

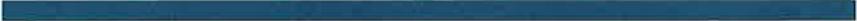
# Voluntary Sentencing Guidelines

*Report to the Judicial  
Conference of Virginia*



Supreme Court of Virginia

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## **Voluntary Sentencing Guidelines**

**Report to the Judicial  
Conference of Virginia**

**May 1993**

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The Honorable F. Bruce Bach (Circuit 19)  
The Honorable George E. Honts, III (Circuit 25)  
The Honorable W. Park Lemmond, Jr. (Circuit 6)  
The Honorable Nicholas E. Persin (Circuit 29)  
The Honorable Frank I. Richardson (Circuit 21)  
The Honorable Robert W. Stewart (Circuit 4)

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## Judicial Sentencing Guidelines Committee Judicial Conference of Virginia

May 17, 1993

The Honorable Harry L. Carrico and Fellow Members  
of the Judicial Conference of Virginia:

Virginia's voluntary sentencing guidelines system went into effect statewide on January 1, 1991. The Judicial Sentencing Guidelines Committee provides oversight and direction to this program which is updated on an annual basis.

The Committee is pleased to provide you with this report which presents a detailed overview of judicial compliance with the sentencing guidelines. Response to the sentencing guidelines has been favorable. The Committee is confident that the guidelines are providing judges with useful information in a fashion which preserves judicial discretion.

The single purpose of Virginia's sentencing guidelines is the establishment of rational and consistent sentencing standards which reduce unwarranted sentencing disparity. A forthcoming report from the Committee will examine the impact of the voluntary guidelines in achieving this goal.

Judge Ernest P. Gates (retired circuit court judge, 12th Judicial Circuit) has chaired the Committee work on the sentencing guidelines program since 1986. Judge Gates has recently announced his decision to not seek re-appointment to the Committee. The Committee and staff extend their deepest gratitude to Judge Gates. His leadership, experience, dedication, patience, and wit have kept this program moving forward and properly focused, resulting in a sentencing guidelines system designed by judges for judges. We hope he continues to share with us his wealth of experience and knowledge and wish him all the best in his future endeavors.

Respectfully Submitted,

The Judicial Sentencing Guidelines Committee

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## Virginia Sentencing Guidelines Overview

On January 1, 1991, Virginia's sentencing guidelines were implemented statewide. This culminated six years of preparatory work by the Judicial Conference of Virginia. The cornerstone of this work was the belief that when offenders of similar circumstance are convicted of similar crimes, they should receive similar sentences. When the sentences received by these offenders differ radically without substantial justification, unwarranted sentencing disparity has occurred. Indeed, according to the report of the Judicial Conference of Virginia's Ad Hoc Committee on Sentencing Guidelines, the purpose of sentencing guidelines is "the establishment of rational and consistent sentencing standards which reduce unwarranted sentencing disparity" (August 15, 1985, page 1).

The problem of unwarranted sentencing disparity does not have a simple solution. In particular, there has been concern that sentencing guidelines would conflict with the goal of tailoring justice to each specific case. It is the fear of tampering with this goal that made many judges wary of any sentencing guidelines system. Virginia's sentencing guidelines, however, are completely compatible with individualized sentencing.

Several key decisions were made during the development of Virginia's sentencing guidelines system to ensure that the system would not compromise the sentencing discretion of judges.

First, the judiciary was solely responsible for the development of Virginia's sentencing guidelines. Chief Justice Harry L. Carrico initiated the project when he appointed an ad hoc committee to construct a methodology for the development of sentencing guidelines. Subsequent ad hoc committees were appointed to examine the sentencing practices of Virginia's judges and to oversee and pilot-test sentencing guidelines.

Second, Virginia's guidelines were designed to reflect only the historical pattern of sentencing throughout the Commonwealth. The judiciary has defined history, for sentencing guidelines, as the five most recently available years of past sentencing decisions. Therefore, the sentencing guidelines in effect from January 1991 through June 1992 were based on an analysis of 73,495 sentencing decisions from 1985 through 1989. Similarly, the guidelines effective from July 1992 through June 1993 were based on an analysis of 86,470 sentences from 1986 through 1990. Furthermore, because the guidelines mirror sentencing history, there was no attempt to change the philosophy or policy of Virginia's sentencing judges. The sentencing guidelines were not intended to promote outside agendas, such as the reduction of prison populations, or to change the severity of sentences.

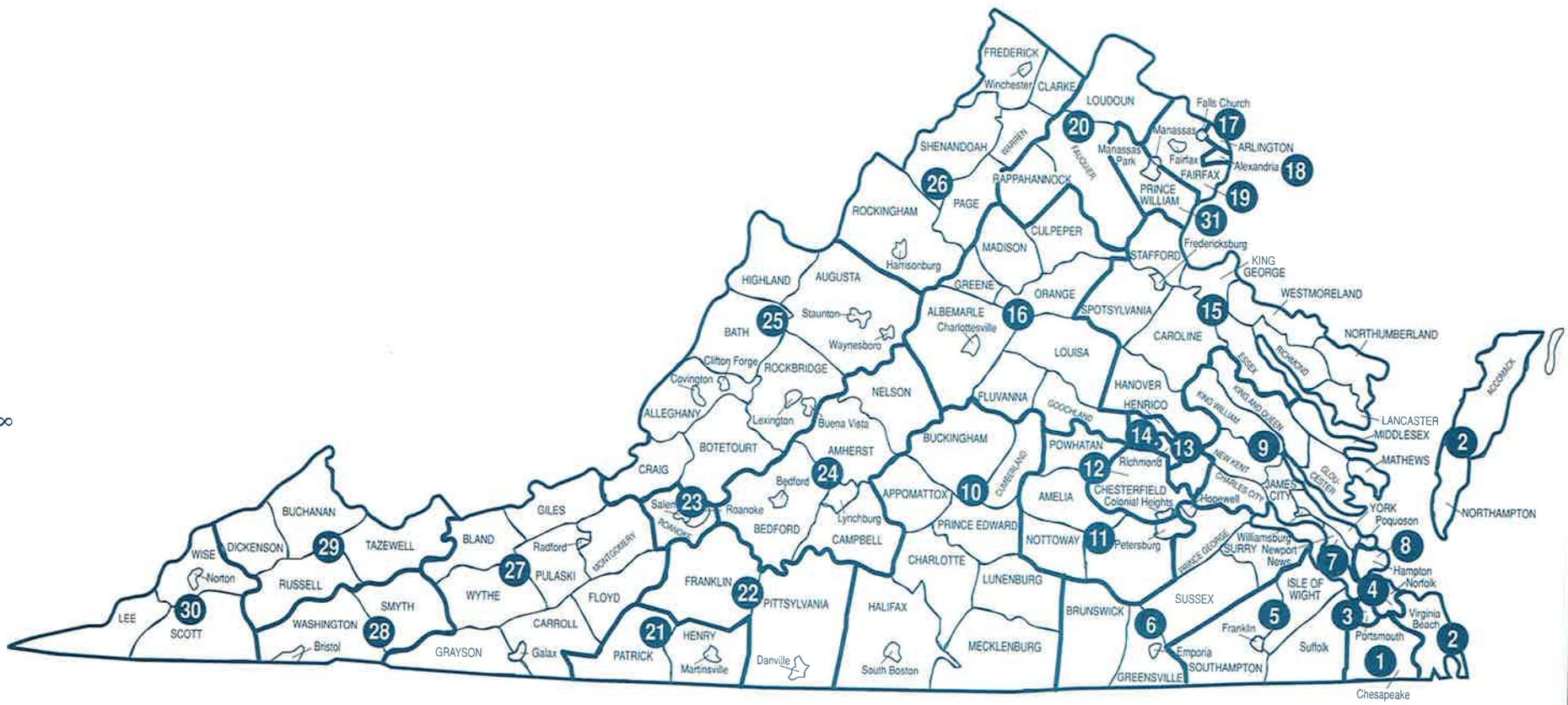
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Third, the sentencing guideline ranges are broadly defined to preserve judicial discretion. The recommended ranges, based on guideline scores which explicitly consider and weigh the most relevant crime circumstances and offender characteristics, are designed to encompass at least 50% of historical sentences for similar cases. The use of a range acknowledges that sentencing differences will remain, partly because there will always be some offense or offender factors that deserve unique consideration, and partly because reasonable judges will occasionally reasonably disagree on particular sentencing decisions. At the same time, however, a sentencing range that is based on the middle 50% of similar case circumstances should help reduce unwarranted disparity. A judge who sees that his or her intended sentence falls outside the recommended range may pause to reexamine that sentence before imposing it.

Fourth, the sentencing guidelines developed for Virginia are voluntary. Virginia's guidelines were developed by the judiciary as a tool and are not legislatively mandated. Judges may use the guidelines as a reference so they can be aware of how other judges have sentenced in similar cases, but they are not bound by the guidelines recommended action.

As previously stated, Virginia's sentencing guidelines are based on a continuing analysis of judicial sentencing decisions in the Commonwealth. This is done to ensure that judges are provided with guidelines that reflect both historical sentencing decisions and changes in more recent sentencing decisions. The first set of guidelines provided statewide was used from January 1991 through June 1992. This set was replaced by the second set of guidelines, which went into effect in July of 1992 and is scheduled to be retired in June of 1993. This set will be replaced with a revision which will be the third set of guidelines made available to judges in the Commonwealth. The third set of guidelines is based on an analysis of 95,278 sentencing decisions made during the five years from 1987 through 1991.

The compliance analysis presented in this report is based on sentencing decisions made while the first and second sets of guidelines were in place. The analysis is based on data from 19,066 guidelines work sheets received from cases decided under the first set of guidelines, and 6,632 work sheets received during the first seven months that the second (current) set of guidelines was in place.

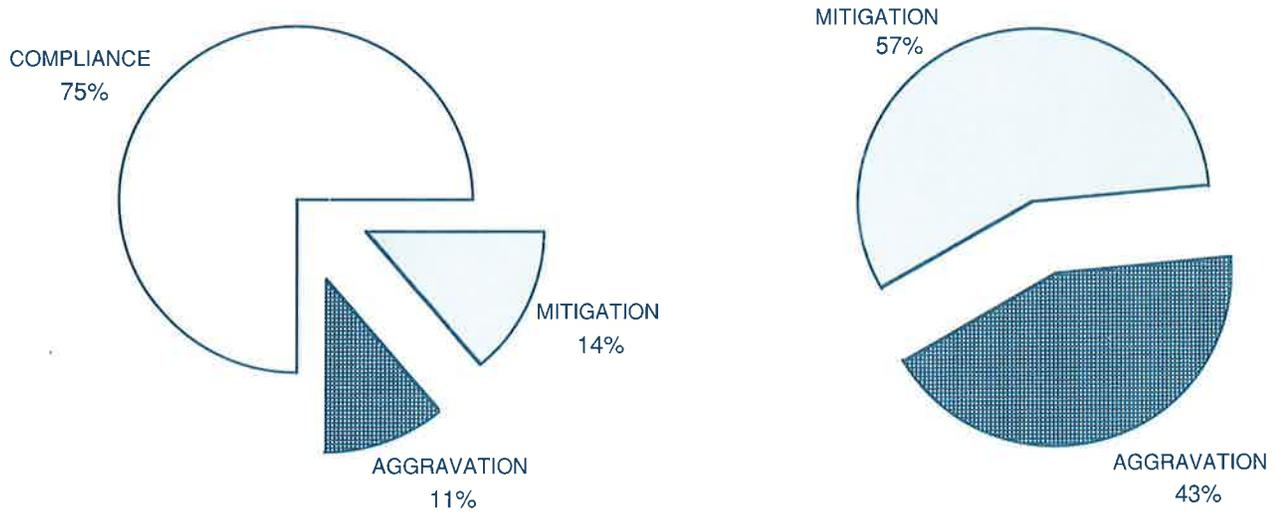


## Virginia Localities and Their Jucicial Circuits

ACCOMACK	2	KING WILLIAM	9
ALBEMARLE	16	LANCASTER	15
ALEXANDRIA	18	LEE	30
ALLEGHANY	25	LEXINGTON	25
AMELIA	11	LOUDOUN	20
AMHERST	24	LOUISA	16
APPOMATTOX	10	LUNENBURG	10
ARLINGTON	17	LYNCHBURG	24
AUGUSTA	25	MADISON	16
BATH	25	MANASSAS	31
BEDFORD CITY	24	MARTINSVILLE	21
BEDFORD COUNTY	24	MATHEWS	9
BLAND	27	MECKLENBURG	10
BOTETOURT	25	MIDDLESEX	9
BRISTOL	28	MONTGOMERY	27
BRUNSWICK	6	NELSON	24
BUCHANAN	29	NEW KENT	9
BUCKINGHAM	10	NEWPORT NEWS	7
BUENA VISTA	25	NORFOLK	4
CAMPBELL	24	NORTHAMPTON	2
CAROLINE	15	NORTHUMBERLAND	15
CARROLL	27	NORTON	30
CHARLES CITY	9	NOTTOWAY	11
CHARLOTTE	10	ORANGE	16
CHARLOTTESVILLE	16	PAGE	26
CHESAPEAKE	1	PATRICK	21
CHESTERFIELD	12	PETERSBURG	11
CLARKE	26	PITTSYLVANIA	22
CLIFTON FORGE	25	POQUOSON	9
COLONIAL HEIGHTS	12	PORTSMOUTH	3
COVINGTON	25	POWHATAN	11
CRAIG	25	PRINCE EDWARD	10
CULPEPER	16	PRINCE GEORGE	6
CUMBERLAND	10	PRINCE WILLIAM	31
DANVILLE	22	PULASKI	27
DICKENSON	29	RADFORD	27
DINWIDDIE	11	RAPPAHANNOCK	20
EMPORIA	6	RICHMOND CITY	13
ESSEX	15	RICHMOND COUNTY	15
FAIRFAX CITY	19	ROANOKE CITY	23
FAIRFAX COUNTY	19	ROANOKE COUNTY	23
FALLS CHURCH	17	ROCKBRIDGE	25
FAUQUIER	20	ROCKINGHAM	26
FLOYD	27	RUSSELL	29
FLUVANNA	16	SALEM	23
FRANKLIN CITY	5	SCOTT	30
FRANKLIN COUNTY	22	SHENANDOAH	26
FREDERICK	26	SMYTH	28
FREDERICKSBURG	15	SOUTH BOSTON	10
GALAX	27	SOUTHAMPTON	5
GILES	29	SPOTSYLVANIA	15
GLOUCESTER	9	STAFFORD	15
GOOCHLAND	16	STAUNTON	25
GRAYSON	27	SUFFOLK	5
GREENE	16	SURRY	6
GREENSVILLE	6	SUSSEX	6
HALIFAX	10	TAZEWELL	29
HAMPTON	8	VIRGINIA BEACH	2
HANOVER	15	WARREN	26
HARRISONBURG	26	WASHINGTON	28
HENRICO	14	WAYNESBORO	25
HENRY	21	WESTMORELAND	15
HIGHLAND	25	WILLIAMSBURG	9
HOPEWELL	6	WINCHESTER	26
ISLE OF WIGHT	5	WISE	30
JAMES CITY	9	WYTHE	27
KING AND QUEEN	9	YORK	9
KING GEORGE	15		

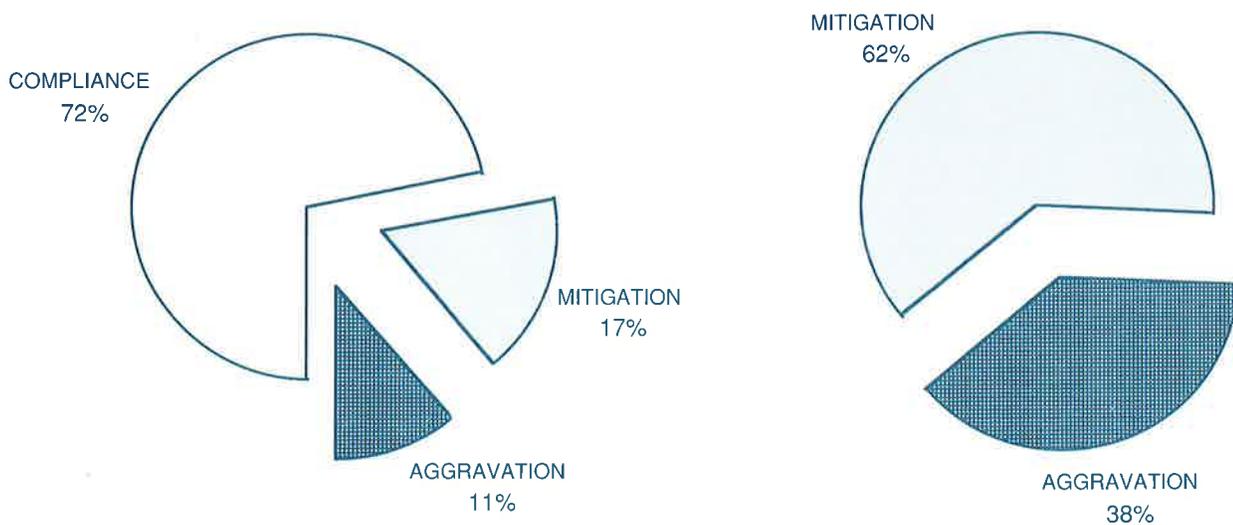
# SENTENCING GUIDELINES COMPLIANCE For All Sentencing Guidelines Offenses

## (1-1-91 to 6-30-92)



Total Number of Cases: 19,066

## (7-1-92 to 2-1-93)



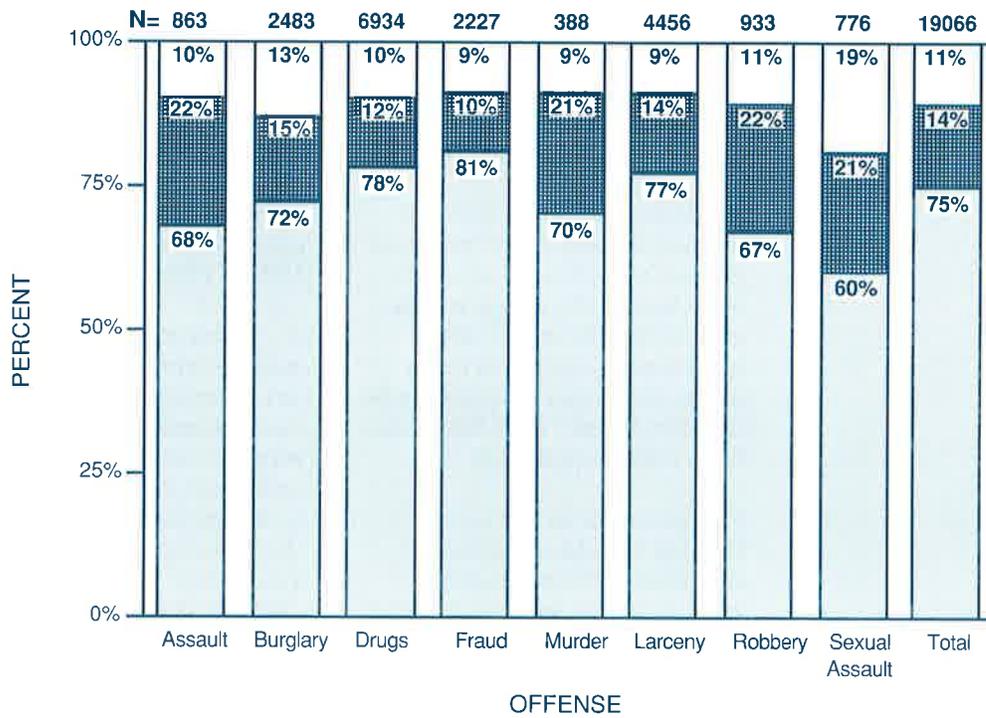
Total Number of Cases: 6,632

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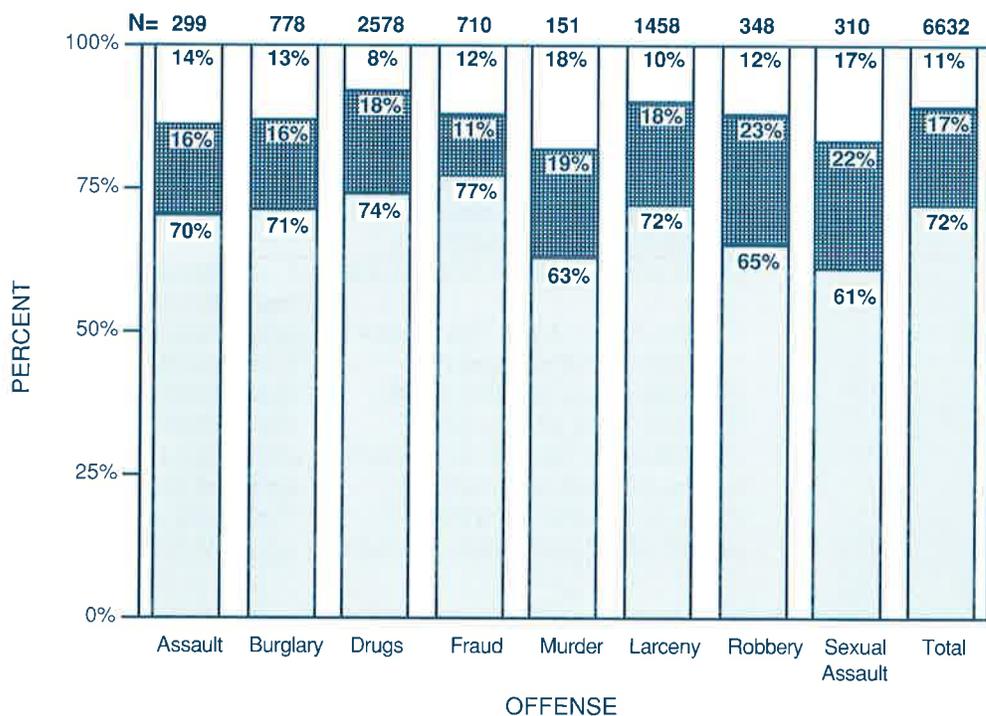
## DISPLAY 1

- During the first twenty-five months of the statewide voluntary sentencing guidelines system, 25,698 work sheets were forwarded to the Sentencing Guidelines staff. Roughly 1,000 work sheets per month were received (19,066 for the first set of guidelines and 6,632 for the second set).
- More often than not, sentences imposed by circuit court judges in the Commonwealth were within the range recommended by the sentencing guidelines system. In these cases, the sentence is said to be in "compliance" with the guidelines recommendation.
- As shown in the top of Display 1, judges statewide complied with sentencing guidelines recommendations in 75% of the cases for which work sheets were received for the first set of guidelines (in effect from January 1, 1991 through June 30, 1992).
- When a sentence falls below the recommended guidelines range (is "mitigated") or falls above the recommended guidelines range (is "aggravated"), the sentence is said to "depart" from the guidelines. For the period in which the first set of guidelines was in effect, judges chose to depart from the guidelines in about one-quarter of those cases.
- On July 1, 1992, the second (current) set of sentencing guidelines was put into effect, and new work sheets were introduced to replace those used for the first set of guidelines. Judicial compliance with the second set of guidelines is shown in the bottom half of Display 1. During the first seven months of the second set of guidelines (July 1, 1992 through February 1, 1993), judicial compliance dropped to 72%, as compared to 75% compliance during the first set of guidelines. This drop in compliance resulted from a greater tendency by judges to depart from recommendations by mitigating sentences. Mitigated sentences increased from 14% to 17%.
- A mitigated sentence may occur because a judge chooses not to imprison an offender recommended for prisoner incarceration, or because a judge sentences an offender to a prison sentence that is shorter than that recommended by the guidelines. A preliminary analysis of these mitigated sentences indicated that most of them occurred because the judges chose to impose prison sentences shorter than those recommended by the guidelines.
- Display 1 illustrates that the direction of departures was similar for sentences imposed under both the first and second sets of sentencing guidelines. For every five sentences not in compliance, roughly three were mitigated and two were aggravated.
- Subsequent displays in this report depict in more detail how judges complied and departed from guidelines recommendations in effect under the first and second sets of sentencing guidelines. This information is provided for different categories of offenses and for each judicial circuit in Virginia.

### SENTENCING GUIDELINES COMPLIANCE For Each Sentencing Guidelines Offense (1-1-91 to 6-30-92)



### (7-1-92 to 2-1-93)



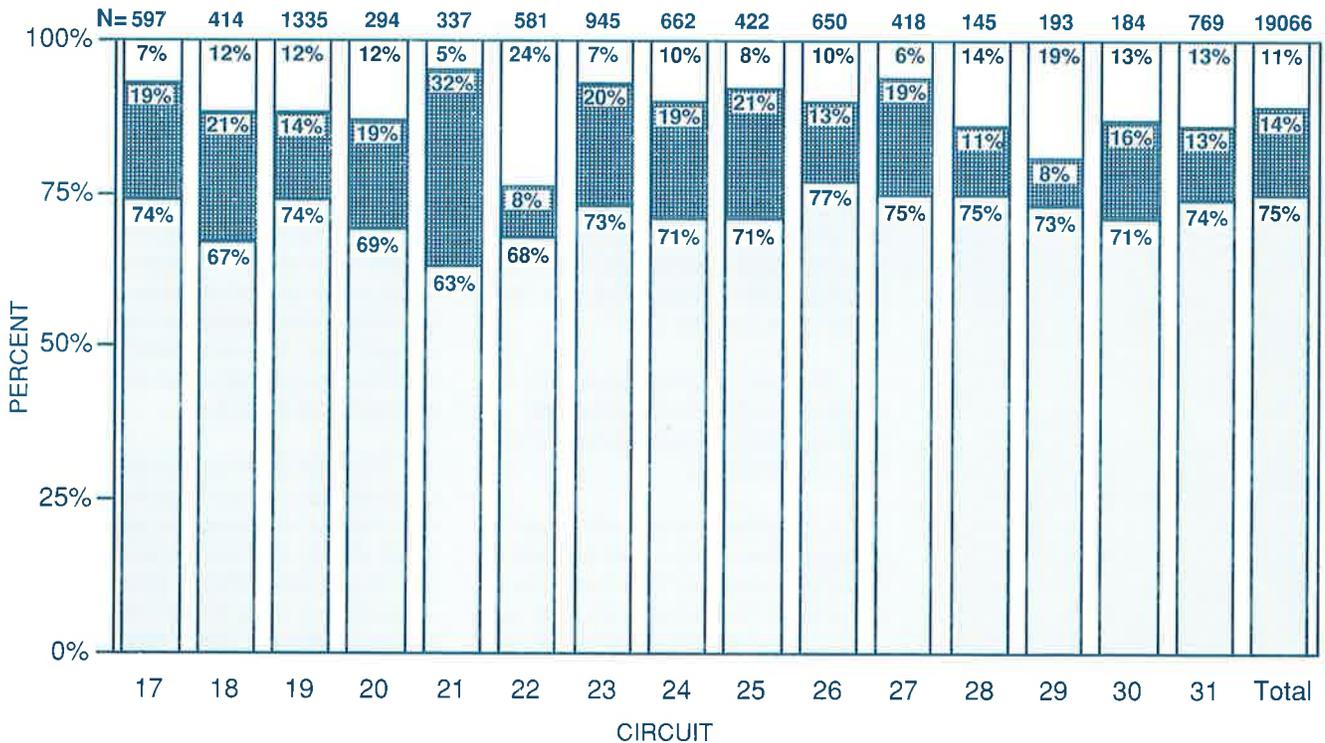
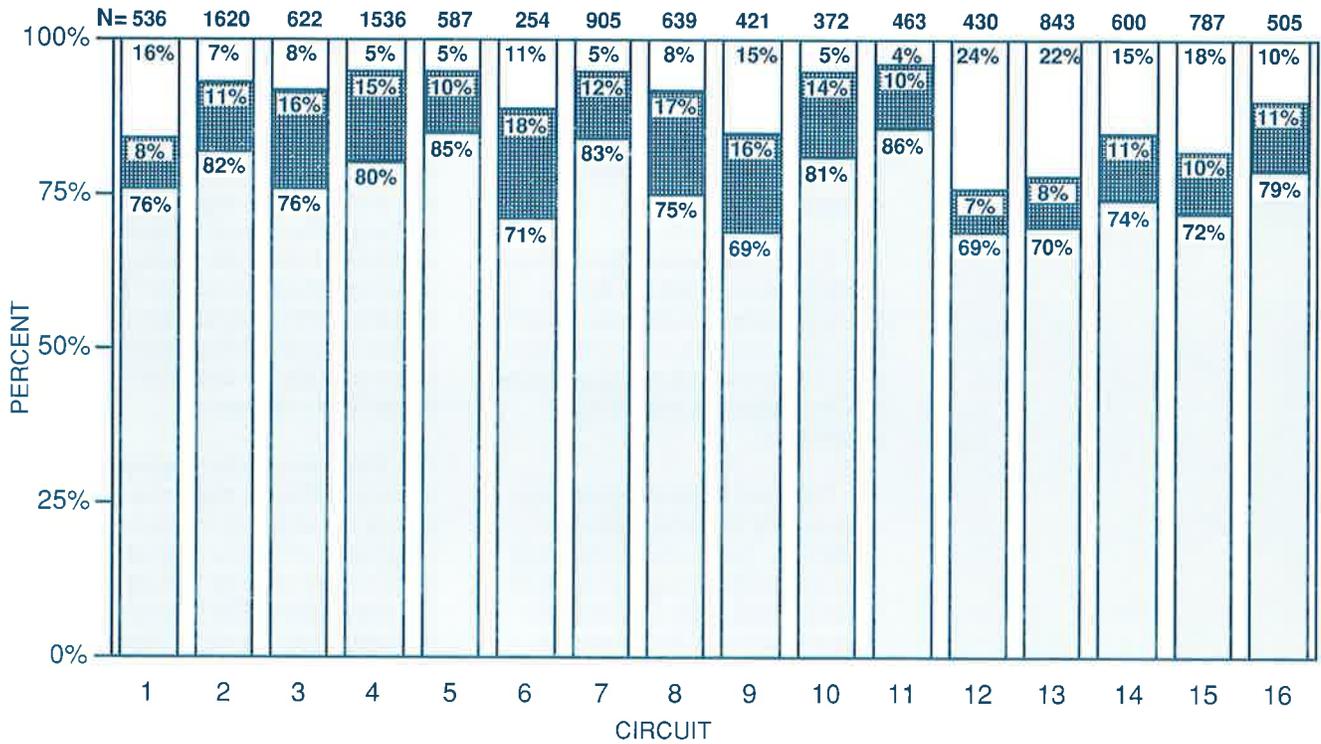
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## DISPLAY 2

- Display 2 presents the sentencing guidelines compliance rates for the first and second sets of state-wide guidelines for each of the eight felony offense groups covered by the guidelines.
- Generally speaking, higher compliance rates were found among property and drug offense sentences while higher departure rates were found among sentences for violent offenses.
- Under both sets of guidelines, compliance was highest for the fraud guidelines sentences. However, the compliance rate fell from 81% under the first set of guidelines to 77% under the second set of guidelines.
- The next highest compliance rate was for the drug offense sentences. Again, the compliance rate under the second set of guidelines dropped, from 78% to 74%. There was a sizable increase in mitigated sentences under the second set of guidelines. It should be noted that drug offense cases accounted for over one-third of all cases examined.
- The compliance rate for assault and sexual assault sentences increased marginally under the second set of guidelines. Nevertheless, sexual assault remains the offense group with the lowest level of compliance. The low compliance rate for these offenses resulted in a special study described later in the report (see Display 13).
- Sentencing compliance with burglary and robbery guidelines was relatively consistent under both sets of guidelines.
- Compliance in larceny cases dropped from 77% under the first set of guidelines to 72% under the second set. These cases showed an increase in mitigated sentences and a less substantial increase in aggravated sentences.
- Judges who sentenced outside the guidelines in murder cases were more likely to sentence above the guidelines recommendation following implementation of the second set of guidelines. As a result, compliance dropped from 70% to 63%.
- Under the first set of guidelines, the percentage of mitigated sentences across the eight offense groups seemed to vary according to whether or not the primary offense was a violent one such as murder or robbery. The rate of mitigated sentences was above average for the violent offenses of murder (21%), robbery (22%), assault (22%), and sexual assault (21%), while it was below average for drug (12%) and fraud (10%) offenses.
- The percentage of aggravated sentences did not vary greatly across the eight offense groups, ranging from 9% for murder, fraud and larceny cases to 13% for burglary cases. The one notable exception was for sexual assault cases in which 19% of the sentences were aggravated.
- Departure patterns under the second set of guidelines were similar to those under the first set with a couple of exceptions: drug offense sentences were more often mitigated and murder sentences were more often aggravated.
- Across both sets of guidelines, mitigated sentences were consistently more prevalent than aggravated sentences when judges departed from guidelines recommendations. The only exception was for fraud sentences under the second set of guidelines.
- Because larceny and drug offenses contributed significantly to the number of sentencing guidelines work sheets, the overall compliance and departure patterns for each set of guidelines were highly influenced by these offenses. Drug offense case compliance is discussed in Displays 7-12.

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT

### For All Sentencing Guidelines Offenses (1-1-91 to 6-30-92)



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## DISPLAY 3

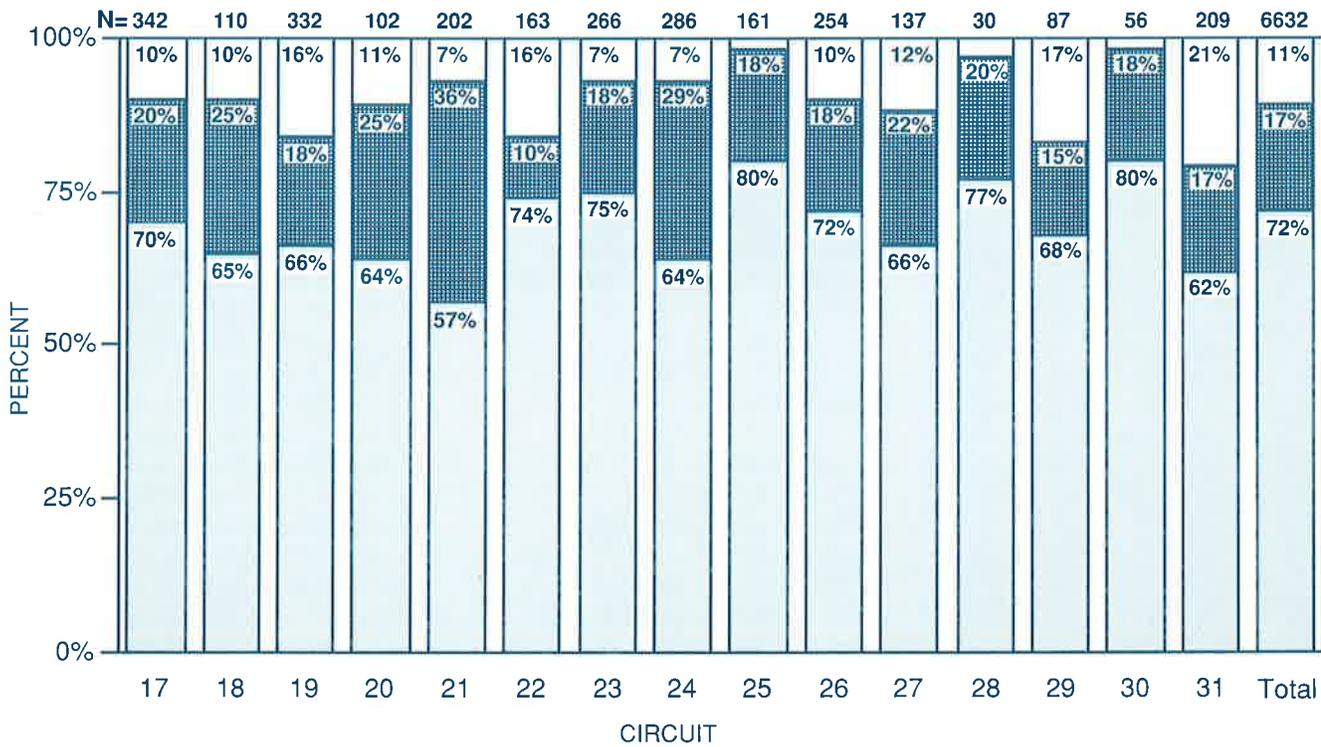
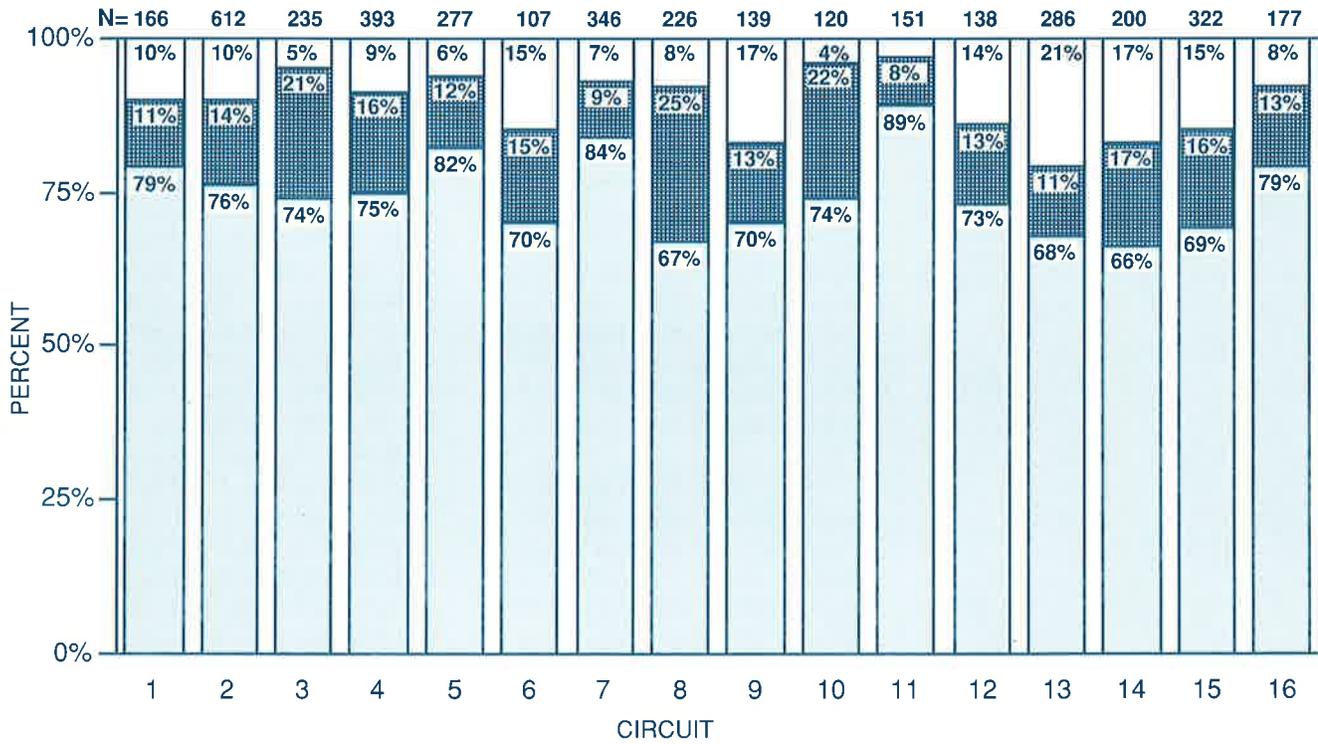
- Overall compliance also varies by judicial circuit. Display 3 presents the compliance rates and number of work sheets received for each judicial circuit under the first set of statewide work sheets. As noted in the Overview, one purpose of the guidelines is to make recommendations that represent a statewide average over a five-year period. Since the recommendations are averages, and do not account for differences in circuits, it is not surprising that compliance varies by circuit. Some areas complied more often than average, and others sentenced above or below the recommendations more often than average.
- The five circuits with the highest percentage of cases in compliance during the first set of guidelines were Circuits 11 (86%), 5 (85%), 7 (83%), 2 (82%), and 10 (81%). The six circuits with the lowest compliance percentages were Circuits 21 (63%), 18 (67%), 22 (68%), 20 (69%), 9 (69%), and 12 (69%). Both high and low compliance circuits were found in close geographic proximity; the degree to which judges follow guidelines recommendations does not seem primarily related to geography.
- Circuit 21 (the Martinsville area) had the highest rate of mitigated sentences (32%) while Circuit 12 (the Chesterfield area) and Circuit 22 (the Danville area) had the highest rate of aggravated sentences (24%).
- The number above each circuit's bar in Display 3 shows the number of work sheets received from the circuit during the first set of guidelines work sheets. The number received varied greatly and was not always proportional to the number of cases handled in the circuit. During this period, the

greatest number of work sheets (1,620) was submitted by Circuit 2 (Virginia Beach). Work sheets received from Circuits 2, 4, 7, 19 and 23, the top five circuits in terms of numbers submitted, represented about one-third of all the work sheets submitted.

- The Judicial Sentencing Guidelines Committee has expressed concern regarding the low number of work sheets received statewide and especially the low number received for some jurisdictions. For example, Circuit 2 (Virginia Beach), Circuit 13 (Richmond), and Circuit 19 (Fairfax) had similar numbers of Pre-Sentence Investigation (PSI) reports completed in recent years. However, Circuit 2 submitted 1,620 completed work sheets, compared to Circuit 13's submission of 843 work sheets and Circuit 19's 1,335 work sheets. Pending a completed audit, it is only clear that work sheet submissions are too low for several jurisdictions, including Circuit 13 and probably Circuit 19. The Committee has authorized an initial audit of work sheet submissions for selected circuits in an attempt to better understand this problem. The final section of this report provides more detail on this plan.
- Missing work sheets is an important issue. As previously noted, judicial notification of departures from guidelines recommendations and the reasons for the departures are important ways for judges to communicate areas in work sheets that need improvement. However, many work sheets are not being received. Pending the results of the completed audit, it is not clear if the work sheets are never completed or if the work sheets were completed but not received by the Judicial Sentencing Guidelines Committee.

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT

### For All Sentencing Guidelines Offenses (7-1-92 to 2-1-93)



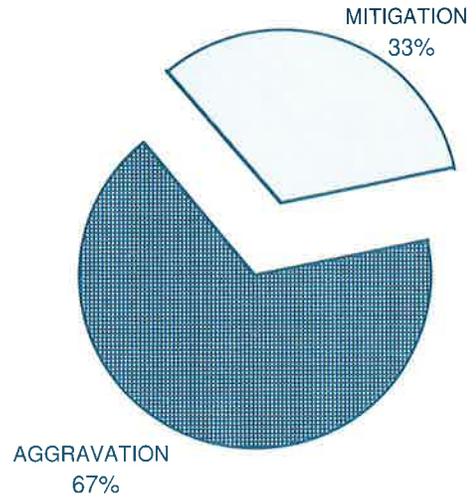
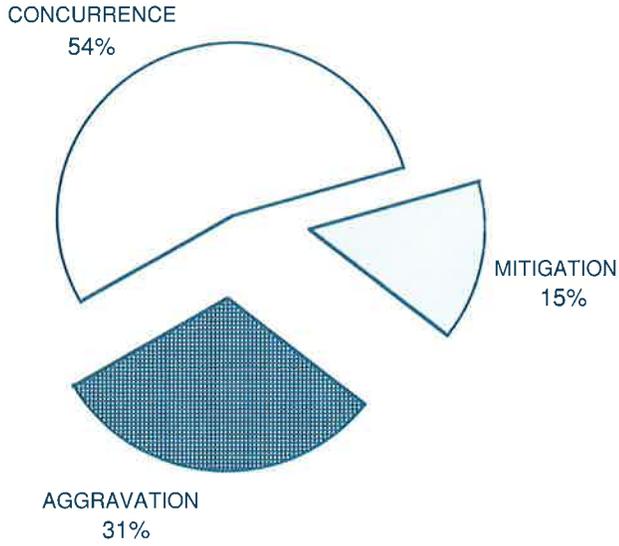
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## DISPLAY 4

- Display 4 completes the review of overall sentencing guidelines compliance by presenting the compliance rate for each judicial circuit under the second set of guidelines from July 1, 1992 through February 1, 1993. As noted in Display 1, statewide compliance dropped from 75% under the first set of guidelines to 72% under the second set of guidelines. A comparison of this display with the previous display reveals that compliance for most circuits dropped under the second set of guidelines.
- Since the revised statewide work sheets were implemented, compliance remained highest among many of the same circuits with high compliance rates in Display 3: Circuits 5, 7, 11, 25, 30. Those with the lowest compliance rates were Circuits 18, 20, 21, 24, and 30.
- Despite the general consistency in compliance rates within judicial circuits for both guidelines periods, there were some notable changes after the guidelines were revised. A higher percentage of sentences below the guidelines recommendations was found in Circuits 3, 10, 20, 21, and 24. For Circuit 21, the circuit with the highest percentage of cases sentenced below the guidelines recommendations before the guidelines were revised (32%), this percentage rose to 36%. Circuits 13 and 31 had the highest aggravation rates (21%).
- When the periods for the first and second set of guidelines are compared, compliance decreased in 20 circuits. Circuit 31 (the Prince William area) had the sharpest decrease in compliance by dropping twelve percentage points. Unlike the general trend toward mitigation, Circuit 31 had an increase of seven percentage points in aggravated sentences. The same pattern of compliance was repeated in Circuit 27 (the Radford area). Compliance in Circuit 27 fell from 75% to 66% with a six percentage point increase in sentences above the guidelines recommendation.
- Overall compliance increased in Circuits 1 (the Chesapeake area), 7 (Newport News), 9 (the Williamsburg area), 11 (the Petersburg area), 12 (the Chesterfield area), 22 (the Danville area), 23 (the Roanoke area), 25 (the Staunton area), 28 (the Bristol area), and 30 (the Norton area). Compliance in Circuit 16 (the Charlottesville area) remained the same.
- Because the sentencing guidelines are voluntary, there is no target rate of compliance. However, the higher the level of compliance, the higher the consistency of sentencing. One goal of the guidelines system is that similarly situated offenders who commit similar crimes will receive similar sentences. Reductions in compliance may signal a lack of progress toward this goal. The final section of this report will address future plans to more carefully analyze this trend across circuits.
- However, while concerns about compliance levels or trends in sentencing are noted, it is important to note that there may be other reasons for substantial variations in compliance levels. Certain localities may see many atypical cases not reflected well in statewide averages. Another possible reason for variations may be the availability of alternative sentencing programs. If any of these are occurring, variations among circuits may not reflect inconsistency in sentencing so much as valid local differences.

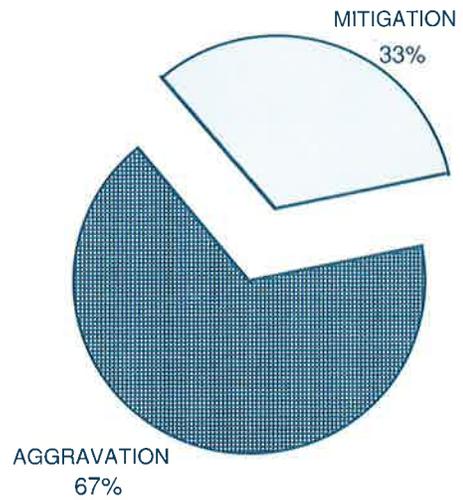
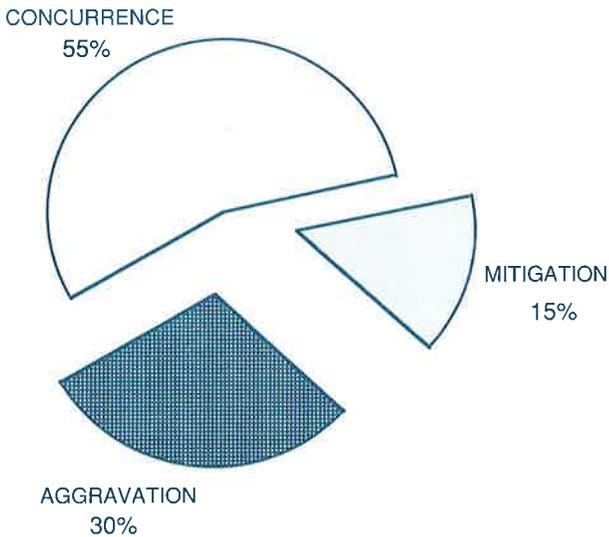
# JURY SENTENCING CONCURRENCE WITH SENTENCING GUIDELINES For All Sentencing Guidelines Offenses

## (1-1-91 to 6-30-92)



Total Number of Jury Cases: 447

## (7-1-92 to 2-1-93)



Total Number of Jury Cases: 226

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## DISPLAY 5

- Virginia's sentencing guidelines were developed from the Pre-Sentence Investigation database which includes sentencing decisions made by juries. The statistical analyses used to create the guidelines controlled for the influence of jury sentences. Consequently, the effects of jury sentences are included in the recommended sentence ranges. It has been well documented, however, that juries do not sentence in the same manner as judges, making the topic worthy of further inquiry.

- The issue of jury sentencing has been debated in the Commonwealth for several years. Indeed, Virginia is one of only six states that currently use juries to determine sentence length in non-capital offenses. Of these six, only Virginia does not provide the jury with prior criminal history on the offender being sentenced. Consequently, juries are also not provided with sentencing guidelines information. According to advocates of jury sentencing, juries reflect community views about the seriousness of various crimes. Furthermore, they argue that if juries are capable of determining guilt, then juries should also be capable of setting punishment for these same offenders. Adversaries of jury sentencing, however, contend that juries are more likely than judges to be influenced by factors that should not be relevant, and, consequently, will sentence more inconsistently.

- Display 5 illustrates how often sentences recommended by juries fell within the range

recommended by the sentencing guidelines.

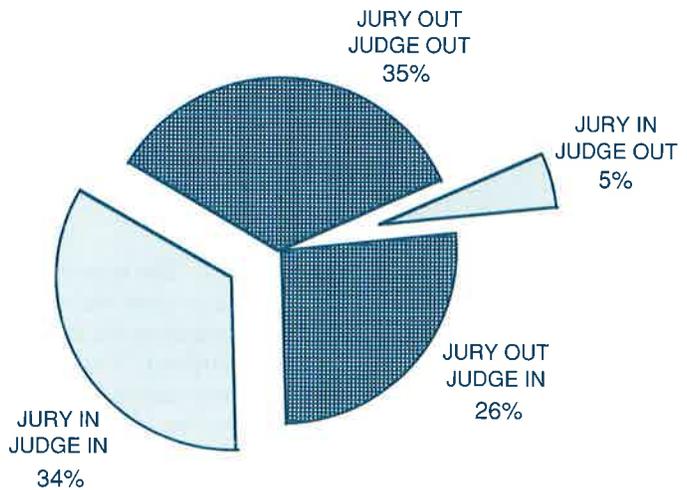
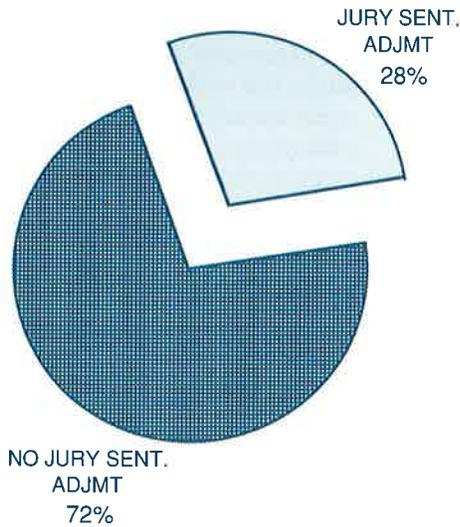
- During the period covered by the first set of sentencing guidelines (1-1-91 to 6-30-92), 447 guidelines work sheets received (about two percent of the total) were for cases in which a jury recommended the sentence. Fifty-four percent of the sentences recommended by juries fell within the range recommended by the guidelines. Thirty-one percent of the jury-recommended sentences fell above the range and 15% fell below the recommended range.

- During the period covered by the second set of sentencing guidelines (7-1-92 to 6-30-93), 226 guidelines work sheets received (about 3 percent of the total) were for cases in which a jury recommended the sentence. Fifty-five percent of the sentences recommended by juries fell within the range recommended by the guidelines. Thirty percent of the jury-recommended sentences fell above the range and 15% fell below the recommended range.

- There was virtually no difference between the percentage of jury sentences that fell within the guideline ranges under the first set of guidelines and under the second set of guidelines. Under both sets of guidelines, juries that did sentence outside the guidelines range were twice as likely to aggravate the sentence as they were to mitigate the sentence (67% compared to 33%).

## JURY SENTENCING ADJUSTMENTS BY JUDGES For All Sentencing Guidelines Offenses

(1-1-91 to 6-30-92)

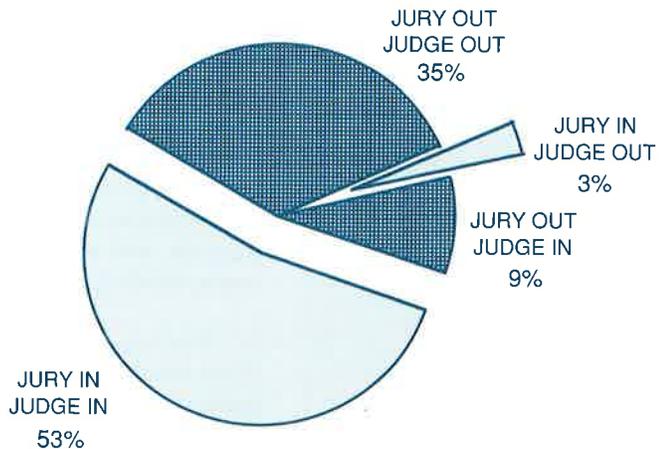
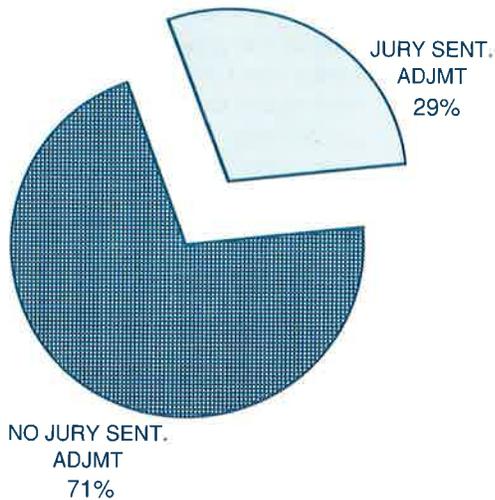


Rate of Jury Sentence Adjustments

Nature of Jury Sentence Adjustments

Total Number of Jury Cases: 447

(7-1-92 to 2-1-93)



Rate of Jury Sentence Adjustments

Nature of Jury Sentence Adjustments

Total Number of Jury Cases: 226

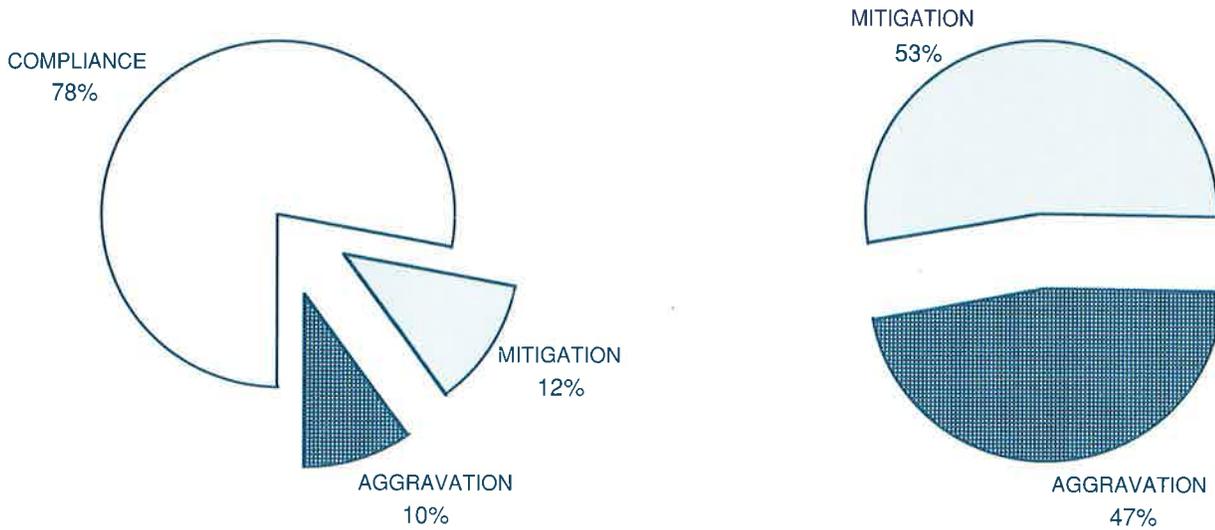
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## DISPLAY 6

- In Virginia, a sentence decided by a jury is not necessarily the ultimate sentence. The trial judge has the right, by statute, to suspend any part of the jury sentence. Generally, judges do not exercise this right. Some judges have argued that jury sentences should remain unchanged because they are an expression of the current values and standards of the community.
- Display 6 presents information on the rate of judge adjustments to jury sentences, as well as a breakdown of the adjusted sentences in terms of jury concurrence and judge compliance with the sentencing guidelines.
- Judges decided not to adjust about seven of every ten jury sentences. This percentage was nearly identical for both the first and second sets of guidelines (first set, 72%; second set, 71%).
- In 61% of the jury sentences that were changed by judges, the jury sentence did not concur with the sentence recommended by the first set of guidelines. This percentage decreased to 44% under the second set of guidelines.
- When a judge chose to adjust the jury's sentence, the final sentence was within the guidelines recommended range three times out of five. Under the first set of guidelines, 60% of the jury sentences adjusted by judges had a final sentence that fell within the guidelines recommended range. The comparable figure for the second set of sentencing guidelines was 62%.
- Most of the shift in jury sentence adjustments from the first set to the second set of guidelines was in categories where the judge's final sentence was within compliance. Cases in which the jury sentence did not concur with the guidelines recommendation and a judge brought it into compliance decreased by 17 percentage points, from 26% under the first set of guidelines to 9% under the second set of guidelines. Most of this shift was to the category in which the jury concurred with the recommended guidelines sentence. This category increased by 19 percentage points, from 34% under the first set of guidelines to 53% under the second set.

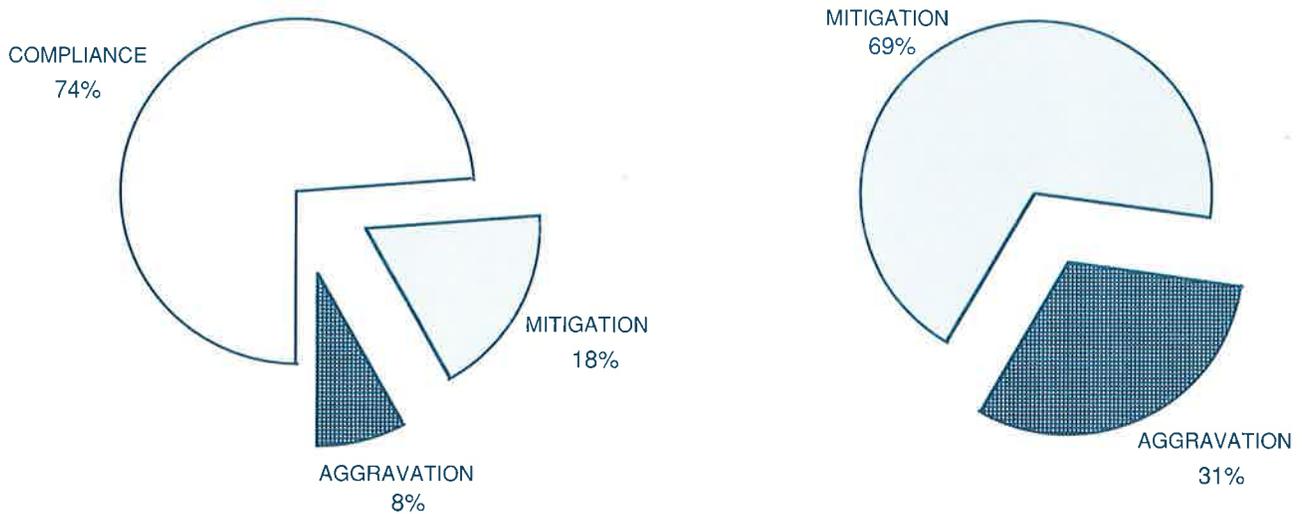
# SENTENCING GUIDELINES COMPLIANCE For All Drug Offenses

(1-1-91 to 6-30-92)



Total Number of Cases: 6,934

(7-1-92 to 2-1-93)



Total Number of Cases: 2,578

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## DISPLAY 7

- Displays 7-12 present a detailed analysis of sentencing patterns for drug offenses. This level of detailed analysis is presented for the other sentencing guidelines offense groups in the appendix. Due to the large number of drug cases, this category of offenses is presented in more detail. As indicated earlier, drug offense cases make up more than a third of all sentencing guidelines worksheets received by the Judicial Sentencing Guidelines Committee.
- As previously noted, judges sentence within the guidelines ranges more for drug offenses than for most other offenses. Display 7 shows that under the first set of sentencing guidelines, the compliance rate was 78%, with a relatively equal number of mitigating and aggravating departures (12% and 10% respectively). Compliance remained relatively high (74%) for the second set of guidelines, but mitigating departures were far higher (18%) and aggravating departures lower (8%) than under the previous guidelines.
- The drop in compliance under the second set of guidelines was almost entirely the result of more sentences being mitigated. Under the first set of guidelines, circuit court judges who departed from the guidelines imposed sentences that were both below and above the recommended sentence range in about equal numbers. However, since the second set of guidelines became effective more than two-thirds of the departures from the guidelines have been sentences that were mitigated. While the compliance rate indicates substantial agreement with guidelines recommendations, the shift to substantially more mitigation requires explanation. To better explain this trend, Displays 8 and 9 present reasons judges have cited for departing from the guidelines.

## JUDICIAL REASONS FOR DRUG OFFENSE SENTENCE MITIGATION

MITIGATING REASON GIVEN	1/91-6/92	7/92-2/93
No reason given	22.8%	31.5%
Sentence agreed upon during a plea bargain	15.2%	17.6%
Alternative sentence (e.g. CDI or Intensive Probation)	11.6%	4.5%
Offender has good potential for rehabilitation	9.7%	8.5%
Offender has no serious prior record	4.8%	4.2%
Offender cooperated with authorities	4.7%	4.0%
Offender has psychological or physical problems	4.5%	0.7%
Offender was not principal perpetrator	3.5%	1.6%
Small amount of drugs	2.8%	0.4%
Already sentenced in a different court	2.6%	1.3%
Guidelines are too harsh	1.9%	0.7%
Age of offender	1.6%	0.2%
Unspecific unusual circumstances	1.4%	0.7%
Offender sentenced to Bootcamp program	1.3%	5.4%
Drugs were not sold for profit	1.0%	0.0%
Offender provides support to his/her family	0.8%	1.1%
Weak evidence	0.8%	0.7%
Offender sentenced consistently with codefendant	0.8%	0.4%
Suspended time needed to enforce treatment	0.4%	0.2%
Offender's needs can be addressed by probation	0.4%	0.0%
Sentenced under 19.2-311, Youthful Offender	0.3%	0.7%
Sentence was recommended by a jury	0.3%	0.2%
Sentenced under 18.2-254 (treatment)	0.3%	0.2%
Offender's life has been hard	0.2%	0.0%
Jail time is equivalent to prison	0.2%	0.0%
Offender's motives or intentions are in doubt	0.2%	0.0%
Multiple convictions treated as single offense	0.1%	0.2%
Finding under advisement	0.0%	1.6%
Offender placed on electronic monitoring	0.0%	0.2%

*Total will not equal 100% because multiple departure reasons may be recorded for each work sheet. Reasons not included in this table are cited .1% or less.*

## DISPLAY 8

- Display 8 presents the analysis of cases which judges chose mitigating reasons for departing from guidelines recommendations in sentences for drug offenses. Reasons are presented for cases sentenced under both the first and second set of sentencing guidelines. This analysis is somewhat limited because of the large number of cases in which judges failed to cite a reason for departing from the guidelines. For example, judges did not provide a reason for departure on 22.8% of the work sheets received during the first set of guidelines, and that percentage increased to 31.5% for work sheets received under the second (current) set of guidelines. The guidelines are a voluntary decision aid designed to assist judges in sentencing. However, when judges find the guidelines inappropriate for a particular case, they are asked to voluntarily provide a reason for departure. These departure reasons are requested to help the Sentencing Guidelines Committee and staff as they monitor the use of the guidelines.

- As can be seen in Display 8, when judges mitigated and specified a reason, the most commonly cited reason was that the sentence was agreed to during plea bargain negotiations. In the course of plea negotiations, a defendant may be more likely to agree to a plea if the negotiated sentence falls below the sentencing guidelines recommendation for that particular case.

- Another frequently cited reason for a mitigated sentence was the use of an alternative sentence. Judges in Virginia have a variety of sentencing options, including bootcamp, intensive supervision, and electronic monitoring. These alternative programs divert offenders who would normally be sentenced to prison into community programs.

- As of 7-1-92, the cover sheet for the sentencing guidelines work sheet was redesigned to

collect more information on sentences involving alternative sanctions. As a result, imposition of an alternative sanction as a reason for departure is down from the initial guidelines period because specific alternatives are now more likely to be mentioned. For example, under the first set of guidelines, a sentence to bootcamp was cited as a departure reason in 1.3% of the cases, whereas this was cited as a departure reason in 5.4% of the cases sentenced under the second set of guidelines.

- Judges also frequently cited the offender's potential for rehabilitation as a mitigating factor in sentencing. This factor was cited in 9.7% of the cases under the first set of guidelines and 8.5% of the cases under the second set of guidelines. Judges have also cited the fact that the offender cooperated with authorities as a reason for a mitigated sentence. Given that many drug cases involve multiple defendants, it is not surprising that some offenders choose to cooperate with authorities.

- Judges have cited the small amount of drugs involved as a reason for mitigating drug offense sentences, but it is not a frequently cited reason. It was cited in 2.8% of these cases under the first set of sentencing guidelines, and in 0.4% of the cases under the second set of guidelines. The drug sentencing guidelines have been criticized for their failure to consider drug amount when determining a sentence recommendation.

- During the past few years, there appeared to have been a stern judicial attitude towards the sanctioning of drug offenders. Today, judges appear to have become more willing to sentence below the low end of the drug guidelines recommendation. This could reflect a changing judicial philosophy toward drug offenders, or possibly an increase in the availability and publicity of alternative or intermediate sanctions.

## JUDICIAL REASONS FOR DRUG OFFENSE SENTENCE AGGRAVATION

AGGRAVATING REASON GIVEN	1/91-6/92	7/92-2/93
No reason given	26.0%	27.4%
Offender's prior record	17.6%	15.2%
Sentence agreed upon during a plea bargain	10.1%	12.1%
Drug amount or purity	7.8%	13.9%
Sentence was recommended by a jury	6.5%	5.4%
Unspecified unusual circumstances	5.5%	8.5%
Offenders who sell drugs should be incarcerated	4.8%	0.0%
Offender has poor rehabilitation potential	3.4%	3.6%
Offender has psychological problems	2.9%	1.3%
Offender immersed in drug culture	2.9%	0.9%
Aggravating circumstances	2.2%	1.3%
Guidelines are unrealistic in this case	1.5%	4.0%
Sentenced consistently with judge's other sentences	1.3%	0.9%
Offender failed to cooperate with authorities	1.1%	0.0%
"Community Sentiment" dictates a harsher sentence	1.0%	0.4%
Firearm was used in the commission of the offense	0.7%	0.0%
Offender has bad school/work record, needs structure	0.4%	0.4%
Deterrence	0.4%	0.0%
Particularly harmful drugs (e.g. PCP, crack, etc.)	0.4%	0.0%
Already sentenced in a different court	0.4%	0.0%
Sentenced under 19.2-311, Youthful Offender	0.2%	0.0%
Judge wanted suspended time over defendant's head	0.2%	0.0%
Offender threatened to kill a witness	0.2%	0.0%
Offender sentenced consistently with codefendant	0.1%	2.2%
Offender played a substantial role	0.0%	0.4%

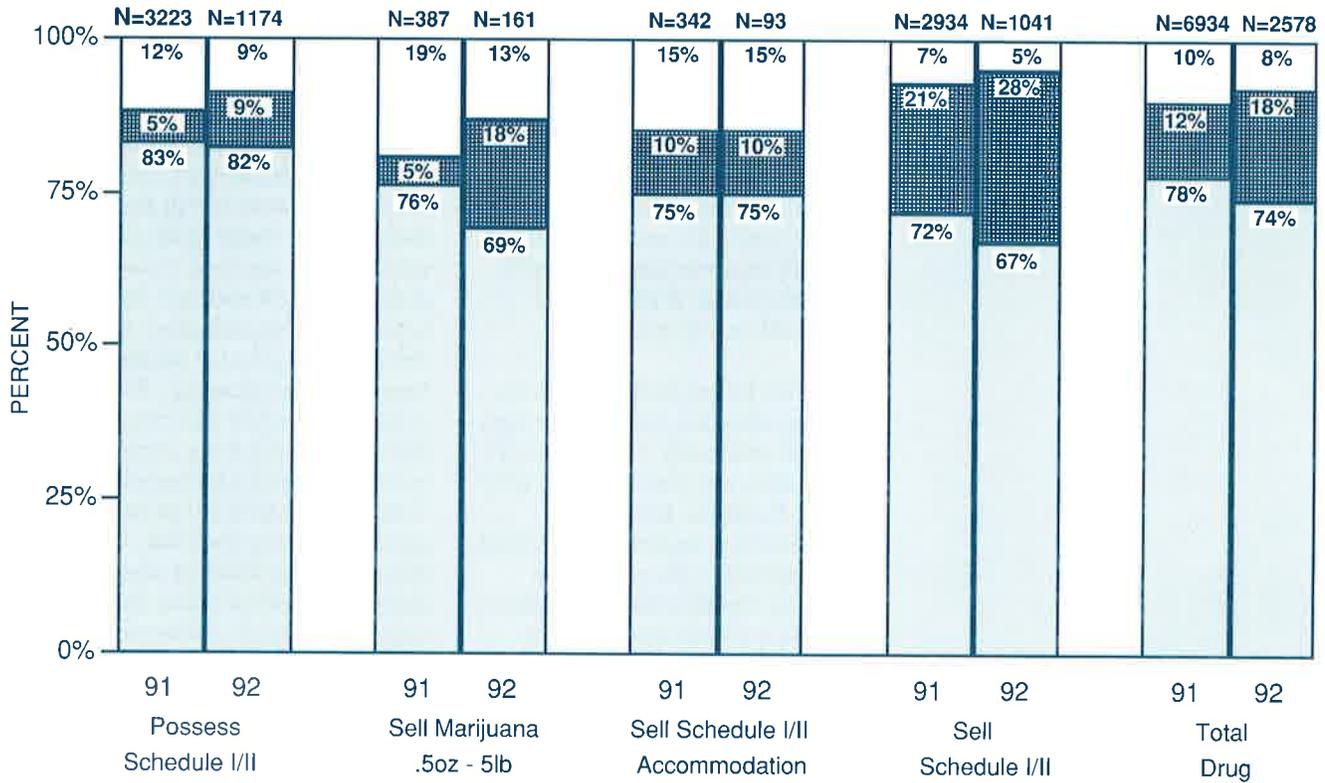
Total will not equal 100% because multiple departure reasons may be recorded for each work sheet. Reasons not included in this table are cited .1% or less.

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## DISPLAY 9

- Display 9 presents the results of an analysis of cases in which judges chose aggravating reasons for departing from guidelines recommendations in sentences for drug offenses. Sentences which aggravate from sentencing guidelines recommendations, either by sending offenders to prison who were not recommended for prison or by sentencing offenders to longer sentences than recommended by the guidelines, occurred in 10% of the cases for which work sheets were received under the first set of guidelines and in 8% of the cases for which work sheets were received under the second set of drug guidelines. Judges failed to cite a specific reason for sentencing above the guidelines recommendation in over one-quarter of these cases under both sets of guidelines.
- When judges sentenced above the recommended guidelines range, the most commonly cited reason for aggravation was the offender's prior record. However, prior record convictions are explicitly considered and weighted in the guidelines. There are two possible explanations for this departure reason. First, judges may feel that prior convictions are not being weighted heavily enough by the guidelines. Second, judges may be considering other aspects of prior record (such as arrests) which are not considered by the guidelines.
- As was the case with mitigated sentences, plea bargain agreements were frequently cited as a reason for aggravated sentences. One possible explanation for this may be that there is great disparity in sentencing between judges and juries in drug cases. It is common knowledge among members of the defense bar that juries tend to impose more severe sentences than judges, especially for drug cases. Therefore, offenders may agree to plea bargains for judge-imposed sentences, even if the sentence is above the guidelines recommendation, rather than go before a jury and risk an even more severe sentence.
- Drug amount was also frequently cited reasons for aggravated sentences. The Sentencing Guidelines Committee and staff have continued to review the effects of drug amount and drug type when developing drug offense work sheets. However, the small number of cases which have involved large amounts of drugs hinders this effort. Also, sentences for large drug amounts have not been consistently more harsh than sentences for lesser quantities. The result is that analysis of the effects of drug amount and type has failed to yield recommendations for substantially greater sentences based on drug quantity. Some judges have noted that the role of the offender in a drug crime is a more important consideration in sentencing than the type or quantity of drug involved. For example, drug couriers who are not centrally involved in the drug trade may receive more moderate sentences than career criminals who deal in small amounts of drugs.
- It is also interesting to note that under the earlier set of sentencing guidelines, judges cited "offenders who sell drugs should be incarcerated" as a reason in 4.8% of the aggravated departure sentences. However, under the more recent second set of guidelines, this reason was not cited on any work sheets received. This may indicate that the judicial attitude towards the sentencing of offenders who sell drugs has shifted. As previously seen in Display 8, some judges have considered the offender's potential for rehabilitation.

## SENTENCING GUIDELINES COMPLIANCE For Specific Drug Offenses



91 = (1-1-91 to 6-30-92)<sup>a</sup>    92 = (7-1-92 to 2-1-93)<sup>b</sup>



Note: <sup>a</sup> refers to first set of guidelines.

<sup>b</sup> refers to second set of guidelines.

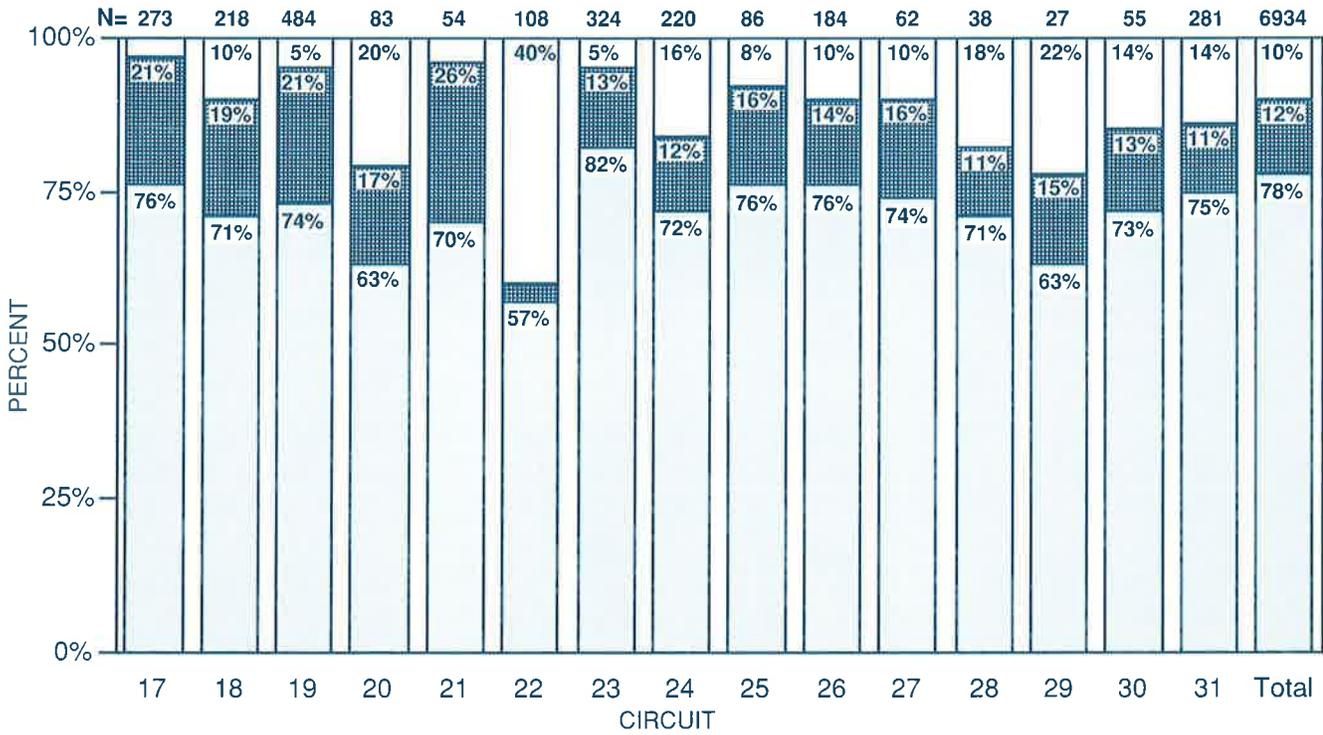
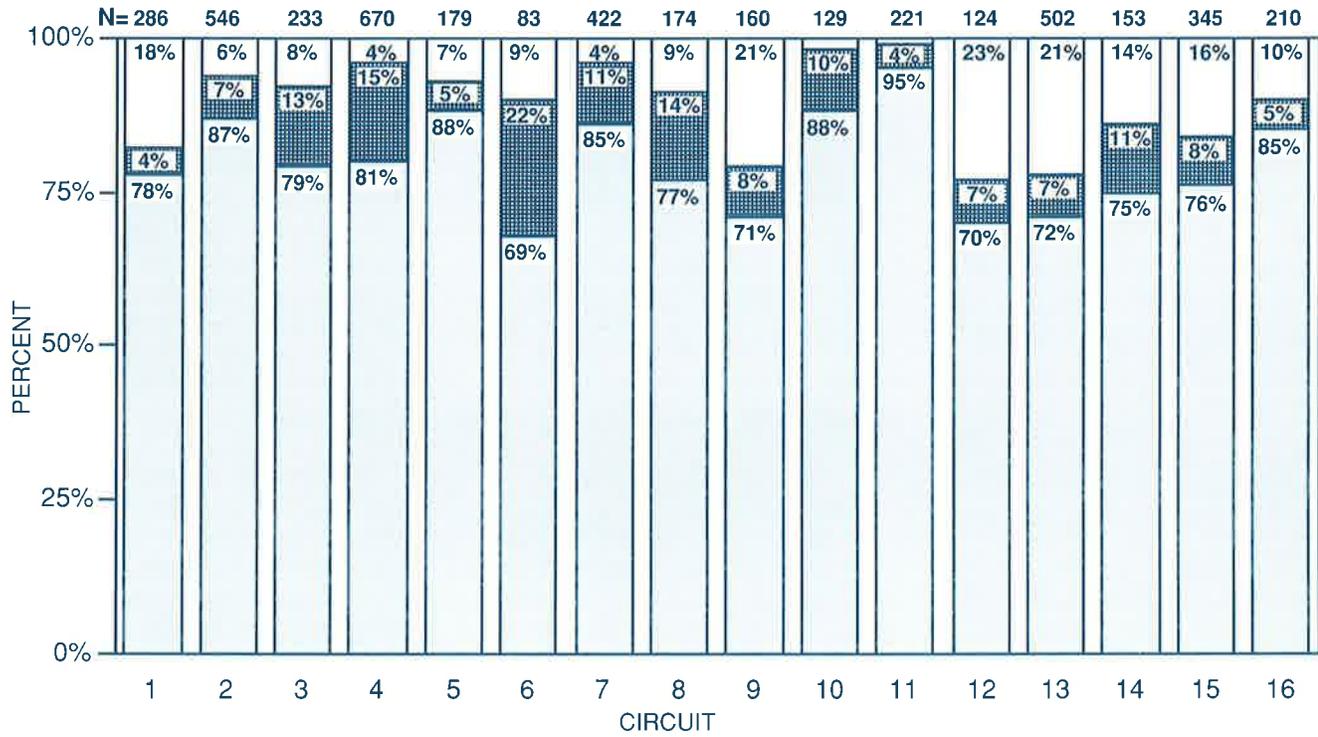
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## DISPLAY 10

- Display 10 presents compliance rates for several specific drug offenses. While sentences for drug offenses are generally in compliance, some specific drug offenses have far higher or far lower compliance than the overall drug compliance level would suggest.
- Sentences for possession of a Schedule I/II drug such as cocaine had a very high compliance rate. More than 80% of these sentences were within the guidelines recommendation for both the first (83%) and the second (82%) sets of sentencing guidelines.
- The compliance rate for sentences involving the sale of marijuana dropped between the first and second sets of sentencing guidelines. Under the first set, 76% of the sentences were within the guidelines recommendation. This decreased seven percentage points, to 69%, under the second set of guidelines.
- When judges sentenced outside the recommended range for sale of marijuana, their direction of departure reversed between the two sets of guidelines. Sentences were four times more likely to be aggravated under the first set of guidelines than mitigated. However, under the second set of guidelines, sentences were more likely to be mitigated than aggravated.
- The proportion of sentences within the recommended range for sale of Schedule I or II drugs for accommodation remained constant for the two sets of guidelines. Similarly, the ratio of two mitigated sentences for every three aggravated did not change with the version of the sentencing guidelines in effect.
- Judges were least likely to sentence within the guidelines recommendation for sale of a Schedule I/II drug. Under the first set of guidelines, 72% of the sentences were in compliance. This figure dropped to only 67% during the second set of guidelines.
- Most of the departures for sale of a Schedule I/II drug were mitigated (21% under the first set of guidelines; 28% under the second set). Clearly, for a substantial minority of cases, judges view the sentencing guidelines recommendations for sale of a Schedule I/II drug as unduly harsh.
- As discussed in Display 9, the sentencing guidelines have been criticized because they do not distinguish between a typical drug sale and a sale involving large amounts of drugs. If large quantities of drugs are associated with higher sentences, then the expected direction for judges to depart from the guidelines should be toward aggravating the sentence. The observed sentence mitigation pattern indicates that the criticism may be unfounded.
- Examination of the numbers and percentages suggest that the drop in compliance is being “driven” by the mitigation of sentences for the sale of Schedule I/II drugs. While the increase in the percentage of selling marijuana cases that were mitigated is also notable, the number of cases is small compared to the sale of Schedule I/II drugs category.

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT

### For Drug Offenses (1-1-91 to 6-30-92)



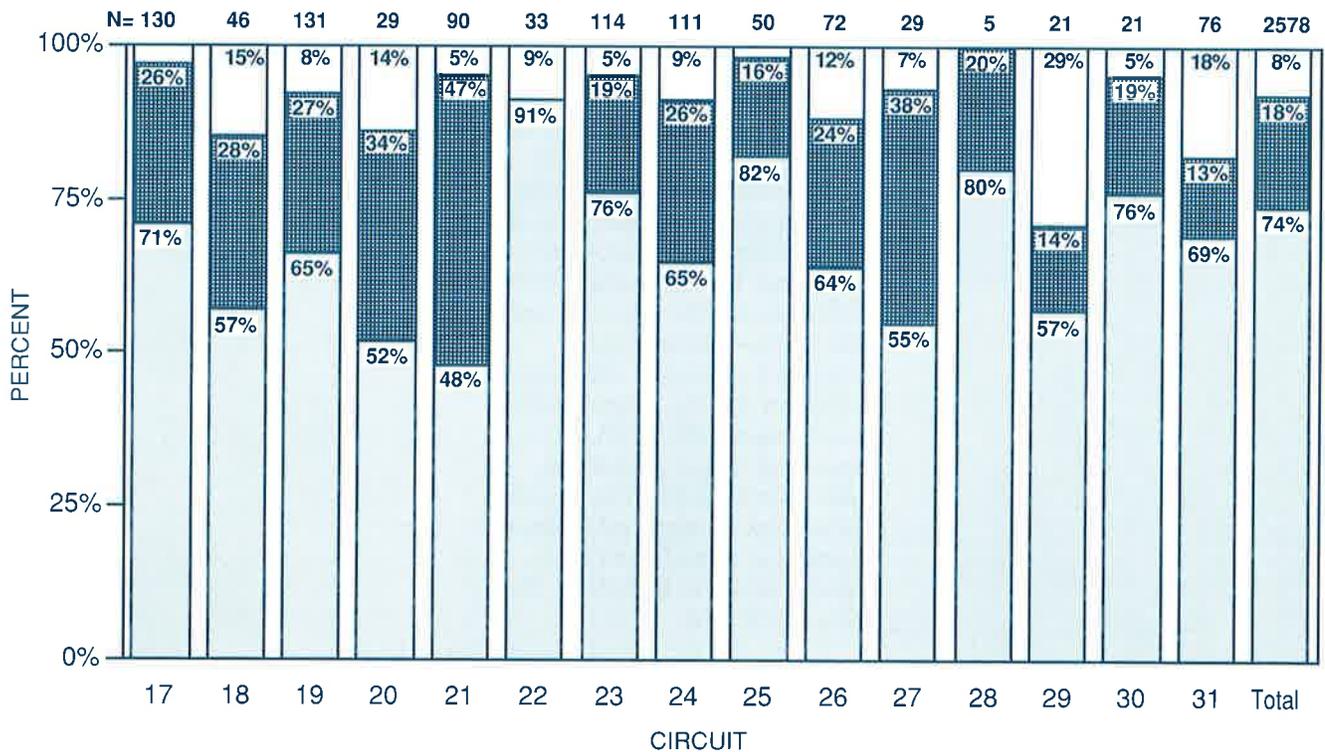
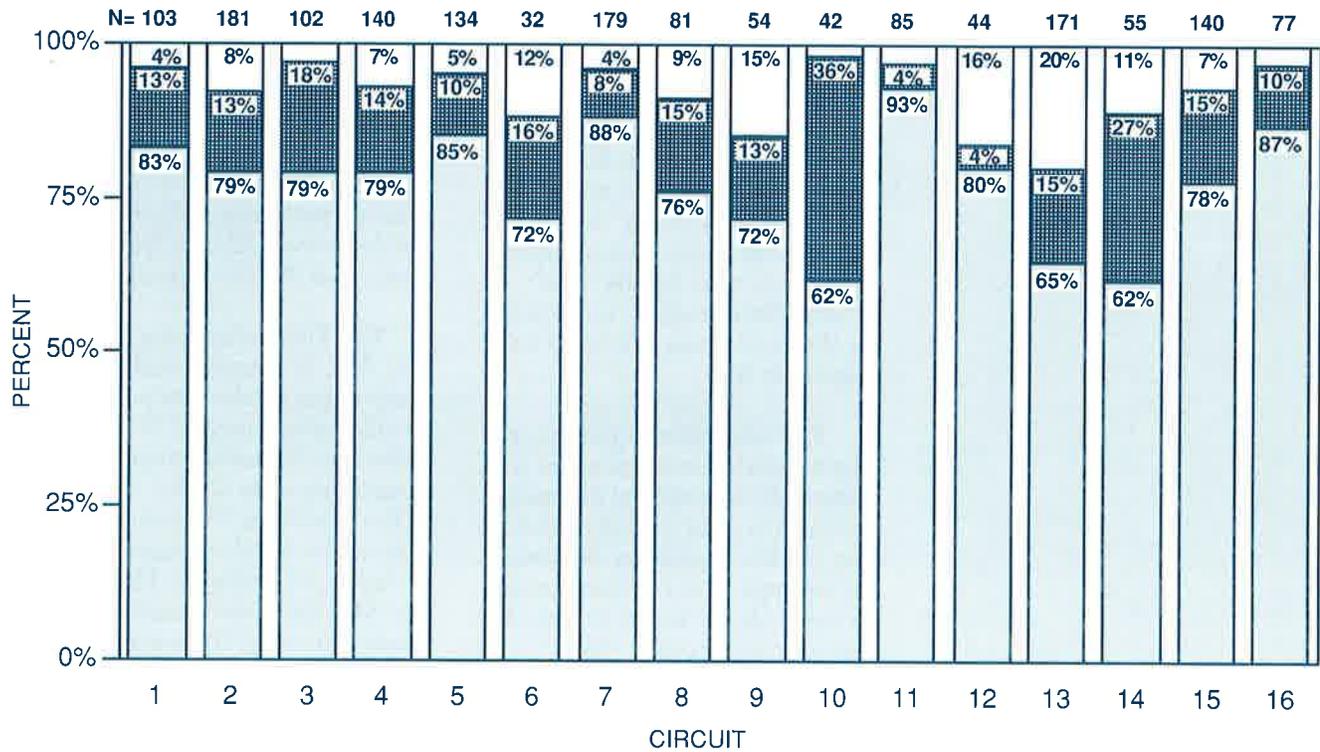
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## DISPLAY 11

- As noted in Display 3, judicial compliance with guidelines recommendations varied considerably across the 31 circuits when considering all guidelines offenses together. Similarly, within any given offense category, guidelines compliance varies across circuits. Display 11 presents the compliance rate with drug offense guidelines for each judicial circuit under the first set of guidelines. Compliance rates by circuit for the other seven offense categories covered by the guidelines can be found in Appendix B.
- The sentencing guidelines recommendations represent a statewide average for the most recent five-year period. Because the recommendations represent an average, it is not surprising to see some variation in compliance across circuits. This variation may represent local sentencing philosophy, but may also be influenced by unique factors such as local practices regarding prosecution or available alternative sentencing programs.
- Under the first set of guidelines, sentencing compliance patterns varied substantially, with a high compliance rate of 95% in Circuit 11 (the Petersburg area) to a low rate of 57% in Circuit 22 (the Danville area). The highest percentage of mitigated sentences was found in Circuit 21 (the Martinsville area), where 26% of all sentences fell below guidelines recommendations. The highest percentage of aggravated departures from guidelines recommendations was in Circuit 22, with a 40% rate.
- The five circuits with the highest percentage of cases in compliance during the first set of guidelines were Circuits 2 (Virginia Beach), 5 (the Suffolk area), 10 (the Buckingham-Mecklenburg area), 11 (the Petersburg area), and 16 (the Charlottesville area). The five circuits with the lowest compliance percentages were Circuits 6 (the Emporia area), 12 (the Chesterfield area), 20 (the Loudon area), 22 (the Danville area), and 29 (the Grundy area).
- The Tidewater area, Circuits 1, 2, 3, 4, 5, 7 and 8, had high compliance levels. Only Circuit 8's (Hampton) rate of 77% fell below the statewide average compliance rate (78%). Circuits in the Northern Virginia suburbs of the Washington area, including Circuits 17, 18, 19, 20, and 31, had lower compliance levels than any Tidewater circuit. For Circuits 17 (Arlington), 18 (Alexandria), and 19 (Fairfax), the lower compliance rates with guidelines recommendations were due mostly to downward departures from recommendations.

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT

### For Drug Offenses (7-1-92 to 2-1-93)



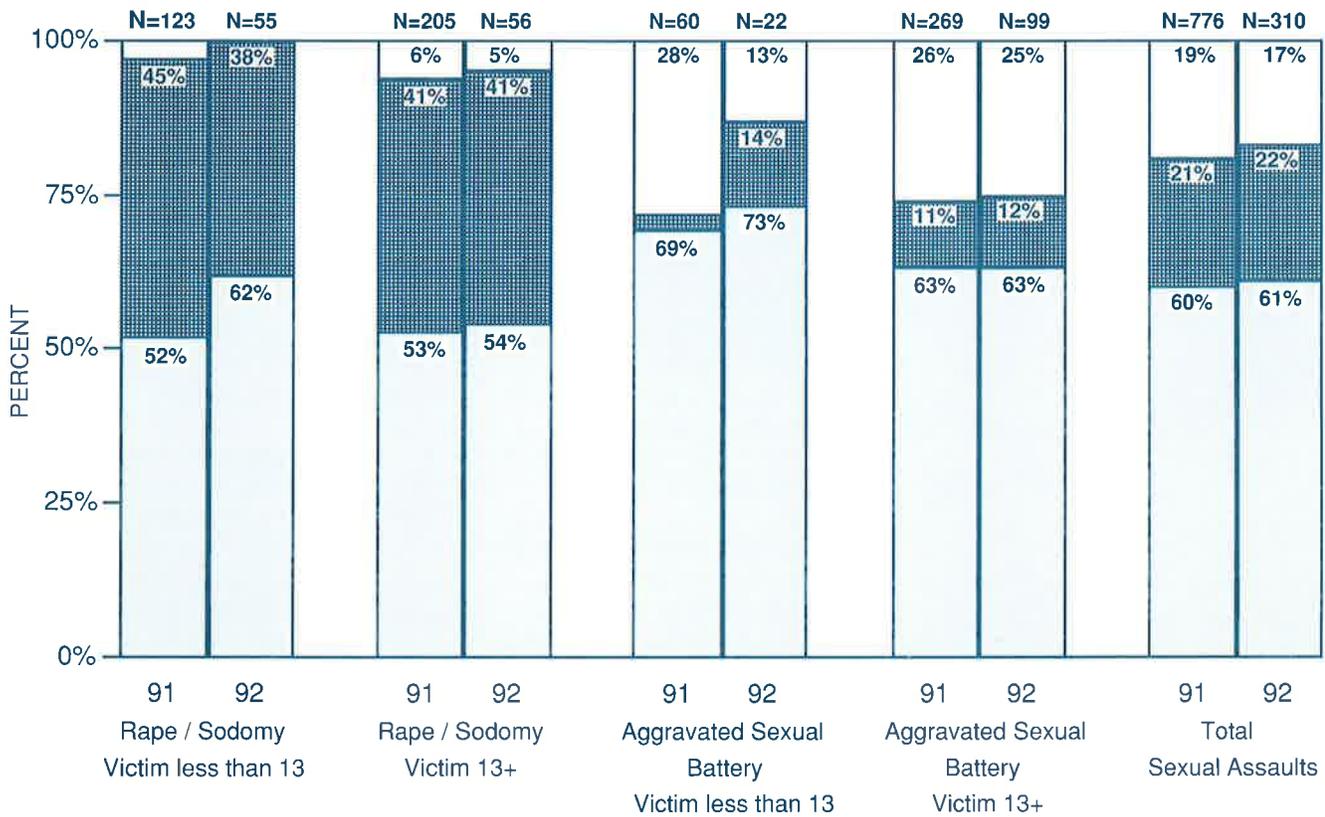
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## DISPLAY 12

- Display 12 completes the review of drug sentencing guidelines compliance by presenting the compliance rate for each judicial circuit under the second set of guidelines, in effect beginning in July 1, 1992. As noted in Display 7, statewide compliance with drug offense guidelines dropped from 78% under the first set of guidelines to 74% under the second set. A comparison of this display with the previous display reveals that compliance for most circuits dropped under the second set of guidelines.
- Since the revised statewide work sheets were implemented, compliance has remained highest among many of the same circuits with high compliance rates shown in Display 11: Circuits 5, 7, 11 and 16. The five circuits with the lowest compliance rates were Circuits 18, 20, 21, 27 and 29.
- When the periods in which the first and second sets of guidelines were in effect are compared, compliance decreased in 19 circuits. Circuit 21 (the Martinsville area) had the sharpest decrease in compliance, dropping 22 percentage points. This drop is explained by an increase in the number of cases sentenced below the guidelines recommendation. Across the circuits, there was a general trend toward more mitigated sentences, as noted in Display 7.
- A decrease in compliance rate occurred in several larger circuits. For example, Circuits 2 (Virginia Beach), 13 (Richmond), and 19 (Fairfax) showed declines in compliance rates mainly due to increases in mitigated sentences. The tendency to mitigate drug offense sentences was present in Circuits 2 and 19 under the first set of guidelines and increased during the second set. However, Circuit 13 displayed a tendency to sentence above the guidelines recommendations using the first set of guidelines work sheets, while more evenly splitting departures above and below the guidelines recommendations under the second set of guidelines.
- Overall compliance increased in 11 circuits, while remaining the same in Circuit 3.
- Although many circuits had similar compliance rates under both the first and second sets of guidelines, there was one notable exception: Circuit 22 shifted from being the circuit with the lowest compliance rate under the first set of guidelines (57%) to being one of the highest compliance (91%) circuits under the second set of guidelines.

## SENTENCING GUIDELINES COMPLIANCE For Specific Sexual Assault Offenses



91 = (1-1-91 to 6-30-92)<sup>a</sup>    92 = (7-1-92 to 2-1-93)<sup>b</sup>



Note: <sup>a</sup> refers to first set of guidelines.  
<sup>b</sup> refers to second set of guidelines.

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## DISPLAY 13

- Display 13 presents compliance with sentencing guidelines recommendations for specific types of sexual assault offenses. Sexual assault sentences were examined in more detail because compliance rates for these offenses are consistently lower than compliance rates for all other offenses covered by the guidelines. Judges complied with sexual assault recommendations 60% of the time during the first set of guidelines, and 61% during the second set of guidelines.
- An examination of sentencing practices for specific types of sexual assault offenses may indicate reasons for the low compliance rates in these cases. As seen in Display 13, departures from the guidelines for all sexual assault cases combined are relatively evenly split between mitigated and aggravated sentences.
- However, when examined for specific types of offenses, this apparent balance disappears. Departure reasons vary dramatically according to offense type. Judges often mitigate recommended sentences in cases of forcible rape and sodomy. For example, forcible rape and sodomy cases involving victims age 13 or more had compliance rates of 53% and 54% under the first and second sets of guidelines, respectively. Under both sets of guidelines, 41% of all sentences for these cases fell below the guidelines recommendations.
- Conversely, judges often sentenced above the guidelines recommendations for cases of aggravated sexual battery. For example, sentences for aggravated sexual battery of a victim age 13 or more had compliance rates of 63% under both the first and second sets of guidelines. Judges sentenced above the guidelines in 26% of the cases for the first set of guidelines and 25% of the cases for the second set.
- Judging from these results, it appears that judges consider the rape/forcible sodomy guidelines recommendations too harsh in many cases, and the aggravated sexual battery recommendations too lenient.
- Display 13 also presents compliance rates for sexual assault sentences in cases involving victims younger than 13 years of age (this distinction is also made on the guidelines work sheets). However, the age of the victim did not appear to influence departure patterns, and age of the victim was ruled out as an explanation for the low compliance levels in sexual assault cases.
- Other possible explanations for the low compliance rates for these offenses were also examined. For example, plea negotiations involve reductions of the offense at indictment, with offenders agreeing to plead guilty to a lesser charge. Rape charges are sometimes reduced in this way, with the offender pleading guilty to aggravated sexual battery rather than rape. At sentencing, however, a judge may consider the “real” offense behavior (rape) and impose a sentence substantially harsher than the typical sentence for aggravated sexual battery. This practice may account for some upward departures from guidelines recommendations for the aggravated sexual battery cases.
- There is some evidence that compliance rates in forcible rape and sodomy cases are related to the nature of the relationship

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**DISPLAY 13**  
***Continued***

between the victim and offender. For example, most of these cases involve offenders and victims who know each other, and often are members of the same family. Judges tend to mitigate sentences in these cases more often than in cases involving victims and offenders who do not know one another. These cases influence the departure direction for all forcible rape and sodomy cases toward mitigation.

- The consistent departure pattern presented in this display highlights the need for continued close examination of sexual assault guidelines. In 1993, the Judicial Sentencing Guidelines Committee completed a supplemental study of a random sample of 1,149 convicted sexual assault cases. Pre-Sentence Investigation report narratives were analyzed to supplement existing information in the following areas: when and where the assaults occurred, victim injury, victim-offender relations, and more details of the crime.

- Unfortunately, the results of this study did not identify additional legal factors for the work sheets. Instead, the

results revealed the great diversity of sexual assault cases, and that more information on victim injury needs to be collected.

- The special study did reveal some important findings. For example, three-fourths of all convictions in the sample involved a sexual assault on a child under eighteen years old, and almost half of the victims were under the age of thirteen. In 80% of all sampled cases, the victim knew the offender. The most likely place for children to be victimized was in their own home. Taken as a whole, the results highlight the substantial diversity in sexual assault cases that may lie at the heart of the pattern of high departures.

## FUTURE PLANS

The future plans for the Virginia Judicial Sentencing Guidelines have been developed by the Judicial Sentencing Guidelines Committee using comments from circuit court judges and other guidelines users. The future plans fall into four main categories: (1) revising work sheet formats as needed, for example, including more two-column formats and expanded detail on legal restraint; (2) investigating work sheet submission problems through an audit of local procedures; (3) determining if the statewide sentencing guidelines system is reducing unwarranted sentencing disparity; and (4) studying recidivism "risk" factors to help identify good candidates for Virginia's intermediate sanction programs such as home electronic incarceration and intensive supervised probation.

### ON-GOING WORK SHEET REVISION

First, guidelines users can expect continued incremental changes to the work sheets. Work sheets will be updated as each new year of historical sentencing data becomes available, and additional changes will be made as problems or limitations to existing work sheets are identified. For example, the expanded detail on legal restraint was included on the second set of statewide guidelines beginning July 1, 1992 because the analysis of the historical data showed it was appropriate. As a result, offenders on certain types of restraint, such as parole, receive greater penalties than those on another form of legal restraint. Sexual assault is the offense category in which judges are least likely to comply with the sentencing guidelines recommendations. As noted in Display 13, historically, judges sentence sexual assault

offenders outside the sentencing guidelines range more often than any other offense. Further, the pattern of departure is sharply different depending on the specific type of sexual assault. Sentences are often mitigated for rapes and aggravated for aggravated sexual battery.

In response to this low compliance rate, the Sentencing Guidelines staff was directed to undertake a special study of narrative information contained on Pre-Sentence Investigation (PSI) reports completed for sexual assaults from 1986 through 1990. The results of this special study did not yield findings that warranted the addition of new factors to the sexual assault sentencing guidelines work sheets. However, this research was hampered by the lack of detailed information in most PSIs. Therefore, efforts will be undertaken to ensure that more detailed information on sex offense cases is systematically collected on the PSI and made available for analysis.

The Sentencing Guidelines Committee has also approved several changes in the current work sheets in response to user concerns. The two-column scoring format appears on five of the current work sheets, and shading is used to distinguish the columns. For certain specified factors, the nature of the primary offense determines which column will be completed. This format is used where there is evidence that judges count a specified factor differently depending on the particular primary offense involved. For example, judges sentence offenders to longer terms for an identical additional offense if the primary offense was a first degree murder rather than

another type of homicide. Two-column formats are planned for future work sheets as the analysis justifies their use.

Another legal factor that continues to be revised as needed involves legal restraint at the time of offense. The scoring of legal restraint continues to be revised on some work sheets from a simple presence or absence of legal restraint to more categories based on the type of legal restraint. Types of legal restraint such as parole, probation, or Community Diversion Incentive programs receive higher scores than other forms of legal restraint.

Analysis continues on other legal factors such as victim injury, weapon use, and prior juvenile criminal record. Revisions to work sheets will occur as the analyses show their need.

#### AUDITS OF WORK SHEET SUBMISSION

The second plan entails auditing for work sheet submission problems. The submission of completed work sheets to the Judicial Sentencing Guidelines Committee has been a priority for the Committee since the program became statewide in January, 1991. As discussed in the Virginia Sentencing Guidelines manual, the Judicial Sentencing Guidelines Committee requests that a work sheet be completed for every case involving a conviction for an offense covered by the sentencing guidelines. The work sheet should be shown to the judge, who signs the work sheet and directs it to be sent to the Judicial Sentencing Guidelines Committee. Information concerning the judge's decision, including the decision to sentence within or outside the guidelines range and the reasoning for departing if this occurs, is crucial for providing the

Committee with feedback from colleagues concerning specific work sheets.

The staff reported to the Committee early in 1991 that work sheets were not being received at the anticipated rate. Some particular districts were identified as having submission problems in the first few months of 1991. The staff made telephone contacts with work sheet preparers and clerks, and improvements were noted for those jurisdictions.

However, work sheet submissions still fall below anticipated levels, both statewide and in many jurisdictions. This problem can be seen in two ways: by comparing work sheets submitted by similar jurisdictions, and by comparing the number of work sheets submitted to the number of Pre-Sentence Investigation reports submitted. For example, as noted in Display 3, Virginia Beach (Circuit 2), had far more work sheets submitted than Richmond (Circuit 13). However, both circuits had similar numbers of convictions for guidelines offenses. Many other discrepancies of this sort appear when comparing jurisdictions.

Similar discrepancies are found when the number of work sheets submitted is compared to the number of PSIs. One would not expect an exact one-to-one correspondence between work sheets received and PSIs. However, if work sheets were being submitted properly, the staff would receive consistent proportions of work sheets and PSIs across judges and circuits. Instead, the proportion of work sheets received to PSIs varied widely, indicating that some work sheets are not being submitted.

Using these indicators, as well as anecdotal evidence, the staff reported to the Committee that work sheet submission remains a problem. The Committee ordered the staff to conduct an audit of some jurisdictions to identify the possible source(s) of the problem.

The audit will begin with interviews of all relevant personnel involved during work sheet preparation and submission. Then, court records will be accessed in an attempt to locate work sheets that may have not been mailed. The results of this special study will determine the next steps in correcting the submission problem. More information will be provided to the Sentencing Guidelines Committee and the Judicial Conference of Virginia after this initial audit is completed.

#### UNWARRANTED SENTENCING DISPARITY ANALYSIS

As noted in the Overview, the Virginia Sentencing Guidelines were intended to establish "rational and consistent sentencing standards that reduce unwarranted sentencing disparity." The results of the Pilot Program Evaluation, published in 1989, indicated that disparity had been reduced in the pilot circuits. No evaluation has been done since statewide implementation of the program. The Judicial Sentencing Guidelines Committee has directed the staff to prepare an analysis of the impact of the statewide guidelines on reducing unwarranted disparity. Work on this directive is currently underway.

Currently, the plan calls for the disparity analysis to evaluate the statewide guidelines on two criteria, consistency and neutrality, along lines similar to the pilot program evaluation.

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The first criterion, consistency, is the probability that similarly-situated offenders with similar crimes receive similar sentences. The second criterion for disparity analysis is neutrality, the impartiality of sentencing based on the legal factors of the case rather than extralegal factors such as race and gender.

Committee staff is currently working on the methodology for evaluating the statewide program on these two criteria. The basic research design involves a comparison of sentencing behavior before and after statewide implementation of the voluntary sentencing guidelines. Results will be presented to the Sentencing Guidelines Committee and the Judicial Conference of Virginia as they become available.

#### RECIDIVISM AND RISK ASSESSMENT

Another future development is anticipated in the area of offender risk of recidivism. The current cover page to all work sheets contains a box in the bottom left corner for recording more detailed information on the actual sentence imposed by the court. Many of these sentence categories represent relatively recent programs designed to provide alternative sanctions for some offenders. These alternatives include electronic monitoring, bootcamp, and community diversion incentive programs. This information will be used with upcoming analyses of recidivism among Virginia felons.

Intermediate sanctions are intended to divert some offenders from prisons, leaving space in overcrowded prisons for the most serious offenders. Program rules regarding which offenders are eligible for placement in alternatives vary according to

the program. However, it is generally true that the severity of the current offense is one criterion, while some assessment of the "risk" an offender poses for future crime may be another criterion in judicial sentencing decisions. In general, then, a principal target group for intermediate sanctions are offenders who are serious enough to likely receive prison sentences yet not among the most serious prison-bound offenders in terms of their current offense or their "risk" of reoffending.

The Sentencing Guidelines database can be used to help identify those offenders whose case circumstances would historically likely warrant a prison sentence. A comparison of the recommended sentence to the actual sentence for these offenders would allow a determination of whether intermediate sanctions are being imposed on offenders whose case circumstances historically would likely have resulted in a prison sentence. Recidivism research may provide judges with better information on which to base an assessment of an offender's future "risk."

Future products of recidivism research may provide a supplemental work sheet to be used after a judge reviews the Sentencing Guidelines work sheet summarizing historical sentencing patterns. The new supplement would seek to explicitly recognize offenders who are least at risk for recidivism when sentencing decisions are made. The new work sheet could take the form of a risk assessment scale that may provide judges with a prediction of the relative risk of reoffending for a particular offender based on his or her risk assessment

category. After completion of this research, a pilot program may be recommended. If implemented and judged successful, the judiciary may elect to expand the program statewide.

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**APPENDIX A:  
Sentencing Guidelines Offenses  
Departure Reasons**

## JUDICIAL REASONS FOR ASSAULT OFFENSE SENTENCE DEPARTURE

MITIGATING REASON GIVEN	1/91-6/92	7/92-2/93
Sentence agreed upon during a plea bargain	25.8%	29.8%
No reason given	21.6%	25.5%
Victim was an initiator, aggressor or provoker	7.6%	10.6%
Offender has psychological or physical problems	5.9%	2.1%
Offender has no serious prior record	5.5%	4.3%
Victim wants a lenient sentence	5.1%	4.3%
Unspecified unusual circumstances	4.7%	10.6%
Sentencing guidelines are too harsh	4.2%	0.0%
Offender has good potential for rehabilitation	4.2%	4.3%
Age of the offender	3.4%	2.1%
Sentence was recommended by a jury	3.4%	0.0%
Weak evidence	2.1%	2.1%
Already sentenced in a different court	1.3%	2.1%
Sentenced under 19.2-311, Youthful Offender	0.8%	0.0%
Offender's motives or intentions are in doubt	0.8%	0.0%
Sentenced consistently with a codefendant	0.8%	0.0%
Offender provides support to his/her family	0.8%	0.0%
Alternative sentence (e.g., CDI or Intensive Probation)	0.4%	2.1%
Offender cooperated with authorities	0.4%	0.0%
<b>AGGRAVATING REASON GIVEN</b>		
	<b>1/91-6/92</b>	<b>7/92-2/93</b>
Seriousness of offense; facts of the case	17.2%	23.4%
Victim injury not adequately weighed	15.2%	10.6%
No reason given	14.1%	12.8%
Sentence agreed upon during a plea bargain	13.1%	12.8%
Sentence was recommended by a jury	12.1%	12.8%
Offender's prior record	8.1%	10.6%
Offender knew of victim's vulnerability	3.0%	6.4%
Sentencing guidelines' recommendation is too low	3.0%	6.4%
Offender has poor rehabilitation potential	3.0%	2.1%
Offender has psychological problems	2.0%	2.1%
Firearm was used in the commission of the offense	2.0%	0.0%
Offender failed to cooperate with authorities	1.0%	0.0%
Offender placed on electronic monitoring	1.0%	0.0%
Sentenced under 19.2-311, Youthful Offender	1.0%	0.0%

*Total will not equal 100% because multiple departure reasons may be recorded for each work sheet. Reasons not included in this table are cited .4% or less.*

## JUDICIAL REASONS FOR BURGLARY OFFENSE SENTENCE DEPARTURE

MITIGATING REASON GIVEN	1/91-6/92	7/92-2/93
No reason given	26.1%	32.6%
Sentence agreed upon during a plea bargain	24.5%	28.4%
Alternative sentence (e.g., CDI or Intensive Probation)	9.1%	0.7%
Offender will receive time as a result of other actions	7.2%	2.1%
Offender has good potential for rehabilitation	7.0%	6.4%
Offender cooperated with authorities	5.1%	4.3%
Offender has no serious prior record	3.3%	2.8%
Offender has psychological or physical problems	3.3%	2.1%
Unspecified unusual circumstances	1.9%	2.1%
Victim wants a lenient sentence	1.6%	0.0%
Sentence was recommended by a jury	1.4%	2.1%
Offender was not principal perpetrator	1.4%	0.0%
Age of offender	1.2%	0.0%
Guidelines are too harsh	0.9%	2.1%
Offender sentenced consistently with codefendant	0.9%	0.7%
Weak evidence	0.7%	2.1%
Offender sentenced to Bootcamp program	0.5%	1.4%
Offender's motives or intentions are in doubt	0.5%	4.3%
Sentenced under 19.2-311, Youthful Offender	0.5%	0.0%
Sentenced under 18.2-254 (treatment)	0.2%	0.0%
Suspended time needed to enforce treatment	0.2%	0.0%
Offender provides support to his/her family	0.2%	0.0%
AGGRAVATING REASON GIVEN	1/91-6/92	7/92-2/93
No reason given	24.3%	24.8%
Unspecified unusual circumstances	16.5%	11.4%
Offender's prior record	15.9%	16.2%
Sentence agreed upon during a plea bargain	12.7%	21.0%
Guidelines are unrealistic in this case	5.7%	5.7%
Offender has poor rehabilitation potential	4.6%	3.8%
Sentence was recommended by a jury	3.8%	3.8%
Deterrence	2.4%	1.0%
Offender sentenced consistently with codefendant	1.6%	1.9%
Sentenced consistently with judge's other sentences	1.4%	1.0%
"Community Sentiment" dictates a harsher sentence	1.1%	0.0%
Offender has a substance abuse problem	1.1%	2.9%
Victim injury not adequately weighed	1.1%	1.0%
Offender knew of victim's vulnerability	0.8%	0.0%
Offender not amenable to supervised probation	0.8%	0.0%
Sentenced under 19.2-311, Youthful Offender	0.8%	0.0%
Offender sentenced to Bootcamp program	0.8%	0.0%
Offender failed to cooperate with authorities	0.5%	2.9%
Offender has poor school/work record, needs structure	0.3%	1.0%
Drugs were involved	0.3%	0.0%
Already sentenced in a different court	0.3%	0.0%
Offender sentenced to work release	0.3%	0.0%
Offender placed on electronic monitoring	0.3%	0.0%
Sentenced under 18.2-254 (treatment)	0.3%	0.0%
Judge wanted suspended time over defendant's head	0.3%	0.0%

*Total will not equal 100% because multiple departure reasons may be recorded for each work sheet. Reasons not included in this table are cited .2% or less.*

## JUDICIAL REASONS FOR FRAUD OFFENSE SENTENCE DEPARTURE

MITIGATING REASON GIVEN	1/92-6/92	7/92-2/93
Sentence agreed upon during a plea bargain	26.9%	30.8%
No reason given	23.5%	34.6%
Already sentenced in a different court	10.4%	3.8%
Offender has good potential for rehabilitation	8.1%	6.4%
Alternative sentence (e.g., CDI or Intensive Probation)	7.7%	1.3%
Unspecified unusual circumstances	4.2%	6.4%
Offender has psychological or physical problems	3.1%	3.8%
Victim wants a lenient sentence	3.1%	0.0%
Guidelines are too harsh	2.7%	2.6%
Offender cooperated with authorities	1.9%	1.3%
Offender has no serious prior record	1.9%	0.0%
Weak evidence	1.5%	1.3%
Offender provides support to his/her family	1.5%	0.0%
Finding under advisement	0.4%	2.6%
Age of offender	0.4%	2.6%
Suspended time needed to enforce treatment	0.4%	0.0%
Sentenced under 18.2-254 (treatment)	0.4%	0.0%
Offender's motives or intentions are in doubt	0.4%	0.0%
Sentence was recommended by a jury	0.4%	0.0%
AGGRAVATING REASON GIVEN	1/92-6/92	7/92-2/93
No reason given	28.8%	33.8%
Offender's prior record	22.1%	23.0%
Sentence agreed upon during a plea bargain	13.1%	16.2%
Unspecified unusual circumstances	9.0%	12.2%
Guidelines are unrealistic in this case	5.0%	0.0%
Offender failed to cooperate with authorities	4.1%	0.0%
Offender has poor rehabilitation potential	3.2%	4.1%
Sentence was recommended by a jury	3.2%	2.7%
Offender has psychological problems	1.4%	1.4%
"Community Sentiment" dictates a harsher sentence	1.4%	0.0%
Drugs were involved	1.4%	0.0%
Deterrence	1.4%	0.0%
Already sentenced in a different court	0.9%	0.0%
Offender is an illegal alien	0.5%	0.0%
Sentenced under 18.2-254 (treatment)	0.5%	0.0%
Offender sentenced consistently with codefendant	0.5%	0.0%
Offender may not be able to pay restitution	0.5%	0.0%
Offender was the leader	0.5%	0.0%
Offender placed on electronic monitoring	0.0%	1.4%

*Total will not equal 100% because multiple departure reasons may be recorded for each work sheet. Reasons not included in this table are cited less than .4%.*

## JUDICIAL REASONS FOR HOMICIDE OFFENSE SENTENCE DEPARTURE

MITIGATING REASON GIVEN	1/91-6/92	7/92-2/93
Sentence agreed upon during a plea bargain	23.5%	18.5%
No reason given	19.4%	22.2%
Offender has good potential for rehabilitation	8.2%	0.0%
Sentence was recommended by a jury	7.1%	22.2%
Victim was an initiator, aggressor or provoker	7.1%	3.7%
Offender has no serious prior record	4.1%	0.0%
Unspecified unusual circumstances	4.1%	0.0%
Age of offender	3.1%	11.1%
Offender has psychological or physical problems	3.1%	11.1%
Offender's motives or intentions are in doubt	3.1%	0.0%
Offender cooperated with authorities	3.1%	0.0%
Offender was not principal perpetrator	2.0%	7.4%
Guidelines exceeded statutory maximum	2.0%	0.0%
Weak evidence	2.0%	0.0%
Suspended time needed to enforce treatment	1.0%	0.0%
Offender provides support to his/her family	1.0%	0.0%
Offender's life has been hard	1.0%	0.0%
Jail time is equivalent to prison	1.0%	0.0%
Rounded guidelines' minimum to nearest whole year	1.0%	0.0%
<b>AGGRAVATING REASON GIVEN</b>	<b>1/91-6/92</b>	<b>7/92-2/93</b>
No reason given	23.1%	30.0%
Unspecified unusual circumstances	23.1%	25.0%
Sentence was recommended by a jury	17.9%	30.0%
Victim injury, suffering not adequately weighed	7.7%	0.0%
Offender's prior record	5.1%	5.0%
Drugs were involved	5.1%	0.0%
Sentence agreed upon during a plea bargain	2.6%	0.0%
Guidelines are unrealistic in this case	2.6%	0.0%
Multiple victims or incidents	2.6%	0.0%
Offender failed to cooperate with authorities	2.6%	0.0%
Offender has poor rehabilitation potential	2.6%	0.0%
Sentenced under 19.2-311, Youthful Offender	0.0%	5.0%
A mandatory sentence needed to be imposed	0.0%	5.0%

*Total will not equal 100% because multiple departure reasons may be recorded for each work sheet. Reasons not included in this table are cited less than 1%.*

## JUDICIAL REASONS FOR LARCENY OFFENSE SENTENCE DEPARTURE

MITIGATING REASON GIVEN	1/91-6/92	7/92-2/93
Sentence agreed upon during a plea bargain	36.0%	36.8%
No reason given	24.7%	30.8%
Offender has good potential for rehabilitation	6.1%	4.3%
Already sentenced in a different court	4.7%	2.6%
Offender has psychological or physical problems	4.4%	1.3%
Alternative sentence (e.g., CDI or Intensive Probation)	4.1%	2.6%
Guidelines are too harsh	3.6%	1.7%
Unspecified unusual circumstances	2.0%	3.8%
Sentence was recommended by a jury	2.0%	1.3%
Offender has no serious prior record	1.9%	2.6%
Offender cooperated with authorities	1.9%	2.6%
Weak evidence	1.3%	1.3%
Offender provides support to his/her family	1.0%	0.4%
Victim wants a lenient sentence	0.7%	0.0%
Offender sentenced to Bootcamp program	0.6%	0.0%
Offender sentenced consistently with codefendant	0.4%	0.4%
Sentenced under 18.2-254 (treatment)	0.4%	0.4%
Finding under advisement	0.3%	4.3%
Suspended time needed to enforce treatment	0.3%	0.4%
Age of offender	0.3%	0.0%
Offender's motives or intentions are in doubt	0.1%	0.0%
Offender was not principal perpetrator	0.1%	0.0%
Offender's life has been hard	0.1%	0.0%
Sentenced under 19.2-311, Youthful Offender	0.1%	0.0%
Offender sentenced to weekends in jail	0.0%	0.4%
AGGRAVATING REASON GIVEN	1/91-6/92	7/92-2/93
No reason given	28.0%	36.7%
Unspecified unusual circumstances	19.8%	26.6%
Offender's prior record	18.7%	14.4%
Sentence agreed upon during a plea bargain	10.3%	7.9%
Offender has poor rehabilitation potential	4.3%	0.7%
Sentence was recommended by a jury	3.1%	0.7%
Guidelines are unrealistic in this case	2.7%	1.4%
Deterrence	2.7%	0.7%
Offender failed to cooperate with authorities	2.3%	1.4%
Offender has a substance abuse problem	1.9%	0.0%
Offender sentenced consistently with codefendant	0.6%	1.4%
Sentenced under 19.2-311, Youthful Offender	0.6%	1.4%
Already sentenced in a different court	0.6%	0.0%
Drugs were involved	0.4%	0.7%
Offender was the leader	0.2%	0.7%
Offender fails to recognize seriousness of offense	0.2%	0.0%
Offender knew of victim's vulnerability	0.2%	0.0%
Offender sentenced to Bootcamp program	0.2%	0.0%
Firearm was used in the commission of the offense	0.2%	0.0%
Judge wanted suspended time over defendant's head	0.2%	0.0%
Sentenced consistently with judge's other sentences	0.0%	1.4%
Victim injury not adequately weighed	0.0%	0.7%

*Total will not equal 100% because multiple departure reasons may be recorded for each work sheet. Reasons not included in this table are cited less than .1%.*

## JUDICIAL REASONS FOR ROBBERY OFFENSE SENTENCE DEPARTURE

MITIGATING REASON GIVEN	1/91-6/92	7/92-2/93
No reason given	27.8%	30.6%
Sentence agreed upon during a plea bargain	19.5%	23.5%
Offender has no serious prior record	7.9%	7.1%
Already sentenced in a different court	5.0%	2.4%
Offender has good potential for rehabilitation	4.6%	7.1%
Age of offender	4.1%	2.4%
Offender cooperated with authorities	4.1%	0.0%
Offender was not principal perpetrator	3.7%	5.9%
Sentence was recommended by a jury	3.7%	3.5%
Offender has psychological or physical problems	3.7%	1.2%
Unspecified unusual circumstances	2.9%	3.5%
Alternative sentence (e.g., CDI or Intensive Probation)	2.9%	0.0%
Offender sentenced consistently with codefendant	2.5%	0.0%
Weak evidence	1.2%	0.0%
Victim wants a lenient sentence	1.2%	0.0%
Sentenced under 19.2-311, Youthful Offender	0.8%	1.2%
Guidelines were incorrectly computed	0.8%	0.0%
Finding under advisement	0.4%	2.4%
Offender's motives or intentions are in doubt	0.4%	1.2%
Offender is/was a member of the armed forces	0.4%	0.0%
Probation revocations counted too heavily	0.4%	0.0%
Offender provides support to his/her family	0.4%	0.0%
Offender sentenced to Bootcamp program	0.0%	1.2%
AGGRAVATING REASON GIVEN	1/91-6/92	7/92-2/93
No reason given	20.4%	34.1%
Offender's prior record	19.0%	13.6%
Unspecified unusual circumstances	13.9%	13.6%
Victim injury not adequately weighed	13.1%	4.5%
Sentence agreed upon during a plea bargain	8.8%	4.5%
Sentence was recommended by a jury	7.3%	6.8%
Offender has poor rehabilitation potential	5.1%	2.3%
Offender sentenced consistently with codefendant	2.9%	0.0%
Guidelines are unrealistic in this case	2.2%	4.5%
Offender failed to cooperate with authorities	2.2%	0.0%
Firearm was used in the commission of the offense	0.7%	2.3%
Sentenced consistently with judge's other sentences	0.7%	0.0%
Offender has poor school/work record, needs structure	0.7%	0.0%
Multiple victims or incidents	0.7%	0.0%
Offender has psychological problems	0.7%	0.0%
"Community Sentiment" dictates a harsher sentence	0.7%	0.0%
Offender was the leader	0.0%	2.3%
Guidelines were incorrectly computed	0.0%	2.3%
Offender knew of victim's vulnerability	0.0%	2.3%

*Total will not equal 100% because multiple departure reasons may be recorded for each work sheet. Reasons not included in this table are cited less than .4%.*

## JUDICIAL REASONS FOR SEXUAL ASSAULT OFFENSE SENTENCE DEPARTURE

MITIGATING REASON GIVEN	1/91-6/92	7/92-2/93
Sentence agreed upon during a plea bargain	28.6%	29.9%
No reason given	19.5%	23.4%
Sentence was recommended by a jury	15.1%	3.9%
Offender has good potential for rehabilitation	6.5%	5.2%
Offender has no serious prior record	5.9%	0.0%
Unspecified unusual circumstances	4.9%	5.2%
Offender has psychological or physical problems	3.8%	1.3%
Age of offender	3.2%	1.3%
Victim and offender are friends or relatives	2.7%	5.2%
The victim wants a lenient sentence	2.2%	5.2%
Victim was an initiator, willing participant	1.6%	3.9%
Weak evidence	1.1%	5.2%
Guidelines exceeded statutory maximum	0.5%	2.6%
Offender cooperated with authorities	0.5%	1.3%
Alternative sentence (e.g. CDI or Intensive Probation)	0.5%	1.3%
Offender is/was a member of the armed forces	0.5%	0.0%
Guidelines were incorrectly computed	0.5%	0.0%
Offender sentenced consistently with codefendant	0.5%	0.0%
Offender provides support to his/her family	0.5%	0.0%
Already sentenced in a different court	0.0%	2.6%
Finding under advisement	0.0%	1.3%
<b>AGGRAVATING REASON GIVEN</b>		
No reason given	18.1%	21.7%
Sentence agreed upon during a plea bargain	13.2%	16.7%
Offender knew of victim's vulnerability	13.2%	8.3%
Unspecified unusual circumstances	11.5%	18.3%
Offender's prior record	8.8%	6.7%
Guidelines are unrealistic in this case	7.1%	6.7%
Victim injury not adequately weighed	7.1%	3.3%
Sentence was recommended by a jury	5.5%	5.0%
Offender has poor rehabilitation potential	4.4%	6.7%
Multiple victims or incidents	2.2%	0.0%
Victim wants a harsh sentence	2.2%	0.0%
Deterrence	1.6%	1.7%
Drugs were involved	1.1%	0.0%
Offender failed to cooperate with authorities	0.5%	0.0%
Sentenced consistently with judge's other sentences	0.5%	0.0%
Information contained in Victim Impact Statement	0.5%	0.0%
Offender fails to recognize seriousness of offense	0.5%	0.0%
Offender needs the structure that prison will give	0.0%	1.7%
Judge wanted suspended time over defendant's head	0.0%	1.7%

*Total will not equal 100% because multiple departure reasons may be recorded for each work sheet. Reasons not included in this table are cited less than .5%.*

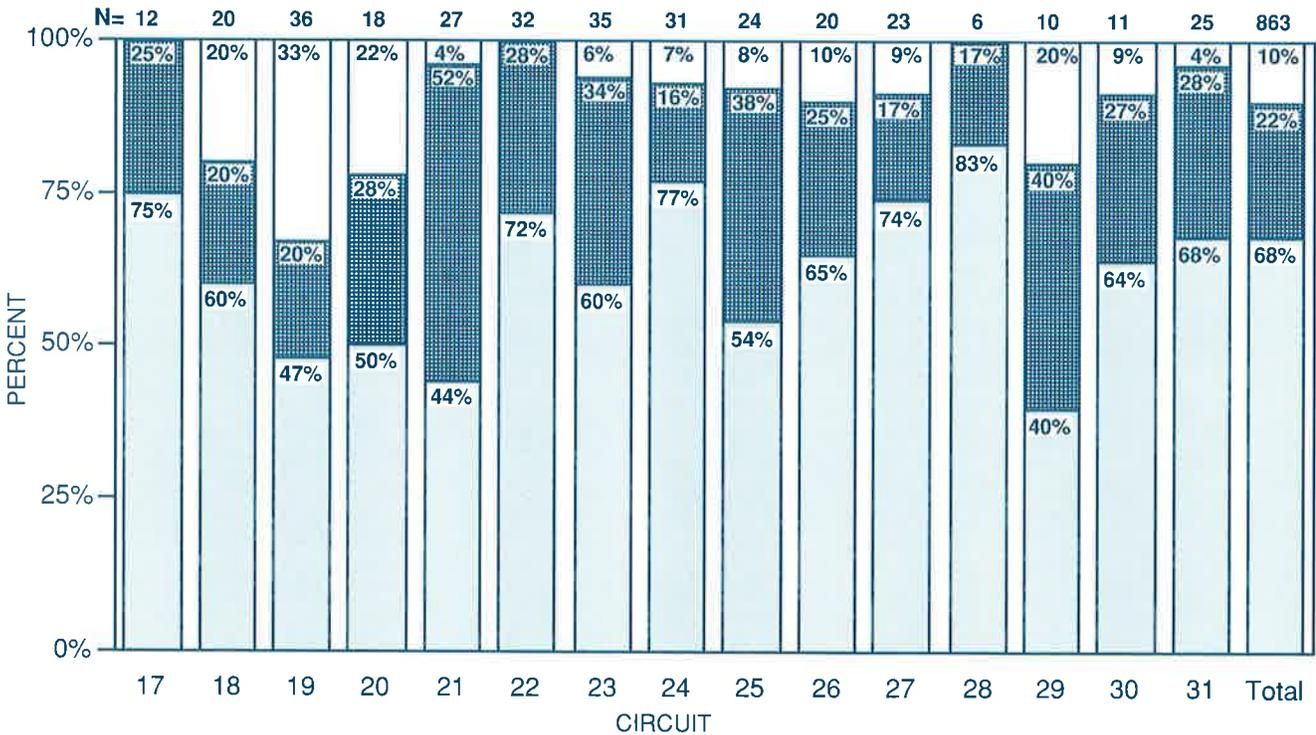
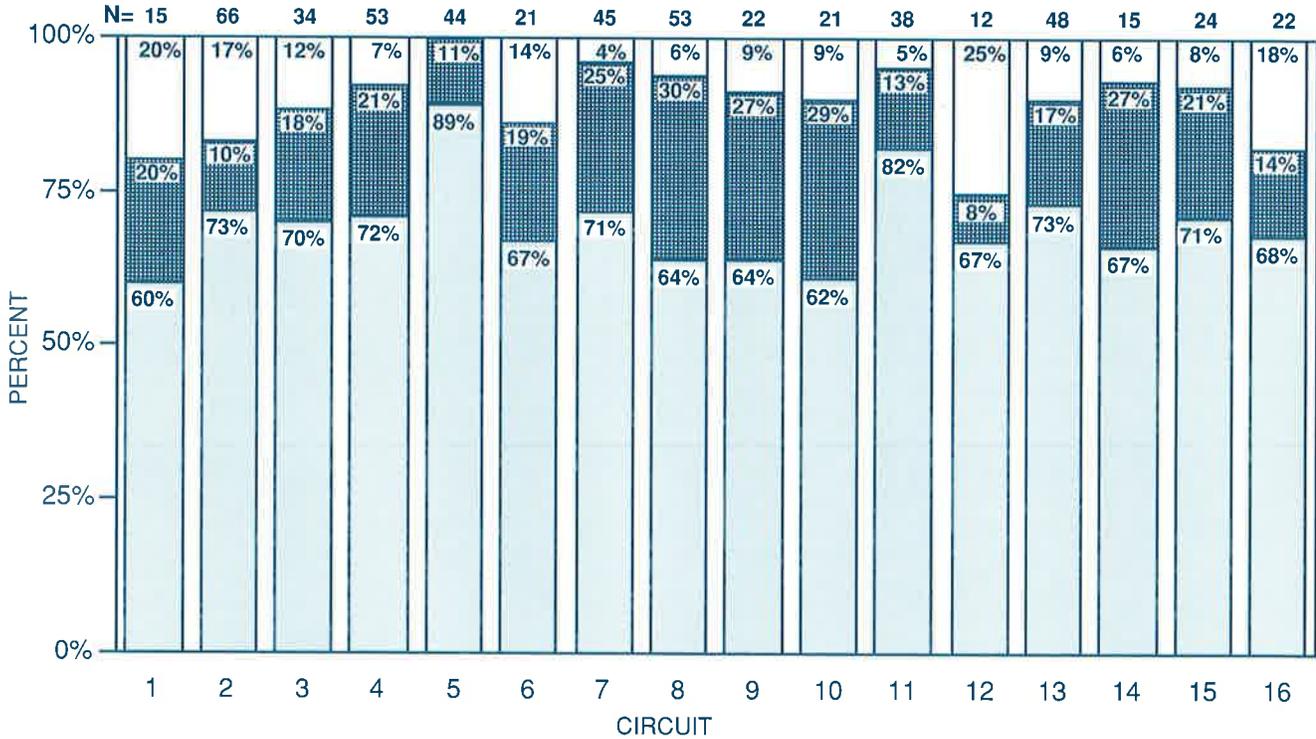


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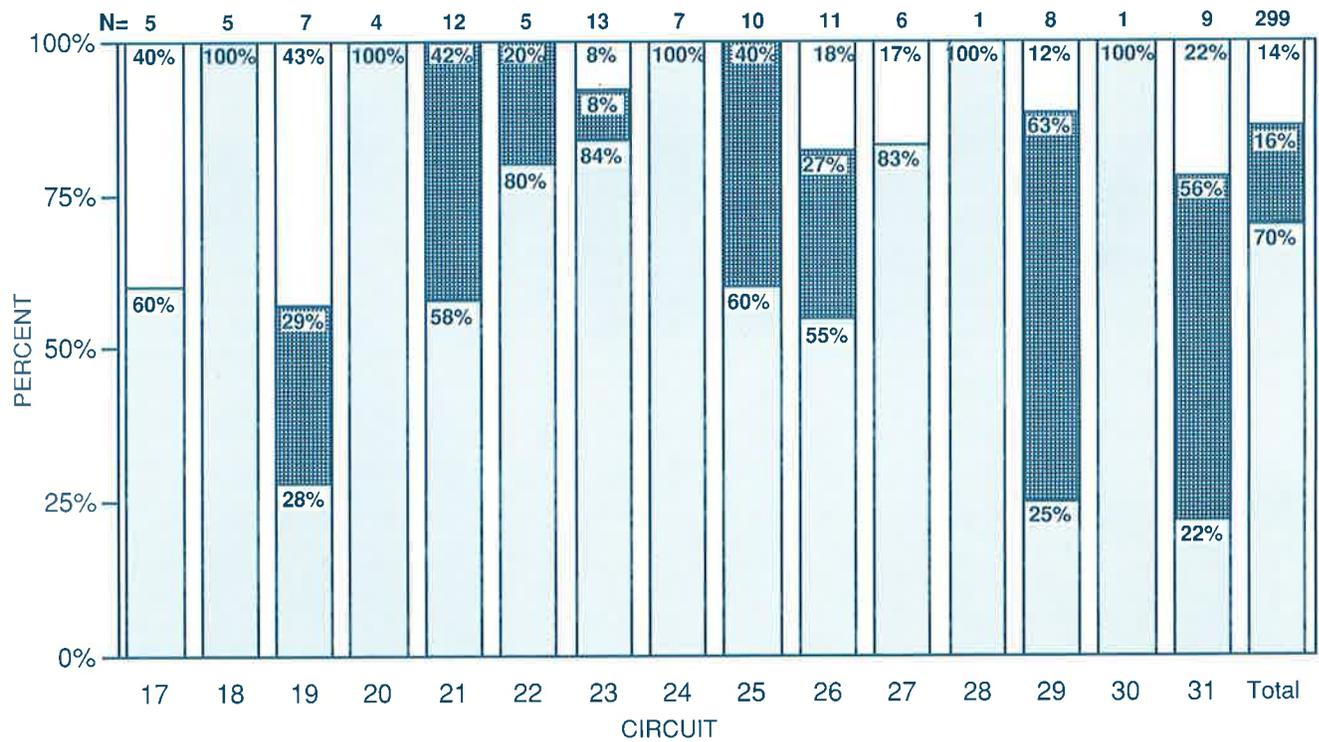
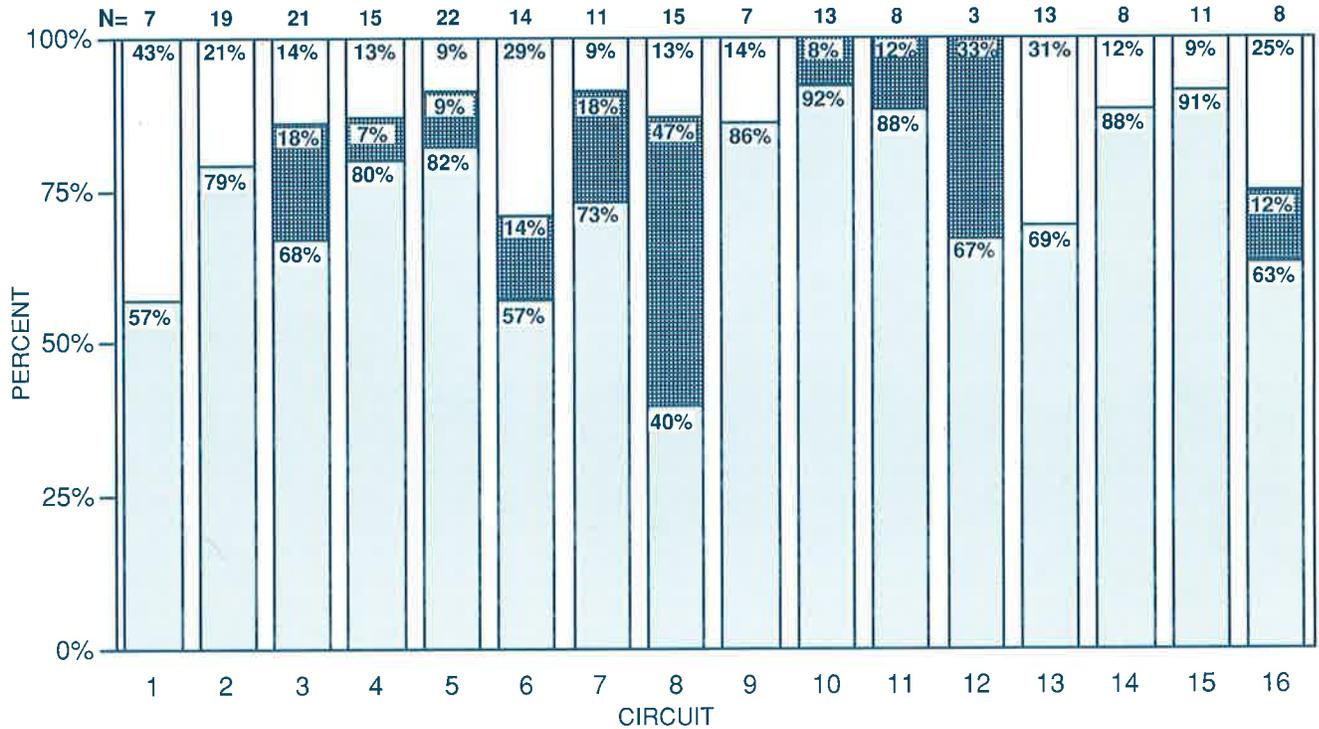
**APPENDIX B:  
Judicial Compliance  
By Circuit**

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Assault Offenses (1-1-91 to 6-30-92)



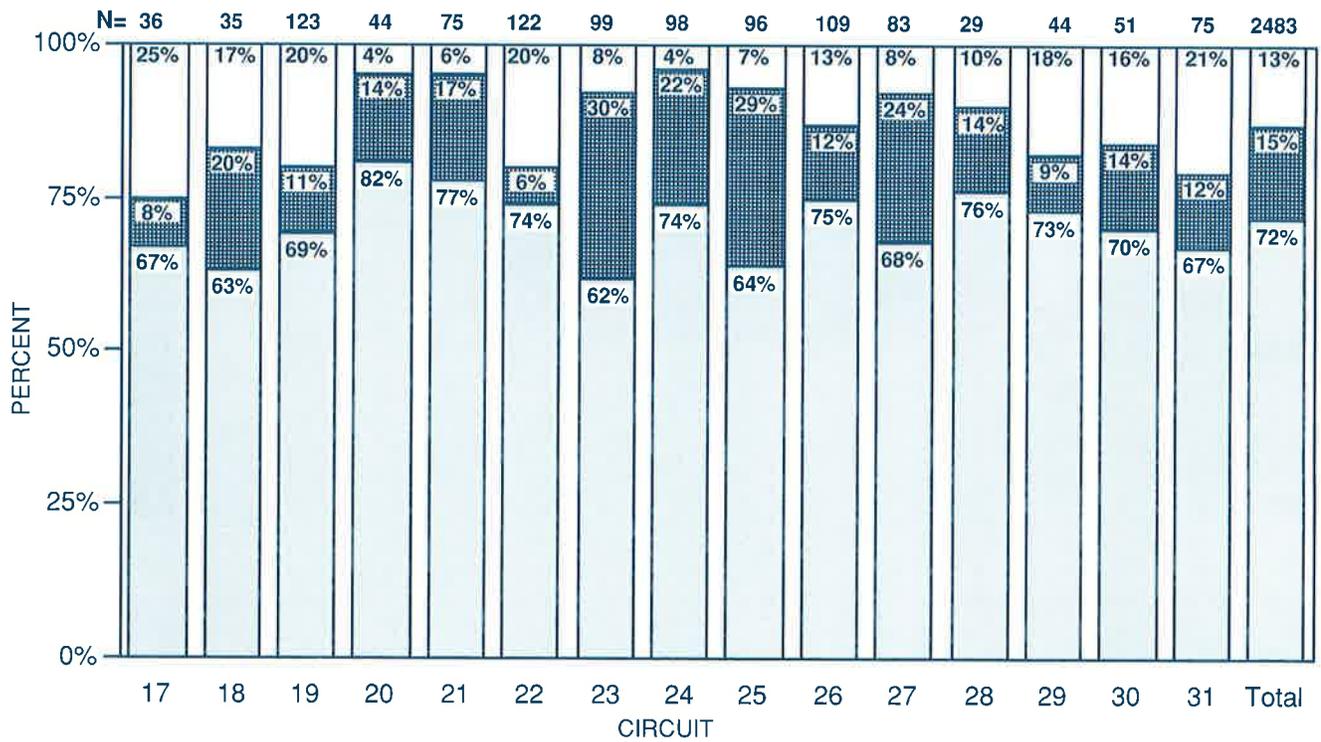
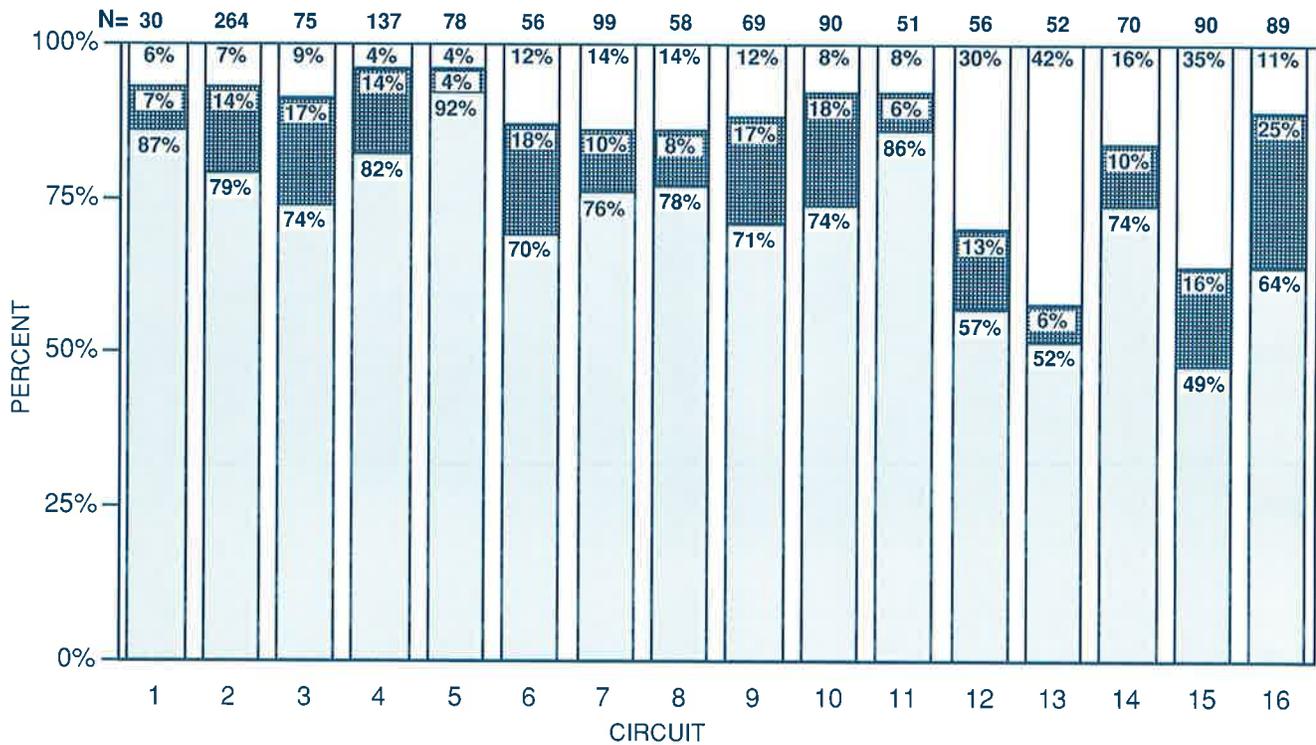
Compliance
  Mitigation
  Aggravation

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Assault Offenses (7-1-92 to 2-1-93)

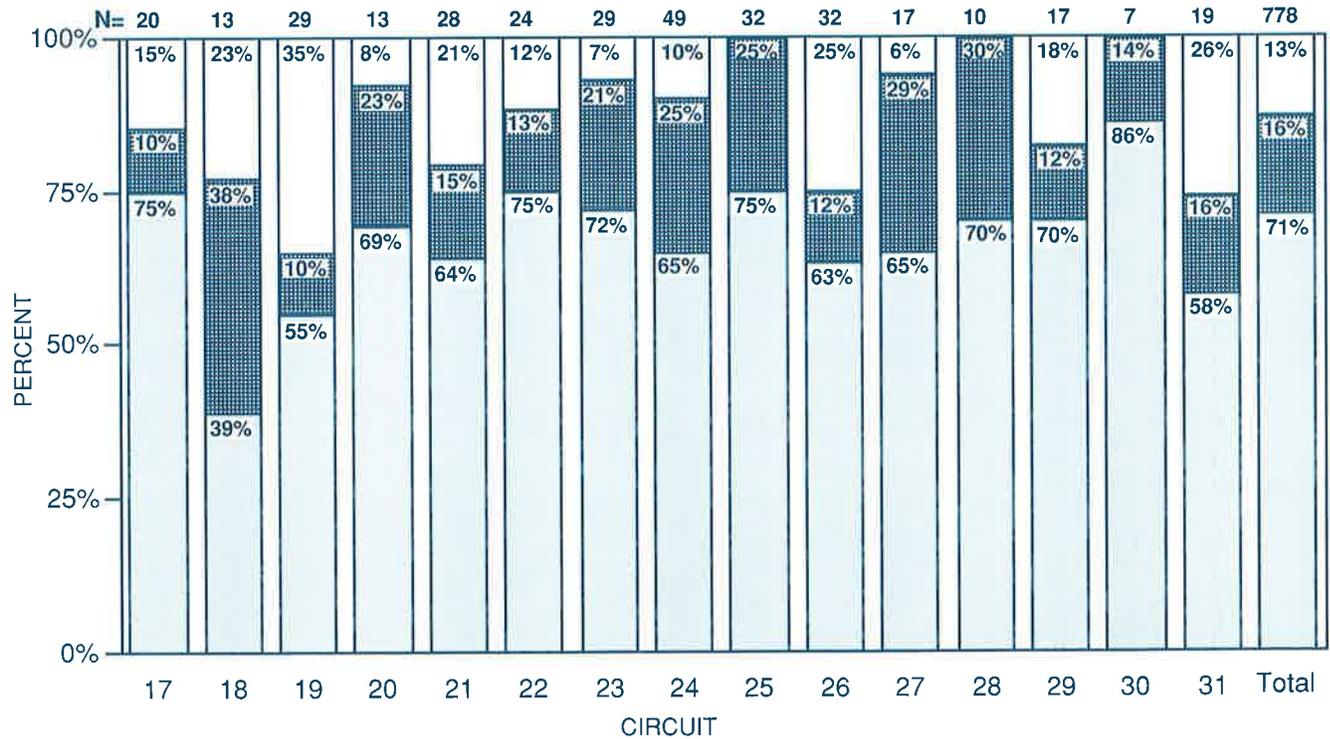
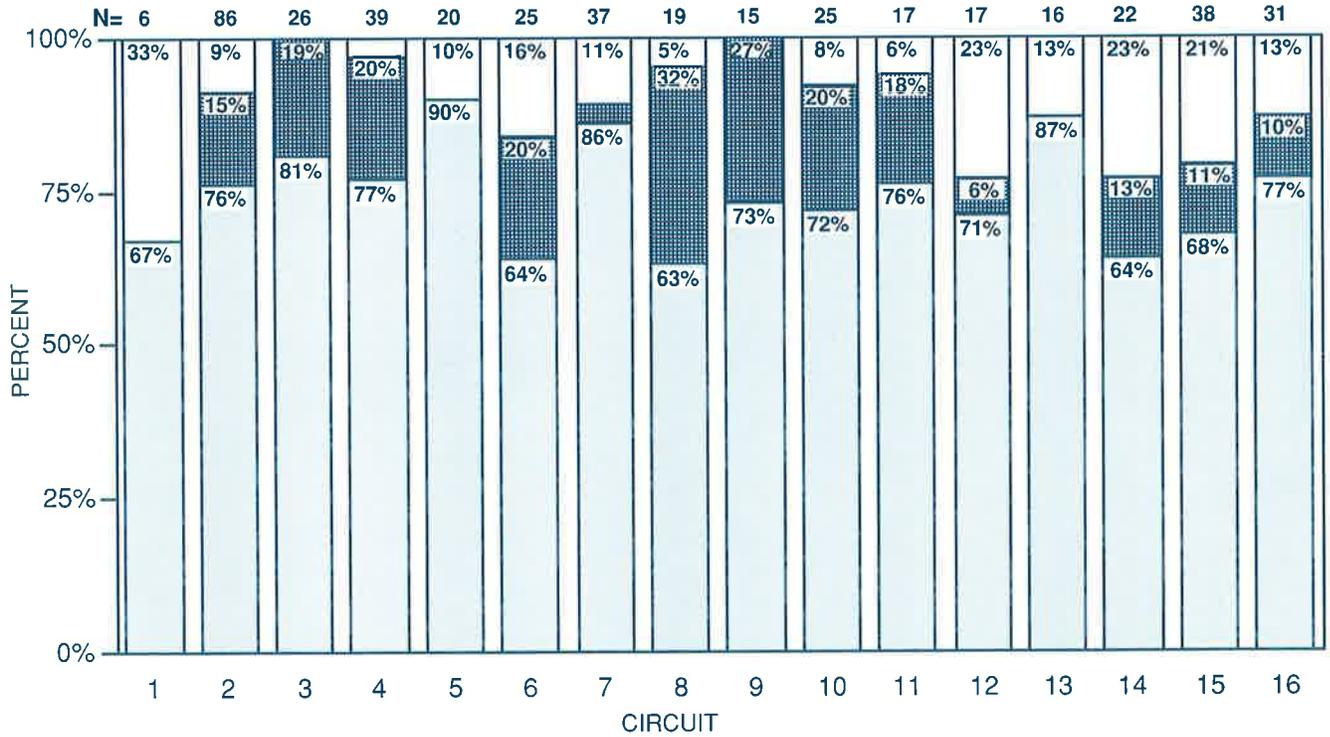


Compliance
  Mitigation
  Aggravation

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Burglary Offenses (1-1-91 to 6-30-92)

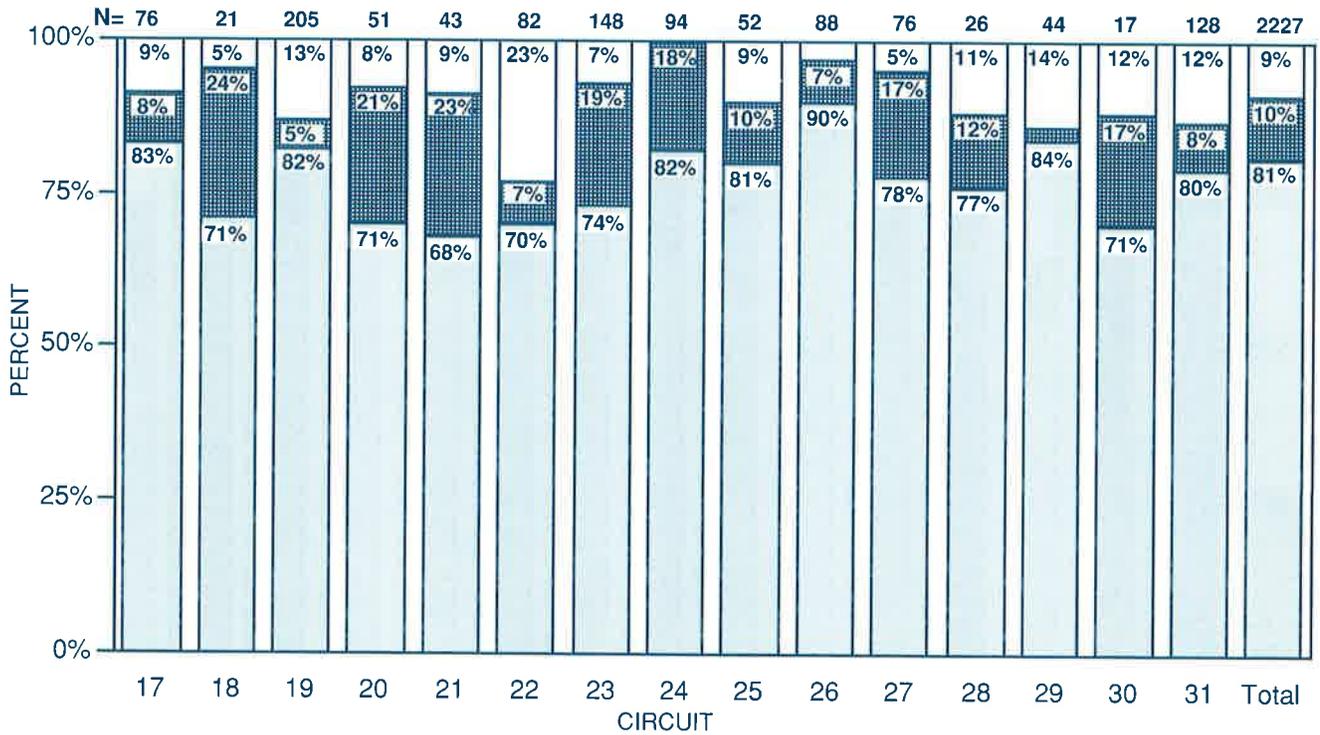
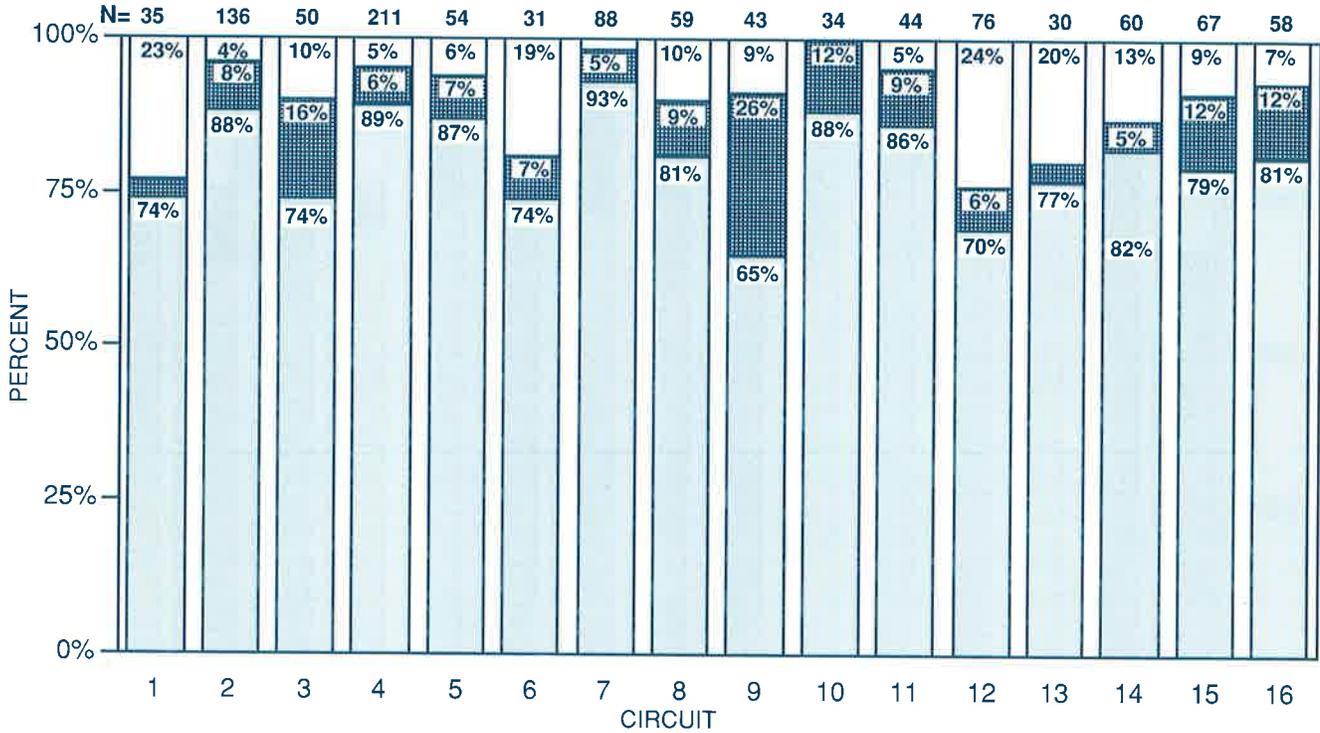


## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Burglary Offenses (7-1-92 to 2-1-93)

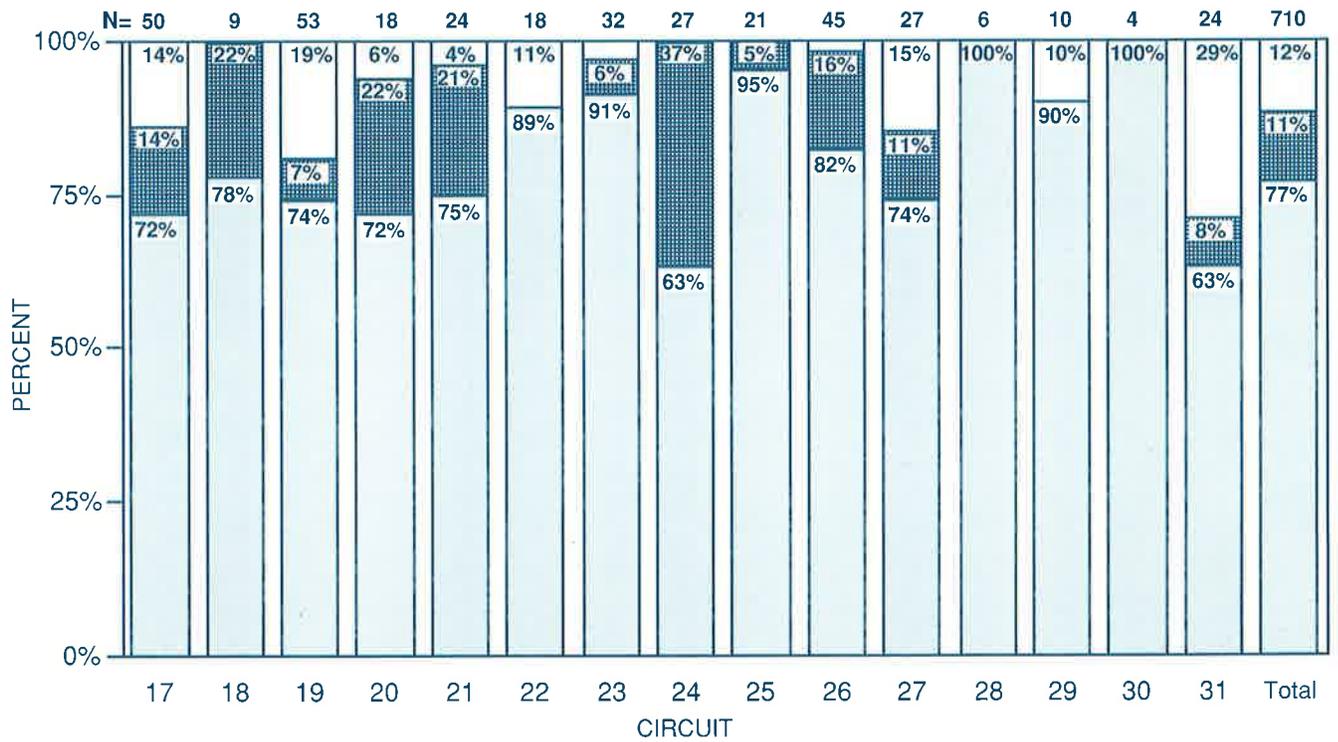
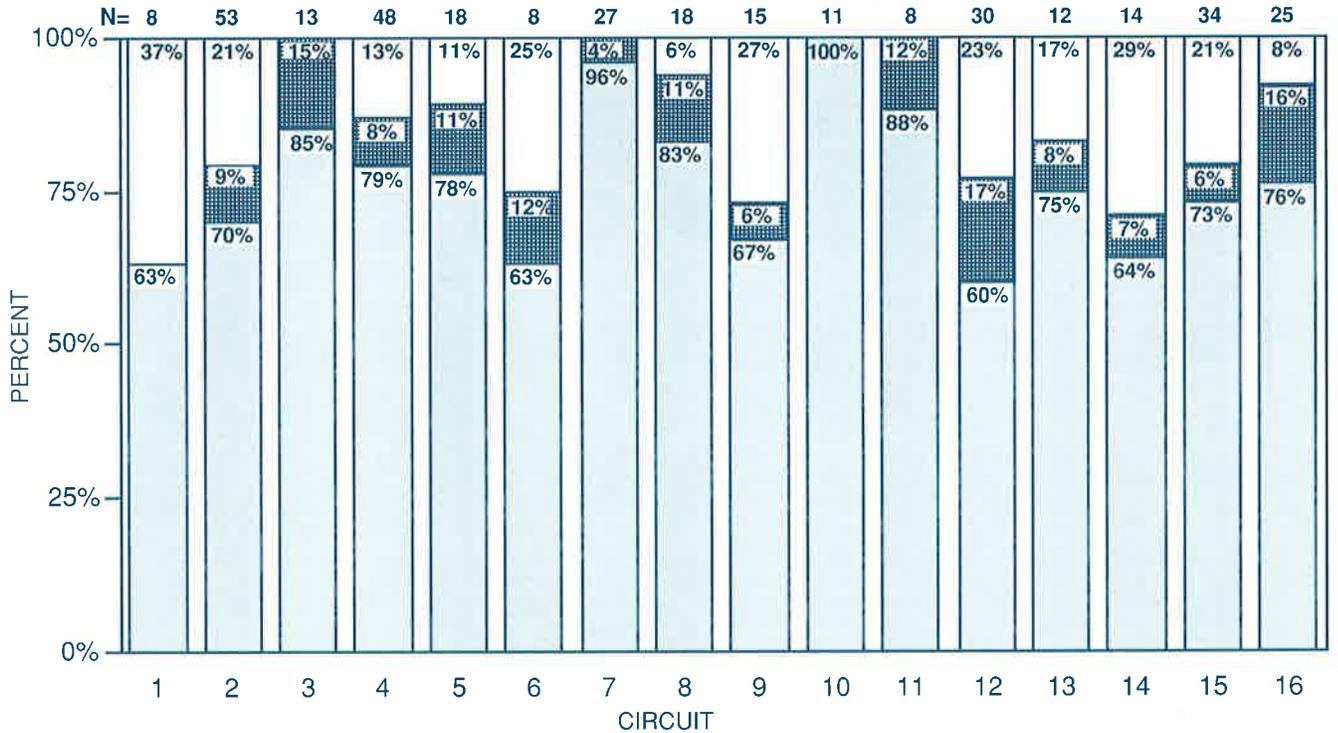


Compliance
  Mitigation
  Aggravation

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Fraud Offenses (1-1-91 to 6-30-92)

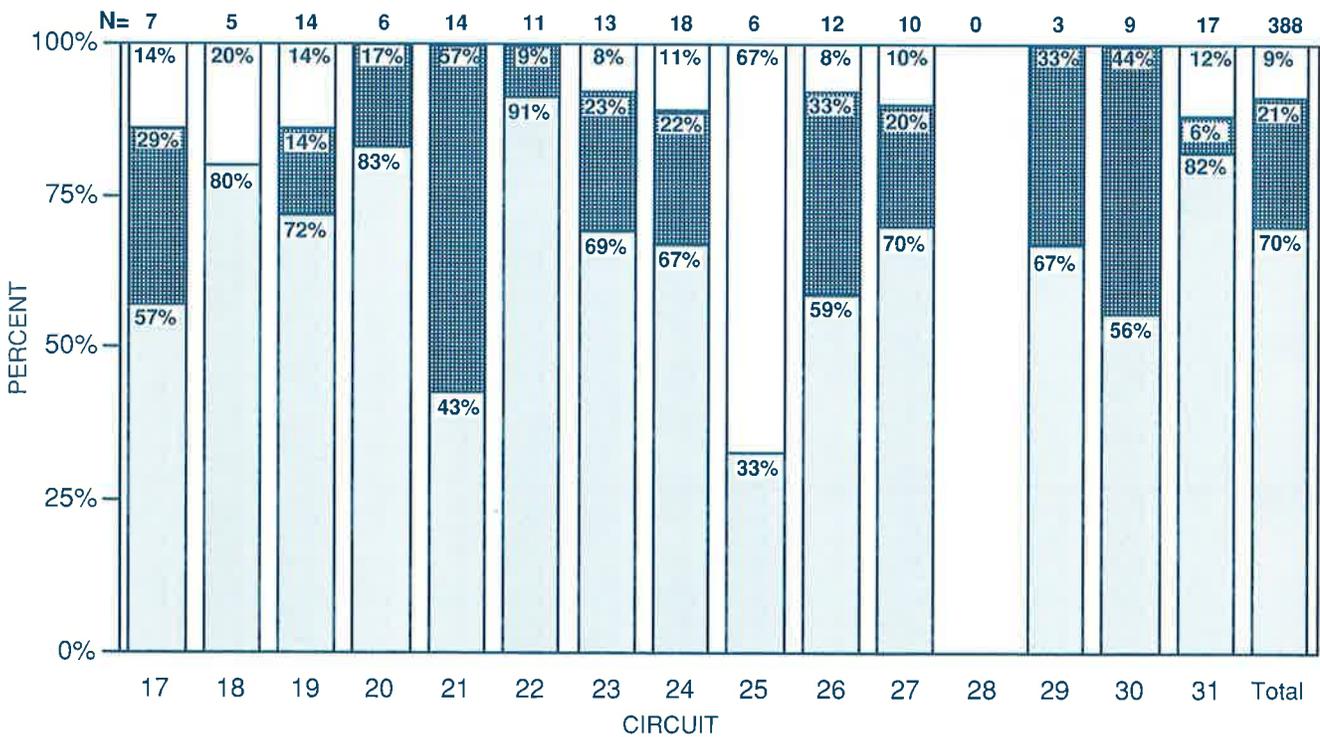
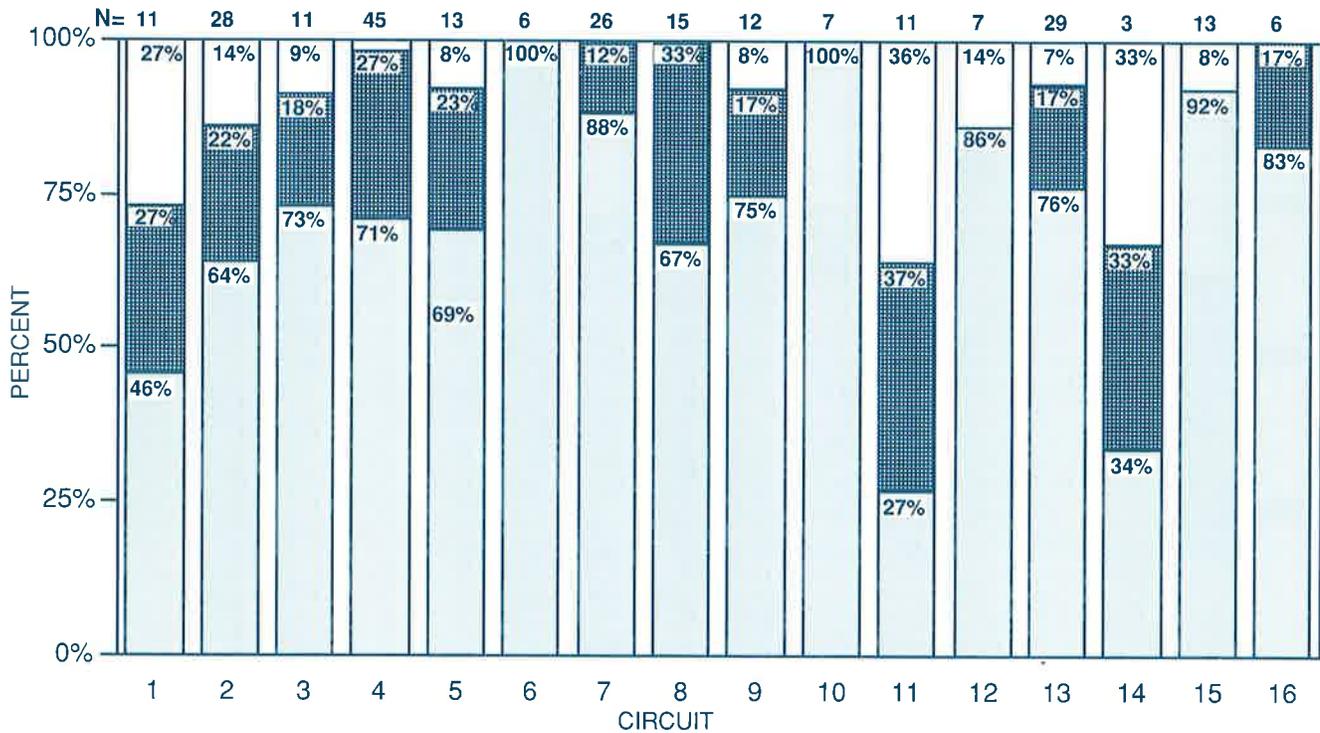


## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Fraud Offenses (7-1-92 to 2-1-93)

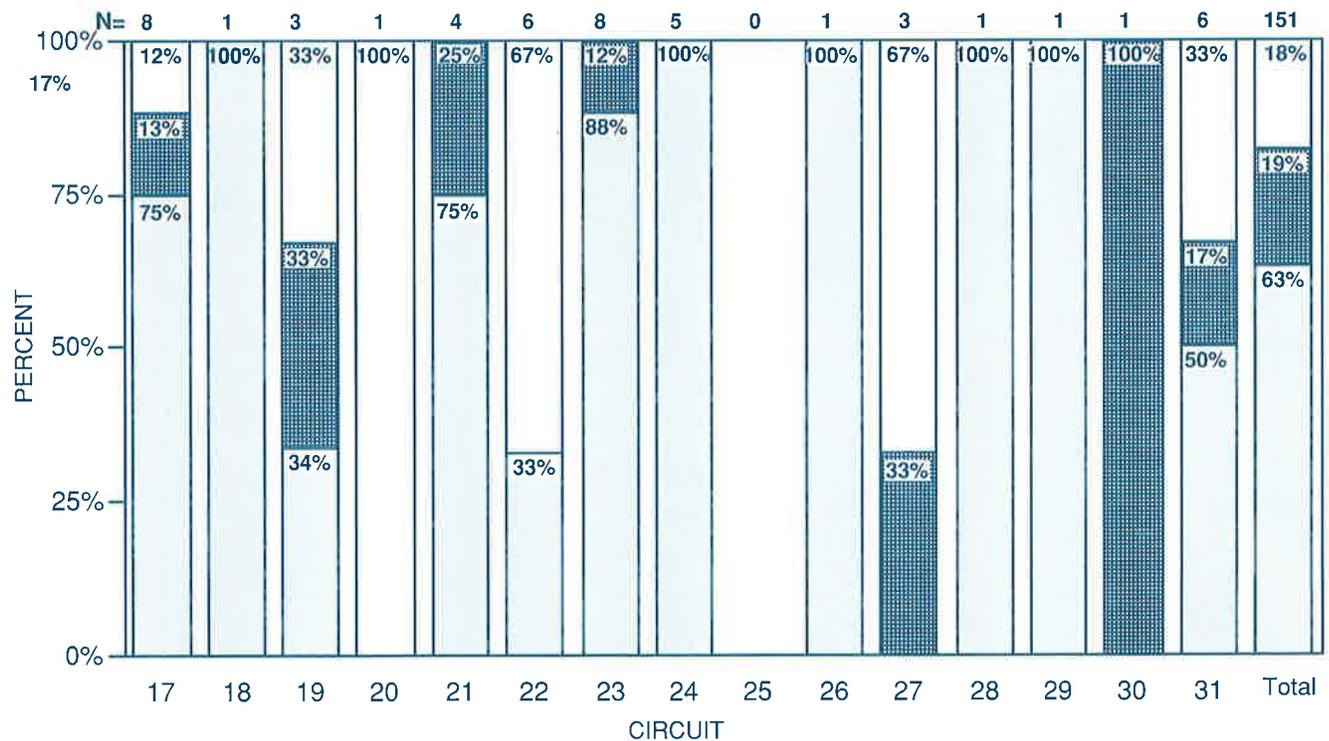
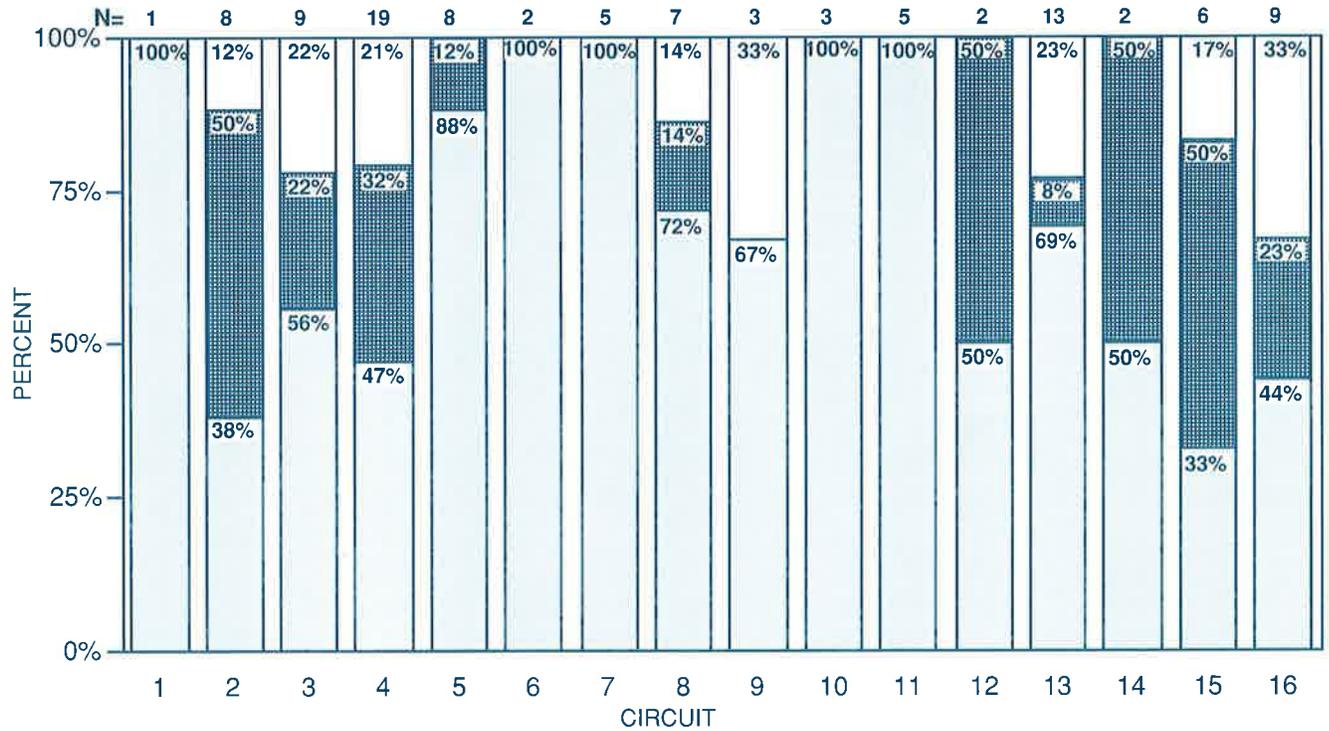


Compliance
  Mitigation
  Aggravation

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Homicide Offenses (1-1-91 to 6-30-92)

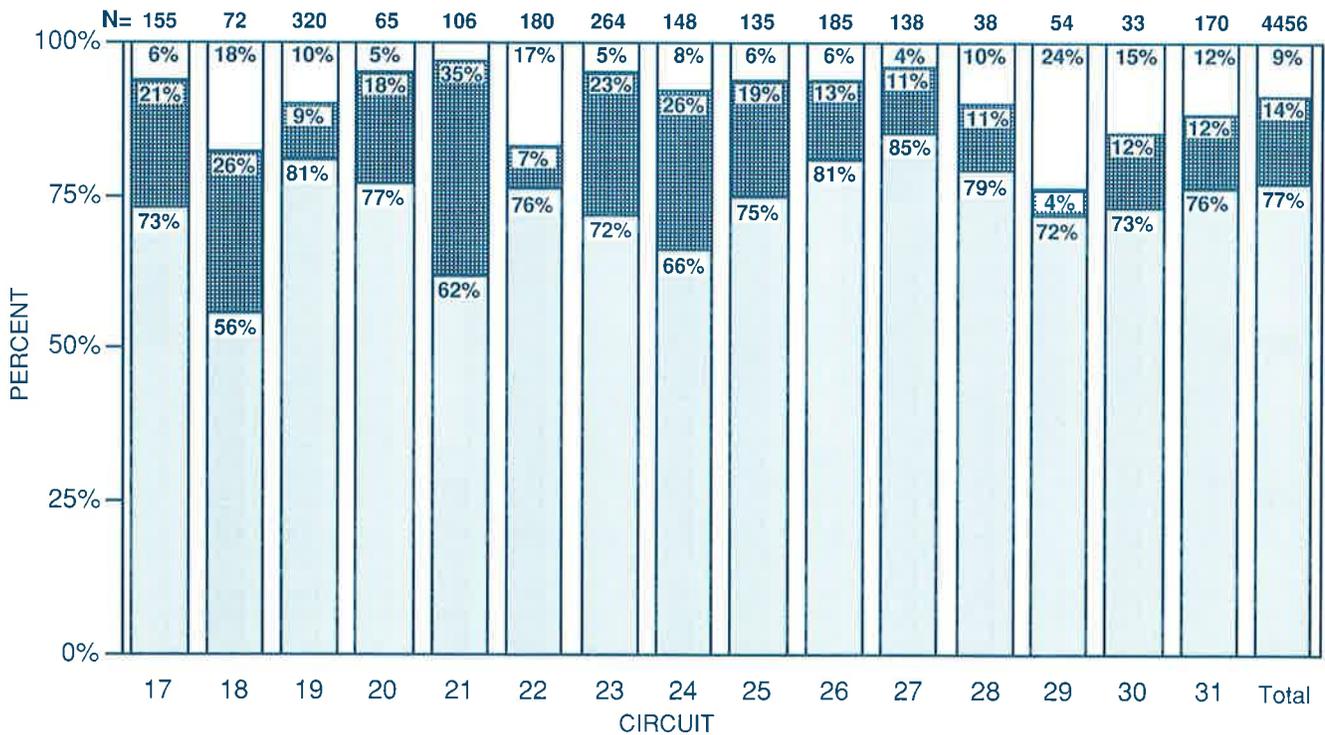
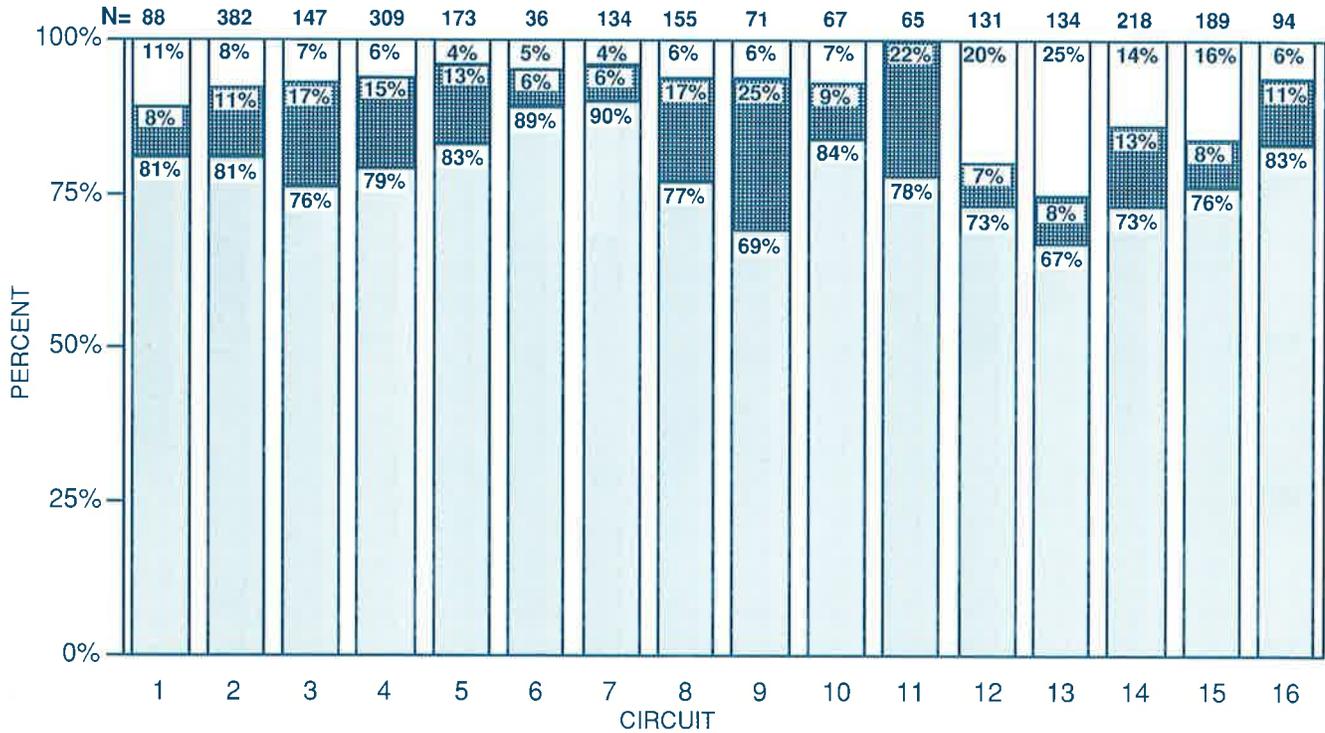


## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Homicide Offenses (7-1-92 to 2-1-93)

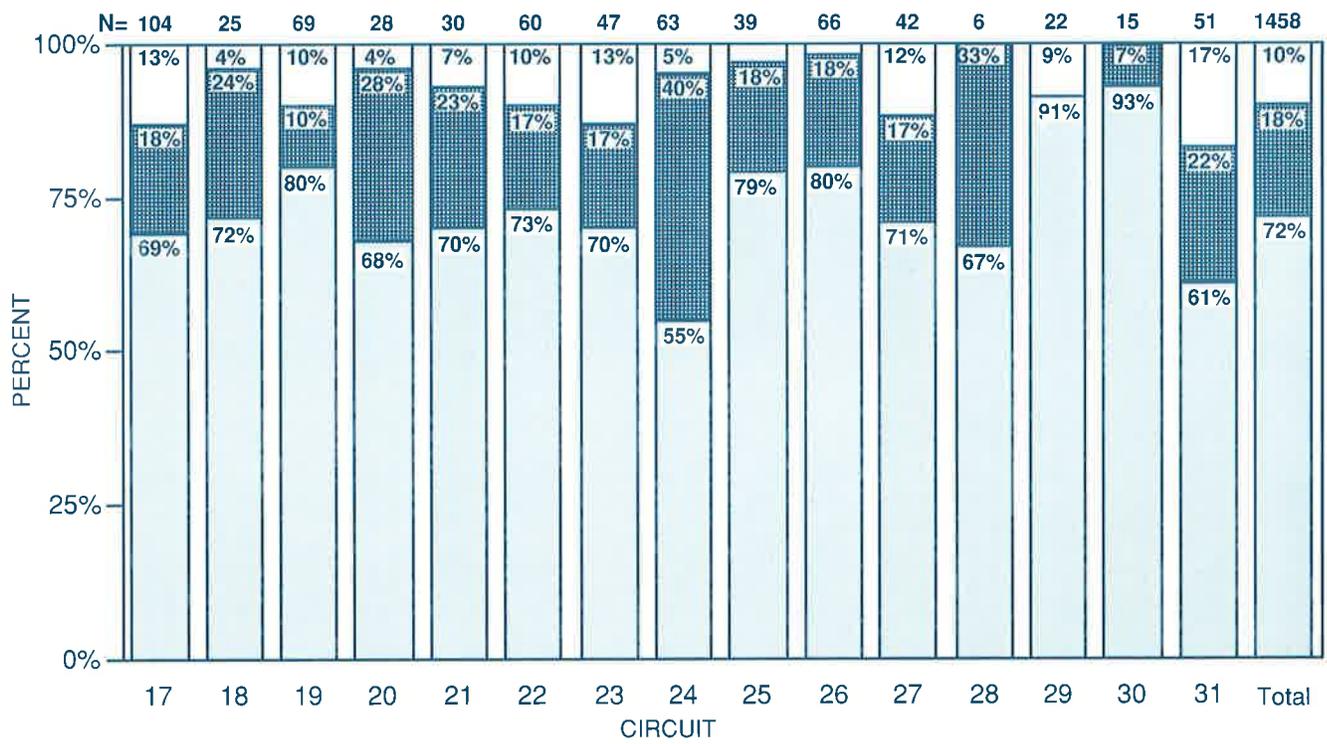
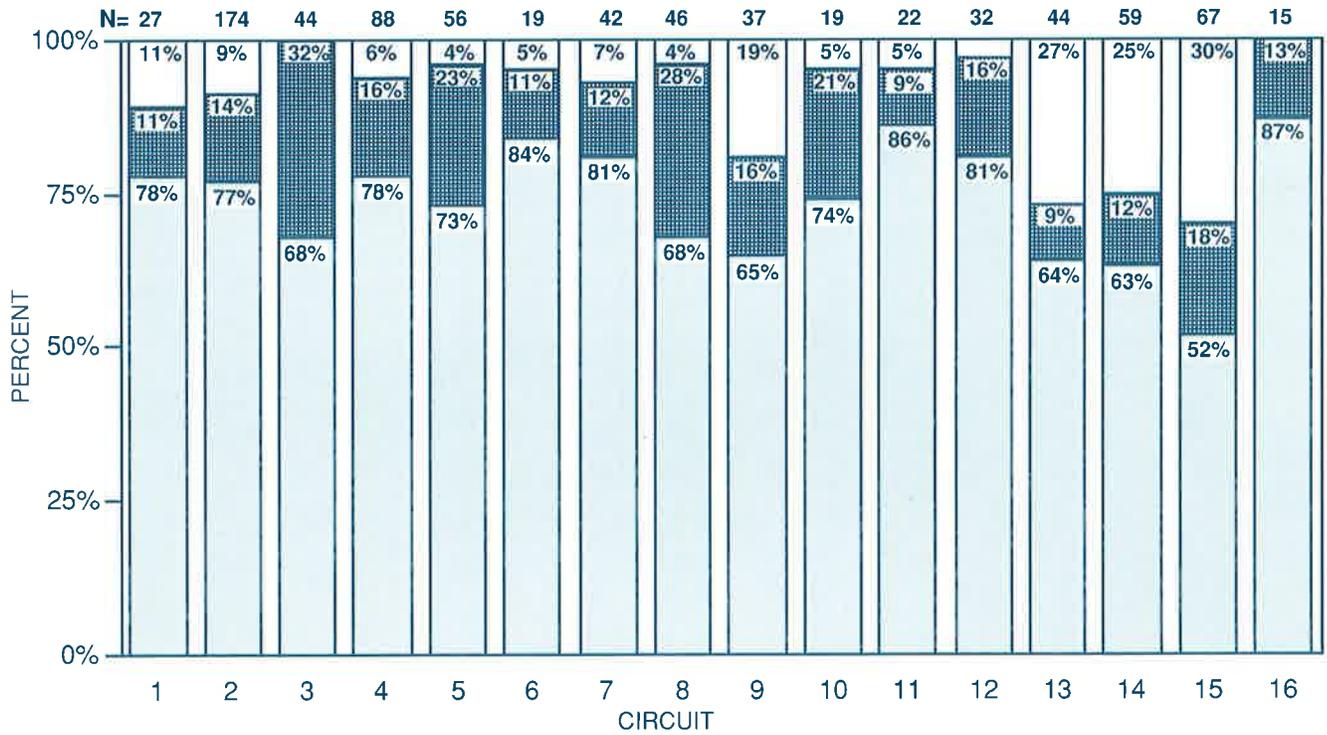


Compliance
  Mitigation
  Aggravation

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Larceny Offenses (1-1-91 to 6-30-92)

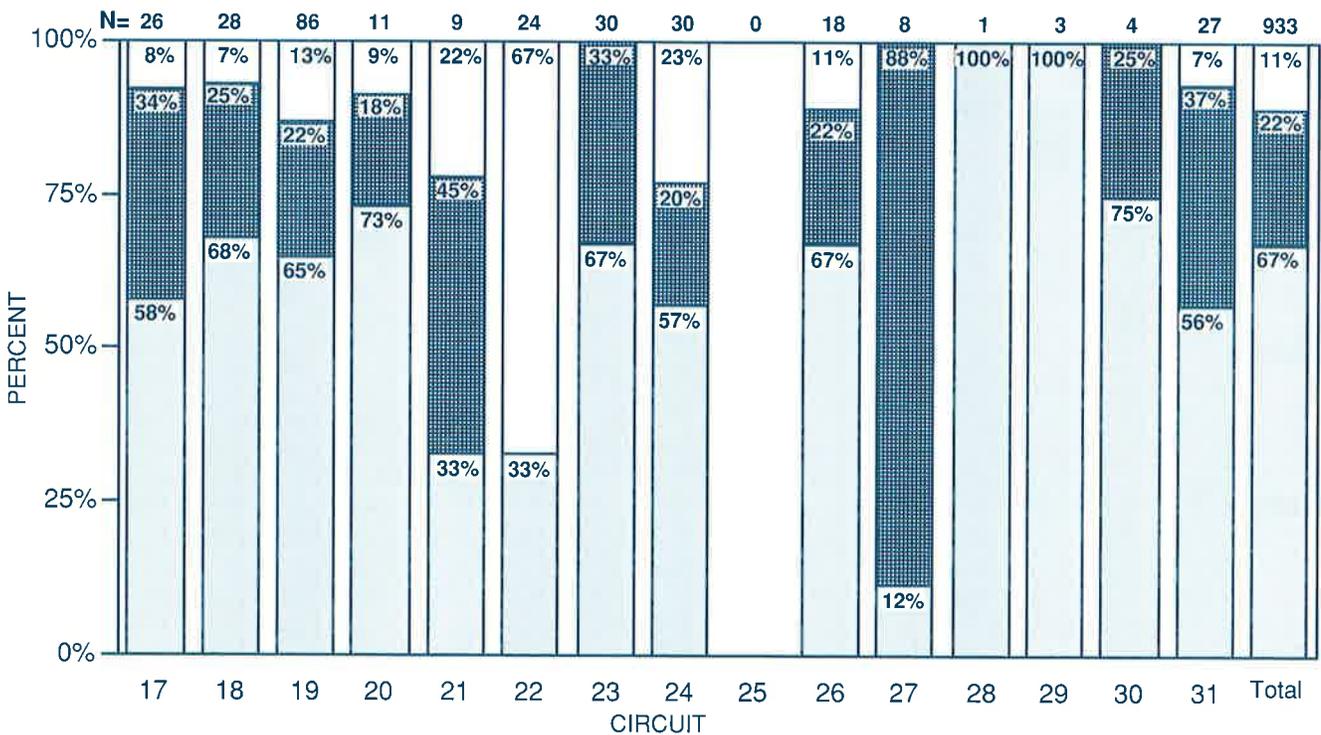
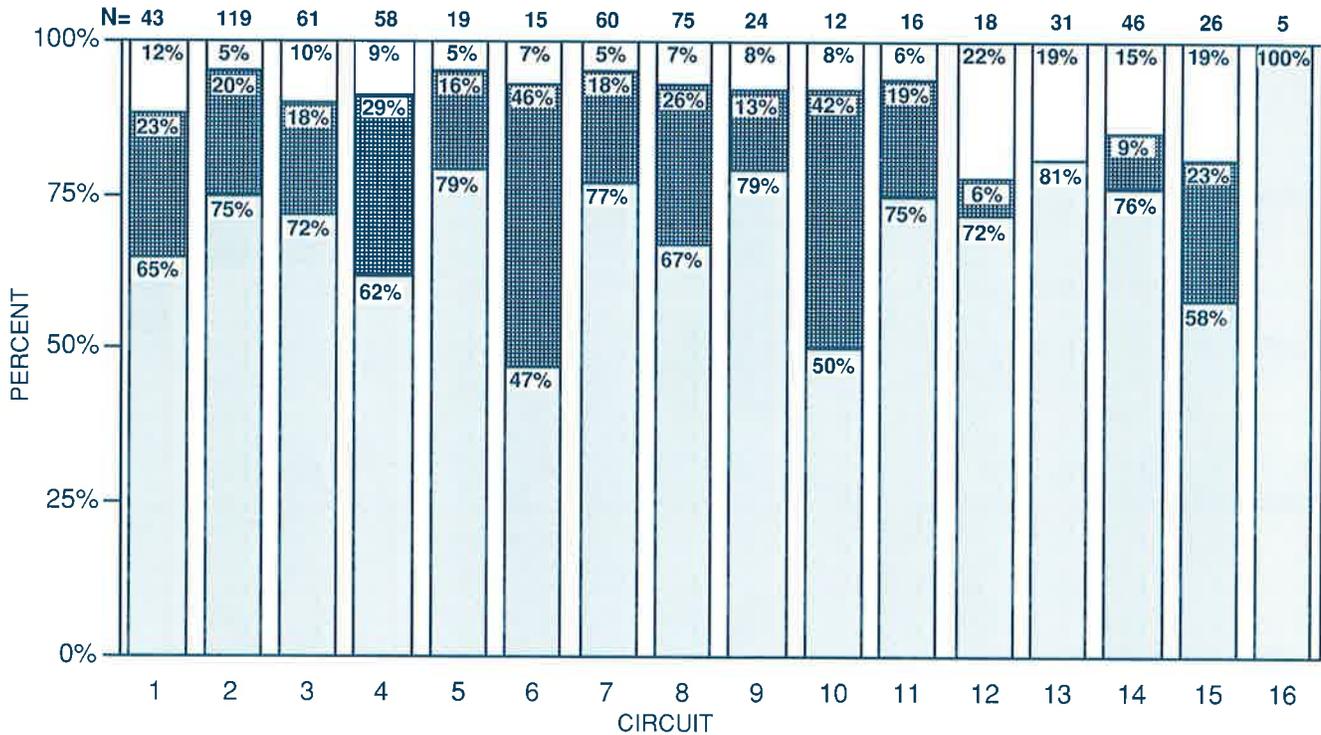


## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Larceny Offenses (7-1-92 to 2-1-93)



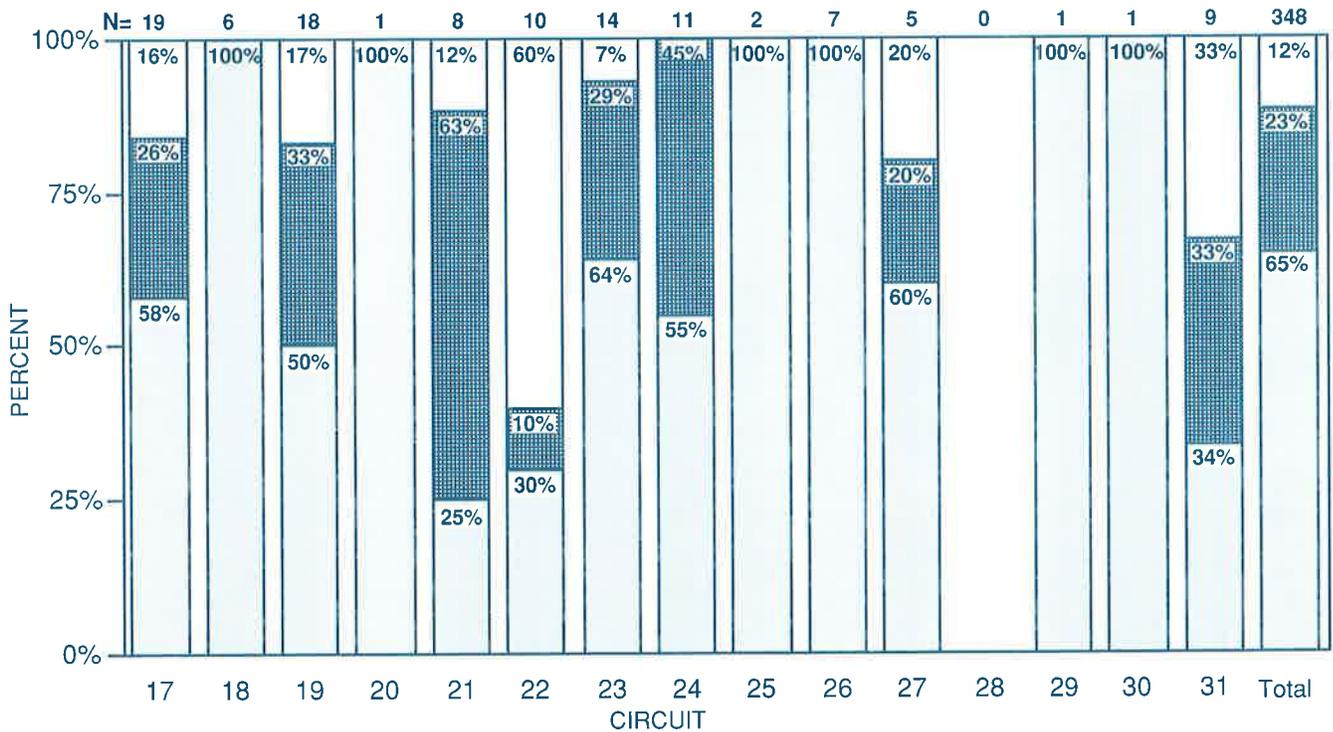
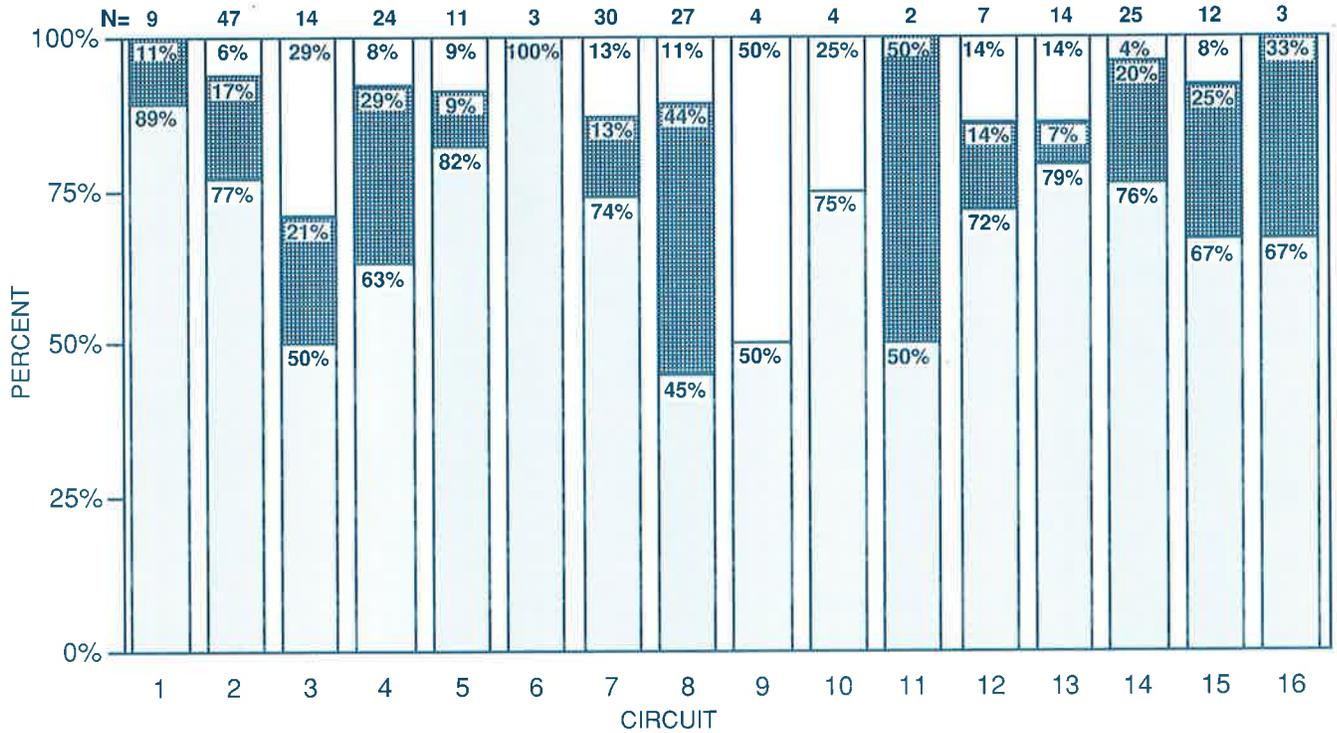
Compliance
  Mitigation
  Aggravation

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Robbery Offenses (1-1-91 to 6-30-92)



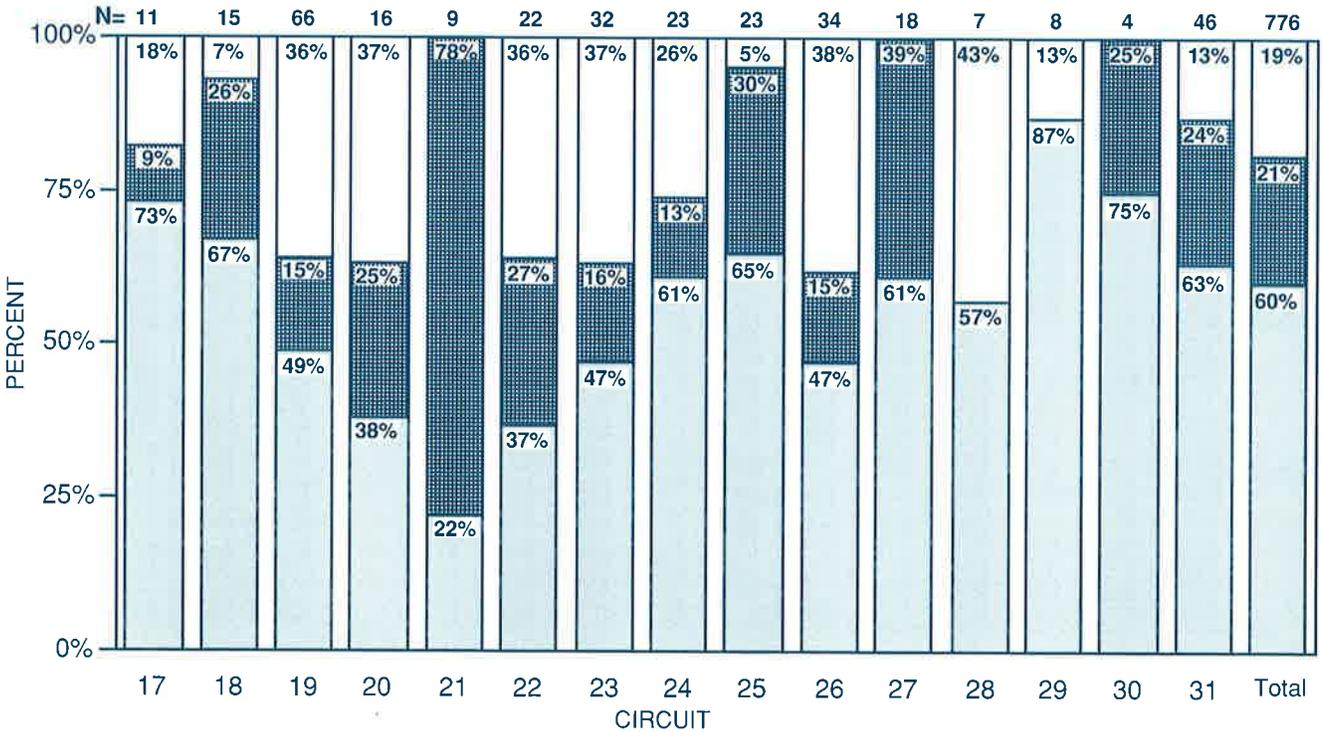
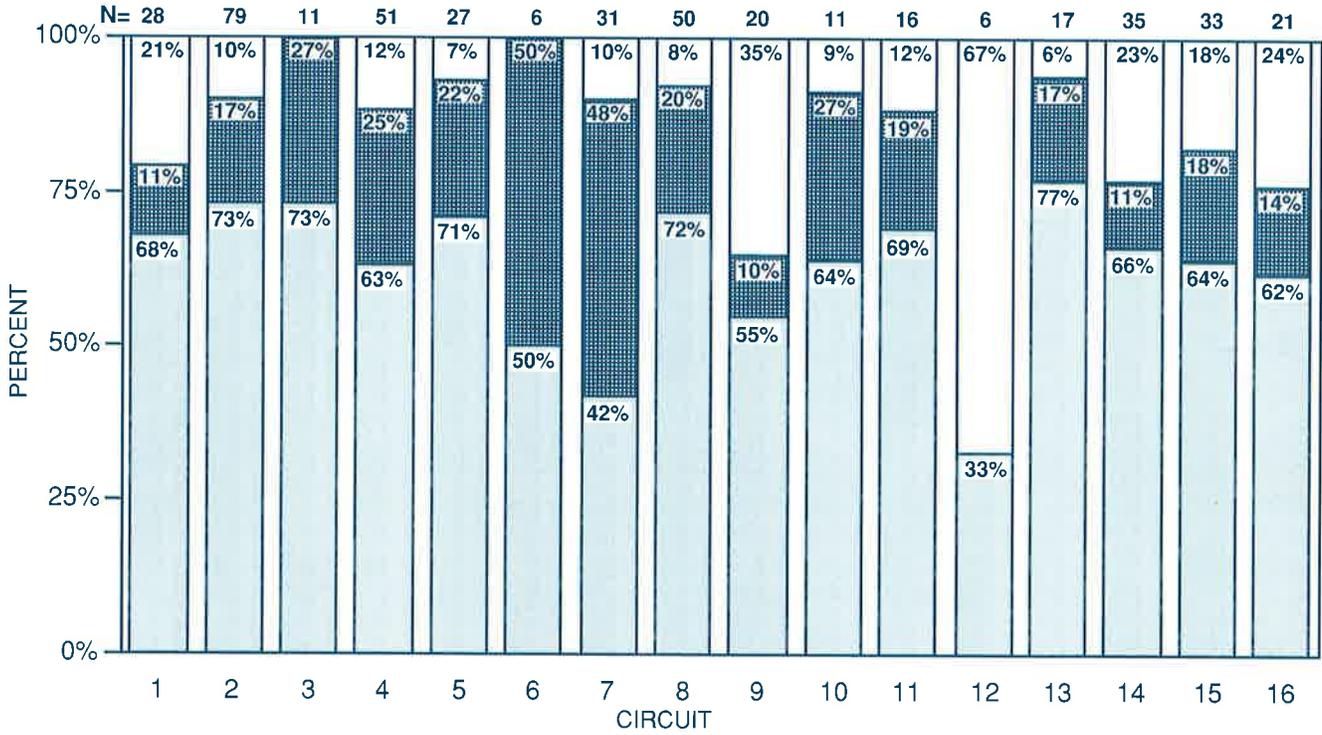
Compliance
  Mitigation
  Aggravation

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Robbery Offenses (7-1-92 to 2-1-93)



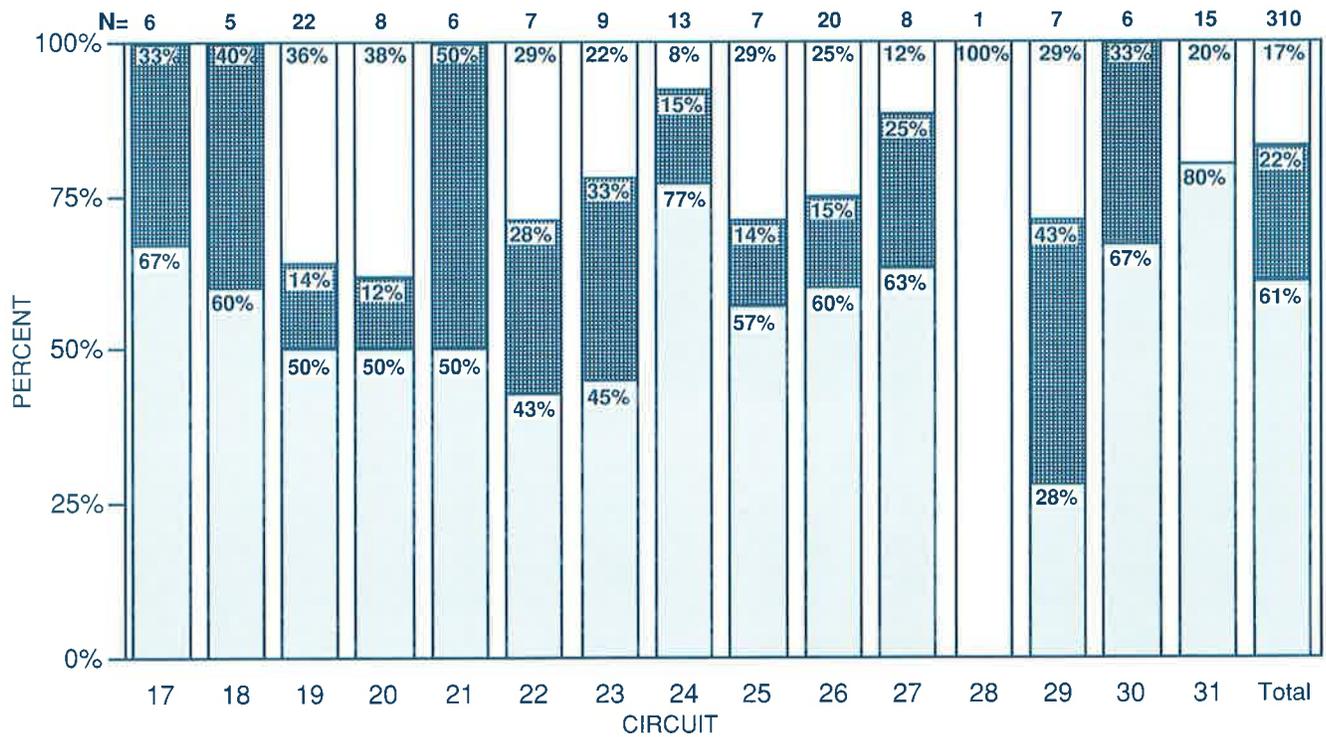
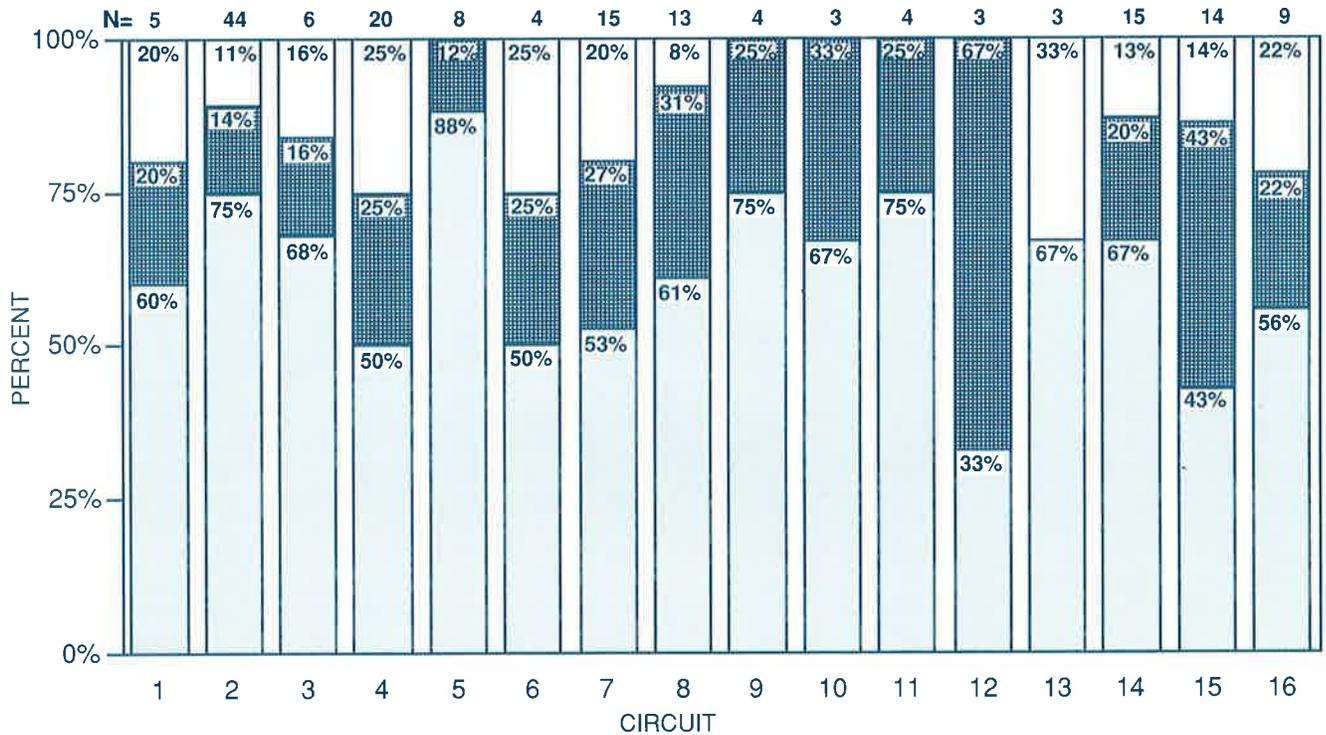
Compliance
  Mitigation
  Aggravation

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Sexual Assault Offenses (1-1-91 to 6-30-92)



Compliance
  Mitigation
  Aggravation

## SENTENCING GUIDELINES COMPLIANCE BY JUDICIAL CIRCUIT For Sexual Assault Offenses (7-1-92 to 2-1-93)



Compliance
  Mitigation
  Aggravation

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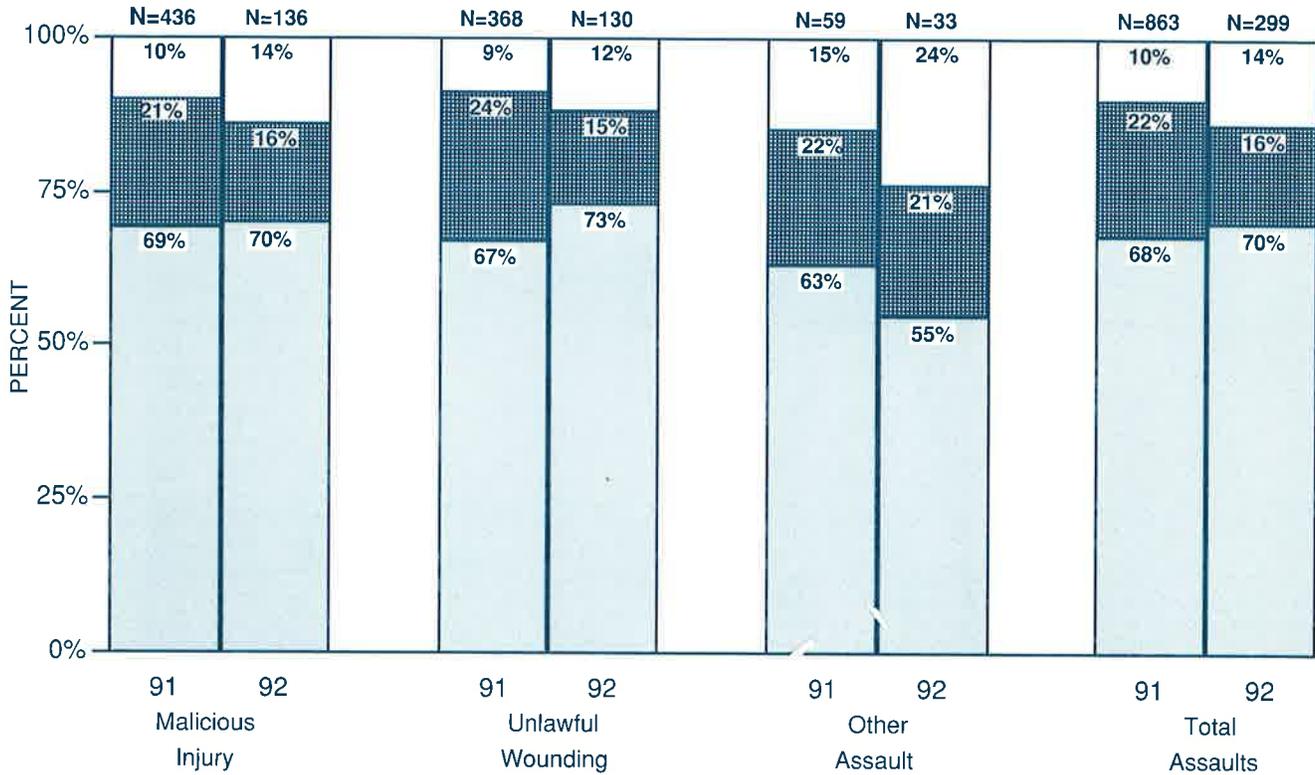
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**APPENDIX C:  
Judicial Compliance  
For Specific Offenses**

## SENTENCING GUIDELINES COMPLIANCE RATE BY JUDICIAL CIRCUIT

### *Specific Assault Offenses*

#### (1-1-91 to 6-30-92)

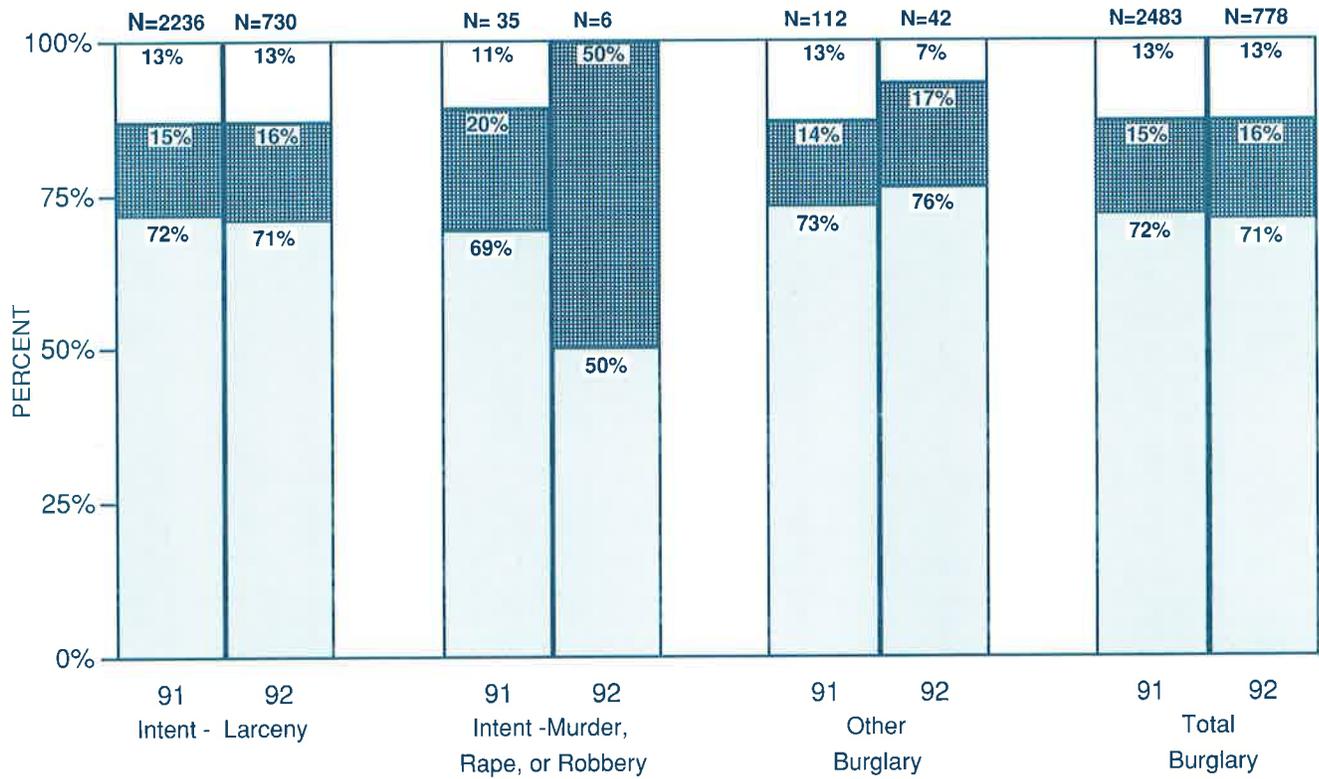


91 = (1-1-91 to 6-30-92)<sup>a</sup>    92 = (7-1-92 to 2-1-93)<sup>b</sup>



Note: <sup>a</sup> refers to first set of guidelines.  
<sup>b</sup> refers to second set of guidelines.

## SENTENCING GUIDELINES COMPLIANCE RATE BY JUDICIAL CIRCUIT *Specific Burglary Offenses*

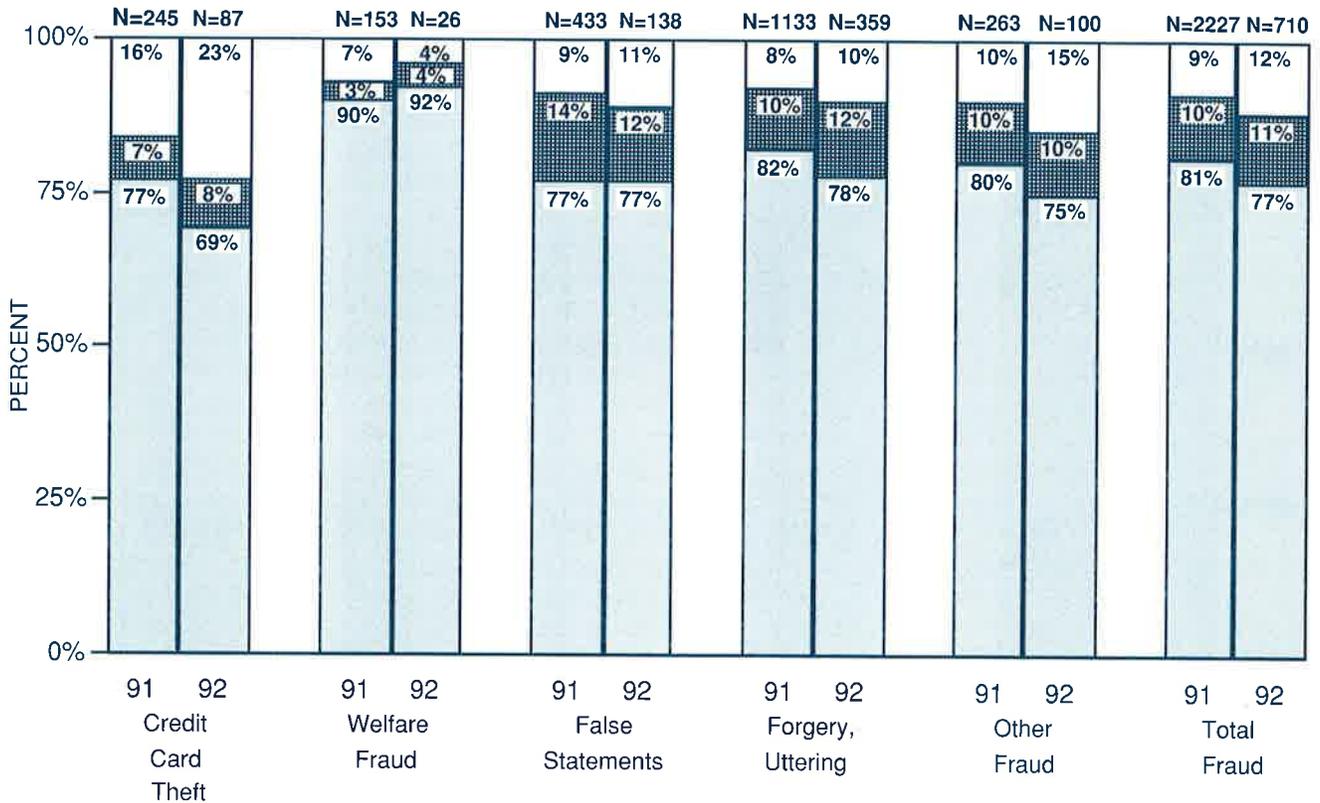


91 = (1-1-91 to 6-30-92)<sup>a</sup>    92 = (7-1-92 to 2-1-93)<sup>b</sup>



Note: <sup>a</sup> refers to first set of guidelines.  
<sup>b</sup> refers to second set of guidelines.

## SENTENCING GUIDELINES COMPLIANCE RATE BY JUDICIAL CIRCUIT *Specific Fraud Offenses*

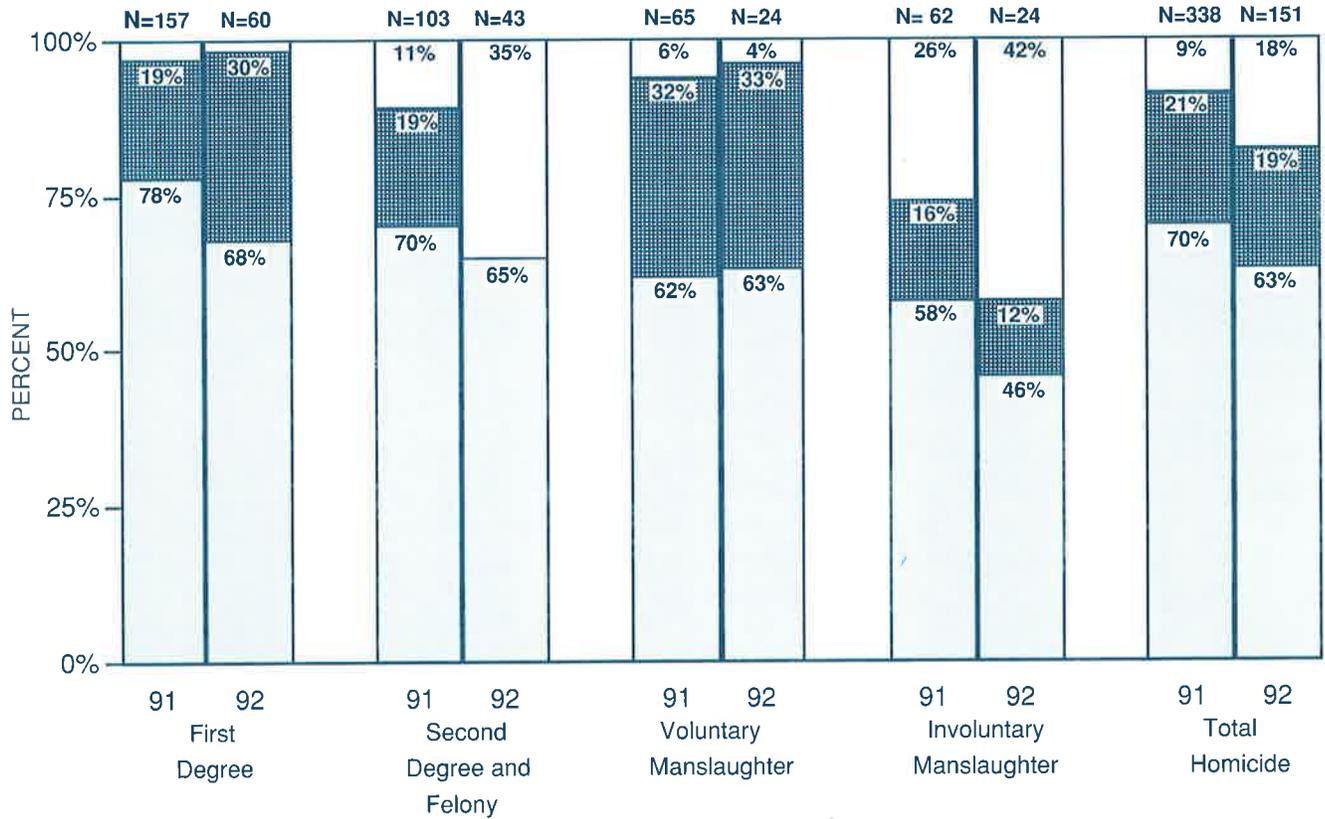


91 = (1-1-91 to 6-30-92)<sup>a</sup>      92 = (7-1-92 to 2-1-93)<sup>b</sup>



Note: <sup>a</sup> refers to first set of guidelines.  
<sup>b</sup> refers to second set of guidelines.

## SENTENCING GUIDELINES COMPLIANCE RATE BY JUDICIAL CIRCUIT *Specific Homicide Offenses*



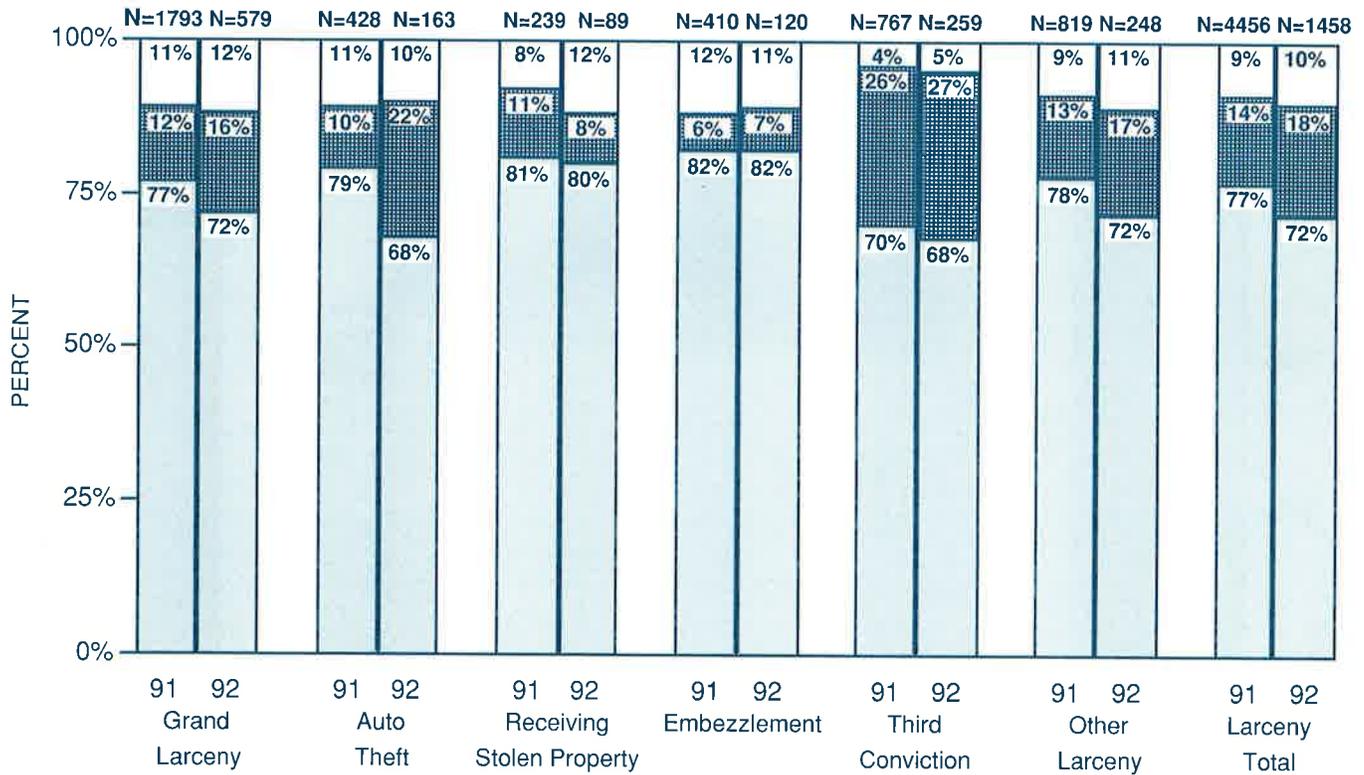
91 = (1-1-91 to 6-30-92)<sup>a</sup>    92 = (7-1-92 to 2-1-93)<sup>b</sup>



Note: <sup>a</sup> refers to first set of guidelines.  
<sup>b</sup> refers to second set of guidelines.

# SENTENCING GUIDELINES COMPLIANCE RATE BY JUDICIAL CIRCUIT

## *Specific Larceny Offenses*

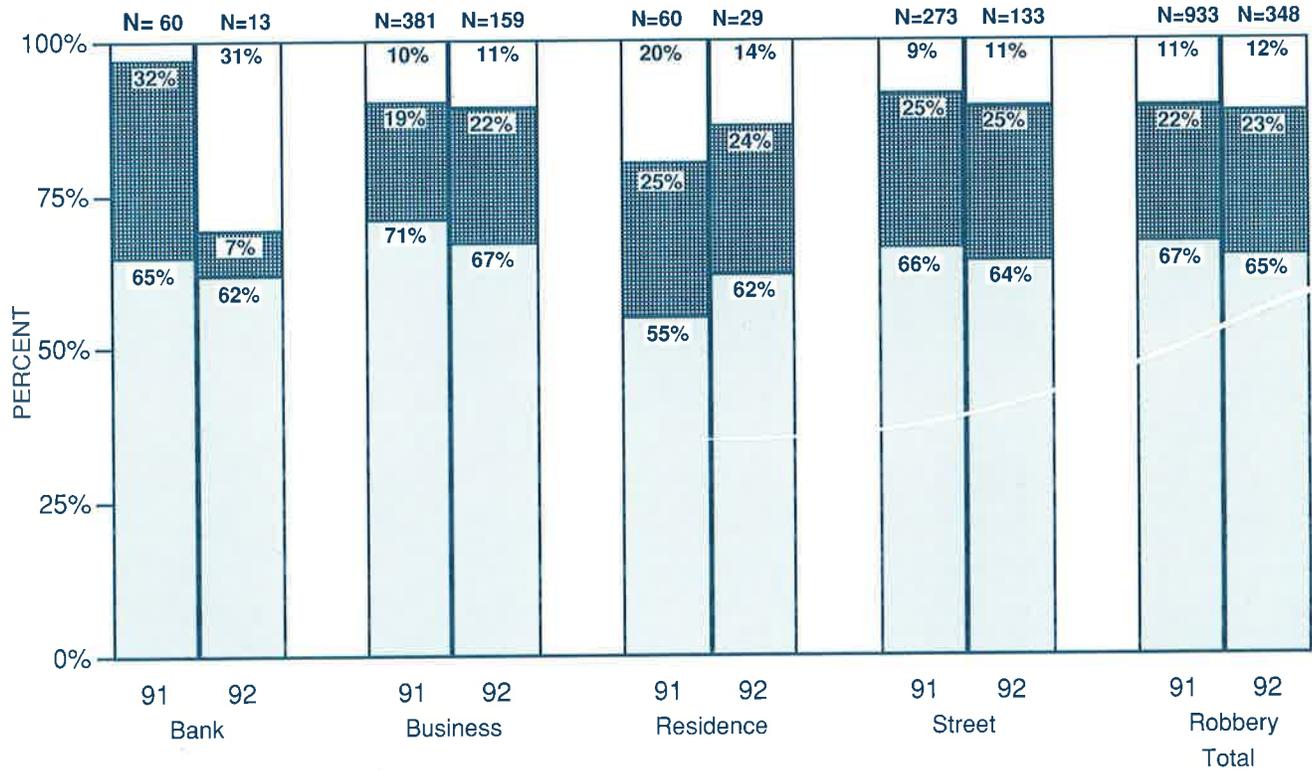


91 = (1-1-91 to 6-30-92)<sup>a</sup>    92 = (7-1-92 to 2-1-93)<sup>b</sup>



Note: <sup>a</sup> refers to first set of guidelines.  
<sup>b</sup> refers to second set of guidelines.

## SENTENCING GUIDELINES COMPLIANCE RATE BY JUDICIAL CIRCUIT *Specific Robbery Offenses*

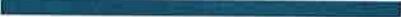


91 = (1-1-91 to 6-30-92)<sup>a</sup>    92 = (7-1-92 to 2-1-93)<sup>b</sup>



Note: <sup>a</sup> refers to first set of guidelines.  
<sup>b</sup> refers to second set of guidelines.

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This report was prepared by  
The Virginia Criminal Justice  
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Division of Information Systems  
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