

# Virginia Sentencing Guidelines

*Preliminary*

**FY2018 Report**

*September 10, 2018*

## FY 2018 - Cases Coded and Keyed\*

|              | 2017           | 2018         | Total         |
|--------------|----------------|--------------|---------------|
| JAN          |                | 1,892        |               |
| FEB          |                | 1,927        |               |
| MAR          |                | 1,658        |               |
| APR          |                | 990          |               |
| MAY          |                | 222          |               |
| JUN          |                | 292          |               |
| JUL          | 1,810          |              |               |
| AUG          | 2,343          |              |               |
| SEP          | 2,011          |              |               |
| OCT          | 2,124          |              |               |
| NOV          | 1,970          |              |               |
| DEC          | 1,678          |              |               |
| <b>TOTAL</b> | <b>11, 936</b> | <b>6,981</b> | <b>18,917</b> |

\*Keyed as of August 26, 2018 (Includes all forms received)

## FY 2018 - Cases Received by County - FIPS

|              |     |                 |     |               |     |                 |     |              |     |
|--------------|-----|-----------------|-----|---------------|-----|-----------------|-----|--------------|-----|
| ACCOMACK     | 42  | CHESTERFIELD    | 804 | HALIFAX       | 120 | NELSON          | 59  | SCOTT        | 179 |
| ALBEMARLE    | 136 | CLARKE          | 21  | HANOVER       | 319 | NEW KENT        | 47  | SHENANDOAH   | 77  |
| ALLEGHANY    | 163 | CRAIG           | 2   | HENRICO       | 956 | NORTHAMPTON     | 46  | SMYTH        | 86  |
| AMELIA       | 37  | CULPEPER        | 187 | HENRY         | 230 | NORTHUMBERLAND  | 21  | SOUTHAMPTON  | 91  |
| AMHERST      | 148 | CUMBERLAND      | 21  | HIGHLAND      | 0   | NOTTOWAY        | 51  | SPOTSYLVANIA | 422 |
| APPOMATTOX   | 63  | DICKENSON       | 52  | ISLE OF WIGHT | 76  | ORANGE          | 53  | STAFFORD     | 493 |
| ARLINGTON    | 314 | DINWIDDIE       | 73  | JAMES CITY    | 93  | PAGE            | 120 | SURRY        | 8   |
| AUGUSTA      | 250 | ESSEX           | 45  | KING & QUEEN  | 24  | PATRICK         | 102 | SUSSEX       | 25  |
| BATH         | 21  | FAIRFAX COUNTY  | 760 | KING GEORGE   | 64  | PITTSYLVANIA    | 128 | TAZEWELL     | 340 |
| BEDFORD      | 98  | FAUQUIER        | 146 | KING WILLIAM  | 28  | POWHATAN        | 32  | WARREN       | 120 |
| BLAND        | 19  | FLOYD           | 30  | LANCASTER     | 13  | PRINCE EDWARD   | 72  | WASHINGTON   | 295 |
| BOTETOURT    | 125 | FLUVANNA        | 45  | LEE           | 90  | PRINCE GEORGE   | 81  | WESTMORELAND | 43  |
| BRUNSWICK    | 6   | FRANKLIN COUNTY | 99  | LOUDOUN       | 203 | PRINCE WILLIAM  | 316 | WISE         | 161 |
| BUCHANAN     | 72  | FREDERICK       | 225 | LOUISA        | 83  | PULASKI         | 130 | WYTHE        | 138 |
| BUCKINGHAM   | 48  | GILES           | 95  | LUNENBURG     | 29  | RAPPAHANNOCK    | 10  | YORK         | 126 |
| CAMPBELL     | 121 | GLOUCESTER      | 105 | MADISON       | 23  | RICHMOND COUNTY | 18  |              |     |
| CAROLINE     | 70  | GOOCHLAND       | 36  | MATHEWS       | 16  | ROANOKE COUNTY  | 257 |              |     |
| CARROLL      | 171 | GRAYSON         | 99  | MECKLENBURG   | 165 | ROCKBRIDGE      | 115 |              |     |
| CHARLES CITY | 8   | GREENE          | 53  | MIDDLESEX     | 27  | ROCKINGHAM      | 198 |              |     |
| CHARLOTTE    | 30  | GREENSVILLE     | 85  | MONTGOMERY    | 220 | RUSSELL         | 136 |              |     |

N=18,917 NOTE: (FY 2018 Not Complete – Clerks are submitting more sentencing guidelines worksheets from a number of jurisdictions)

## FY 2018 - Cases Received by City - FIPS

|                  |     |                |     |
|------------------|-----|----------------|-----|
| ALEXANDRIA       | 126 | NORFOLK        | 628 |
| BRISTOL          | 172 | NORTON         | 0   |
| BUENA VISTA      | 32  | PETERSBURG     | 23  |
| CHARLOTTESVILLE  | 128 | POQUOSON       | 1   |
| CHESAPEAKE       | 667 | PORTSMOUTH     | 267 |
| COLONIAL HEIGHTS | 92  | RADFORD        | 48  |
| DANVILLE         | 169 | RICHMOND CITY  | 691 |
| FAIRFAX CITY     | 0   | ROANOKE CITY   | 293 |
| FREDERICKSBURG   | 203 | SALEM          | 38  |
| HAMPTON          | 295 | SOUTH BOSTON   | 0   |
| HARRISONBURG     | 152 | STAUNTON       | 184 |
| HOPEWELL         | 96  | SUFFOLK        | 173 |
| LEXINGTON        | 2   | VIRGINIA BEACH | 915 |
| LYNCHBURG        | 268 | WAYNESBORO     | 126 |
| MARTINSVILLE     | 45  | WILLIAMSBURG   | 49  |
| NEWPORT NEWS     | 536 | WINCHESTER     | 194 |
|                  |     | MISSING        | 7   |

After All FY2018 Worksheets are Keyed  
 Lists of Cases Received Will Be Sent To:  
 Commonwealth's Attorneys and Low Numbers Reported to Clerk

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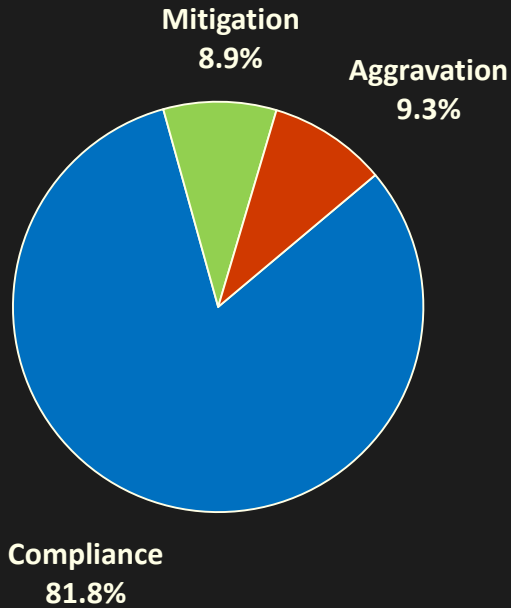
**Preliminary FY2018 Report:  
General Concurrence**

# Preliminary FY2018 Report Judicial Agreement with Guideline Recommendations

## General Compliance:

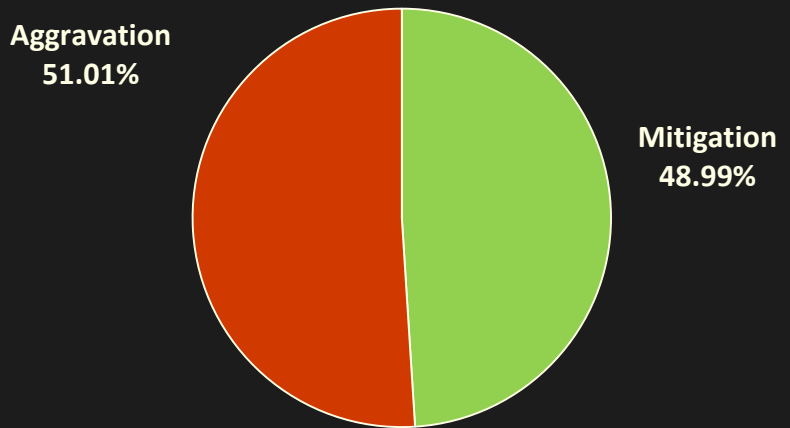
The degree to which judges agree with the overall guidelines recommendation.

### Overall Compliance Rate



### Direction of Departures

Shift in Pattern – However difference is 67 cases



N=18,221 (Excludes old worksheets, non-guidelines offenses and cases missing sentencing information or a guidelines recommendation)

# Preliminary FY2018 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     | 73.0%                      | 22.8%                          | 4.2%                        |
| Incarceration 6 months or less | 11.1%                      | 80.4%                          | 8.4%                        |
| Incarceration over 6 months    | 6.0%                       | 7.9%                           | 86.1%                       |

N=18,221 (Excludes old worksheets, non-guidelines offenses and cases missing sentencing information or a guidelines recommendation)

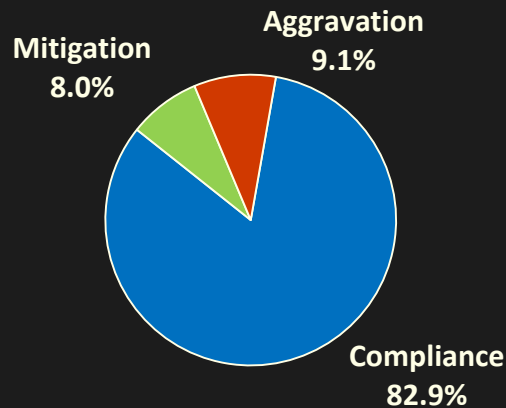
# Preliminary FY2018 Report

## Judicial Agreement with Sentence Length

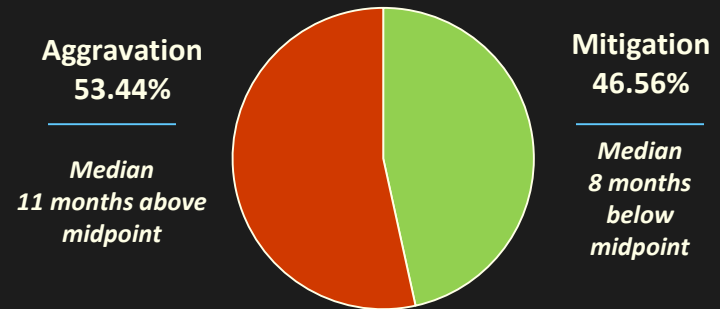
### Durational Compliance:

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





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**Preliminary FY2018 Report:  
Departure Reasons**

## Preliminary FY2018 Report

### Most Frequently Cited Departure Reasons

#### Mitigation (n=2,495)

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- Plea agreement 647 (40%\*)
- Judicial discretion 178 (11%\*)
- Sentenced to alternative 175 (11%\*)
- Facts of the case 159 (10%\*)
- No significant prior record 114 (7%\*)
- Cooperated with authorities 111 (7%\*)
- Recommendation of CA 107 (7%\*)
- Offender's health issues 93 (6%\*)
- Court proceedings 89 (6%\*)
- Rehabilitation Progress 71 (4%\*)
- Rehabilitation Potential 66 (4%\*)

*n=200 (12%) missing a departure reason*

#### Aggravation (n=2,662)

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- Plea agreement 484 (28%\*\*)
- Flagrancy of offense/facts of case 339 (20%\*\*)
- Multiple counts involved in event 242 (14%\*\*)
- Severity/type of prior record 217 (13%\*\*)
- Drugs involved 95 (6%\*\*)
- Poor rehabilitation potential 92 (6%\*\*)
- Recommendation of jury 90 (5%\*\*)
- Degree of injury 83 (5%\*\*)
- Type of victim (child, etc.) 75 (4%\*\*)
- Guidelines too low 75 (4%\*\*)

*n=188 (11%) missing a departure reason*

\* Of mitigating cases requiring departure reason

\*\* Of aggravating cases requiring departure reasons

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**Preliminary FY2018 Report:  
Concurrence by Circuit**

**Preliminary FY2018****Sorted By Circuit**

| <b>Circuit Name</b>  | <b>Circuit</b> | <b>Concurrence</b> | <b>Mitigation</b> | <b>Aggravation</b> | <b>No. of Cases</b> |
|----------------------|----------------|--------------------|-------------------|--------------------|---------------------|
| Chesapeake           | 1              | 80.6%              | 7.4%              | 12.0%              | 649                 |
| Virginia Beach       | 2              | 88.5%              | 5.7%              | 5.7%               | 974                 |
| Portsmouth           | 3              | 75.1%              | 15.1%             | 9.8%               | 265                 |
| Norfolk              | 4              | 81.5%              | 13.1%             | 5.4%               | 611                 |
| Suffolk Area         | 5              | 76.4%              | 7.9%              | 15.8%              | 330                 |
| Sussex Area          | 6              | 83.4%              | 7.1%              | 9.5%               | 295                 |
| Newport News         | 7              | 86.9%              | 8.3%              | 4.7%               | 527                 |
| Hampton              | 8              | 78.8%              | 13.9%             | 7.3%               | 274                 |
| Williamsburg Area    | 9              | 83.1%              | 7.0%              | 9.9%               | 514                 |
| South Boston Area    | 10             | 78.7%              | 9.1%              | 12.1%              | 536                 |
| Petersburg Area      | 11             | 89.1%              | 6.2%              | 4.7%               | 211                 |
| Chesterfield Area    | 12             | 84.3%              | 6.6%              | 9.1%               | 879                 |
| Richmond City        | 13             | 73.6%              | 17.3%             | 9.1%               | 671                 |
| Henrico              | 14             | 79.3%              | 6.9%              | 13.8%              | 912                 |
| Fredericksburg Area  | 15             | 75.7%              | 8.6%              | 15.6%              | 1632                |
| Charlottesville Area | 16             | 80.6%              | 10.8%             | 8.6%               | 732                 |
| Arlington Area       | 17             | 73.6%              | 11.3%             | 15.1%              | 311                 |
| Alexandria           | 18             | 83.1%              | 8.5%              | 8.5%               | 118                 |
| Fairfax              | 19             | 74.8%              | 14.3%             | 10.9%              | 750                 |
| Loudoun Area         | 20             | 79.7%              | 5.2%              | 15.1%              | 345                 |
| Martinsville Area    | 21             | 78.7%              | 11.4%             | 9.9%               | 334                 |
| Danville Area        | 22             | 82.9%              | 8.0%              | 9.1%               | 386                 |
| Roanoke Area         | 23             | 81.1%              | 12.9%             | 6.0%               | 566                 |
| Lynchburg Area       | 24             | 86.4%              | 7.5%              | 6.1%               | 671                 |
| Staunton Area        | 25             | 84.8%              | 9.3%              | 6.0%               | 972                 |
| Harrisonburg Area    | 26             | 86.5%              | 6.3%              | 7.2%               | 1075                |
| Radford Area         | 27             | 88.3%              | 6.3%              | 5.5%               | 860                 |
| Bristol Area         | 28             | 88.3%              | 4.8%              | 6.9%               | 540                 |
| Buchanan Area        | 29             | 84.8%              | 6.0%              | 9.2%               | 553                 |
| Lee Area             | 30             | 76.0%              | 15.2%             | 8.8%               | 409                 |
| Prince William Area  | 31             | 87.0%              | 6.5%              | 6.5%               | 307                 |

**Preliminary FY2018**  
**Sorted By Concurrence**

| Circuit Name         | Circuit | Concurrence | Mitigation | Aggravation | No. of Cases |
|----------------------|---------|-------------|------------|-------------|--------------|
| Petersburg Area      | 11      | 89.1%       | 6.2%       | 4.7%        | 211          |
| Virginia Beach       | 2       | 88.5%       | 5.7%       | 5.7%        | 974          |
| Bristol Area         | 28      | 88.3%       | 4.8%       | 6.9%        | 540          |
| Radford Area         | 27      | 88.3%       | 6.3%       | 5.5%        | 860          |
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| Norfolk              | 4       | 81.5%       | 13.1%      | 5.4%        | 611          |
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| Chesapeake           | 1       | 80.6%       | 7.4%       | 12.0%       | 649          |
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| Fairfax              | 19      | 74.8%       | 14.3%      | 10.9%       | 750          |
| Arlington Area       | 17      | 73.6%       | 11.3%      | 15.1%       | 311          |
| Richmond City        | 13      | 73.6%       | 17.3%      | 9.1%        | 671          |



**Highest aggravation:**  
**-Circuit 5 (Suffolk Area)**  
**15.8%**

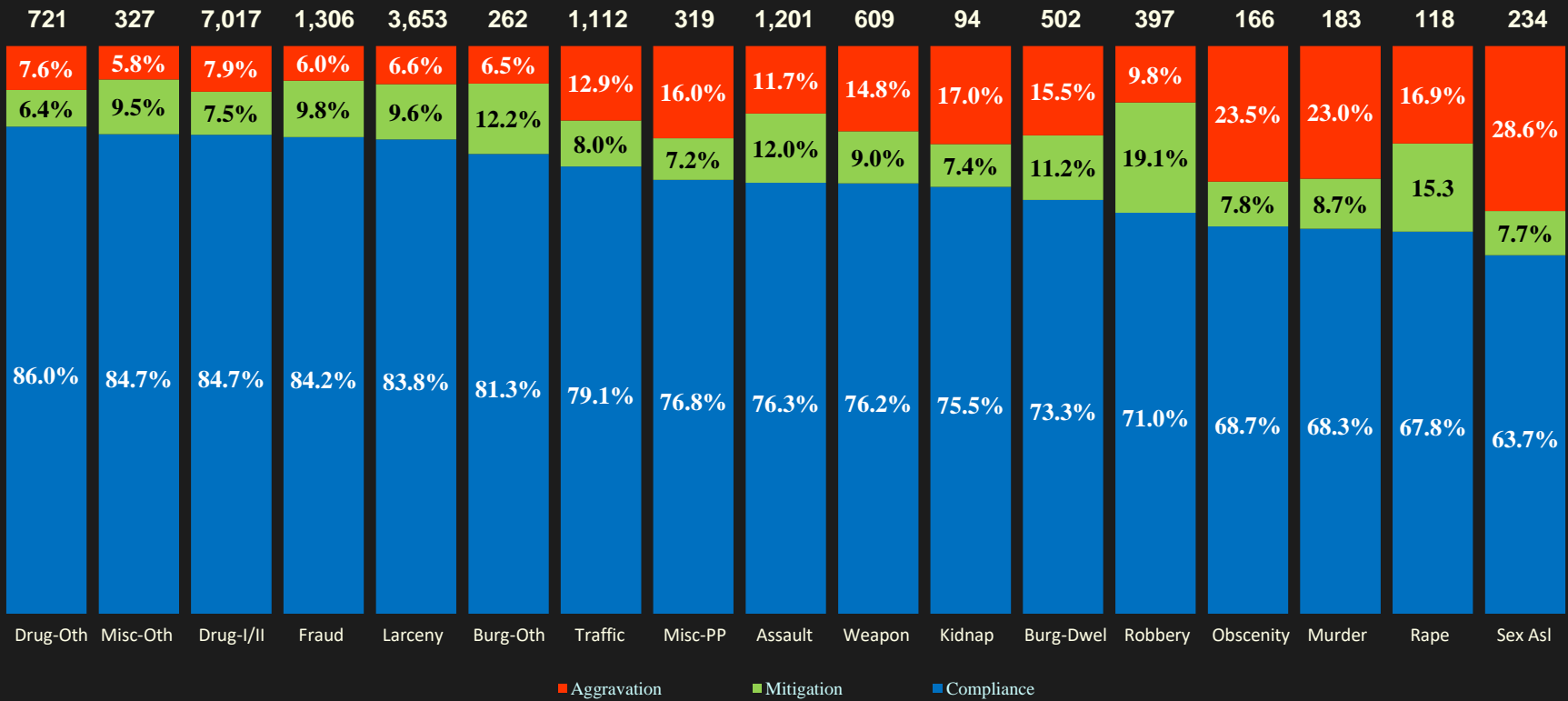
**Highest mitigation:**  
**-Circuit 13 (Richmond City)**  
**17.3% (FY 2017 23%)**

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**Preliminary FY2018 Report:  
Compliance by Offense Type**

# Preliminary FY2018 Report

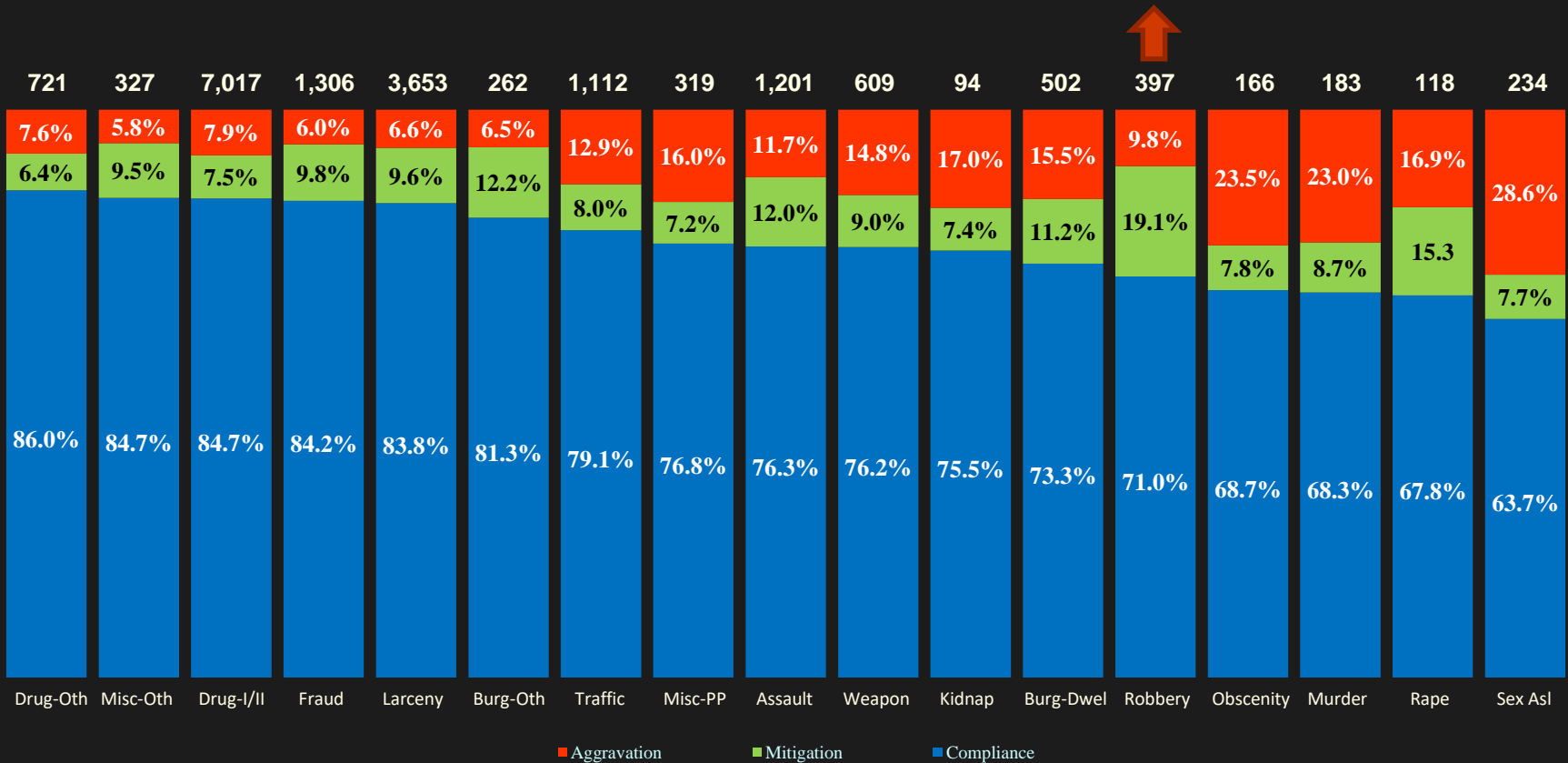
## Concurrence by Type of Offense



**All Robberies Mitigation Reasons:** 33% Plea Agreement or Commonwealth's Recommendation (n = 25 of 76);  
9% Cooperated with Authorities (n=7 of 76 cases)

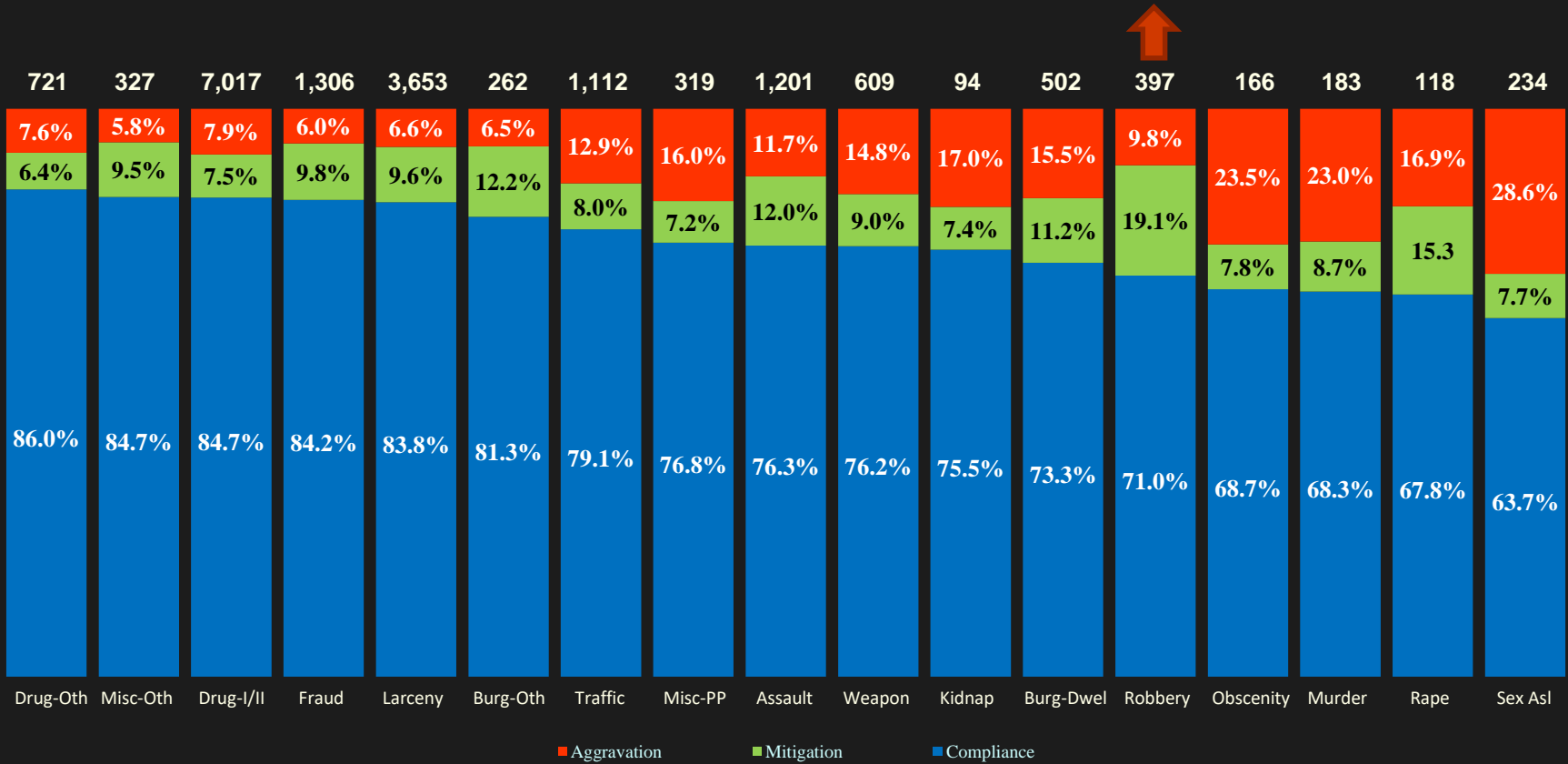
**Sentenced to Dept. Juvenile Justice:** 2% (n=9 of 397 cases)

**Category I/II:** 40% of the Mitigation (30 of the 76 cases)





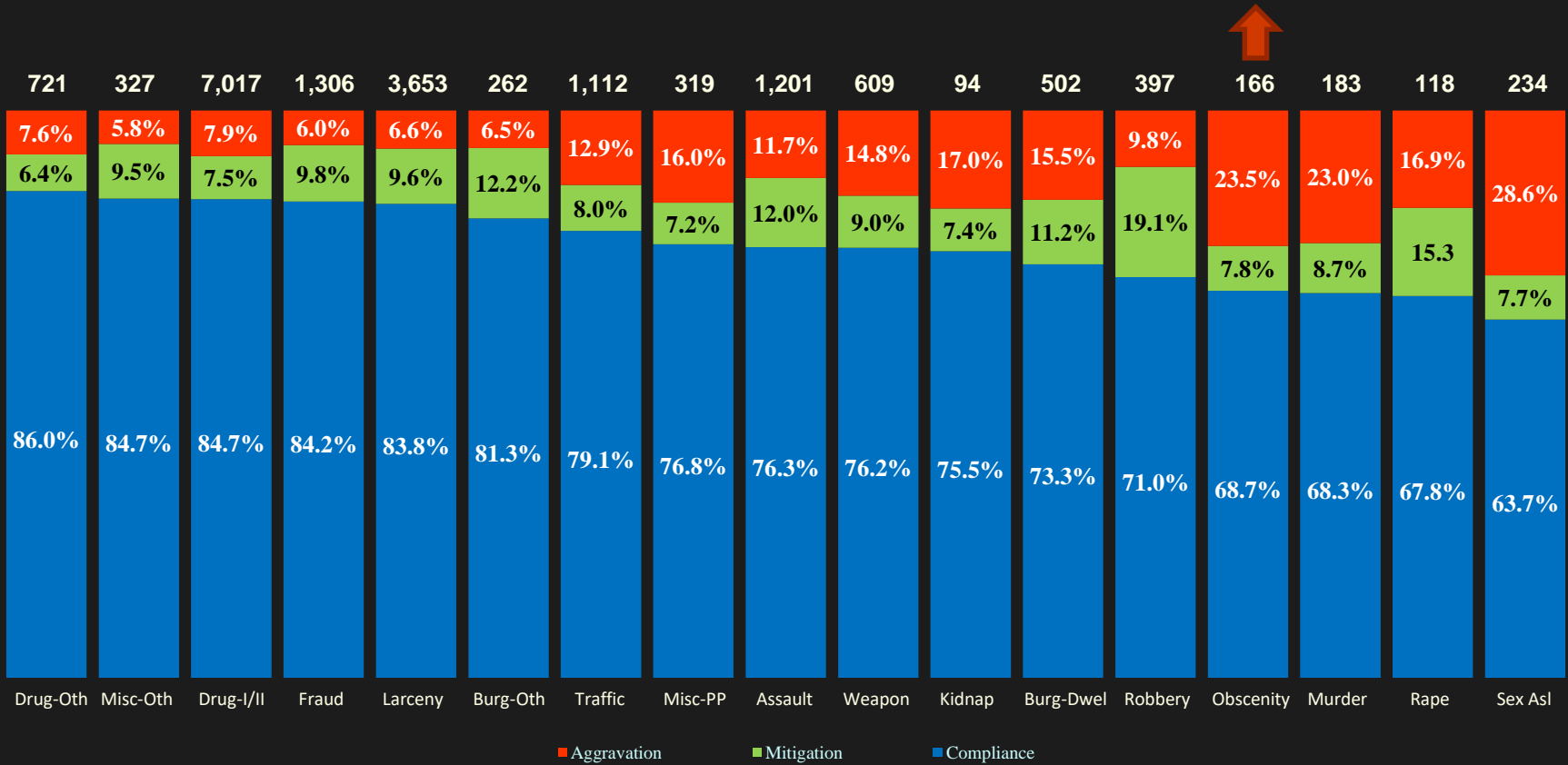
|   | Aggravation | Mitigation | Concurrence | (Total Cases) |
|---|-------------|------------|-------------|---------------|
| <b>§ 18.2-58 Robbery, street</b><br>Weapon or simulated weapon scored in 43% of the cases (Actual firearm scored in 10 of the 35 cases)   | <b>20%</b>  | <b>26%</b> | <b>54%</b>  | (n=35)        |
| <b>§ 18.2-58 Robbery, street w/gun</b><br>Other weapon or simulated firearm scored in 3 of the 71 cases. Otherwise firearm scored in the other 68 cases based on the victim's perspective | <b>4%</b>   | <b>30%</b> | <b>66%</b>  | (n=71)        |



# Preliminary FY2018 Report

## Concurrence by Type of Offense

Ten different offenses with with high aggravation rates, but number of cases are too small to identify trends.

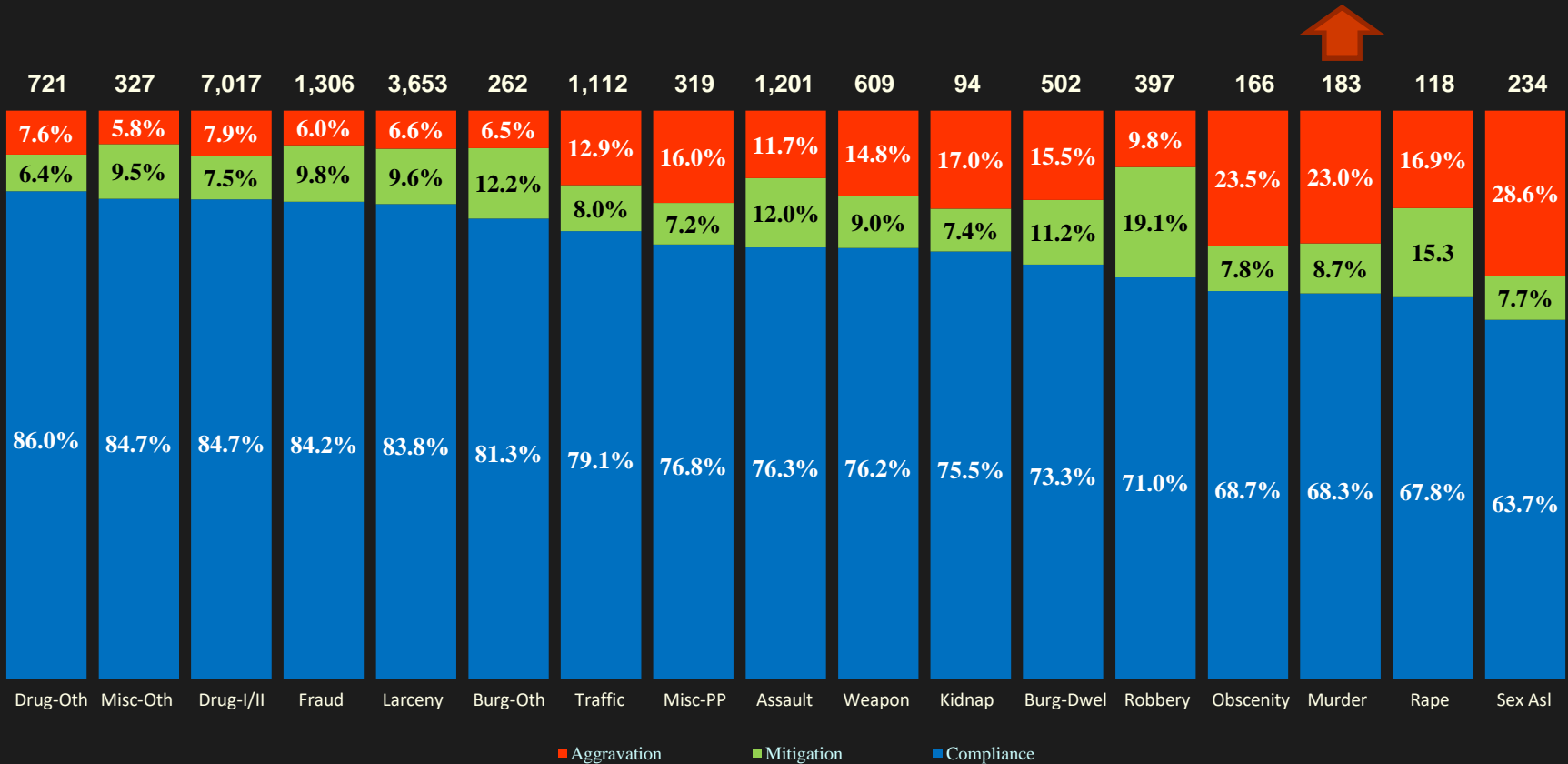


**Offenses with High Aggravation rates:**

Second Degree Murder, Involuntary Manslaughter, Voluntary Manslaughter, Involuntary Vehicular Manslaughter

**Most Common Departure Reasons:**

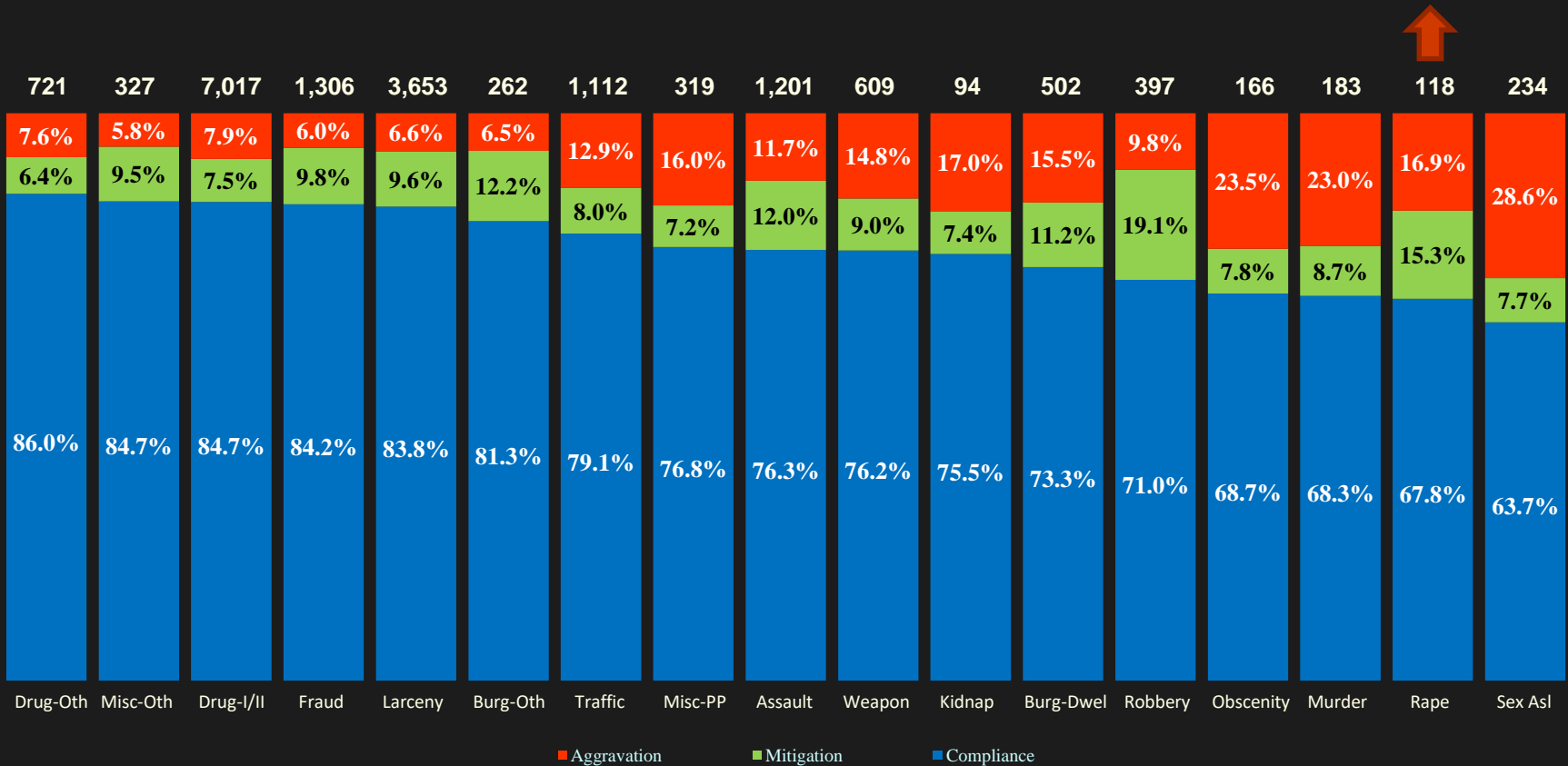
Facts of the case and Jury Recommendation



# Preliminary FY2018 Report

## Concurrence by Type of Offense

Balanced distribution between mitigating and aggravating departures



### Offenses with High Aggravation rates:

Aggravated Sexual Battery, Carnal Knowledge, Child 13 or 14, Indecent Liberties, Custodial Relationship, Felony Prostitution, Pandering

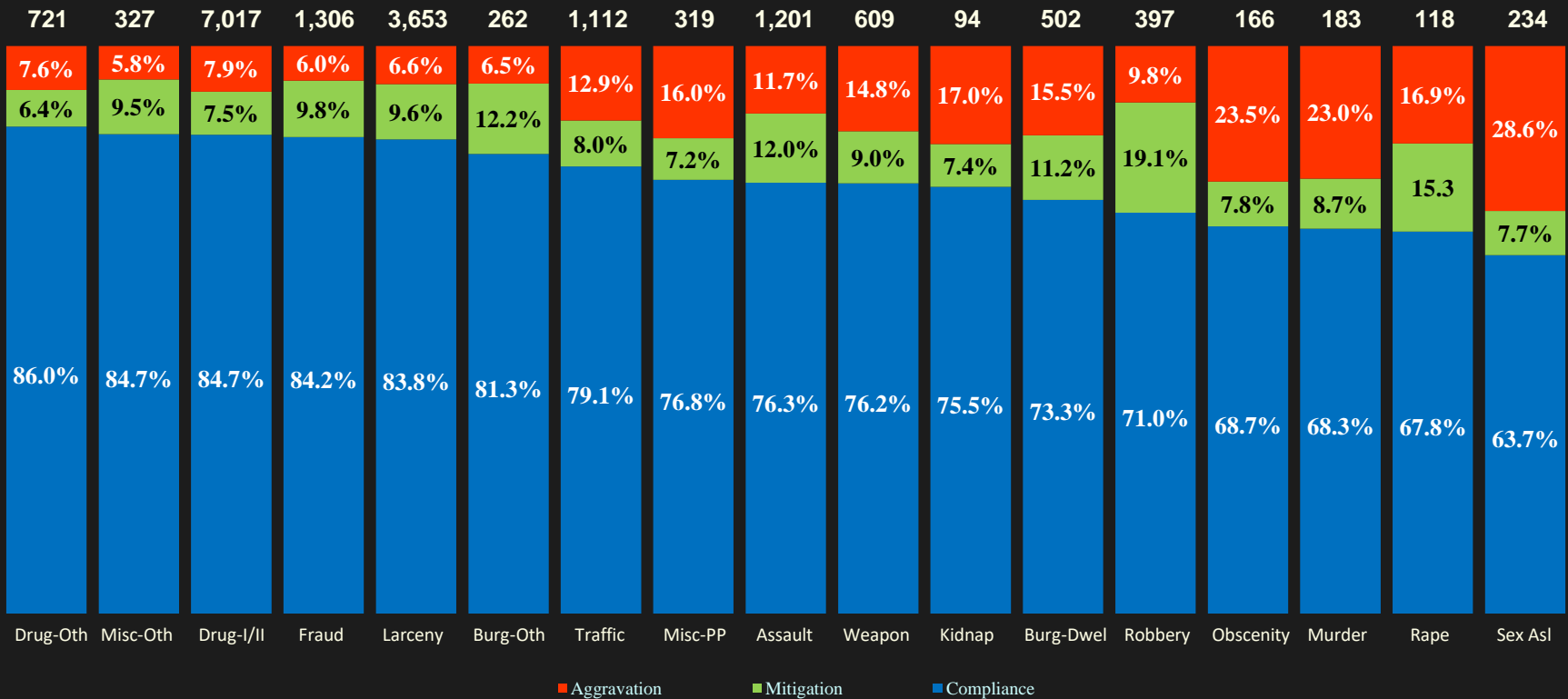
### Most Common Departure Reasons:

Facts of the case and Plea Agreement (Hypothesis: rape cases plead down to sexual assault)

### Other Information:

75% -100% - No Enhancement based on risk assessment

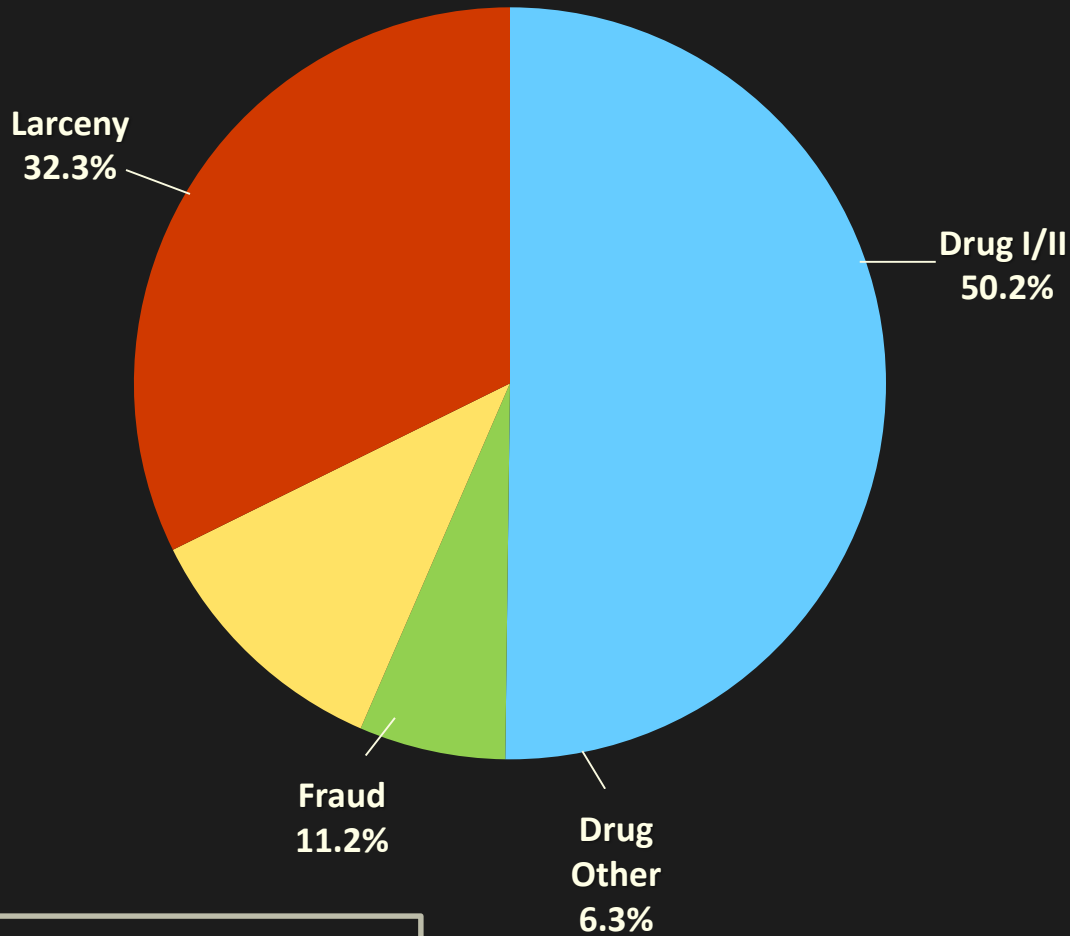
50% - 80% - Penetration factor scored



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**Preliminary FY2018 Report:**  
**Nonviolent Risk Assessment**  
Effective July 1, 2013

**Preliminary FY2018 Report**  
**Nonviolent Offenders Eligible for Risk Assessment**  
**by Type of Offense**



12,695 Drug, Fraud & Larceny Cases  
- 7,463 Excluded: Ineligible, Errors or Missing  

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**5,232 Analyzed**

# Preliminary FY2018 Nonviolent Offenders Eligible for Risk Assessment

| <u>Offense</u>        | <u>Mitigation</u> | <b>Compliance</b>  |            | <u>Aggravation</u> | <u>Number of Cases</u> |
|-----------------------|-------------------|--------------------|------------|--------------------|------------------------|
|                       |                   | <u>Alternative</u> |            | <u>Traditional</u> |                        |
| Drug                  | 7%                | 27% →              | <b>87%</b> | ← 60%              | 6%<br>2,955            |
| Fraud                 | 10%               | 30% →              | <b>86%</b> | ← 56%              | 4%<br>588              |
| Larceny               | 9%                | 8% →               | <b>86%</b> | ← 78%              | 5%<br>1,689            |
| <b>All Risk Cases</b> | <b>8%</b>         | <b>20% →</b>       | <b>86%</b> | <b>← 66%</b>       | <b>6%<br/>5,232</b>    |



## *Preliminary FY2018*

### Nonviolent Offenders Eligible for Risk Assessment

|   |  |              |                |
|---|--|--------------|----------------|
| ✓ | <b>Recommended for and Received an Alternative</b> | <b>20.8%</b> | <b>n= 1086</b> |
| ✓ | <b>Recommended and Incarcerated</b>                | <b>30.7%</b> | <b>n= 1604</b> |
|   | <b>Not Recommended and Received Alternative</b>    | <b>13.5%</b> | <b>n= 705</b>  |
| ✓ | <b>Not Recommended and Incarcerated</b>            | <b>35.1%</b> | <b>n= 1837</b> |

**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**

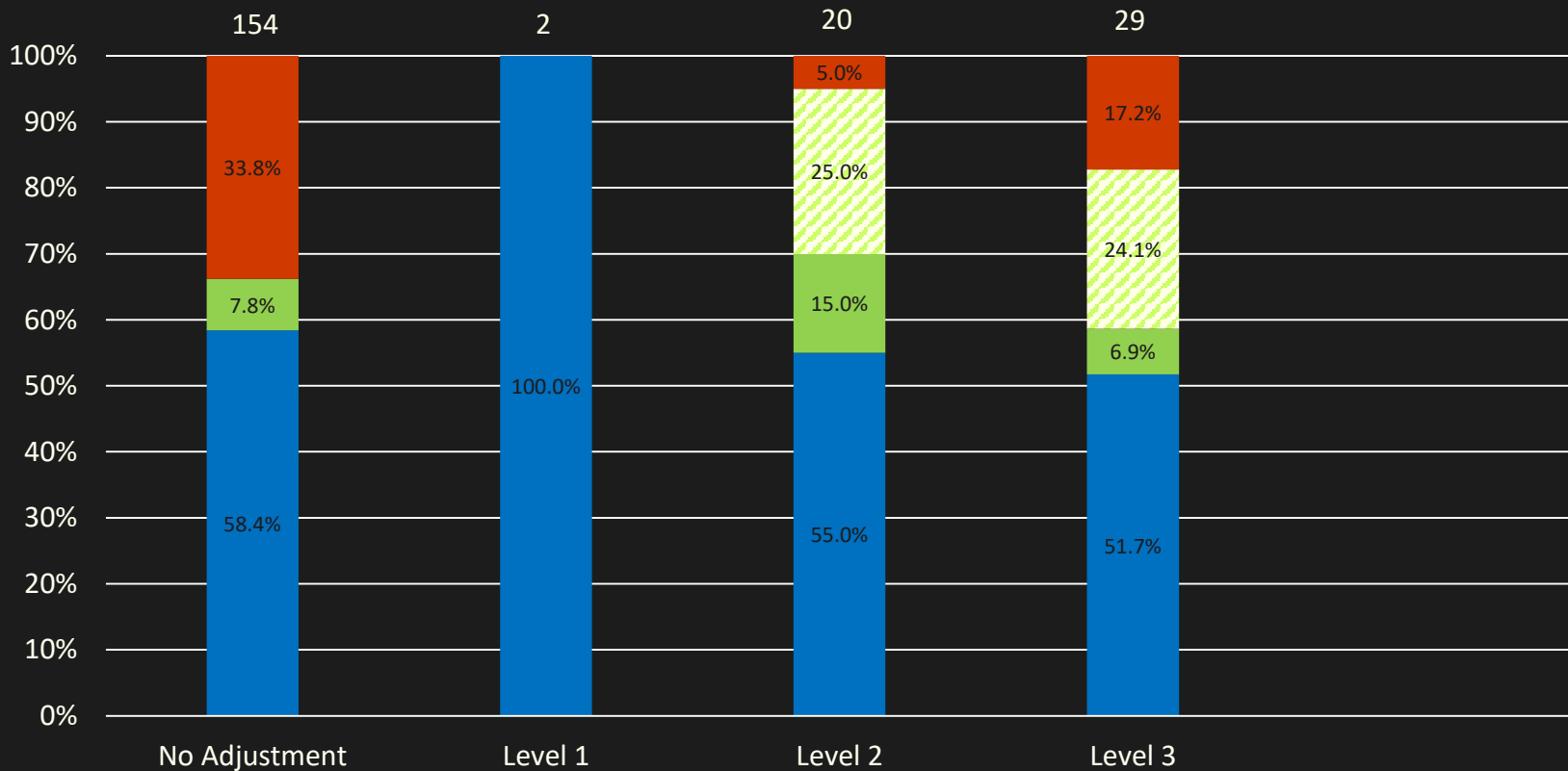
**In cases without Plea Agreement 40% - In cases with Plea Agreement 41%**

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**Preliminary FY2018 Report:  
Sex Offender Risk Assessment**

# Preliminary FY2018 Report

## Concurrence with Sex Offender Risk Assessment Other Sexual Assault



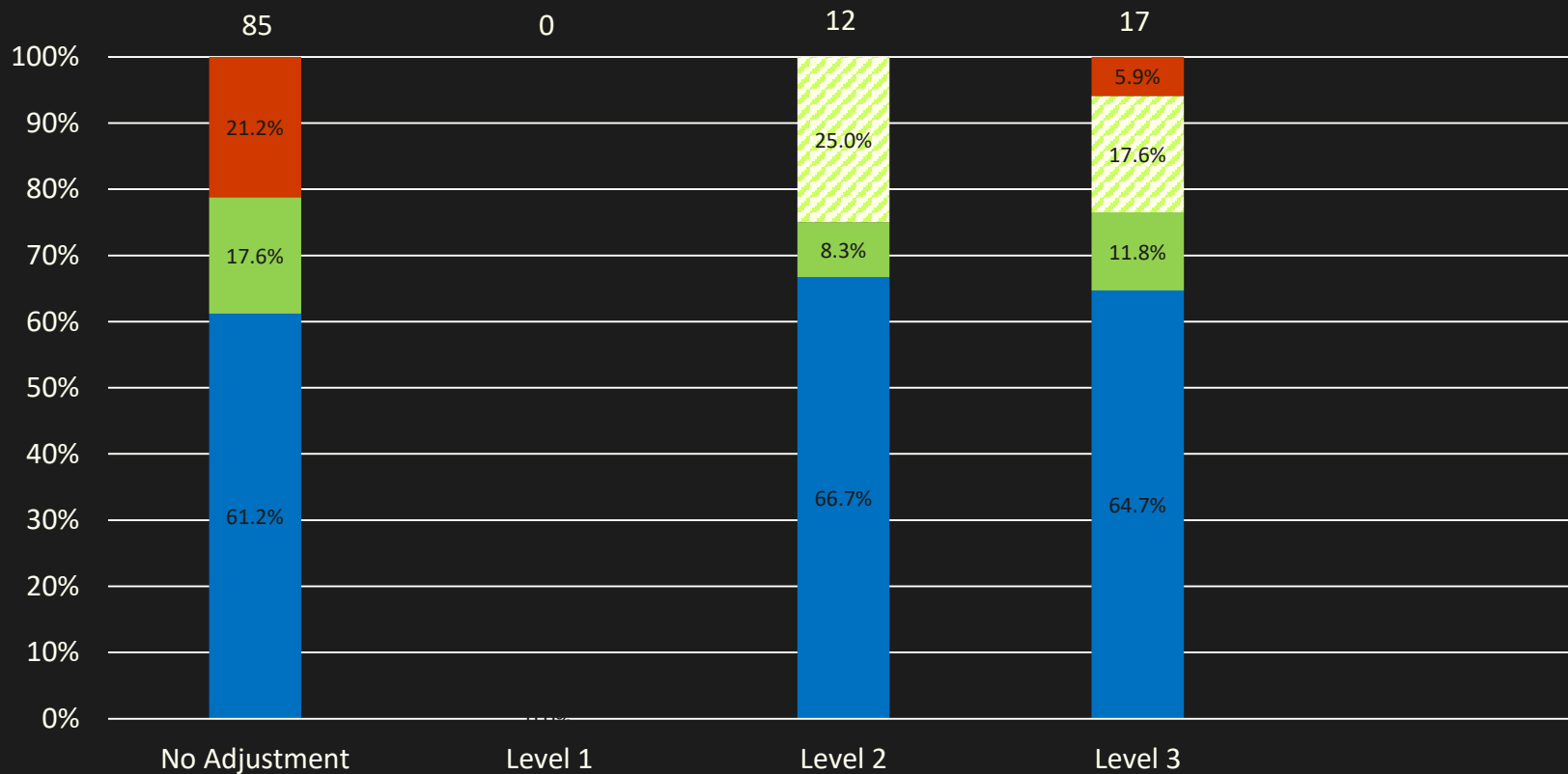
N=205

■ Concurrence   
 ■ Mitigation   
 ■ Risk Concurrence   
 ■ Aggravation

# Preliminary FY2018 Report

## Concurrence with Sex Offender Risk Assessment

### Rape



N=114

■ Concurrence   
 ■ Mitigation   
 ■ Risk Concurrence   
 ■ Aggravation

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**Preliminary FY2018 Report:  
Concurrence for New Offenses Modified  
In FY2017**

## Preliminary FY2018

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

| STATUTE            | DESCRIPTION  | CONCURRENCE | MITIGATION | AGGRAVATION | #   |
|--------------------|--|-------------|------------|-------------|-----|
| § 18.2-51.6        | Strangulation  | 80.2%       | 8.7%       | 11.1%       | 126 |
|                    | Attempted strangulation  | 66.7%       | 33.3       | 0%          | 3   |
| § 18.2-67.3(A,3)   | Aggravated sexual battery of a child age 13-17 by parent, etc.                           | 85.7%       | 0%         | 14.3%       | 7   |
| § 18.2-111         | Embezzlement (Only cases involving \$120,000 or more)                                    | 85.7%       | 7.1%       | 7.1%        | 14  |
| § 18.2-36.1(A)     | Vehicular Involuntary Manslaughter (Increased Scores)*                                   | 60.0%       | 6.7%       | 33.3%       | 15  |
|                    | * and additional 37 points assigned for hit and run,<br>DWI Maiming under § 18.2-51.4(A) | 66.7%       | 0%         | 33.3%       | 3   |
| § 18.2-35          | Voluntary Manslaughter (Added Score for 2 Counts)  | 33.3%       | 33.3       | 33.3        | 3   |
|                    | Voluntary Manslaughter All Counts  | 61.5%       | 11.5%      | 26.9%       | 26  |
| § 18.2-67.3(A.4,a) | Aggravated sexual battery of a child 13 or 14  | 50.0%       | 16.7%      | 33.3%       | 6   |
| § 18.2-370.1(A)    | Indecent liberties with child by custodian   | 62.1%       | 10.3%      | 27.6%       | 29  |
| § 18.2-370(A)      | Indecent liberties with child under 15   | 71.4%       | 10.7%      | 17.9%       | 28  |
| § 18.2-374.1:1     | Possession of child porn first offense   | 72.7%       | 12.1%      | 15.2%       | 33  |
|                    | Possession of child porn second offense  | 84.0%       | 12.0%      | 4.0%        | 25  |

## Preliminary FY2018

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

↓ Decreased Section C Scores, Increased Scores for Remaining Counts

| STATUTE            | DESCRIPTION   | CONCURRENCE                                   | MITIGATION | AGGRAVATION | #     |     |
|--------------------|---|---|------------|-------------|-------|-----|
| § 18.2-51.6        | Strangulation   | 80.2%   | 8.7%       | 11.1%       | 126   |     |
|                    | Attempted strangulation   | 66.7%   | 33.3       | 0%          | 3     |     |
| § 18.2-67.3(A,3)   | Aggravated sexual battery of a child age 13-17 by parent, etc.                        | 85.7%   | 0%         | 14.3%       | 7     |     |
| § 18.2-111 ✓       | Embezzlement (Only cases involving \$120,000 or more)                                 | 85.7%   | 7.1%       | 7.1%        | 14    |     |
| § 18.2-36.1(A)     | Vehicular Involuntary Manslaughter (Increased Scores)*                                | 60.0%   | 6.7%       | 33.3%       | 15    |     |
|                    | * and additional 37 points assigned for hit and run, DWI Maiming under § 18.2-51.4(A) | Prior to Change: 53.5%                        |            | 8.6%        | 37.9% | 198 |
| § 18.2-35          | Voluntary Manslaughter (Added Score for 2 Counts)                                     | 33.3%   | 33.3       | 33.3        | 3     |     |
|                    | Voluntary Manslaughter All Counts   | 61.5%   | 11.5%      | 26.9%       | 26    |     |
| § 18.2-67.3(A.4,a) | Aggravated sexual battery of a child 13 or 14   | 50.0%   | 16.7%      | 33.3%       | 6     |     |
|                    |   | Prior to Change: 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 Change: 59.7% |            | 9.1%        | 31.2% | 471 |
| § 18.2-370(A)      | Indecent liberties with child un  | (Changes to WS A & B ) Prior to Change: 68.0% |            | 10.2%       | 21.8% | 500 |
| § 18.2-374.1:1     | Possession of child porn first  | 1 <sup>st</sup> - Prior to Change: 64.4%      |            | 21.9%       | 13.7% | 416 |
|                    | Possession of child porn second offense   | 2 <sup>nd</sup> - Prior to Change: 68.6%      |            | 27.9%       | 3.6%  | 140 |

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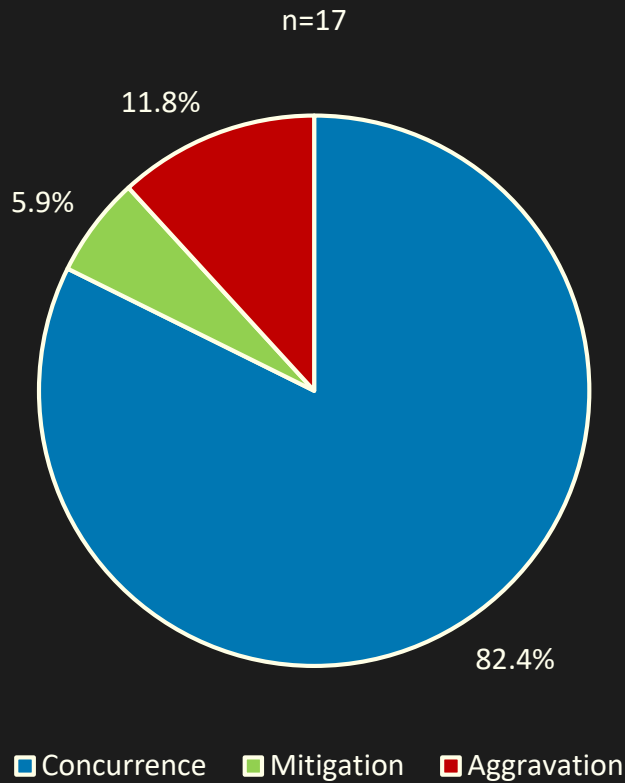
**Preliminary FY2018 Report:  
Concurrence for New Offenses Modified  
In FY2018**



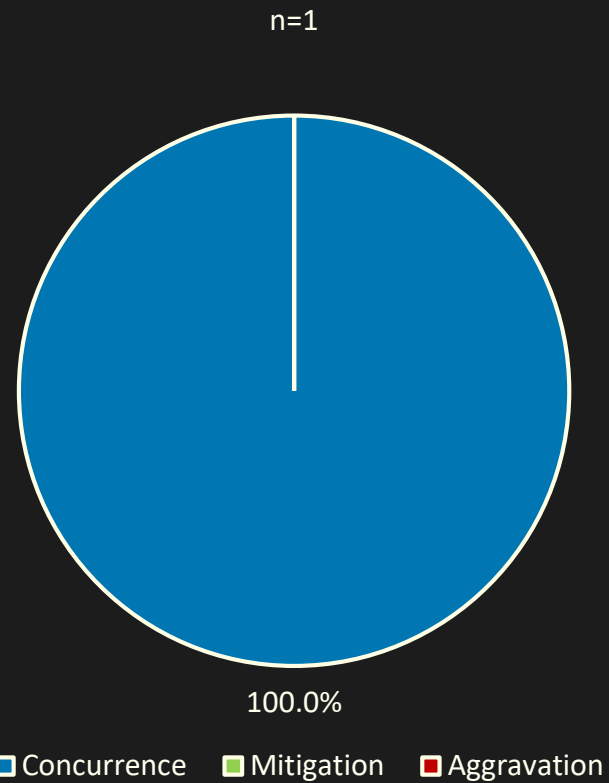
**Preliminary FY2017**

**New or Revised Guidelines Offenses Effective July 1, 2017 & After**

**Carry Concealed Weapon – 2<sup>nd</sup> § 18.2-308**

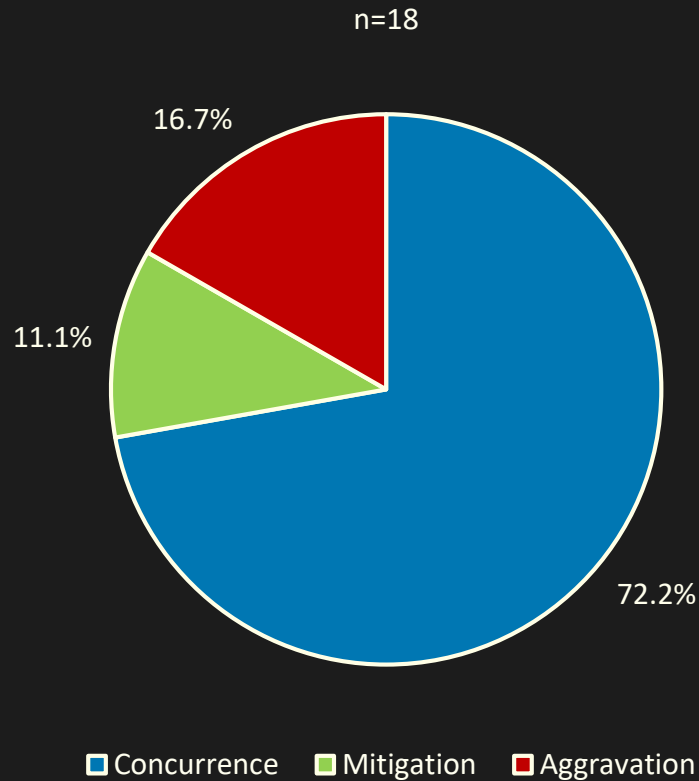


**Carry Concealed Weapon- 3<sup>rd</sup> § 18.2-308**



**Preliminary FY2017**  
**New or Revised Guidelines Offenses Effective July 1, 2017 & After**

**Maliciously Discharge Firearm § 18.2-279**



\*Another change was implemented on July 1, 2018. In conjunction with the addition of unlawfully discharging firearm in or at an occupied building as a guidelines offense, points were modified for this offense.

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**Policy Change:  
First Offender and Concurrence  
§ 18.2-251**

# First Offender Cases Not In Strict Concurrence

## § 18.2-251

Now Classified as in “Alternative Concurrence”

| Fiscal Year | No. Cases | 1 <sup>st</sup> Offender Cases<br>Now in Concurrence |
|-------------|-----------|--|
| 2011        | 24,998    | 61   |
| 2012        | 24,509    | 77   |
| 2013        | 25,199    | 74   |
| 2014        | 25,610    | 98   |
| 2015        | 24,997    | 89   |
| 2016        | 24,012    | 133  |
| 2017        | 24,693    | 183  |
| 2018        | 18,917    | 141  |

Most First Offender cases are in strict concurrence with the guidelines recommendation of probation no incarceration. Offenders with prior records are more likely to be recommended for a short period of incarceration. The policy change allows offenders who meet the statutory requirements for a first offender sentence to be classified as in concurrence in cases when the guidelines recommends a jail or prison sentence.

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**Policy Change:**  
**Drug Type Identified on Cover Sheet**  
Request of Commonwealth's Attorneys

# Concurrence by Drug Type Schedule I/II Worksheets

Drug Type is Not a Guidelines Factor\*

| Drug Type       | Concurrence | Mitigation | Aggravation | No. Cases |
|-----------------|-------------|------------|-------------|-----------|
| Cocaine         | 83.5%       | 8.1%       | 8.4%        | 1,816     |
| Codeine         | 80.0%       | 10.0%      | 10.0%       | 30        |
| Fentanyl        | 82.6%       | 8.0%       | 9.5%        | 327       |
| Heroin          | 82.3%       | 8.1%       | 9.5%        | 1,353     |
| Hydrocodone     | 88.2%       | 4.6%       | 7.2%        | 153       |
| Methadone       | 80.0%       | 15.0%      | 5.0%        | 20        |
| Methamphetamine | 87.9%       | 5.9%       | 6.1%        | 1,228     |
| Methylphenidate | 100.0%      | 0.0%       | 0.0%        | 25        |
| Morphine        | 89.7%       | 2.9%       | 7.4%        | 68        |
| Oxycodone       | 82.4%       | 5.2%       | 7.1%        | 324       |
| Other           | 86.7%       | 4.7%       | 8.5%        | 445       |

This analysis is based solely on the type of drug identified by the preparer. Unless specified by statute, all Schedule I/II drugs are scored the same on sentencing guidelines.

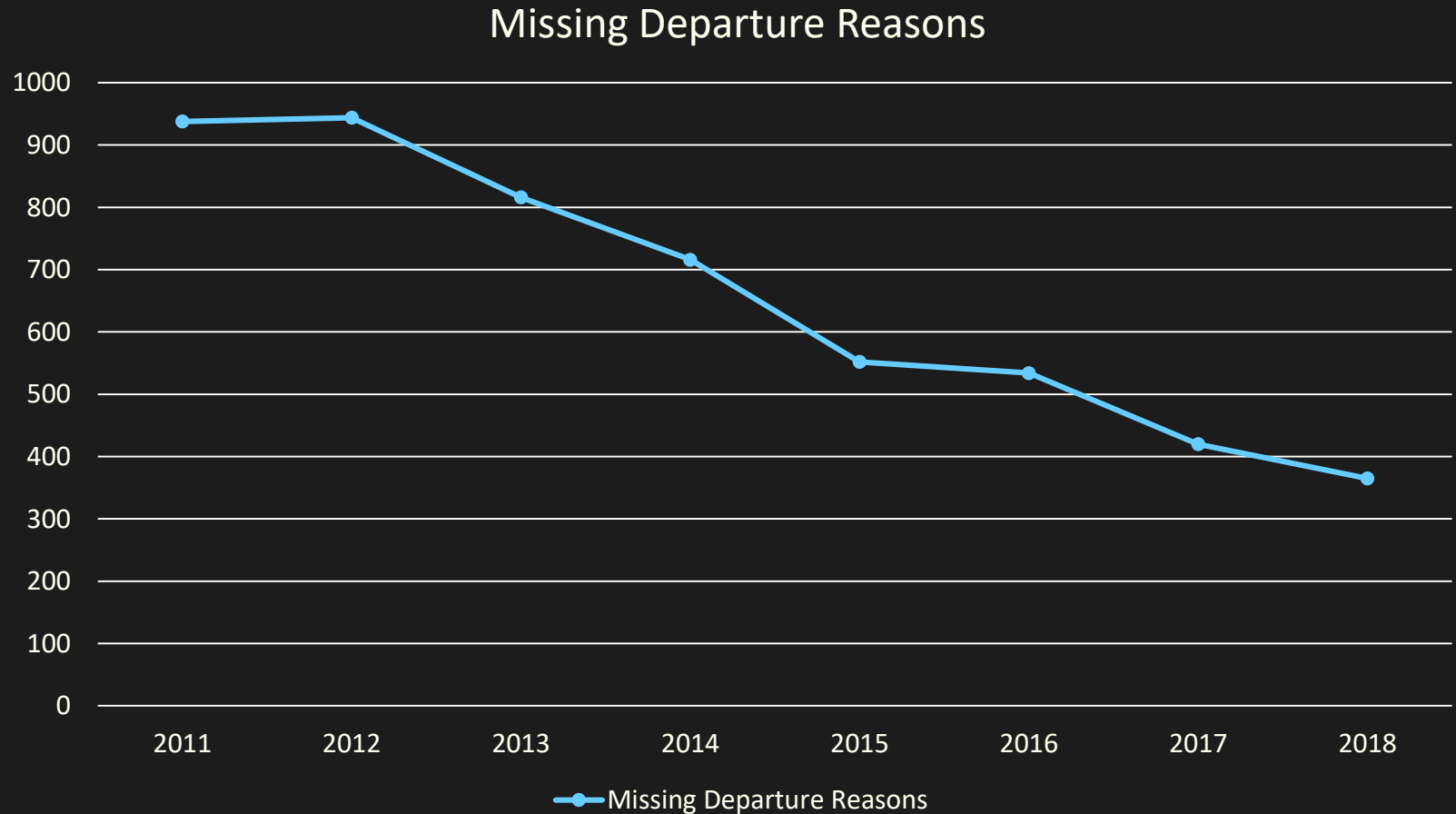
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**Policy Change:**  
**Departure Reasons**  
§ 19.2-298.01(B), § 19.2-295(B) & § 19.2-303

# Missing Departure Reasons by Fiscal Year

## *After Emphasis on Requirements*

§ 19.2-298.01(B), § 19.2-295(B) & § 19.2-303





# Report to Judicial Performance Evaluation Program

## Sentencing Guidelines Departure Rates FY 2011 – FY 2018 (Through April)

|                     | FISCAL YEAR | NUMBER OF GUIDELINES RECEIVED | DEPARTURE REASON REQUIRED | MISSING DEPARTURE REASONS | PERCENTAGE OF DEPARTURE REASONS MISSING |
|---------------------|-------------|-------------------------------|---------------------------|---------------------------|---|
| HON. JOHN JONES     | 2011        | 321                           | 87                        | 0                         | 0.0%                                    |
|                     | 2012        | 317                           | 97                        | 0                         | 0.0%                                    |
|                     | 2013        | 292                           | 96                        | 0                         | 0.0%                                    |
|                     | 2014        | 383                           | 109                       | 0                         | 0.0%                                    |
|                     | 2015        | 268                           | 108                       | 0                         | 0.0%                                    |
|                     | 2016        | 164                           | 67                        | 0                         | 0.0%                                    |
|                     | 2017        | 80                            | 19                        | 0                         | 0.0%                                    |
|                     | 2018        | 84                            | 20                        | 0                         | 0.0%                                    |
|                     | TOTAL       | 1806                          | 603                       | 0                         | 0.0%                                    |
| HON. SALLY CAMPBELL | 2011        | 144                           | 43                        | 3                         | 7.0%                                    |
|                     | 2012        | 154                           | 56                        | 7                         | 12.5%                                   |
|                     | 2013        | 165                           | 47                        | 2                         | 4.3%                                    |
|                     | 2014        | 127                           | 45                        | 4                         | 8.9%                                    |
|                     | 2015        | 154                           | 67                        | 5                         | 7.5%                                    |
|                     | 2016        | 106                           | 50                        | 4                         | 8.0%                                    |
|                     | 2017        | 111                           | 45                        | 2                         | 4.4%                                    |
|                     | 2018        | 75                            | 35                        | 1                         | 2.9%                                    |
|                     | TOTAL       | 1036                          | 388                       | 28                        | 7.2%                                    |
| HON. M. J. SMITH    | 2011        | 138                           | 44                        | 8                         | 18.2%                                   |
|                     | 2012        | 138                           | 43                        | 5                         | 11.6%                                   |
|                     | 2013        | 159                           | 44                        | 4                         | 9.1%                                    |
|                     | 2014        | 164                           | 68                        | 7                         | 10.3%                                   |
|                     | 2015        | 127                           | 70                        | 6                         | 8.6%                                    |
|                     | 2016        | 107                           | 52                        | 3                         | 5.8%                                    |
|                     | 2017        | 121                           | 52                        | 3                         | 5.8%                                    |
|                     | 2018        | 87                            | 28                        | 0                         | 0.0%                                    |
|                     | TOTAL       | 1038                          | 401                       | 36                        | 9.0%                                    |
| HON. WILLIAM JAMES  | 2011        | 1                             | 1                         | 0                         | 0.0%                                    |
|                     | 2013        | 125                           | 44                        | 1                         | 2.3%                                    |
|                     | 2014        | 129                           | 44                        | 1                         | 2.3%                                    |
|                     | 2015        | 159                           | 65                        | 0                         | 0.0%                                    |
|                     | 2016        | 71                            | 29                        | 1                         | 3.4%                                    |
|                     | 2017        | 129                           | 60                        | 1                         | 1.7%                                    |
|                     | 2018        | 102                           | 44                        | 0                         | 0.0%                                    |
|                     | TOTAL       | 716                           | 287                       | 4                         | 1.4%                                    |

DRAFT

Virginia Criminal Sentencing Commission

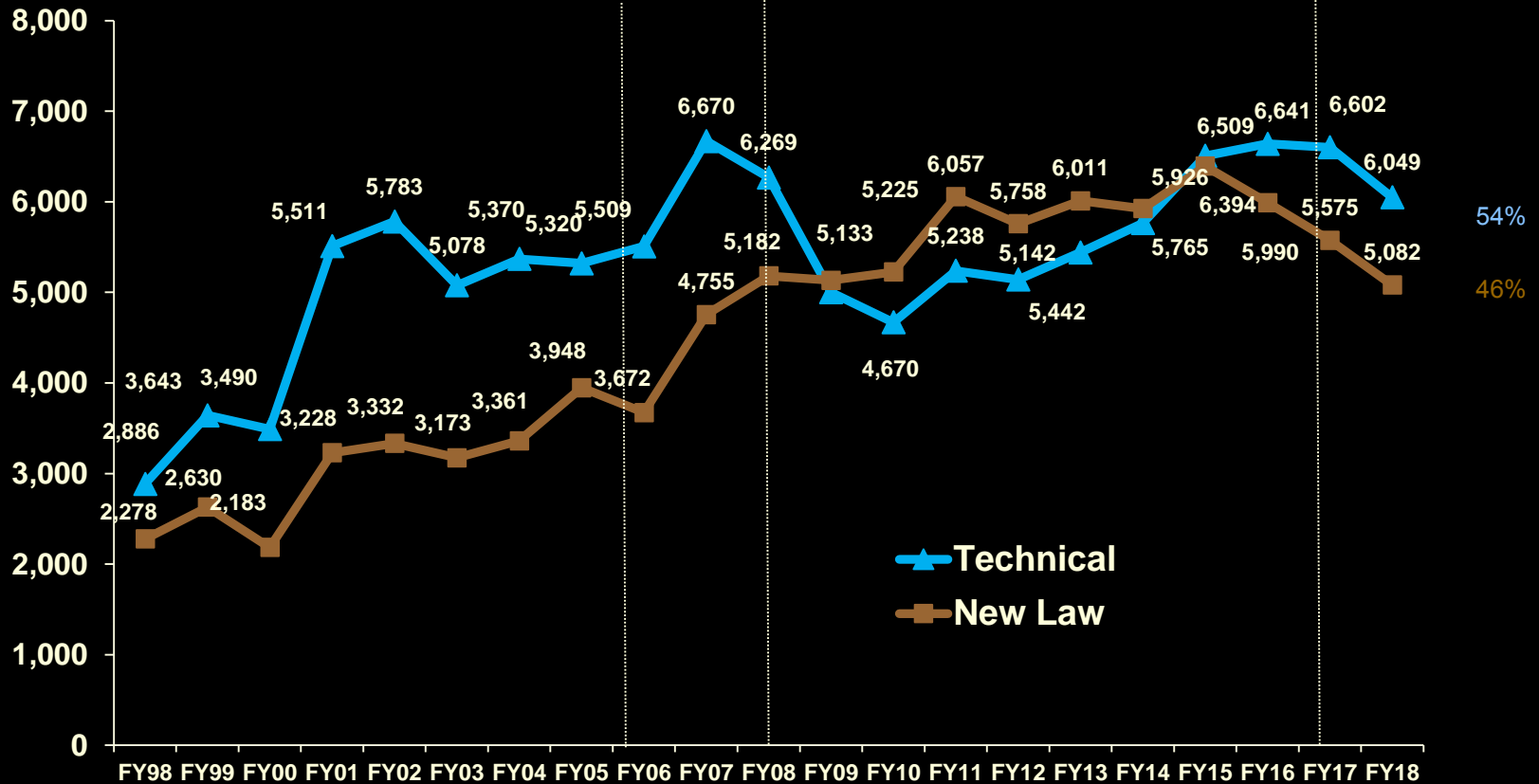
804-225-4366

August 30, 2018

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**Preliminary FY2018 Report:  
Sentencing Revocation Reports &  
Probation Violation Guidelines**

# Sentencing Revocation Reports Received for Technical and New Law Violations\* FY1998 - FY2018 (Preliminary)

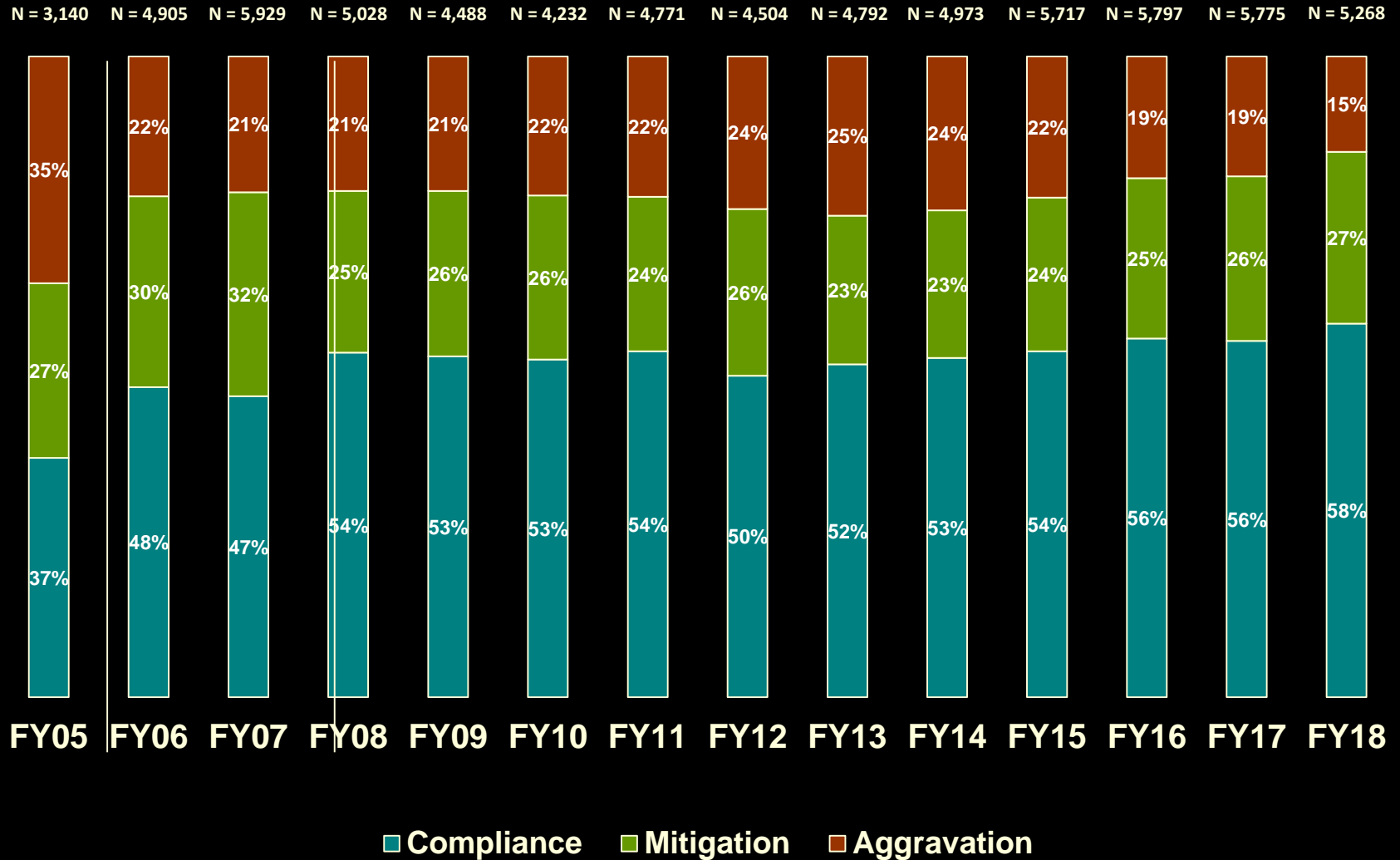


\*Note: Includes cases received by April 16, 2018 for cases found in violation with no missing conditions (FY18 - Data for April-June are incomplete)

# Probation Violation Guidelines – “Technicals”

## Compliance by Fiscal Year

### FY2005 – FY2018 (Preliminary)



\*Note: FY18 includes cases received by April 16, 2018 for cases found in violation with no missing conditions (Data incomplete for April-June 2017)