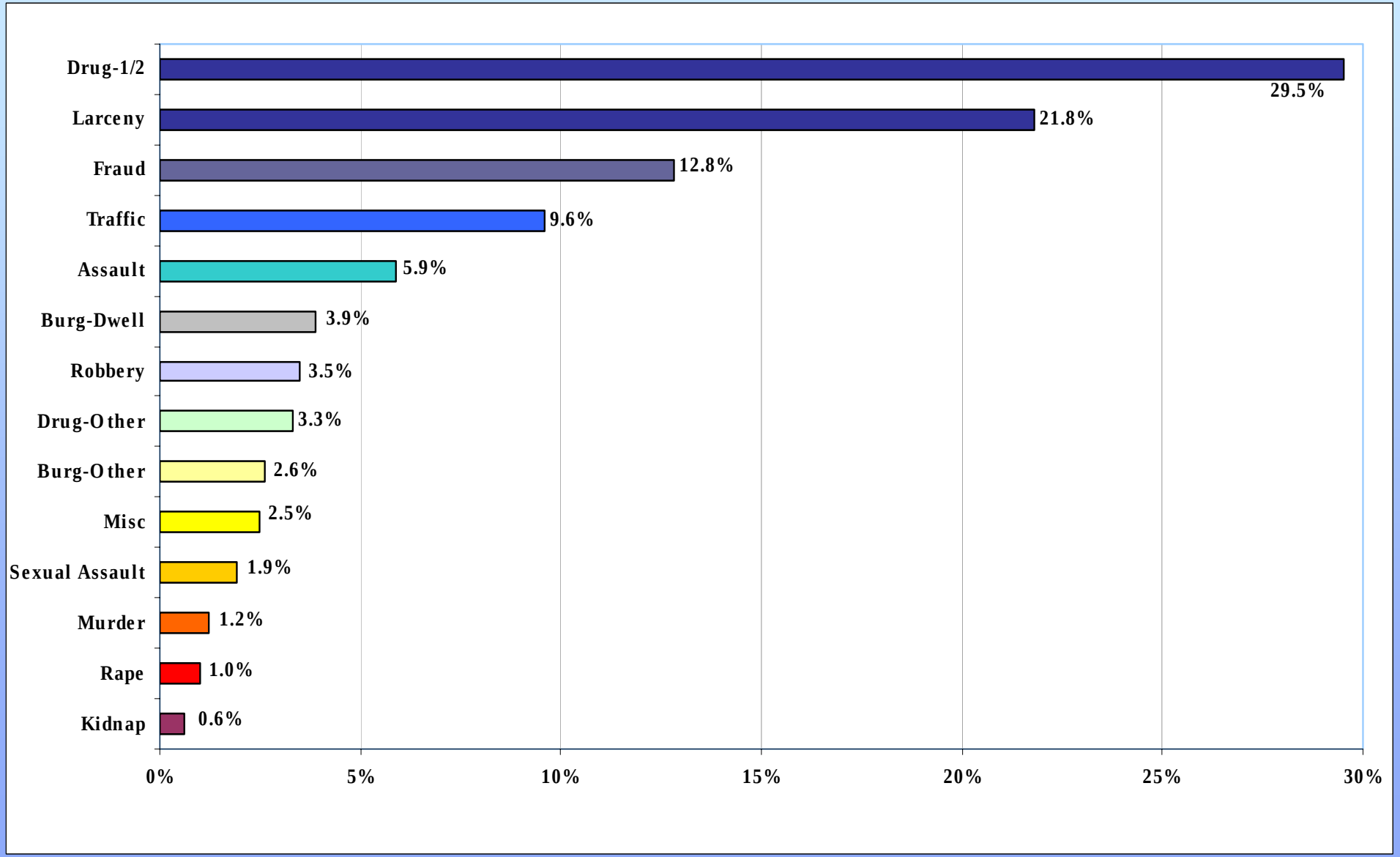
Judicial Concurrence with Sentencing Guideline Recommendations

Preliminary FY2005

FY05 Guideline Worksheets

Coded & Keyed as of 3/4/05

N=6,522

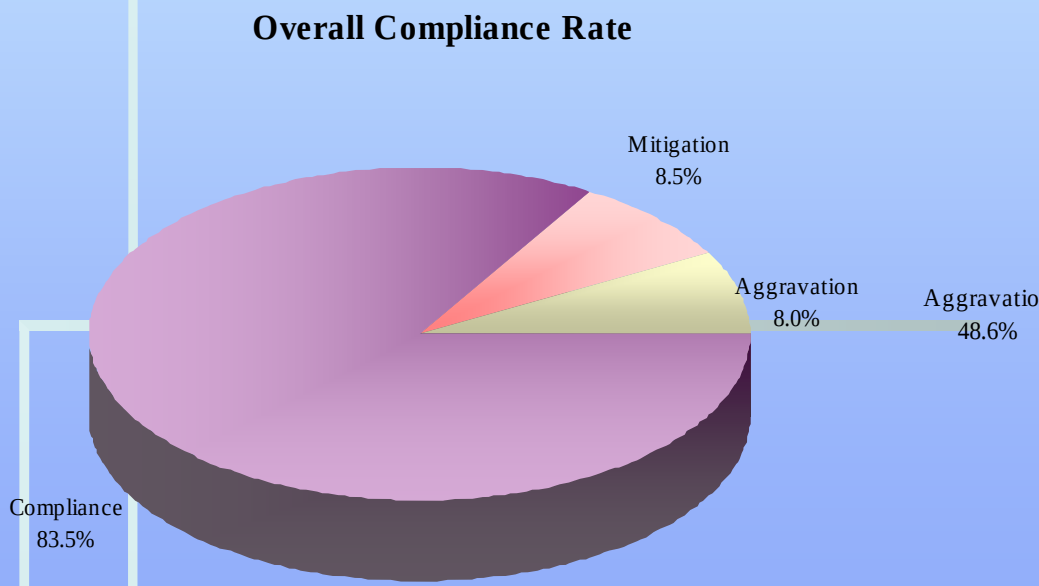


General Compliance

General Judicial Agreement with Guideline Recommendations
Preliminary FY05

General Compliance:

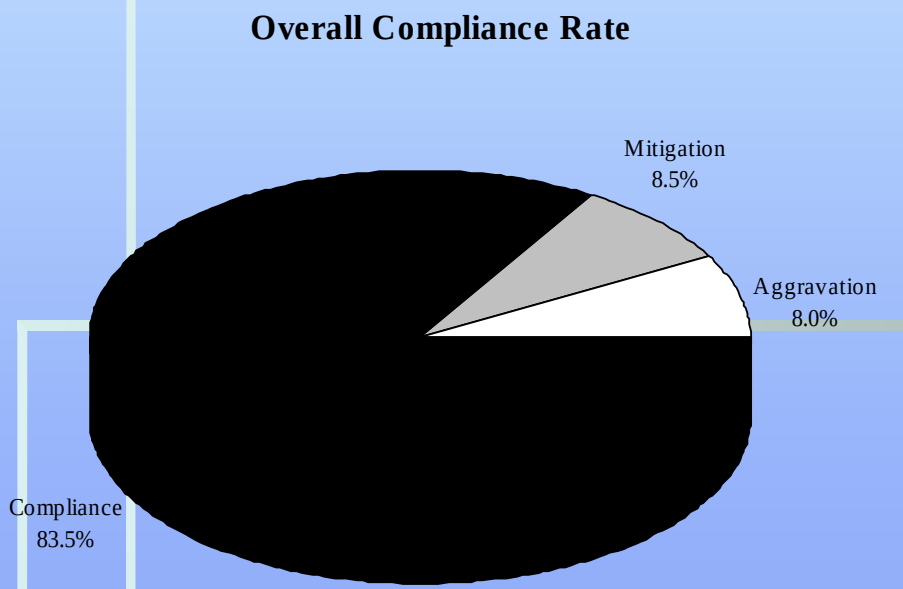
The degree to which judges agree with the overall guidelines recommendation.

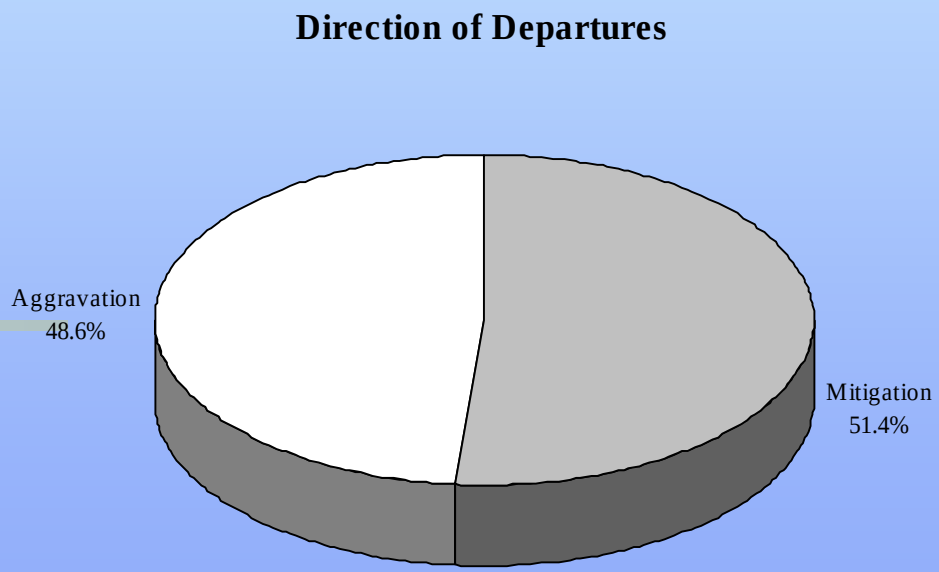


General Judicial Agreement with Guideline Recommendations
Preliminary FY05

General Compliance:

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





Recommended vs. Actual Dispositions
Preliminary FY05

Dispositional Compliance:

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

Recommended Disposition	Actual Disposition Received		
	Probation/ No Incarceration	*Incarceration <= 6 months*	*Incarceration over 6 months*
Probation/No Incarceration	**76.4%**	20.3%	3.3%
Incarceration <= 6 months	8.3%	**80.9%**	10.8%
Incarceration over 6 months	4.1%	8.7%	**87.2%**

Recommended vs. Actual Dispositions
Preliminary FY05

Dispositional Compliance:

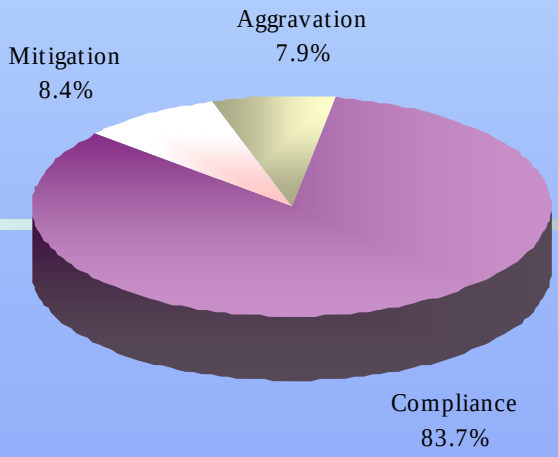
The degree to which judges agree with the type of sanction recommended by the guidelines.

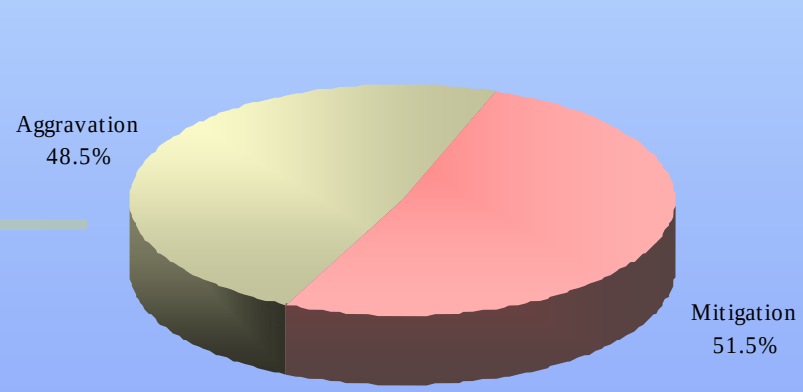
Recommended Disposition	Actual Disposition Received		
	Probation/ No Incarceration	*Incarceration <= 6 months*	*Incarceration over 6 months*
Probation/No Incarceration	**76.4%**	20.3%	3.3%
Incarceration <= 6 months	8.3%	**80.9%**	10.8%
Incarceration over 6 months	4.1%	8.7%	**87.2%**

Judicial Agreement with Sentence Length
Preliminary FY05

Durational compliance:

The degree to which judges agree with the sentence length recommended in jail and prison cases.



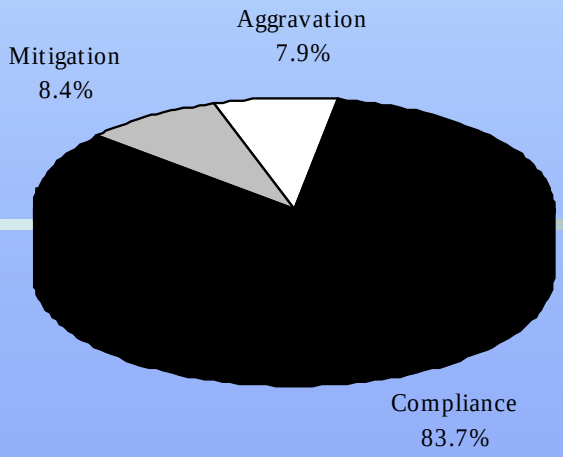


Judicial Agreement with Sentence Length
Preliminary FY05

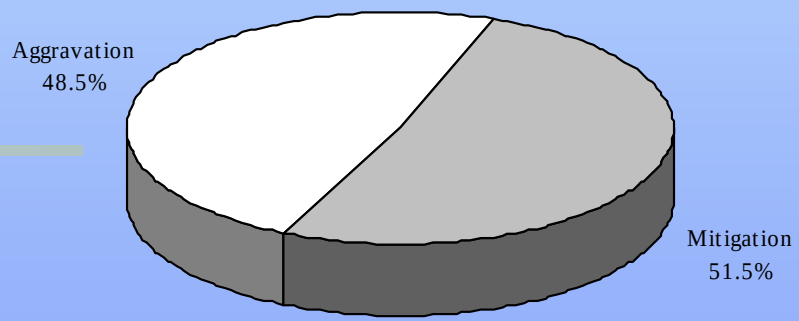
Durational compliance:

The degree to which judges agree with the sentence length recommended in jail and prison cases.

Durational Compliance

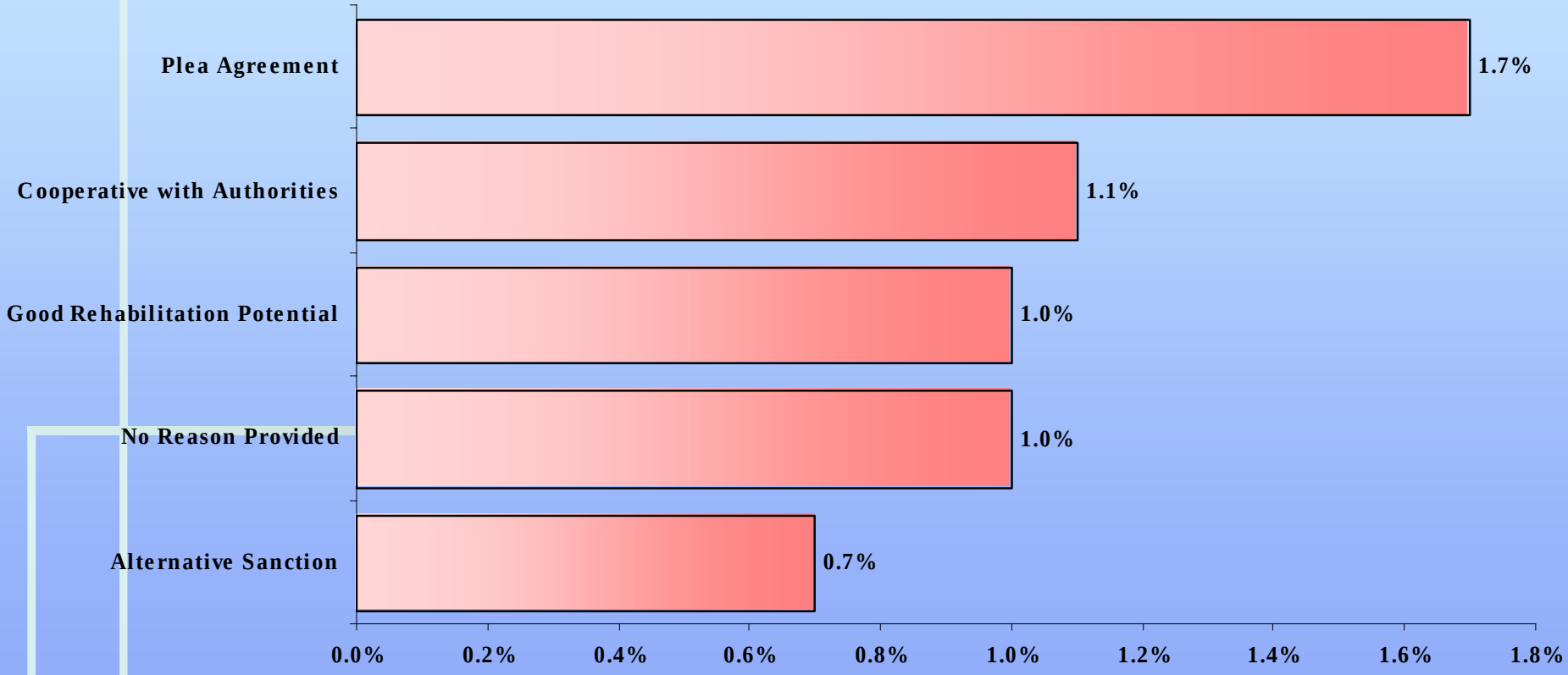


Direction of Departures

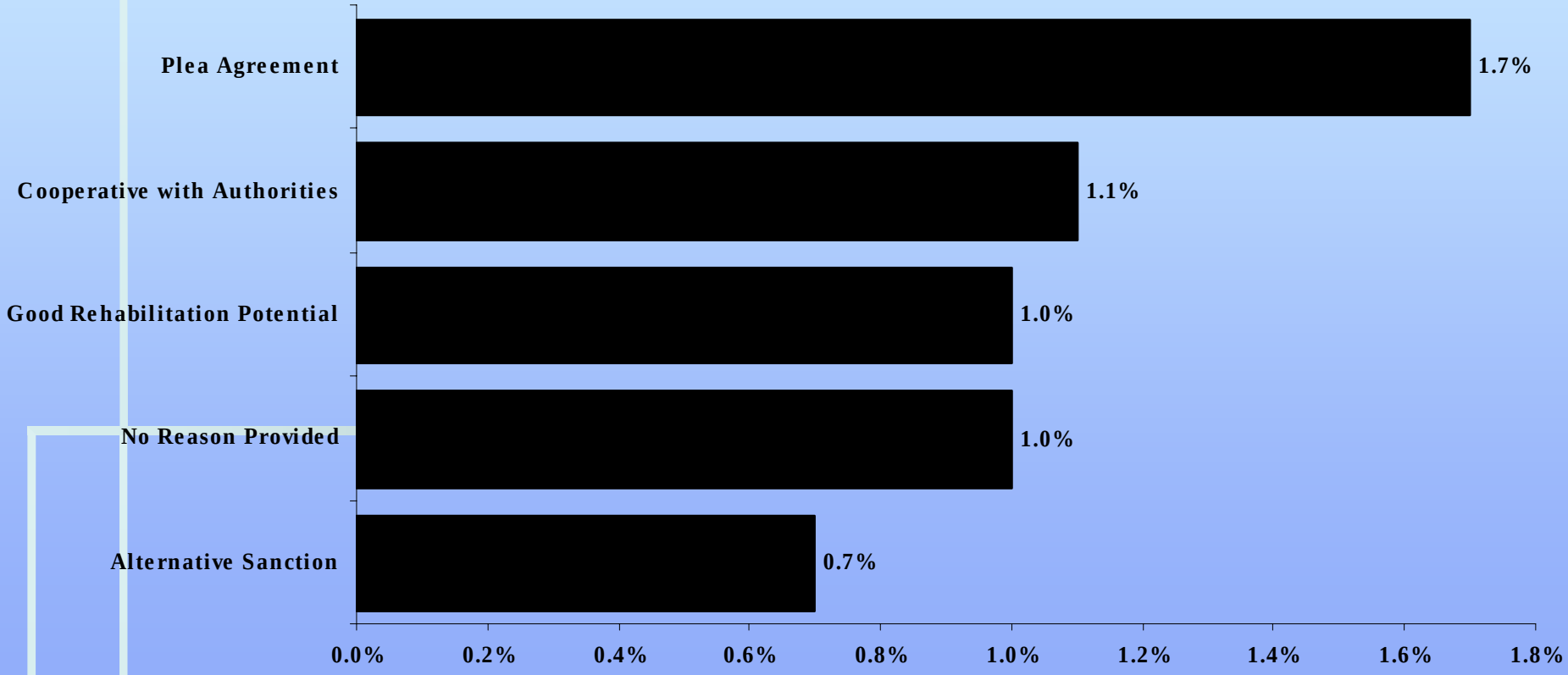


Departure Reasons

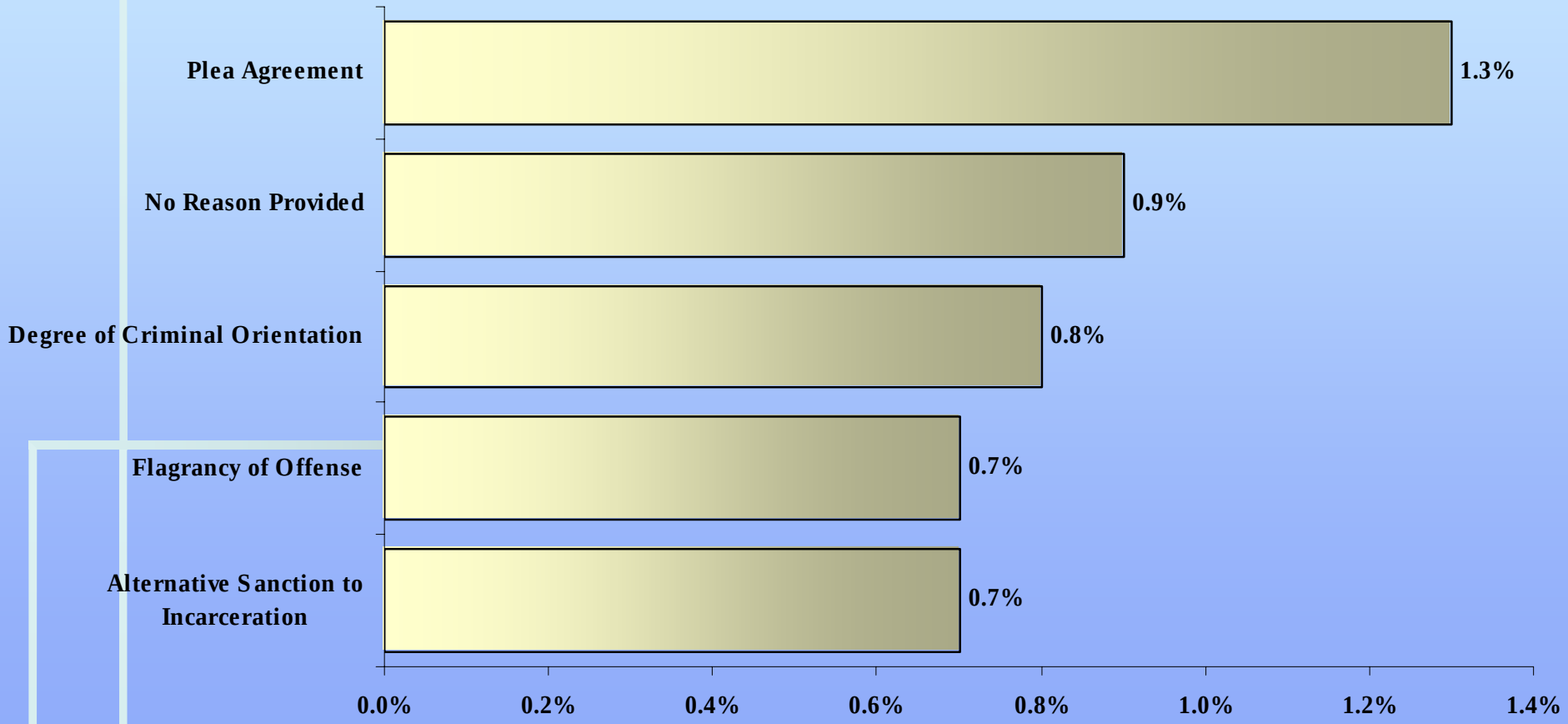
Reasons for Mitigating (8.5%)



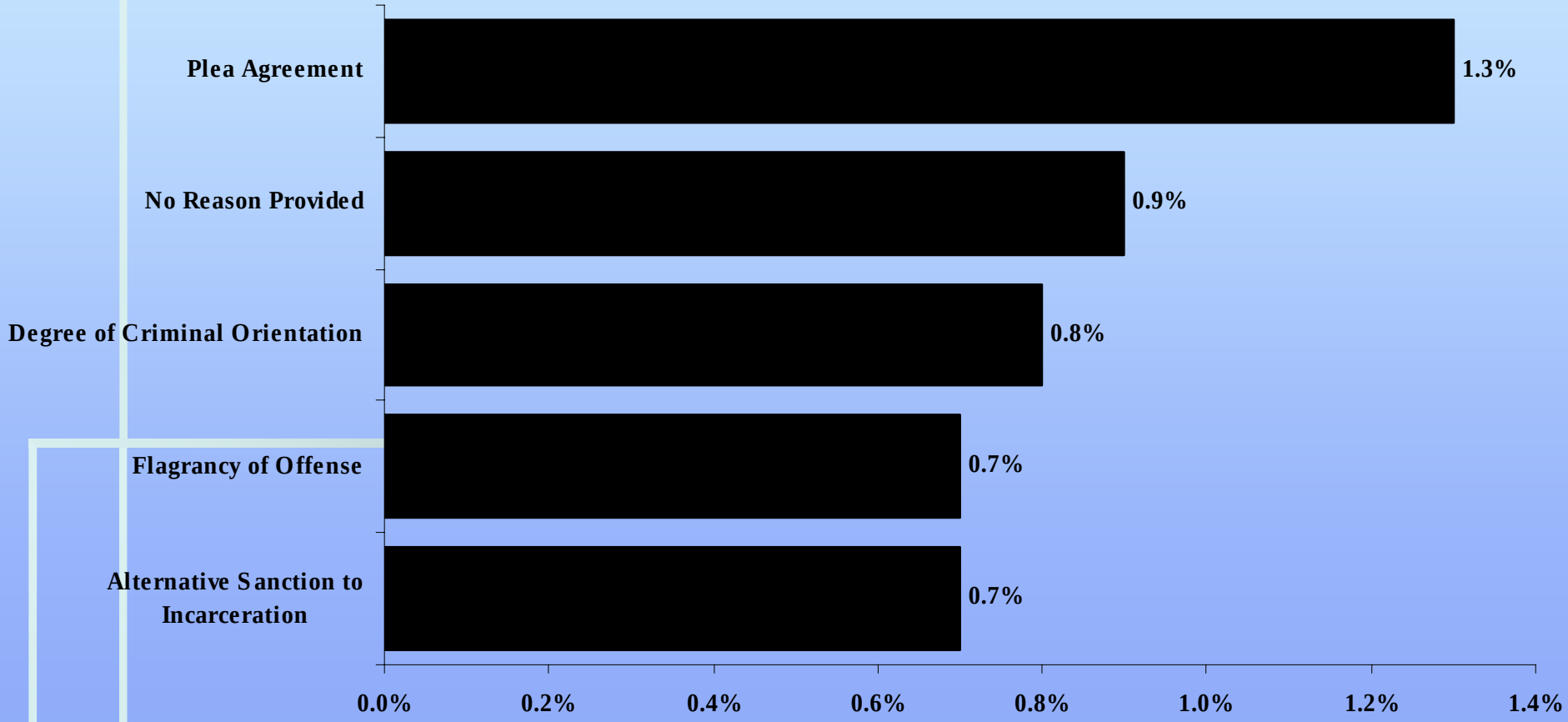
Reasons for Mitigating (8.5%)



Reasons for Aggravating (8.0%)



Reasons for Aggravating (8.0%)



Compliance by Judicial Circuit

Circuit Name	Circuit Number	Compliance	Mitigation	Aggravation	Number of Cases
Alexandria	18	83.9%	6.5%	9.7%	155
Arlington Area	17	84.7%	4.7%	10.6%	170
Bristol Area	28	83.0%	5.4%	11.6%	112
Buchanan Area	29	71.6%	6.9%	21.6%	116
Charlottesville Area	16	93.0%	3.5%	3.5%	142
Chesapeake	1	89.4%	4.3%	6.3%	254
Chesterfield Area	12	81.0%	5.2%	13.8%	290
Danville Area	22	81.0%	4.5%	14.5%	221
Fairfax	19	84.9%	7.7%	7.4%	392
Fredericksburg Area	15	76.8%	12.2%	11.0%	254
Hampton	8	88.3%	8.4%	3.2%	154
Harrisonburg Area	26	83.1%	8.6%	8.3%	290
Henrico	14	81.3%	12.0%	6.7%	283
Lee Area	30	87.9%	6.1%	6.1%	66
Loudoun Area	20	87.6%	6.2%	6.2%	129
Lynchburg Area	24	68.6%	21.0%	10.5%	210
Martinsville Area	21	80.5%	14.3%	5.2%	77
Newport News	7	87.3%	5.9%	6.8%	236
Norfolk	4	81.5%	13.5%	4.9%	466
Petersburg Area	11	82.8%	7.8%	9.5%	116
Portsmouth	3	86.8%	8.5%	4.7%	235
Prince William Area	31	90.3%	4.9%	4.9%	185
Radford Area	27	92.0%	6.1%	1.9%	212
Richmond City	13	84.2%	6.9%	8.9%	303
Roanoke Area	23	75.9%	15.0%	9.1%	221
South Boston Area	10	87.3%	9.3%	3.3%	150
Staunton Area	25	83.3%	10.8%	5.9%	204
Suffolk Area	5	86.5%	5.9%	7.6%	170
Sussex Area	6	85.7%	6.7%	7.6%	119
Virginia Beach	2	81.7%	8.8%	9.5%	431
Williamsburg Area	9	83.2%	6.3%	10.5%	190

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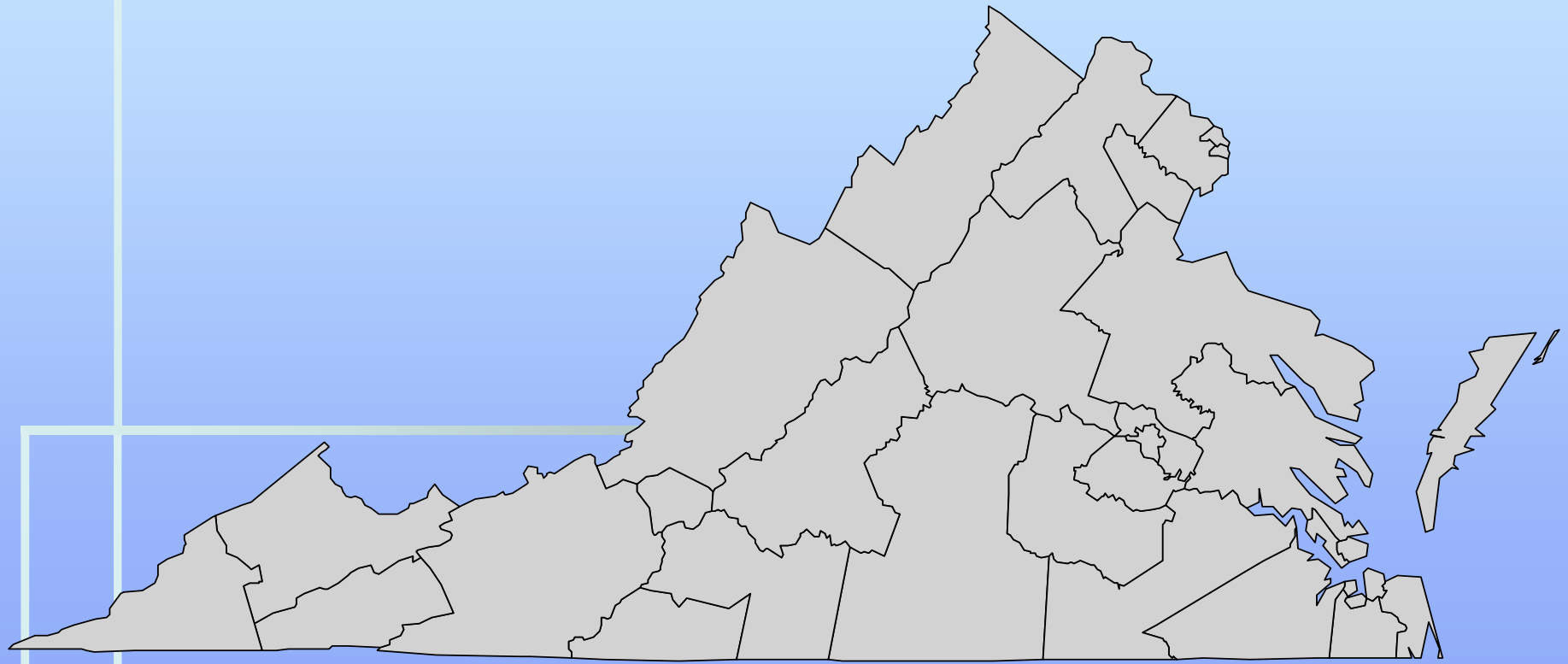
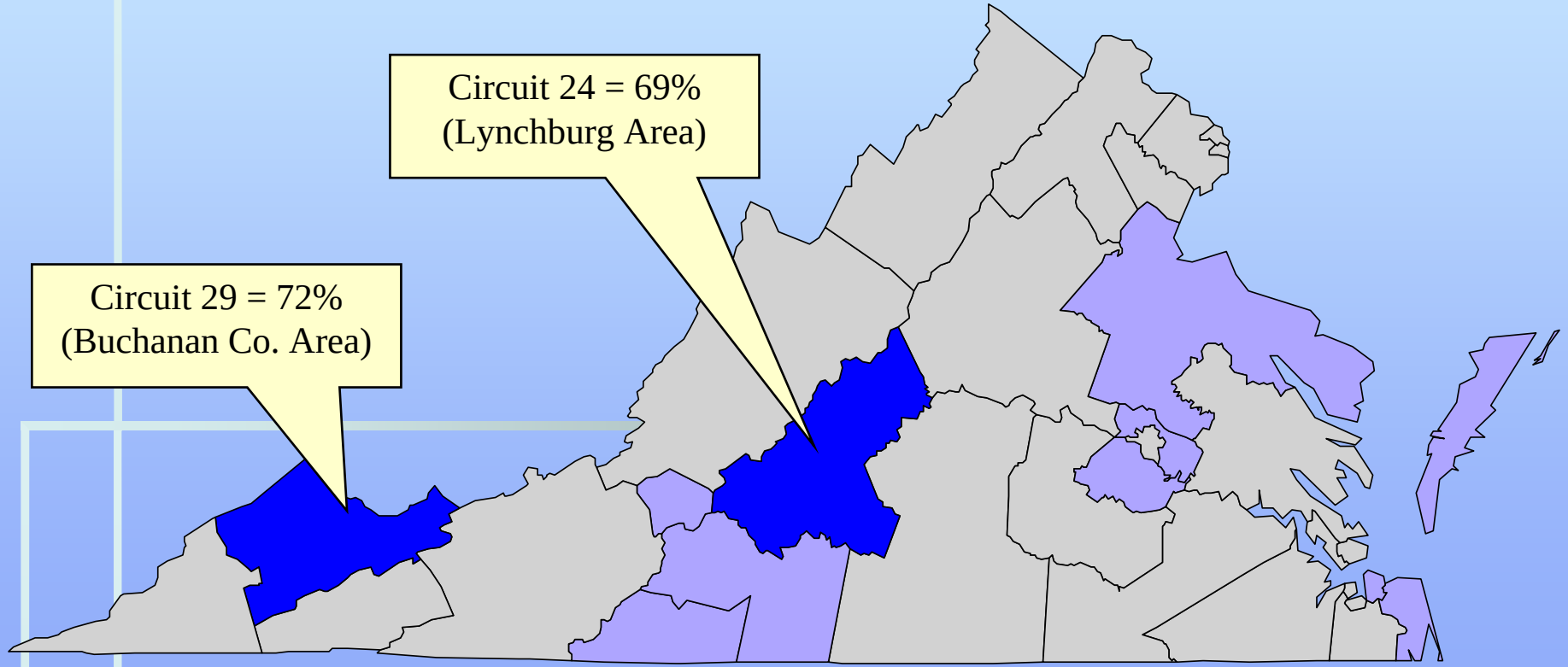
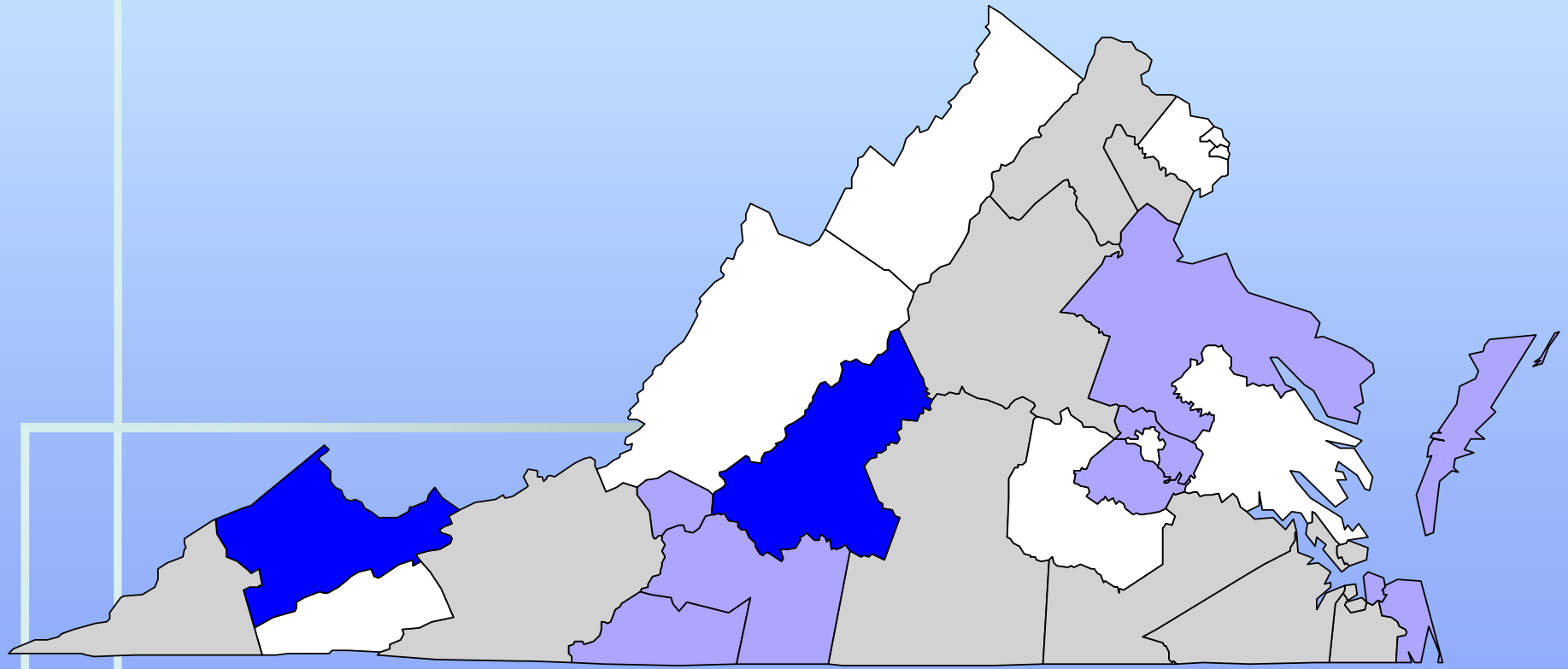
Judicial Concurrence by Circuit



Judicial Concurrence by Circuit



Judicial Concurrence by Circuit



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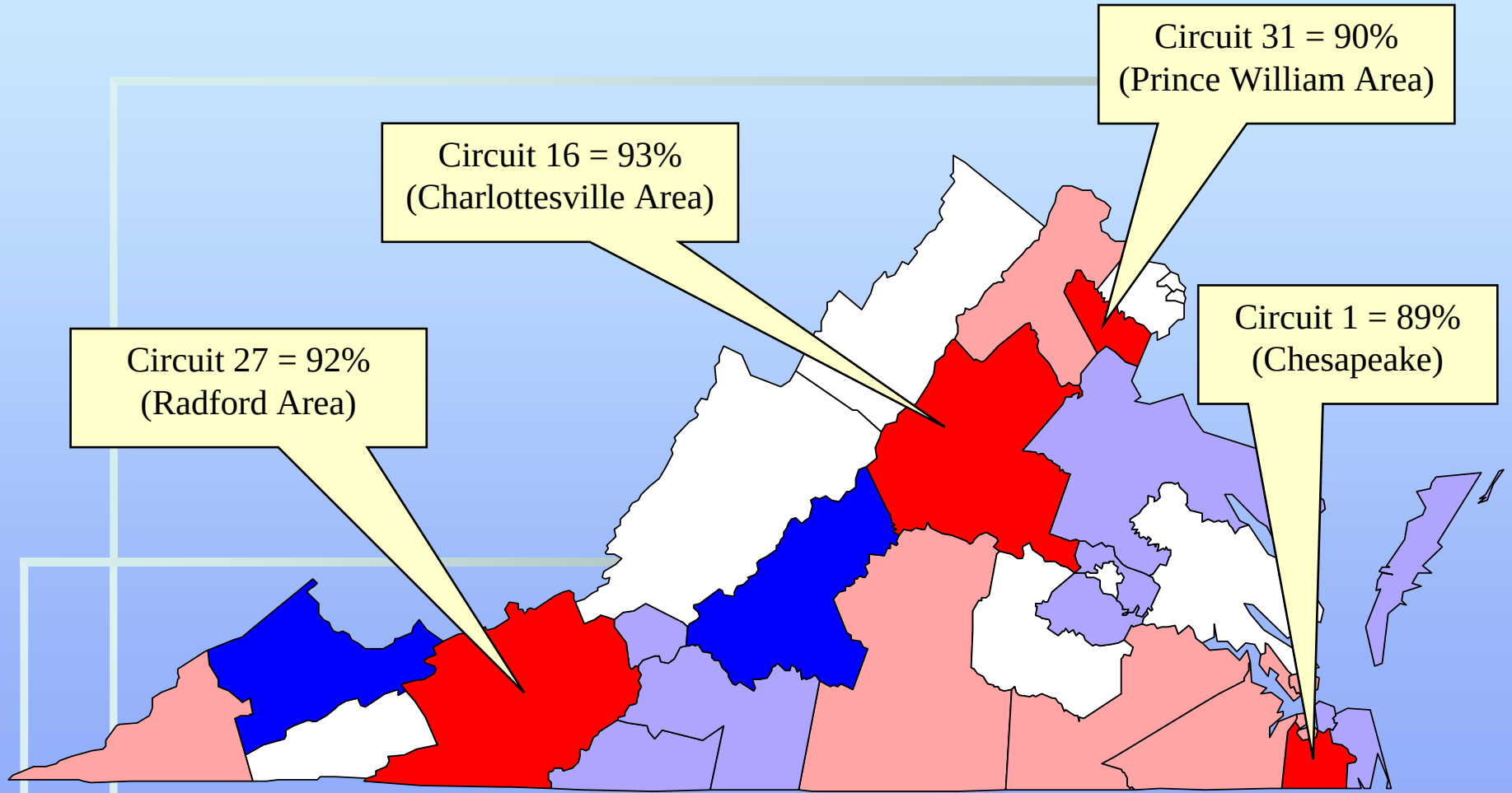
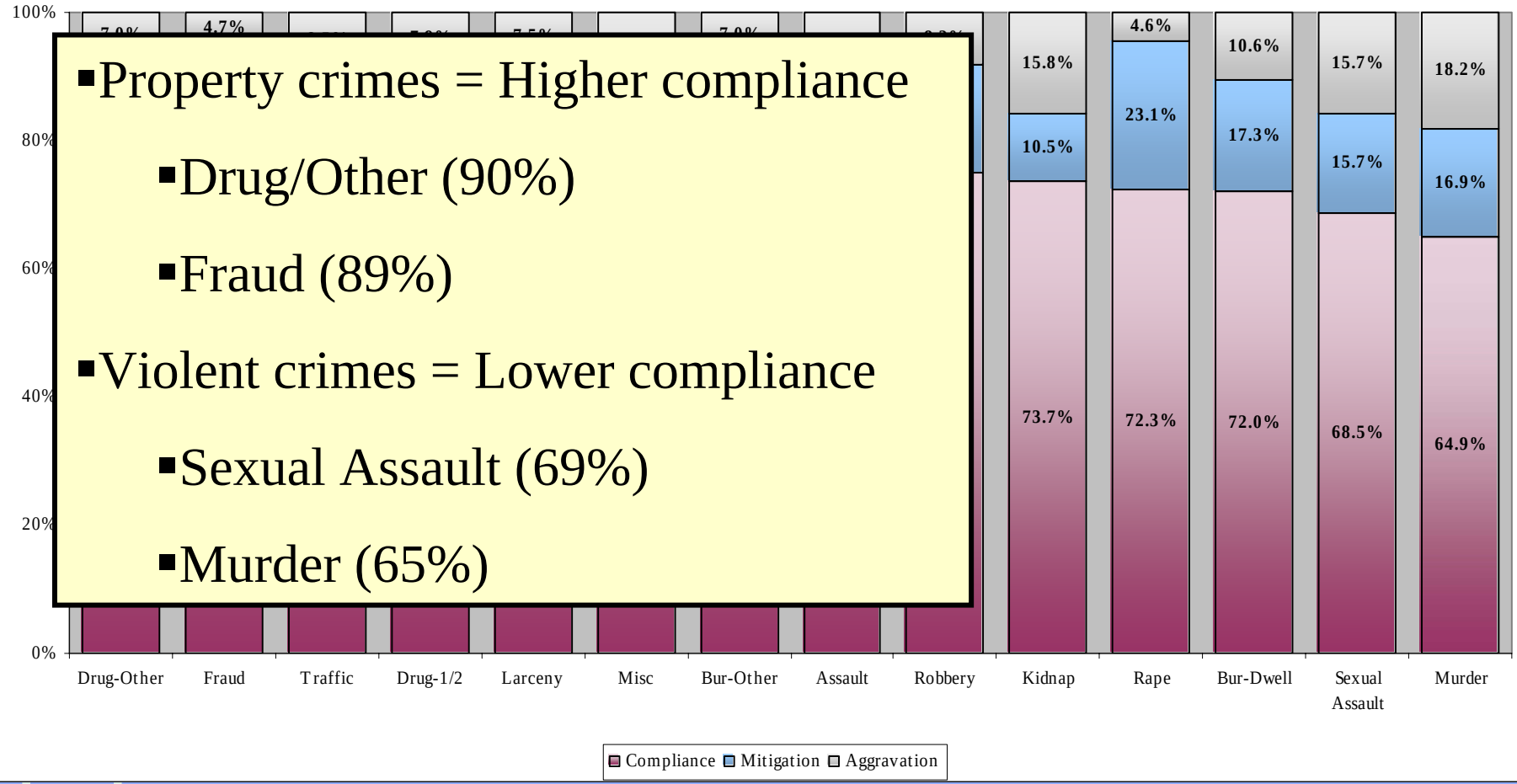


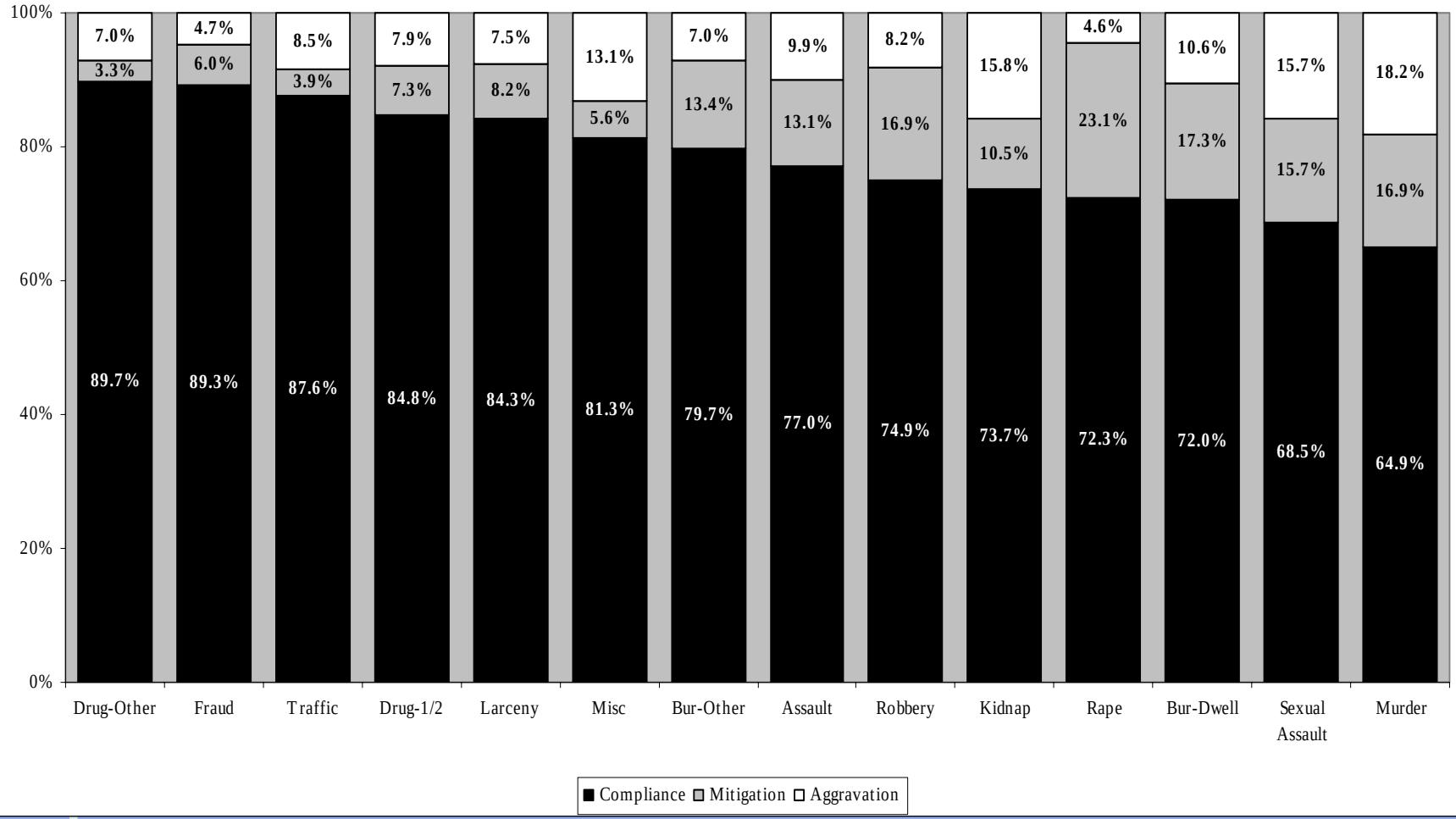
Compliance by Offense

Compliance by Offense
Preliminary FY05



- Property crimes = Higher compliance
  - Drug/Other (90%)
  - Fraud (89%)
- Violent crimes = Lower compliance
  - Sexual Assault (69%)
  - Murder (65%)

Compliance by Offense
Preliminary FY05



Nonviolent Risk Assessment

Nonviolent Risk Assessment

Nonviolent Risk Assessment — Section D

Offender Name: _____

◆ Ineligibility Conditions

A. Was the offender recommended for **Probation/No Incarceration** on Section B? ☐ Yes ☐ No

B. Do any of the offenses at sentencing involve the sale, distribution, or possession with intent, etc. of cocaine of a combined quantity of 28.35 grams (1 ounce) or more? ☐ Yes ☐ No

C. Are any prior record offenses violent (Category I/II listed in Table A of the Guidelines Manual)? ☐ Yes ☐ No

D. Are any of the offenses at sentencing violent (Category I/II listed in Table A of the Guidelines Manual)? ☐ Yes ☐ No

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

◆ Offense Type *Select the type of primary offense*

Drug 3
Fraud 3
Larceny 11

◆ Additional Offense(s) — If YES, add 5 → 0

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

A. Offender is a male ..... 8 ☐ +

B. Offender's age at time of offense ☐ +
Younger than 30 years 13
30 - 40 years 8
41 - 46 years 1
Older than 46 years 0

C. Offender not regularly employed ..... 9 ☐ +

D. Offender at least 26 years of age & never married ..... 6 ☐ = Enter A to D Total

◆ Arrest or Confinement Within Past 18 Months (prior to instant offenses) — If YES, add 6 → 0

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

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

0

◆ Prior Adult Incarcerations

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

0

Total Score

☐ 35 or less, check Recommended for Alternative Punishment.
☐ 36 or more, check NOT Recommended for Alternative Punishment.

Go to Cover Sheet and fill out Nonviolent Risk Assessment Recommendations.

Nonviolent Risk Assessment

Nonviolent Risk Assessment — Section D

Offender Name: _____

Ineligibility Conditions

A. Was the offender recommended for **Probation/No Incarceration** on Section B? ☐ Yes ☐ No

B. Do any of the offenses at sentencing involve the sale, distribution, or possession with intent, etc. of cocaine of a combined quantity of 28.35 grams (1 ounce) or more? ☐ Yes ☐ No

C. Are any prior record offenses violent (Category I/II listed in Table A of the Guidelines Manual)? ☐ Yes ☐ No

D. Are any of the offenses at sentencing violent (Category I/II listed in Table A of the Guidelines Manual)? ☐ Yes ☐ No

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

Offense Type *Select the type of primary offense*

Drug	3
Fraud	3
Larceny	11

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C.	Offender not regularly employed	9
D.	Offender at least 26 years of age & never married	6

Enter A to D Total

Arrest or Confinement Within Past 18 Months (prior to instant offenses) — If YES, add 6 → 0

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

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

Prior Adult Incarcerations

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

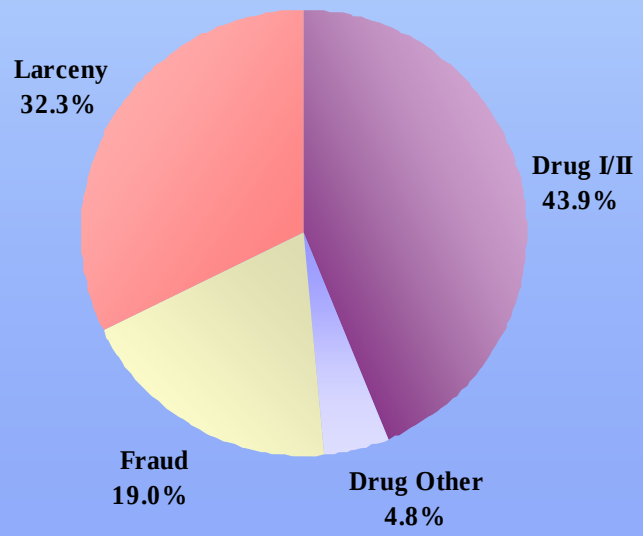
Total Score

☐ 35 or less, check Recommended for Alternative Punishment.
☐ 36 or more, check NOT Recommended for Alternative Punishment.

Go to Cover Sheet and fill out Nonviolent Risk Assessment Recommendations.

Nonviolent Risk Assessment
Preliminary FY05

- Statewide July 1, 2002
- Drug, Fraud, & Larceny
- Purpose: To recommend alternative sanctions for offenders who are statistically less likely to recidivate
  - Shorter jail sentence
  - Probation
  - Treatment Programs



Nonviolent Risk Assessment
Preliminary FY05

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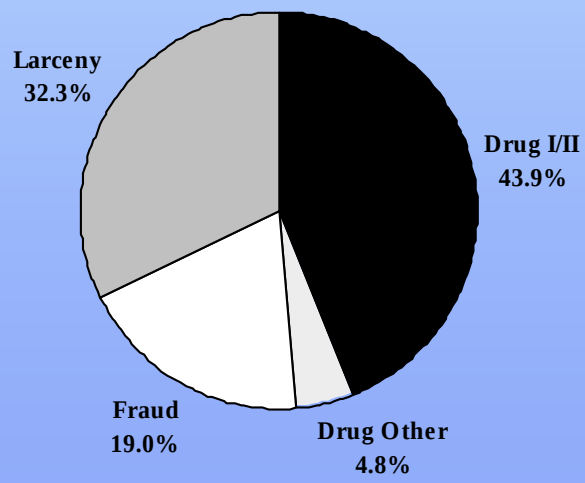

D. Offender at least 26 years of age & never married 6

= Total

◆ **Arrest or Confinement Within Past 18 Months** (prior to instant offenses) —— **If YES, add 6** → 0

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

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

0

◆ **Prior Adult Incarcerations**

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

0

Total Score

☐ 35 or less, check Recommended for Alternative Punishment.
☐ 36 or more, check NOT Recommended for Alternative Punishment.

Go to Cover Sheet and fill out Nonviolent Risk Assessment Recommendations.

D. Offender at least 26 years of age & never married 6

= Total

◆ **Arrest or Confinement Within Past 18 Months** (prior to instant offenses) —— **If YES, add 6** → 0

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

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

0

◆ **Prior Adult Incarcerations**

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

0

Total Score

38 or less = Recommended for Alternative Sanction

39 or more = NOT Recommended for Alternative Sanction

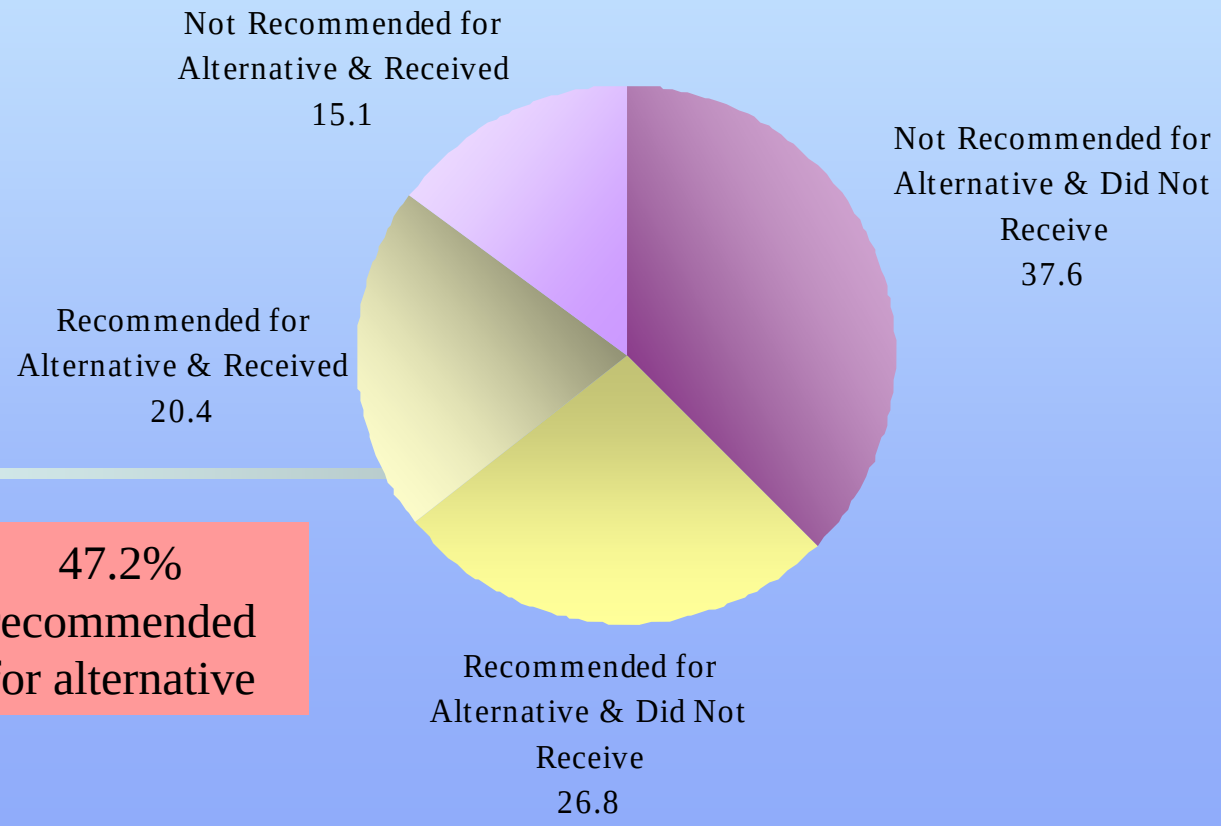
Drug Schedule I or II/ Section D Eff. 7-1-02

154 additional nonviolent offenders recommended for alternative sanction
(Scored between 36 and 38 points)

66 (42.9%) were actually sentenced to an alternative sanction

Nonviolent Risk Assessment
Preliminary FY05

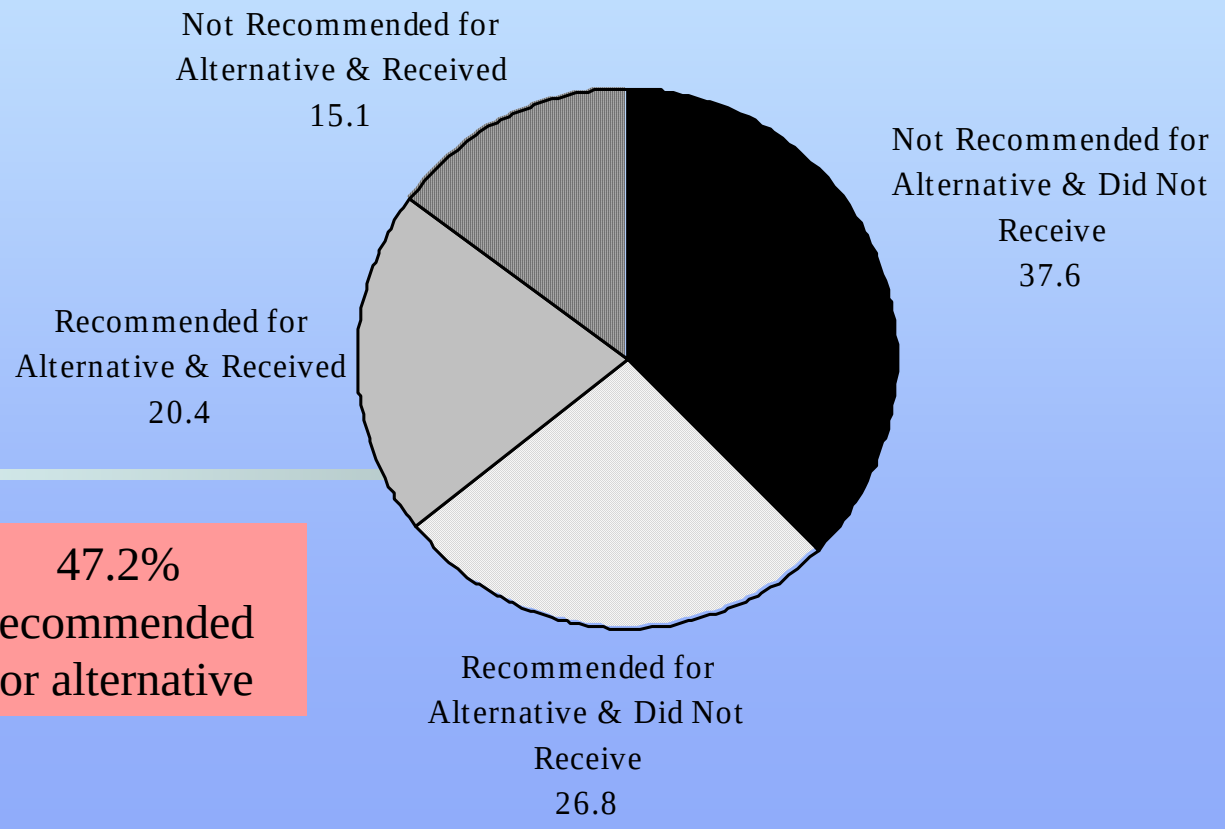
Eligible Risk Assessment Cases
Alternative Sanctions Recommended & Received



47.2% recommended for alternative

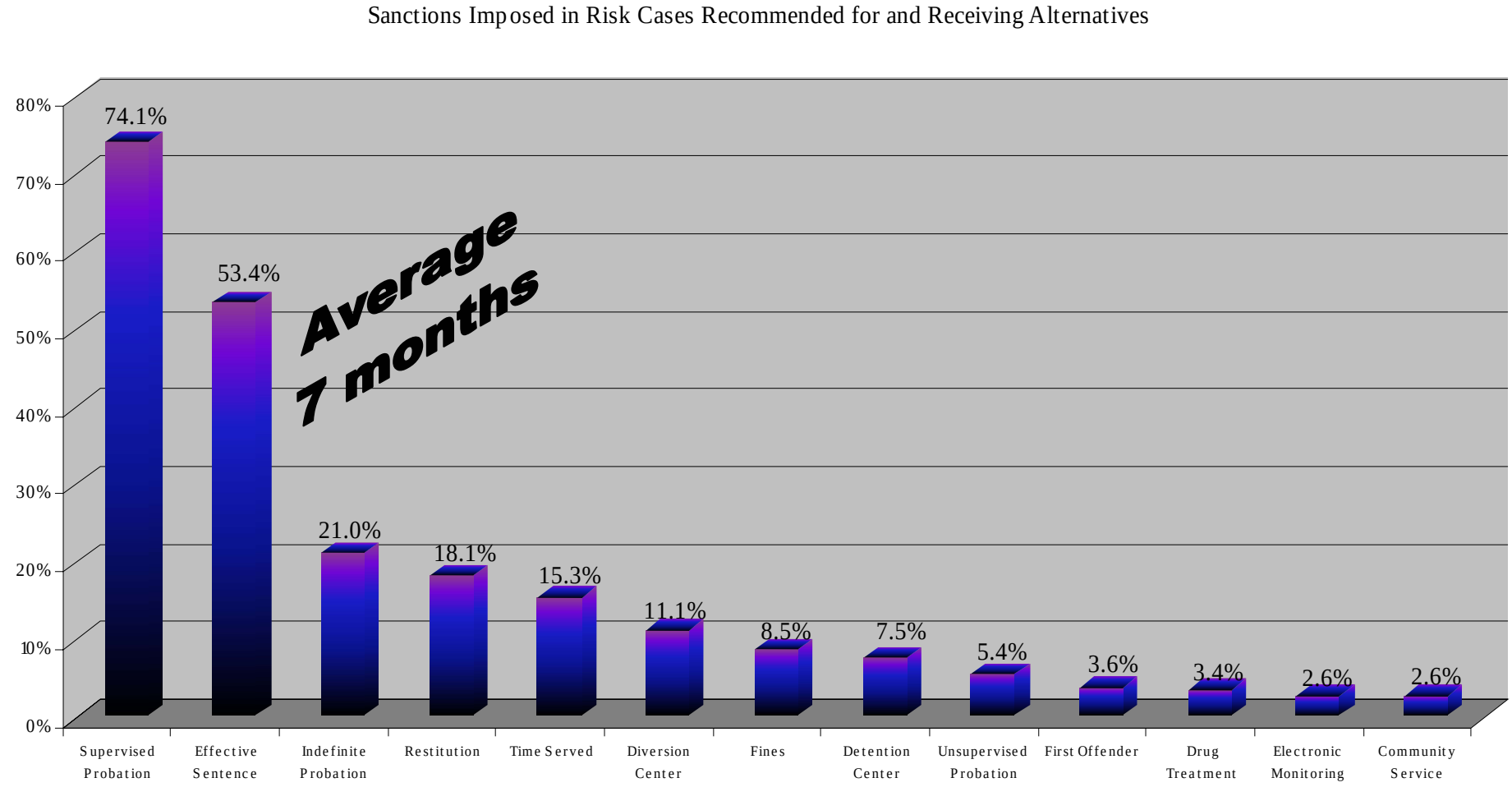
Nonviolent Risk Assessment
Preliminary FY05

Eligible Risk Assessment Cases
Alternative Sanctions Recommended & Received



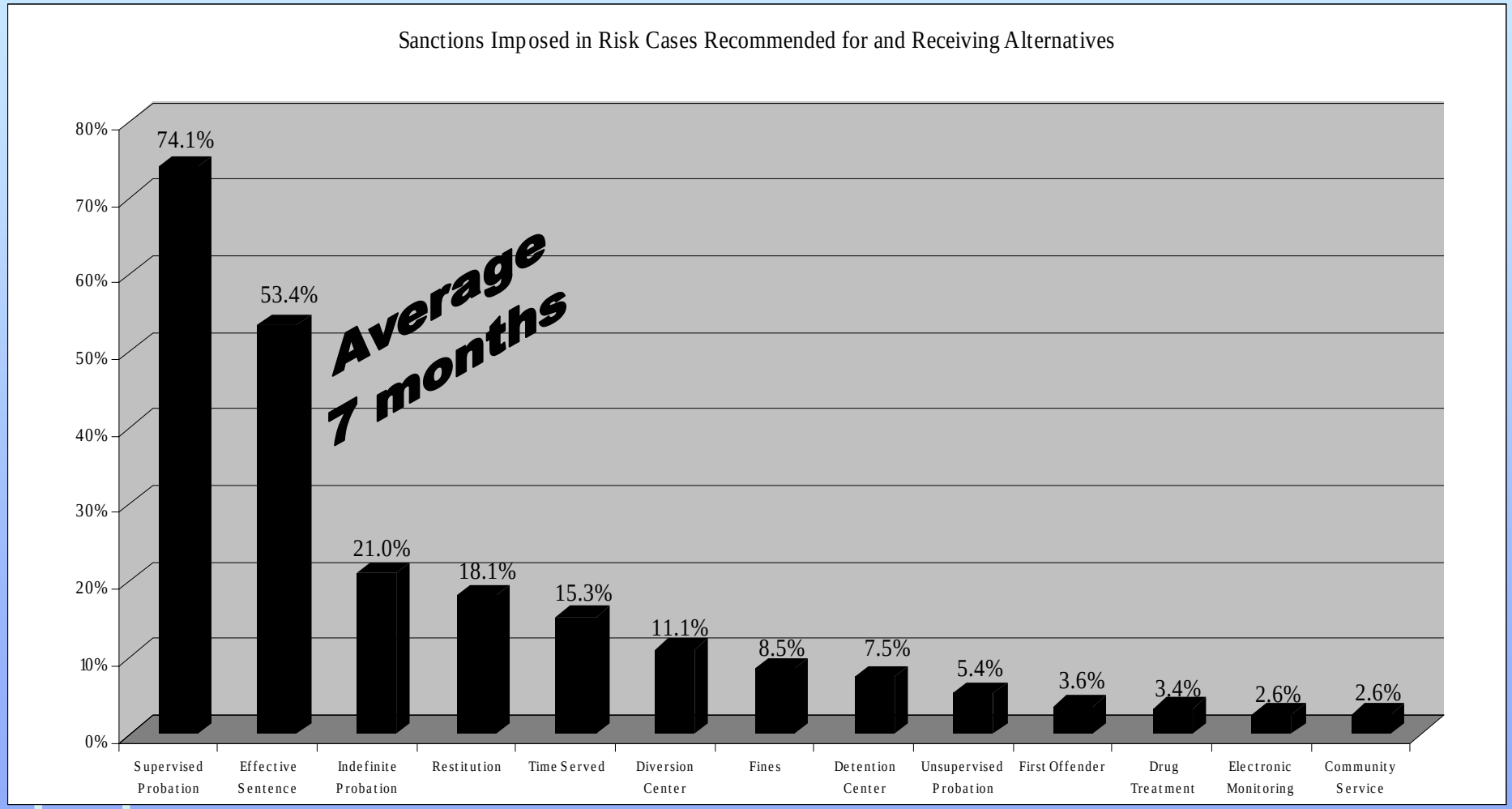
47.2% recommended for alternative

Nonviolent Risk Assessment



*Note: Percentages do not add to 100% because several sanctions may be imposed for any one individual.

Nonviolent Risk Assessment



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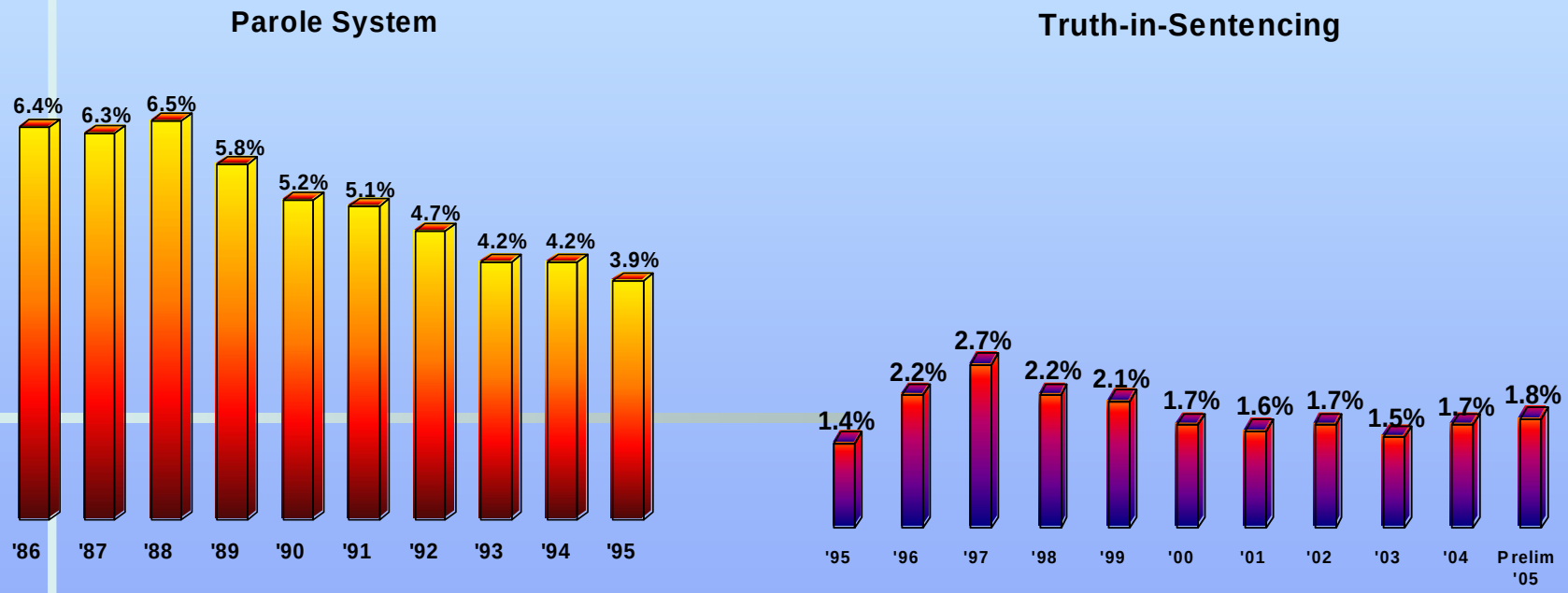
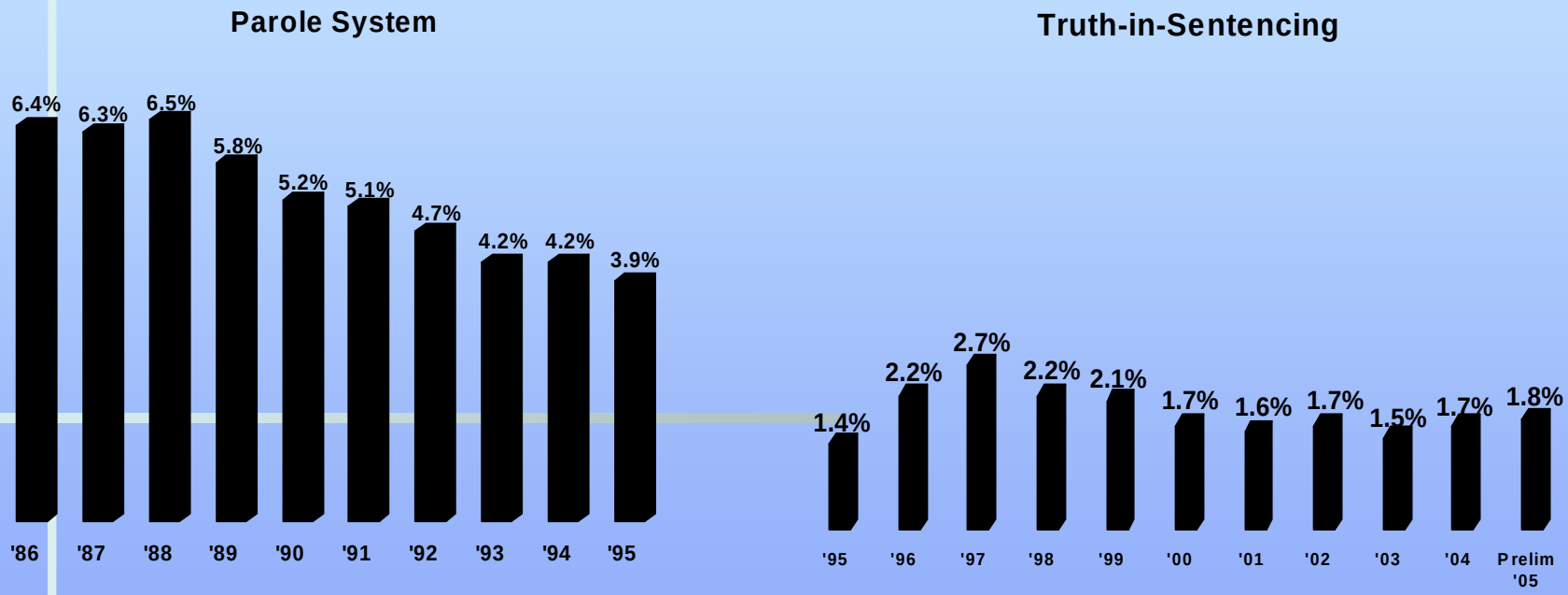
Jury Sentencing

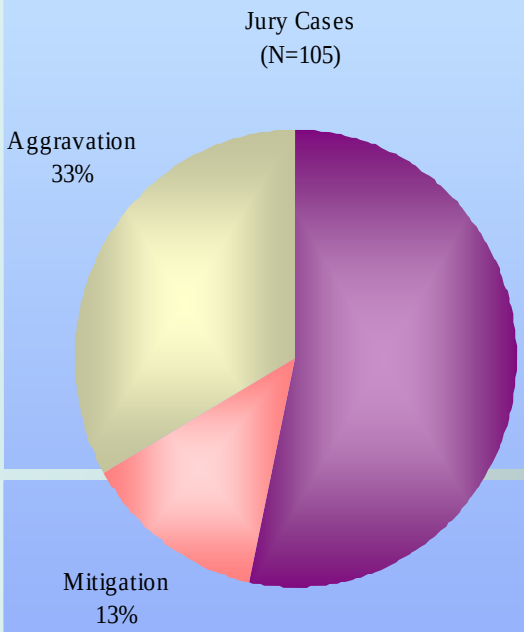
Jury Cases

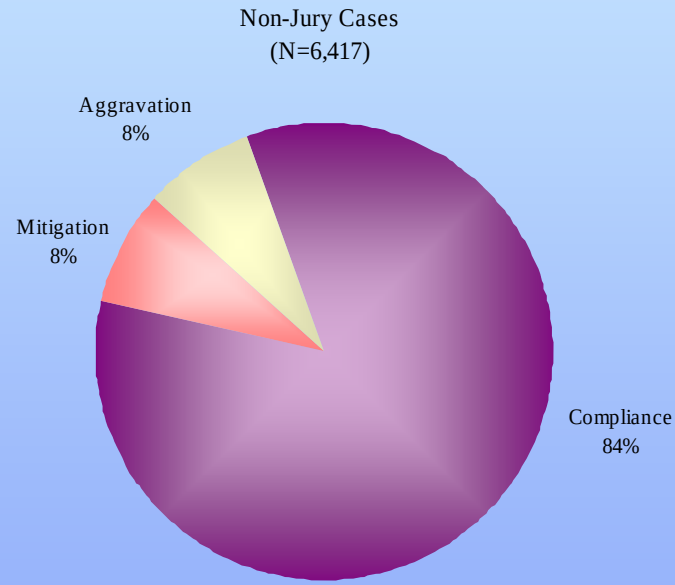

Parole System
6.4%
6.3%
6.5%
5.8%
5.2%
5.1%
4.7%
4.2%
4.2%
3.9%
'86
'87
'88
'89
'90
'91
'92
'93
'94
'95
Truth-in-Sentencing
1.4%
2.2%
2.7%
2.2%
2.1%
1.7%
1.6%
1.7%
1.5%
1.7%
1.8%
'95
'96
'97
'98
'99
'00
'01
'02
'03
'04
Prelim '05

Jury Cases

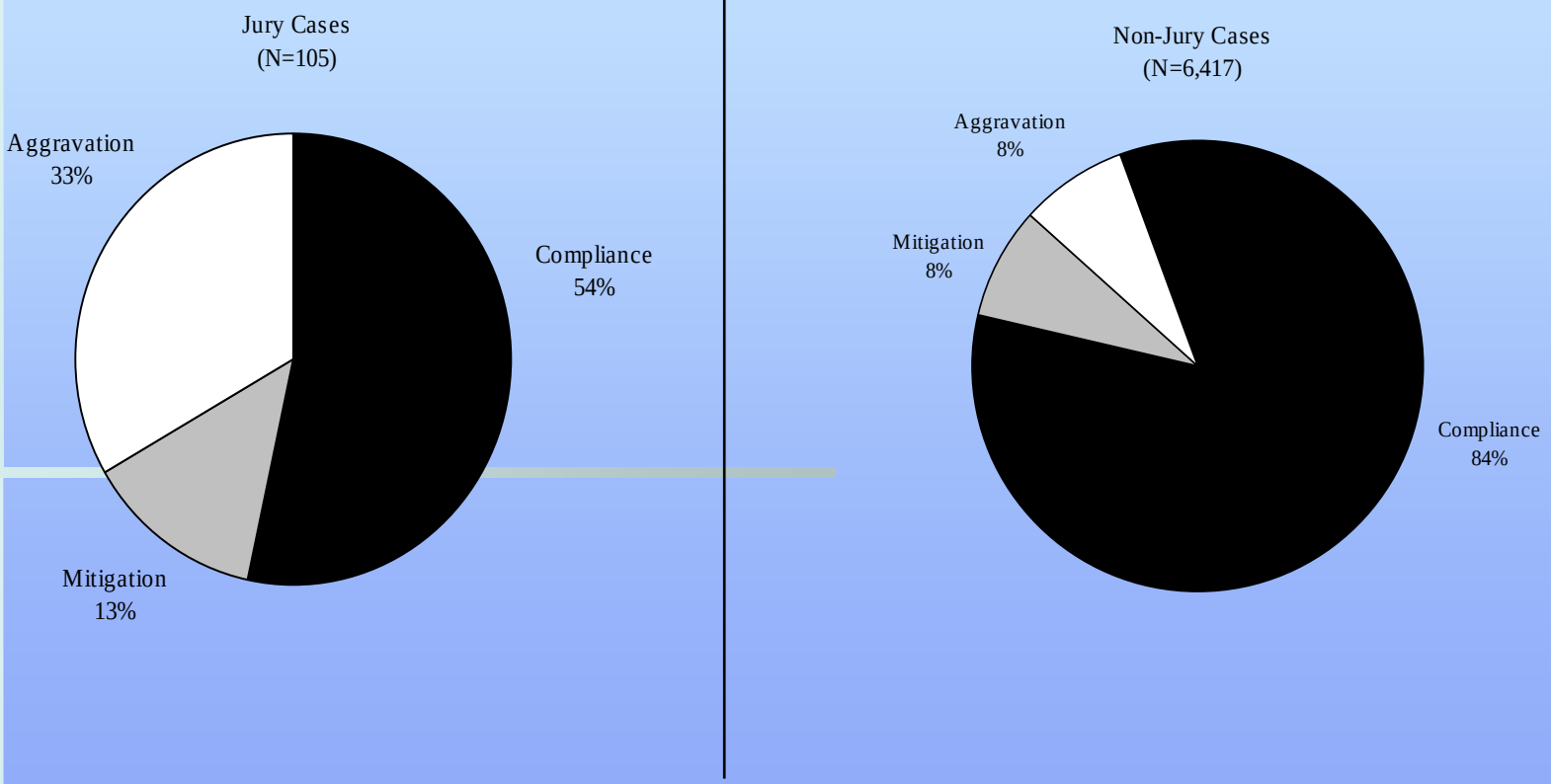

Parole System
6.4%
6.3%
6.5%
5.8%
5.2%
5.1%
4.7%
4.2%
4.2%
3.9%
'86
'87
'88
'89
'90
'91
'92
'93
'94
'95
Truth-in-Sentencing
1.4%
2.2%
2.7%
2.2%
2.1%
1.7%
1.6%
1.7%
1.5%
1.7%
1.8%
'95
'96
'97
'98
'99
'00
'01
'02
'03
'04
Prelim '05

Jury vs. Non-Jury Sentences
Preliminary FY05





Jury vs. Non-Jury Sentences
Preliminary FY05



Probation Violation Guidelines

Preliminary FY05

Probation Violation Guidelines

- Statewide July 1, 2004
- Supervised probation
  - Technical violations only
  - No new law violations during current supervision period
- All revocations of suspended sentence/probation through 2/14/05
  - 3,089 cases
  - 1,221 cases where guidelines applied and were completed

Probation Violation Guidelines

Probation Violation Guidelines — Section A

Offender Name: _____

The Probation Violation Guidelines apply if, at the time of the capias, warrant or revocation request, the offender was charged with violating the conditions of supervision but was not cited for a new conviction during the current supervision period.
Exception: Violation Guidelines do not apply if the probation/post-release violation will be sentenced at the same time as a new felony offense covered by the sentencing guidelines.

◆ **Original Felony Offense Type** *select the type of most serious original felony offense* — Score

A. Drug	10
B. Person	14
C. Traffic/Weapon	24
D. Other	0

◆ **Previous Capias/Revocation Requests** — Score

Number: 1	7
2 or more	9

0

◆ **New Felony Arrests** — Score

Number: 1 - 3	2
4 or more	16

◆ **Never Reported to following Programs/Unsuccessful Discharge from:** — If YES, add 13 →

Community service, Day Reporting, Detention and/or Diversion Center, Boot Camp, Employment and/or Residential programs

◆ **Condition(s) Violated:**

Score factors A to D and enter the total

A. Change residence or leave Commonwealth of Virginia without permission	0	+
B. Use, possess, distribute controlled substances or paraphernalia	16	+
C. Abscond from supervision	17	+
D. Any other condition(s) (except new conviction)	1	= Enter A to D Total

◆ **Time Absconded** — Score

Less than 6 months	0
6 months to 1 year	10
More than 1 year	17

Total Score →

If total is 30 or less, the recommendation is **Probation/No Incarceration.**
If total is 31 or more, go to **Section C Worksheet.**

Probation Violation Guidelines — Section C

Offender Name: _____

◆ **Original Felony Offense Type** *select the type of most serious original felony offense* — Score

A. DWI or Habitual Offender	3
B. Property	4
C. Drug	5
D. Person	13
E. Weapon	16
F. Other	1

◆ **Previous Adult Probation Revocations** — Score

Number: 1 - 2	4
3 or more	16

◆ **New Arrests for Crimes Against Person** — Score

Number: 0	0
1	4
2	15
3 - 4	30
5 or more	38

◆ **New Arrests for Nonperson Crimes** — Score

Number: 0 - 1	0
2	9
3 - 4	12
5 or more	19

◆ **Months until First Noncompliant Incident** — Score

10 months or less	28
More than 10 months to 22 months	22
More than 22 months	0

◆ **Unsuccessful Discharge from Detention Center Program** — If YES, add 30 →

◆ **Never Reported to Drug Treatment/Drug Education Program** — Score

Number: 1 - 2	9
3 or more	16

◆ **Positive Drug Test (not marijuana or alcohol)** — If YES, add 10 →

◆ **Violate Sex Offender Restrictions** — If YES, add 40 →

◆ **Time Absconded** — Score

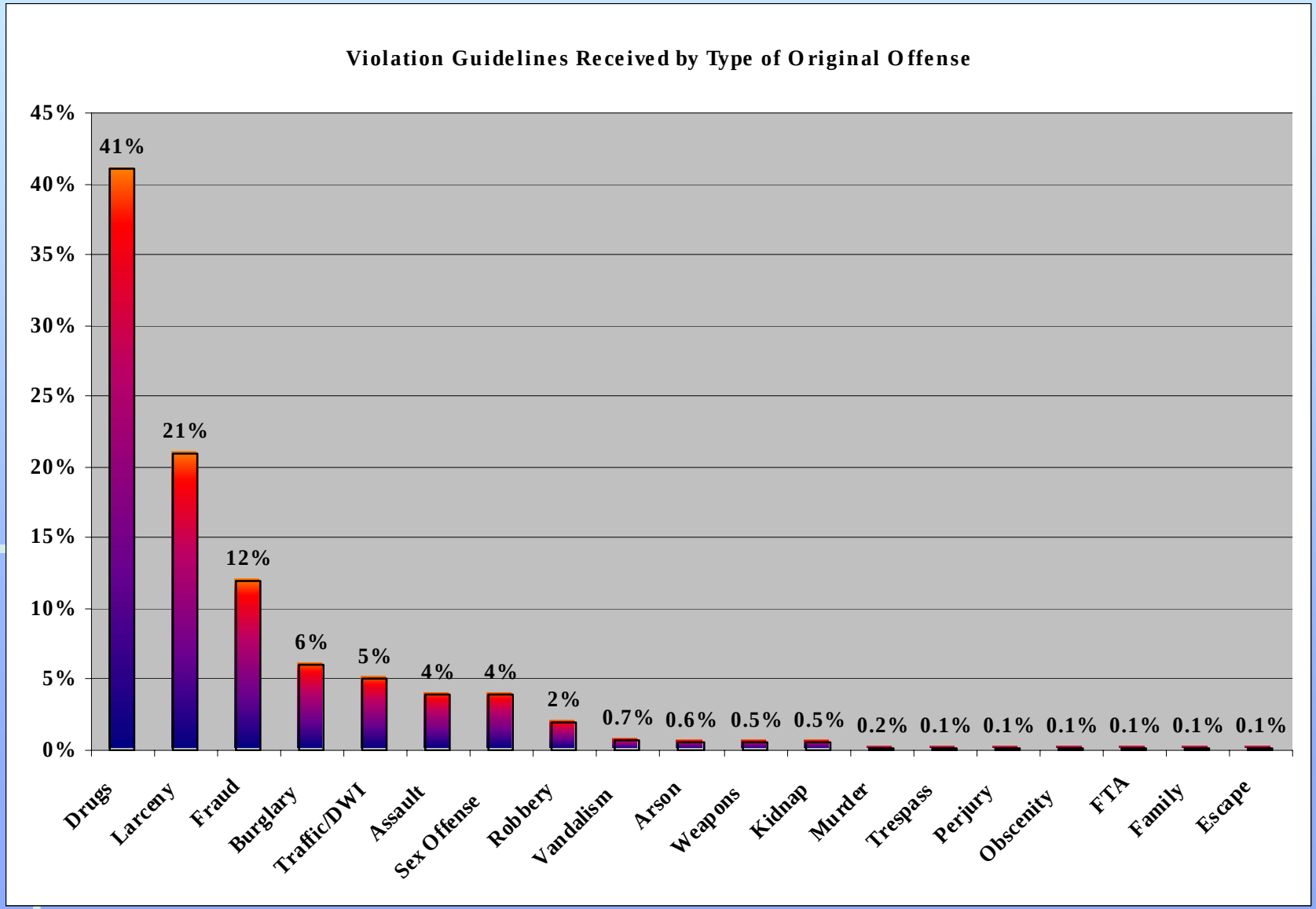
2 months or less	0
More than 2 months to 24 months	9
More than 24 months	12

Total Score →

See Probation Violation Guidelines Section C Recommendation Table for guidelines sentence range.

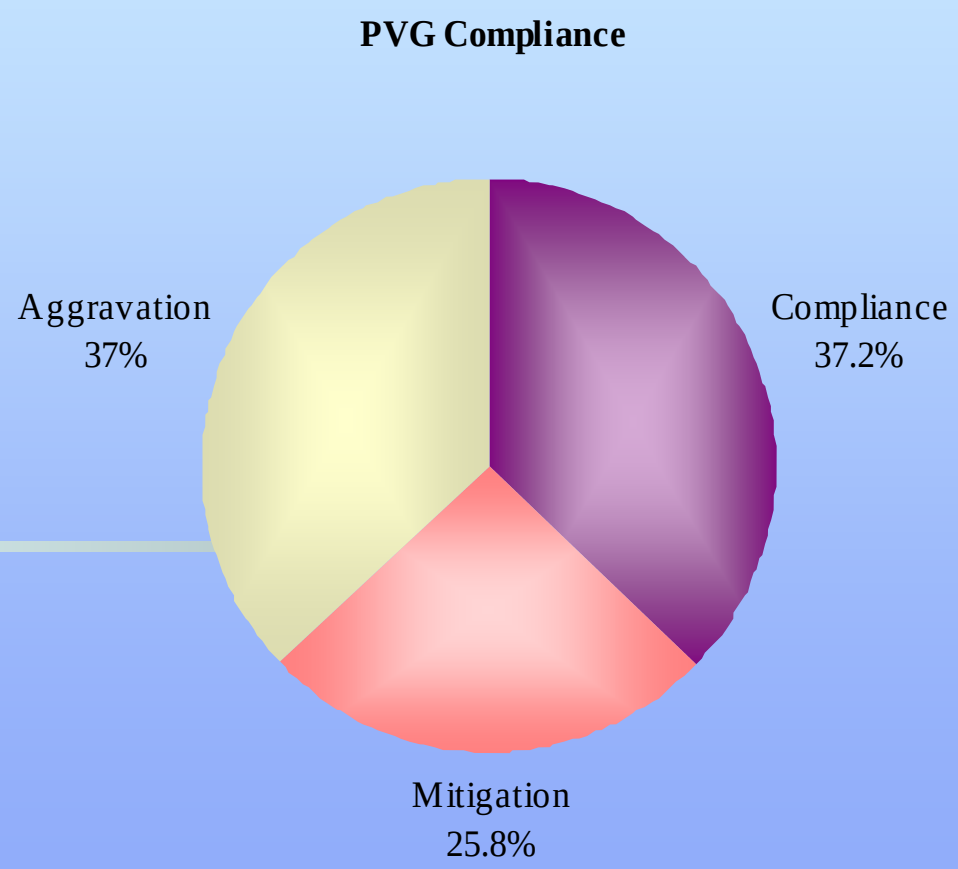
Probation Violation Guidelines

1,221 applicable cases as of 2/14/05



Probation Violation Guidelines

1,221 applicable cases as of 2/14/05



Probation Violation Guidelines

1,221 applicable cases as of 2/14/05

Dispositional Compliance:

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

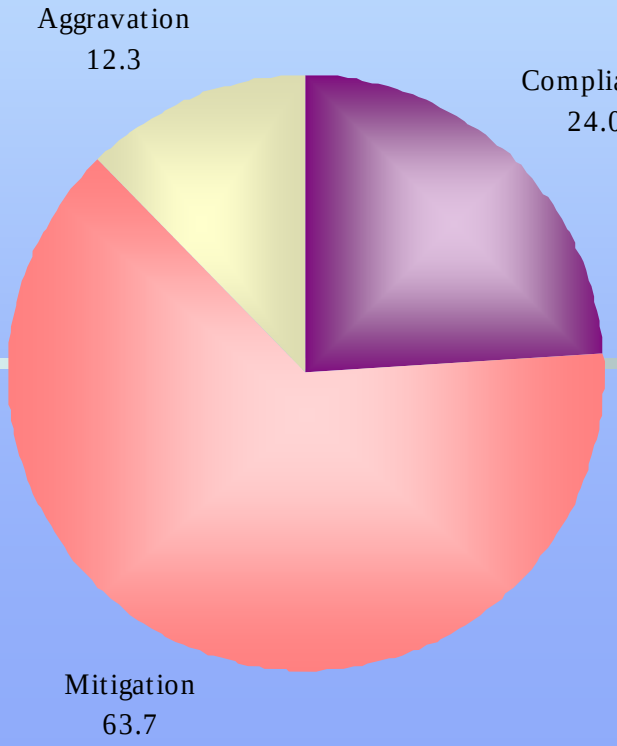
Recommended Disposition	Actual Disposition Received		
	Probation	***Jail <= 12m***	***Prison >= 1y***
Probation	34.1	56.9	9.0
Jail <= 12m	12.4	77.6	9.9
Prison >=1y	8.8	53.0	38.2

Probation Violation Guidelines

1,221 applicable cases as of 2/14/05

Durational compliance:

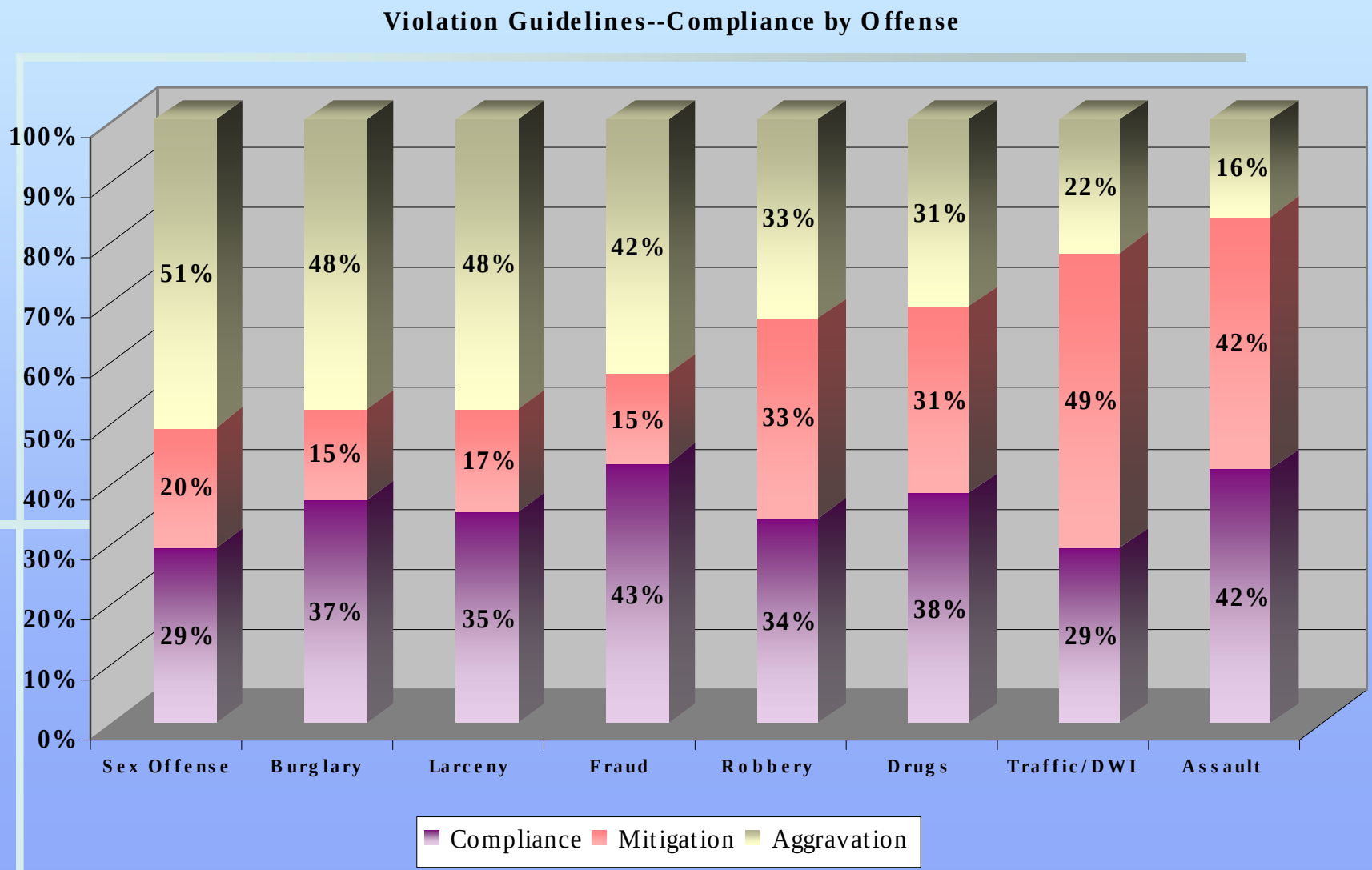
The degree to which judges agree with the sentence length recommended in jail and prison cases.



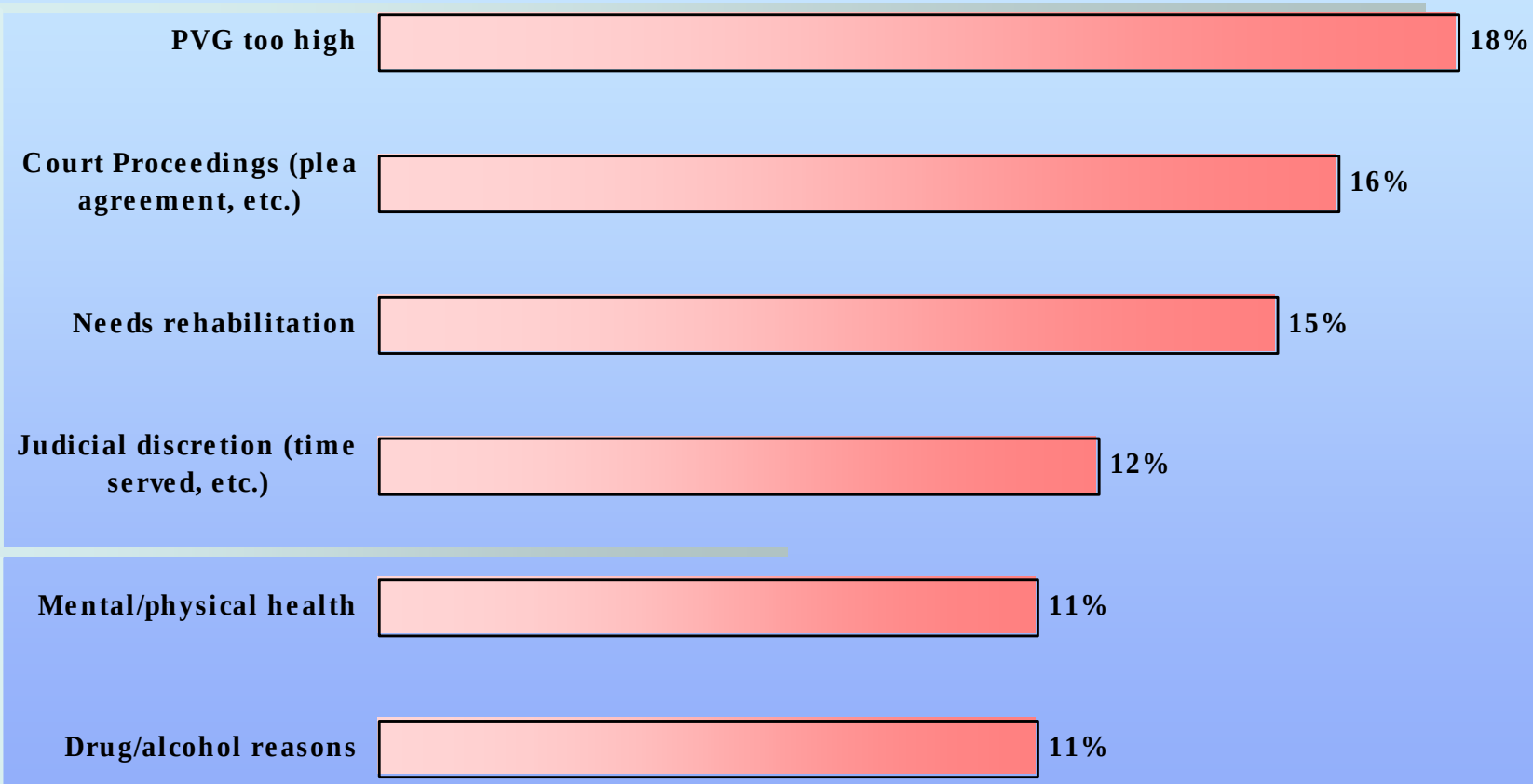
- Cases recommended for probation that went above guidelines were sentenced to an average (median) sentence of 6 months.
- When guidelines recommend incarceration but judge sentences individual to:
  - More stringent penalty = 9 mos avg
  - Less stringent penalty = 5 mos avg

Probation Violation Guidelines

1,221 applicable cases as of 2/14/05

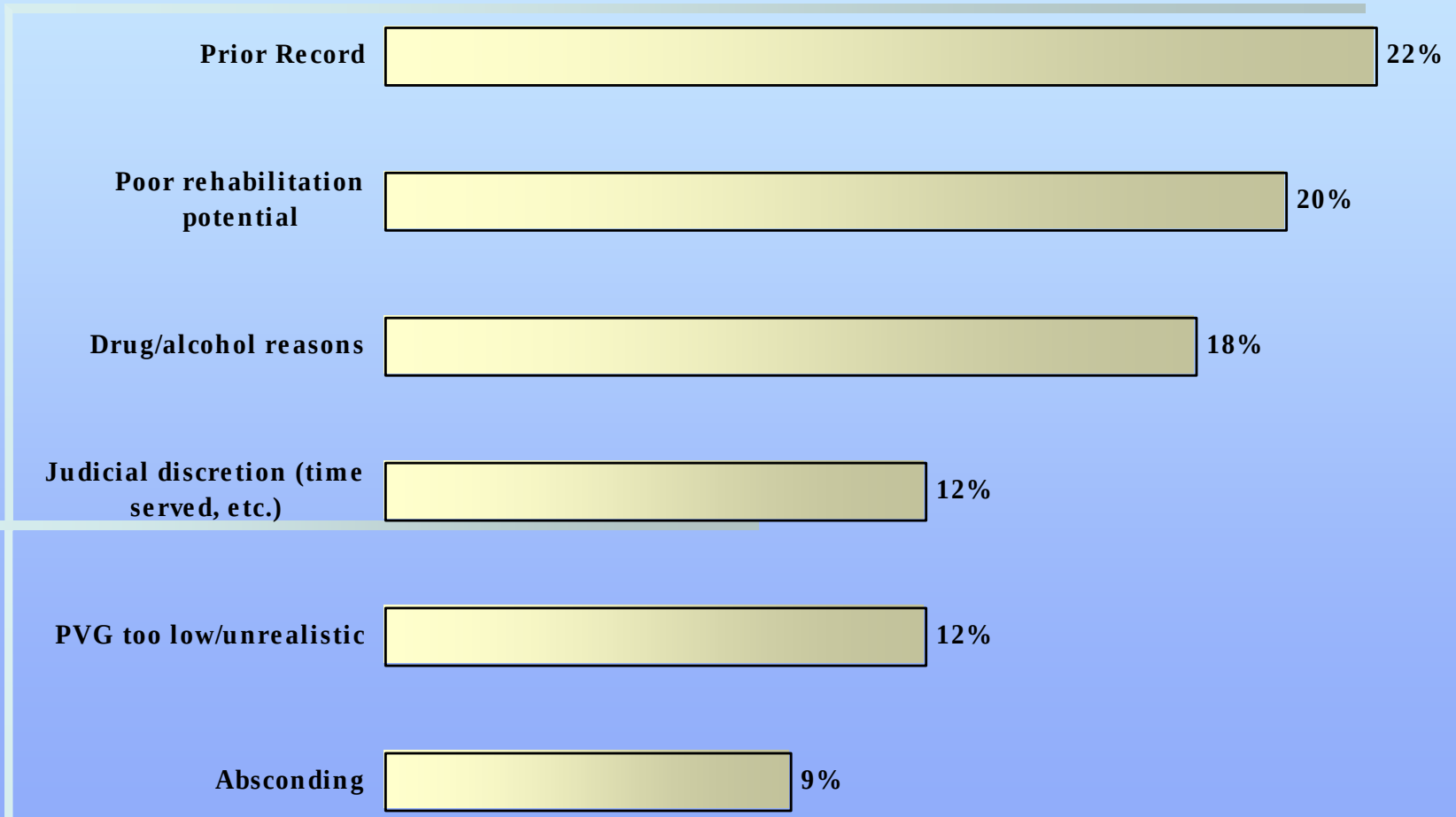


Mitigation – Departure Reasons* (25.8%)



**50% of mitigating cases have no departure reason cited. Percentages are based on the number of mitigating cases for which reasons were provided.*

Aggravations – Departure Reasons* (37%)



*64% of aggravating cases have no departure reason cited. Percentages are based on the number of aggravating cases for which reasons were provided.