2017 Report

September 11, 2017

FY 2017 - Cases Coded and Keyed*

	2016	2017	Total
JAN		2,046	
FEB		1,957	
MAR		2,114	
APR		1,644	
MAY		1,113	
JUN		88	
JUL	1,892		
AUG	2,331		
SEP	2,097		
OCT	1,988		
NOV	1,819		
DEC	1,750		
TOTAL	11,877	8,962	20,839

*Keyed as of August 15, 2017 (Includes all forms received)

FY 2017 - Cases Received by County - FIPS

ACCOMACK	61	CHESTERFIELD	1048	HALIFAX	140	NELSON	45	SCOTT	154
ALBEMARLE	155	CLARKE	45	HANOVER	318	NEW KENT	41	SHENANDOAH	9
ALLEGHANY	131	CRAIG	1	HENRICO	878	NORTHAMPTON	33	SMYTH	183
AMELIA	36	CULPEPER	198	HENRY	159	NORTHUMBERLAND	36	SOUTHAMPTON	126
AMHERST	92	CUMBERLAND	25	HIGHLAND	9	NOTTOWAY	48	SPOTSYLVANIA	398
APPOMATTOX	49	DICKENSON	74	ISLE OF WIGHT	69	ORANGE	87	STAFFORD	391
ARLINGTON	397	DINWIDDIE	64	JAMES CITY	52	PAGE	140	SURRY	2
AUGUSTA	214	ESSEX	28	KING & QUEEN	23	PATRICK	47	SUSSEX	37
BATH	21	FAIRFAX COUNTY	802	KING GEORGE	56	PITTSYLVANIA	153	TAZEWELL	353
BEDFORD	143	FAUQUIER	175	KING WILLIAM	33	POWHATAN	43	WARREN	190
BLAND	15	FLOYD	37	LANCASTER	24	PRINCE EDWARD	100	WASHINGTON	201
BOTETOURT	125	FLUVANNA	31	LEE	118	PRINCE GEORGE	55	WESTMORELAND	63
BRUNSWICK	14	FRANKLIN COUNTY	139	LOUDOUN	333	PRINCE WILLIAM	590	WISE	229
BUCHANAN	86	FREDERICK	267	LOUISA	72	PULASKI	159	WYTHE	185
BUCKINGHAM	58	GILES	89	LUNENBURG	24	RAPPAHANNOCK	8	YORK	129
CAMPBELL	160	GLOUCESTER	123	MADISON	34	RICHMOND COUNTY	14		
CAROLINE	70	GOOCHLAND	24	MATHEWS	17	ROANOKE COUNTY	210		
CARROLL	180	GRAYSON	91	MECKLENBURG	141	ROCKBRIDGE	159		
CHARLES CITY	8	GREENE	45	MIDDLESEX	20	ROCKINGHAM	269		
CHARLOTTE	36	GREENSVILLE	89	MONTGOMERY	247	RUSSELL	158		

FY 2017 - Cases Received by City - FIPS

ALEXANDRIA	167	NORFOLK	902
BRISTOL	173	NORTON	1
BUENA VISTA	39	PETERSBURG	31
CHARLOTTESVILLE	107	POQUOSON	2
CHESAPEAKE	766	PORTSMOUTH	341
COLONIAL HEIGHTS	132	RADFORD	68
DANVILLE	250	RICHMOND CITY	777
FAIRFAX CITY	2	ROANOKE CITY	369
FREDERICKSBURG	44	SALEM	92
HAMPTON	208	SOUTH BOSTON	1
HARRISONBURG	199	STAUNTON	197
HOPEWELL	73	SUFFOLK	271
LEXINGTON	3	VIRGINIA BEACH	1008
LYNCHBURG	410	WAYNESBORO	167
MARTINSVILLE	69	WILLIAMSBURG	67
NEWPORT NEWS	375	WINCHESTER	267
		MISSING	3

After All FY2017 Worksheets are Keyed
 Lists of Cases Received Will Be Sent To:
 Chief Judges, Circuit Court Clerks and Commonwealth's Attorneys

**Preliminary FY2017 Report:
General Compliance**

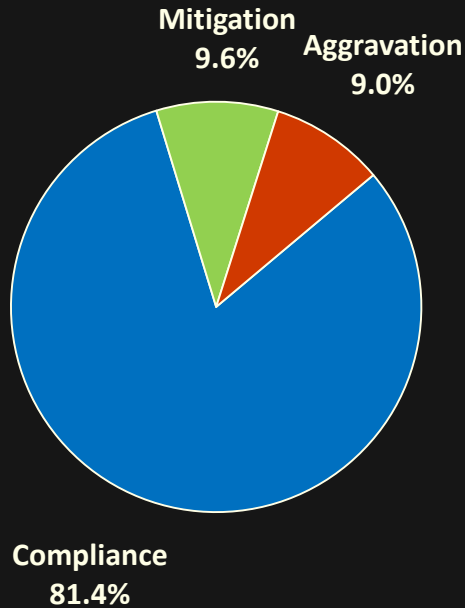


Preliminary FY2017 Report Judicial Agreement with Guideline Recommendations

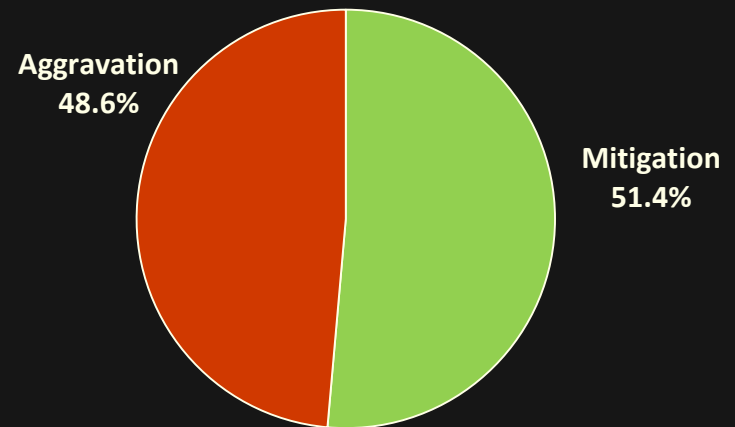
General Compliance:

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

Overall Compliance Rate



Direction of Departures



N=20,055 (Excludes old worksheets, non-guidelines offenses and cases missing sentencing information or a guidelines recommendation)

Preliminary FY2017 Report Judicial Agreement with Type of Recommended Disposition

Dispositional Compliance:

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

RECOMMENDED DISPOSITION	ACTUAL DISPOSITION		
	Probation/No Incarceration	Incarceration 6 months or less	Incarceration over 6 months
Probation/No Incarceration	74.0%	22.0%	4.0%
Incarceration 6 months or less	11.2%	80.1%	8.7%
Incarceration over 6 months	5.5%	7.5%	87.0%

N=20,055 (Excludes old worksheets, non-guidelines offenses and cases missing sentencing information or a guidelines recommendation)

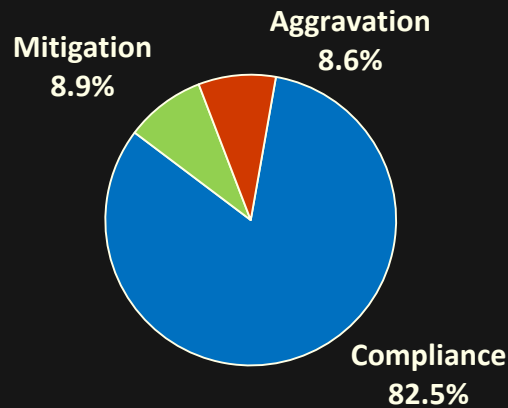
Preliminary FY2017 Report

Judicial Agreement with Sentence Length

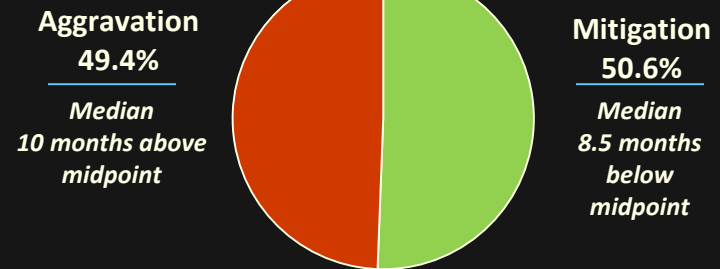
Durational Compliance:

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



**Preliminary FY2017 Report:
Departure Reasons**



Preliminary FY2017 Report

Most Frequently Cited Departure Reasons

Mitigation (n=1,920)

- Plea agreement 706 (37%*)
- Sentenced to alternative 185 (10%*)
- Judicial discretion 185 (10%*)
- Facts of the case 167 (9%*)
- Cooperated with authorities 160 (8%*)
- Court proceedings 154 (8%*)
- No significant prior record 146 (8%*)
- Offender's health issues 122 (6%*)
- Recommendation of CA 101 (5%*)
- Rehabilitation potential 71 (4%*)
- Victim's Request 70 (4%*)

n=257 (13%) missing a departure reason

Aggravation (n=1,805)

- Plea agreement 481 (27%**)
- Flagrancy of offense/facts of case 362 (20%**)
- Severity/type of prior record 220 (12%**)
- Multiple counts involved in event 213 (12%**)
- Poor rehabilitation potential 89 (5%**)
- Recommendation of jury 87 (5%**)
- Drugs involved 82 (5%**)
- Type of victim (child, etc.) 72 (4%**)
- Degree of injury 63 (4%**)

n=209 (12%) missing a departure reason

* Of mitigating cases requiring departure reason

** Of aggravating cases requiring departure reasons

**Preliminary FY2017 Report:
Compliance by Circuit**



Preliminary FY2017**Sorted By Circuit**

Circuit Name	Circuit	Compliance	Mitigation	Aggravation	No. of Cases
Chesapeake	1	75.8%	8.7%	15.6%	751
Virginia Beach	2	86.5%	6.3%	7.2%	1075
Portsmouth	3	79.2%	14.5%	6.3%	331
Norfolk	4	83.8%	11.3%	5.0%	880
Suffolk Area	5	79.3%	8.1%	12.6%	459
Sussex Area	6	79.2%	10.0%	10.8%	259
Newport News	7	81.1%	11.5%	7.4%	366
Hampton	8	79.8%	13.1%	7.1%	198
Williamsburg Area	9	82.1%	7.3%	10.6%	481
South Boston Area	10	78.9%	10.5%	10.5%	550
Petersburg Area	11	81.2%	12.7%	6.1%	213
Chesterfield Area	12	86.3%	7.2%	6.5%	1166
Richmond City	13	68.9%	23.0%	8.1%	765
Henrico	14	78.2%	6.8%	15.1%	857
Fredericksburg Area	15	75.0%	8.3%	16.7%	1390
Charlottesville Area	16	81.2%	10.6%	8.3%	727
Arlington Area	17	77.0%	12.0%	11.0%	392
Alexandria	18	74.7%	16.3%	9.0%	166
Fairfax	19	77.2%	12.1%	10.7%	737
Loudoun Area	20	83.7%	4.1%	12.2%	510
Martinsville Area	21	80.5%	12.7%	6.7%	267
Danville Area	22	78.4%	10.8%	10.8%	537
Roanoke Area	23	76.9%	16.3%	6.7%	655
Lynchburg Area	24	83.9%	8.5%	7.6%	838
Staunton Area	25	80.7%	13.6%	5.7%	1038
Harrisonburg Area	26	88.8%	5.3%	5.9%	1366
Radford Area	27	90.0%	6.3%	3.7%	842
Bristol Area	28	84.7%	6.0%	9.3%	549
Buchanan Area	29	82.5%	7.8%	9.8%	644
Lee Area	30	83.0%	9.8%	7.2%	460
Prince William Area	31	87.0%	5.1%	7.9%	583

**Preliminary FY2017
Sorted By Compliance**



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Highest aggravation:
-Circuit 15 (Fredericksburg Area)
16.7%

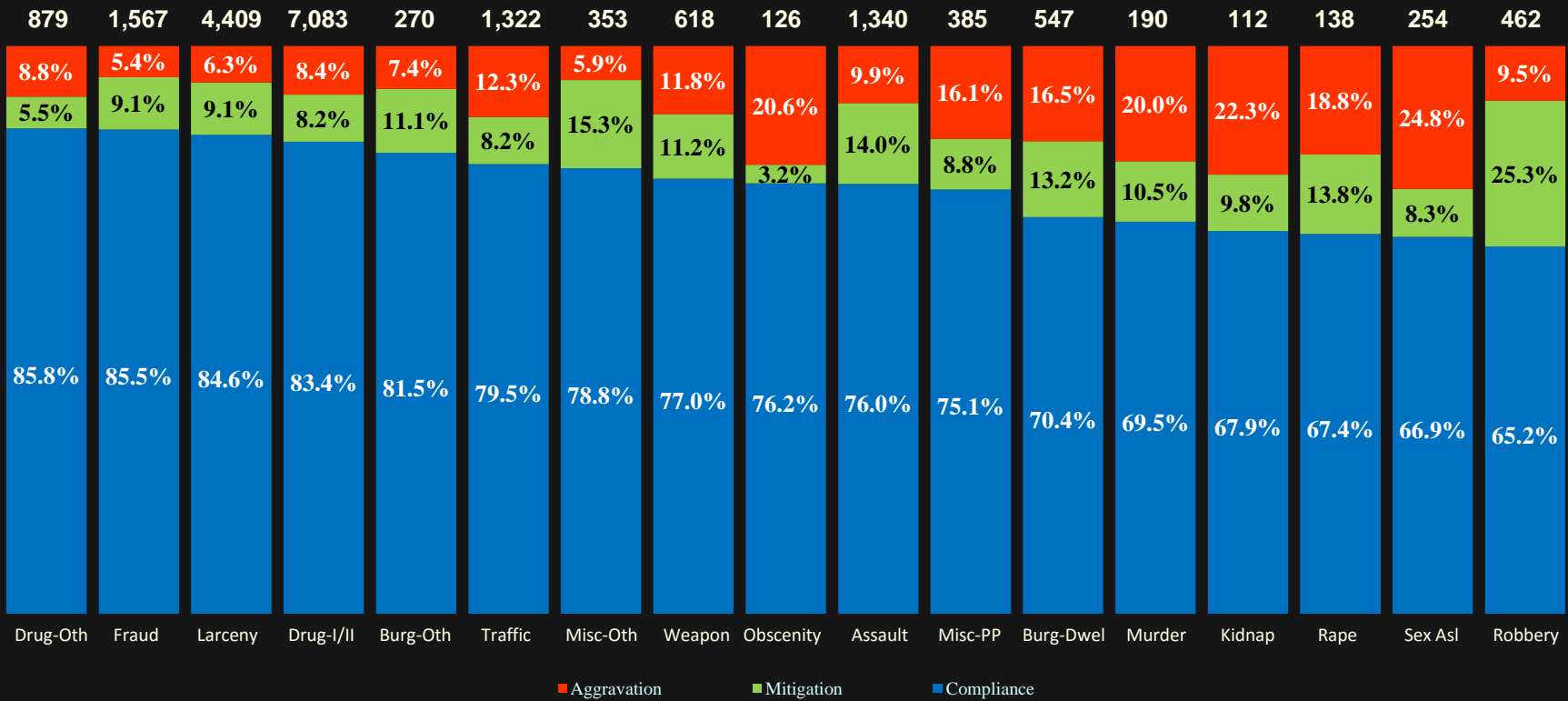
Highest mitigation:
-Circuit 13 (Richmond City)
23.0%

**Preliminary FY2017 Report:
Compliance by Offense Type**



Preliminary FY2017 Report

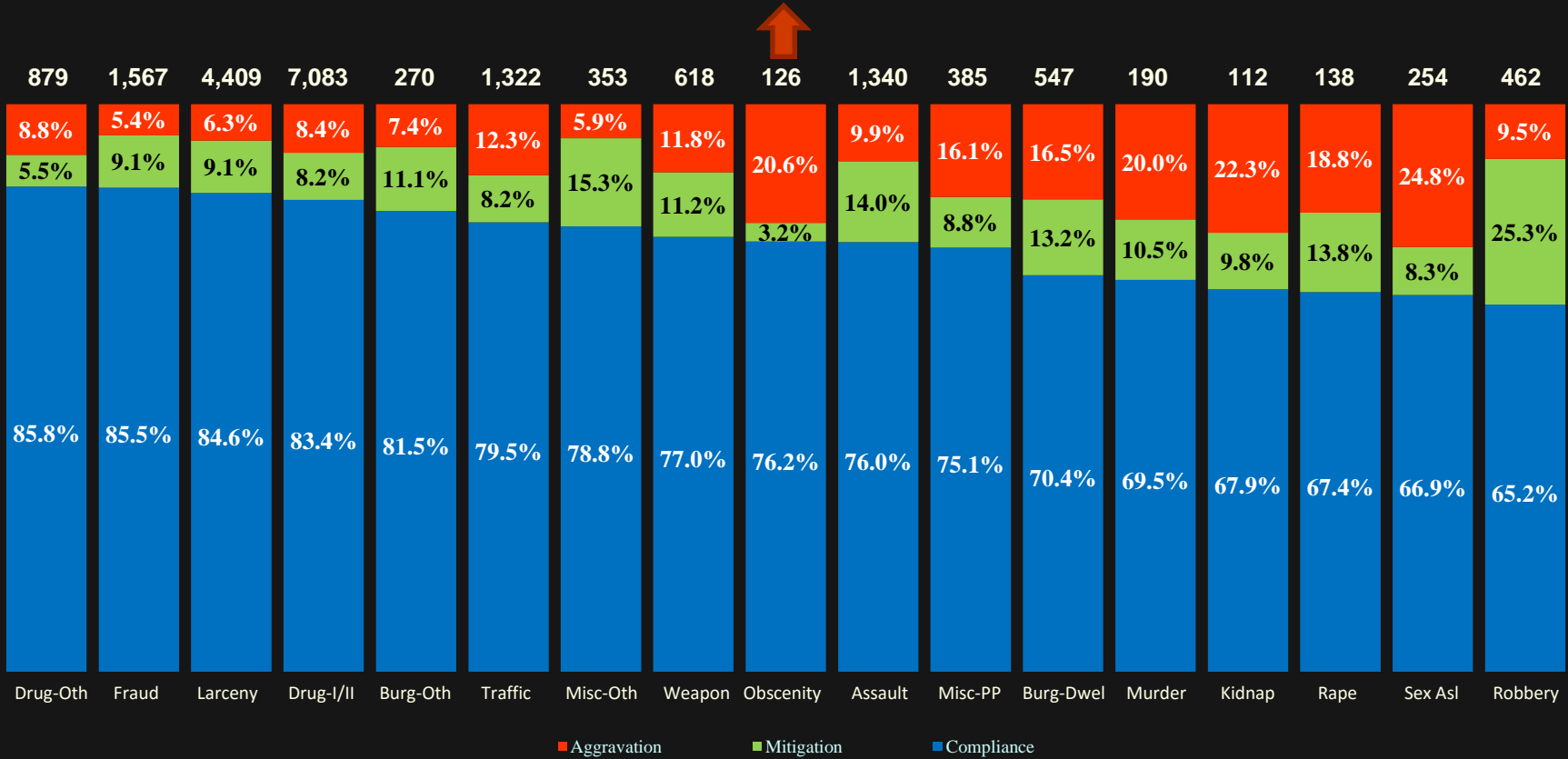
Compliance by Type of Offense



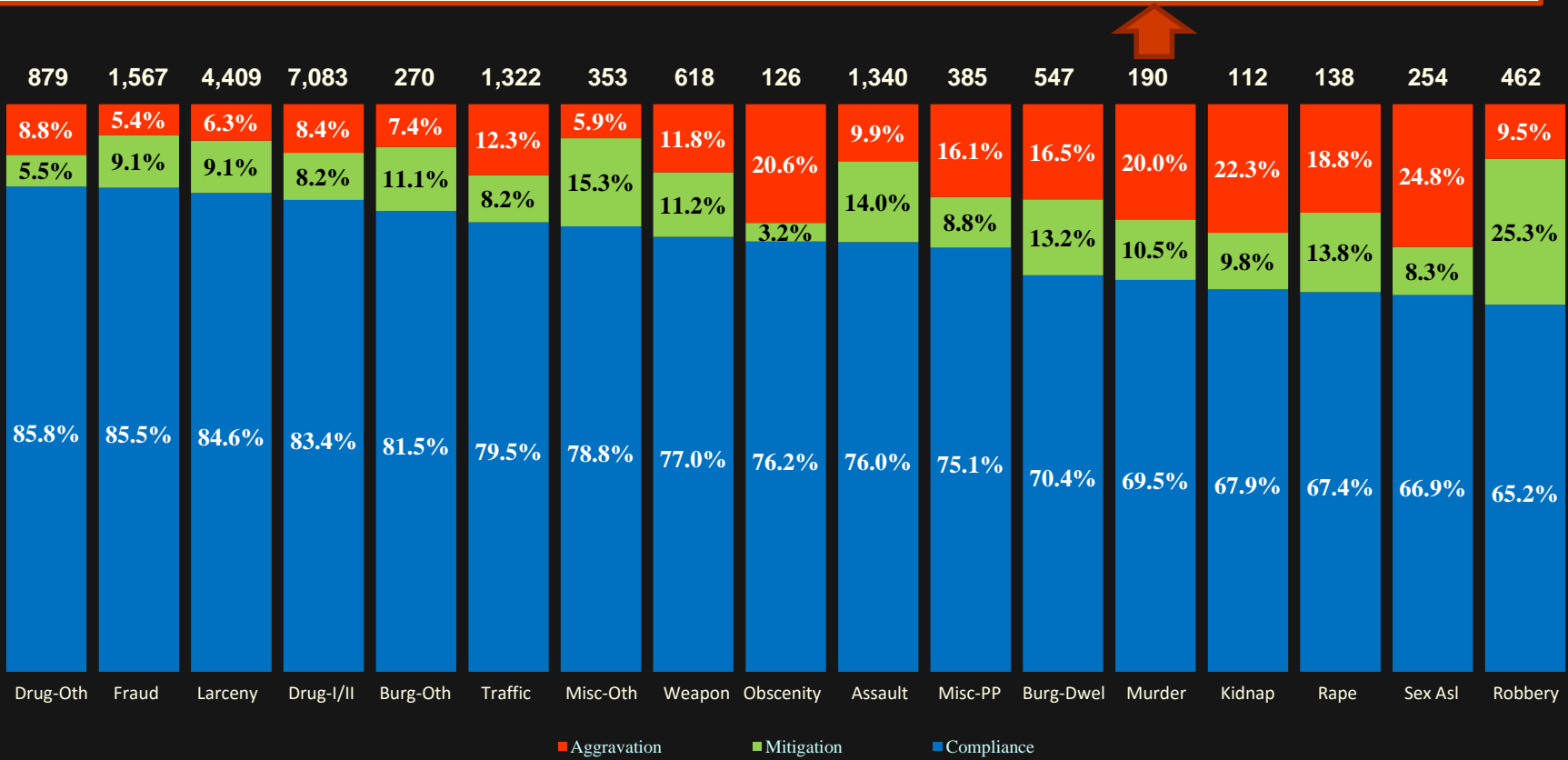
§ 18.2-374.3. Use of communications systems to facilitate certain offenses involving children. —

Aggravation	29%	(n=16)
Mitigation	2%	(n=1)
Concurrence	69%	(n=38)

Aggravation Reasons: Position of trust, facts of case, predator, number of offenses



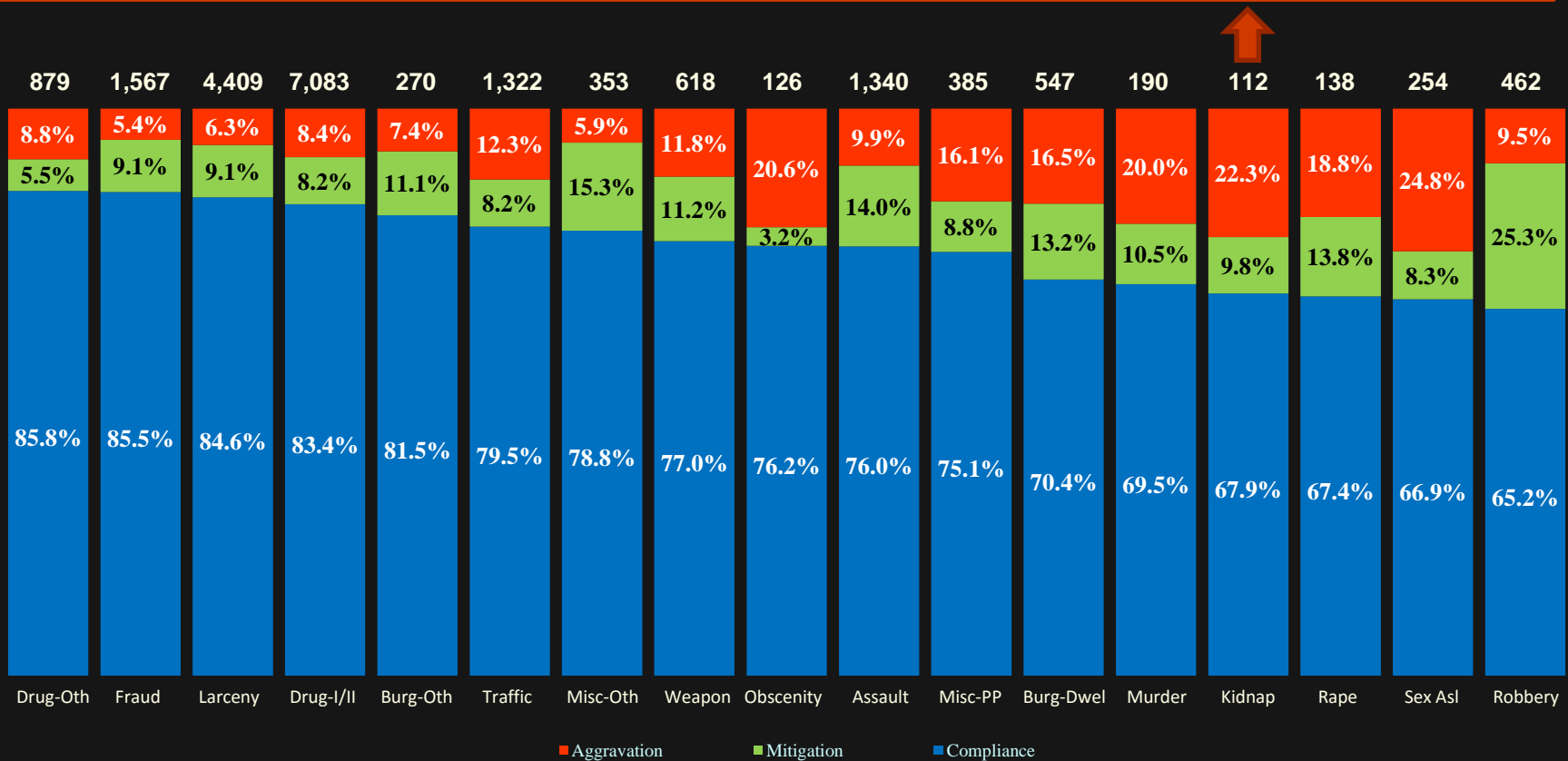
	(2- Vehicles, 6 Firearms, 13 Unknown)	Aggravation	Mitigation	Concurrence	(Total Cases)
§ 18.2-36	Involuntary manslaughter	62%	0%	38%	(n=21)
§ 18.2-36.1	Involuntary manslaughter – Vehicular	33%	0%	67%	(n=15)
§ 18.2-36.1	Involuntary manslaughter – Aggravated Vehicular	22%	11%	67%	(n= 9)
Aggravation Reasons: Facts of case, number of counts, jury recommendation					
§ 18.2-35	Voluntary manslaughter	26%	17%	57%	(n=23)
Aggravation Reasons: Facts of case, number of counts, jury recommendation					



	Aggravation	Mitigation	Concurrence	(Total Cases)
§ 18.2-58(ii) Abduct, intent to defile	54%	0%	46%	(n=11)
§ 18.2-36.1 Abduct, force without justification*	20%	9%	71%	(n=87)
§ 18.2-36.1 Abduct, pecuniary benefit	22%	11%	67%	(n= 9)

Aggravation Reasons: 18 different reasons for 25 cases

* 3 other attempts were all in concurrence



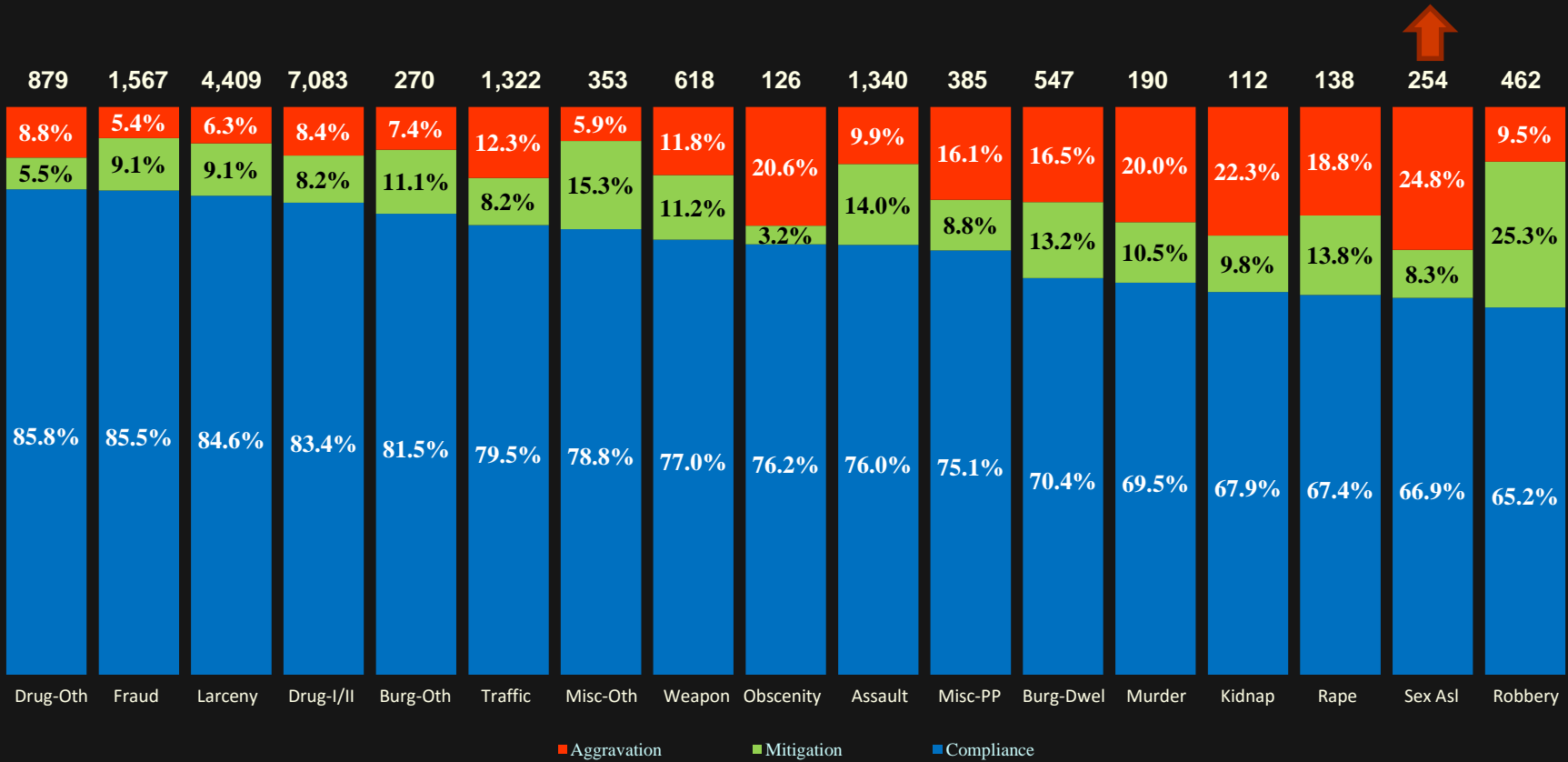
Six of eight offenses with high aggravation rates, do not have a significant number of cases to analyze.

§ 18.2-63(A) Carnal knowledge, victim 13, 14 Aggravation **36%** Mitigation **8%** Concurrence **56%** (Total Cases) (n=39)

Aggravation Reasons: Issue with guidelines, number of offenses, facts of the case, impact on victim

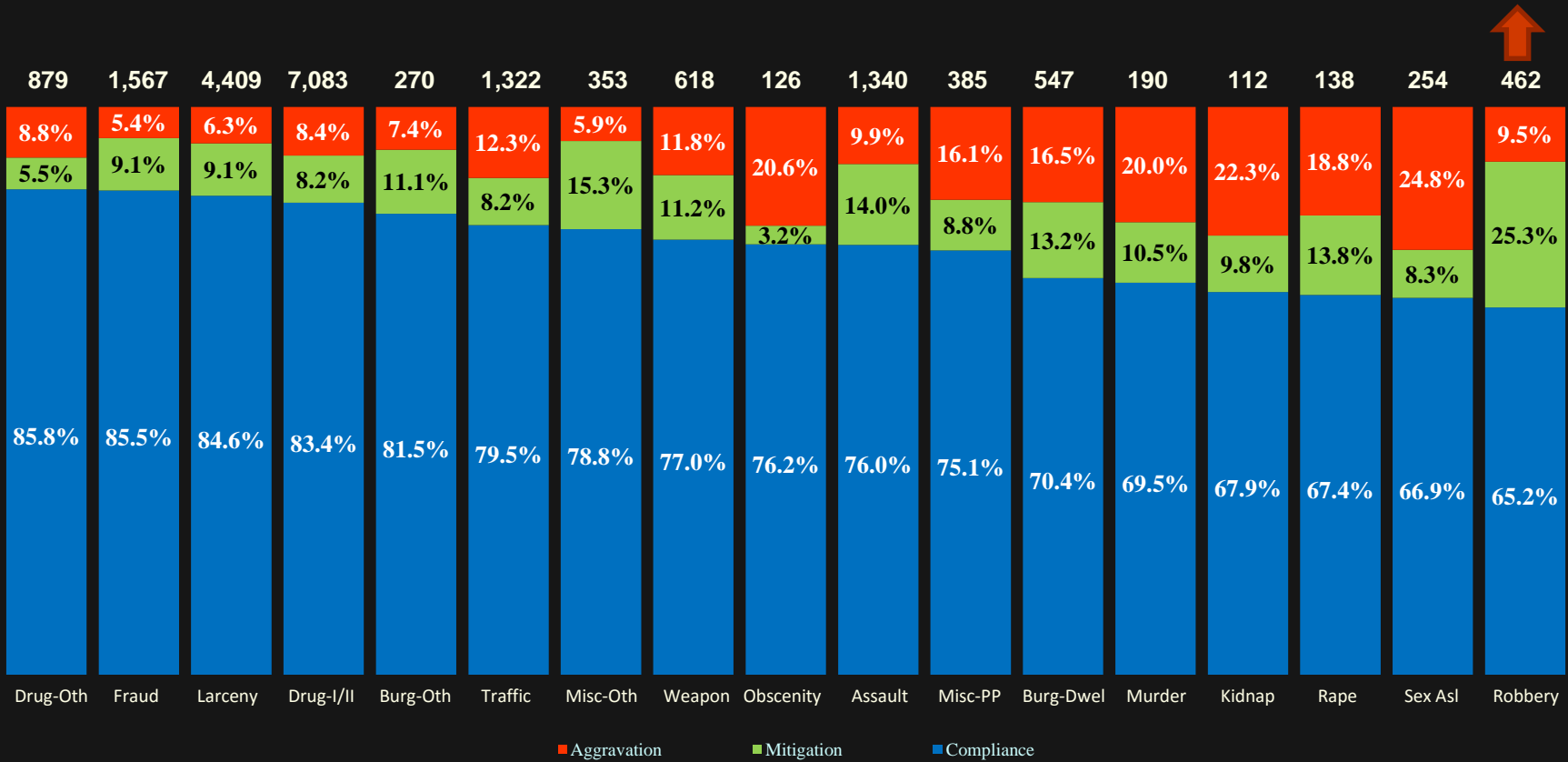
§ 18.2-370.1(A) Indecent liberties, custodial Aggravation **35%** Mitigation **6%** Concurrence **59%** (n=32)

Aggravation Reasons: Impact on victim, number of offenses, facts of the case



	Aggravation	Mitigation	Concurrence	(Total Cases)
§ 18.2-58 Robbery, business w/gun 6%	24%	70%	(n=76)	
§ 18.2-58 Robbery, street w/gun	7%	42%	51%	(n=72)
§ 18.2-58 Robbery, residence w/gun	12%	32%	56%	(n=34)

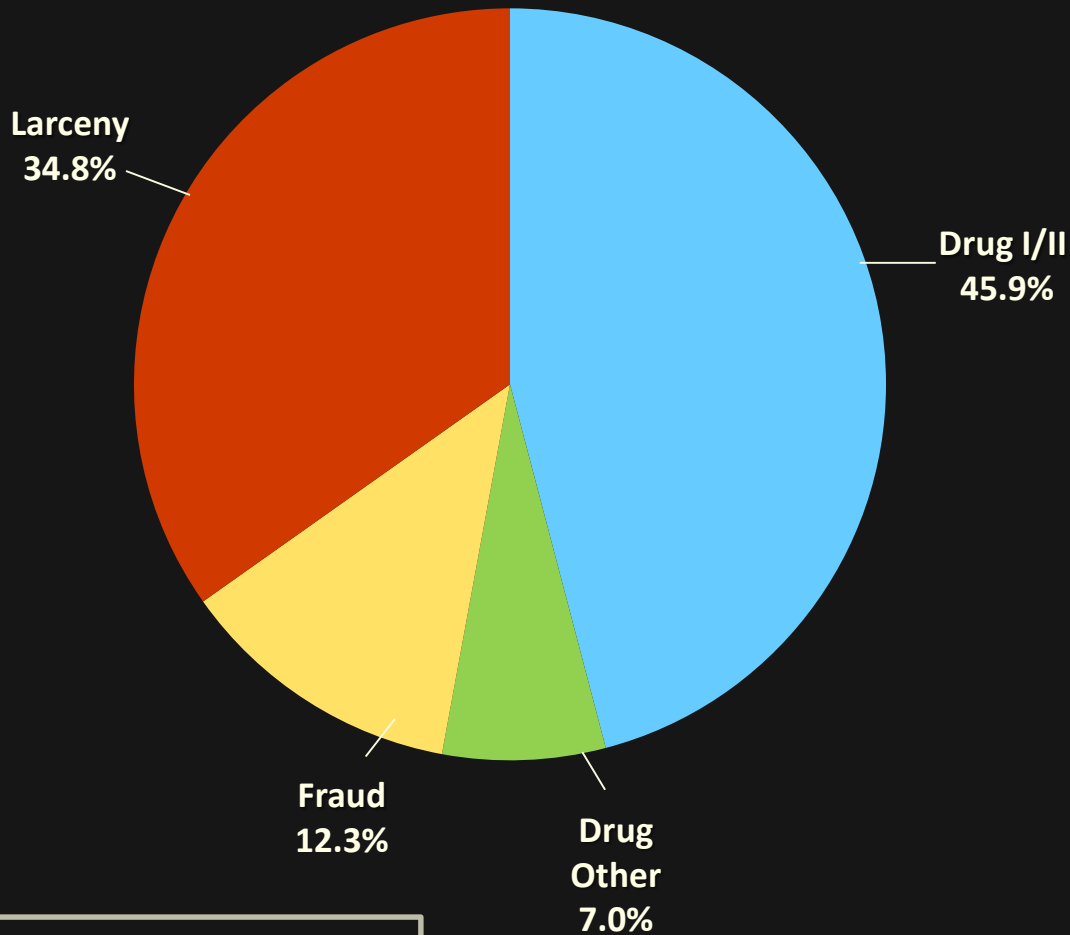
Mitigation Reasons: Cooperated with authorities, plea agreement



**Preliminary FY2017 Report:
Nonviolent Risk Assessment**
Effective July 1, 2013



Preliminary FY2017 Report
Nonviolent Offenders Eligible for Risk Assessment
by Type of Offense



13,938 Drug, Fraud & Larceny Cases
- 8,150 Excluded: Ineligible, Errors, 807 Missing
5,784 Analyzed

Preliminary FY2017 Nonviolent Offenders Eligible for Risk Assessment

<u>Offense</u>	<u>Mitigation</u>	<u>Compliance</u>		<u>Aggravation</u>	<u>Number of Cases</u>
		<u>Alternative</u>	<u>Traditional</u>		
Drug	7%	27% →	86%	← 59%	3,061
Fraud	10%	29% →	87%	← 58%	711
Larceny	8%	7% →	87%	← 80%	2,012
All Risk Cases	7%	20% →	87%	← 67%	5,784

Preliminary FY2017

Nonviolent Offenders Eligible for Risk Assessment

✓	Recommended for and Received an Alternative	19.9%	n= 1151
✓	Recommended and Incarcerated	29.7%	n= 1717
	Not Recommended and Received Alternative	13.5%	n= 782
✓	Not Recommended and Incarcerated	36.9%	n= 2134

**Of offenders recommended for alternative sanctions,
the proportion who received an alternative**

40%

**Of offenders recommended for alternative sanctions,
the proportion who received an alternative**

In cases without Plea Agreement 39% - In cases with Plea Agreement 42%

**Preliminary FY2017 Report:
Compliance for New Offenses Modified
2015 - 2016**



Preliminary FY2017

New or Revised Guidelines Offenses Effective July 1, 2015 & After

New Offenses Added

STATUTE	DESCRIPTION	CONCURRENCE	MITIGATION	AGGRAVATION	#
§ 18.2-248(E2)	Sell, distribute, etc. Schedule IV drug (completed)	87.3%	6.3%	6.3%	63
§ 18.2-186.3(D)	Obtaining identifying information with intent to defraud, etc., 2nd	75.6%	17.1%	7.3%	41
§ 18.2-192(1,b)	Receiving stolen credit card or credit card number with intent to use	-	-	-	0

Preliminary FY2017

New or Revised Guidelines Offenses Effective July 1, 2016 & After

STATUTE	DESCRIPTION	CONCURRENCE	MITIGATION	AGGRAVATION	#
§ 18.2-51.6	Strangulation	73.0%	14.6%	12.4%	137
	Attempted strangulation	57.1%	42.9%	0%	7
§ 18.2-67.3(A,3)	Aggravated sexual battery of a child age 13-17 by parent, etc.	58.3%	8.3%	33.3%	12
§ 18.2-111	Embezzlement (Only cases involving \$120,000 or more)	75.0%	12.5%	12.5%	8
§ 18.2-36.1(A)	Vehicular Involuntary Manslaughter (Increased Scores)*	66.7%	0%	33.3%	15
	* and additional 37 points assigned for hit and run, DWI Maiming under § 18.2-51.4(A)	100%	0%	0%	3
§ 18.2-35	Voluntary Manslaughter (Added Score for 2 Counts)	100%	0%	0%	2
§ 18.2-67.3(A.4,a)	Aggravated sexual battery of a child 13 or 14	33.3%	0%	66.7%	3
§ 18.2-370.1(A)	Indecent liberties with child by custodian	60.6%	6.1%	33.3%	33
§ 18.2-370(A)	Indecent liberties with child under 15	-	-	-	0
§ 18.2-374.1:1	Possession of child porn first offense	83.3%	0%	16.7%	30
	Possession of child porn second offense	85.7%	14.3%	0.0%	14

Preliminary FY2017

New or Revised Guidelines Offenses Effective July 1, 2016 & After

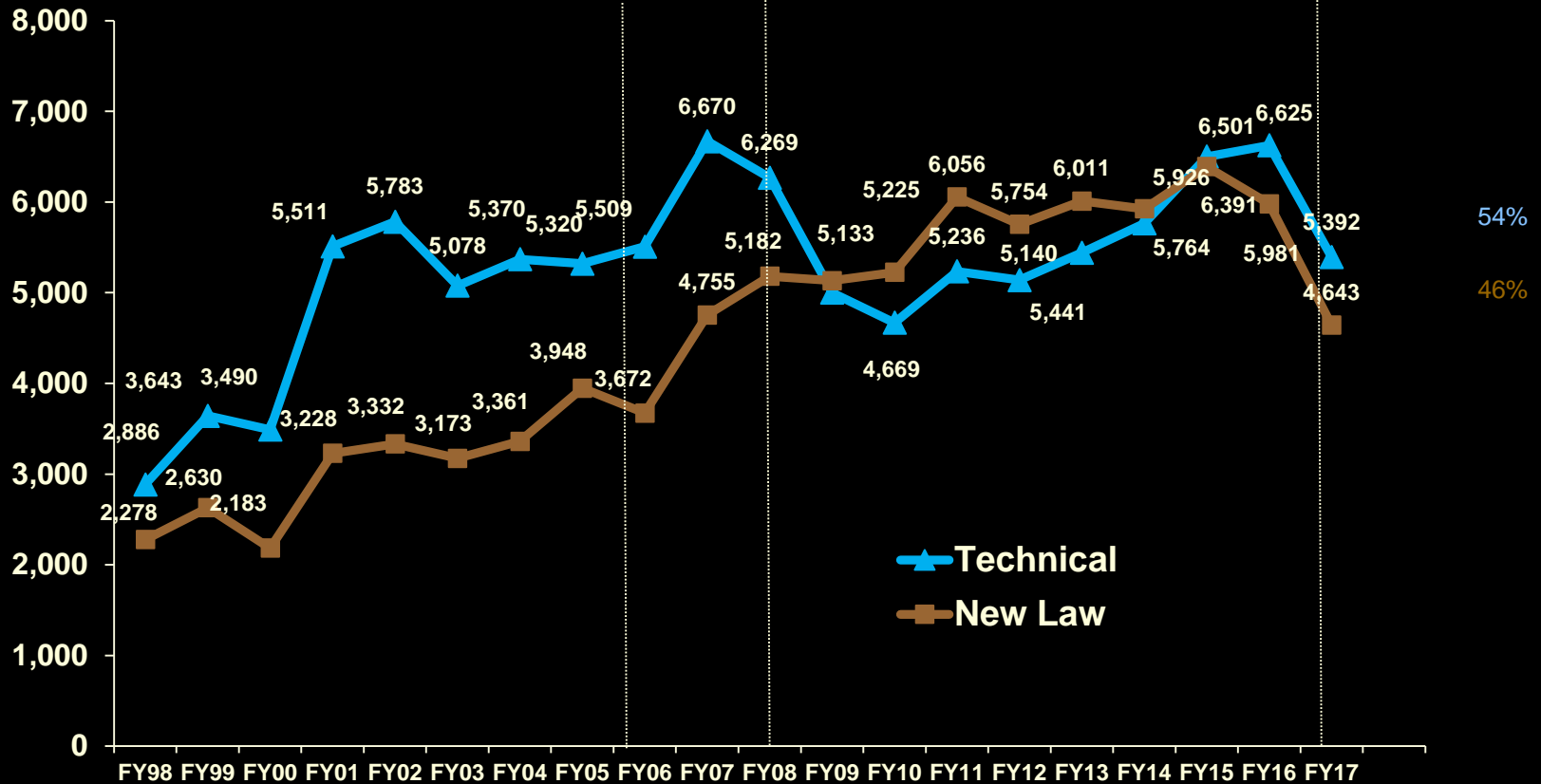
↓ Decreased Section C Scores, Increased Scores for Remaining Counts

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§ 18.2-36.1(A)	Vehicular Involuntary Manslaughter (Increased Scores)*	66.7%	0%	33.3%	15
	* and additional 37 points assigned for hit and run, DWI Maiming under § 18.2-51.4(A)	Prior to FY17: 53.5%	8.6%	37.9%	198
§ 18.2-35	Voluntary Manslaughter (Added Score for 2 Counts)	100%	0%	0%	2
§ 18.2-67.3(A.4,a)	Aggravated sexual battery of a child 13 or 14	33.3%	0%	66.7%	3
		Prior to FY17: 61.5%	10.0%	28.5%	130
§ 18.2-370.1(A)	Indecent liberties with child by custodian	(Changes to WS A & B) Prior to FY17: 59.7%			471
§ 18.2-370(A)	Indecent liberties with child under 16				
§ 18.2-374.1:1	Possession of child porn first offense	83.3%	0%	16.7%	30
	Possession of child porn second offense	1st - Prior To FY17: 64.4%	21.0%	12.7%	116
		2nd - Prior to FY17: 68.6%	27.9%	3.6%	140

**Preliminary FY2017 Report:
Sentencing Revocation Reports &
Probation Violation Guidelines**



Sentencing Revocation Reports Received for Technical and New Law Violations* FY1998 - FY2017 (Preliminary)

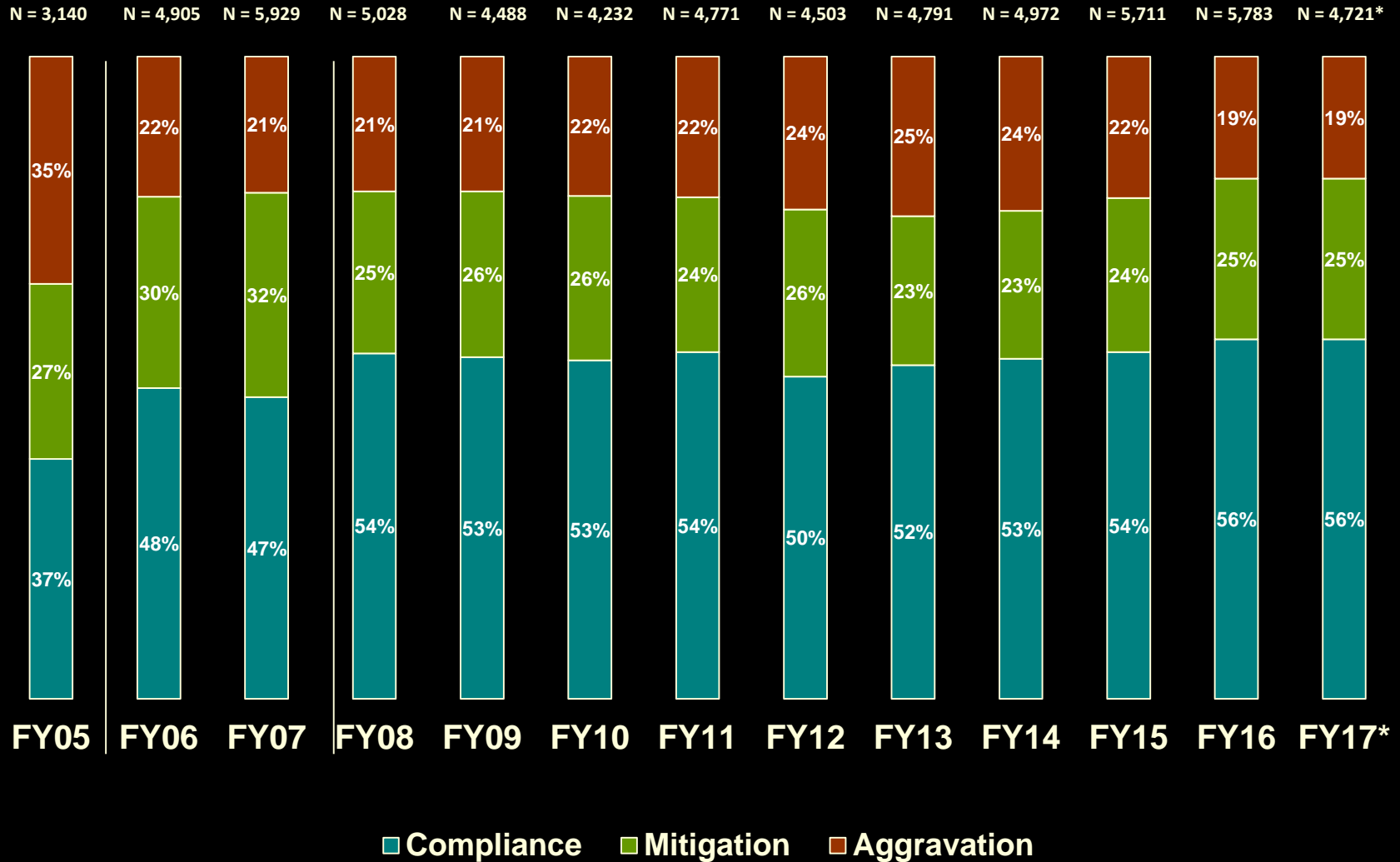


*Note: Includes cases received by May 19, 2017 for cases found in violation with no missing conditions (FY17 - Data for April-June are incomplete)

Probation Violation Guidelines – “Technicals”

Compliance by Fiscal Year

FY2005 – FY2017 (Preliminary)



*Note: FY17 includes cases received by May 19, 2017 for cases found in violation with no missing conditions (Data incomplete for April-June 2017)

