

# Virginia Criminal Sentencing Commission



**Dr. Rick Kern, Director**

# Virginia Criminal Sentencing Commission

**Appointed by the Chief Justice of the Supreme Court  
and Confirmed by the General Assembly**  
Judge F. Bruce Bach, Chairman, Fairfax County

## **Appointments by the Chief Justice of the Supreme Court**

Judge Robert J. Humphreys, Vice Chair, Virginia Beach  
Judge Joanne F. Alper, Arlington  
Judge Junius P. Fulton, Norfolk  
Judge Lee A. Harris, Jr., Henrico  
Judge Dennis L. Hupp, Woodstock  
Judge Larry B. Kirksey, Bristol

## **Attorney General**

**The Honorable Bob McDonnell**  
(Martin L. Kent, Attorney General's Representative )

## **Senate Appointments**

Eric J. Finkbeiner, Richmond  
Senator Henry L. Marsh, III, Richmond

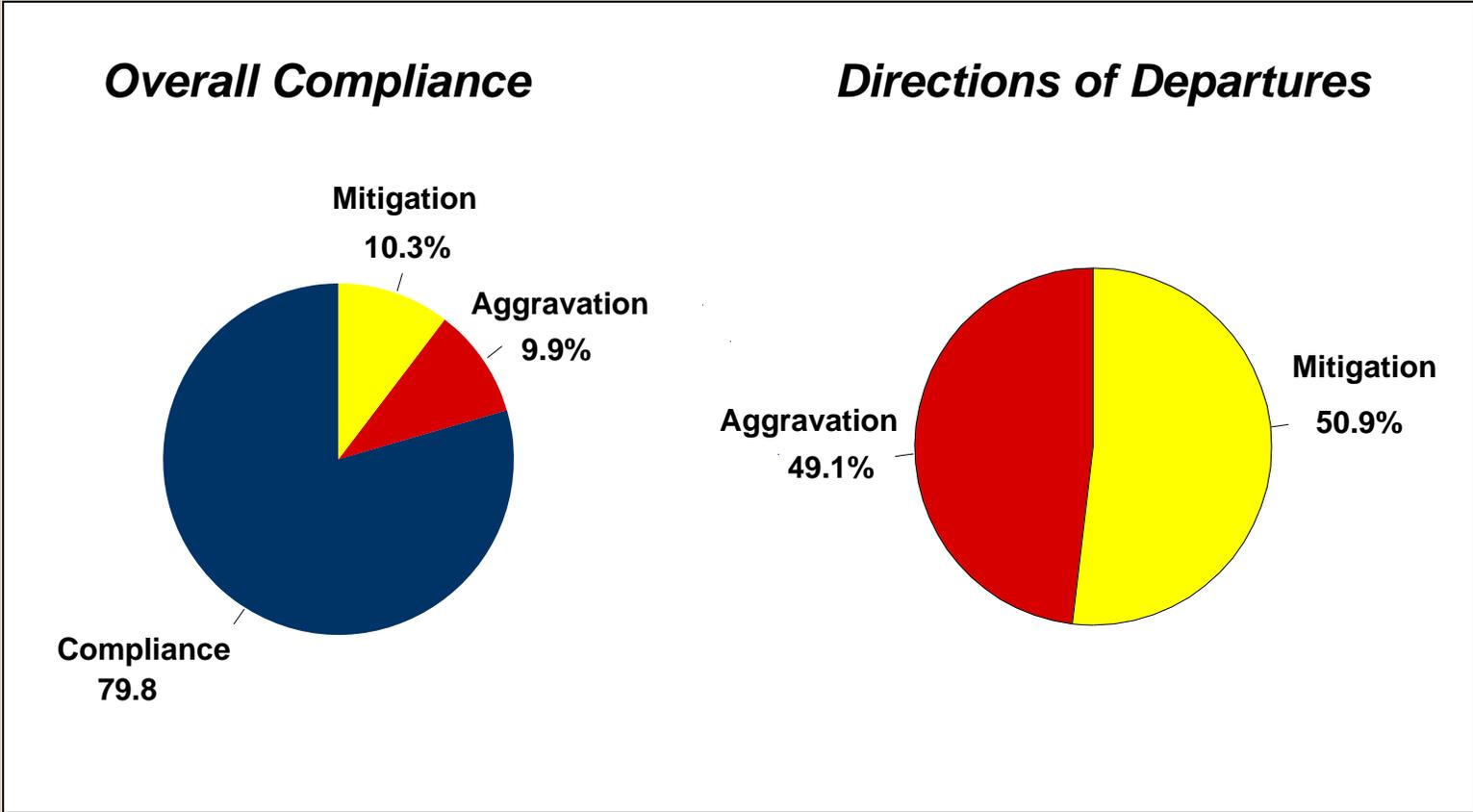
## **House of Delegates Appointments**

**The Honorable Linda D. Curtis**, Hampton  
**Delegate C. Todd Gilbert**, Woodstock  
**Douglas L. Guynn**, Harrisonburg

## **Governor's Appointments**

**Francine L. Horne**, Richmond  
**Robert C. Hagan, Jr.**, Daleville  
**Andrew M. Sacks**, Norfolk  
**The Honorable John R. Doyle, III**, Norfolk

# Sentencing Guidelines Compliance



**FY2008**  
**Number of Cases = 26,418**

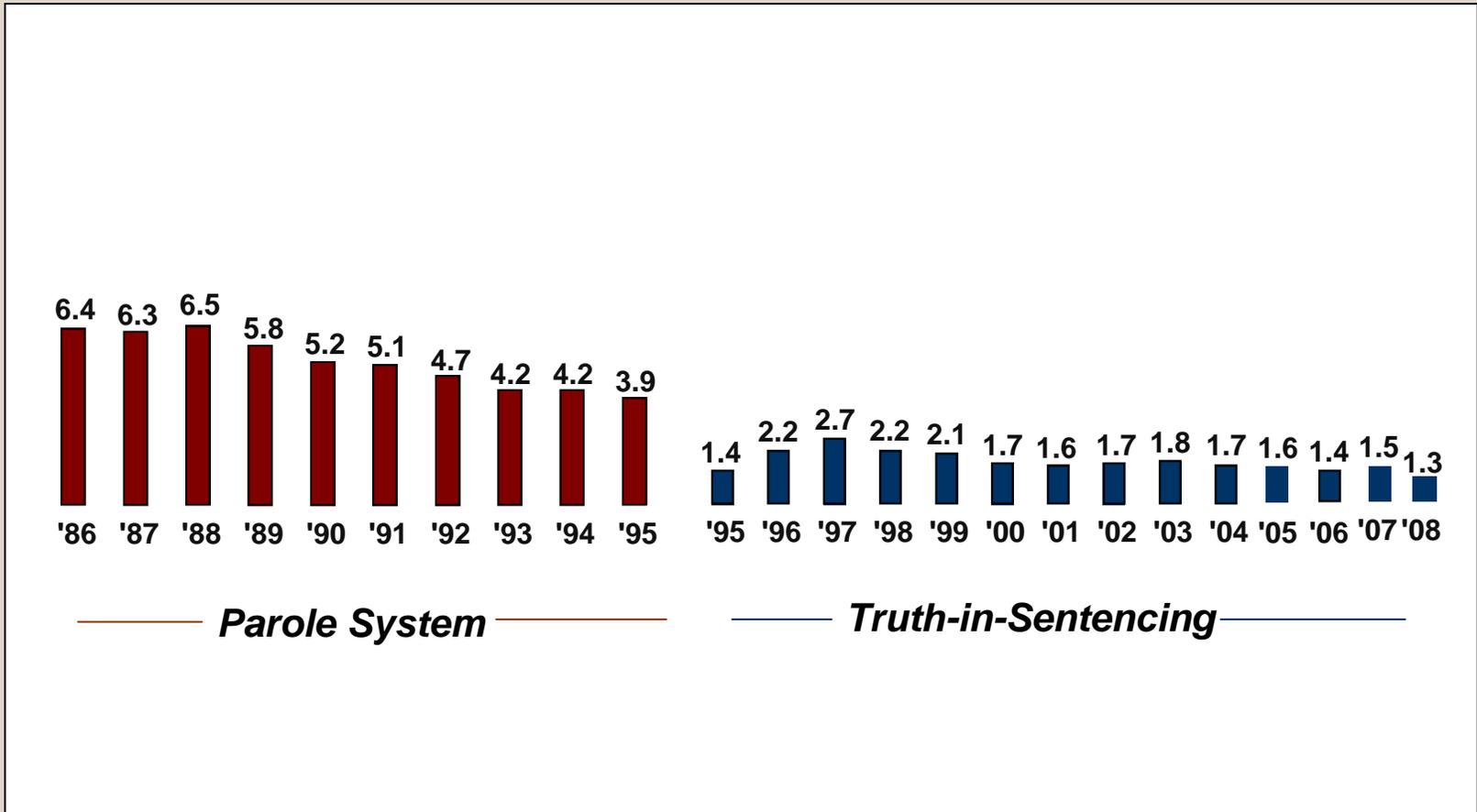
## Guidelines Compliance by Circuit

Circuit Name	Circuit	Compliance	Mitigation	Aggravation	Total
Radford Area	27	88.9	7.1	3.9	941
Newport News	7	86.4	6.7	6.9	881
Prince William Area	31	86.4	8.7	5.0	646
Hampton	8	86.4	8.0	5.6	733
Bristol Area	28	85.6	7.8	6.6	590
Chesapeake	1	82.6	7.8	9.6	1,010
Virginia Beach	2	82.3	8.8	8.9	1,736
South Boston Area	10	82.2	11.4	6.4	704
Staunton Area	25	81.6	10.2	8.2	962
Arlington Area	17	81.3	5.1	13.6	507
Loudoun Area	20	81.2	5.2	13.5	458
Fairfax	19	81.1	8.8	10.2	1,103
Petersburg Area	11	80.9	9.7	9.4	414
Henrico	14	80.7	12.4	6.9	1,236
Martinsville Area	21	80.5	15.3	4.1	365
Harrisonburg Area	26	80.3	11.7	8.0	1,182
Norfolk	4	79.7	12.4	7.8	1,609
Danville Area	22	78.6	6.7	14.8	630
Suffolk Area	5	78.4	6.9	14.7	612
Chesterfield Area	12	77.9	8.2	13.9	988
Roanoke Area	23	77.4	14.0	8.6	909
Richmond City	13	77.0	15.9	7.0	1,675
Charlottesville Area	16	76.9	9.3	13.7	642
Portsmouth	3	76.8	11.3	11.9	917
Lee Area	30	76.8	8.1	15.2	297
Alexandria	18	76.3	18.0	5.7	334
Lynchburg Area	24	76.0	13.6	10.5	1,011
Sussex Area	6	74.3	11.9	13.8	536
Williamsburg Area	9	73.8	8.6	17.7	560
Fredericksburg Area	15	73.5	11.7	14.9	1,639
Buchanan Area	29	72.9	5.8	21.3	591

- Over half (16) of the state's 31 circuits exhibited compliance rates above 80%.

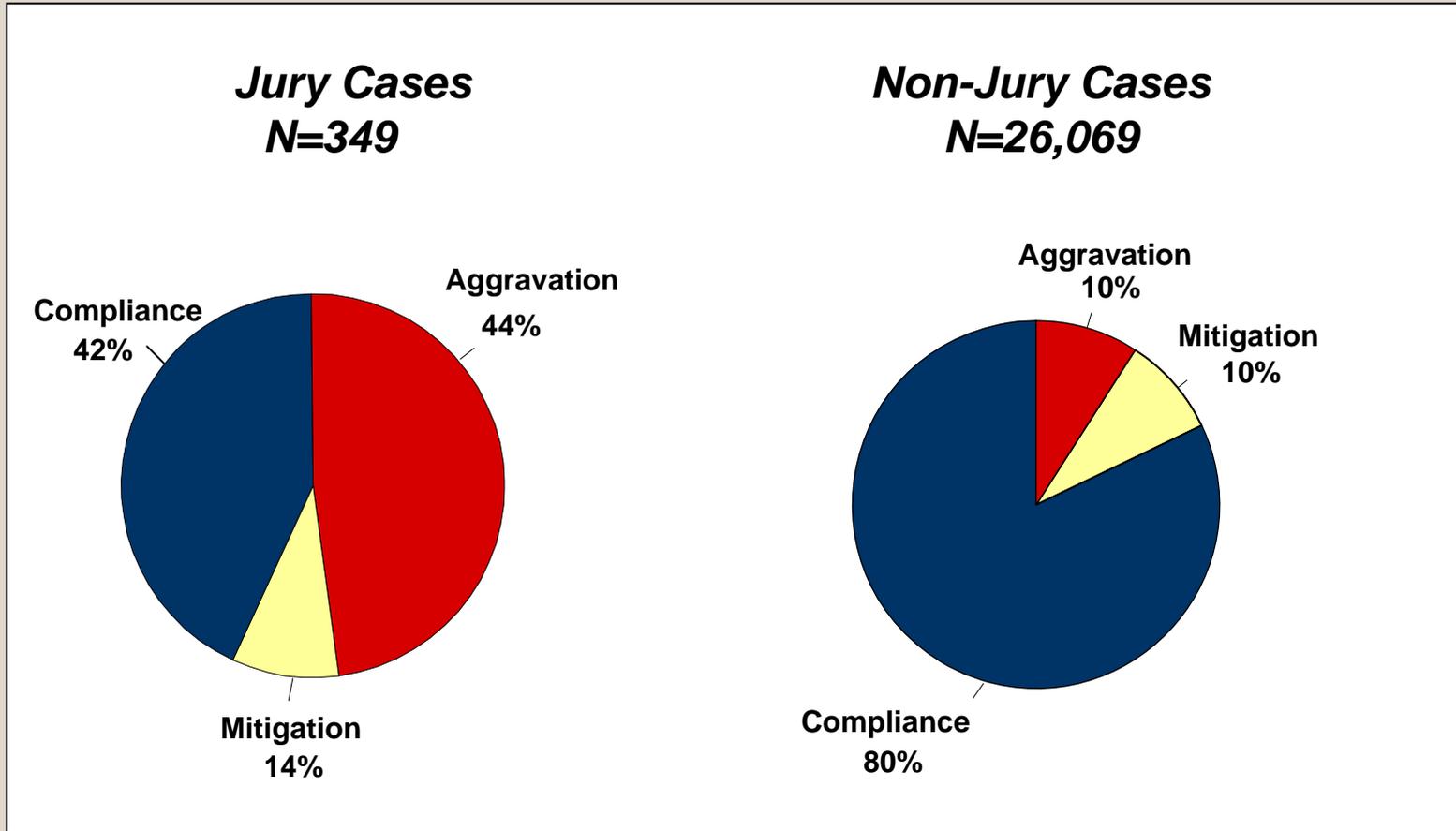
- Fifteen circuits reported compliance rates between 70 and 79%.

## Percent of Felony Convictions Adjudicated by Juries Parole v. Truth-in-Sentencing System



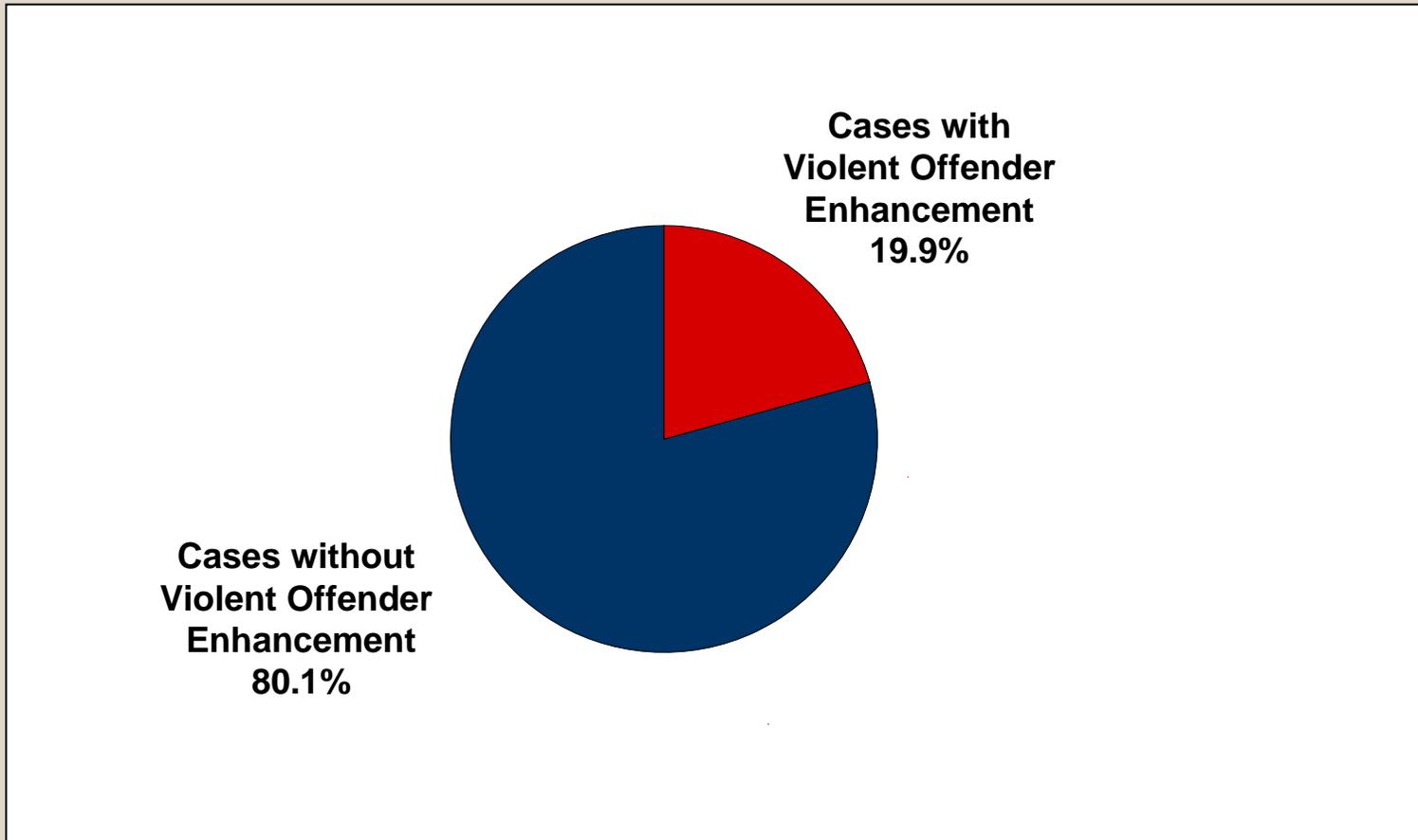
FY1986 – FY2008

# Compliance in Jury Cases and Non-Jury Cases



**FY2008**  
**Number of Cases = 26,418**

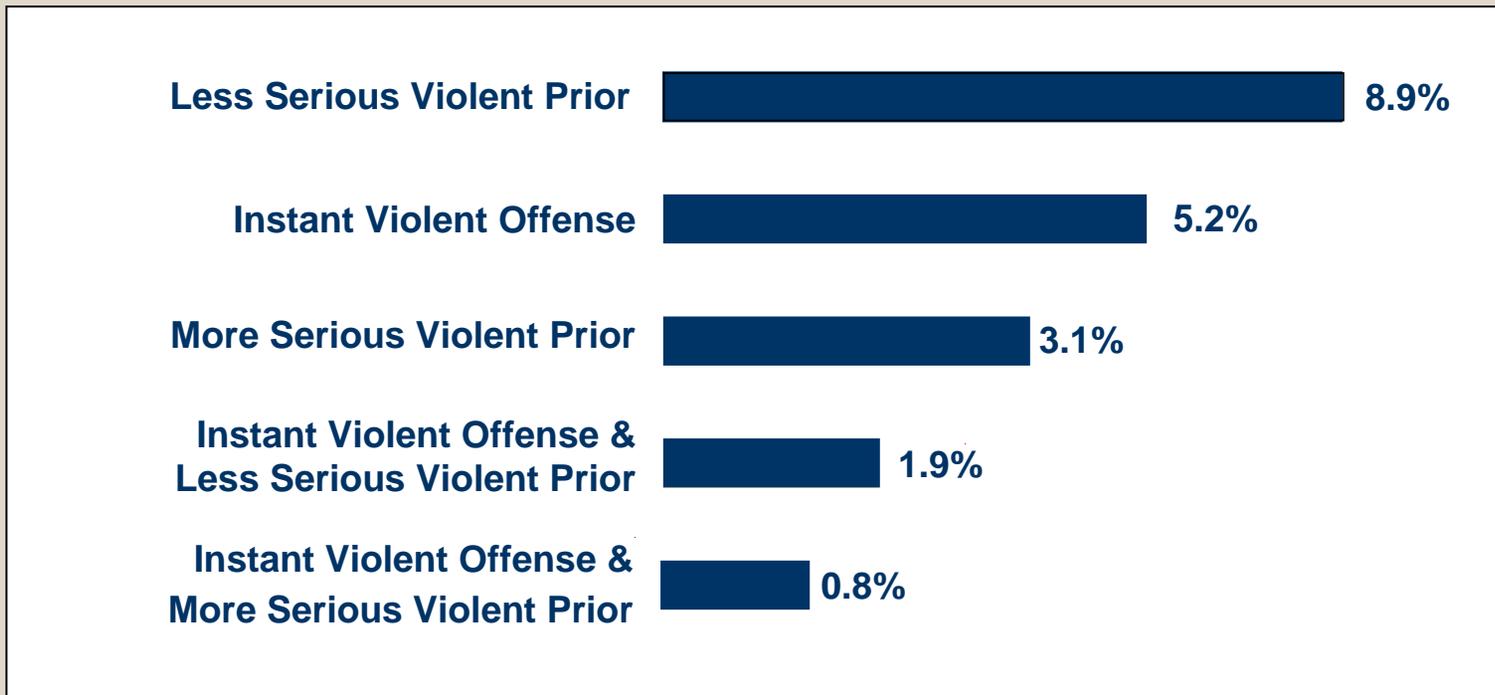
## Percentage of Sentencing Guidelines Violent Offender Enhancement Cases (as defined by § 17.1-805)



**FY2008**

**Number of Cases = 26,418**

## Type of Sentencing Guidelines Violent Offender Enhancements (as defined by § 17.1-805)

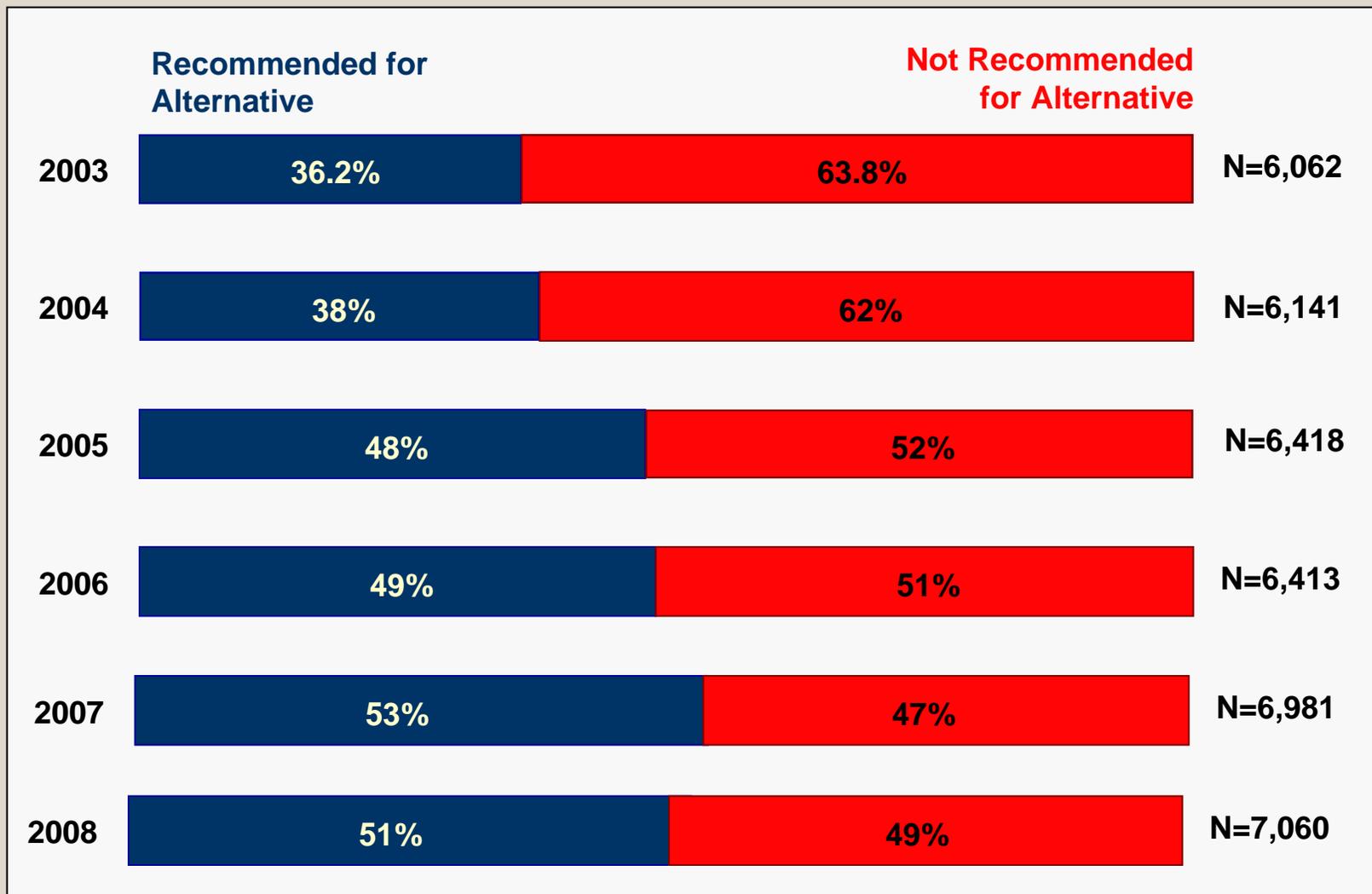


**FY2008**  
**Number of Cases = 5,249**

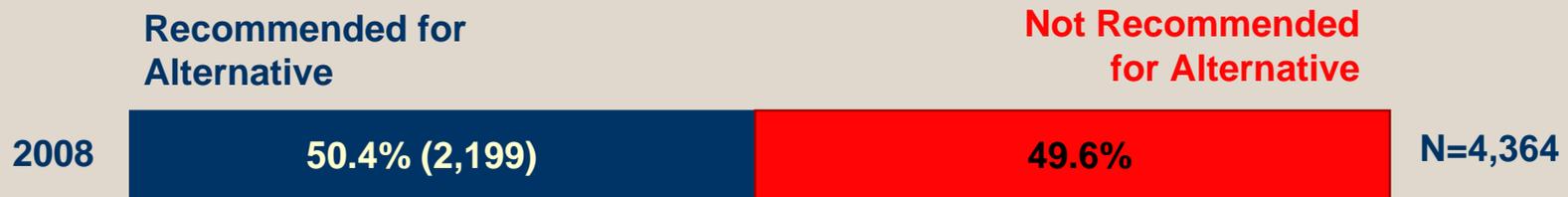


## **Integration of Offender Recidivism Risk Assessment into Virginia Sentencing Guidelines**

## Virginia Nonviolent Offender Risk Assessment (as applied to those recommended for jail or prison incarceration)



## Virginia Nonviolent Offender Risk Assessment (as applied to those recommended for **prison** incarceration)\*

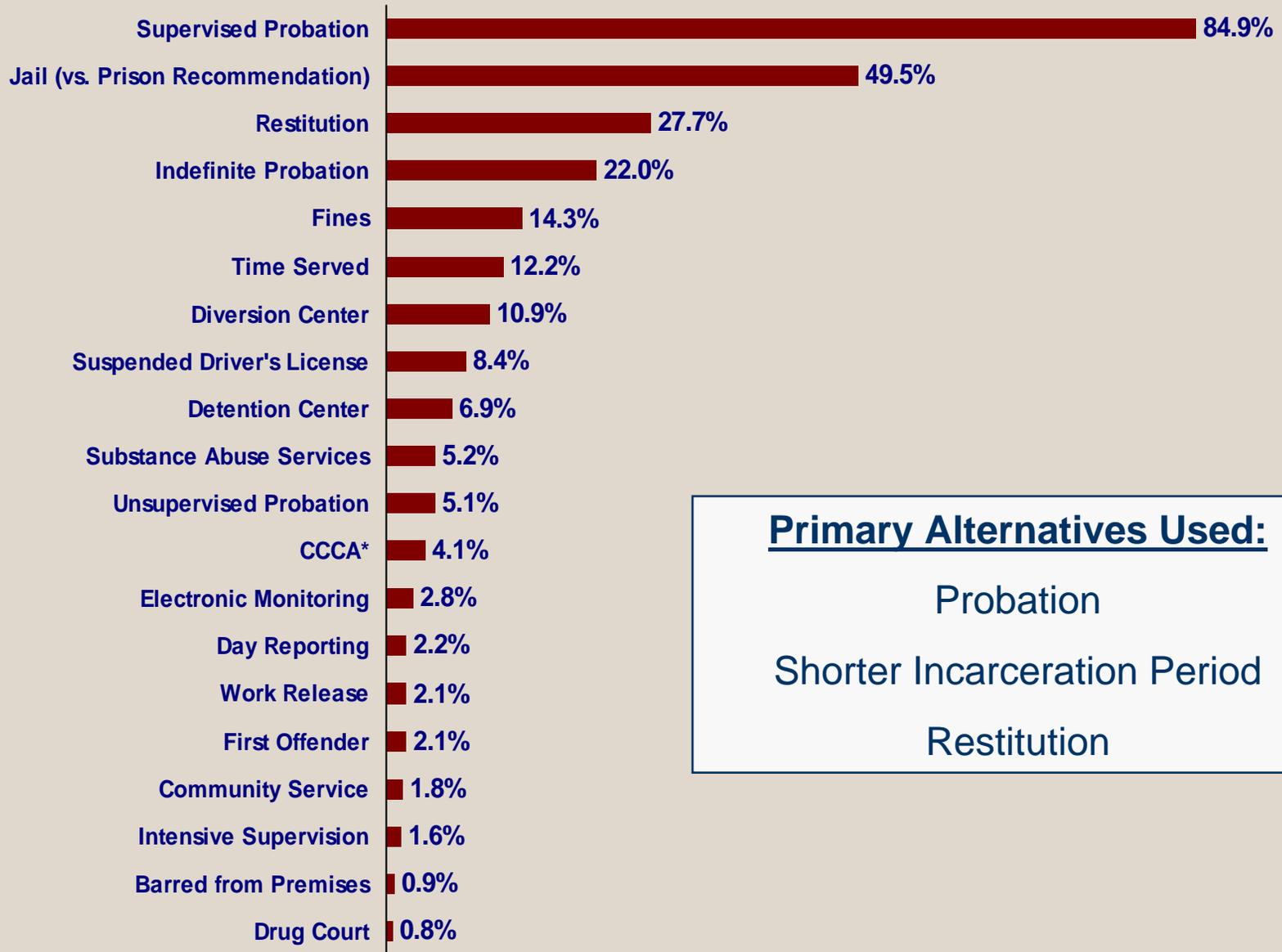


\*Sentencing guidelines recommendation is for incarceration with a midpoint of one year or more.

## Sentencing Guidelines Compliance Rates for Nonviolent Offenders Screened with Risk Assessment FY2008

	Mitigation	Compliance		Aggravation	Number of Cases	Percentage of Compliance Combined
		Incarceration Range	Alternative Sanction			
Drug	7%	62%	22%	9%	3,890	 84%
Fraud	8%	51%	36%	5%	1,215	 87%
Larceny	9%	74%	9%	8%	1,955	 83%
Overall	8%	63%	21%	8%	7,060	 84%

## Less Restrictive Sanctions Utilized under Risk Assessment



**Primary Alternatives Used:**

- Probation
- Shorter Incarceration Period
- Restitution

\*Any program established through the Comprehensive Community Corrections Act

---

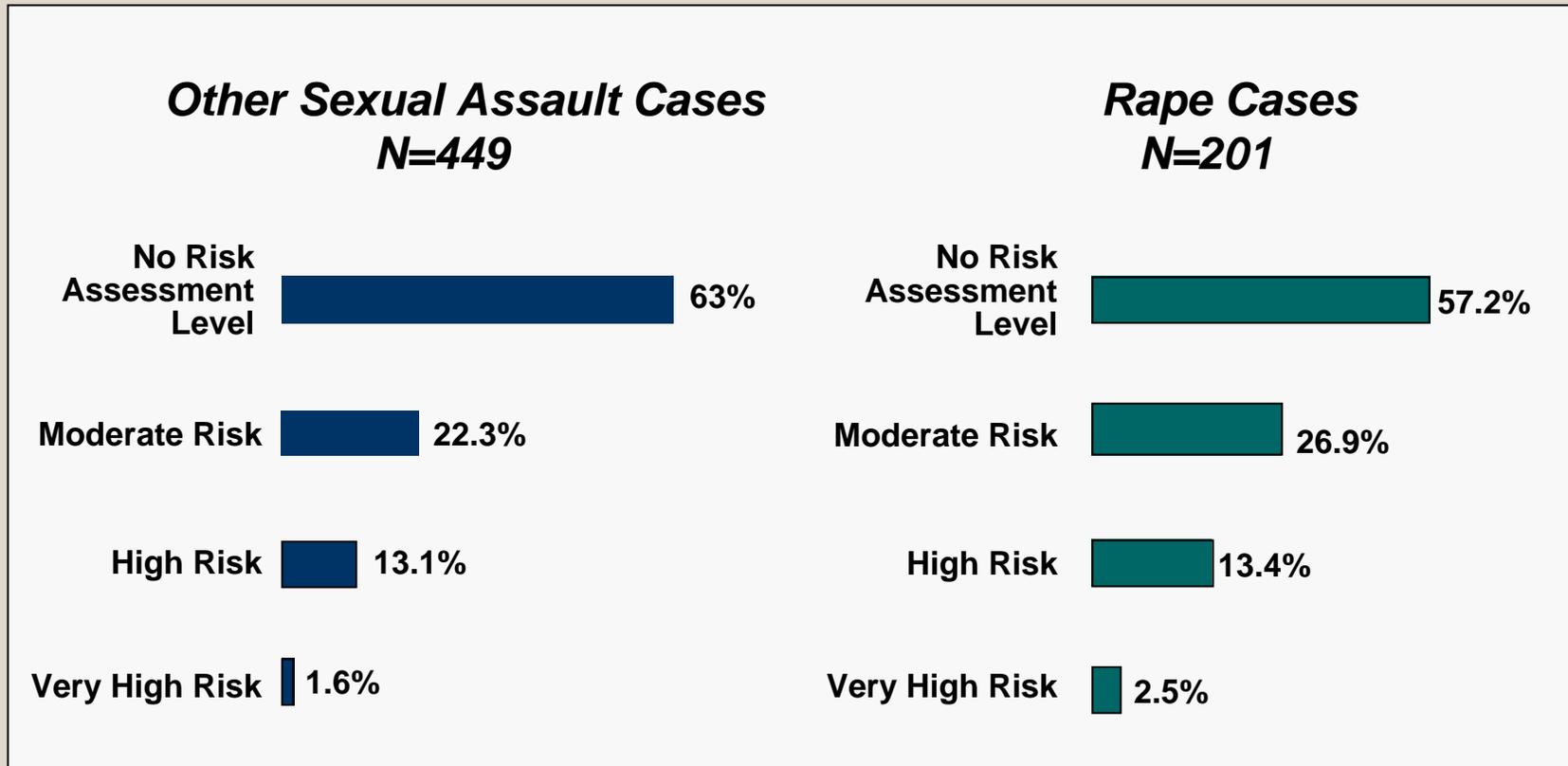
## **National Center for State Courts Evaluation of Virginia's risk assessment instrument**

**Concluded that our risk assessment component accurately distinguished nonviolent felons less likely to recidivate from those more likely**

**“Virginia's risk assessment instrument provides an objective, reliable, transparent, and more accurate alternative to assessing an offender's potential for recidivism than the traditional reliance on judicial intuition or perceptual short hand”**

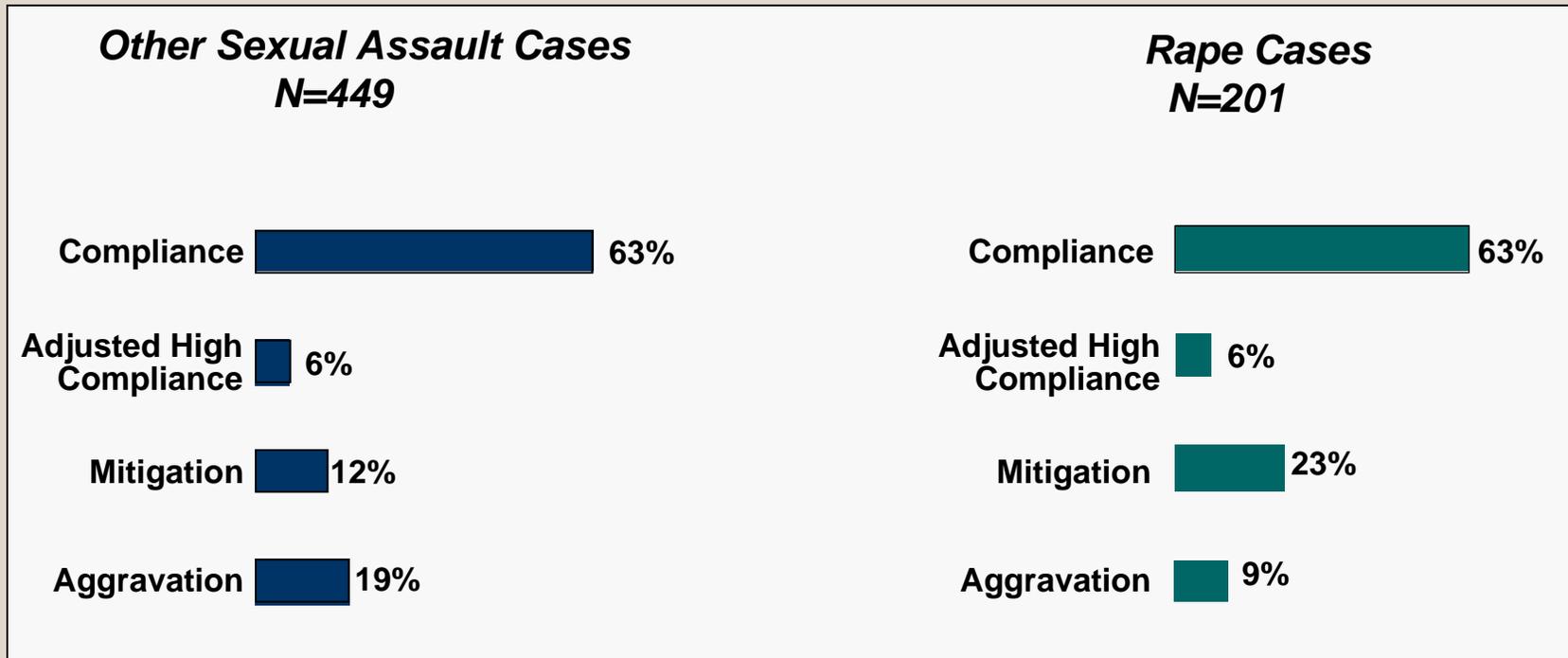
**“This is a workable tool for managing prison populations. It allows states the flexibility to determine how many offenders they would like to divert while balancing concerns of public safety”**

# Sex Offender Risk Assessment Levels



FY 2008

## Sex Offenses Compliance Rate with Sex Offender Risk Assessment

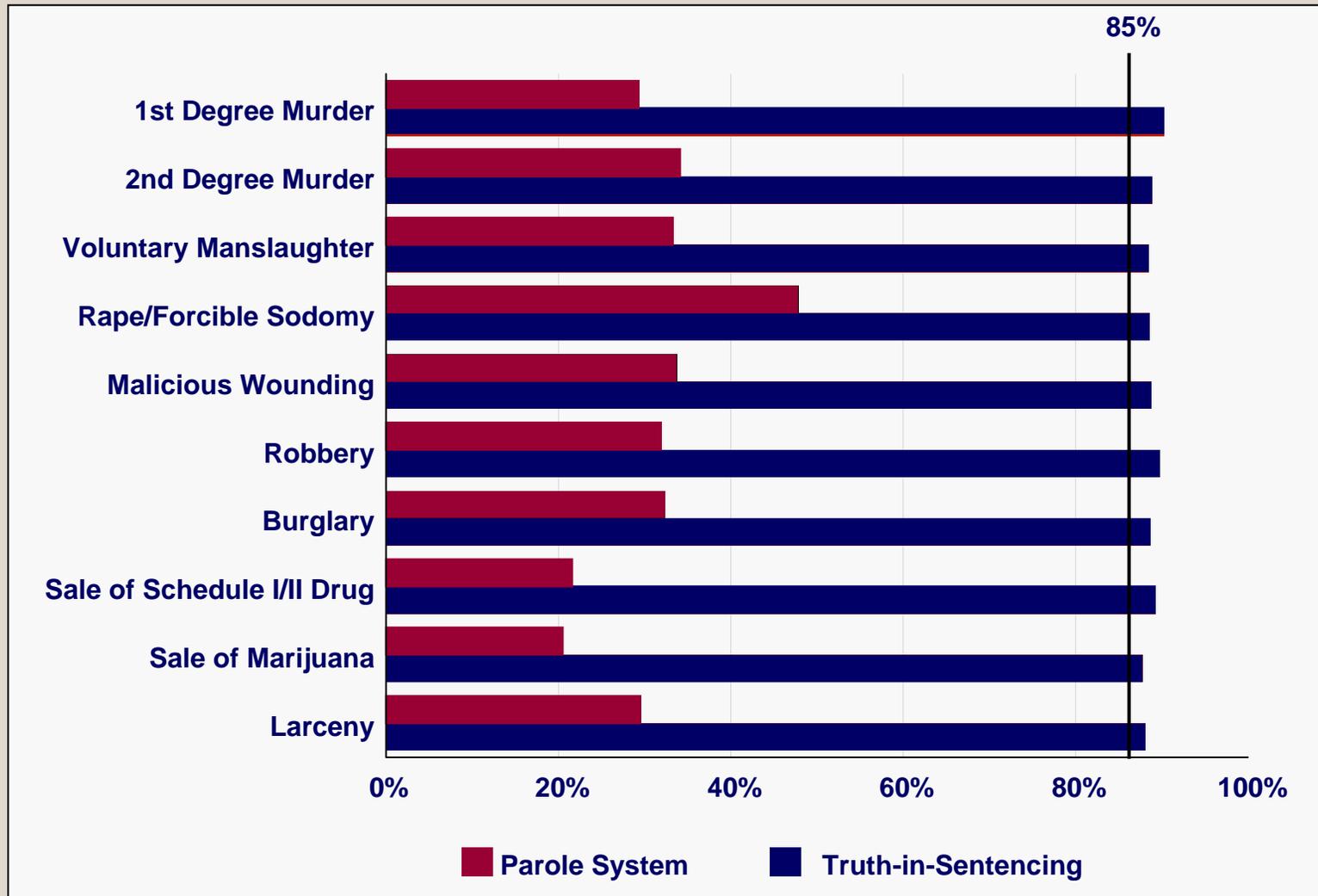


FY 2008



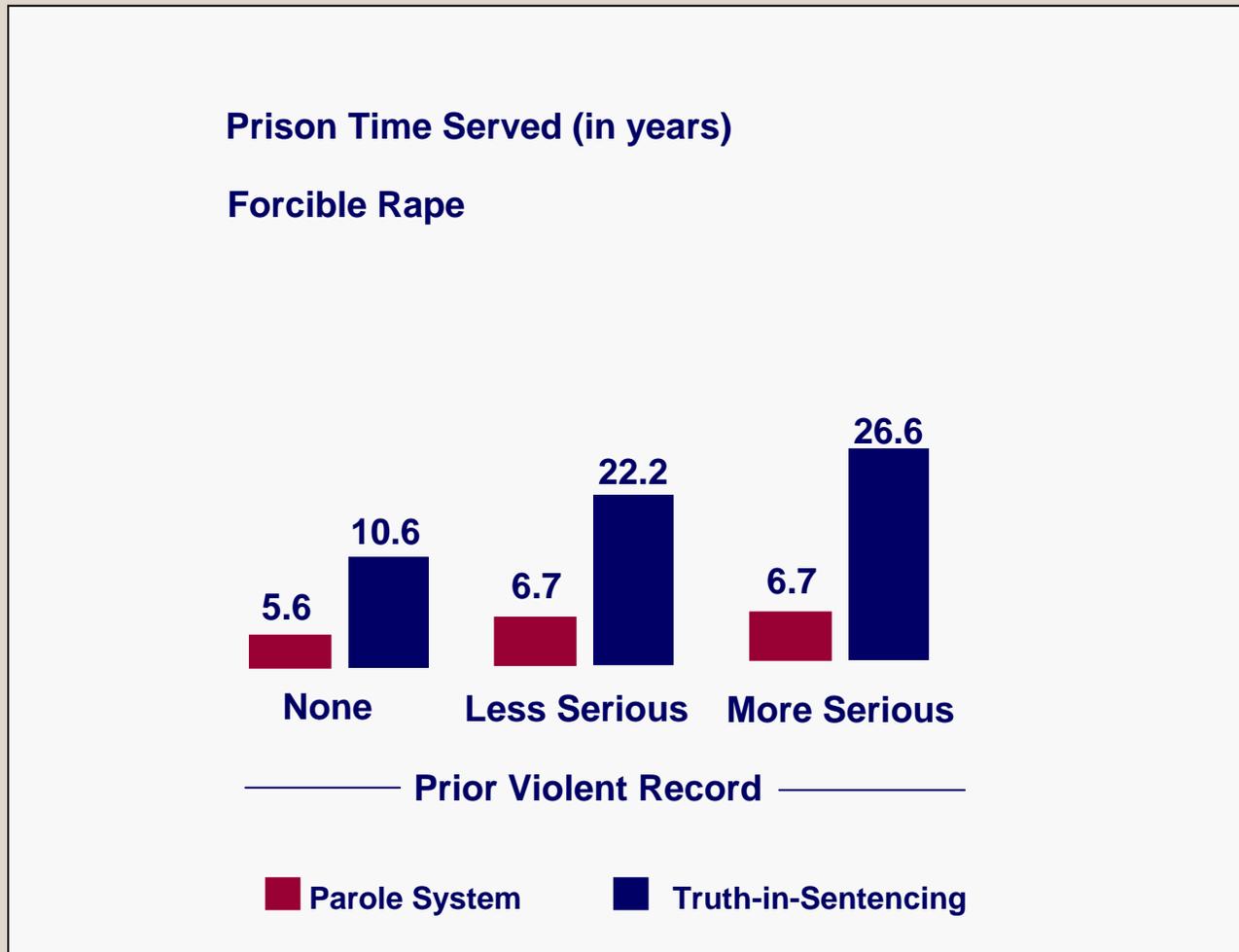
## Impact of Truth-in-Sentencing

## Percent of Prison Sentences Served Parole System v. Truth-in-Sentencing



Parole system data represent FY1983 prison releases; truth-in-sentencing data is derived from the rate of sentence credits earned among prison inmates as of December 31, 2007.

## Prison Time Served Parole System v. Truth-in-Sentencing



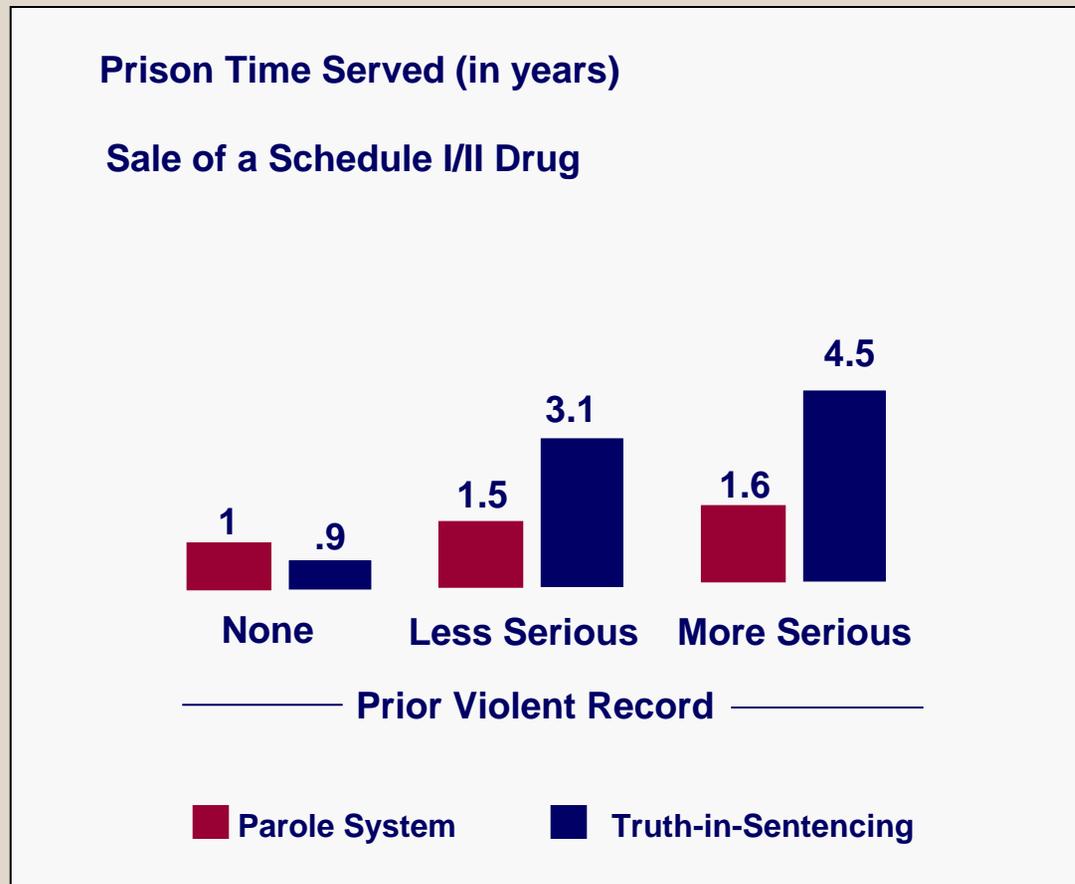
*These figures present values of actual incarceration time served under parole laws (1988-1992) and expected time to be served under truth-in-sentencing provisions for cases sentenced FY2004 through FY2008. Time served values are represented by the median (the middle value, where half the time served values are higher and half are lower). Truth-in-sentencing data include only cases recommended for, and sentenced to, incarceration of more than six months.*

## Prison Time Served Parole System v. Truth-in-Sentencing



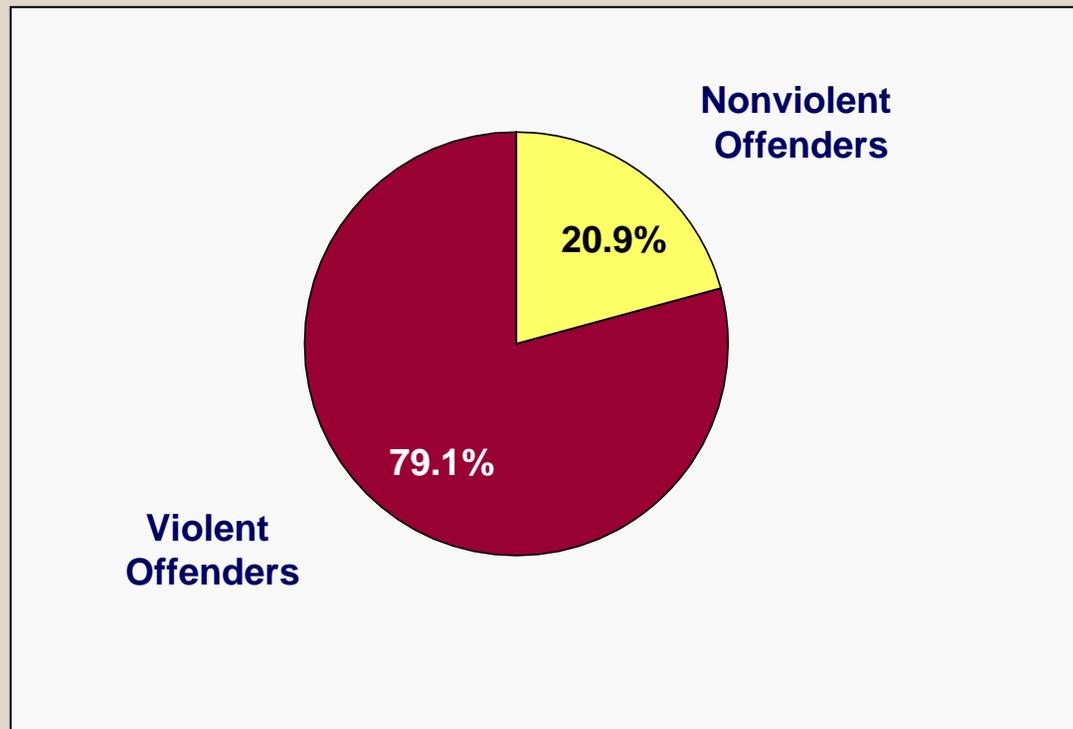
*These figures present values of actual incarceration time served under parole laws (1988-1992) and expected time to be served under truth-in-sentencing provisions for cases sentenced FY2004 through FY2008. Time served values are represented by the median (the middle value, where half the time served values are higher and half are lower). Truth-in-sentencing data include only cases recommended for, and sentenced to, incarceration of more than six months.*

## Prison Time Served Parole System v. Truth-in-Sentencing



*These figures present values of actual incarceration time served under parole laws (1988-1992) and expected time to be served under truth-in-sentencing provisions for cases sentenced FY2004 through FY2008. Time served values are represented by the median (the middle value, where half the time served values are higher and half are lower). Truth-in-sentencing data include only cases recommended for, and sentenced to, incarceration of more than six months.*

## Profile of Offenders (Violent vs. Nonviolent as defined in § 17.1-805) in Virginia's Prison System 2007



Sources: Virginia Department of Corrections' FAST and CORIS data systems, the Pre/Post-Sentence Investigation (PSI) reporting system, and the Virginia Criminal Sentencing Commission's Sentencing Guidelines (SG) database.

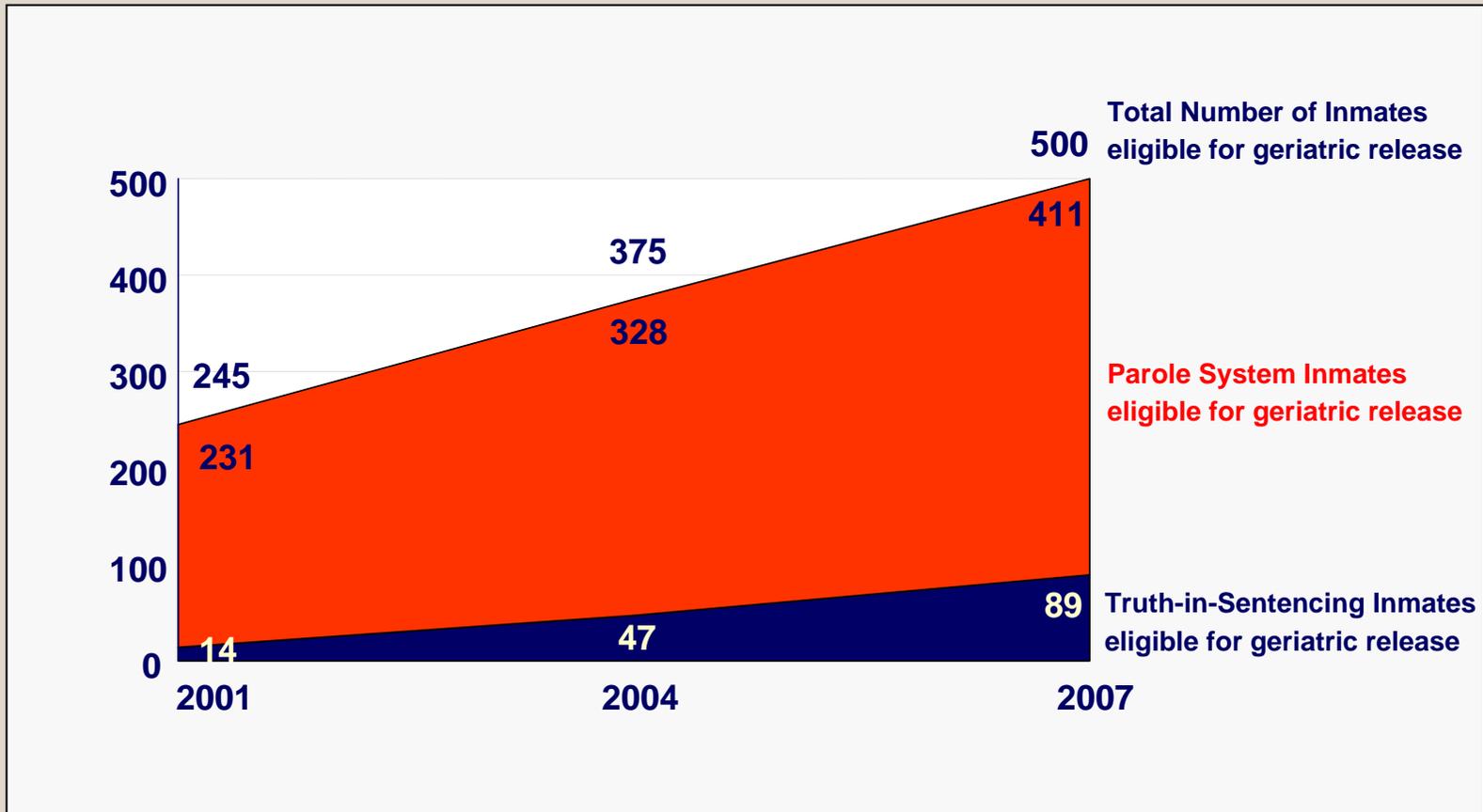
---

## Virginia's Geriatric Release Provision

Under § 53.1-40.01, any person serving a sentence imposed upon a conviction for a felony offense other than a Class 1 felony, (i) who has reached the age of sixty-five or older and who has served at least five years of the sentence imposed or (ii) who has reached the age of sixty or older and who has served at least ten years of the sentence imposed may petition the Parole Board for conditional release. Originally applicable only to offenders sentenced under truth-in-sentencing laws, the 2001 General Assembly expanded this provision to apply to all prison inmates.

## Virginia's Geriatric Release Provision

### Prison Inmates Eligible for Geriatric Release



## Virginia's Geriatric Release Provision

### Inmates Eligible for Geriatric Release by Age and Time Served

#### Age 60 to 64 and served at least 10 years

Year	Number of Inmates	Avg. Time Served
2001	112	19 yrs.
2004	184	20 yrs.
2007	241	20 yrs.

#### Age 65 or more and served at least 5 years

Year	Number of Inmates	Avg. Time Served
2001	133	12 yrs.
2004	191	14 yrs.
2007	259	16 yrs.

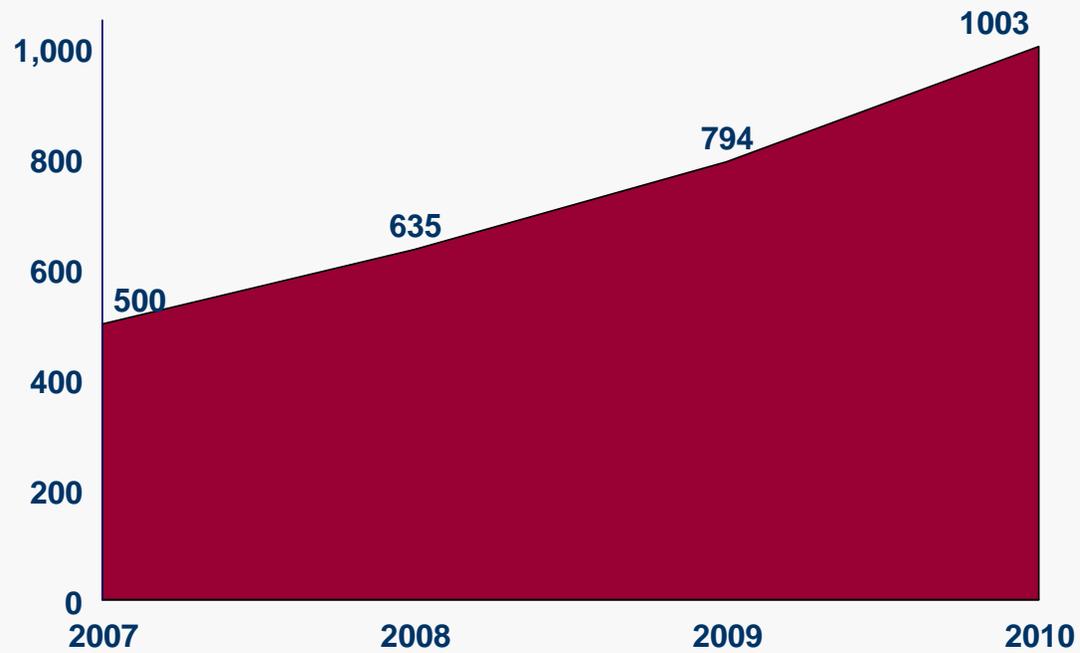
## Virginia's Geriatric Release Provision

### Geriatric Release in Practice

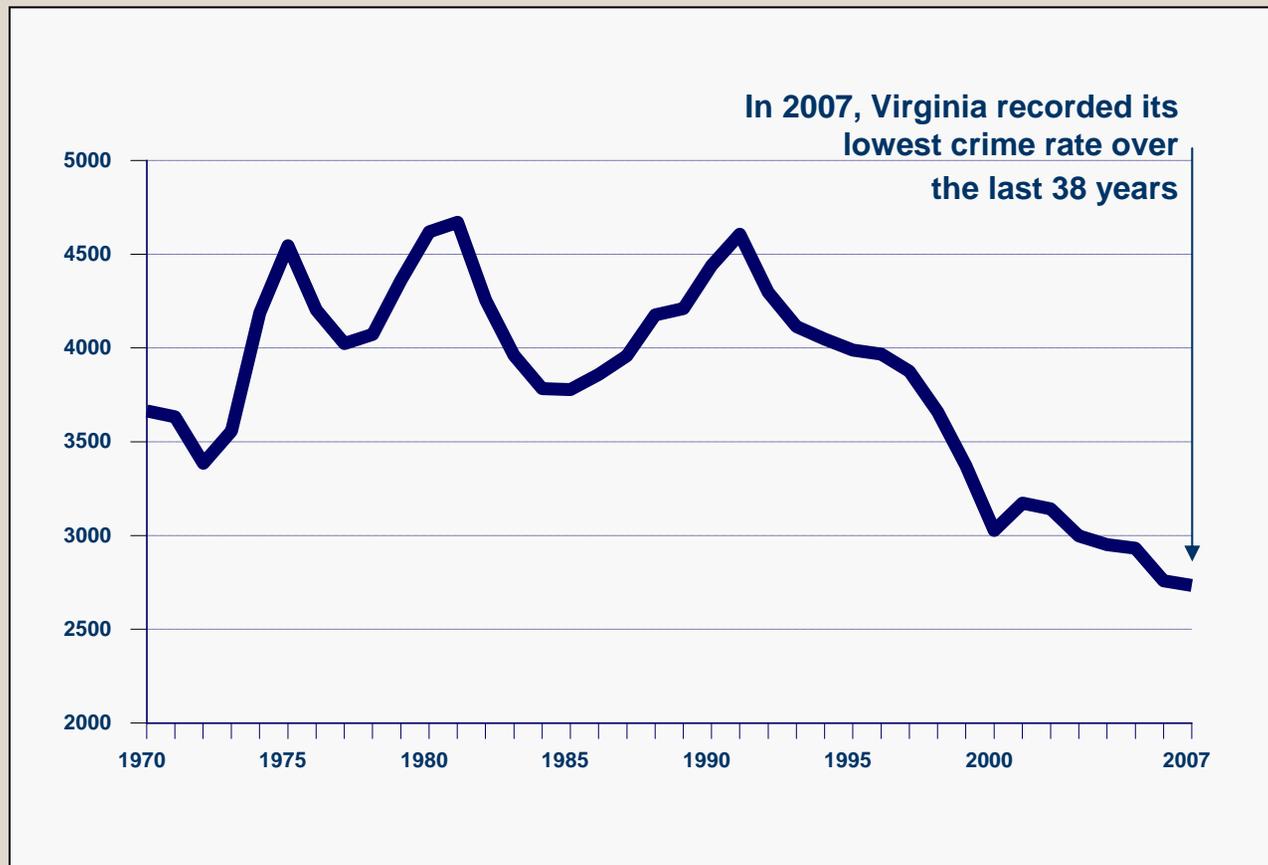
	<b>Inmates Eligible for Geriatric Release</b>	<b>Inmates Who Applied</b>	<b>Geriatric Release Granted</b>
<b>2004</b>	<b>375</b>	<b>39 (10%)</b>	<b>2</b>
<b>2007</b>	<b>500</b>	<b>52 (10%)</b>	<b>2</b>

## Virginia's Geriatric Release Provision

**Number of Geriatric Release Eligible Inmates,  
2007 (actual) through 2010 (projected)**



## Virginia Index Crime Rates\* 1970 - 2007

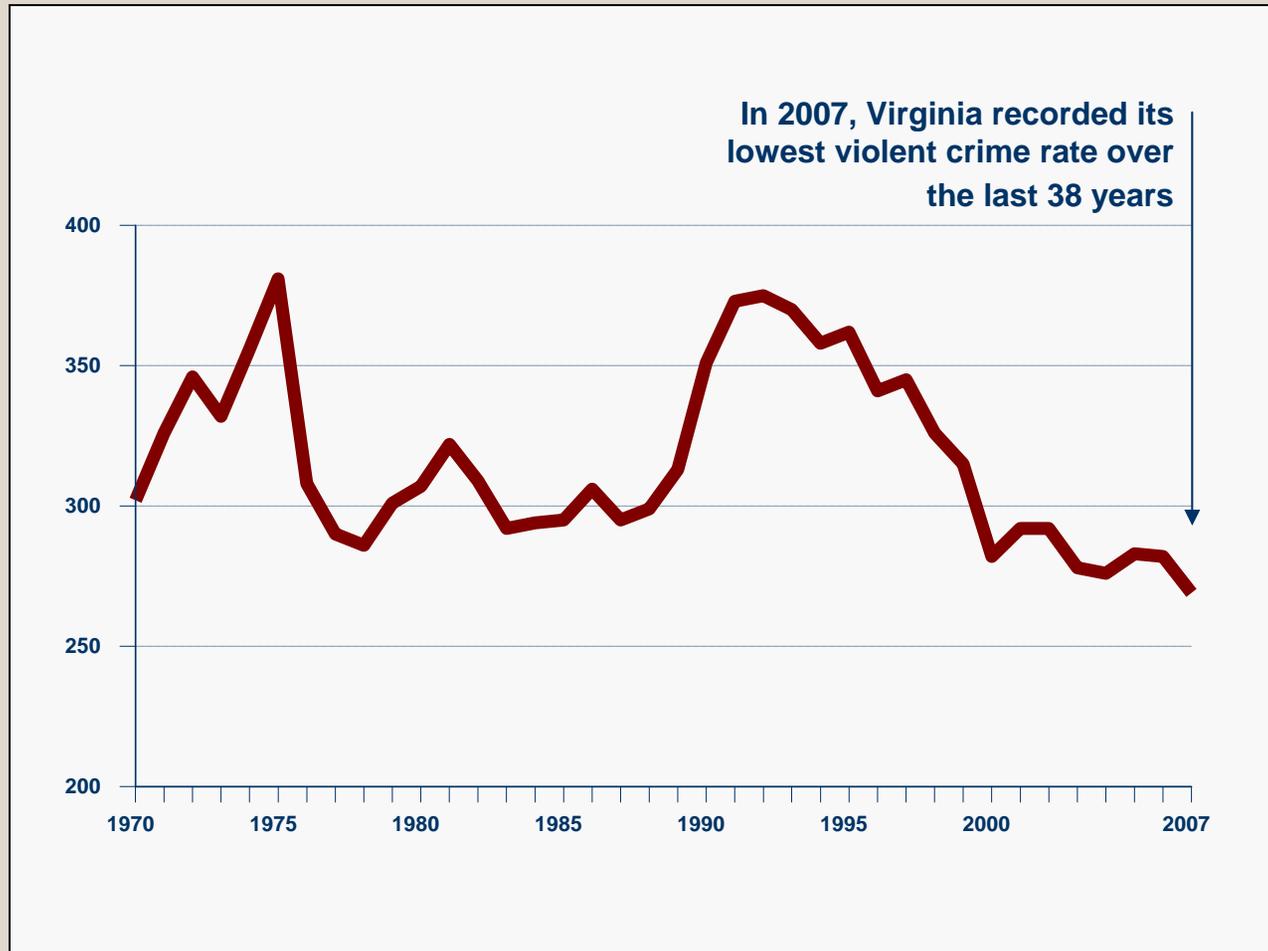


\*Per 100,000 Inhabitants

*Index crimes under the Uniform Crime Reporting System include reported murder and non negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft and motor vehicle theft.*

# Virginia Violent Crime Rates\*

## 1970 - 2007

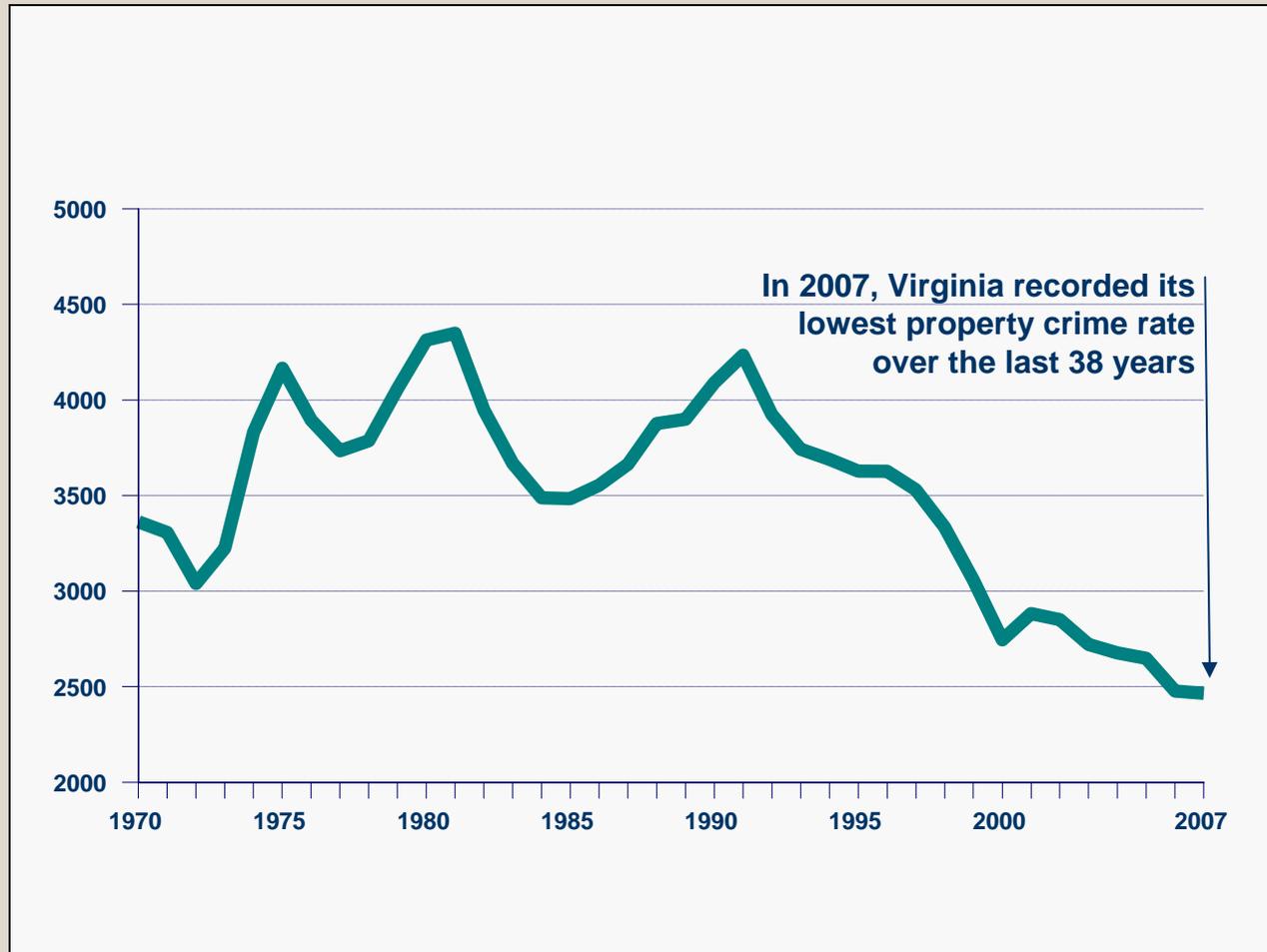


\*Per 100,000 Inhabitants

*Violent crimes include murder and non-negligent manslaughter, forcible rape, robbery and aggravated assault.*

# Virginia Property Crime Rates\*

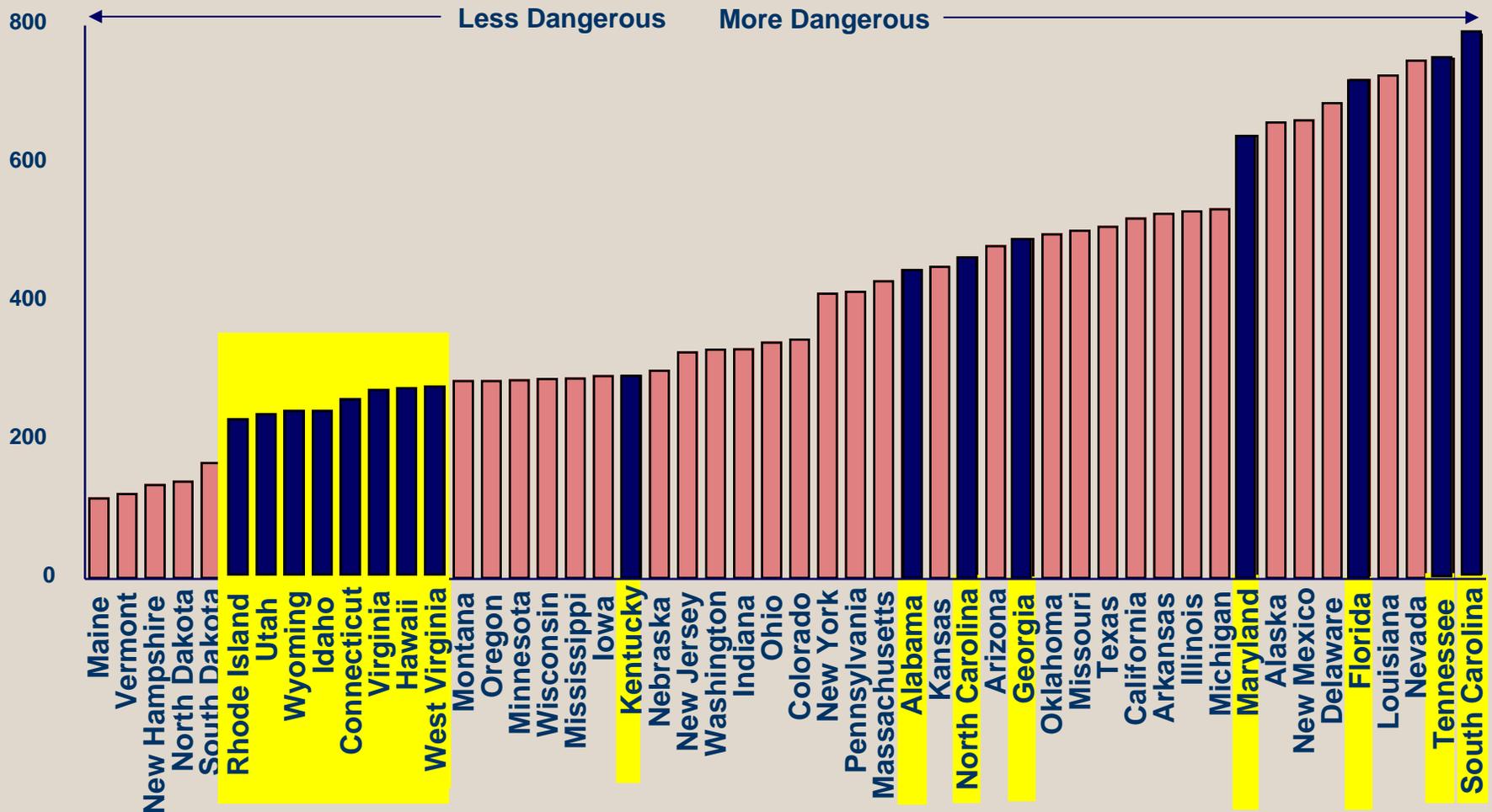
## 1970 - 2007



\*Per 100,000 Inhabitants

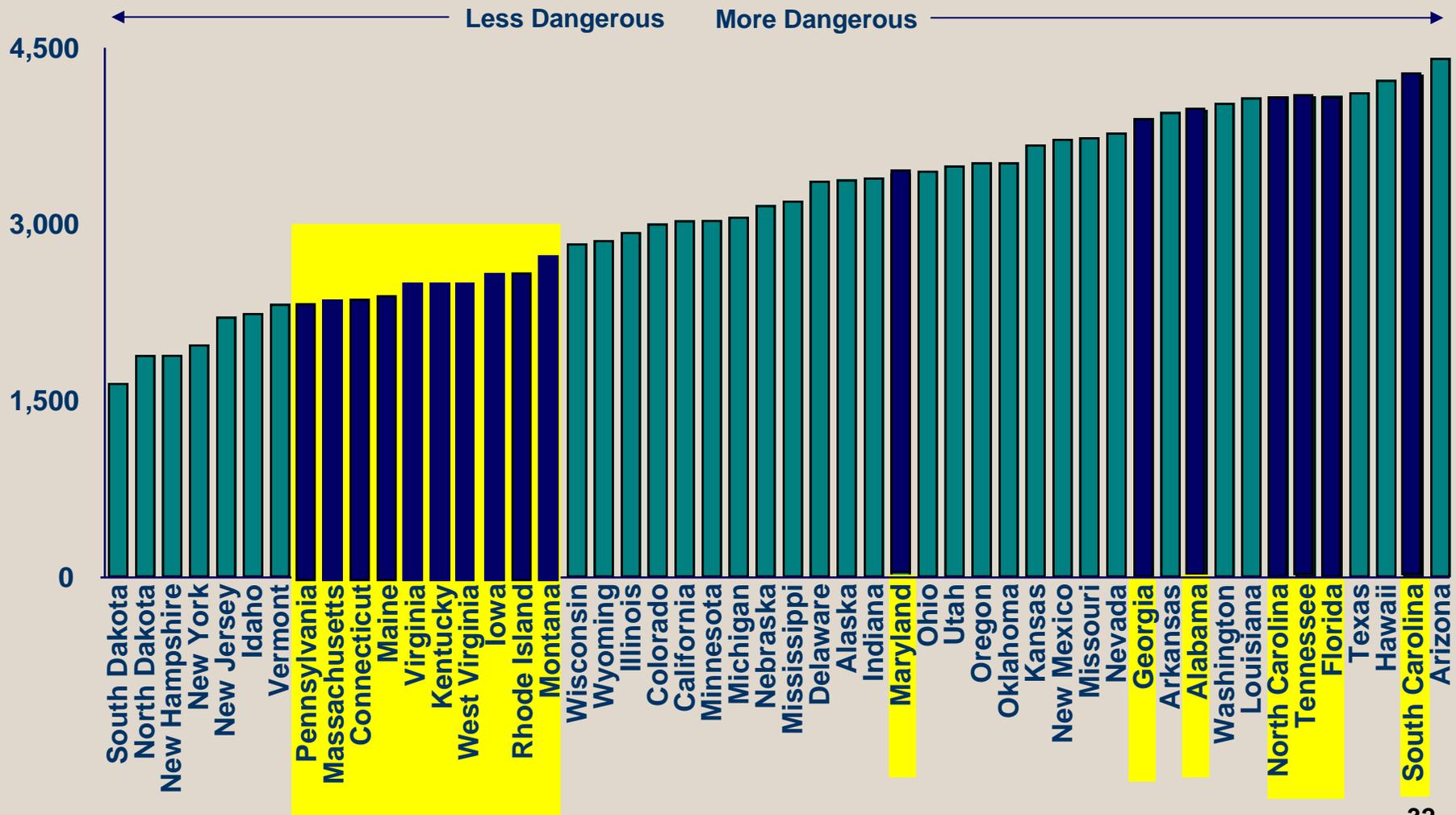
*Property crimes include burglary, larceny-theft, and motor vehicle theft.*

# Violent Crime Rates Across the United States 2007



Crime rates are the number of crimes reported per 100,000 population.  
Violent crimes are murder, forcible rape, robbery and aggravated assault.

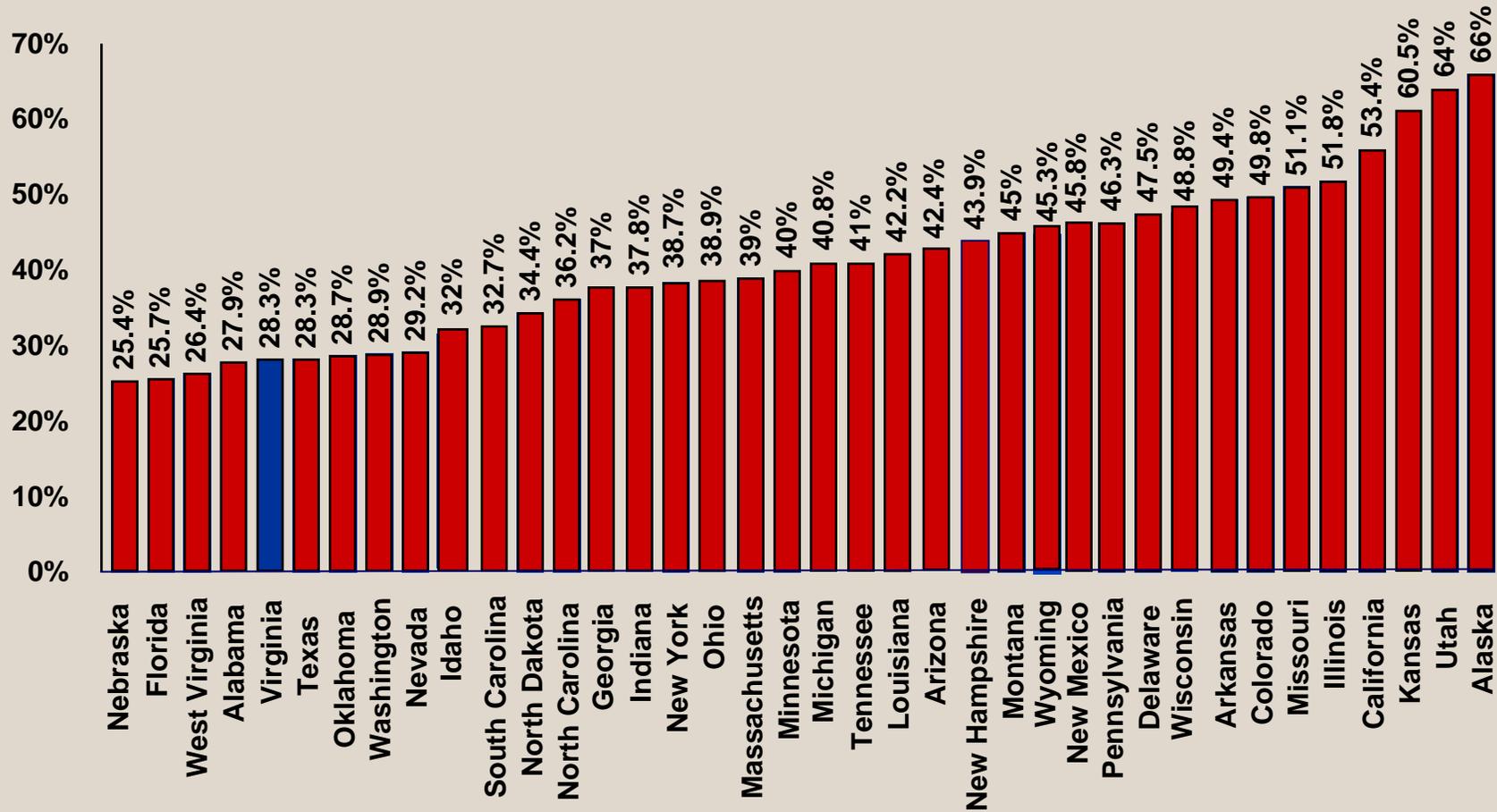
# Property Crime Rates Across the United States 2007



Crime rates are the number of crimes reported per 100,000 population. Property crimes include burglary, larceny-theft, and motor vehicle theft.

# Three Year Re-Imprisonment Rates

Among the 38 states that report felon recidivism as re-imprisonment within three years of release, Virginia ranks in a tie for the fifth lowest recidivism rate.





*Crimes Committed  
in the Presence of Children*

---

# Crimes Committed in the Presence of Children

- **Witnessing crimes can have a profound effect on the health and welfare of children**
- **The Sentencing Commission voted to conduct a comprehensive study of crimes committed in the presence of children**



---

# Crimes Committed in the Presence of Children

## Study Objectives

- To identify crimes witnessed by children
- To describe the nature of such crimes
- To determine how courts respond to and utilize information concerning the presence of children during the commission of a crime
- To review the criminal code of other states and identify provisions relating to children as witnesses



---

# Crimes Committed in the Presence of Children

- **The Sentencing Commission will work cooperatively with the Commonwealth's Attorneys to identify appropriate cases and gather the necessary information on cases where the crime was committed in the presence of children**



## Virginia Criminal Sentencing Commission

### Identification of Crimes Committed in the Presence of Children

Cases identified on this form should meet the following criteria:

- The offender committed a felony in the presence (within sight or sound) of any child under the age of 18; or
  - A child is the first to discover the victim after the offense; or
  - The offender committed an act of larceny or shoplifting that involved the participation of a child; or
  - The offender committed any crime (e.g., a drug offense under § 18.2-248) in which he used a child to further or disguise the offense;
- and
- The presence/participation of the child during the commission of the crime was a circumstance made known to the judge.

---

#### OFFENDER

First \_\_\_\_\_ Middle \_\_\_\_\_ Last \_\_\_\_\_ Suffix \_\_\_\_\_

Date of Birth \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Month Day Year

---

#### COURT

Circuit \_\_\_\_\_ City/County \_\_\_\_\_

Sentencing Date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Month Day Year

---