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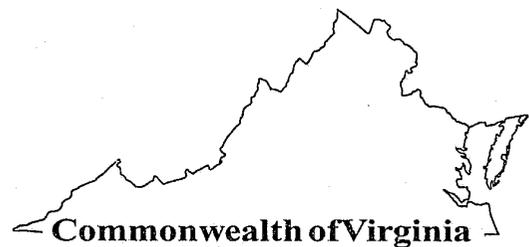


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# *Convicted Sex Offenders*

## *Criminal Justice Research Center*

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**Commonwealth of Virginia**

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August, 1994

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The mission of the Criminal Justice Research Center is to provide accurate and comprehensive data and research to guide strategic, policy, and budgetary decision-making on criminal justice issues, policies and programs. The Center is responsible for the coordination, collection, statistical analysis and interpretation of system-wide data on crime and criminals in Virginia.

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## Overview

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The word rape often evokes a vision of a woman attacked by a stranger lurking in the dark. This first comprehensive examination of convicted felony sex offenders in Virginia will examine many such traditional generalizations. While brutal rapes between strangers occur, the majority of sex crimes are perpetrated against children, in their own home, by people they know and love. However, the reader is cautioned to keep in mind that this examination reveals only a small snapshot of the true prevalence and dynamics of sexual assault.

National surveys indicate that only one in six rapes is ever reported to the police.<sup>1</sup> Although Virginia is progressive in its comprehensive effort to collect detailed information on all convicted felony sex offenders, like the rest of the nation, we know little about offenders who never reach this late stage of official processing. While this report provides detailed information on convicted sex offenders, it is impossible to generalize the findings to all offenders who commit or are arrested for sex crimes.

According to the Virginia State Police, there were 2008 rapes reported in Virginia in 1992, 79% of which resulted in an arrest. Although sex crimes (rapes and other sex offenses) accounted for 1% of all arrests in Virginia in 1992, sex offenders accounted for 6% of all new admissions to Virginia's prisons. By comparison, drug offenders accounted for 5% of all arrests and 31% of all new prison admissions.<sup>2</sup>

Except as noted, the findings in this report are the result of an analysis of 3,689 offenders convicted of felony-level sexual assaults in Virginia between 1986 and 1990. The data is extracted from Virginia's Pre/Post-Sentence Investigation (PSI) Database, which contains extensive automated information from the pre- or post-sentence investigation reports completed by probation officers. An additional data collection effort was undertaken by the Criminal Justice Research Center on a random sample of 1,149 offenders to collect more detailed information on the sex crime,

where and when it occurred, and the relationship between the victim and offender. The study was completed at the request of Virginia's judiciary, in an effort to improve Virginia's voluntary sexual assault sentencing guidelines. The findings from the supplemental sexual assault database are noted by an asterisk (\*) at the subtitle.

Unless otherwise specified, the results refer to all persons convicted of any felony sexual assault. However, there are two large offense groups that accounted for 70% of all convicted sex offenses during the five year period: (1) aggravated sexual battery and (2) rape, forcible sodomy, or forcible penetration with an inanimate object. In some displays, the findings of these two offense groups are contrasted.

### Definitions

Aggravated sexual battery refers to the sexual abuse of a victim under the age of thirteen or the sexual abuse of a victim against his/her will, by force, intimidation or through the use of the victim's mental or physical incapacity where the victim is (1) under age fifteen, or (2) there is serious physical or mental injury, or (3) a dangerous weapon is threatened and/or used.<sup>3</sup> Aggravated sexual battery is a felony offense which carries a statutory penalty of one to twenty years in prison.

Rape, forcible sodomy, and object penetration (referred to as rape/sodomy in this report) also include the elements of being committed against the victim's will, by force or intimidation, or through the victim's mental or physical incapacity (these elements are not required if the victim is under the age of thirteen). However, these crimes add the additional element of sexual penetration -- vaginal, oral, or anal.<sup>4</sup> These felony offenses are punishable by a statutory penalty of five years to life imprisonment.

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### Summary of Selected Findings

- 3 out of 4 sex offenses occurred in a private residence.
- 80% of the victims of convicted sex offenders were under the age of 18.
- 4 out of 5 convicted sex offenders knew their victim.
- Child victims were more likely than adults to be assaulted in their own home and repeatedly victimized by their attacker.
- Almost one-half of convicted sex offenders had previously undergone some form of mental health treatment.
- 63% of convicted sex offenders had a prior criminal conviction.
- 10% of the offenders used a weapon -- 3% used a firearm.
- 3 out of 4 sexual assaults resulted in some measurable form of injury.
- 55% of all convicted sex offenders received a prison sentence.
- Both judges and juries gave longer prison sentences if the victim and offender were strangers and if the victim was an adult.

This analysis offers policy-makers a first time look at the type of offenders convicted of felony-level sexual assaults in Virginia, who they victimize, and how victim-offender relationships affect the sentencing behavior of judges and juries. The results indicate that the dynamics of the victim-offender relationship in sexual crimes shapes the sentencing behavior of both judges and juries. Convicted offenders who victimize a family member, and particularly a child, tend to receive less severe sentences than offenders who assault strangers.

This difference in sentencing practice could be the result of many alternative explanations, beginning with differences in offense behavior. Sexual assaults between strangers, while less frequent than assaults between non-strangers, were more likely to involve weapons and result in physical injury. Or it may be that judges and juries deem acts of sexual violence within families as a less serious offense than sexual violence between strangers, particularly when weighing the public's interest in protection. Some argue that the courts should be less intrusive when it comes to regulating behavior occurring within the family. However, others contend that all victims of violent crimes deserve equal protection in the eyes of the law.

Assessing the efficacy of current policies toward the treatment of both offenders and victims of sexual assault begins with a comprehensive examination of what we know, an admission of what we do not know, and a resolution to close that gap with thorough and objective research.

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<sup>1</sup>National Victims Center, *Rape in America: A Report to the Nation*, April 1992.

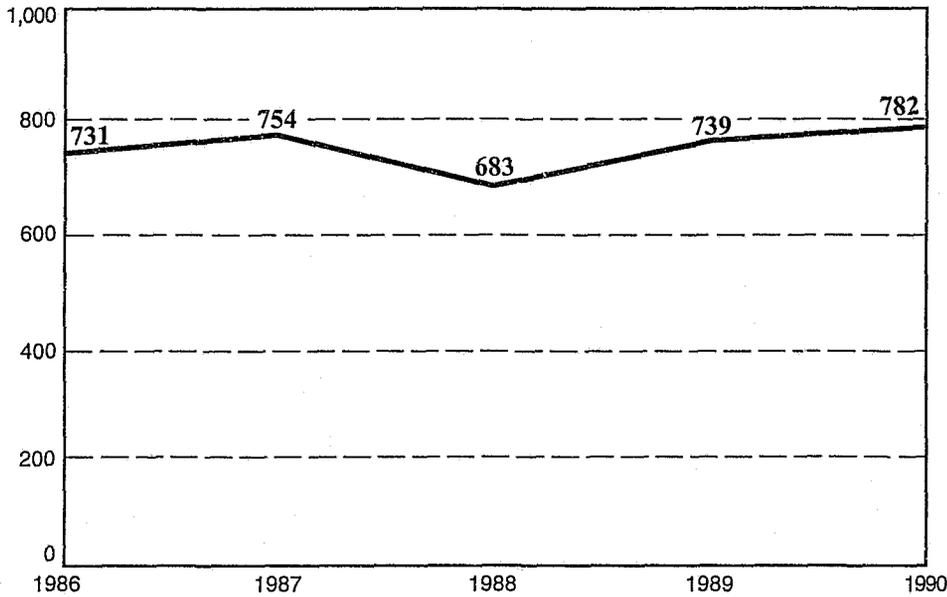
<sup>2</sup>Department of State Police, *Crime in Virginia*, 1992; Department of Corrections, *Offender Based State Correctional Information System*, 1992.

<sup>3</sup>*Code of Virginia*, section 18.2-67.3.

<sup>4</sup>*Code of Virginia*, sections 18.2-61; 18.2-67.1; 18.2-67.2.

# Sexual Assault Convictions

## Number Of Convictions:



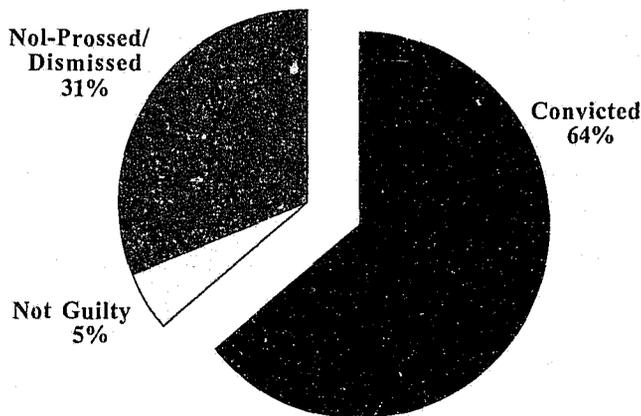
■ The number of felony sexual assault convictions in Virginia remained fairly stable between 1986 and 1990. In 1990 there were 782 felony sexual assault convictions in Virginia, an increase of 7% since 1986.

■ Sexual assaults accounted for 4% of all felony convictions in Virginia in 1990. By comparison, drug offenses accounted for 36% of all felony convictions.

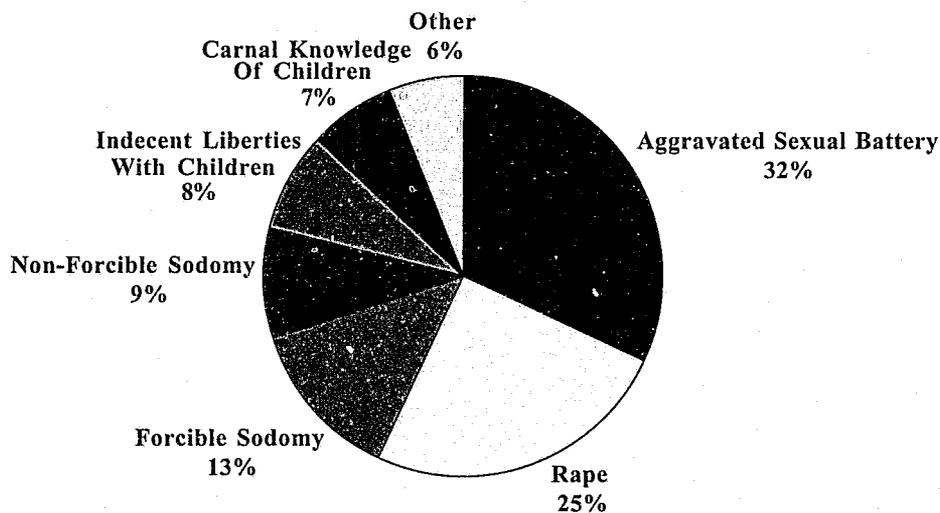
■ According to Virginia's 1990 Offender Based Transaction Statistics (OBTS), sixty-four percent of all sexual assault arrests resulted in conviction. One out of three cases was dismissed or nol-prossed.

■ Of all convicted offenders, 89% were convicted of the original sex crime charged and 11% were convicted of a less serious sex offense.

## Case Dispositions For Sexual Assault Arrests:



## Most Serious Offense At Conviction:



■ One out of every three sexual assault convictions was for the crime of aggravated sexual battery. Ninety-four percent of aggravated sexual batteries were committed against children.

■ Rape accounted for 25% of the convictions and forcible sodomy accounted for 13% of the convictions. Sixty-two percent of rapes/sodomies were committed against children.

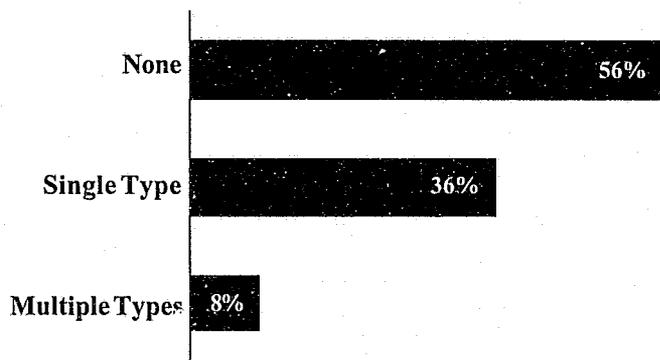
■ One-fourth of all rape/sodomy cases involved multiple types of sexual penetration, including vaginal, oral, and anal penetration. Although these cases actually involved multiple offenses, 71% of these sex offenders were convicted of only a single offense.

## \*Type Of Sexual Penetration:

### Rape/Sodomy



### Aggravated Sexual Battery

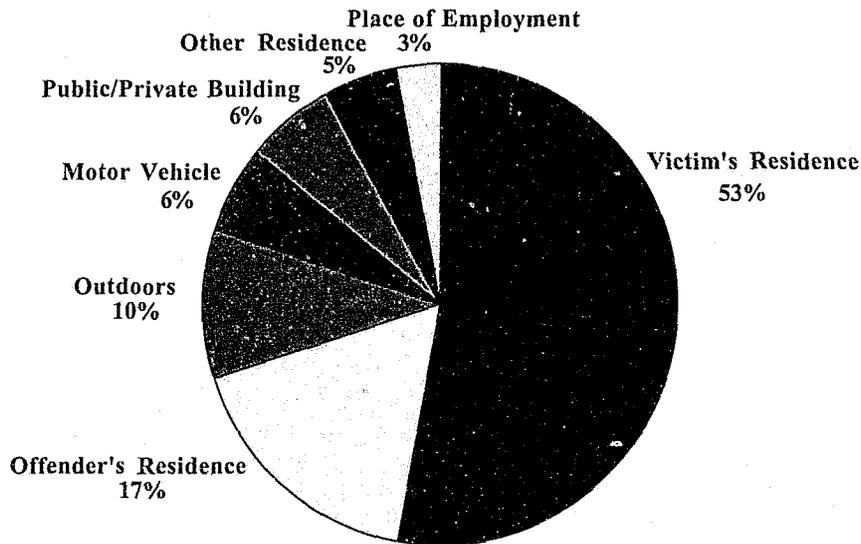


■ The legal definition of aggravated sexual battery excludes penetration. If penetration occurs, it is a crime of rape or sodomy. Forty-four percent of aggravated sexual battery victims were sexually penetrated. However, less than 20% of these offenders were indicted on the crimes of rape or sodomy. Thus, the convictions for these events are due to plea/charge bargaining practices in the courts.

\*Supplemental Sexual Assault database

# Where And When Do Sexual Assaults Occur?

## Site:



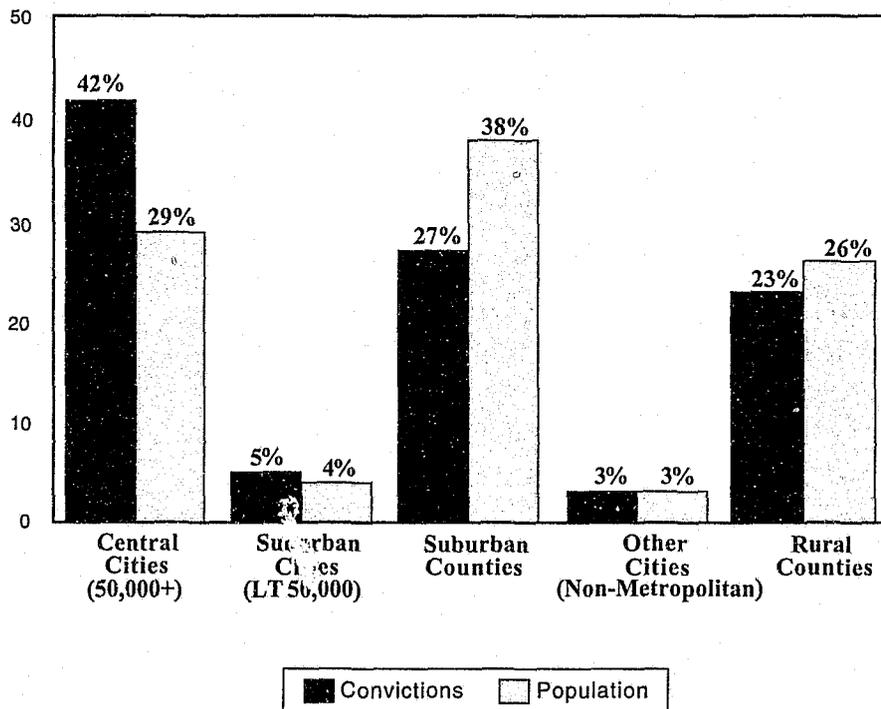
■ Nearly three-fourths of sex offenses occurred in the residence of the victim or the offender. Over half of all convicted sex offenders assaulted their victim in the victim's home.

■ One out of every ten sexual assaults occurred outdoors. Sixty-three percent of these cases involved an assailant who was a stranger to the victim.

■ Child victims were more likely than adult victims to be sexually assaulted in a private residence. Seventy-eight percent of children and 48% of adults were victimized in their own or their attacker's home.

■ Victims attacked in the offender's home were almost exclusively children who knew their offenders and who were at the crime scene for social or caretaking reasons.

## Urban/Rural Distribution Of Statewide Convictions And Population:

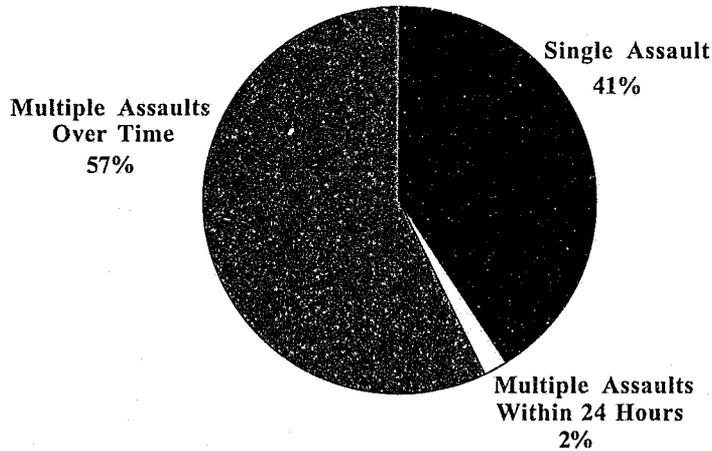


■ Forty-two percent of all felony sexual assault convictions came from Virginia's central cities (metropolitan cities with populations of 50,000 or more), which are home to 29% of Virginia's population.<sup>5</sup>

<sup>5</sup>Census of the Population, United States Bureau of the Census.

## \*Duration Of Sexual Assault:

### Child Victims

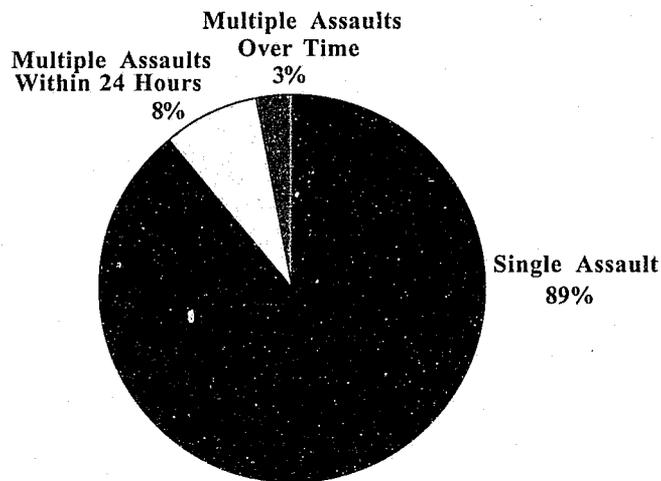


■ With both child and adult victims, two-thirds of convicted sex offenders who repeatedly assaulted their victim were convicted of only a single count of their crime, indicating the high level of plea bargaining among sex crime prosecution. One in four of these same offenders was convicted of more than one type of sexual assault.

■ The majority of sex offenders assaulting adults committed a single sex crime, whereas more than half of child victims were repeatedly victimized over time (multiple incidents over more than 24 hours).

■ Of convictions involving children repeatedly victimized over time, 30% were for rape/sodomy and 43% were for aggravated sexual battery.

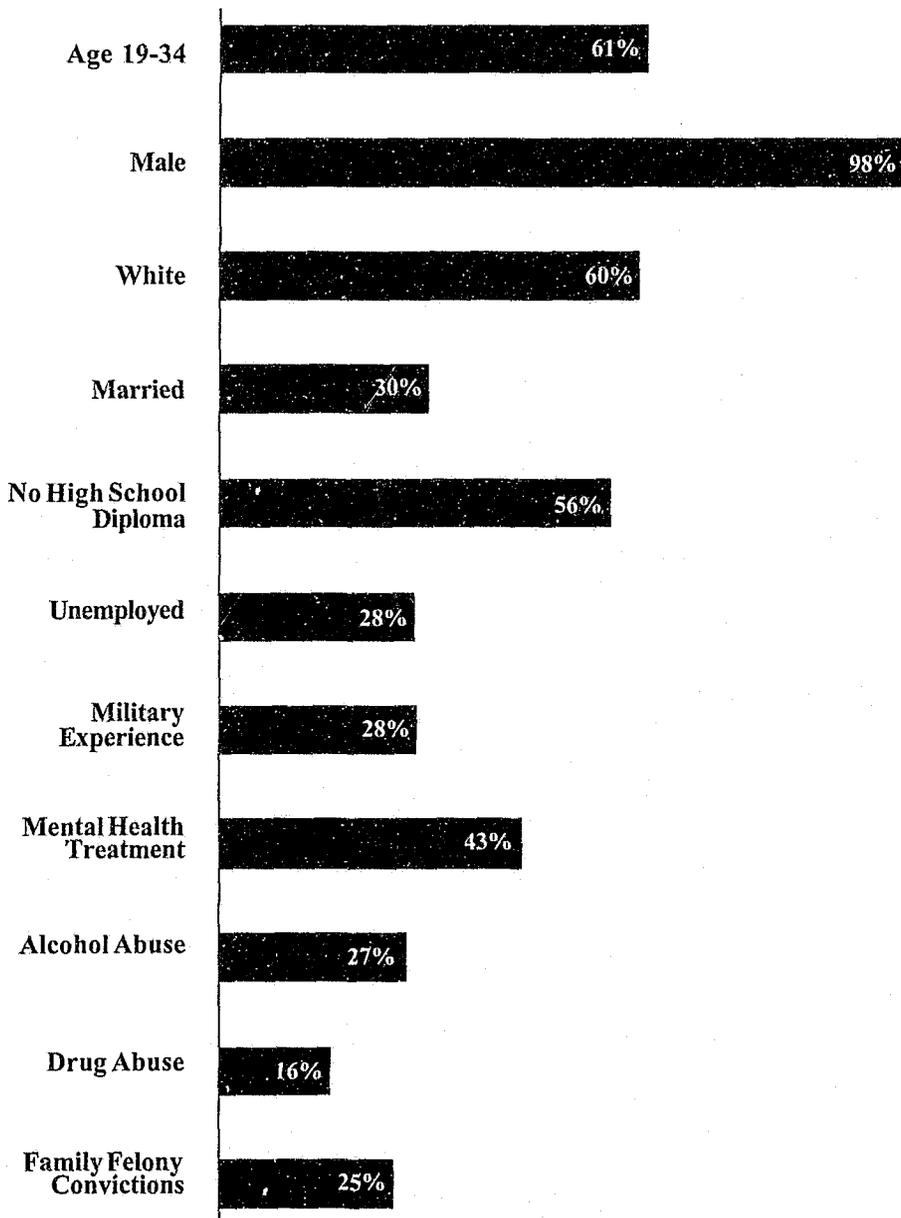
### Adult Victims



\*Supplemental Sexual Assault database

# Who Are The Convicted Sex Offenders?

## Profile:



■ In general, convicted sex offenders can be described as young white male adults with less than a high school education.

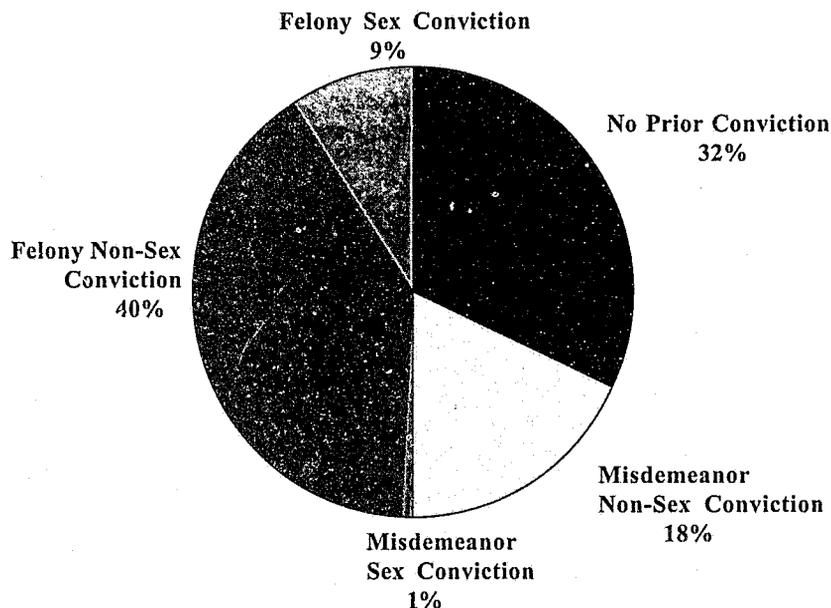
■ Over one-fourth of the offenders were unemployed when they committed their offense.

■ Forty-three percent of convicted sex offenders had previously undergone some form of mental health treatment. A sizable portion were judged by their probation officer as displaying evidence of alcohol (27%) and drug abuse (16%).

■ One in four convicted sex offenders had a family member with a felony conviction.

## Prior Convictions:

### Rape/Forcible Sodomy Offenders

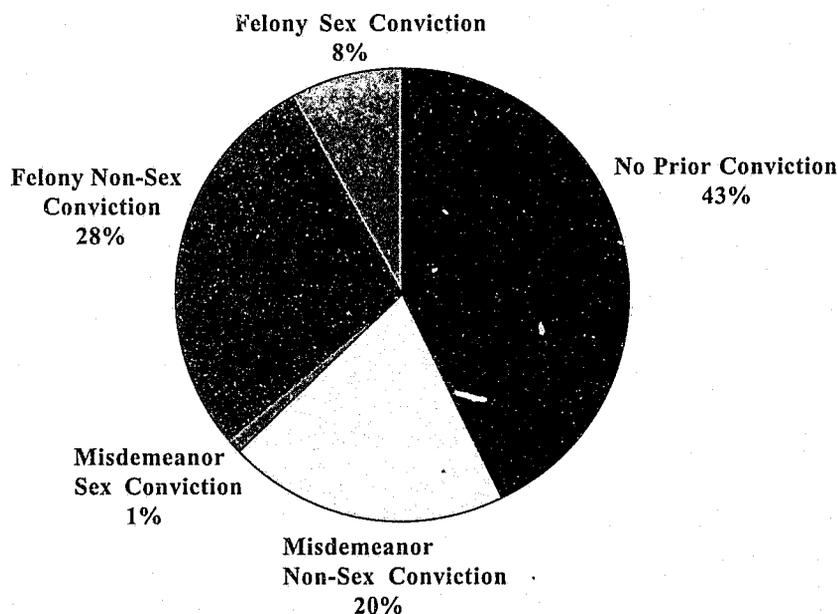


■ Sixty-three percent of all convicted sex offenders had a prior criminal conviction. Offenders convicted of rape/sodomy were more likely than aggravated sexual battery offenders to have a prior conviction, particularly for a felony offense.

■ Sixty-eight percent of convicted rapists/sodomists had a prior criminal conviction; 49% were previously convicted of at least one felony offense, and 9% were previously convicted of a felony sex offense.

■ Fifty-seven percent of convicted aggravated sexual battery offenders had a prior criminal conviction; 36% were previously convicted of at least one felony offense, and 8% were previously convicted of a felony sex offense.

### Aggravated Sexual Battery Offenders



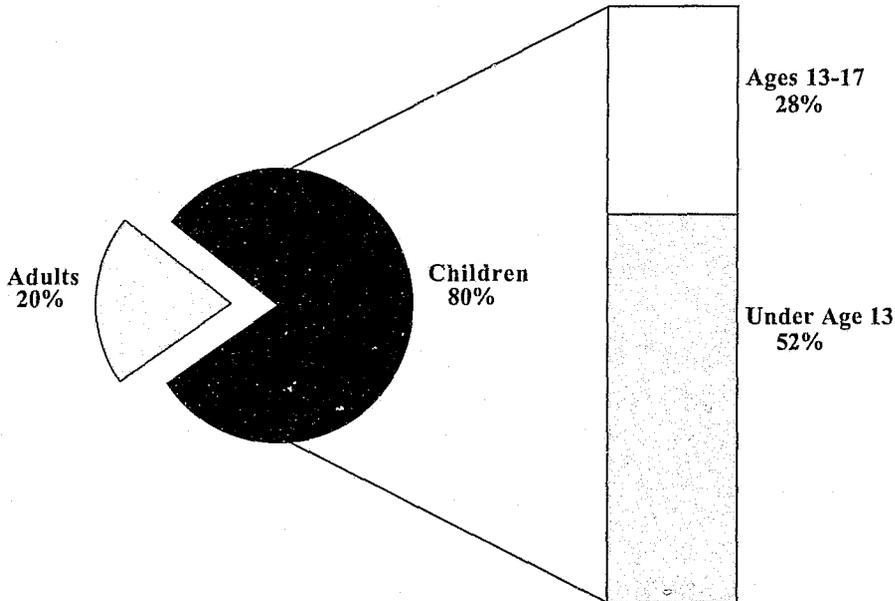
■ Although sex offenders were less likely to have a prior conviction than drug, property, or other violent offenders, they were more likely to have a prior sex conviction (misdemeanor and felony) than those convicted of non-sex offenses.

■ One out of ten convicted sex offenders was on supervised probation or parole when committing the current offense.

■ Earlier research conducted by the Criminal Justice Research Center indicates rapists have one of the highest recidivism rates among violent offenders in Virginia. Nearly one-half are re-arrested for a new felony offense within their first year of release from prison. More than one in three are convicted of a new felony and 17% are convicted of a new rape within five years.

# Who Are The Victims Of Convicted Sex Offenders?

## Age:



■ Eighty percent of all victims of convicted sex offenders were children; over one-half were under the age of 13 years.

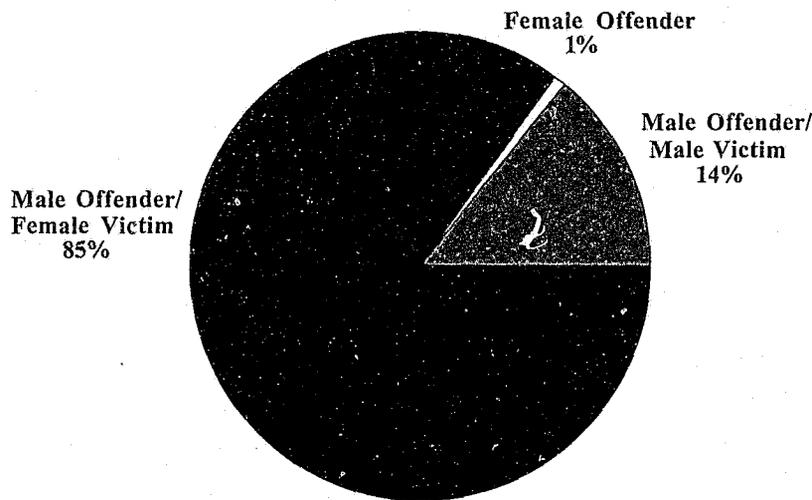
■ Children accounted for 94% of all victims of aggravated sexual battery convictions and 62% of all victims of rape/sodomy convictions.

■ Seventy-nine percent of the cases involved adult offenders and child victims, where the most frequent crimes were aggravated sexual battery and forcible sodomy.

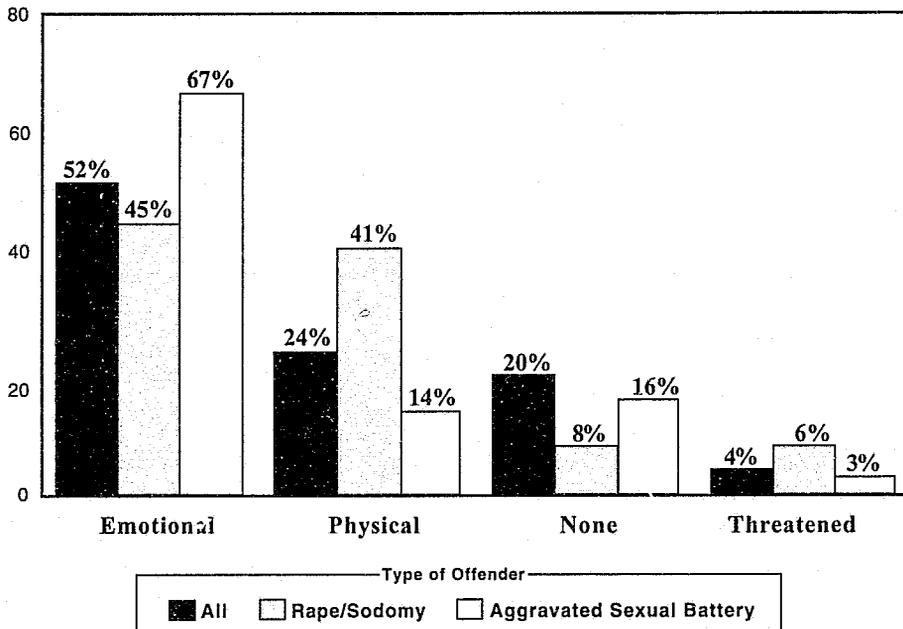
■ Although females accounted for only 1% of the offenders, they comprised 86% of the victims.

■ One in seven sex offenses involved a male victim and a male offender; 11% of these cases involved two adults where the most common offense was non-forcible sodomy.

## Gender:



## Most Serious Injury:



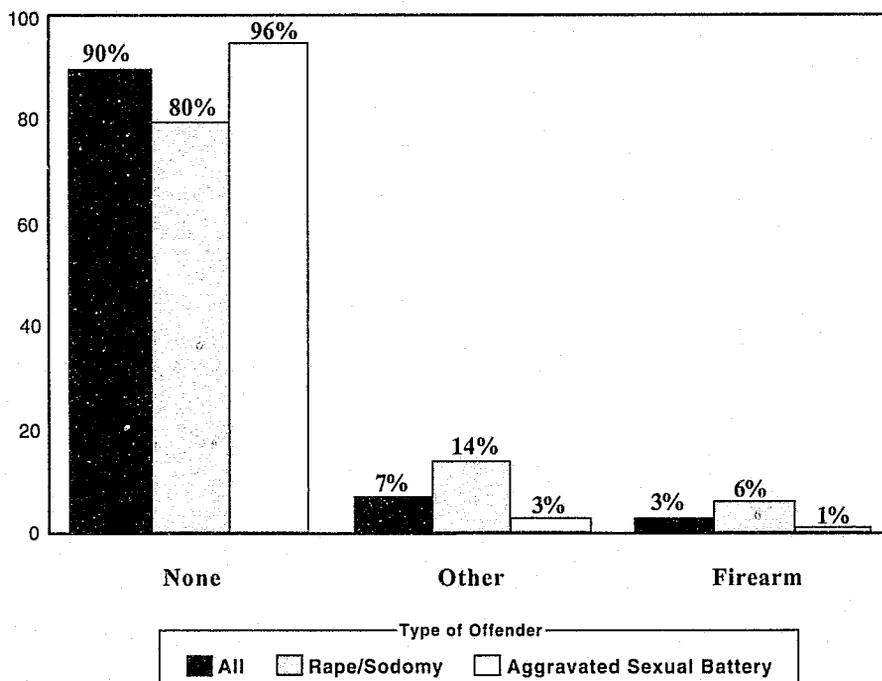
■ Three-fourths of sexual assaults resulted in some form of measurable injury. One half of all victims sustained emotional injury, measured as any injury requiring any psychiatric care or therapy. One-quarter suffered physical injury.

■ Rape/sodomy victims were more likely than aggravated sexual battery victims to sustain physical injury.

■ Weapons were used by only 10% of all convicted sex offenders. However, when a weapon was used, more than twice as many victims sustained physical injury than when a weapon was not used.

■ Weapons were used in 20% of rape/sodomy cases, compared to 4% of aggravated sexual battery cases. The most commonly used weapons in the "other weapon" category were knives.

## Weapon Use:



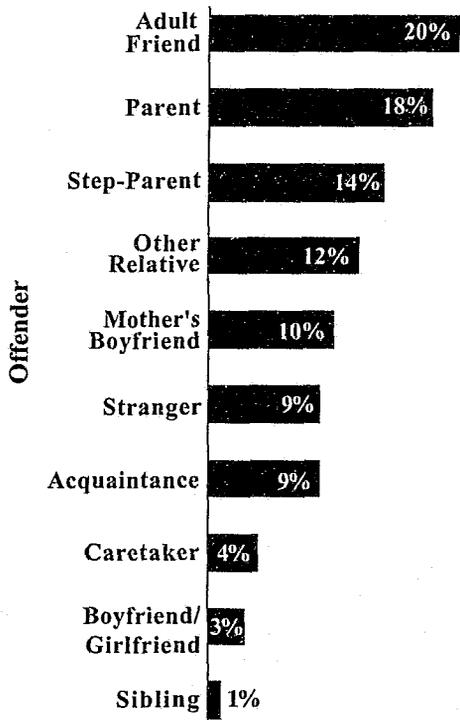
■ In 64% of the cases where weapons were used, the victim and offender were strangers.

■ In cases of rape/sodomy, weapons were used six times more often when the victim was an adult than when the victim was a child.

■ Only 6% of rape/sodomy offenders used a firearm. According to Virginia's Criminal Code, these offenders were eligible for a mandatory penalty enhancement of two years for their first offense or four years for any subsequent offense. Sixty percent of all convicted rapists/sodomists who used a firearm during the commission of their offense were convicted of the mandatory penalty enhancement.

# \*What Is The Relationship Between The Victim And The Offender?

## Child Victims:



■ Four out of every five convicted felony sex offenders knew their victim. One in three were related to their victim.

■ Victim-offender relationships look very different depending on the age of the victim. Child victims (victims under the age of eighteen) were much more likely to be sexually assaulted by people they knew.

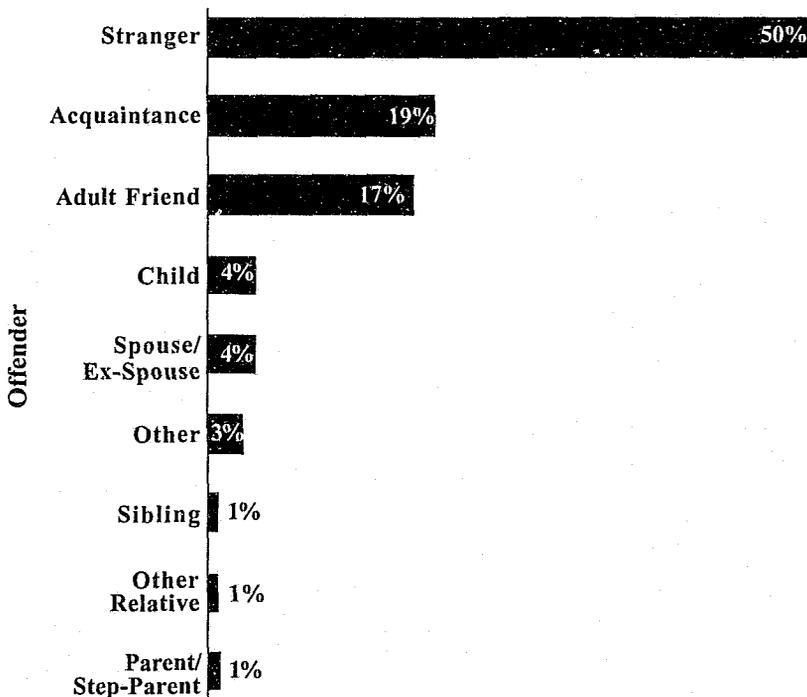
■ Nine out of ten child victims knew their attacker, compared to half of adult victims.

■ The victim and offender were related in almost half of all offenses against children, compared to 12% of all offenses against adult victims.

■ When the victim was a child, the offender was most likely to be an adult friend of the child or the child's family, followed by a parent or step-parent.

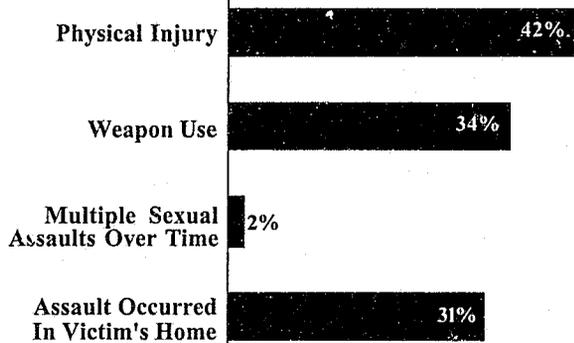
■ When the victim was an adult, the offender was most likely to be a stranger, followed by an acquaintance or friend.

## Adult Victims:

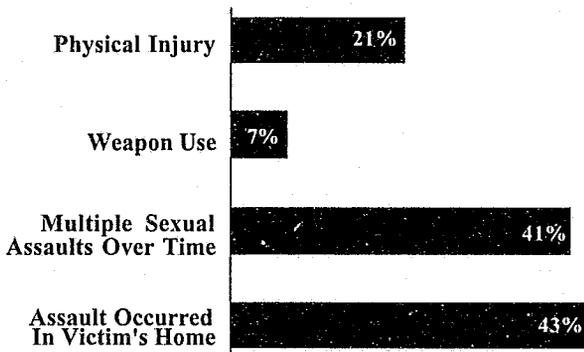


**\*Profile Of Offense Behavior  
By Victim-Offender Relationship:**

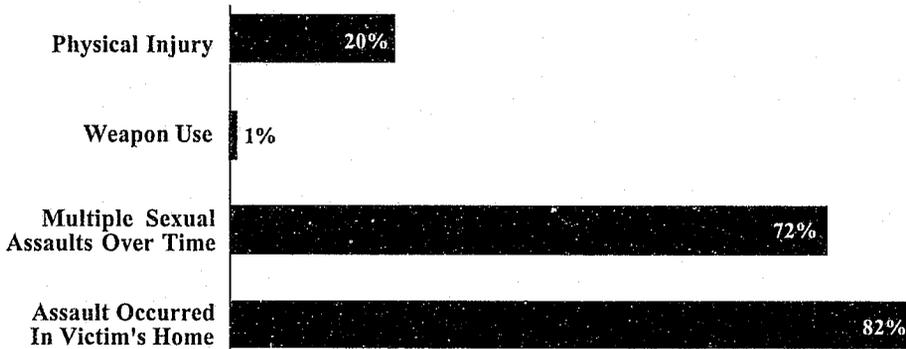
*Offender Was Stranger To Victim*



*Offender Was A Friend /Acquaintance To Victim*



*Offender Was Related To Victim*



■ Forty-two percent of sexual assaults between strangers resulted in physical injuries. Stranger on stranger sexual assaults where the victims sustain physical injuries accounted for 8% of all sexual assault convictions.

■ One in five sexual assaults between friends, acquaintances, or family members resulted in physical injuries.

■ One in three sexual assaults between strangers involved a weapon. Stranger on stranger sexual assaults where a weapon was used accounted for 7% of all sexual assault convictions.

■ Very few sexual assaults between non-strangers involved weapons; 7% of friend/acquaintance sexual assaults and 1% of family sexual assaults.

■ Almost three out of every four sexual assaults committed by family members involved multiple crimes occurring over an extended period of time. Almost all of these victims (98%) were children.

■ One out of three sexual assaults between strangers occurred in the victim's home.

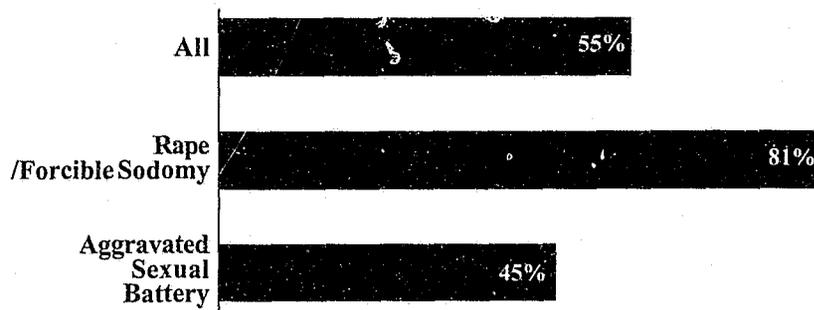
■ When the victim and offender were related, four out of five sexual assaults occurred in the victim's home. Sexual assaults within the family which occurred at the victim's home accounted for 28% of all sexual assault convictions.

\*Supplemental Sexual Assault database

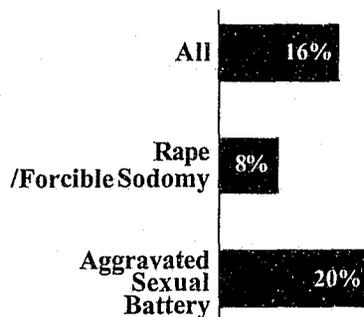
# What Type Of Sentence Do Sex Offenders Receive?

## Type Of Sentence By Offense:

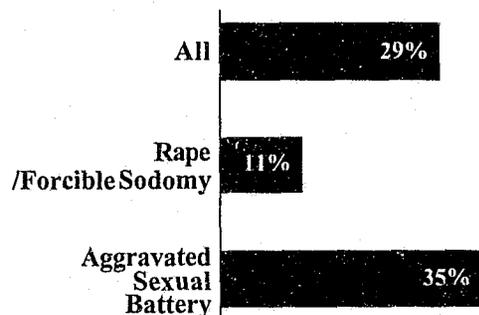
### Prison



### Jail



### Probation



■ A jail sentence is any term not exceeding 12 months; a prison sentence is any term of one year or more.

■ Under Virginia's statutes, the punishment for rape/forcible sodomy is to be imprisoned for five years to life. Similarly, the punishment range for aggravated sexual battery is one year to 20 years. While the imposed sentence must conform to the statutes, judges can and do suspend any or all of the sentence, which accounts for no effective time to be served in some cases.

■ Fifty-five percent of all convicted felony sex offenders received a prison sentence between 1986 and 1990, an additional 16% received a jail sentence.

■ During the same time period, 41% of all convicted felony drug offenders and 89% of all convicted robbery offenders were sentenced to prison.

■ The proportion of offenders sentenced to prison, referred to as the prison incarceration rate, was substantially higher for rape/sodomy (81%) than for aggravated sexual assault (45%).

## Prison Incarceration Rate By Victim/Offender Relationship:

	<u>Number of Cases</u>	<u>Incarceration Rate</u>
<b>Rape/Forcible Sodomy Offenders</b>	1148	81%
Stranger Victim	517	88%
Child Victim	135	78%
Adult Victim	318	91%
Friend/Acquaintance Victim	323	80%
Child Victim	194	79%
Adult Victim	99	82%
Family Victim	308	72%
Child Victim	281	72%
Adult Victim	19	73%
<b>Aggravated Sexual Battery Offenders</b>	516	45%
Stranger Victim	127	49%
Child Victim	87	43%
Adult Victim	27	77%
Friend/Acquaintance Victim	172	52%
Child Victim	156	52%
Adult Victim	10	37%
Family Victim	217	42%
Child Victim	213	42%
Adult Victim	3	50%

*Note: Age of victim is unknown for 102 of the Rape/Sodomy cases and 20 of the Aggravated Sexual Battery cases.*

■ Offenders convicted of rape/forcible sodomy were more likely to be sentenced to prison if they victimized a stranger than if they victimized a friend/acquaintance or family member. They were least likely to be sentenced to prison for raping/sodomizing a family member.

■ Prison incarceration rates for offenders convicted of rape/forcible sodomy vary by the age of the victim. Regardless of the victim-offender relationship, offenders who victimized children were less likely to be sentenced to prison.

■ Overall, offenders convicted of aggravated sexual battery were more likely to be sentenced to prison if they victimized a friend/acquaintance or stranger than if they victimized a family member.

■ Prison incarceration rates for aggravated sexual battery offenders also vary by the victim-offender relationship and the victim's age. Offenders convicted of victimizing children were less likely to be sentenced to prison if the victim and offender were strangers or family members than if the victim and offender were friends/acquaintances.

# How Long Are Sex Offenders Sentenced To Prison?

## Average Prison Sentence:

	<u>Judicial Sentence</u>	<u>Jury Sentence</u>
<b>Rape/Forcible Sodomy Offenders</b>	19.0 yrs.	29.2 yrs.
Stranger Victim	25.8	35.1
Child Victim	18.0	29.4
Adult Victim	30.1	36.7
Friend/Acquaintance Victim	13.8	18.0
Child Victim	13.2	20.8
Adult Victim	15.0	14.6
Family Victim	16.2	19.5
Child Victim	16.0	19.5
Adult Victim	17.6	*
<b>Aggravated Sexual Battery Offenders</b>	7.6 yrs.	9.1 yrs.
Stranger Victim	8.4	11.3
Child Victim	7.4	6.8
Adult Victim	11.8	31.0
Friend/Acquaintance Victim	8.5	6.7
Child Victim	8.4	7.2
Adult Victim	10.5	*
Family Victim	6.7	9.6
Child Victim	6.7	9.2
Adult Victim	9.5	*

*\*Insufficient number of jury cases with adult victims.*

■ The average prison sentence for offenders convicted of rape/forcible sodomy between 1986 and 1990 was 21 years (17 years for first time offenders). The average prison sentence for offenders convicted of aggravated sexual battery was eight years (7.5 years for first time offenders). These sentences reflect total time received by inmates, which may include time received for a less serious offense in addition to the primary sex offense.

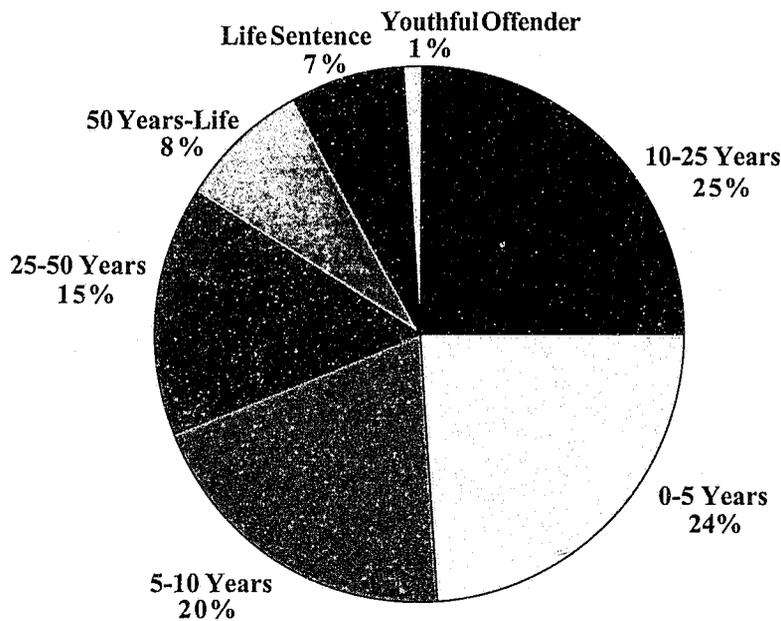
■ Juries sentenced 9% of all convicted sex offenders. Jury sentences for both rape/forcible sodomy and aggravated sexual battery were consistently longer than sentences given by judges.

■ In general, judges and juries gave out the longest sentences to offenders who victimized strangers. This was particularly true for rape/forcible sodomy offenders.

■ In most cases, judges and juries gave out shorter sentences to offenders who victimized children than to offenders who victimized adults, regardless of the relationship between the victim and offender. This was true for both large offender populations, rape/forcible sodomy and aggravated sexual battery.

■ On average, a sentence for raping/forcibly sodomizing a child was ten years shorter than a sentence for raping an adult. This pattern is consistent for both judges and juries. These differences in sentence length are the result of the sentencing pattern for stranger rape.

## Rape/Forcible Sodomy Life Sentences:



■ The crimes of rape, forcible sodomy, and object penetration carry a statutory maximum penalty of life imprisonment. Seven percent of these convicted sex offenders received a life sentence.

■ One out of four convicted sex offenders was sentenced to serve five years or less. Nearly one half are sentenced to ten years or less.

■ Sixty-nine percent of the life sentence cases involved stranger rapes where the victim was an adult. Among all stranger rapes, 5% of offenders victimizing children received a life sentence, compared to 15% of offenders victimizing adults.

*The PSI database does not allow us to track a convicted offender through the prison system to release into the community. However, an additional analysis was undertaken to determine the proportion of sentences served by sex offenders released from Virginia's prisons in 1987 and 1992, utilizing the Department of Corrections' Felon Analysis and Simulation Tracking system.*

■ In 1992, both rape/forcible sodomy and aggravated sexual battery offenders released from prison served 46% of their sentence.

■ The proportion of sentences served in prison by all sex offenders increased between 1987 and 1992.

■ Sex offenders served a larger portion of their sentence in prison than all other violent and nonviolent offenders in 1992. By comparison, first degree murderers (non-life sentences) served 30%, robbers served 32%, and schedule I/II drug dealers served 22% of their sentence.

## Percent Of Sentence Served In Prison By Sex Offenders Released In 1987 And 1992:

### Rape/Sodomy



### Aggravated Sexual Battery



## Methodology

The data used for the analysis were derived from the Virginia Pre/Post-Sentence Investigation (PSI) database, which contains over 200 factors on felony conviction cases in Virginia. The analysis includes all convictions for felony level sexual assault crimes during a five year period, 1986-1990. Offenders were included in the study if their most serious offense at conviction was a felony sexual assault. Some offenders were convicted of less serious offenses in conjunction with their primary offense. Seven percent of the cases involved attempted sexual assaults; 93% involved completed acts. Throughout this report, "children" are defined as victims or offenders under the age of eighteen.

A portion of the analysis is based on a sample of 1,149 offenders, selected randomly over the same five year period. The sampling method stratified the population by sentence type and victim injury, in order to include a sufficient number of cases which occur infrequently (such as serious physical injuries to the victim and a sentence of probation). The sample cases were weighted to represent their occurrence in the population. Univariate statistics indicate that the sample is representative of the population of offenders. The sample was drawn to provide a margin of error of +/- 2.5% with a 95% confidence interval.

Supplementary data collection involved retrieving information from the pre/post-sentence investigation report narratives and victim impact statements, where available. For offenders sentenced to prison, the PSI narratives were reviewed at the Department of Corrections Classification and Records/File Maintenance Unit. For offenders receiving probation or jail sentences, the PSI narratives were photocopied and received from the local probation office. Of the original 1,195 selected for inclusion in the sample, information was retrieved for 96% of the offenders. Supplemental details on the offense behavior, where and when the offense occurred, and details of the victim-offender relationship were collected and merged with the previously automated data on the PSI database.

Sample results are reported in the following sections of this report: page 7 - sexual penetration; page 9 - duration; and pages 14-15 - victim/offender relationships. The remainder of the report analyzes the entire population of offenders.

## Sources

### Publications:

- *Violent Crime in Virginia*, Virginia Department of Criminal Justice Services, (May, 1989), Richmond, VA.
- *1990 Census of the Population*, Volume 1, Characteristics of the Population, PC90-1-B48, United States Department of Commerce, Bureau of the Census, Washington: United States Government Printing Office, 1992.

### Databases:

- Felon Analysis and Simulation Tracking System (FAST), database, Virginia Department of Corrections.
- Offender Based State Correctional Information System (OBSCIS) database, Virginia Department of Corrections.
- Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections.
- Supplemental Sexual Assault database, Criminal Justice Research Center, Virginia Department of Criminal Justice Services.