



VIRGINIA CRIMINAL SENTENCING COMMISSION



Results of Burglary Study

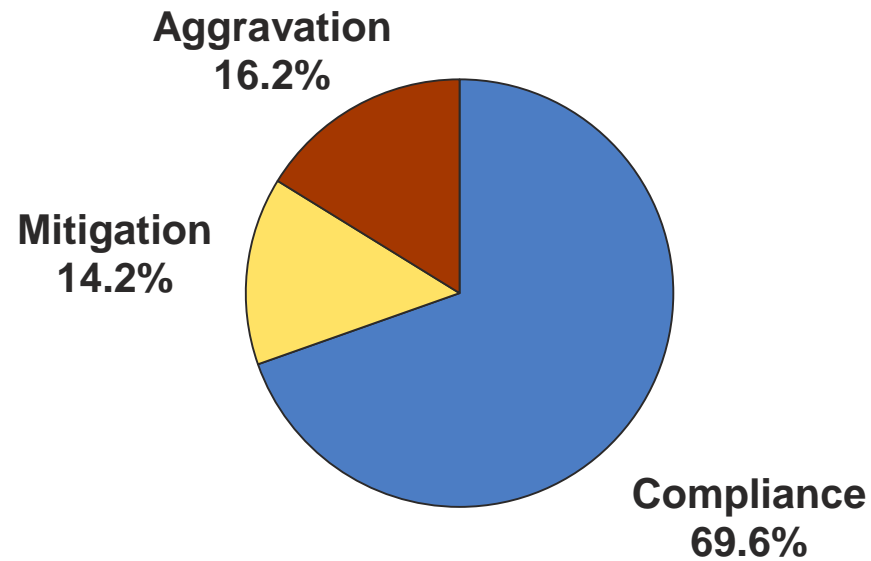
Study of Burglary Guidelines

- **In June 2018, Commission members approved a special study of sentencing guidelines for burglary offenses.**
 - **Some circuit court judges had suggested that the Commission review the guidelines for burglary offenses.**
 - **New analysis may indicate the guidelines for burglary need to be refined to better reflect current judicial thinking in such cases.**
 - **Factors not currently accounted for by the guidelines may be pertinent in sentencing.**
 - **This type of analysis requires a special study to collect additional case details.**



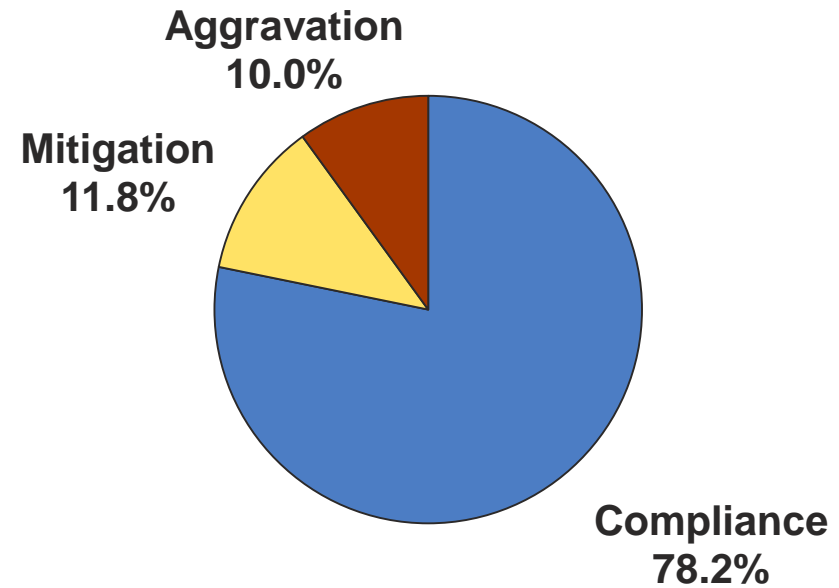
Compliance with Guidelines for Burglary Offenses (§ 18.2-89 through § 18.2-94) FY2014-FY2018

— Burglary of Dwelling —



Number of Sentencing
Events = 4,131

— Burglary - Other —



Number of Sentencing
Events = 1,931



Sampling Design

Statute	Description	Sentencing Events	Sample Size
§ 18.2-91	Dwelling - intent to commit larceny, A&B, etc.	3,480	700
§ 18.2-91	Other structure - intent to commit larceny, A&B, etc.	1,731	435
§ 18.2-89	Dwelling at night - intent to commit felony or larceny	311	205
§ 18.2-94	Possession of burglary tools	161	120
	Other burglaries	379	379
Total		6,062	1,839

For the analysis, the sampled cases will be weighted to reflect each subgroup's actual proportion in the population.

Supplemental Data Collection

Details Related to the Victim

Time of day of the offense

Type of victim (individual, business, pharmacy, nonprofit, etc.)

Whether victims were present at the time of the offense

Vulnerable of victims (elderly, young children)

Victim injury (emotional, threatened, physical, life threatening)

Injury to pets/animals

Defendant's relationship to victim

Value of items taken

Types of items involved (electronics, opioids/other drugs, etc.)

Items recovered (at arrest, at pawn shop, online, etc.)

Damage to items



Supplemental Data Collection

Details Related to the Offender

Role in offense

Number of codefendants

Type/use of weapon in possession during offense

Degree of planning/premeditation (e.g., stalking, monitoring)

Common scheme/serial burglary

Drug/alcohol use at time of offense

Status of restitution at time of sentencing

Number of prior burglary convictions

Number of prior trespassing convictions



Data Sources

Electronic Data Sources

Pre/Post-Sentence Investigation (PSI) reports

- Offense narrative section

Officer of the Court Remote Access (OCRA) System

- Contains scanned copies of court records
- 101 jurisdictions currently use OCRA
- Commission staff requested and received access to OCRA for 2013-2015 Larceny/Fraud study



Data Sources

Other Data Sources

Court records

Victim Impact Statements

Police reports



Limitations

Pre-Sentence Investigation Reports (PSI)

- 59.3% of sentencing events in the sample had no PSI report

Officer of the Court Remote Access (OCRA) System

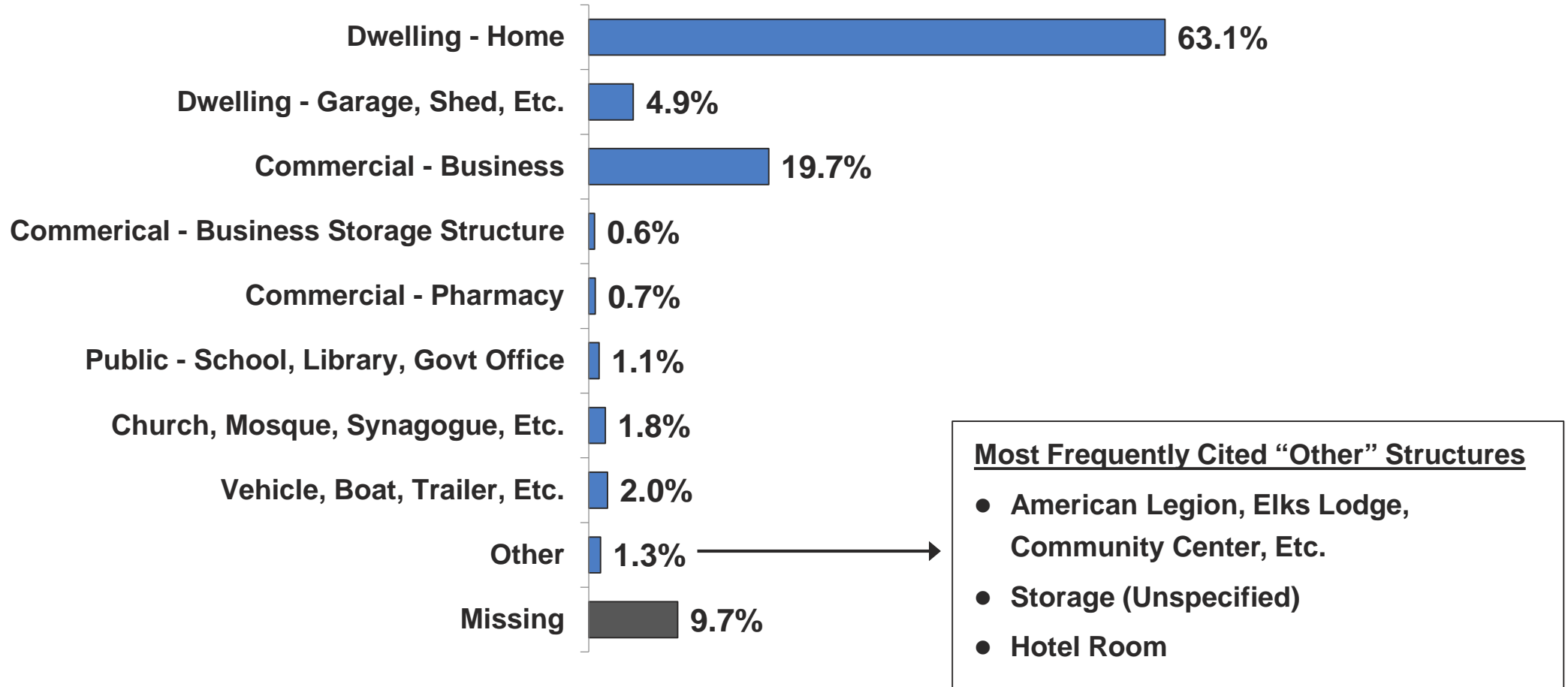
- 47 accounts (denied access to some courts)
- Limited details / information is generic and not unique to the crime
 - Generally available: Indictments, warrants, court orders, restitution orders
 - Generally NOT available: Stipulation of facts, criminal complaint, victim impact statements





Findings of the Supplemental Data Collection

Types of Structures Associated with Burglaries in Sentencing Event



Note: Percentages may total more than 100% as each sentencing event may involve multiple burglaries.

Degree/Type of Planning Associated with Burglaries in Sentencing Event

Degree/Type of Planning	Percent
String of Burglaries	15.9%
Possession & Use of Burglary Tools	10.6%
Surveillance of Structure/Residents	10.5%
Solicitation Ruse	0.9%
Use of Social Media	0.8%
Obituaries/Funerals	0.2%
Missing	66.4%



Offender's Intent for Burglaries in Sentencing Event

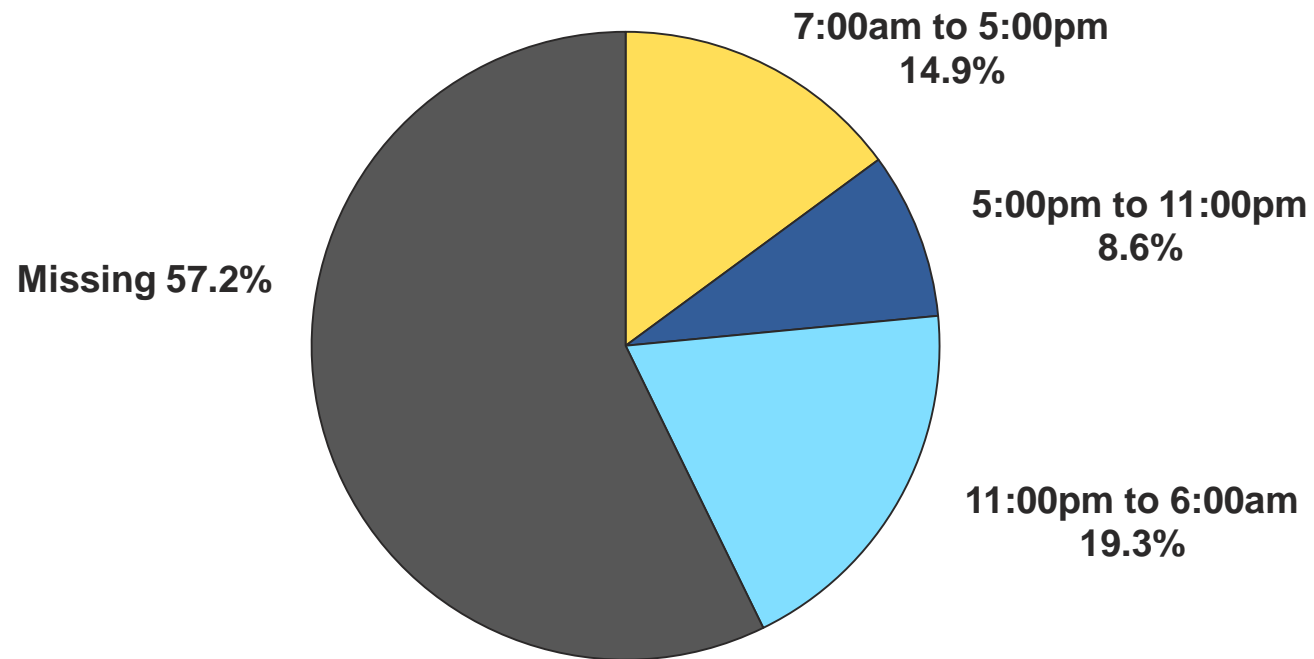
Offender's Intent	Percent
Steal Property	64.9%
Assault	5.4%
Steal Firearms	5.4%
Vandalism/Damage Property	4.1%
Robbery	3.2%
Steal Drugs	2.6%
Rape	0.7%
Steal Knives	0.4%
Murder	0.2%
Other	2.2% →
Not Specified	7.6%
Missing	14.7%

Two sentencing events involved a burglary identified as a hate crime

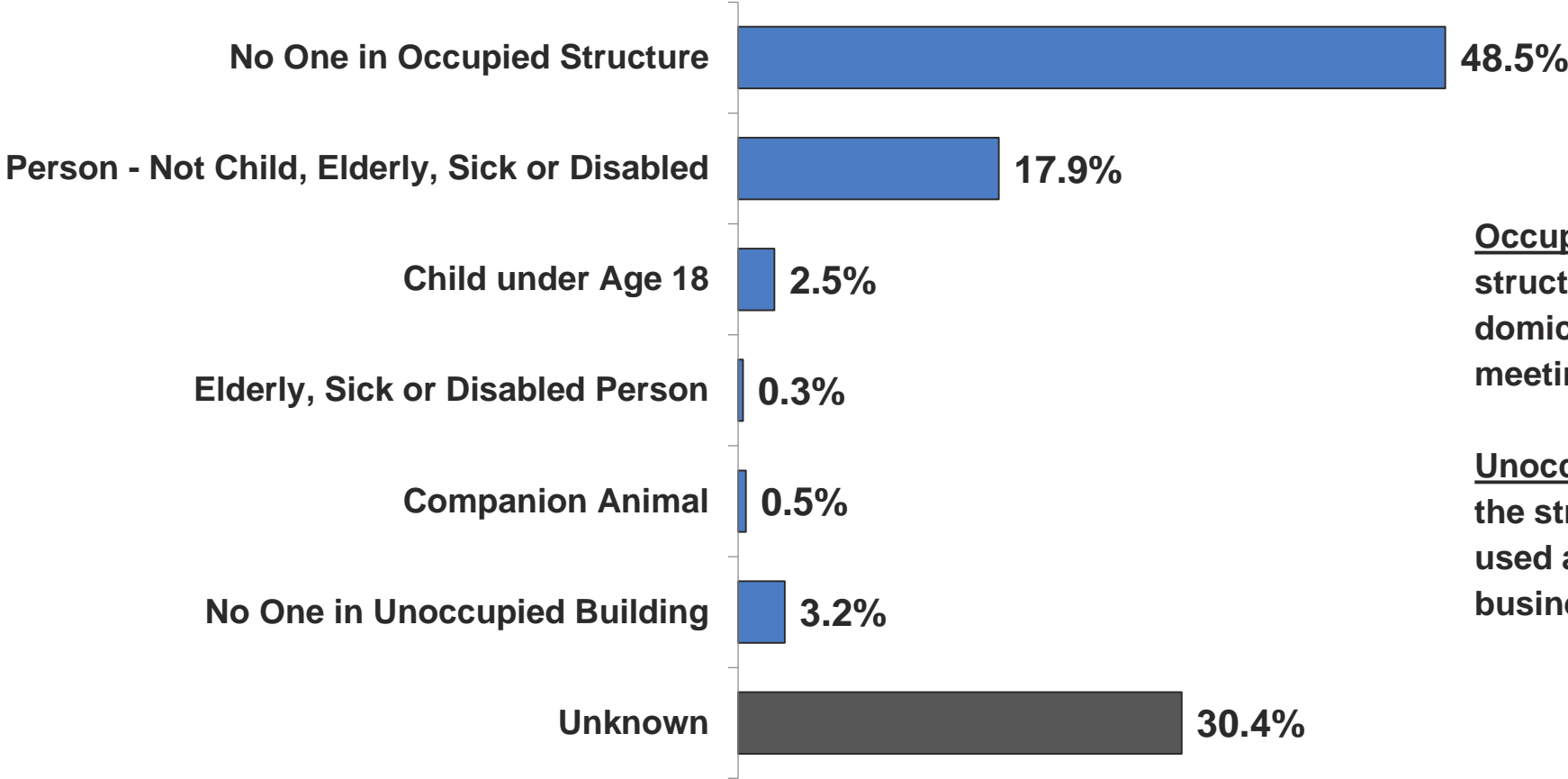
- Most Frequently Cited "Other" Intent
- Other felony (e.g., kidnapping)
 - Retrieve personal property
 - Seek shelter
 - See household member

Note: Percentages may total more than 100% as each sentencing event may involve multiple burglaries and/or multiple intents.

Time of Day Associated with Burglaries in Sentencing Event



Individuals Present during Burglaries in Sentencing Event



Occupied structure means the structure is regularly used as a domicile, place of business, or meeting place.

Unoccupied structure means the structure is NOT regularly used as a domicile, place of business, or meeting place.

Note: Percentages may total more than 100% as each sentencing event may involve multiple burglaries and/or multiple types of individuals present in the structure.

Compliance with Burglary Guidelines When a Person is Present versus Not Present

	Guidelines Compliance		
	Compliance	Mitigation	Aggravation
No Person in Structure at Time of Burglary	71.9%	13.6%	14.5%
Person in Structure at Time of Burglary	69.0%	12.9%	18.1%
Unknown	71.6%	14.7%	13.7%



Weapon in Possession during Burglaries in Sentencing Event

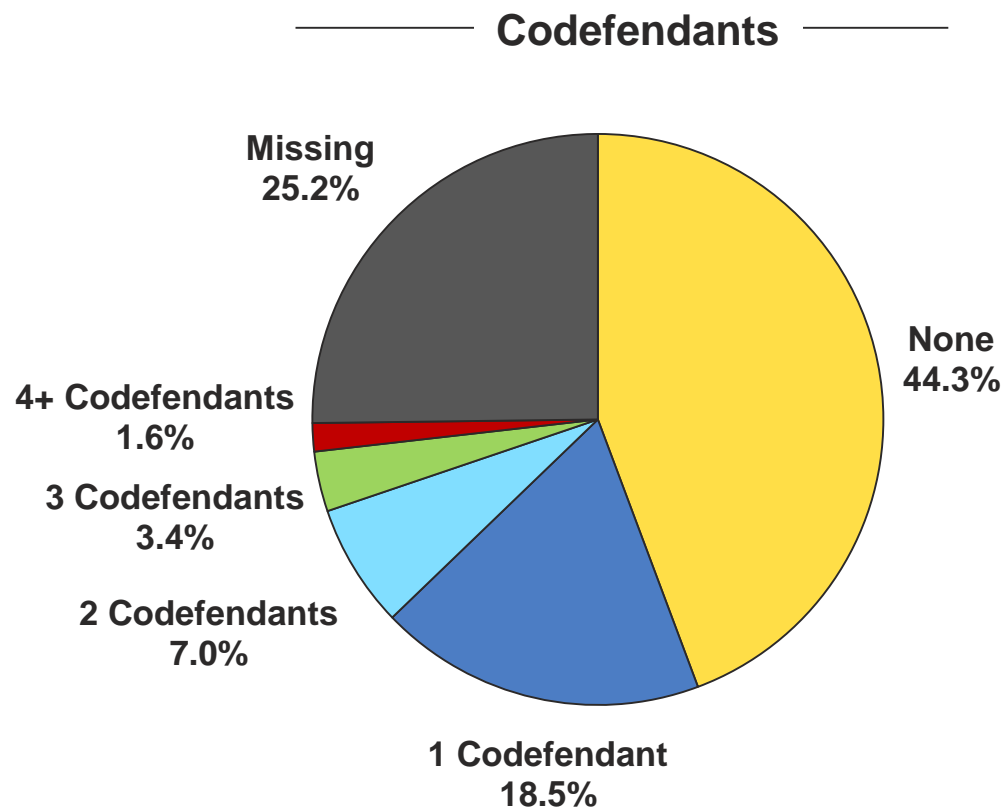
Weapon	Percent
Firearm/Gun	5.7%
Knife	1.5%
Hammer (Object Used to Damage Furnishings, Etc)	1.2%
Fire (Item Used to Start Fire)	0.2%
Ax/Saw	0.1%
Household Items or Products (Bleach, Food, Etc.)	0.1%
Gasoline/Explosive without Starting Fire	0.0%
Other	4.5% →
None Identified	0.2%
Unknown	87.3%

Most Frequently Cited “Other” Weapons

- Crow bar, tire iron, pipe
- Brick, block or rock
- Screwdriver, chisel
- Bolt cutters
- Bat
- Stun gun

Note: Percentages may total more than 100% as each sentencing event may involve multiple burglaries and/or multiple weapon types. Table excludes weapons stolen or obtained during the burglary.

Codefendants and Gang Involvement Associated with Burglaries in Sentencing Event



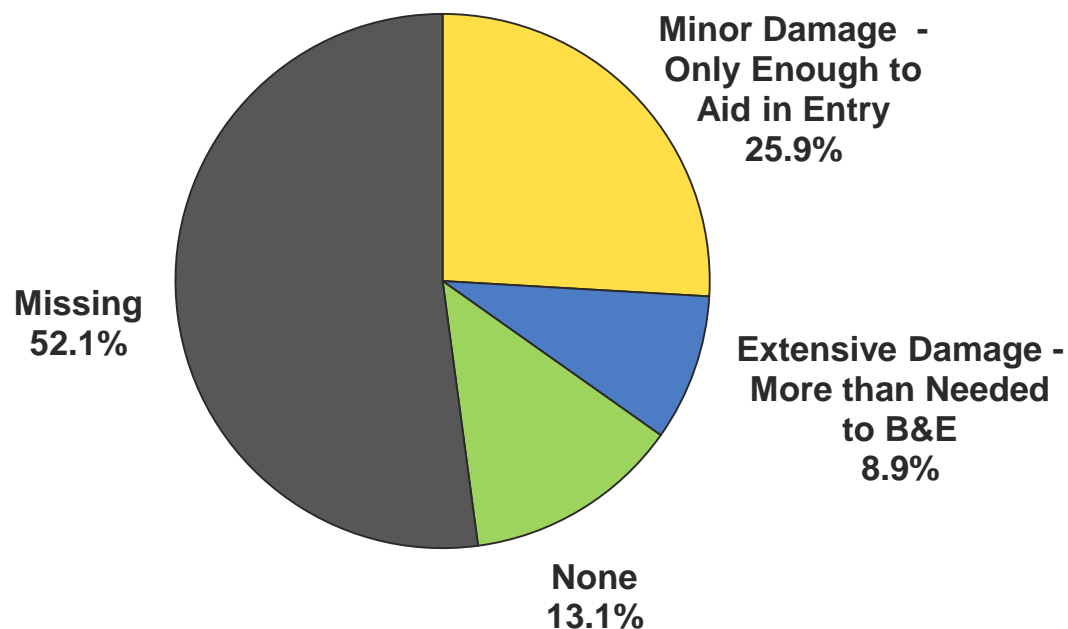
Gang Involvement

- Overall, 56 burglary sentencing events were identified as involving a gang.
- When the role of the gang was specified, the defendant was most frequently cited as a gang member (20 sentencing events).



Damage to Structures Associated with Burglaries in Sentencing Event

— Damage to Structure —



Item Used to Damage Structure	Percent
Body Parts or Bodily Fluids	7.5%
Hammer	1.3%
Firearm/Gun	0.6%
Knife	0.6%
Fire (Item Used to Start Fire)	0.6%
Ax/Saw	0.3%
Paint, Caulk (Building Supplies)	0.1%
Gasoline/Explosive without Starting Fire	0.0%
Household Items/Products (Bleach, Etc.)	0.0%
Other (e.g., bricks, crow bars, screwdrivers)	7.6%
No Damage	12.0%
Missing	70.7%



Note: Percentages may total more than 100% as each sentencing event may involve multiple burglaries and/or multiple types of items used to damage.

Damage to Structures Associated with Burglaries in Sentencing Event

Amount of Damage	Percent
None	14.5%
\$1 to \$199.99	1.0%
\$200 to \$499.99	1.5%
\$500 to \$999.99	1.9%
\$1,000 to \$2,499.99	1.9%
\$2,500 to \$4,999.99	0.6%
\$5,000 to \$9,999.99	0.6%
\$10,000 to \$49,999.99	0.2%
\$50,000 to \$99,999.99	0.0%
\$100,000+	0.0%
Unknown	77.8%



Property Taken or Damaged during Burglaries in Sentencing Event

Type of Property	Percent
Electronics	24.0%
Financial Items - Cash, Cards, Etc.	18.2%
Jewelry	13.7%
Firearm/Gun	8.5%
Clothing	4.3%
Equipment - Motorized	3.5%
Drugs - Illegal or Prescription	3.3%
Vehicles	3.3%
Tools	3.2%
Animals	0.2%
Other	16.8%
None	9.2%
Missing	33.1%

Most Frequently Cited “Other” Items

- Alcohol
- Cigarettes/Tobacco
- Copper/Metal
- Bicycle
- Food/Sodas
- Vehicle parts

Note: Percentages may total more than 100% as each sentencing event may involve multiple burglaries and/or multiple types of property taken or damaged during the course of the offense.



Property Taken or Damaged in Burglaries in Sentencing Event

Value of Property	Percent
None	9.3%
\$1 to \$199.99	3.5%
\$200 to \$499.99	14.0%
\$500 to \$999.99	6.2%
\$1,000 to \$2,499.99	9.8%
\$2,500 to \$4,999.99	6.1%
\$5,000 to \$9,999.99	4.8%
\$10,000 to \$49,999.99	4.2%
\$50,000 to \$99,999.99	0.7%
\$100,000+	0.4%
Unknown	40.9%



Violent Acts Associated with Burglaries in Sentencing Event

Act Committed	Percent	Type of Injury	Percent
None Identified	61.3%	Threatened	4.6%
Warning Message or Threat to Do Harm to Companion Animal	0.1%	Emotional (Counseling)	0.2%
Warning Message or Threat to Do Harm to Person	2.0%	Physical	4.0%
Assault, etc., of Companion Animal	0.1%	Serious Physical	0.6%
Attempted Act of Violent to Person	2.0%	Life Threatening	0.1%
Assault, etc., of Person	7.1%	Missing	90.6%
Missing	27.4%		

Note: Percentages may total more than 100% as each sentencing event may involve multiple burglaries and/or violent acts.

Most Serious Impact on Victim (Other than Physical Injury) as a Result of Burglaries in Sentencing Event

Type of Impact	Percent
Sold Property or Moved, Refused to Return Home	0.3%
Financial	8.5%
Mental Health Counseling	0.1%
Installed Security System	0.2%
Feeling of Uneasiness	1.1%
Other	0.9%
Missing	89.0%



Relationship of Defendant to Victim

Relationship	Percent
Spouse - Married or Estranged	0.7%
Partner - Boyfriend, Girlfriend, Never Married	0.6%
Partner - Former	1.8%
Family - Sibling, Cousin, Uncle, Etc.	2.3%
Roommate - Current or Former	0.4%
Friend - Current or Former	3.2%
Neighbor	3.2%
Coworker, Employee, Known through Work	2.5%
Service Worker - Uber, Home Remodeling, Cable, Etc.	0.7%
Known and Not Listed Above - Victim Only Knows Offender Name, Work Place, School or Residence	3.6%
Stranger	20.6%
Missing	60.4%

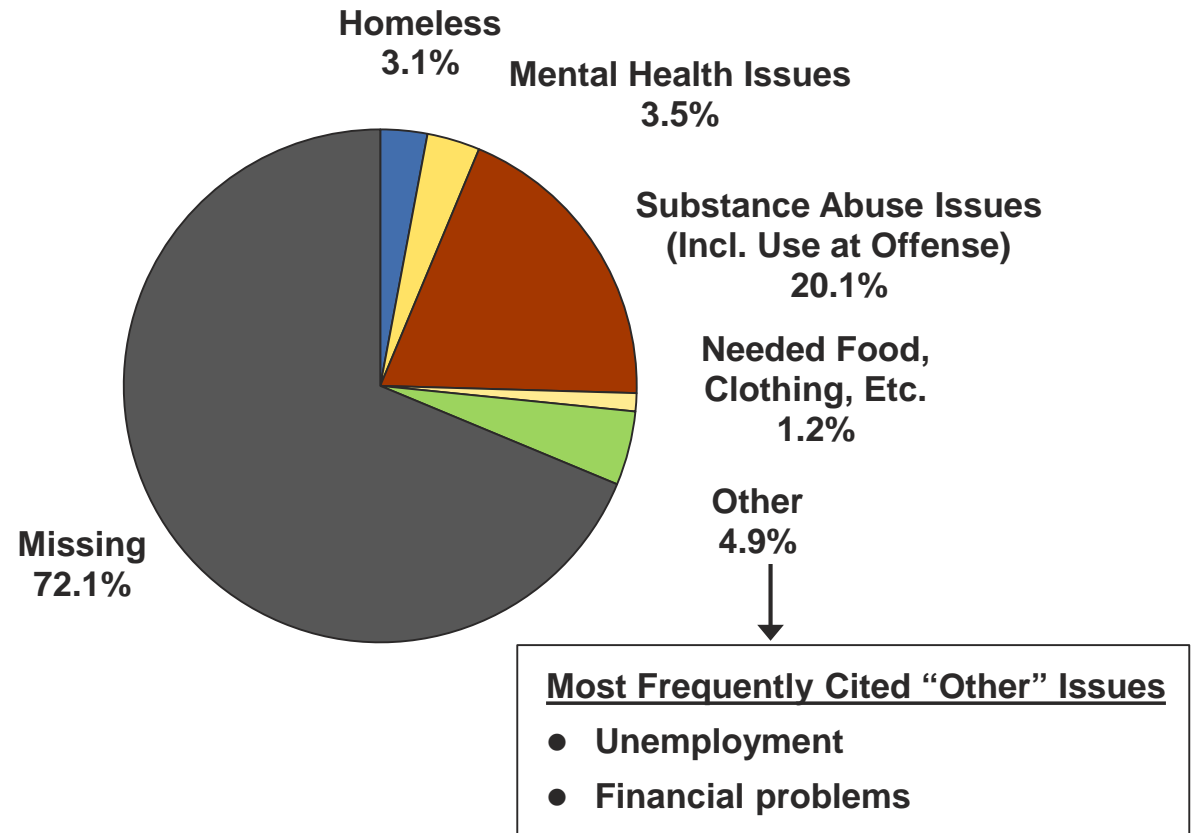


Offender Issues

Substance Use at Time of Offense

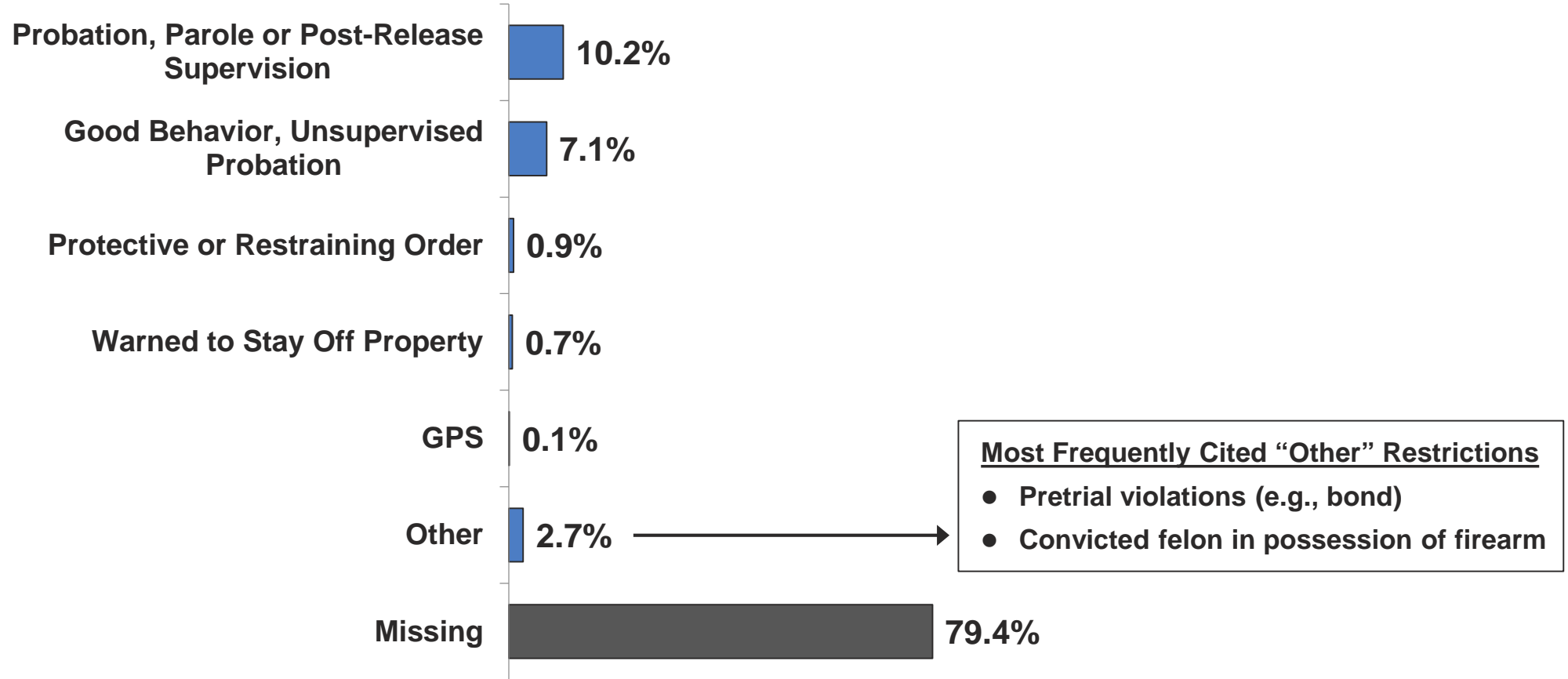
- In 11.4% of burglary sentencing events, the offender was reported as having been under the influence of alcohol or drugs at the time of the offense.

Offender Issues



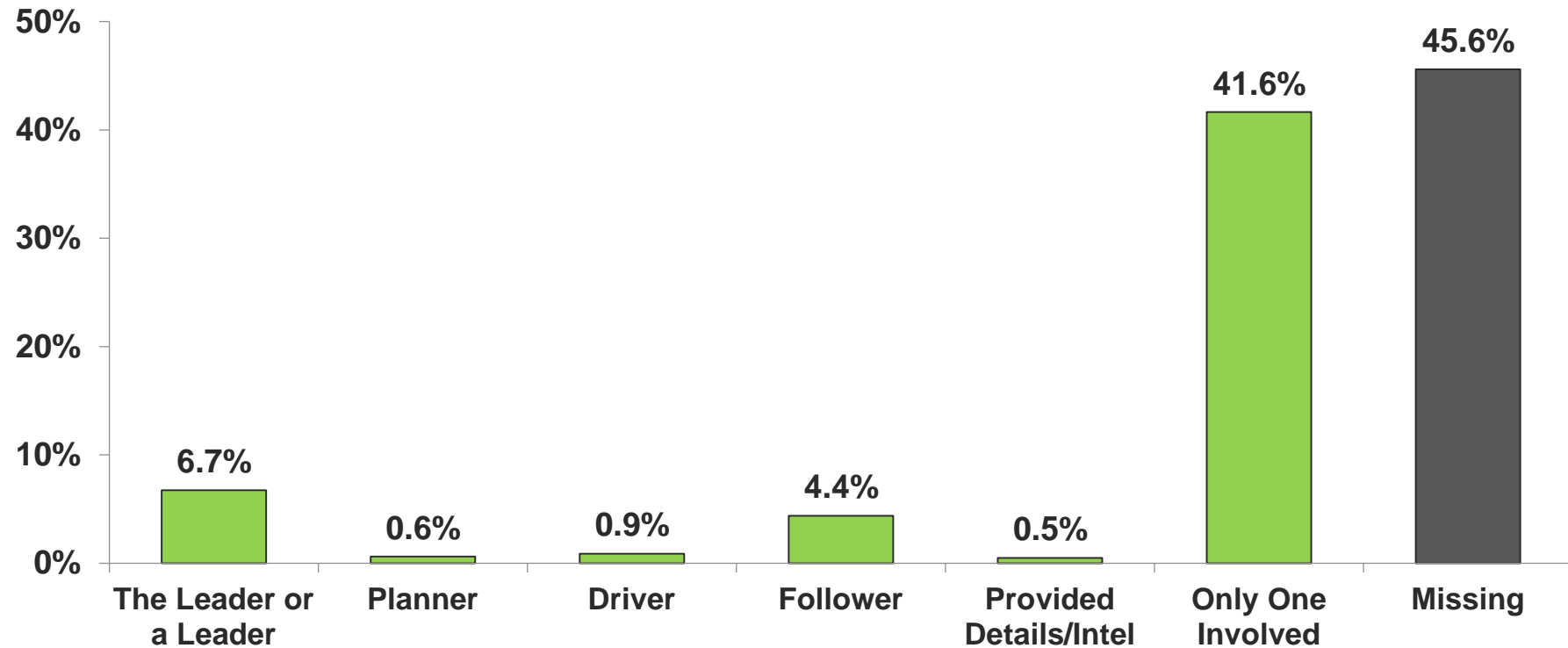
Note: Percentages may total more than 100% as each offender may have multiple issues.

Restrictions Violated by Offender When Burglary Committed



Note: Percentages may total more than 100% as the offender may have violated multiple restrictions.

Offender's Role in Burglary Offense



Possible Recommendations for Revisions to Burglary Guidelines

- **Possible recommendations for revisions to the Burglary Guidelines have been developed and will be presented as part of the next agenda item.**



