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# *Felony Justice In Virginia, 1986*

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Commonwealth of Virginia  
The Department of Criminal Justice Services  
Richard N. Harris, Director  
September 1987

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# Introduction

This is the third in a series of related crime reports issued by the Virginia Department of Criminal Justice Services. The first report, published in 1985, looked at crime trends in Virginia, in neighboring states, and in the nation as a whole. The second report, published in 1986, examined crime rates within the commonwealth as measured by the uniform crime statistics maintained by the Virginia State Police.

Because these two reports previously addressed crime rates and crime trends, this year's report shifts the focus to a new topic: 1986 felony convictions in Virginia. The purpose of this report is not to place crime statistics within a chronological continuum, as was the purpose of the reports on crime rates and crime trends. Rather, the purpose is to examine as specifically as possible the most serious crimes defined by the Code of Virginia: the felonies, offenses punishable by incarceration for a year or more.

The criminal justice system functions like a series of sieves, filtering out offenders during each stage of processing. Not all crimes are reported; not all reported crimes result in arrest; not all arrests result in indictments; not all indictments result in convictions. And convictions for felonies, of course, are far fewer than convictions for misdemeanors. This study of convicted felons, then, takes as its subject a relatively small segment of the total criminal population, and one should not infer broad generalizations about all crimes and criminals from these data.

Nonetheless, this detailed study of felony convictions is desirable for several reasons. First, despite the relatively small number of convicted felons, these offenders command a great deal of attention from the general public—for good reason. Felons impose tremendous burdens on society in terms of harm to victims (both physical and emotional), property damage and loss, and costs incurred by taxpayers.

Second, although crime rates and trends indicate the general intensity of the crime problem, they tell criminal justice professionals very few details about the offenders responsible for that problem. But one of the truisms of the criminal justice system is that the more deeply an offender penetrates the system (through arrest, indictment, prosecution, conviction, and sentencing), the more information the system gathers on that offender. Because our information is specific to those offenders who have been most deeply immersed in the system—convicted felons—it therefore constitutes the most comprehensive information the criminal justice system can provide. Our information is based on data collected for every person convicted and sentenced for a felony offense in Virginia during 1986, data published here for the first time. These data should enable criminal justice professionals to scrutinize more closely—and, hopefully, to deal with more effectively—our society's most serious offenders.

Third, although these data are very specific, they cover subjects of interest not only to law enforcement professionals but also to corrections professionals, attorneys, judges, and legislators. For instance, these data may help clarify such issues as the identification of career criminals, the ongoing debate concerning judge-jury sentencing, or the deterrent effect of the mandatory firearm penalty.

Not all of the following displays possess clear policy implications. First and foremost, this report presents descriptive facts and figures concerning the administration of felony justice in Virginia—facts and figures unprecedented in the commonwealth for their completeness, their accuracy, and their utility. This is not to say, however, that the data in general have no policy implications at all. Policy initiatives in the criminal justice arena have sometimes failed for want of sufficient objective and accurate information. Sound and effective policy initiatives must have as their foundation reliable and comprehensive information. To a large degree, this report provides that foundation for policy initiatives focusing on the felony justice system in Virginia.

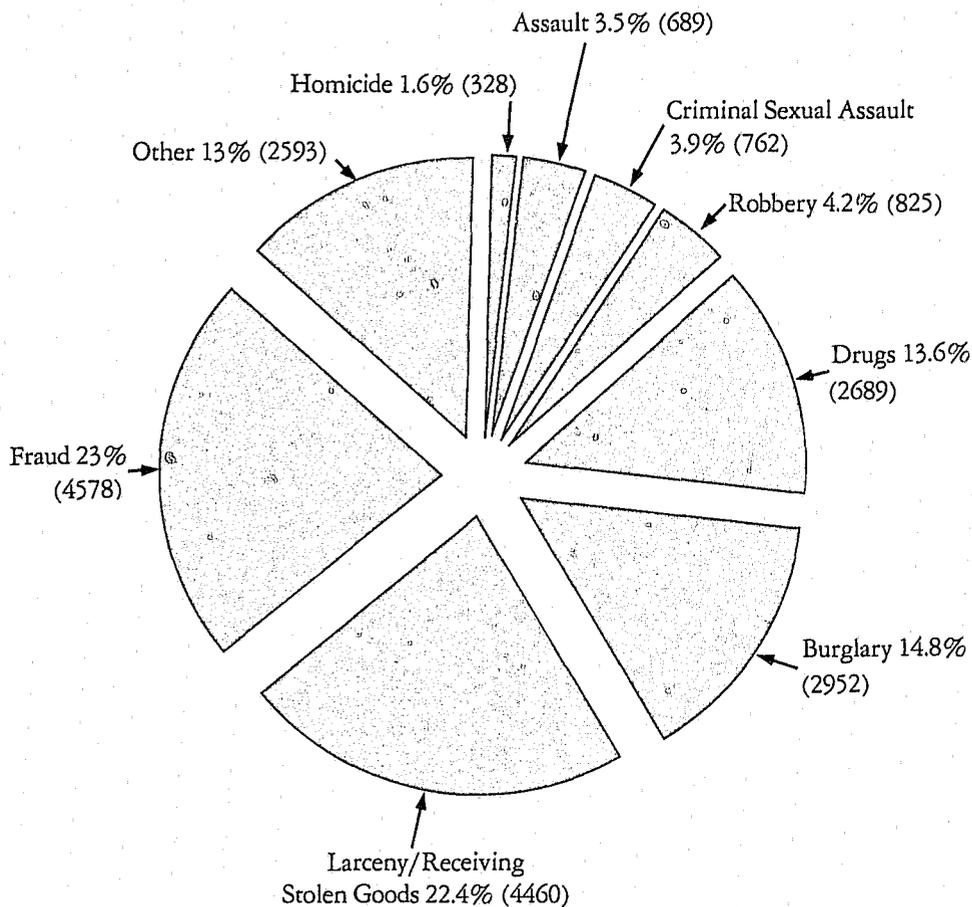
Our data on convicted felons were obtained primarily from the Pre-Sentence Investigation (PSI) data system maintained cooperatively by Virginia's Department of Criminal Justice Services and Department of Corrections. This system contains detailed and comprehensive information on all convicted Virginia felons who had either a pre- or a post-sentence investigation report completed on their cases. For the approximately 18% of convicted felons on whom such investigations were not completed, a supplemental data collection effort was undertaken to gather the necessary information.

The report is organized into three sections. Part I deals with felony offenses at conviction: their types, their prevalence, and their characteristics. Part II focuses on the offenders and their characteristics. Part III examines the criminal justice system's manner of dealing with these most serious offenders. These three sections work together to delineate a comprehensive picture of felony convictions in Virginia during 1986. Each figure, however, also stands alone as a self-contained detail of that picture. Whether the reader peruses thoroughly from cover to cover or selects specific figures according to his individual interests, therefore, this report should prove a valuable resource for criminal justice practitioners, policy makers, and the general public.



# Part I: *The Offense*

**Figure 1**  
**Number of Felony Convictions\***  
*(Total Convictions = 19,876)*



\*Does not include attempts/conspiracies. See accompanying text for statistics on attempts/conspiracies.

## Number of Felony Convictions

- The eight major crimes presented in Figure 1 composed 87% of all 1986 felony convictions. Of these eight offenses, the four nonviolent crimes of fraud, larceny/receiving stolen goods, burglary, and drug offenses together accounted for nearly three-fourths (73.8%) of the 19,876 convictions for commission of a felony. The four violent crimes of homicide, criminal sexual assault, felony assault, and robbery together accounted for one-seventh (13.2%) of the total.

- Fraud and larceny/receiving stolen goods each accounted for one-fourth (23% and 22.4% respectively) of the total.

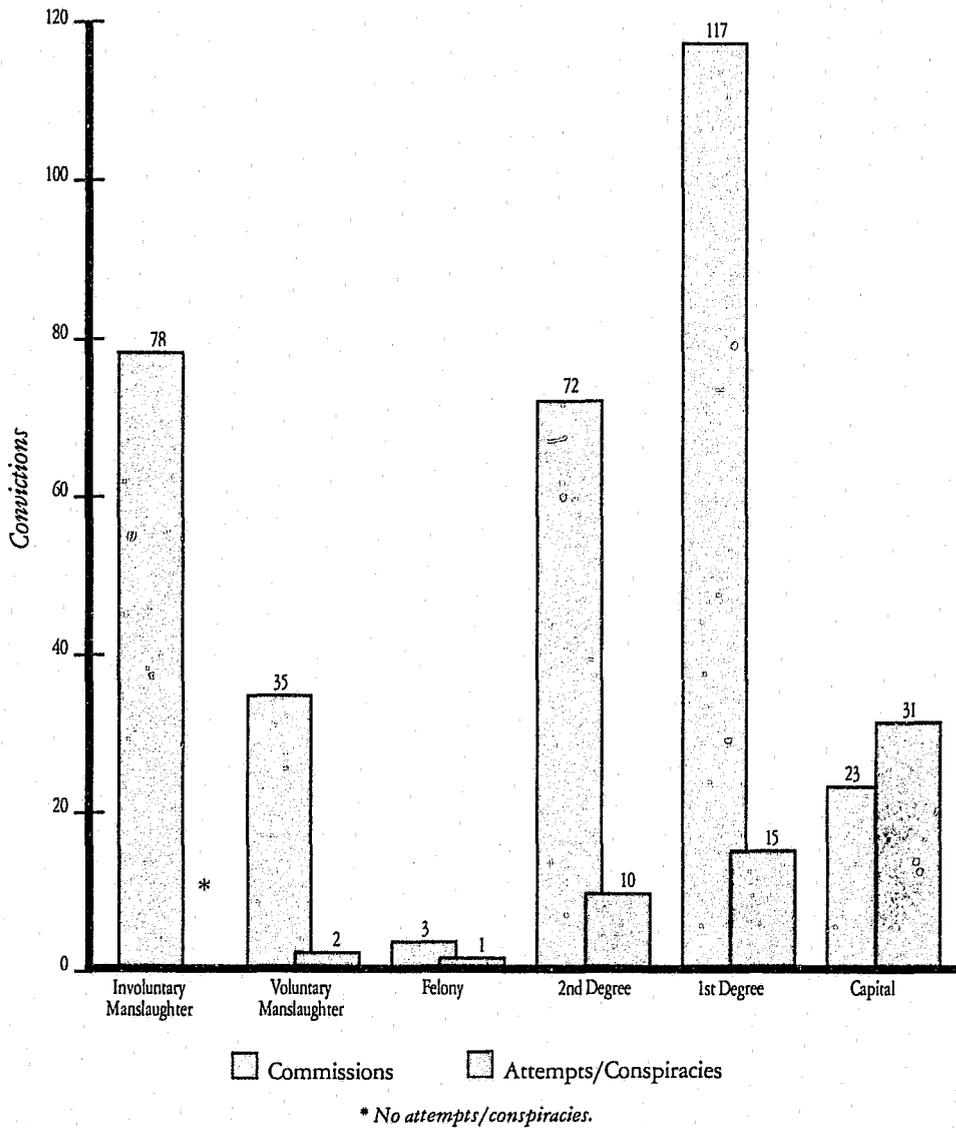
- Burglary and drug offenses each accounted for one-seventh (14.8% and 13.6% respectively) of the total.

- Homicide, felony assault, criminal sexual assault, and robbery accounted respectively for 1.6%, 3.5%, 3.9%, and 4.2% of the total.

- All other felonies (arson, bribery, escape, extortion, gambling, abduction, perjury, weapons offenses, and so on) together accounted for one-eighth (13%) of the total.

- The numbers of felony attempts/conspiracies resulting in convictions were as follows: homicide, 59; criminal sexual assault, 73; robbery, 86; felony assault, 29; burglary, 95; larceny/receiving stolen goods, 27; fraud, 56; drug offenses, 102; other felonies, 47. In all, attempts/conspiracies resulted in 574 felony convictions.

*Figure 2*  
*Number of Felony Homicide Convictions*  
*(Total Convictions = 387)*



## Number of Felony Homicide Convictions

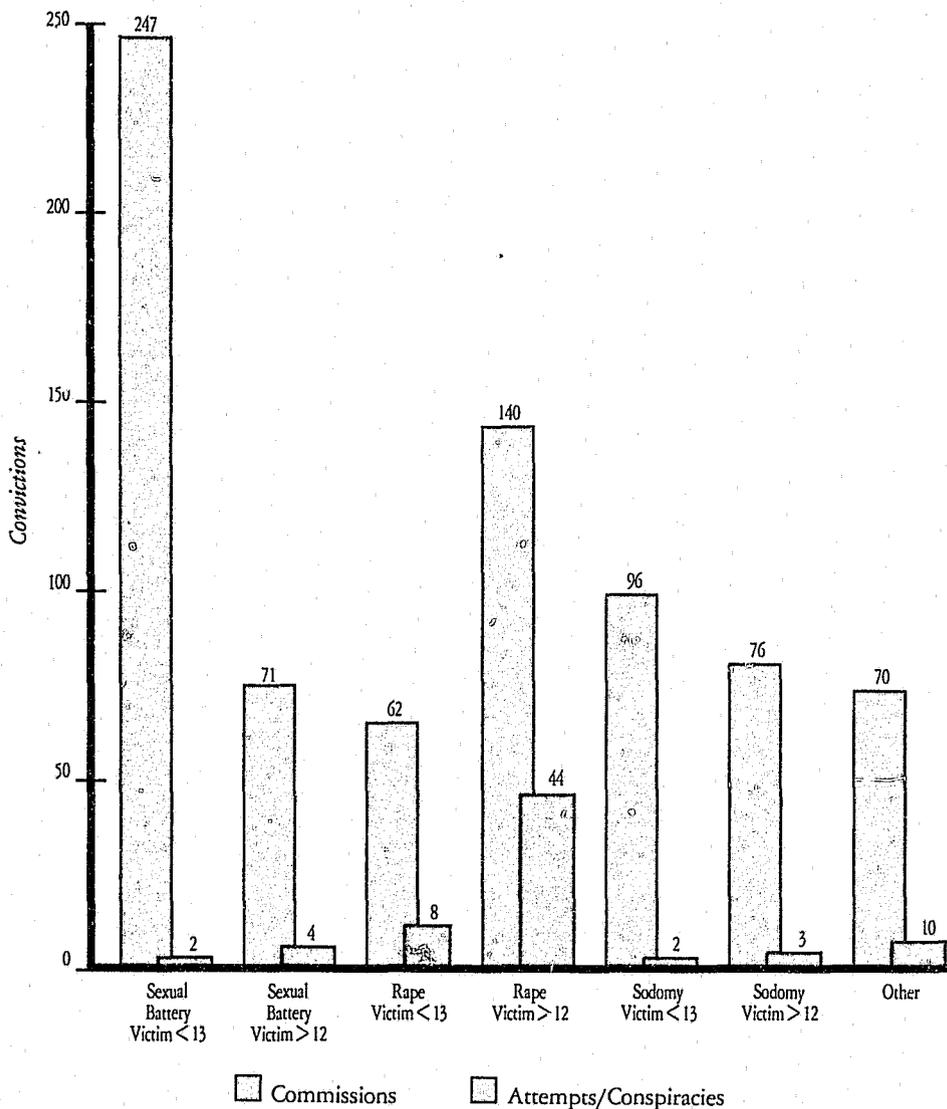
- Though it constitutes less than 2% of all felony convictions, homicide naturally commands a great deal of attention from criminal justice professionals as well as from the general public. While the taking of a life is the common denominator for all homicides, not all homicides are considered equally serious under the law: the Code of Virginia defines six variants of homicide ranging from capital murder to involuntary manslaughter. Homicide convictions in Virginia courts in 1986 numbered 387. Figure 2 shows the breakdown of these convictions across the six statutory homicides.

- While attempts/conspiracies constituted a relatively small percentage of convictions for most homicides, such was not the case with capital murder. Capital murder accounted for 54 convictions, of which 31 (57.4%) were attempts/conspiracies.

- First-degree murder accounted for the most homicide convictions (132), while felony murder accounted for the least (4).

- Voluntary manslaughter accounted for 37 convictions, while involuntary manslaughter accounted for 78 convictions.

**Figure 3**  
*Number of Criminal Sexual Assault Convictions*  
*(Total Convictions = 835)*



## Number of Criminal Sexual Assault Convictions

- Criminal sexual assaults accounted for 835 convictions in 1986. Figure 3 breaks down these convictions into selected distinctions provided by the Code of Virginia. Especially noteworthy is the fact that 50% (417) of all criminal sexual assault convictions were for crimes committed against victims under the age of thirteen.

- The specific crimes detailed in Figure 3 accounted for 90.4% of the convictions for criminal sexual assault offenses.

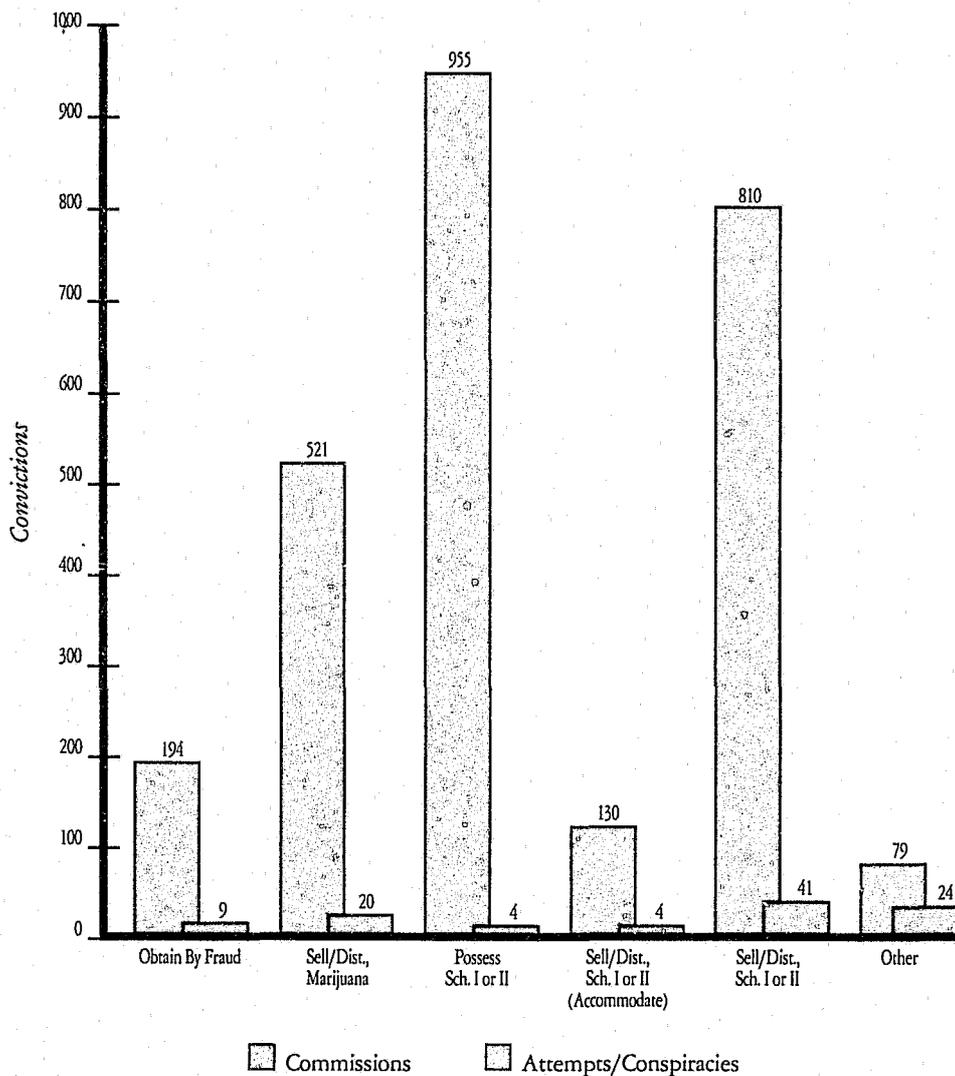
- Virginia courts registered 249 convictions for aggravated sexual battery of a victim under the age of thirteen.

- Convictions for attempts (as compared to convictions for actual commissions) were noteworthy for rape of a victim over the age of twelve: approximately one out of every three such rape convictions was for an attempt or a conspiracy.

- Unlike convictions for criminal sexual assault of victims over the age of twelve, convictions involving victims under the age of thirteen were more often for sodomy than for rape.

- Other criminal sexual assaults (carnal knowledge of a minor, forcible penetration with an inanimate object, seduction) accounted for eighty felony convictions.

**Figure 4**  
**Number of Felony Drug Offense Convictions**  
*(Total Convictions = 2791)*



## Number of Felony Drug Convictions

- The criminal justice system expends much money and effort each year in dealing with serious drug offenders. Figure 4 shows that 2,791 of all felony convictions during 1986 were for drug crimes and separates these convictions into selected offenses provided by the Code of Virginia.

- The five specific drug offenses enumerated in Figure 4 accounted for 96.3% of all 1986 felony drug convictions in Virginia.

- The sale and/or distribution of Schedule I drugs (high potential for abuse and no accepted medical use, e.g., heroin) or Schedule II drugs (high potential for abuse with severely restricted medical use, e.g., cocaine or opium) accounted for more felony convictions (851) than the sale or distribution of one-half ounce to five pounds of marijuana (541).

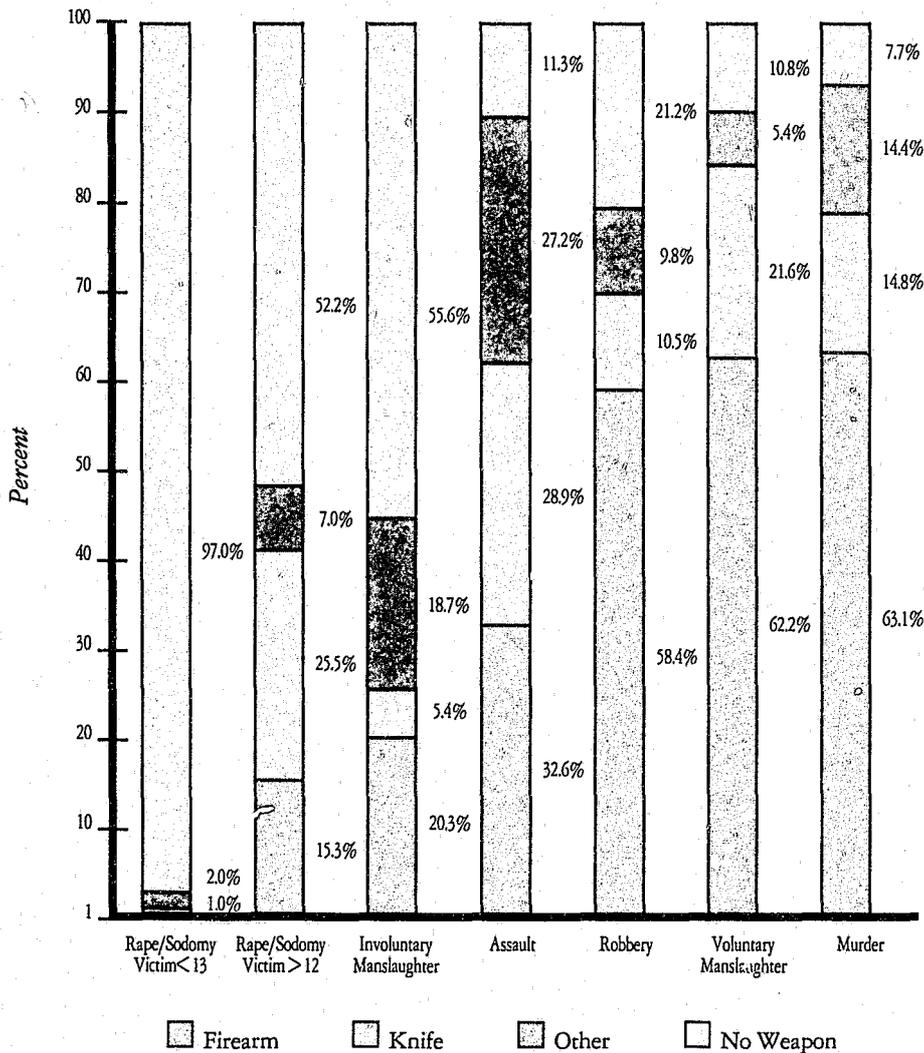
- Possession of a Schedule I or II drug accounted for the greatest single number of felony drug convictions (959).

- The sale or distribution of a Schedule I or II drug for accommodation (i.e., not for profit) accounted for only 134 convictions.

- Obtaining drugs by fraud accounted for 203 convictions. This offense includes forging or altering prescriptions, altering labels on drug packages, and misrepresenting oneself as a doctor or someone else authorized to receive or dispense drugs.

- Other felony drug offenses (encouraging a minor, advertising drug paraphernalia, inhaling drugs, selling imitation drugs, etc.) accounted for 103 convictions.

**Figure 5**  
*Extent of Weapon Use Among  
 Violent Felony Convictions*



## Extent of Weapon Use Among Violent Felony Convictions

- Violent offenses committed against a person are often characterized by the use of a weapon. Figure 5 shows the extent to which different types of weapons were used in connection with convictions for these violent offenses. Except in the case of rape/sodomy of a victim under the age of thirteen, a weapon of some type was used in at least 44.4% of the felonies depicted.

- Over half of all offenders convicted of murder, voluntary manslaughter, and robbery used firearms.

- Approximately one out of five robberies did not involve a weapon of any type.

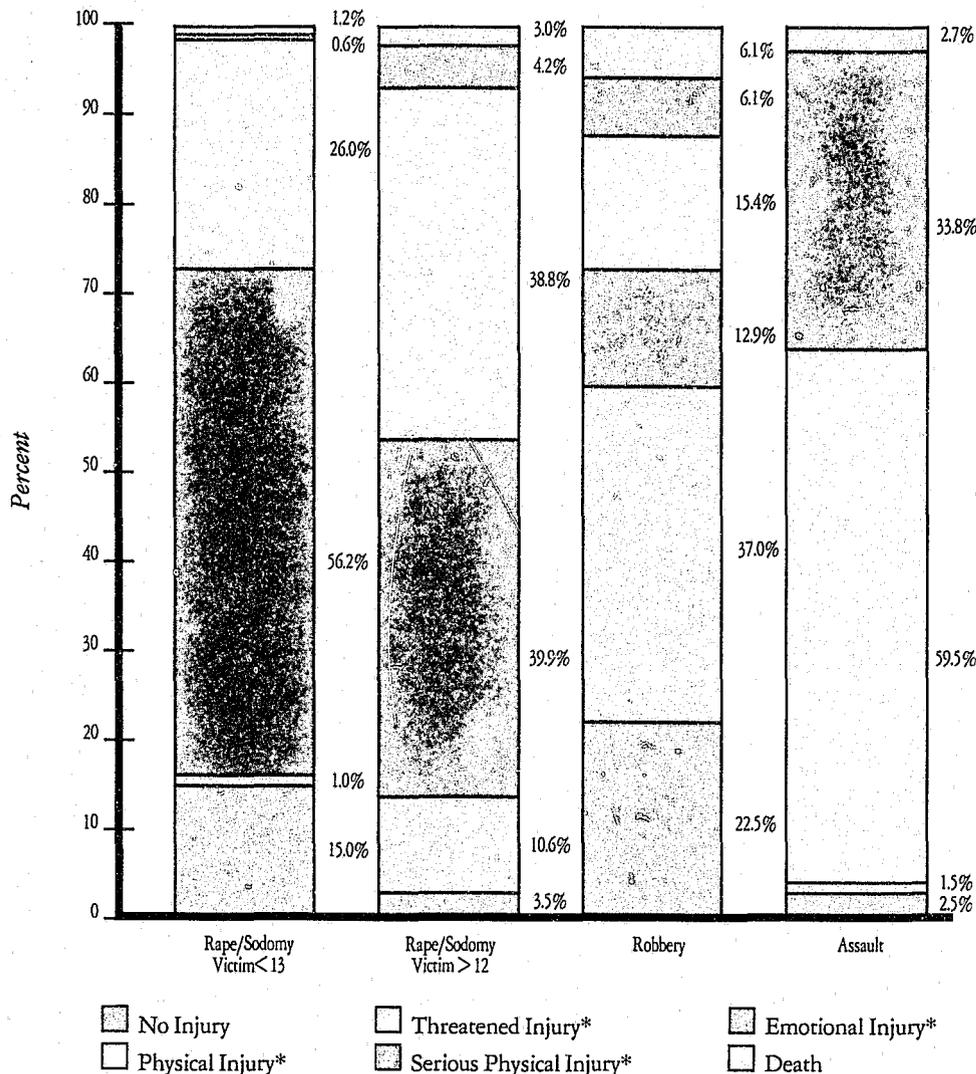
- Knives were the weapons used most often by offenders convicted of rape/sodomy of a victim over the age of twelve.

- Use of a weapon was very infrequent when an offender was convicted of rape/sodomy of a victim under the age of thirteen (97% no weapon). The lack of weapon use in such cases was most likely due to the special vulnerability of the victim.

- No single type of weapon predominated among those cases involving a felony assault conviction (32.6% firearm, 28.9% knife, 27.2% other weapon).

- Other weapons included motor vehicles, incendiary devices, feigned weapons, etc.; but not hands, feet, or other parts of the body.

**Figure 6**  
*Extent of Victim Injury Among  
 Violent Felony Convictions*



\*See text for definitions of these types of injuries.

## Extent of Victim Injury Among Violent Felony Convictions

- Figure 6 displays the extent of victim injury\* across four selected violent felonies against a person (homicide is excluded for obvious reasons). While all of the crimes depicted are serious felonies, the occurrence of grave physical injury to the victims was relatively low except in felony assault cases.

- In 1986, 34 victims were killed during the commission of the violent felonies depicted in Figure 6: two during rape/sodomy of victims aged less than thirteen, eight during rape/sodomy of victims aged more than twelve, five during robberies, and nineteen during assaults. In addition to being convicted for these violent crimes, some or all of the assailants may have been convicted of homicide.

- Serious physical injury occurred the most in cases resulting in felony assault convictions (33.8%).

- Nearly all the victims of felony assault were injured to some degree (96%).

- Firearms were used about twice as often in robberies resulting in convictions as in assaults resulting in convictions, but the assault victims were much more often injured than the robbery victims.

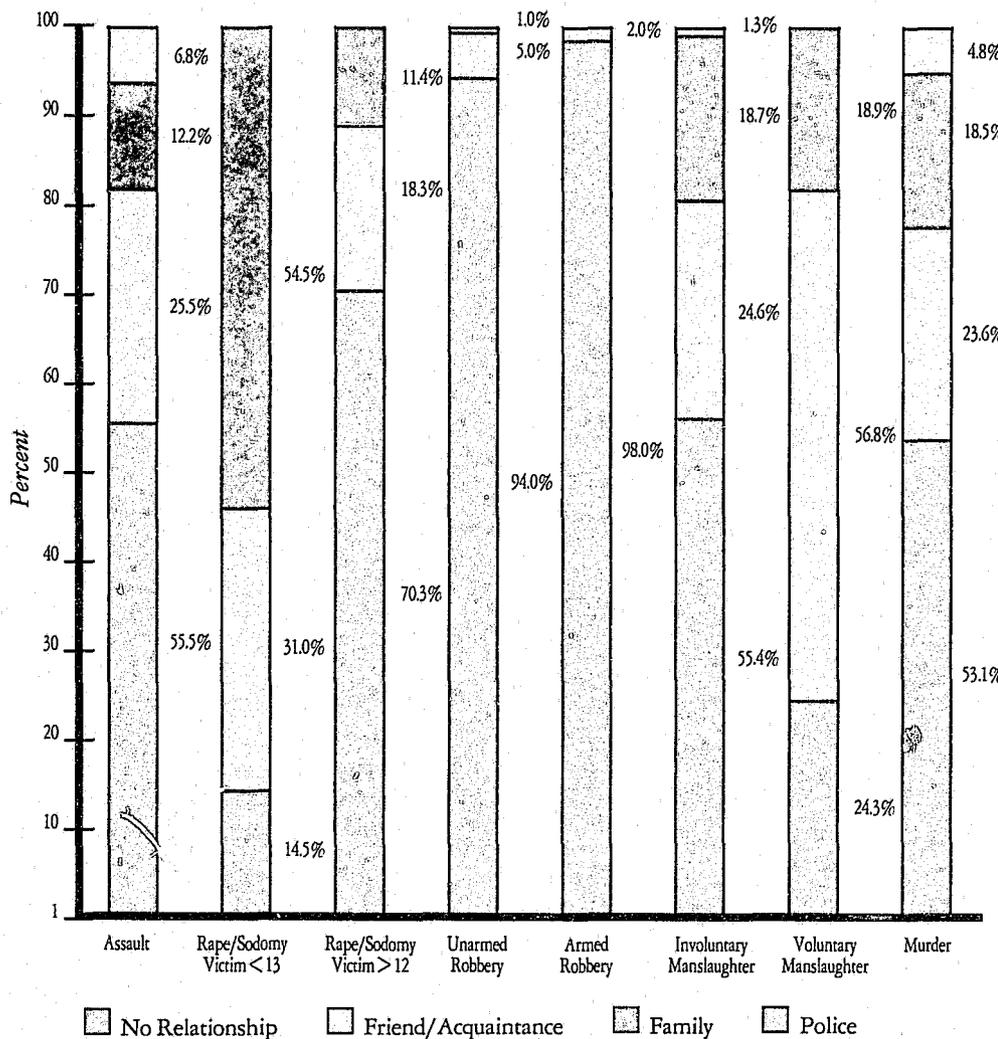
- Among the four crimes depicted in Figure 6, robbery victims were least often injured (22.5% no injury, 37% threatened injury). Conversely, robbery victims were most often murdered (6.1%).

- Not unexpectedly, emotional injury was greatest in those cases involving rape and sodomy victims. Specifically, emotional injury was reported in 56.2% of the convictions for rape/sodomy of victims under the age of thirteen.

- Physical injury was more often threatened than inflicted in robbery convictions.

\*Threatened injury occurred if the assailant possessed a weapon or strong-armed the victim but did not inflict physical injury. Emotional injury occurred if the victim required psychiatric care or therapy. Physical injury occurred if the victim required first aid but not hospitalization. Serious physical injury occurred if the victim was hospitalized or permanently disfigured.

*Figure 7*  
*Relationships of Victims to Offenders*  
*Among Violent Felony Convictions*



## Relationships of Victims to Offenders Among Violent Felony Convictions

- The fear of becoming a victim of a violent crime at the hands of a stranger is commonplace. Figure 7 illustrates, however, that criminal violence is often inflicted on victims by their friends/acquaintances or by members of their families.

- Convictions for rape/sodomy of victims under the age of thirteen often involved victims who were friends/acquaintances (31%) or family members (54.5%) of their assailants.

- Approximately half of all homicide convictions involved victims who were friends or family members of their assailants.

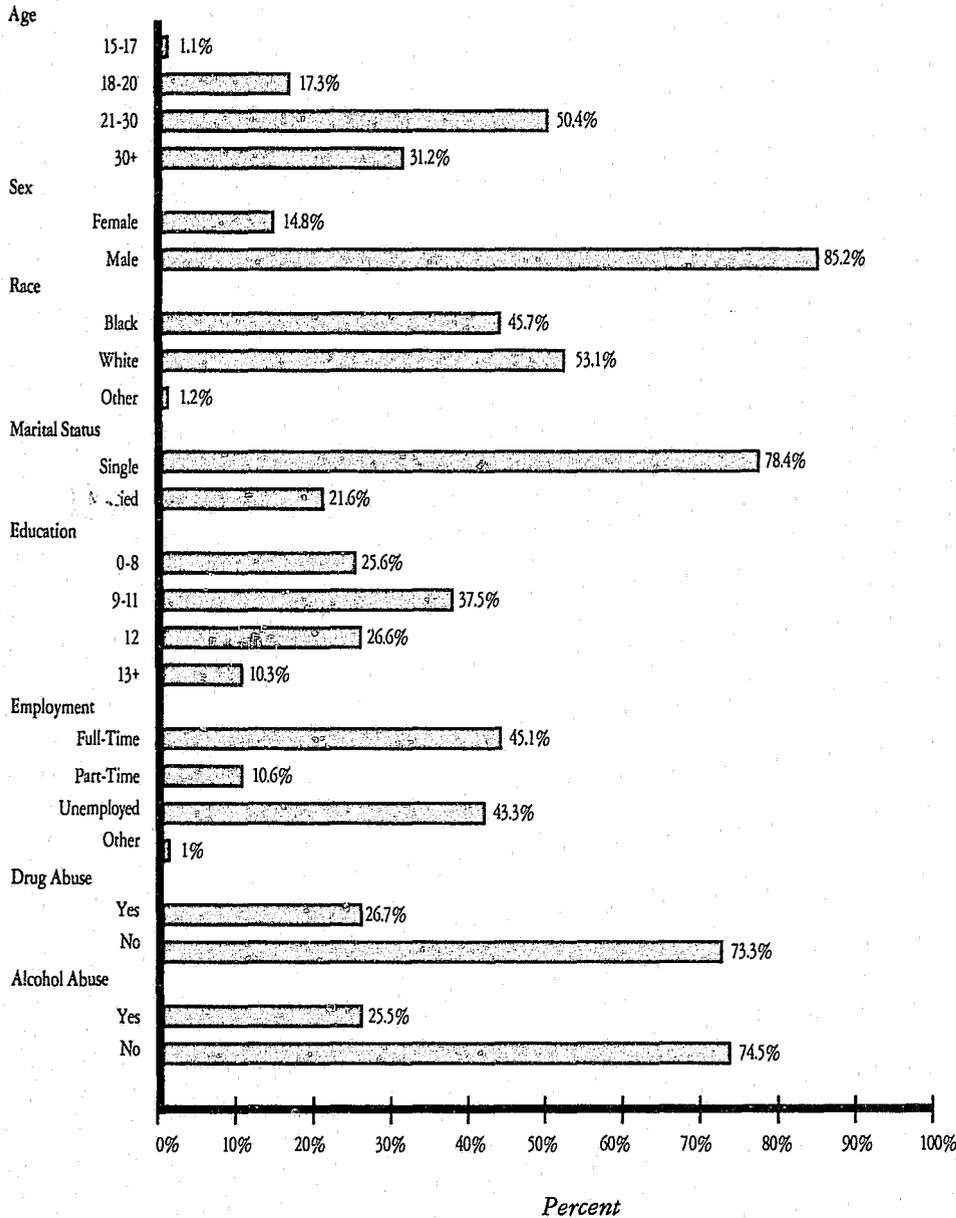
- Friends/acquaintances were more likely to be victims in voluntary manslaughter cases than were family members or strangers.

- In contrast, robberies, both armed and unarmed, were crimes committed almost exclusively against strangers (98% and 94% respectively).

- Police were most likely to be victimized in felony assault conviction cases.

Part II: The O'enders

*Figure 8  
Demographic Information  
on Felony Offenders*



## Demographic Information on Felony Offenders

- The demographic portrait of convicted Virginia felons was very unlike that of the general U.S. population. The felons' backgrounds were characterized by poor education, lack of employment, and a high incidence of drug and alcohol abuse. Figure 8 displays selected demographic information on all felons convicted in Virginia courts in 1986.

- The percentage of offenders who were male or black was much higher than the percentage of the general population with either of these two characteristics.

- Convicted felons were also disproportionately unemployed, undereducated, and abusers of drugs/alcohol as compared to the general population.

- Whereas 81% of adult U.S. males were employed full-time and 3% part-time, only 45.1% of Virginia's convicted felons were employed full-time and 10.6% part-time.

- Juveniles accounted for just over 1% of those convicted as adult felons. These juveniles were certified to the circuit court for processing.

- Young adults in the 18-30 age group formed the majority (67.7%) of convicted felony offenders.

- The proportion of the population in the 18-20 age group was more than three times greater for felons convicted in Virginia courts (17.3%) than for the general U.S. population (5.7%).

- At least one out of four convicted felons abused either drugs or alcohol until his ability to function normally was impaired. Some of these offenders may have abused both substances.

- One out of four convicted felons never began high school.

- Only 37% of all convicted felons completed high school, as opposed to 85% of the U.S. population in the 20-29 age group.

- The "other" category in the employment section of the graph includes students, housewives, disabled people, and retired people.

**Figure 9**  
**Demographic Information on Offenders by Conviction Offense**

	Murder	Voluntary Man-slaughter	Involuntary Man-slaughter	Armed Robbery	Unarmed Robbery	Rape/Sodomy Victim >12	Rape/Sodomy Victim <13	Aggravated Assault	Larceny	Burglary	Drug Crimes	Fraud	Total
<b>Age</b>													
15-17	4.3%	2.8%	0.0%	4.4%	4.5%	2.6%	3.1%	0.4%	1.2%	1.8%	0.1%	0.0%	1.1%
18-20	11.1	8.3	13.8	30.2	31.8	13.2	9.6	13.2	20.8	34.6	8.1	14.0	17.3
21-30	43.8	36.1	43.1	51.6	51.6	57.7	34.8	50.4	47.8	50.7	59.4	52.3	50.4
Over 30	40.9	52.8	43.1	13.8	12.1	26.4	52.6	36.1	30.2	12.9	32.4	33.7	31.2
<b>Race</b>													
Black	57.4	69.4	36.4	74.7	65.2	53.1	28.0	60.2	50.8	41.8	37.0	46.5	45.7
White	40.4	30.6	63.6	24.9	34.2	46.3	64.8	38.0	48.4	57.2	61.2	52.6	53.1
Other	2.2	0.0	0.0	0.4	0.6	0.7	7.1	1.8	0.8	1.0	1.8	0.9	1.2
<b>Sex</b>													
Female	10.6	22.2	18.0	3.1	3.7	0.7	0.0	8.4	18.2	3.5	17.4	40.0	14.8
Male	89.4	77.8	82.0	96.9	96.3	99.3	100.0	91.6	81.8	96.5	82.6	60.0	85.2
<b>Marital Status</b>													
Single	84.3	75.0	70.9	88.8	91.8	81.9	64.0	81.5	80.6	85.0	76.2	75.2	78.4
Married	15.7	25.0	29.1	11.2	8.2	18.1	36.0	18.5	19.4	15.0	23.8	24.8	21.6
<b>Education</b>													
0-8	34.2	44.4	20.2	20.9	23.6	27.1	30.1	40.8	23.0	30.6	15.4	20.6	25.6
9-11	33.8	36.1	23.0	49.3	44.5	43.6	29.1	34.1	39.0	44.5	32.4	35.3	37.5
12	24.4	13.9	43.4	24.9	27.9	22.5	34.6	20.6	27.1	20.8	35.1	28.9	26.6
13+	7.7	5.6	13.4	4.9	4.0	6.8	6.2	4.5	10.9	4.1	17.1	15.1	10.3
<b>Employment</b>													
Full-time	44.3	52.8	59.8	26.8	31.4	60.1	73.5	50.5	41.6	31.4	57.9	36.4	45.1
Part-time	10.6	11.1	9.9	11.2	10.9	9.3	4.2	9.7	10.0	12.8	9.2	12.8	10.6
Unemployed	43.4	36.1	30.3	62.0	57.6	30.6	22.2	39.3	47.8	55.6	32.2	49.1	43.6
Other	1.7	0.0	0.0	0.0	0.0	0.0	0.0	0.6	0.5	0.2	0.7	1.7	0.7
<b>Drug Abuse</b>													
Yes	20.9	5.6	8.8	32.6	35.0	24.9	6.4	14.1	24.7	29.2	47.7	19.3	26.7
No	79.1	94.4	91.2	67.4	65.0	75.1	93.6	85.9	75.3	70.8	52.3	80.7	73.3
<b>Alcohol Abuse</b>													
Yes	28.8	22.2	44.0	23.4	29.5	32.1	20.0	33.4	22.8	31.0	17.1	15.7	25.5
No	71.2	77.8	56.0	76.6	70.5	67.9	80.0	66.6	77.2	69.0	82.9	84.3	74.5

# Demographic Information on Offenders by Conviction Offense

- The demographic profile of the 1986 convicted Virginia felon remained remarkably consistent regardless of the type of conviction offense. Some notable exceptions, however, appear when one examines more closely the traits of different types of felons. Figure 9 shows a detailed breakdown of offender characteristics across twelve major offense categories.

- Young offenders were evident across all major felony conviction categories. Offenders in the 18-20 year range were particularly prominent among those convicted of armed robbery (30.2%), unarmed robbery (31.8%), and burglary (34.6%).

- Offenders over the age of thirty were predominant only in convictions for rape/sodomy of a victim under the age of thirteen (52.6%) and voluntary manslaughter (52.8%).

- With the exception of involuntary manslaughter and rape/sodomy of victims aged less than thirteen, blacks accounted for most of the violent personal offense convictions.

- Males composed the great majority of convicted felons with one notable exception: fraud. Females accounted for 40% of the felony fraud convictions (issuing worthless checks, uttering, welfare and food stamp fraud, etc.).

- Females were also more likely to be convicted of voluntary manslaughter (22.2%), involuntary manslaughter (18%), larceny/receiving stolen goods (18.2%), and drug offenses (17.4%) than other felonies.

- Although offenders of all types were much more often single than married, convicted robbers were least often married (armed robbery 11.2%, unarmed robbery 8.2%), while those convicted of rape/sodomy of a victim aged less than thirteen were most often married (36%). This latter statistic is consistent with Figure 7's finding that most of these particular sex offenses were committed against family members.

- Educational level was somewhat related to the type of conviction offense. More education was evident among those convicted of drug offenses (52.2% completed high school and beyond) and involuntary manslaughter (56.8% completed high school and beyond). In contrast, less education was most evident among those convicted of voluntary manslaughter (19.5% completed high school and beyond), burglary (24.9% completed high school and beyond), and felony assault (25.1% completed high school and beyond).

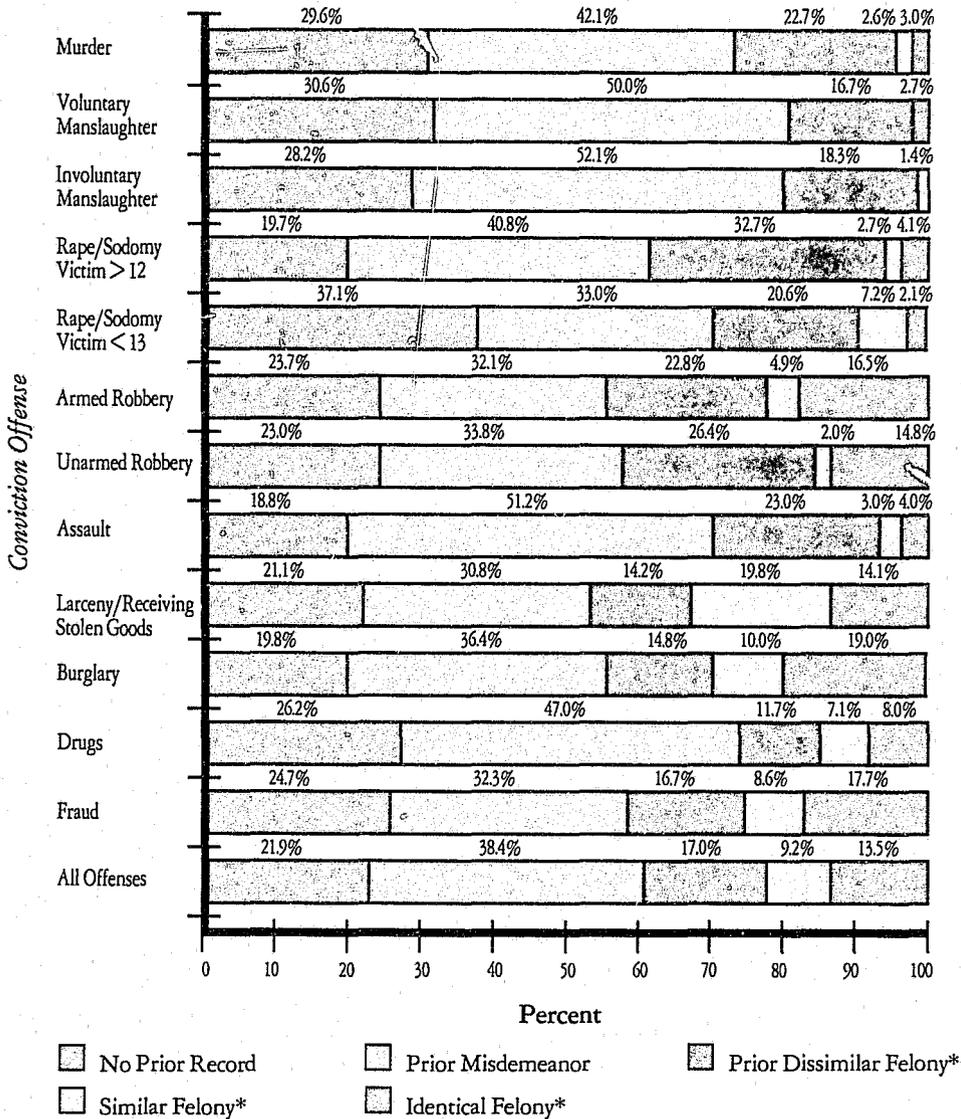
- While the unemployment rate was high across all offender groups, it was particularly extreme for those felons convicted of robbery (armed 62%, unarmed 57.6%), burglary (55.6%), and fraud (49.1%).

- Not unexpectedly, drug abuse was dominant among those convicted of felony drug offenses. Almost half (47.7%) of these felons were personal drug abusers. In contrast, personal drug abuse was evident in less than 10% of those felons convicted of voluntary manslaughter, involuntary

manslaughter, and rape/sodomy of a victim aged less than thirteen.

- Since many of the convictions for involuntary manslaughter involve deaths resulting from drunk driving, it is not surprising that 44% of those convicted of this offense were abusers of alcohol.

**Figure 10**  
**Prior Criminal Record Information for Felons**  
**by Current Conviction Offense**



\*See text for definition of "dissimilar," "similar," and "identical" felonies.

## Prior Criminal Record Information for Felons by Current Conviction Offense

• Criminological studies have consistently noted that chronic repeat offenders, though they constitute a relatively small proportion of all convicted felons, commit a large proportion of all serious crimes. These studies have also identified prior criminal record as the best predictor of an offender's future criminal behavior. Accordingly, the criminal justice system now makes a determined effort to track career criminals with accuracy and thoroughness. Figure 10 shows the prior criminal records of the felons convicted in Virginia courts in 1986, the great majority of whom had prior criminal records of some type. Detailed data such as these provide a logical foundation for programs geared toward the early identification of career criminals, particularly those who specialize in one type of offense.

- Approximately 40% of all convicted felons had prior felony records.
- Prior felony records were most prominent among those convicted of larceny/receiving stolen goods (48.1%), robbery (armed 44.2%, unarmed 43.2%), and burglary (43.8%).
- One out of four felons had a prior felony conviction for an offense similar or identical to his current crime.\*
- First offenses were most likely among those convicted of rape/sodomy of victims under the age of thirteen (37.1% had no prior record).

- Offense specialization was most evident among those convicted of larceny (33.9% were convicted of a prior similar or identical felony), burglary (29% were convicted of a prior similar or identical felony), and fraud (26.3% were convicted of a prior similar or identical felony).

- Of those convicted of murder, 3% had a prior conviction for an identical offense. In actual numbers, this percentage translates into seven offenders. Overall, 6% of those convicted of homicide (thirteen offenders) had a prior conviction for murder or manslaughter.

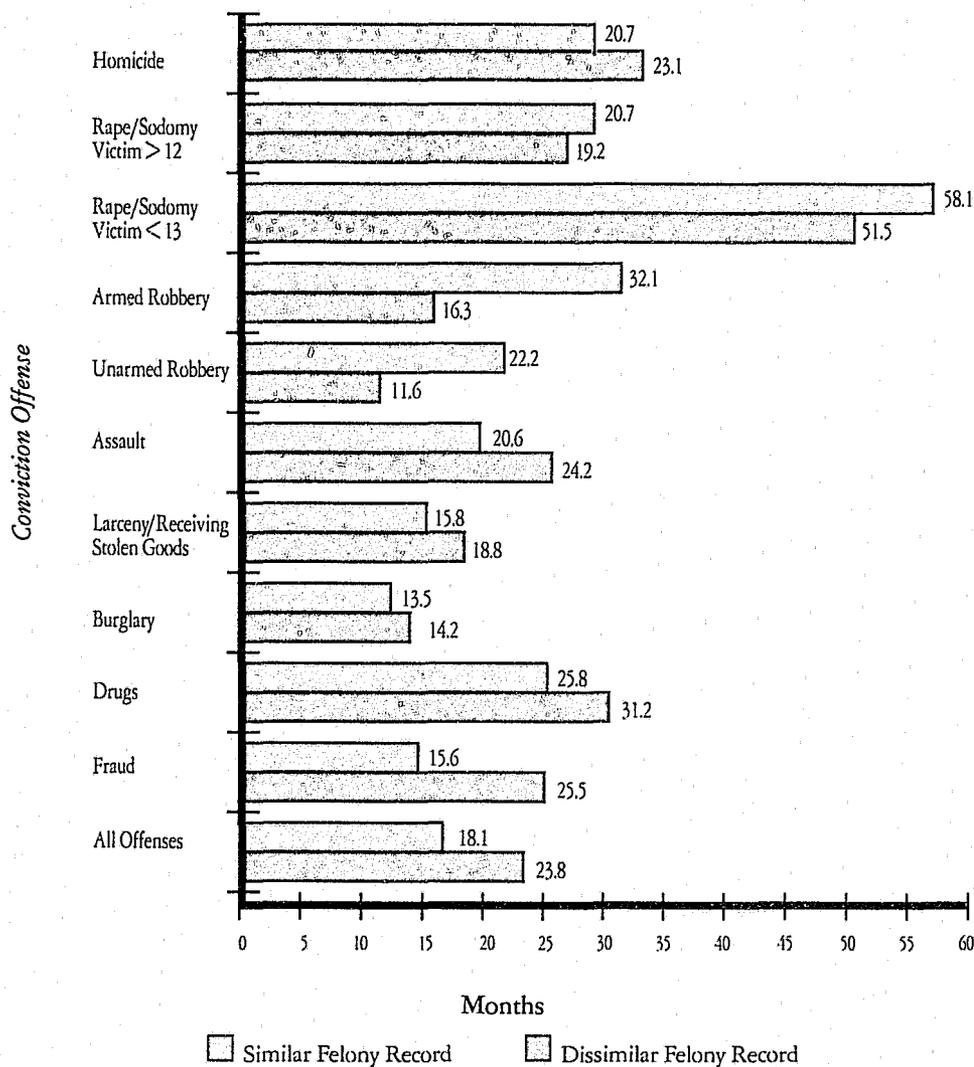
- One out of ten offenders convicted of rape/sodomy of victims under the age of thirteen had a prior conviction for a similar crime.

- Those convicted of involuntary manslaughter constituted the only group of offenders who did not have any prior convictions for this particular crime.

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*\*"Dissimilar to" means that the current offense(s) and the previous offense(s) fall under different statutory articles, like "Homicide" and "Assaults and Bodily Woundings." "Similar to" means that the current offense(s) and the previous offense(s) fall under the same statutory article but in different sections, like "Homicide 18.2-31" (capital murder) and "Homicide 18.2-35" (voluntary manslaughter). "Identical to" means that the current offense(s) and the previous offense(s) fall under the same statutory article and the same section.*

**Figure 11**  
**Average Street Time\* for Repeat Felons**  
**by Current Conviction Offense**  
**(In Months)**



\*See text for definition of "street time."

## Average Street Time\* for Repeat Felons by Current Conviction Offense

- Approximately 40% of convicted felons had a prior felony record of some type, and for a significant number of these offenders, only a short period of time elapsed between their prior and current criminal activities. The great majority of offenders were free—enjoyed "street time"\*—for less than two years before committing a new felony offense.\*\* Figure 11 represents the average street time for repeat felons by conviction offense. This figure shows that serious offenders recidivated relatively quickly upon their return to society. Criminological studies have consistently noted that the period immediately following an offender's return to society is critical in determining whether he will recidivate. Our findings suggest that community correctional strategies should be intensely focused during this critical time.

- Those who specialized in one type of offense appeared to be the most active felons. Those with prior felony convictions similar to their current offenses recidivated at a faster rate (18.1 months of street time) than those with dissimilar prior felony records (23.8 months of street time).

- Those convicted of rape/sodomy of a victim aged less than thirteen experienced the longest street time prior to recidivating. Those with similar prior felony convictions enjoyed a street time of 58.1 months, while the street time for those with dissimilar prior felony convictions was 51.5 months.

- The shortest street time for any group of offenders was for unarmed robbers with dissimilar prior felony convictions. These particular offenders spent an average of slightly less than twelve months in society before committing a new felony offense.

- Convicted burglars were also apt to return to serious criminal activity quickly. The average street time for burglars with dissimilar felony records was 14.2 months; for those with similar felony records, 13.5 months.

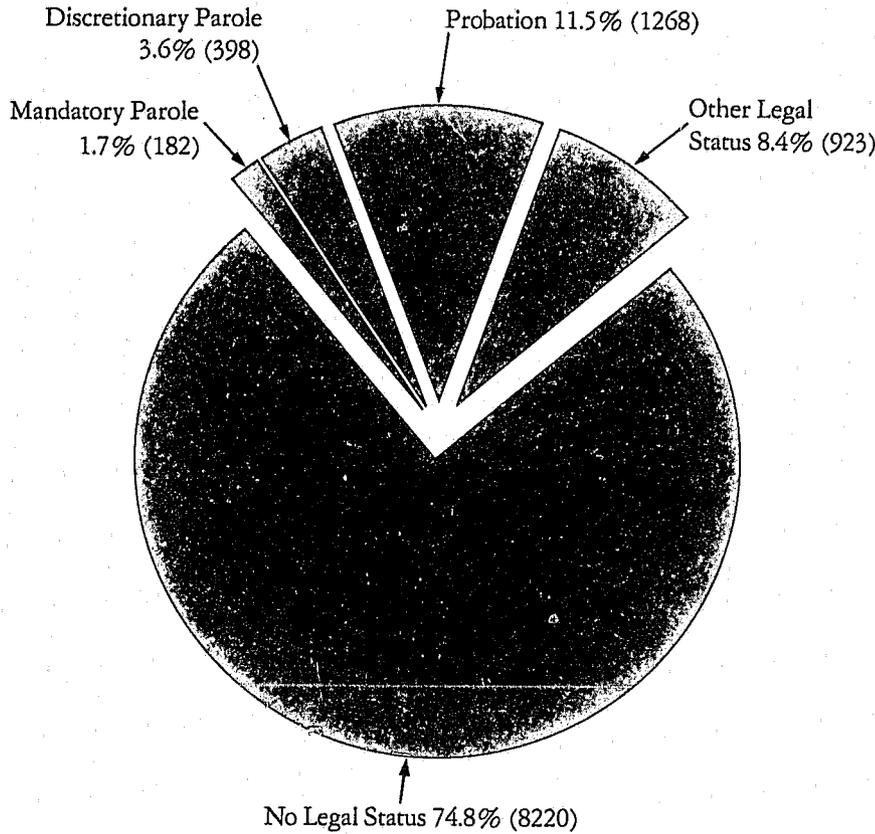
- Those few murderers who were convicted of both an initial and a subsequent homicide recidivated after only 20.7 months of street time.

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*\*\*"Street time" is the time between the date of an offender's release from confinement (or date of prior arrest if he was not confined) and the date of his current offense. The term "average" as used in the report refers to the statistical mean.*

*\*\*Voluntary and involuntary manslaughter are not shown on this graph because the number of cases was insufficient to allow for valid conclusions.*

Figure 12  
Legal Status of All Felons at Time of Offense



## Legal Status of All Felons at Time of Offense

- A large number of convicted felons had prior felony records and recidivated within two years of the date of their last contact with the criminal justice system (see Figure 11). Not surprisingly, therefore, one out of four offenders was under some manner of legal restraint at the time he committed his most recent felony act. Figure 12 illustrates the specific extent and types of criminal justice supervision under which Virginia felons were restricted when they recidivated.

- At the time of their most recent offenses, 11.5% of all offenders were on probation for a previous offense conviction.

- When they committed their most recent offenses, 5.3% of all offenders were on parole for previous offense convictions: 3.6% on discretionary parole and 1.7% on mandatory parole.\*

- At the time of their most recent offenses, 8.4% of all offenders were limited under some other form of legal status: either released on bond, released on summons, released on their own recognizance, confined as inmates, or escaped from prison.

- Three-fourths of all offenders (74.8%) were under no form of legal restraint when they committed their most recent offenses.

\*Discretionary parole is the elective release of an eligible offender to community supervision after the Parole Board has determined that he is fit for release. Mandatory parole is the required release of an eligible offender to community supervision when he has only six months remaining of his sentence.

*Figure 13*  
*Legal Status of All Felons at Time of Offense*  
*by Type of Conviction*

Conviction Offense	Legal Status				
	Probation	Discretionary Parole	Mandatory Parole	Other Legal Status	No Legal Status
Murder	9.4%	5.5%	0.9%	9.4%	74.9%
Voluntary Manslaughter	0.0	0.0	0.0	13.9	86.1
Involuntary Manslaughter	6.9	0.0	1.8	4.2	87.1
Armed Robbery	14.2	8.0	1.3	11.6	64.9
Unarmed Robbery	12.1	8.2	3.1	11.3	65.3
Aggravated Assault	9.7	2.5	0.9	11.5	75.3
Rape/Sodomy < 13	8.2	1.0	1.0	2.0	87.7
Rape/Sodomy > 12	13.9	4.6	1.3	9.3	70.9
Larceny	14.8	3.7	2.5	8.3	70.6
Burglary	16.0	5.8	2.2	8.2	67.9
Drug Crimes	7.3	2.0	0.2	6.3	84.1
Fraud	12.1	3.3	1.4	6.8	76.4
Total	11.5	3.6	1.7	8.4	74.8

## Legal Status of All Felons at Time of Offense by Type of Conviction

- Some degree of relationship existed between the type of offense at conviction and the probability of the offender's having been under some type of legal restraint at the time he committed the offense. Figure 13 displays the extent to which different types of offenders were limited by criminal justice system supervision when they committed their most recent offenses.

- Convicted robbers and burglars were more likely than other groups of offenders to be restricted by some form of legal restraint at the time of their most recent offenses. One-third of all armed robbers (35.1%), unarmed robbers (34.7%), and burglars (32.1%) were under some form of control by the criminal justice system (probation, parole, or some other type of legal restraint) when they committed their crimes.

- Conversely, those convicted of manslaughter (both voluntary and involuntary) and rape/sodomy of a victim under the age of thirteen were most likely not to have been under some form of legal restraint when they committed their crimes. Only 12.3% of those convicted of rape/sodomy of a victim under the age of thirteen, 12.9% of those convicted of involuntary manslaughter, and 13.9% of those convicted of voluntary manslaughter were under some limitation imposed by the criminal justice system when they committed their crimes.

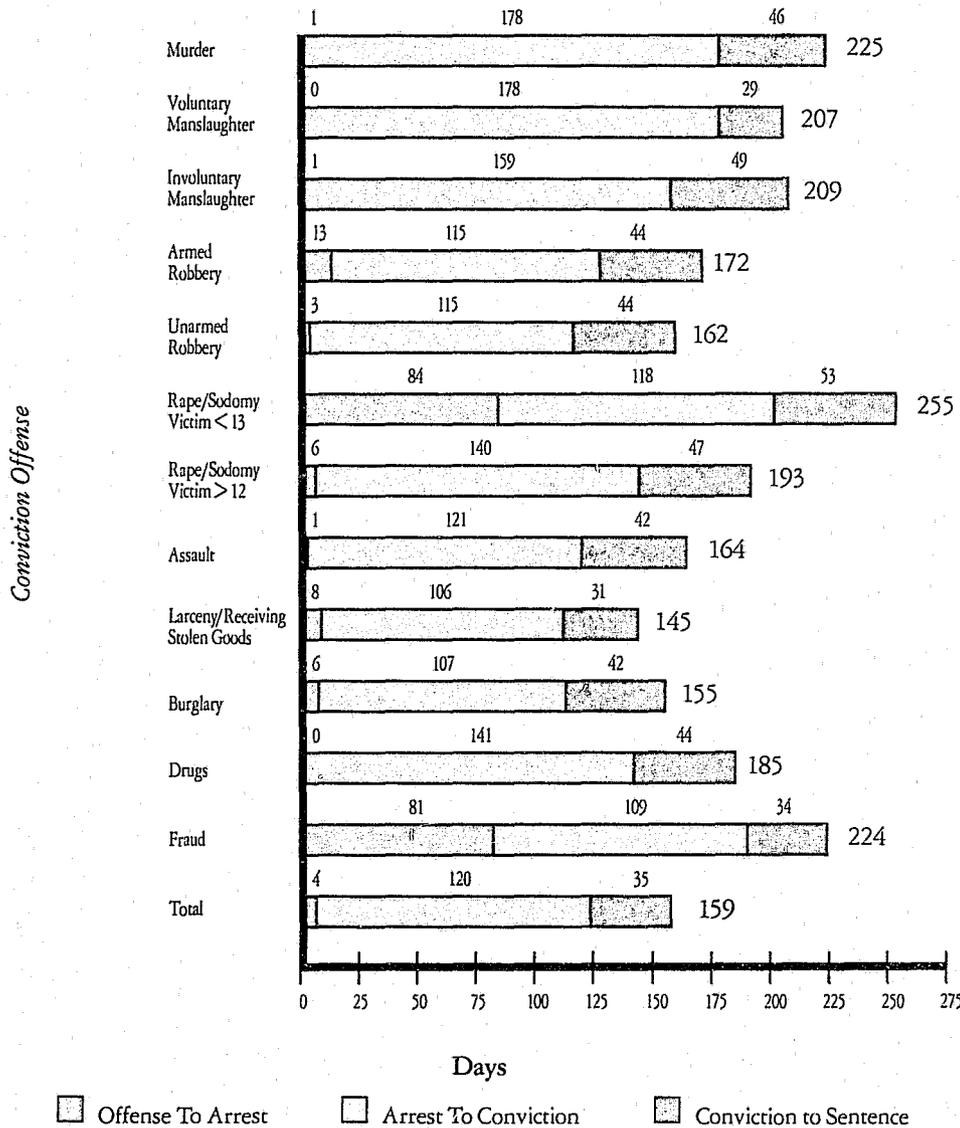
- Convicted robbers, both armed and unarmed, were much more likely to be on parole at the time of their most recent offenses than were other types of offenders. Specifically, 11.3% of unarmed robbers and 9.3% of armed robbers were on parole when they committed their crimes.

- Probation violations most typically accompanied those offenders convicted of burglary (16%), larceny (14.8%), armed robbery (14.2%), and rape/sodomy of a victim aged more than twelve (13.9%).



• J. H. ...

**Figure 14**  
**Median\* Case Processing Time**  
**by Conviction Offense**  
**(In Days)**



\*See text for explanation of median.

## Median\* Case Processing Time by Conviction Offense (In Days)

- The processing of felony cases is rarely swift. In 1986, an average of 21 to 36 weeks was necessary for the criminal justice system to process a felony case from the date of offense to the date of sentencing. The longest case processing time—255 days—was for those convicted of rape/sodomy of a victim aged less than thirteen. Conversely, larceny cases were handled relatively quickly, with an average of only 145 days between the date of the offense and the date of sentencing.

- The average case processing times depicted in Figure 14 all fell within the statutory limits set by the Code of Virginia, limits which protect felony defendants' constitutional right to a speedy trial. Section 19.2-243 of the code states that if a person accused of a felony is held continuously in custody following the district court's verification of probable cause, his trial must commence in the circuit court within five months after that verification. If the accused is not held in custody, his trial must commence within nine months after verification of probable cause.

- The majority of convicted felons were arrested for their crimes within two weeks after they committed their offenses.

- On average, those convicted of murder, manslaughter, felony assault, and drug offenses were arrested within 24 hours after they committed their offenses.

- In contrast, offenders convicted of fraud or rape/sodomy of a victim aged less than thirteen were generally not arrested until approximately twelve weeks after they committed their crimes. Since many of the rape/sodomy cases involved family members (see Figure 7), this long delay may have resulted from the victim's hesitation to report the crimes. The long delays

from offense to arrest in the fraud cases may have resulted from the inherent complexity of the police investigations necessary to justify arrests in these cases.

- On average, the criminal justice system required anywhere from 15 to 25 weeks to process a felony case from arrest to conviction. Property offenders were generally processed and convicted more rapidly than those convicted of violent personal offenses.

- Successful prosecution for murder and manslaughter cases took an average of 25 weeks. Offenders in these cases are more likely to choose jury trials than offenders charged with less serious felonies, so the longer case processing time is to be expected.

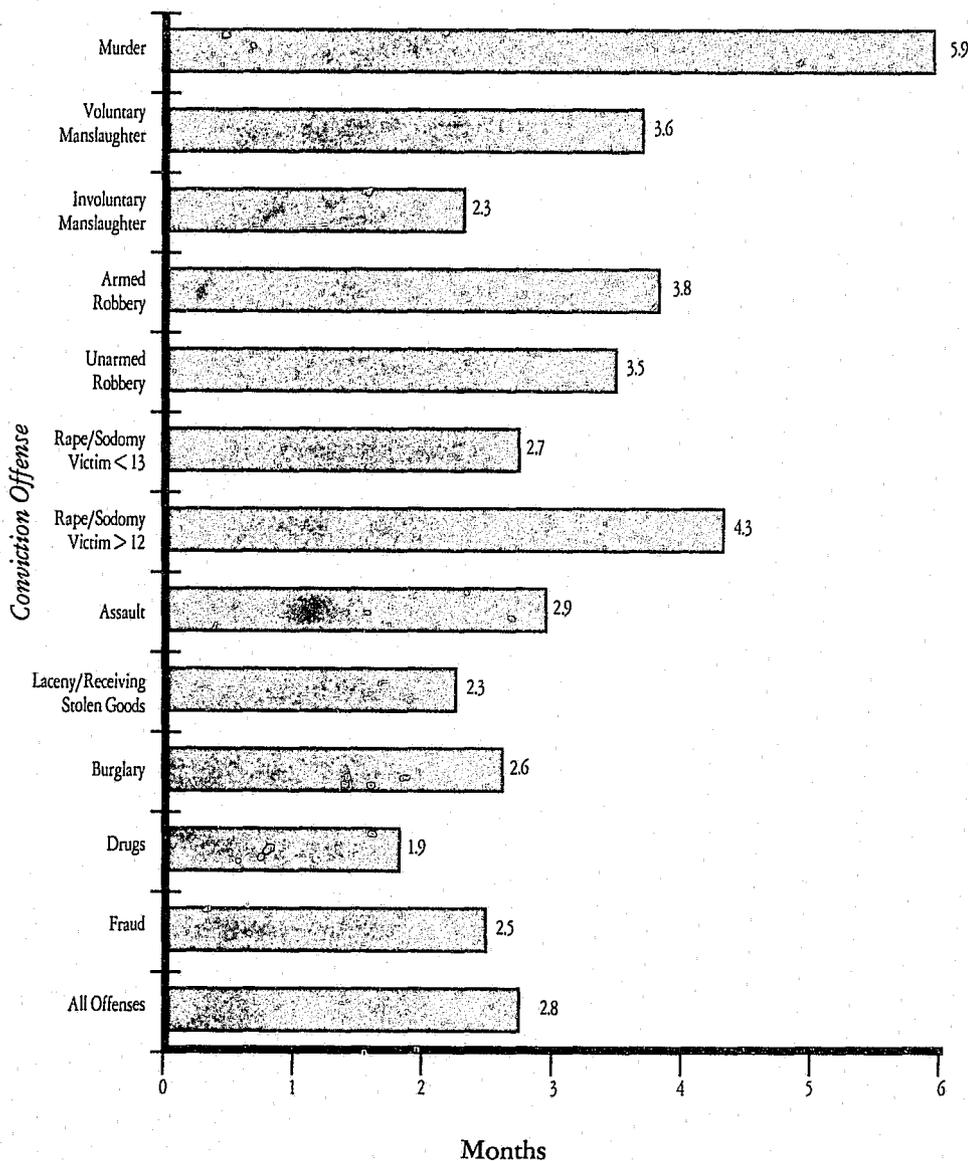
- After he convicts an offender, a judge may order a pre-sentence investigation report (PSI) to help him decide what sentence is most appropriate. This report is designed to provide the court with a thorough picture of the offender's personal and criminal background. The time necessary to prepare the PSI may prolong the period between conviction and sentencing. In 1986, an average of four to seven weeks expired between these two events.

- Those convicted of rape/sodomy of a victim aged less than thirteen waited the longest average time from conviction to sentencing (53 days). This extended wait may have resulted from the time necessary to prepare court-ordered psychiatric evaluations of many of the offenders.

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*\*The median statistic is the midpoint in a series of numbers. It is used here instead of the mean because of the presence of several extreme observations for these data. Unlike the mean, the median is not adversely affected by extreme observations.*

*Figure 15*  
*Average Time Spent in Pretrial Detention*  
*by Conviction Offense*  
*(In Months)*



## Average Time Spent in Pretrial Detention by Conviction Offense (In Months)

- Many of Virginia's jails are currently overcrowded, holding far more inmates than they were designed to house. Though local jails contain offenders with a variety of statuses (serving a sentence, awaiting transfer to a state institution, etc.), many inmates in these jails are unconvicted defendants awaiting trial. Many defendants charged with serious felonies are detained in jail before their cases are settled either because their bond amounts are set very high or because they have limited incomes (or both). A judicial officer (magistrate or judge) may also deny bail to those accused who, in his judgment, are likely to fail to appear in court or who constitute an unreasonable danger to themselves or to the public. Recent criminological studies have noted, however, that many defendants detained on such grounds would, if released, pose no greater likelihood of pretrial misconduct than those currently released with no monetary bail restrictions. The use of objective pretrial risk screening instruments to assist judicial officers in assessing the relative hazard posed by the pretrial release of defendants has generally increased the number of people released before trial without a concomitant increase in pretrial misconduct. Defendants detained before trial under the current system might welcome such a screening tool since, as Figure 15 illustrates, the time spent in jail awaiting trial was significant for particular groups of offenders.

- Generally, the length of time that an offender spent in pretrial detention increased with the seriousness of his charge.

- Those charged with murder were detained in jail the longest time (an average of nearly six months) before conviction. Since nearly all charged felons are convicted as a result of guilty pleas, the long pretrial detention rate for convicted murderers might be explained by these offenders' greater propensity to have their cases settled by a jury trial. The preparation time for a trial, particularly a murder trial, usually prolongs the time necessary to settle a case.

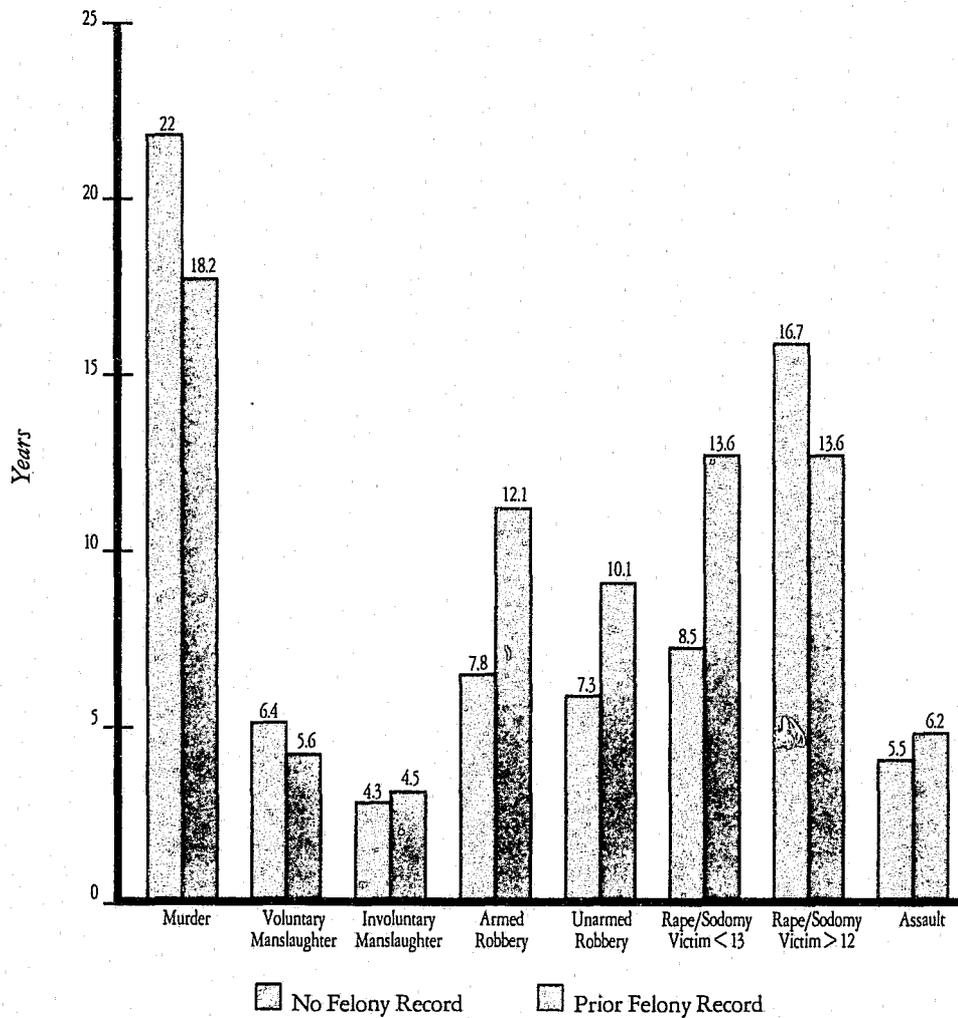
- Detained defendants charged with robbery or rape/sodomy of a victim aged more than twelve spent an average of 3.5 to 4.3 months in pretrial detention.

- Pretrial detention for felony property offenders averaged 2.5 months (larceny/receiving stolen goods, 2.3; burglary, 2.6; and fraud, 2.5).

- Those charged with felony drug crimes spent the shortest amount of time in pretrial detention: they averaged just under two months.

- As mentioned previously, Section 19.2-243 of the Code of Virginia requires faster processing of felons detained continuously before trial than of those not so detained. With minor exceptions, the average case processing time for detained defendants was indeed lower than that for all convicted felons.

*Figure 16*  
*Average Judge Prison Sentences*  
*for Violent Offenses*  
*(In Years)*



## Average Judge Prison Sentences for Violent Offenses (In Years)

- One of the greatest responsibilities of a circuit court judge is to set penalties for those convicted of felony offenses. A judge has great discretion in deciding on a sanction and needs only to insure that his sentence falls within the broad penalty range allowed by the statutory minimum and maximum sentences. For example, in setting a penalty for those convicted of robbery, the judge can impose a sanction anywhere within the statutory limits of five years to life in prison. Figure 16 depicts the average prison sentences imposed by circuit court judges for violent personal crimes.\*

- The average sentences reflect an "effective" penalty (imposed incarceration amount minus suspended incarceration amount), since judges often suspend part of the imposed prison time. The effective sentence, then, represents the actual time to be served, though the offender often does not serve this entire time: both parole and time off for good behavior may reduce the actual period of incarceration.

- Convicted murderers received the longest sentences, with prior felony record having no impact on the severity of the sanction. In fact, murderers with no prior felony records received slightly more time on average (22 years) than murderers with prior felony records (18.2 years).

- Although prior felony record information generally had a negligible effect on sentence severity for violent offenders, it had a substantial influence on sentences for those convicted of armed robbery, unarmed

robbery, and rape/sodomy of a victim aged less than thirteen. In these cases, those with prior felony records received approximately 1.5 times as much incarceration time as those with no prior felony record.

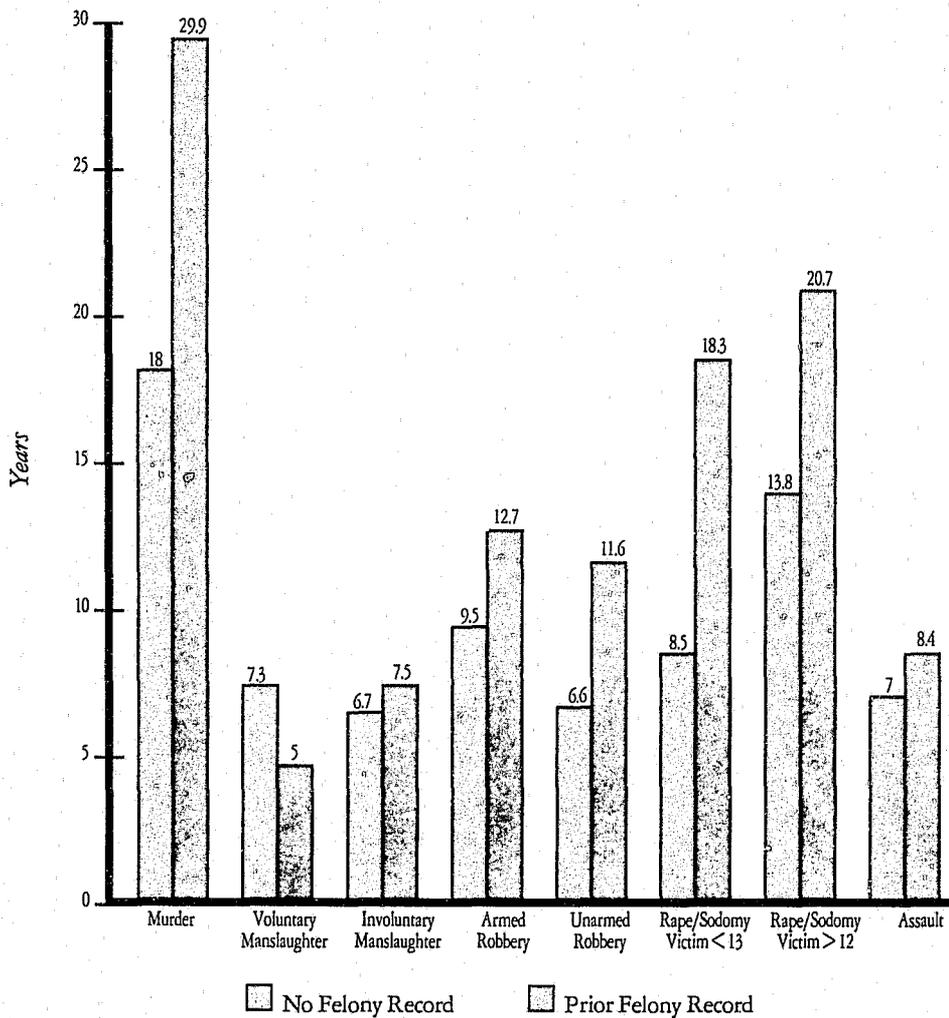
- The shortest prison sentences for offenders convicted of violent personal offenses were those imposed for involuntary manslaughter: approximately 4.5 years.

- Offenders with prior felony records who were convicted of rape/sodomy received the same average prison sentence (13.6 years) regardless of the victim's age (as distinguished by the Code of Virginia). Conversely, first-time felons convicted of rape/sodomy of a victim aged more than twelve received approximately twice as much prison time (16.7 years) as first-time felons convicted of the same crime with a victim aged less than thirteen (8.5 years).

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*\*These averages do not include sentences for life in prison or death. The specific breakdown of these sentences is as follows: murder (no prior felony record), fifteen life sentences and one death sentence; murder (prior felony record), seven life sentences and one death sentence; unarmed robbery (no prior felony record), one life sentence; rape/sodomy of a victim aged more than twelve (no prior felony record), three life sentences; rape/sodomy of a victim aged more than twelve (prior felony record), three life sentences; rape/sodomy of a victim aged less than thirteen (prior felony record), two life sentences.*

*Figure 17*  
*Average Jury Prison Sentences*  
*for Violent Offenses*  
*(In Years)*



## Average Jury Prison Sentences for Violent Offenses (In Years)

• Though the right to “trial by an impartial jury” is guaranteed throughout all fifty states by the Sixth Amendment to the U.S. Constitution, only six states authorize juries to impose sentences in cases involving noncapital crimes: Arkansas, Kentucky, Missouri, Oklahoma, and Texas join Virginia in allowing juries to set sentences. Despite this fact, however, only about 6% of all sentences imposed on convicted felons in Virginia during 1986 were handed down by juries, although those convicted of extremely serious crimes were much more likely to face a jury than other offenders (e.g., the jury sentence rate for murder was approximately 38%). Furthermore, although the jury is allowed to fix the penalty for those offenders who choose a jury trial, the ultimate responsibility for the sentence still rests with the judge, who can suspend any or all of the jury’s sentence. Nonetheless, judges do not often alter jury sentences significantly because such sentences are commonly viewed as reflections of prevailing social attitudes towards crime and criminals. Figure 17 presents the average effective jury sentences imposed for violent personal offenses on convicted Virginia felons in 1986.\*

• Unless a defendant testified during his trial, information concerning his prior record was probably not revealed to the jury. How often juries learned such information before making their decisions is not known. Nonetheless, juries in most cases gave more time to offenders with prior fel-

ony records than to first-time offenders convicted of the same violent crimes.

- Convicted murderers with prior felony records received the harshest average prison terms from juries, approximately thirty years. Murderers without prior felony records received, on average, eighteen years.

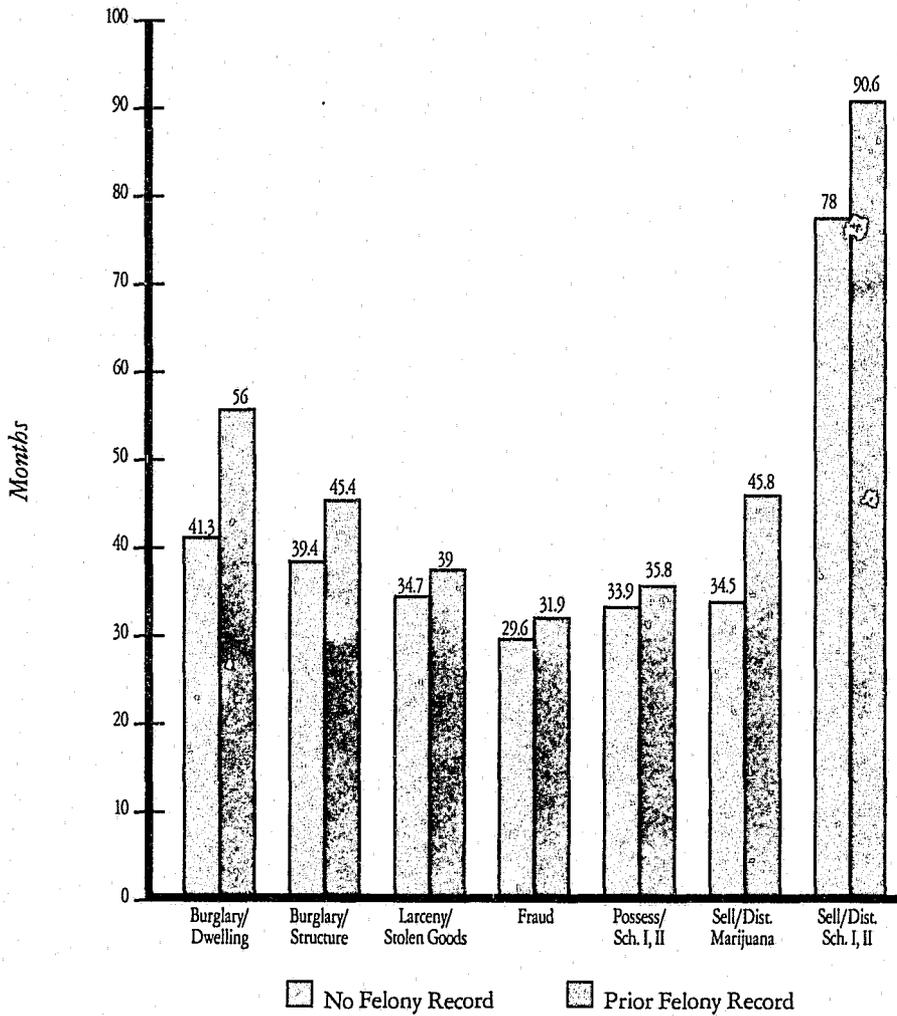
- In most instances, juries imposed more prison time than that given by judges for the same violent crime. Juries were especially harsher than judges in sentencing offenders convicted of involuntary manslaughter (e.g., average judge sentence for offender with prior felony record, 4.5 years; average jury sentence for offender with prior felony record, 7.5 years).

- Juries were also harsher than judges in sentencing offenders with prior felony records who were convicted of rape/sodomy (e.g., average judge sentence, victim aged less than thirteen, 13.6 years; average jury sentence, victim aged less than thirteen, 18.3 years; average judge sentence, victim aged more than twelve, 13.6 years; average jury sentence, victim aged more than twelve, 20.7 years).

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*\*These averages do not include sentences for life in prison or death. The specific breakdown of these sentences is as follows: murder (no prior felony record), nineteen life sentences and one death sentence; murder (prior felony record), seven life sentences and three death sentences; rape/sodomy of a victim aged more than twelve (no prior felony record), one life sentence; rape/sodomy of a victim aged more than twelve (prior felony record), two life sentences; armed robbery (prior felony record), one life sentence.*

**Figure 18**  
**Average Judge Prison Sentences**  
**for Nonviolent Offenses**  
**(In Months)**



## Average Judge Prison Sentences for Nonviolent Offenses (In Months)

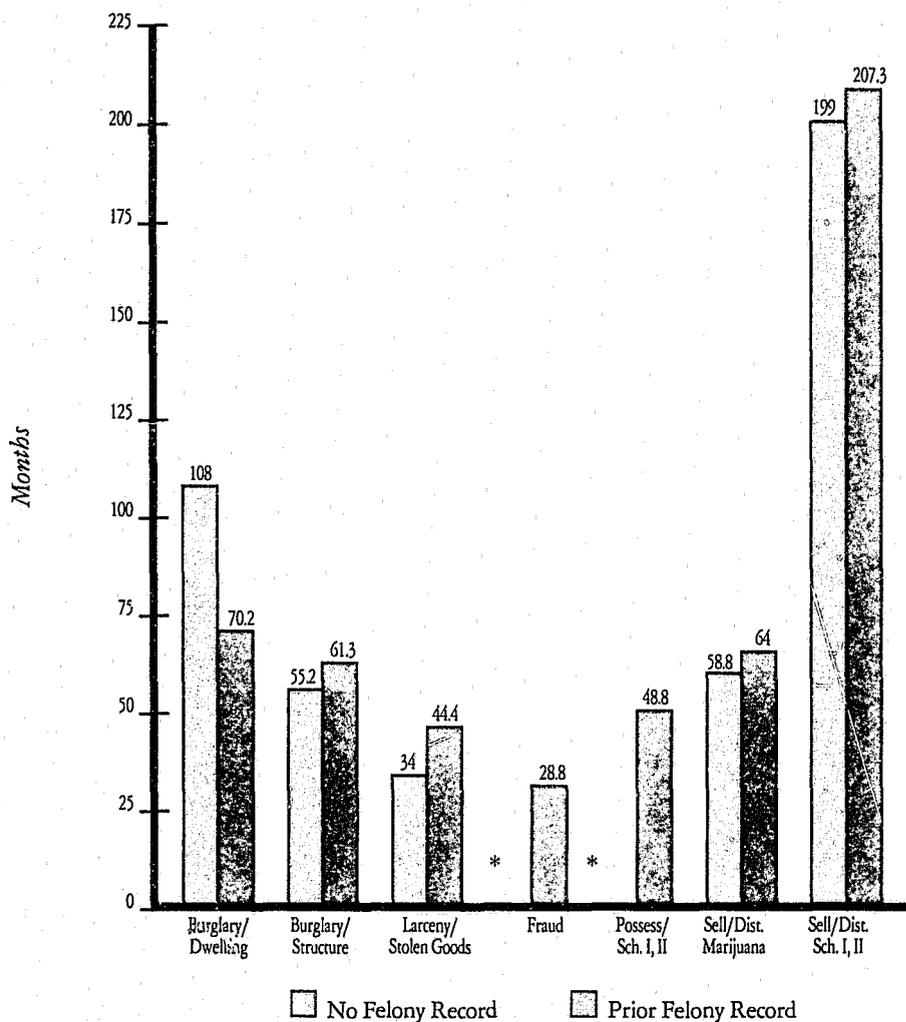
- As Figure 1 shows, most felony convictions are for nonviolent offenses. Consequently, judges spend considerably more time sentencing offenders convicted of property and drug crimes than they do sentencing offenders convicted of violent personal crimes. Figure 18 displays the average effective judicial sentences for the most common nonviolent felonies. The sentences are depicted in months rather than years because the average terms of incarceration for nonviolent crimes are not as long as those imposed for the violent crimes shown in Figures 16 and 17.

- Those offenders convicted of the sale/distribution of Schedule I or II drugs received the harshest prison sentences among those convicted of nonviolent felonies (first-time offenders, 78 months; repeat offenders, 90.6 months).

- Conversely, those convicted of fraud received the most lenient prison sentences among those convicted of nonviolent felonies (first-time offenders, 29.6 months; repeat offenders, 31.9 months).

- Offenders with prior felony records consistently received more prison time than those first-time felons convicted of nonviolent crimes. Sentence aggravation for repeat offenders, however, was not especially noteworthy except for those convicted of burglary of a dwelling, the sale/distribution of one-half ounce to five pounds of marijuana, and the sale/distribution of a Schedule I or II drug.

*Figure 19*  
*Average Jury Prison Sentences*  
*for Nonviolent Offenses*  
*(In Months)*



\*Insufficient number of cases from which to draw valid conclusions.

## Average Jury Prison Sentences for Nonviolent Offenses (In Months)

- Jury trials—and consequently jury sentences—are generally not as likely to be requested in cases involving nonviolent offenses as they are in cases involving violent offenses. In 1986, nonetheless, juries did impose enough sentences for most nonviolent crimes to allow for valid findings. These findings are presented in Figure 19. (In two instances, the number of jury sentences was too low to draw valid conclusions: fraud, no felony record; and possession of a Schedule I or II drug, no felony record.)

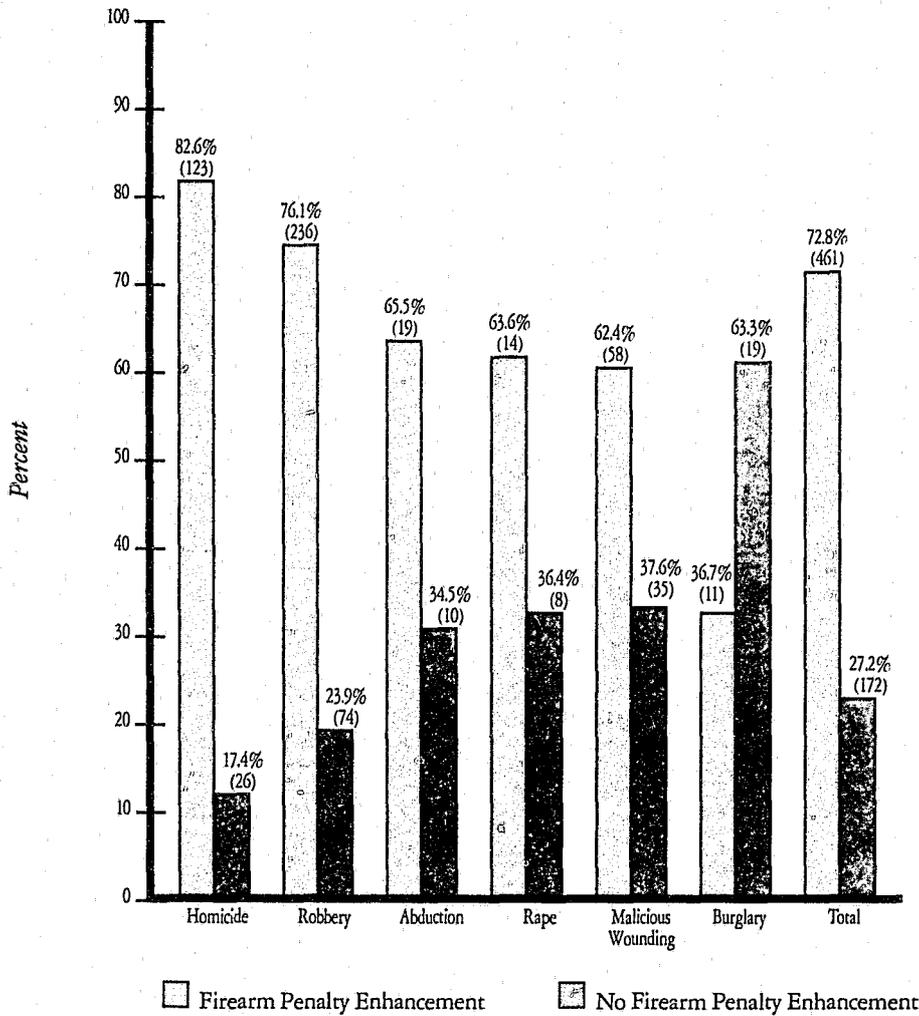
- Though the difference was not great, juries consistently (with the exception of burglary of a dwelling) imposed more prison time on nonviolent felons with prior records than on first-time offenders convicted of the same crimes, just as they did with violent offenders (see Figure 17).

- Those offenders convicted by juries of the sale/distribution of Schedule I or II drugs received extraordinarily longer sentences than those imposed on other nonviolent offenders. Jury sentences for this crime were also significantly harsher than those imposed by judges (no prior felony record, average jury sentence 16.5 years, average judge sentence 6.5 years; prior felony record, average jury sentence 17 years, average judge sentence 7.5 years).

- As did judges, juries imposed the most lenient prison terms on offenders convicted of fraud.

- With minor exceptions, jury sentences for nonviolent felons were harsher than those imposed by judges, particularly for first-time offenders (e.g., burglary of a dwelling, average jury sentence 108 months, average judge sentence 41.3 months; sale/distribution of one-half ounce to five pounds of marijuana, average jury sentence 58.8 months, average judge sentence 34.5 months).

**Figure 20**  
*Use of the Mandatory Firearm Penalty  
 Enhancement by Conviction Offense*



## Use of the Mandatory Firearm Penalty Enhancement by Conviction Offense

• Section 18.2-53.1 of the Code of Virginia states:

*It shall be unlawful for any person to use or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit murder, rape, robbery, burglary, malicious wounding as defined in §18.2-51, or abduction. Violation of this section shall constitute a separate and distinct felony and any person found guilty thereof shall be sentenced to a term of imprisonment of two years for a first conviction, and a term of four years for a second or subsequent conviction under the provisions of this section. Notwithstanding any other provision of law, the sentence prescribed for a violation of the provisions of this section shall not be suspended in whole or in part, nor shall anyone convicted hereunder be placed on probation. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.*

Forty-nine other states and the District of Columbia have enacted similar legislation in an attempt both to punish armed offenders and to deter others from using firearms in this manner. On the issue of deterrence, the general consensus in the criminological literature suggests that the certainty, not the severity, of the punish-

ment is the critical element in achieving a deterrent effect, either on an individual offender or on others who may be contemplating similar crimes. If legislation such as the mandatory firearm law is to deter, it would follow that such legislation must be applied with certainty to cases covered by the law. Figure 20 illustrates that, while the probability of an offender's incurring the mandatory firearm penalty was high, it was by no means a certainty. Though a judge had to impose the mandatory penalty if an offender was convicted under this statute, a large number of criminals (172 out of 633, or 27.2%) who used a firearm in the commission of the specified felonies were not given this additional sanction. A likely explanation for the absence of the penalty enhancement in such cases may be that the firearm charges were dropped during plea negotiations by the Commonwealth's Attorney in return for some concession on the offender's part (e.g., a plea of guilty to some other charge).

- The firearm penalty enhancement was most likely to have been exercised in homicide convictions. In the 149 homicide convictions involving use of a firearm, 82.6% (123 cases) had the mandatory firearm penalty added to the sentence for the homicide itself.

- Approximately three out of four robbery convictions were accompanied by the mandatory firearm penalty enhancement.

- Approximately two-thirds of the sentences for abduction (65.5%), rape (63.6%), and malicious wounding (62.4%) were accompanied by the mandatory firearm penalty enhancement.

- Though burglary is covered under this specific law, those convicted of burglary with a firearm were unlikely to have been subjected to the mandatory firearm penalty enhancement: approximately two out of three offenders convicted of burglary with a firearm did not have an accompanying conviction for the use or display of a firearm during the commission of this felony.

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