
Sexual Assault Offender Accountability In Georgia

A Report Of The Georgia
Statistical Analysis Center

Governor's Criminal Justice Coordinating Council
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CHAPTER ONE

Purpose and Scope of Project

Background

The Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103-322, 108 Stat. 1796) authorizes formula grants to fund projects in order to foster a more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women. Title IV, the Violence Against Women Act (VAWA), of the 1994 Crime Act provides a substantial new commitment of federal resources for police, prosecution, prevention and victim service initiatives in cases involving sexual violence.

The Violence Against Women Grants Office (VAWGO) was statutorily established within the Department of Justice by the 1994 legislation and is one of nine bureaus and program offices established by the Department of Justice to administer the Office of Justice Programs (OJP).

The principal funding initiative under VAWA is the STOP (Services, Training, Officers, and Prosecutors) Violence Against Women formula grant program, which promotes a coordinated, multi-disciplinary approach to improving the criminal justice system's response to violence against women.

Four components are necessary to transform the way the criminal justice system handles these crimes. States receiving VAWA federal funding must allocate STOP funds as follows: 25% to support law enforcement agencies; 25% to support county prosecutor working groups; 25% to support nonprofit, nongovernmental victim services organizations; and the remaining 25% to be allocated at the discretion of the State. VAWA enumerates seven broad purposes for which states may use the grant funding:

1. Training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including sexual assault and domestic violence;
2. Developing, training, or expanding specialized units of law enforcement officers and prosecutors targeting violent crimes against women, including sexual assault and domestic violence;
3. Developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically dedicated to preventing, identifying, and responding to violent crimes against women, including sexual assault and domestic violence;
4. Developing, installing, or expanding data collection and communication systems, including computerized systems that link police, prosecutors, and courts or that are designed to identify and track arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including sexual assault and domestic violence;
5. Developing, enlarging, or strengthening victim service programs, including sexual assault and domestic violence programs; developing or improving

delivery of victim services to racial, cultural, ethnic, and language minorities, providing specialized domestic violence advocates in courts where a significant number of protection orders are granted; and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including sexual assault and domestic violence.

6. Developing, enlarging, or strengthening programs addressing stalking; and,
7. Developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including sexual assault and domestic violence.

In general, grants under this program may support personnel, training, technical assistance, evaluation, data collection, and equipment costs to enhance the apprehension, prosecution, and adjudication of persons committing violent crimes against women.

The Criminal Justice Coordinating Council (CJCC) has been designated by the Governor as the State agency to administer the STOP Violence Against Women Grant Program for the State of Georgia. In furtherance of this mission, the CJCC certifies qualifications for funding under the program; develops a State-wide plan for implementation of the grants to combat violence against women; and, prepares an application for sub-grantees to obtain funds under the program.

Initial Research Project

Increased offender accountability is a desirable outcome of any initiative that supports the development and strengthening of effective law enforcement, prosecution and victim services in cases involving crimes against women.

Desiring to investigate and document those prosecutorial procedures, practices and policies that yield increased sexual assault offender accountability, the Statistical Analysis Center (SAC) at the Georgia Criminal Justice Coordinating Council (CJCC) funded a study of Georgia judicial circuits that was intended, as initially proposed, to measure increased offender accountability that would be statistically attributable to specific initiatives funded by VAWA monies. As envisioned, the study was to target selected sites within several representative judicial circuits for prospective data collection and subsequent analysis of specialized efforts intended to improve the prosecution of sexual offenders.

An initial survey of prosecution offices in the 47 judicial circuits in Georgia yielded considerable process-related information that reflected a great deal of diversity in the manner in which sexual assault cases are being prosecuted. The following list highlights some of the areas that the survey explored:

- Existence and use of Sexual Assault Response Teams (SART);
- Vertical prosecution of sexual assault cases;

-
- In-house law enforcement resources dedicated to prosecution support;
 - Forensic equipment and medical examinations;
 - Victim services; and
 - Trial preparations.

Generally, the responses that were received from nearly one-half of the circuits highlighted that the assignment, prioritization, and prosecution of the cases reflects staffing and budgetary constraints that are confronted by the diverse circuits across the State.

Several circuits indicated that Sexual Assault Response Teams (SART) had been established in their jurisdictions. Because these teams have been recently introduced, conclusions about effectiveness and helpfulness cannot be drawn at this time.

The “vertical prosecution” (one attorney handling all aspects of the case, from charging through sentencing) of sexual assault cases was noted by several circuits, but most did not specialize prosecutor resources in this manner. The responses reflected a variety of approaches to enhancing prosecutor availability “after hours,” as well as noting the use of protocols for the investigation of sexual abuses of adults and children.

A few circuits reported the use of a colposcope, an instrument that magnifies the cells of the cervix and vagina to permit direct observation and study. (A colposcopic camera is a specialized unit for viewing or photographing abnormalities or injuries invisible to the naked eye, which is primarily used to view the vagina and cervix.) This instrument was also a recent addition to medical examination equipment used to investigate sexual assaults.

While the policies, procedures, and practices highlighted in the responses were of great interest to the research team, it was decided that the measurement of their contributions to the prosecution of sexual offenders in the current project was precluded by three factors:

1. The recent introduction of the VAWA funded initiatives in the judicial circuits,
2. The relatively small (while unacceptably high) number of cases in which they had been applied, and,
3. The average “gestation” period for a sexual assault case from incident to case disposition.

In consideration of the above, the research team suspended the identification of judicial circuits from which data would be collected to measure attributable outcomes, and re-evaluated the feasibility of the project as initially designed.

Re-Direction of Study

As initially proposed, the Sexual Assault Case Processing Study was to survey Georgia judicial circuits to determine if certain prosecutorial procedures, processes, or forensics had been implemented in an effort to increase the likelihood of offender accountability. Once particular procedures had been identified and participation successfully solicited from a select few circuits, site visitations were to have been conducted for the purpose of in-depth review of prosecutorial files indexed to sexual assaults. Case outcomes were to have been documented, and the analysis was to have “controlled for” issues such as type of offense, prior record of the offender, weapon use, and injury to the victim. The case outcomes, including imposed sanctions in successfully prosecuted cases were to have been analyzed to measure the impact of the special procedures or processes.

The ultimate goal of the study was to determine whether VAWA resources could be applied to the prosecutorial function so as to enhance the State’s capability to effectively pursue sexual assault crimes, and if practitioners in Georgia could pursue additional “25% prosecution” VAWA resources to fund innovative approaches that might increase offender accountability.

As the survey responses were being reviewed, the research team had the opportunity to highlight the purpose and methodology of the study for a gathering of state prosecutors at the semi-annual meeting of the Georgia Association of District Attorneys. Support for the study was immediate, with several prosecutors offering to allow their circuits to serve as data collection sites. An unexpected development during the appearance, however, was the group’s engagement of the principal investigator in a lengthy discussion of sentencing, incarceration, and release practices in the State. One outcome of the meeting was a realization that an historical lack of detail in aggregate statistics continues to impede the analysis of the persistent problem of sexual assault against women in Georgia. Apparently, the existing structures for collecting general data about sexual offenders in Georgia are not sufficient to meet the needs of State planners and policy-makers because most of these systems were created for operational information needs and not necessarily for the production of statistical reports.

Absence of Baseline

In order to measure improvement, any sexual assault case processing outcomes study requires a previously documented baseline of case dispositions for comparison. Therefore, to assess case outcomes enhanced by VAWA resources, detailed information about the historical sanctioning of sexual offenders in Georgia must be established.

The availability of comprehensive and reliable statistical data on sexual offenders is critical because decision-makers at the State level are confronting questions concerning appropriate policies and effective procedures for addressing the problem of sexual assault. They need more information to guide their thinking, to guide administrative or managerial decisions over program policies and resources, and to inform the public about the seriousness and extent of these problems in their communities.

Relevant statistical data are needed that can better inform criminal justice policy decisions in Georgia. That having been accepted, the CJCC directed that before any expected increases in offender accountability could be quantified, a study was required with a well-documented baseline of historical and contemporary accountability.

An independent contractor, Applied Research Services, Inc., was hired to conduct this study of offender accountability. Applied Research Services was chosen because they possess specific research-based knowledge, technical skills, and expertise regarding the retrieval, analysis, interpretation and display of data. Specifically, Applied Research Services has experience with State of Georgia criminal justice-related automated databases, including those of the Georgia Department of Corrections and the Georgia Board of Pardons and Paroles. It was proposed that these capabilities would permit the contractor to conduct the pertinent and requisite analyses outlined in the following section that would support the re-direction of the current project.

Scope of Project

So that the Georgia Statistical Analysis Center (SAC) at the CJCC might establish a detailed baseline of information concerning the historical sanctioning of sexual offenders in Georgia, data analyses of ten sex crimes were undertaken to document demographic, personal, behavioral and characteristic data on incarcerated and probationer sexual offenders, ten-year (1988-1998) sentencing trends for sexual offenders in Georgia, and discretionary parole release practices over the past twenty years.

Source Data

The Offender Tracking and Information System (OTIS) is the central repository of inmate data that is jointly maintained and used by the Georgia Department of Corrections and the Georgia Board of Pardons and Paroles.

Of particular importance to the analyses were the Georgia Department of Corrections Probation Data File that includes extensive personal, criminal history, and sentencing data on over 750,000 probationers Statewide since 1989, and the Georgia Department of Corrections Inmate Data File that includes a volume of personal, criminal history, and sentencing data on over 195,000 inmates serving time in State prisons since 1989. Additionally, the study accessed the Georgia Board of Pardons and Paroles Inmate Data File that has accumulated personal information, criminal history, and sentencing data on over 100,000 parolees released since 1989.

OTIS data recorded through March 31, 1999 was accessed to profile the sexual assault offenders' characteristics, and sentence type (probation/prison), sentence length, and time served analyses were based on data collected through the end of Calendar Year 1998, or for some analyses through the end of the 1999 State Fiscal Year (June 30, 1999).

As a result of rounding, the numerical data illustrated by charts may not always equal 100%.

CHAPTER TWO

Criminal Law and Procedure

State's Responsibilities

Public safety demands that offenders receive a clear message about society's intolerance for sexual assault crimes. A criminal justice system that imposes swift and firm penalties and consequences for sexual offenses sends this message.

"The State fulfills its role in preventing sexual assaults and shielding and protecting the public from sexual acts by the enactment of criminal statutes prohibiting such conduct: OCGA § 16-6-1 (rape); § 16-6-2(a) (aggravated sodomy); § 16-6-3 (statutory rape); § 16-6-4 (child molestation and aggravated child molestation); § 16-6-5 (enticing a child for immoral purposes); § 16-6-5.1 (sexual assault of prisoners, the institutionalized, and the patients of psychotherapists) ... and by the vigorous enforcement of those laws through the arrest and prosecution of offenders." *Powell v. State*, S98A0755, S. Ct. Ga., LEXIS 1148 (1998).

Statutory Provisions

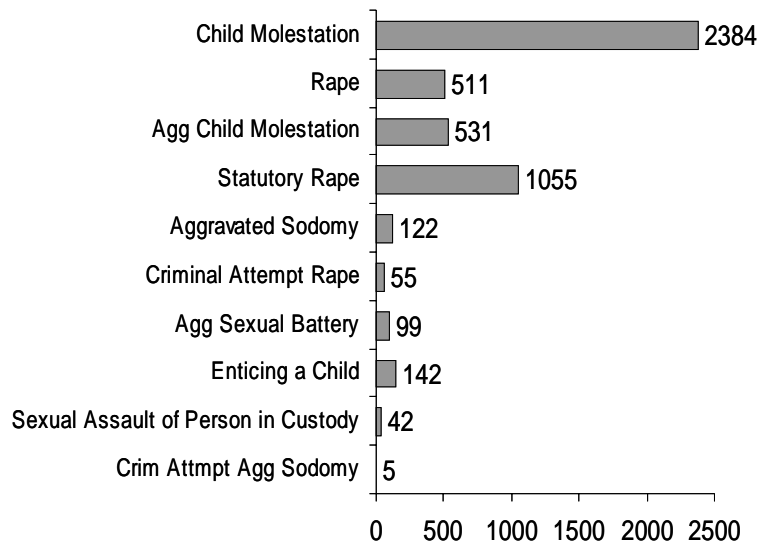
The category of crimes known as sexual assault is a wide range of victimizations, including rape and attempted rape, generally involving unwanted sexual contact between the victim and the perpetrator. Depending on the circumstances some of these victimizations may or may not involve force.

For the purposes of this study, the following crimes were classified as sexual assault in nature, and were the primary focus of quantitative analyses of offender demographics, characteristics, and criminal histories; sentencing; and, offender accountability.

- Child Molestation O.C.G.A. § 16-6-4
- Aggravated Child Molestation O.C.G.A. § 16-6-4
- Enticing Child for Indecent Purposes O.C.G.A. § 16-6-5
- Rape O.C.G.A. § 16-6-1
- Attempted Rape O.C.G.A. § 16-4-1
- Statutory Rape O.C.G.A. § 16-6-3
- Aggravated Sodomy O.C.G.A. § 16-6-2
- Attempt – Aggravated Sodomy O.C.G.A. § 16-4-1
- Aggravated Sexual Battery O.C.G.A. § 16-6-22.2
- Sexual Assault - Persons in Custody O.C.G.A. § 16-6-5.1
- Aggravated Stalking O.C.G.A. § 16-5-91

Figure 2-1 shows the total number of new court commitments to both prison and probation for these felony offenses in the State of Georgia from 1990 to 1999.

**Figure 2-1: New Court Commitments
Prison and Probation
Sexual Assault Cases
1995-1999**



Juvenile Prosecutions in Superior Court

The age of criminal responsibility is 13 years in Georgia, therefore, a person cannot be tried or found guilty of a crime unless he or she is at least 13 years of age. See O.C.G.A. § 16-3-1.

In 1994, Georgia enacted O.C.G.A. § 15-11-5(b)(2)(A), which provides in part that the superior court has exclusive jurisdiction of a child 13 to 17 years of age who is charged with murder, voluntary manslaughter, rape, aggravated sodomy, aggravated child molestation, aggravated sexual battery, or armed robbery (Ga. L. 1994, p. 1012, § 1). Known as the School Safety and Juvenile Justice Reform Act of 1994, the legislation was intended to increase the accountability of juvenile offenders charged and convicted of serious felonies, including sexual assaults. In the superior court, the juvenile is subject to criminal adjudication and the imposition of any statutory criminal sanctions that may be imposed.

The bill did include two provisions, however, that allow for transfer of juveniles charged with those crimes to juvenile court. “After indictment, the superior court may after investigation and for extraordinary cause transfer any case involving a child 13 to 17 years of age alleged to have committed (enumerated offenses) which is not punishable by loss of life, imprisonment for life without possibility of parole, or confinement for life in a penal institution.... Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall terminate” (O.C.G.A. § 15-11-5(b)(2)(B), and “[b]efore indictment, the district attorney may, after investigation and for extraordinary cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to have committed (an enumerated offense) ... Upon declining such prosecution in the superior court, the district attorney shall immediately withdraw

the case and lodge it in the appropriate juvenile court for adjudication ” (O.C.G.A. § 15-11-5(b)(2)(C). Additionally, a superior court may transfer any case involving a child 13 to 17 years of age alleged to have committed any of the enumerated offenses who is convicted of a lesser included offense to the juvenile court of the county of the child’s residence for disposition. ” See O.C.G.A. § 15-11-5(b)(2)(D).

Probated Sentences

Law and Judicial Discretion

In Georgia, the sentencing judge imposes a determinate sentence within the minimum and maximum prescribed by law as punishment for the crime. “He has no discretion except as it is given to him. The penalty is affixed by law” (*Knight v. State*, 243 Ga. 770, 771, quoted in *Brabham v. State*, A99A2059, Ga. Ct. App., 10/21/99).

The judge is granted power and authority, however, to suspend or probate all or any part of the entire sentence subject to the provisions of Code Section 17-10-6.1 that prescribes punishment for “serious violent offenders” (The Sentence Reform Act of 1994, Ga. L. 1994, p.1959).

The legislation that created the “serious violent felonies” category of crimes for punishment purposes “allowed violent first-time offenders to be sentenced under the First Offender Act, thereby avoiding mandatory sentences. After a public outcry, the General Assembly amended the law in 1998 to prohibit that option” (*Fulton County Daily Report*, November 2, 1999, p. 1).

Also, certain Georgia statutes require a mandatory prison sentence for second or subsequent convictions, and in those cases Georgia judges are not permitted to probate the sentence, or remand the defendant to prison after considering the circumstances of the case.

Under Georgia law, probation supervision is imposed at the judge’s discretion as an alternative to incarceration, however, the term of supervision must terminate no later than two years from the commencement, unless specially extended or reinstated by the sentencing court. See O.C.G.A. § 17-10-1(a)(2).

Probation Usage and Offender Population

The “prison in-out” decision refers to the sentencing judge’s pronouncement to impose a prison term (“in”), or allow the defendant to enter a non-prison alternative (“out,” e.g., regular probation, intensive probation supervision, diversion centers, work camps, etc.).

In the past, states, including Georgia, have responded to the continuous shortage of beds with efforts to divert inmates to non-prison alternatives. In fact, during the 1980's Georgia led the nation in the development and utilization of non-incarcerative sanctions. As an example, the State's pioneering work with intensive probation supervision served as a model for the entire country.

Today, the number of Georgia probationers exceeds 139,000 offenders, representing 71% of all adult offenders who are under the custody or supervision of the State. The remainder are located in Georgia's state prison system (19%), or are serving the balance of their sentence on parole (10%).

New admissions to probation supervision for sex offenders plateaued Statewide during the past three years. As *Figure 2-2* highlights, in 1995, eight percent of the total new probation admissions were by sex offenders; starting in 1997 it decreased to six percent. During those years, the actual number of admissions increased Statewide from 1995 to 1998 before dropping in 1999. See *Figure 2-3*.

Figure 2-2: Percent of Total New Probationers With at Least One Sexual Conviction in Personal History 1995-1999

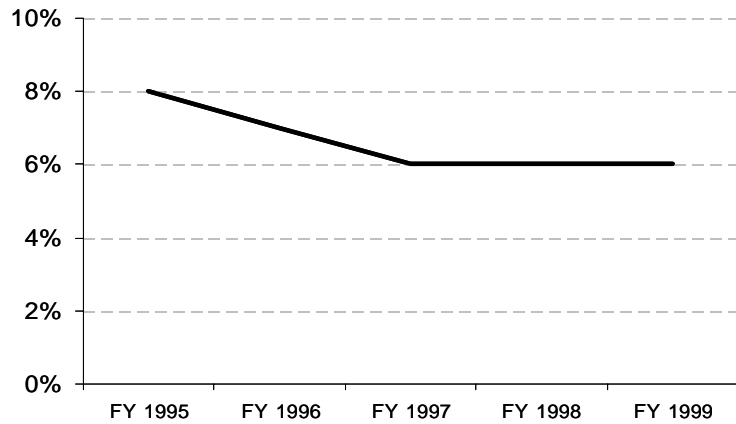
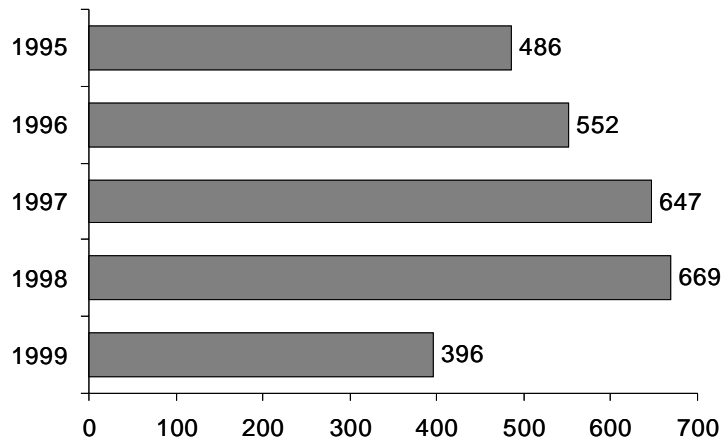


Figure 2-3: Number of New Admissions to Probation with Most Serious Current Offense a Sex Offense 1995-1999



CHAPTER THREE

Diagnosis and Classification of Inmates

The Georgia Diagnostic and Classification Prison (GDCP) at Jackson, Georgia, serves as the State's reception and classification center for all new commitments to the adult corrections system. The processing of new inmates includes an assessment of medical, physical and psychological conditions, and each incoming inmate is diagnostically evaluated, classified and eventually assigned to an institution of the Georgia Department of Corrections.

Behavior Problems of Inmates

The GDCP documents a variety of behavioral problems and each inmate's level of alcohol and substance abuse as indicated by testing, misconduct reports, social history, observation, and the inmate's self-report. The following behavioral problems, more than one of which can be indexed to a particular inmate, are documented in OTIS:

Alcoholic	Medically determined to be an alcoholic; offender admits to being an alcoholic.
Alcohol abuser	Record of using alcohol to the extent that it creates problems; offender admits abuse of alcohol.
Drug experimenter	No evidence of regular use, but offender has used drugs.
Drug abuse	Evidence of habitual narcotic or other drug use.
Narcotic addict	Offender is addicted to narcotic drug(s).
Epileptic	Offender is diagnosed by a physician as being epileptic.
Manipulative	Attempts to deceive others; use of untruths to win favor or to gain objectives; distorts truth to own advantage.
Assaultive	Record of fighting or threatening force; demonstration of verbal or physical force to do harm to another without actually executing the act; conviction of assaultive crime.
Escape Tendency	Evidenced by psychological testing, or record of escape or attempted escape.

Suicidal	Attempt(s) at suicide or self-mutilation are a matter of record; tendencies revealed through testing or interview.
Withdrawn	Incommunicative to a noticeable degree; unresponsive; anti-social.
Poor reality contact	Offender makes statements that are blatantly unrealistic; history of actions that do not reflect a logical interpretation of the facts in a situation.
Homosexual	Evidenced by action or testing; admitted by offender.

Intelligence Testing

Intelligence exists as a very general mental capability involving ability to reason, plan, solve problems, think abstractly, comprehend complex ideas, learn quickly and learn from experience. The Intelligence Quotient (IQ) is more strongly related to educational, occupational, economic, and social outcomes than any other measurable human trait.

The Culture Fair Intelligence Test, which is used by the GDCP, measures individual intelligence in a manner designed to reduce, as much as possible, the influence of verbal fluency, cultural climate, and educational level. The test is administered to measure the inmate's mental capability and how well the inmate is able to adapt to everyday demands (physical, social, etc.) on the basis of intellectual competencies.

It is generally accepted that an IQ of 100 is average. An IQ in the 40-70 range indicates a person that is mentally impaired and does not have the ability to function without the help of others; 71-85 indicates a borderline person able to function in some areas without help, but not to the extent of total independence; 86-115 an average person; 116-130 a high average person; and, 131-160 a "gifted" person. (Being on an Interval scale, a score of 0 in an IQ test does not represent an absence of intelligence, nor does an IQ score of 200 represent perfect intelligence.)

Social Class of Incoming Inmates

Social stratification is the ranking of a society in terms of the amounts of power, wealth and prestige which one possesses. Social stratification is the process by which societies divide themselves into homogeneous subgroups, and a distinct social class is one such subgroup. Some determinants of social class include personal performance, education, occupation, income, awards and achievements, and wealth.

The "upper class" is generally recognized as being comprised of those persons who exert the greatest influence, authority, or decisive power within a society.

The “middle class,” which include the great majority of American citizens, generally includes professionals, “white collar” and entrepreneurs, and “blue collar” working class. The lower classes generally include unskilled laborers and the socially and economically disadvantaged

The following classifications are used by the GDCP to categorize incoming inmates:

Welfare	Inmate states he was receiving welfare, food stamps (etc.) at time of arrest, regardless of other income.
Occasionally employed	Occasionally employed.
Minimum standard	Minimum standard of living; changes with government standard. Family barely has enough resources to sustain; income and expenses leave no safety net for severe financial strains (ex. Large medical bills)
Middle class	Practically anyone earning more than the minimum standard; offender earning enough to accumulate, at least, few resources (ex. Property, savings)

Assessments of Competencies

The Wide Range Achievement Tests (WRAT) are screening instruments that measure the codes needed to learn the basic skills of reading, spelling, and arithmetic. They are used by the GDCP to measure an inmate’s level of academic functioning.

The reading portion analyzes a person’s ability to recognize and name letters and pronounce words out of context. The spelling portion involves copying marks resembling letters, writing names, and dictated single words. The arithmetic portion contains activities in counting and reading numbers. Used for educational placement, measuring school achievement, vocational assessment and job placement and training, these tests help in the study of sensory-motor and coding skills involved in learning to read, write, spell and compute.

The scores can be used to compare the achievement levels of one person to another from kindergarten age through adulthood. The ratings can be used to give a general indication of the instructional level of an inmate. The number to the left of the decimal point indicates the grade level, and the number to the right indicates the portion of the year.

In the following chapters, the characteristics of prisoners and probationers convicted of the eleven statutory crimes listed in Chapter Two are presented, as well as 10-year sentencing trends (ex. numbers of admissions and releases from prison, mean sentences, time served in prison) for each crime.

CHAPTER FOUR

Child Molestation

Statutory and Decisional Law

“A person commits the offense of child molestation in Georgia when he or she does any immoral or indecent act to or in the presence of or with any child under the age of 16 years with the intent to arouse or satisfy the sexual desires of either the child or the person” (O.C.G.A. § 16-6-4(a)).

“Under OCGA § 16-6-4 (a), a prosecution for child molestation does not require proof of force” (*House v. State*, 236 Ga. App. 405, 409-410, 512 S.E.2d 287, 289 (1999)).

Under Georgia law, a man could be prosecuted either for statutory rape or child molestation for having sexual intercourse with a female under 14 years of age. Also, attempted intercourse by a female with a boy under the age of 14 could be prosecuted as child molestation.

“A person convicted of a first offense of child molestation shall be punished by imprisonment for not less than five nor more than 20 years. Upon such first conviction of the offense of child molestation, the judge may probate the sentence; and such probation may be upon the special condition that the defendant undergo a mandatory period of counseling administered by a licensed psychiatrist or a licensed psychologist. However, if the judge finds that such probation should not be imposed, he or she shall sentence the defendant to imprisonment; provided, further, that upon a defendant’s being incarcerated on a conviction for such first offense, the Department of Corrections shall provide counseling to such defendant. Upon a second or subsequent conviction of an offense of child molestation, the defendant shall be punished by imprisonment for not less than ten years nor more than 30 years or by imprisonment for life; provided, however, that prior to trial, a defendant shall be given notice, in writing, that the state intends to seek a punishment of life imprisonment. Adjudication of guilt or imposition of sentence for a conviction of a second or subsequent offense of child molestation, including a plea of nolo contendere, shall not be suspended, probated, deferred, or withheld” (O.C.G.A. § 16-6-4(b)).

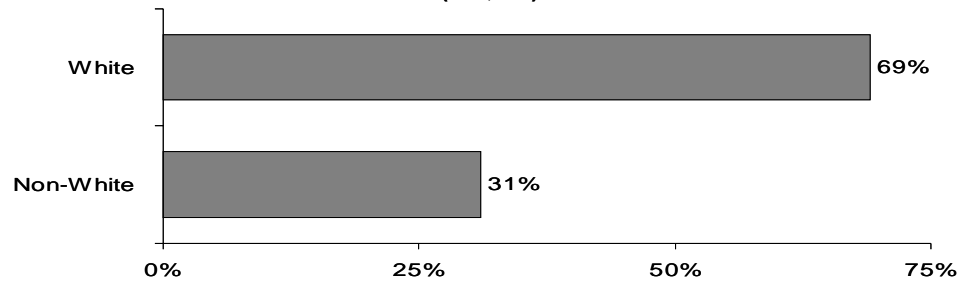
Characteristics of Imprisoned Offenders

“The sexual abusers of children are highly dissimilar in terms of personal characteristics, life experiences, and criminal histories. No single ‘molester profile’ exists. Child molesters arrive at deviancy via multiple pathways and engage in many different sexual and nonsexual ‘acting-out’ behaviors.” (*Child Sexual Molestation: Research Issues*, Prentky, et al. 1997)

The overwhelming majority (69%) of defendants who were convicted of child molestation and sentenced to the Georgia prison system from 1989 to 1998 were white; less than one-third (31%) were non-white. See *Figure 4-1*. For most

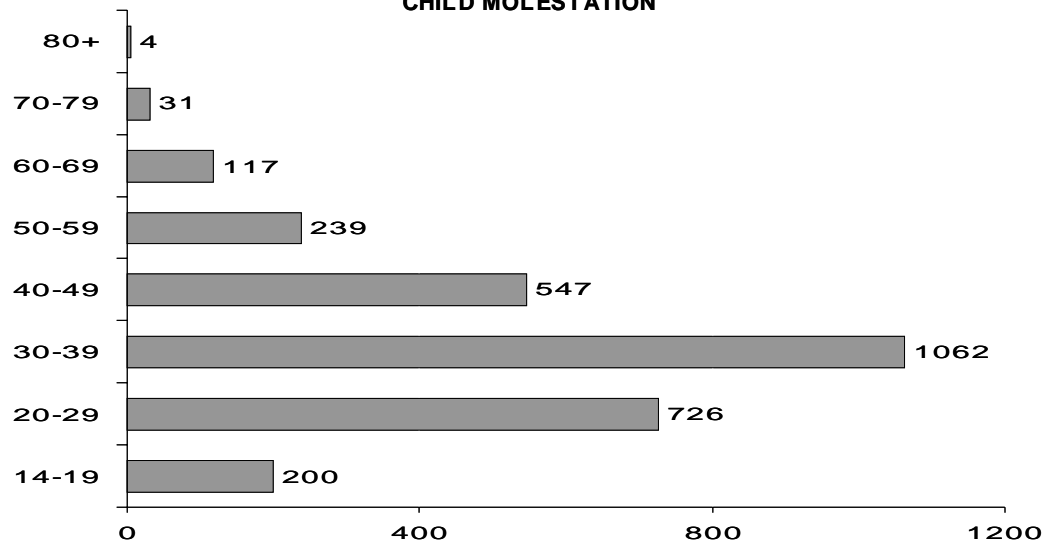
felony incarcerations in Georgia during those years, the percentage of white offenders was generally less than 33%. Only 2% of those defendants who entered the State prison system for child molestation were female, seven percent less than the general inmate population.

Figure 4-1: Race of Incoming Georgia Inmates Convicted of Child Molestation 1990-1999 (n=2,966)



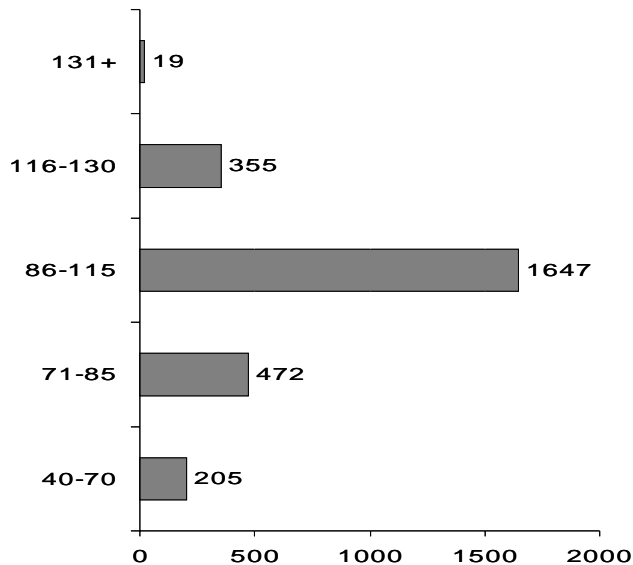
The greatest percentage (36%) of child molesters were within the 30-39 age group; the second most frequent age range was 20-29 (24%), followed by the 40-49 age group (18%). Teenagers comprised only seven percent (7%) of the incarcerated offender population. See *Figure 4-2*.

Figure 4-2: AGE AT SENTENCING (1990-1999) Incoming Georgia Inmates Convicted of CHILD MOLESTATION



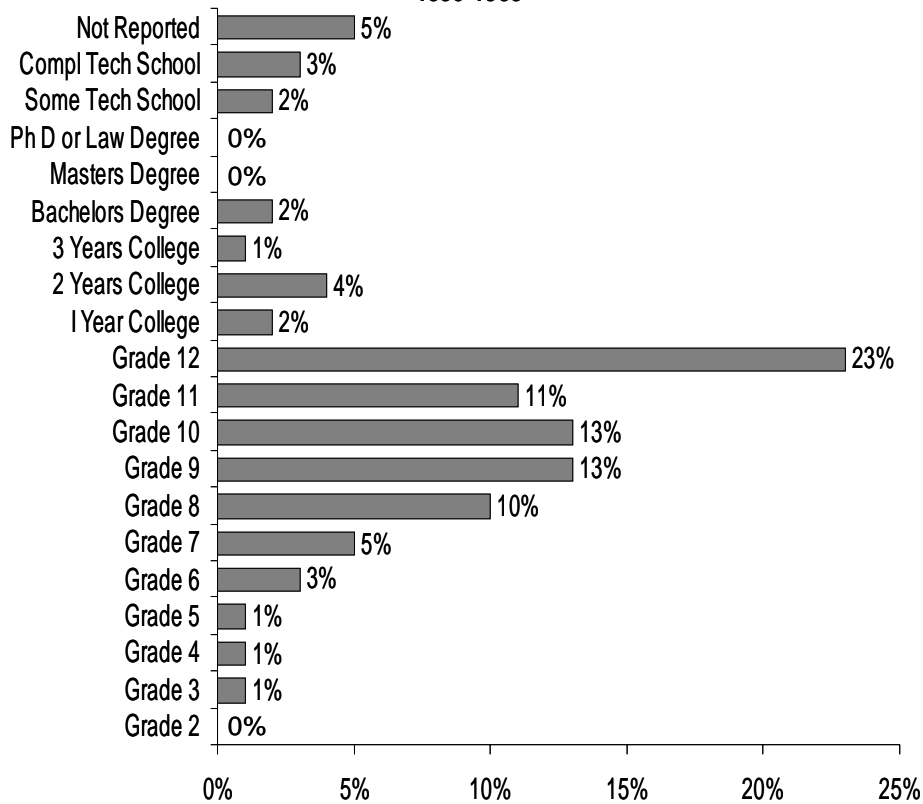
As *Figure 4-3* highlights, the most frequent IQ range of the incarcerated child molesters was 86-115, indicating average intelligence (56%). Seven percent of these offenders had IQ scores between 40-70 which indicates severe mental impairment.

**Figure 4-3: IQ Scores
Incoming Georgia Inmates (1990-1999)
CHILD MOLESTATION**



The most frequent level of education attained by child molesters sentenced to prison in Georgia was a high school education (23%). See *Figure 4-4*. Ninth and tenth grade educational levels were the second most frequently reported level each with 13%, followed closely by eleventh (11%) and eighth grade (10%). Nine percent of the total child molestation offender population had at least some college education.

**Figure 4-4: Educational Level of
Incoming Georgia Inmates
Convicted of Child Molestation
1990-1999**



Nearly one-half (47%) of the child molesters processed through the GDCP reported being employed full-time when they were arrested. One-fifth (20%) reported having been unemployed for more than six months prior to their arrest, and 14% reported being unemployed less than six months prior to arrest. See *Figure 4-5*. *Figure 4-6* reflects the finding that over one-half (54%) of the child molesters were classified at intake as being “middle class,” with less than one-third being classified as “minimum standard.”

Figure 4-5: Employment Status of Incoming Georgia Inmates Convicted of Child Molestation 1990-1999

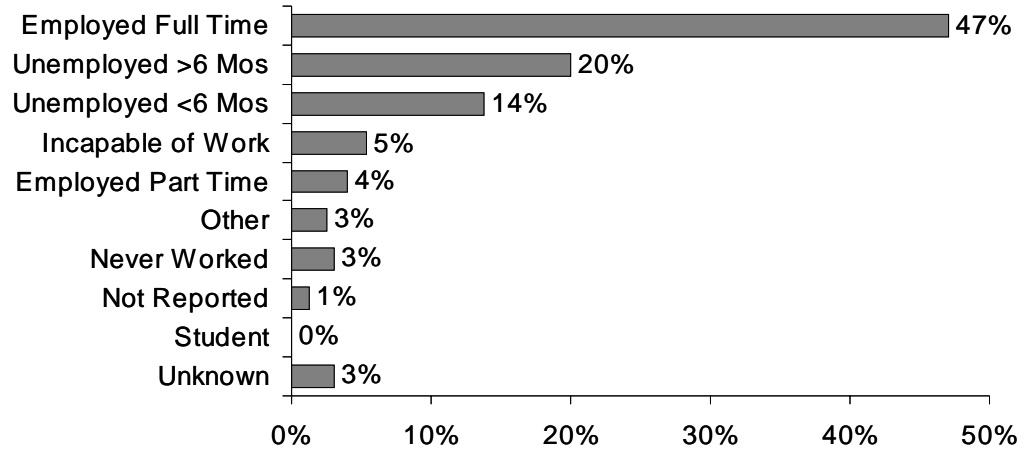
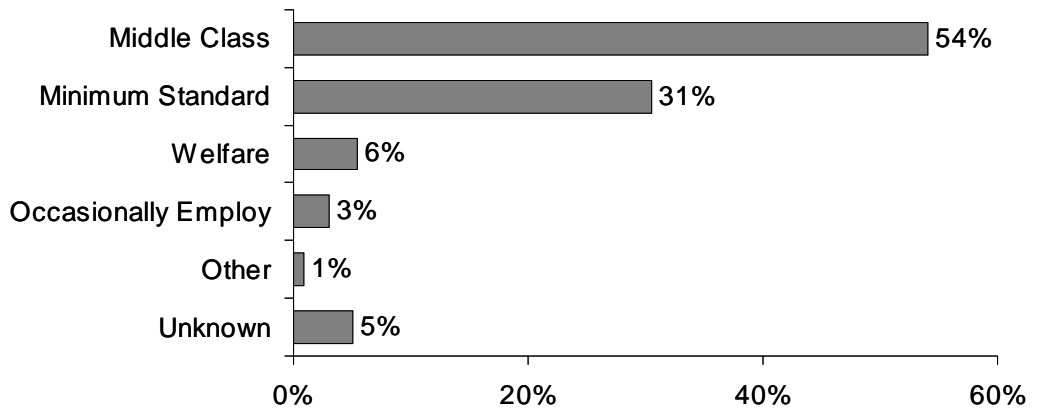
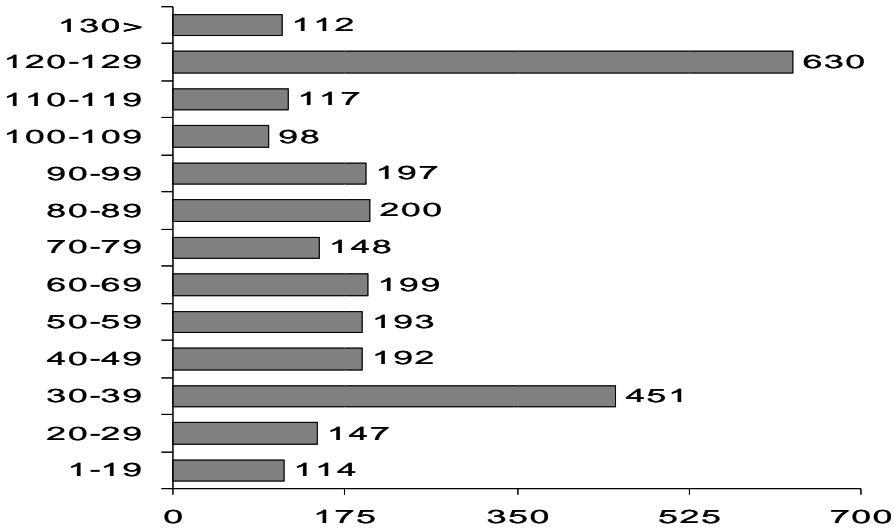


Figure 4-6: Social Class of Incoming Georgia Inmates Convicted of Child Molestation 1990-1999



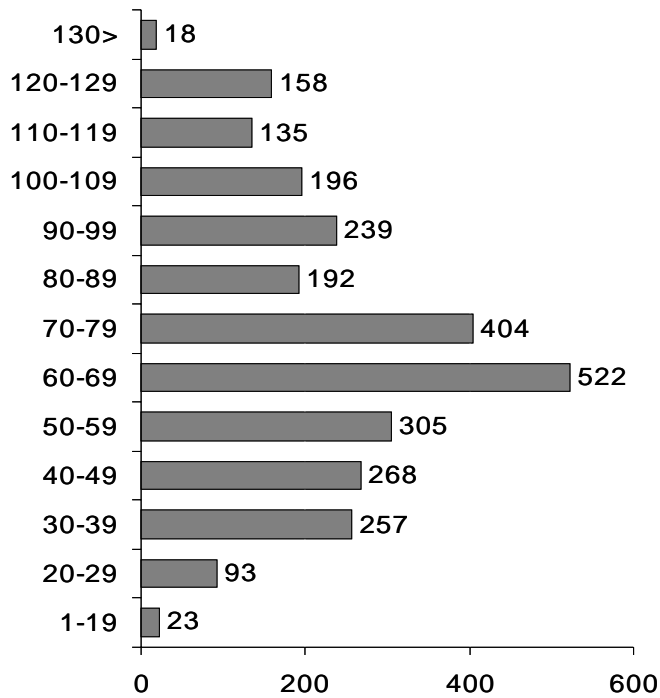
Based upon the administration of the WRAT-Read tests, the greatest percentage of the child molesters scored at the twelfth grade level (21%); the next most frequent scoring (15%) was at the third grade level. The remaining scoring ranges each included 7% or fewer of the offenders. See *Figure 4-7*.

**Figure 4-7: WRAT – Read Scores
Incoming Georgia Inmates (1990-1999)
CHILD MOLESTATION**



The distribution of the WRAT-Math scores was “bell-shaped,” with a sixth grade level being the most frequent (18%); the seventh grade level was the next most frequent (14%), followed by the fifth grade level (10%). See *Figure 4-8*.

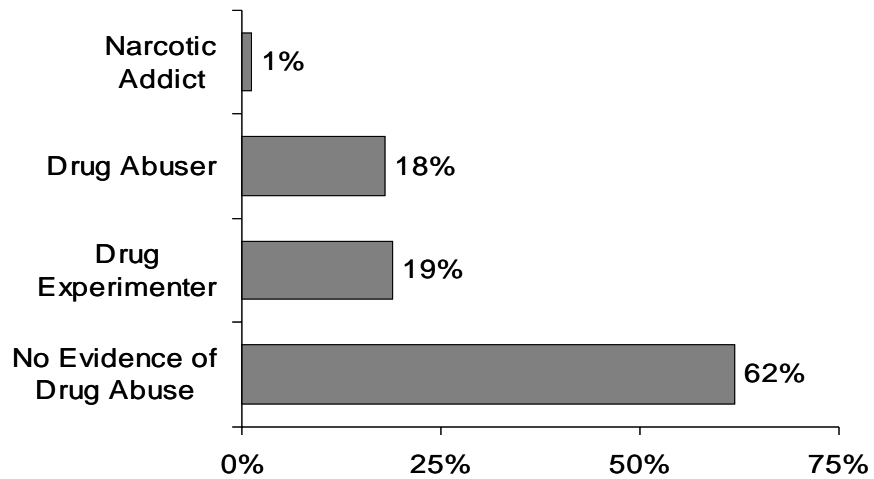
**Figure 4-8: WRAT – Math Scores
Incoming Georgia Inmates (1990-1999)
CHILD MOLESTATION**



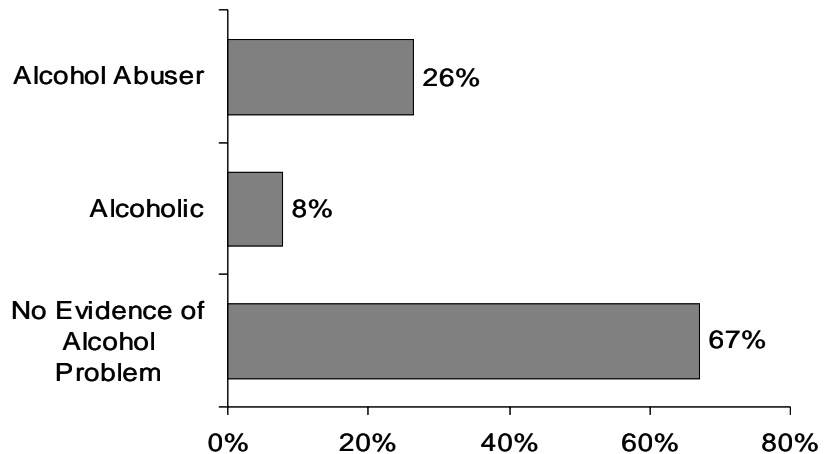
Diagnosed Behaviors of Imprisoned Offenders

As determined by the diagnostic counselor during the classification process, 37% of the incoming child molesters were classified as being drug abusers or drug experimenters; 62% of the incoming inmates were classified as showing no evidence of drug abuse. See *Figure 4-9*. Twenty-six percent of the inmates were classified as alcohol abusers, and 8% as alcoholics; 67% showed no evidence of an alcohol problem. See *Figure 4-10*.

**Figure 4-9: DRUG BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
CHILD MOLESTATION**

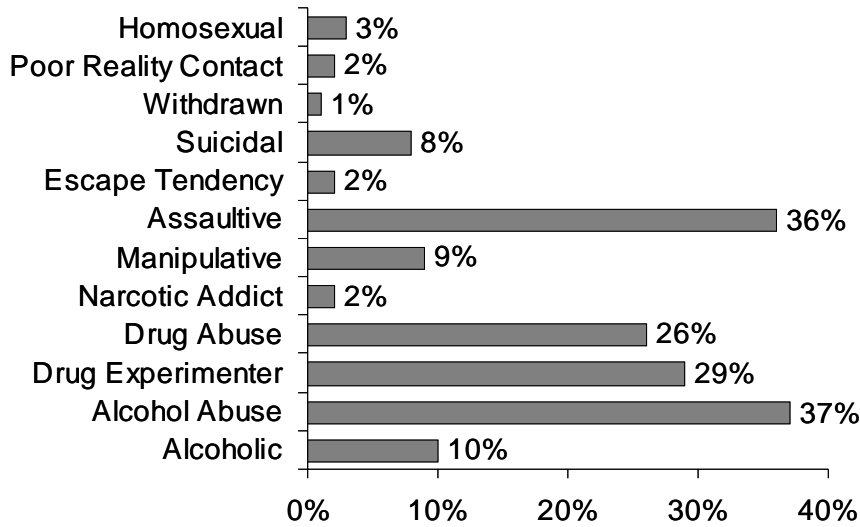


**Figure 4-10: ALCOHOL BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
CHILD MOLESTATION**



Of the over 4,000 documented behaviors attributed to the 2,966 child molesters, the most two common behaviors were alcohol abuse and being assaultive. See *Figure 4-11*.

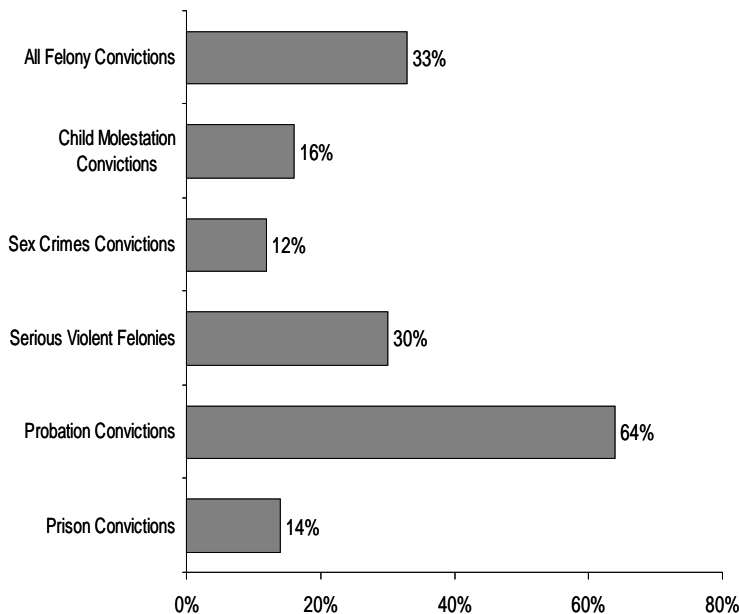
Figure 4-11: DIAGNOSED BEHAVIORS OF INCOMING GEORGIA INMATES 1990-1999
CHILD MOLESTATION



Criminal Histories of Imprisoned Offenders

Fourteen percent of the child molesters committed to the Georgia prison system from 1990 to 1999 had a prior prison conviction. Nearly two-thirds (64%) had received probation for either misdemeanor or felony grade crimes. Almost one-third (33%) of these offenders had at least one prior felony conviction, and thirty-percent had a conviction for a felony now identified as a “serious violent felony”. Sixteen percent of the admissions had a prior conviction for child molestation, and 12% had a prior sex crime conviction. See *Figure 4-12*. As many as 86% of these offenders had no prior prison conviction.

Figure 4-12: Criminal Histories of Court Commitments to Georgia Prison for Child Molestation 1990-1999 (n=2,966)



Sentencing Patterns

The number of prison admissions for child molestation with non-life sentences in 1989 was 240. In 1990 it bumped up to 312 before declining on and off to reach 197 in 1995. Again in 1996, however, the numbers were back up showing only a slight decrease between 1997 and 1998. See *Figure 4-13*. As *Figure 4-14* highlights, the number of child molesters released from Georgia prisons peaked at 254 in 1993, and has declined to less than 165 during each of the following five years (1994-1998).

Figure 4-13: Non-Life Sentences Incoming Georgia Inmates Convicted of Child Molestation

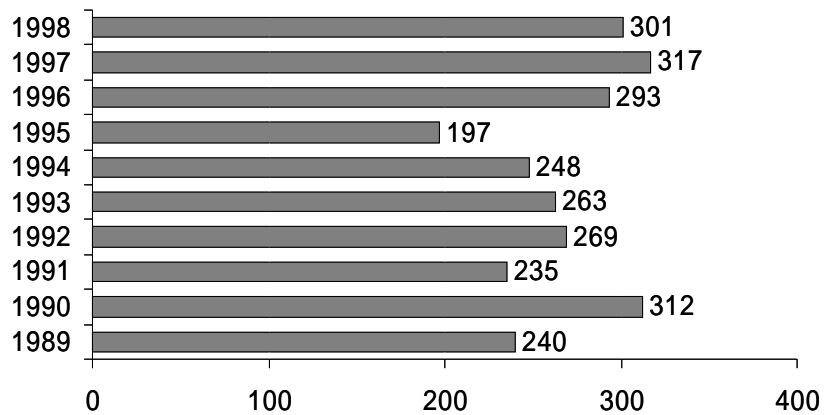
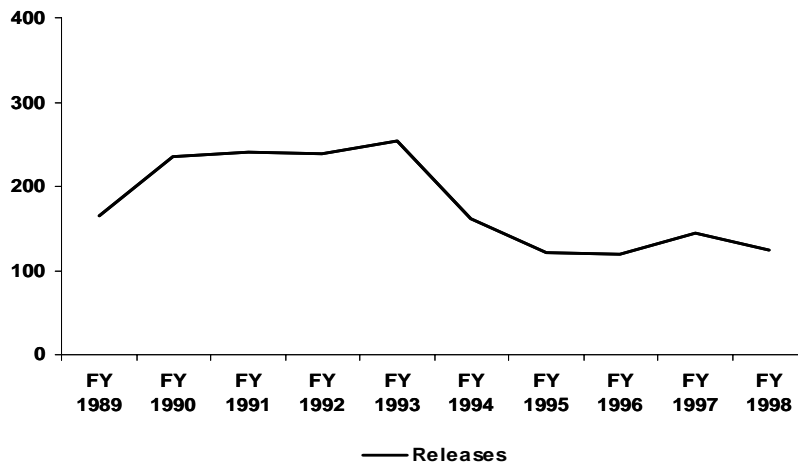
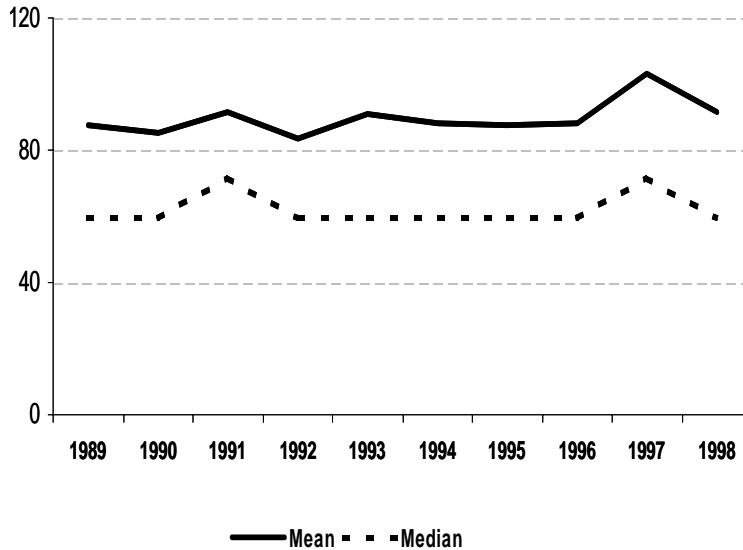


Figure 4-14 Number of Releases Child Molestation (Excluding Life Sentences) 1989-1998 CHILD MOLESTATION



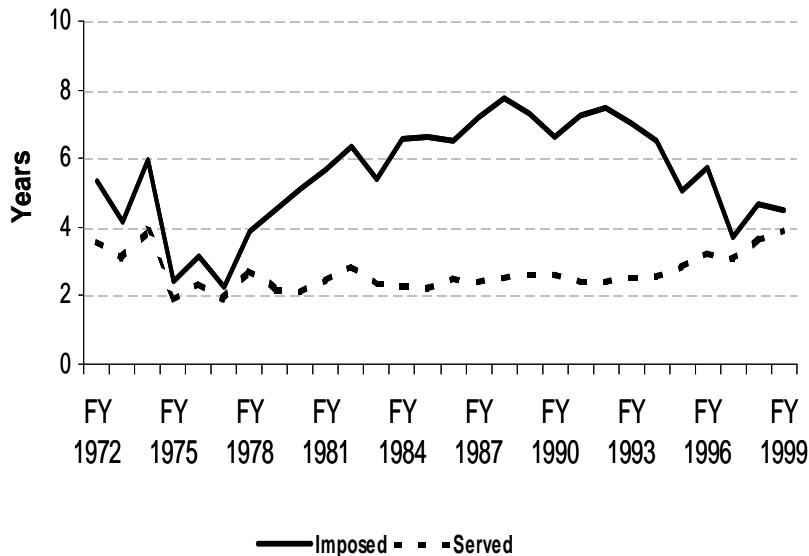
The mean sentence length imposed on Georgia child molesters *entering* the prison system during the past ten years has remained steady at 80-95 months. From 1992 to 1996 the median prison sentence for child molestation hovered at 60 months. As *Figure 4-15* shows, after notching up in 1997, the median sentence has returned to the 60-month mark.

**Figure 4-15: Sentence Length (in Months)
Incoming Georgia Inmates (Excluding "Lifers")
Child Molestation**

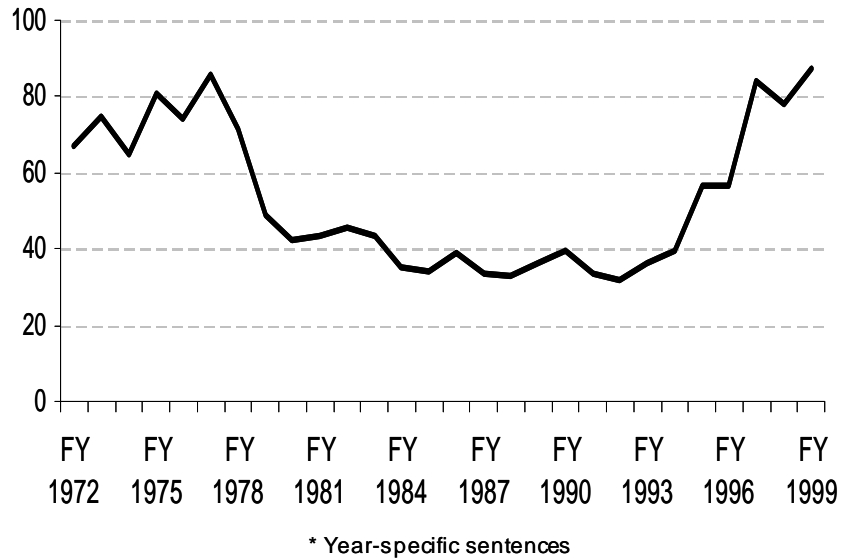


Prison sentences imposed on child molesters *exiting* the State prison system dropped in the 1970's but rebounded to a high of 7.78 in FY1988. Subsequent to that peak, however, the sentences have decreased to less than five years (4.49 in FY1999). The actual years of incarceration has varied between two years and three years, with an upsurge in FY1998 and FY1999. *Figure 4-16* shows the converging trends of imposed and served sentences for *exiting* inmates. Noteworthy is the time-served in prison percentage for this group of offenders. As *Figure 4-17* highlights, since slumping to a low of 31% in FY1992, this percentage, often cited by advocates of "truth-in-sentencing" has climbed to 87% in 1999. This dramatic increase may be the direct consequence of the Georgia Board of Pardons and Paroles having adopted stringent policies regarding the discretionary releases of sexual offenders from prison to supervised parole.

**Figure 4-16: Sentences Imposed and Served
Georgia Releases
1972-1999
CHILD MOLESTATION**



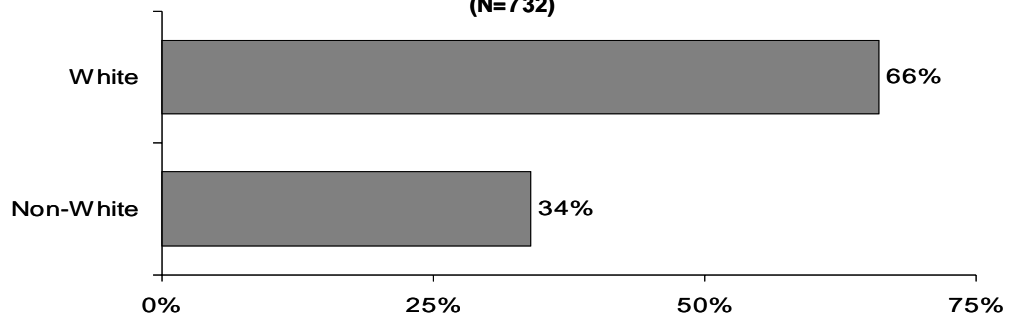
**Figure 4-17: Percent Time Served
Georgia Releases
1972-1999
Child Molestation**



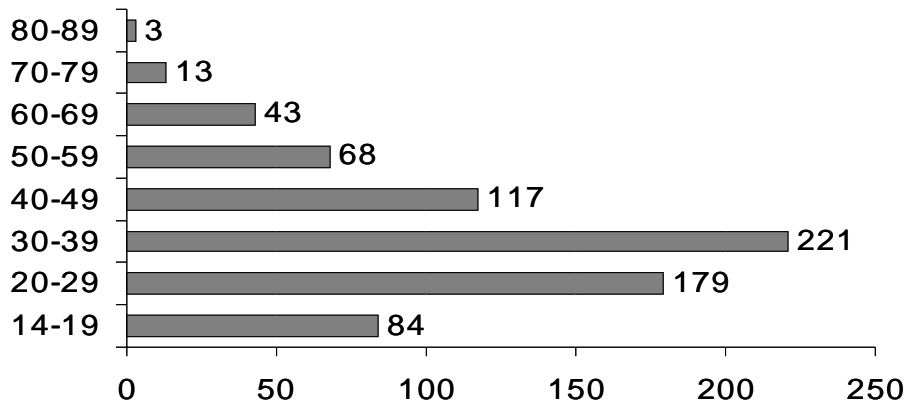
Probationers

Of the 732 child molesters sentenced to felony-length terms of supervised probation during the past four years, 66% were white and 34% were non-white. See *Figure 4-18*. Much like the inmates admitted from 1989-1999, the probationers were mostly 30-39 year olds. See *Figure 4-19*. In comparison to the inmates, a higher percentage of the probationers had completed 7-12 years of school (75% vs. 81%). Fifteen percent have completed some college coursework or more post-secondary education. Noteworthy was the percentage of probationers that had only completed grades 1-6 (4%) comparable to that of the inmates (6%). See *Figure 4-20*.

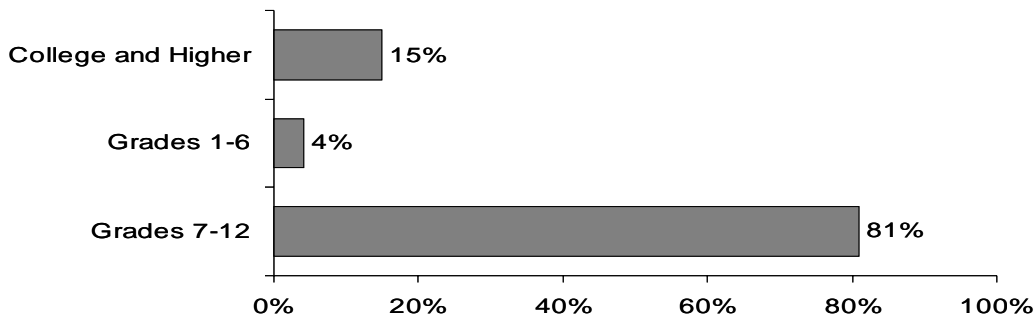
**Figure 4-18: Race of Probation Starts
Convicted of Child Molestation
1995-1998
(N=732)**



**Figure 4-19: Mean Age at Start of Probation
1995-1999
Child Molestation**

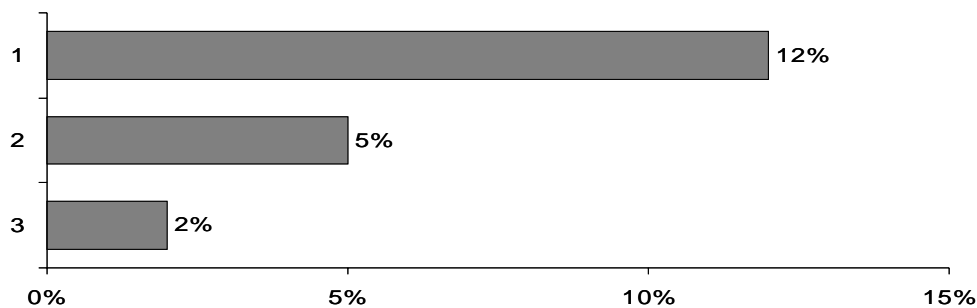


**Figure 4-20: Educational Level
New Probation Starts
1995-1999
Child Molestation
(n=732)**



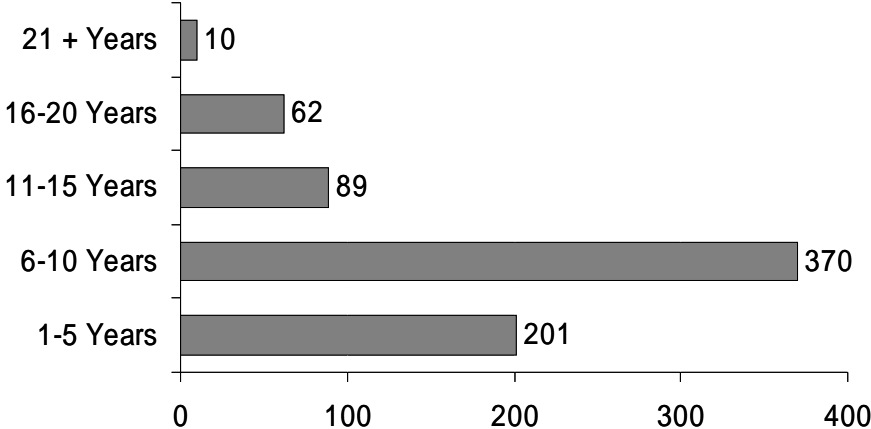
An interesting finding was the comparison of the percentage of probationers who had a felony conviction in their criminal history (19%) with the percentage of inmates who had a felony in their past (33%). Compare *Figure 4-21* with *Figure 4-12*.

**Figure 4-21: Number of Felony Convictions
in Probationer's Past
New Starts 1995-1999
Child Molestation
(n=732)**



The most frequently imposed probated sentence for child molestation was 6-10 years, with 1-5 years being a distant second. See *Figure 4-22*.

**Figure 4-22: Sentence Length for Most Serious Offense
Probation Starts 1995-1999
Child Molestation**



CHAPTER FIVE

Aggravated Child Molestation

Statutory and Decisional Law

An aggravated child molestation in Georgia is defined as the commission of child molestation which physically injures the child or involves an act of sodomy. O.C.G.A. § 16-5-4(c).

Persons convicted of aggravated child molestation are punished by imprisonment for not less than ten nor more than 30 years.

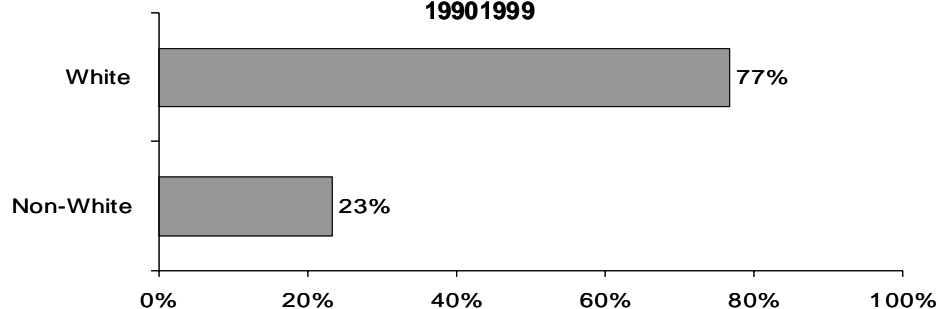
Pursuant to the Sentence Reform Act of 1994, (Ga. L. 1994, p. 1959), persons convicted of any one of the seven “serious violent felonies,” including aggravated child molestation, are required to serve minimum mandatory terms of imprisonment that cannot be suspended, stayed, probated, deferred, or withheld by the sentencing court. Additionally, the sentences ordered by the superior courts for convictions of “serious violent felonies” must be served in their entirety and cannot be reduced by parole or by any earned time, early release, work release, or other such sentence-reducing measures. Persons convicted of aggravated child molestation are not eligible for first offender treatment (Ga. L. 1998, p. 180, § 1).

Prior to sentencing for a first offense of child molestation, the sentencing court is authorized to require a psychiatric evaluation to ascertain whether or not medroxyprogesterone acetate chemical treatment or its equivalent would be effective in changing the defendant’s behavior. If the evaluation determines that such treatment would be effective, the court may require, as a condition of probation, that the defendant undergo treatment. (O.C.G.A. § 16-5-4(d)).

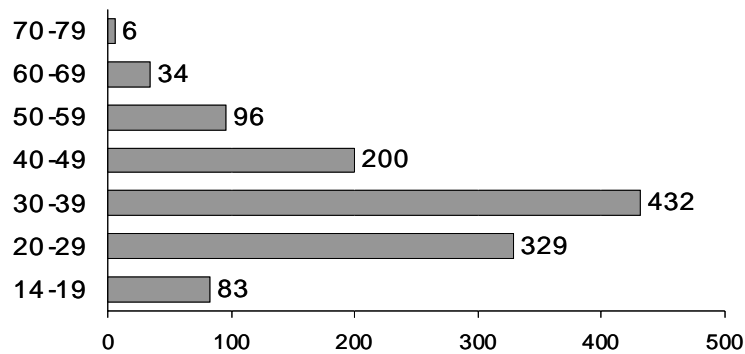
Characteristics of Imprisoned Offenders

Compared to those inmates who were convicted of child molestation, a higher percentage of *aggravated* child molesters were white (69% vs. 77%). Compare *Figure 5-1* with *Figure 4-1*. The percentage of male offenders (98%) was the same, however, for both offender groups. As *Figure 5-2* highlights, similar to child molesters, the most frequent age group for aggravated child molesters was 30-39 (37%). The second largest age group was 20-29 (28%).

**Figure 5-1: Race of Incoming Georgia Inmates
Convicted of Aggravated Child Molestation
(n=1,170)
1990-1999**

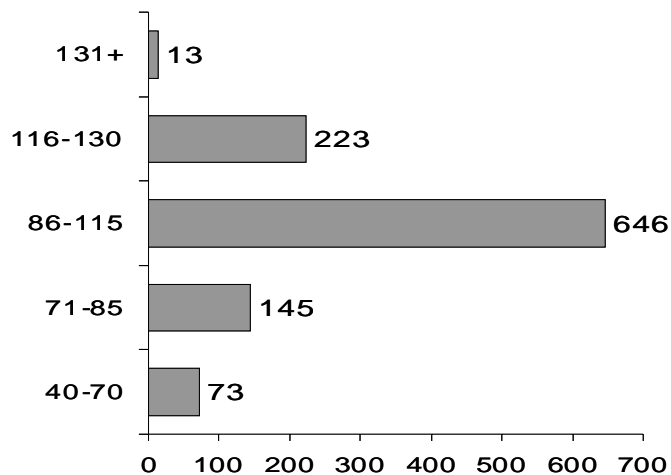


**Figure 5-2: AGE AT SENTENCING (1990-1999)
Incoming Georgia Inmates Convicted of
AGGRAVATED CHILD MOLESTATION**



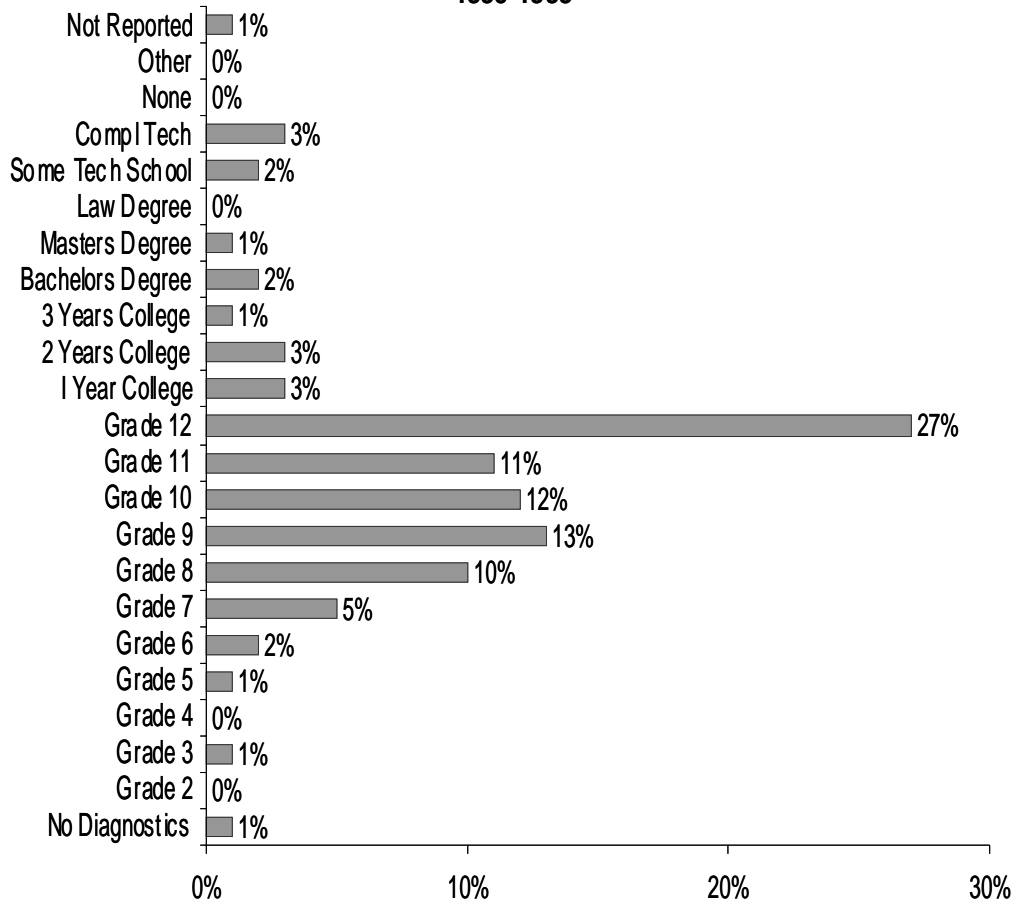
As shown in *Figure 5-3*, the majority of aggravated child molesters (55%) have IQ scores which fall into the average intelligence range. Nineteen percent had scores of 116-130 which would indicate high average intelligence and 1% are mentally gifted. Six percent of these offenders obtained scores in the 40-70 range which means they are mentally impaired.

**Figure 5-3: IQ Scores
Incoming Georgia Inmates (1990-1999)
AGGRAVATED CHILD MOLESTATION**

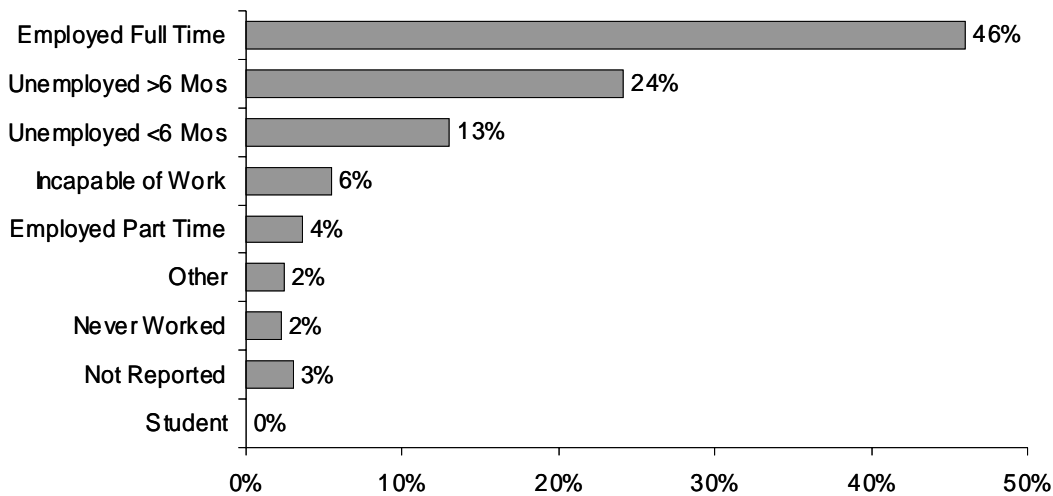


In Georgia, a high school diploma was attained by more aggravated child molesters (27%) than across any other level of education. This was slightly more frequent than child molesters where only 23% graduated from high school. Ninth, tenth, eleventh, and eighth grade completions were the next most frequent completions (13%, 12%, 11%, and 10%, respectively). See *Figure 5-4*. Only one-percent fewer (46%) aggravated child molesters than child molesters (47%) reported being employed full-time at the time of their arrest. More aggravated child molesters than child molesters (24% vs. 20%) reported having been unemployed for more than six months prior to arrest. Slightly fewer aggravated child molesters (13%) than child molesters (14%) reported having been unemployed for less than six months prior to arrest. See *Figure 5-5*.

**Figure 5-4: Educational Level of Incoming Georgia Inmates
Convicted of Aggravated Child Molestation
1990-1999**

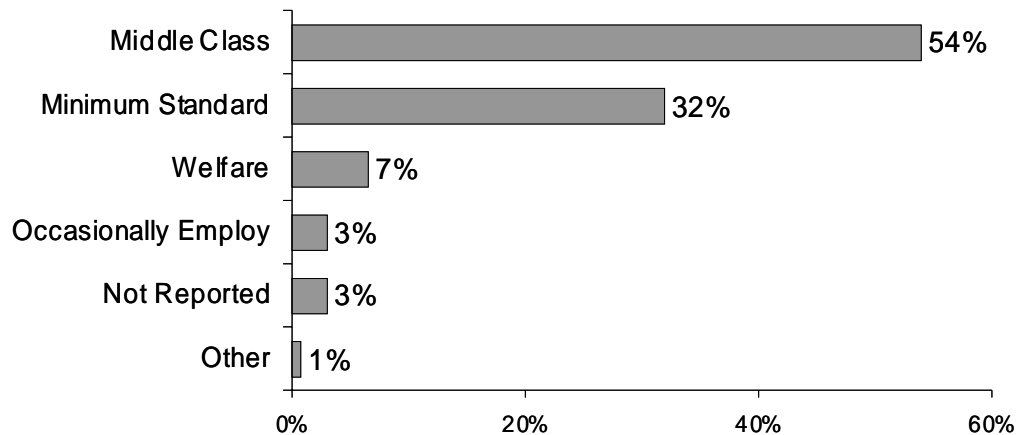


**Figure 5-5: Employment Status of Incoming Georgia Inmates
Convicted of Aggravated Child Molestation
1990-1999**



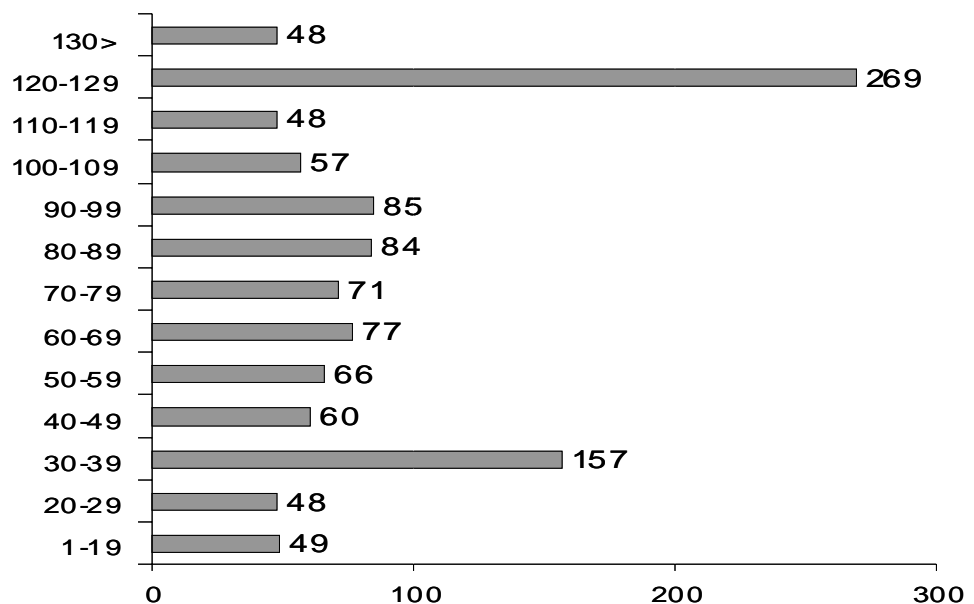
The same percentage (54%) of aggravated child molesters as child molesters were classified as “middle class.” Thirty-two percentage of aggravated child molesters were “minimum standard”. The distribution among the remaining classifications were generally the same. Compare *Figure 5-6* with *Figure 4-6*.

Figure 5-6: Social Class of Incoming Georgia Inmates Convicted of Aggravated Child Molestation 1990-1999

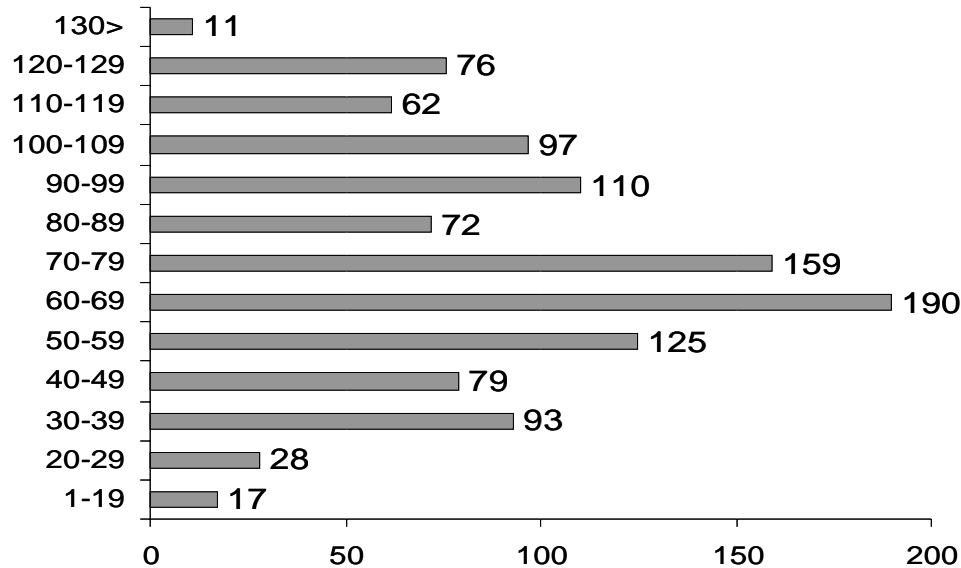


Based upon the WRAT-Read tests, the greatest percentage, nearly one-quarter (23%), of the aggravated child molesters were scored at the twelfth grade level. The next most frequent scoring (13%) was at the third grade level. The remaining scoring ranges each included 7% or fewer of the offenders. See *Figure 5-7*. The distribution of the WRAT-Math scores was “bell-shaped,” with a sixth grade level being the most frequent (16%); the seventh grade level was the next most frequent (14%), followed by the fifth grade level (11%). See *Figure 5-8*.

Figure 5-7: WRAT – Read Scores Incoming Georgia Inmates (1990-1999) AGGRAVATED CHILD MOLESTATION



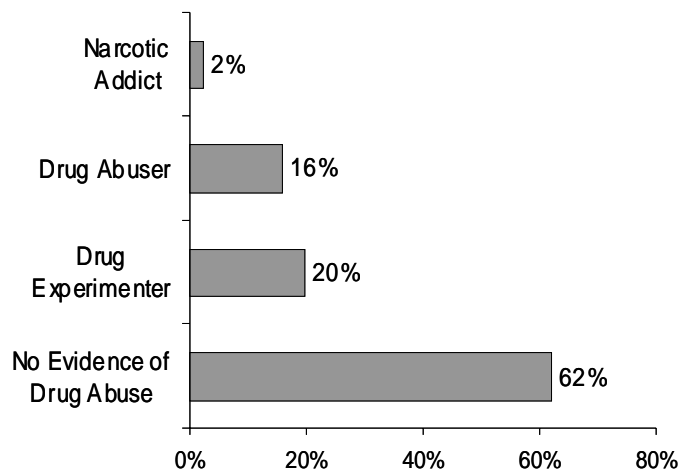
**Figure 5-8: WRAT – Math Scores
Incoming Georgia Inmates (1990-1999)
AGGRAVATED CHILD MOLESTATION**



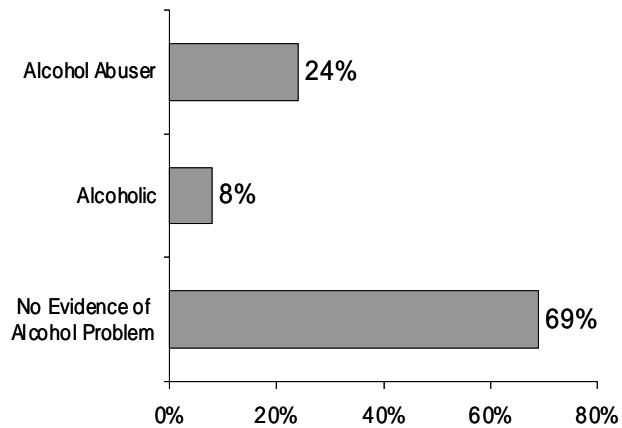
Diagnosed Behaviors of Imprisoned Offenders

The behaviors associated with the aggravated child molester inmates were very similar to those of the child molester inmates. Thirty-six percent of this offender population were classified as being drug abusers or drug experimenters, and 32% were classified as alcohol abusers or alcoholics. Sixty-two percent (62%) showed no evidence of drug abuse, and 69% showed no evidence of alcohol abuse. See *Figure 5-9* and *Figure 5-10*. Of the total number of behavior problems, the most frequently identified was being assaultive (40%), followed by alcohol abuse (32%), and drug experimenter (30%). See *Figure 5-11*.

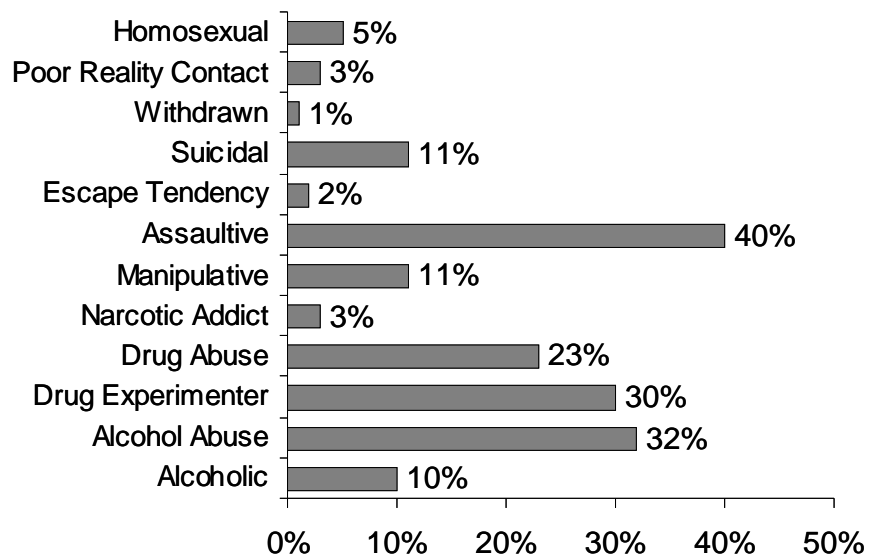
**Figure 5-9: DRUG BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
AGGRAVATED CHILD MOLESTATION**



**Figure 5-10: ALCOHOL BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
AGGRAVATED CHILD MOLESTATION**



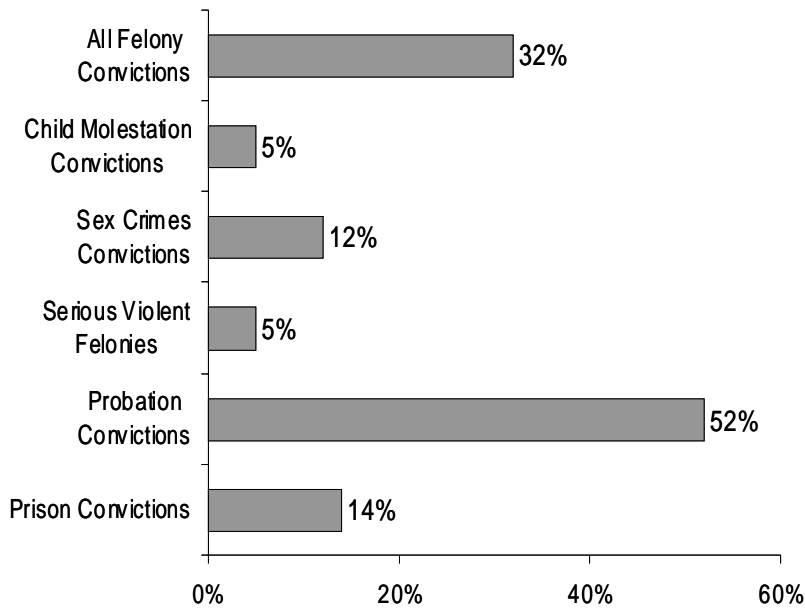
**Figure 5-11: DIAGNOSED BEHAVIORS OF
INCOMING GEORGIA INMATES
1990-1999
AGGRAVATED CHILD MOLESTATION**



Criminal Histories of Imprisoned Offenders

The same percentage (14%) of aggravated child molesters as child molesters had been previously sentenced to prison which means the same number had no prison conviction in their past (86%). Thirty-two percent of the aggravated felons had a prior felony conviction. The percentage (12%) of aggravated child molesters that had a prior sex crime conviction was the same as that of child molesters, the percentage of aggravated child molesters who had a prior “serious violent felony” in their past was higher (5% vs. 3%). Compare *Figure 5-12* with *Figure 4-12*. Just over one-half (52%) of the 1,170 inmates incarcerated for aggravated child molestation from 1990 to 1999 had a probated sentence imposed on them some-time prior to being incarcerated for aggravated child molestation.

Figure 5-12: Criminal Histories of Court Commitments to Georgia Prison for Aggravated Child Molestation (n=1,170) 1990-1999

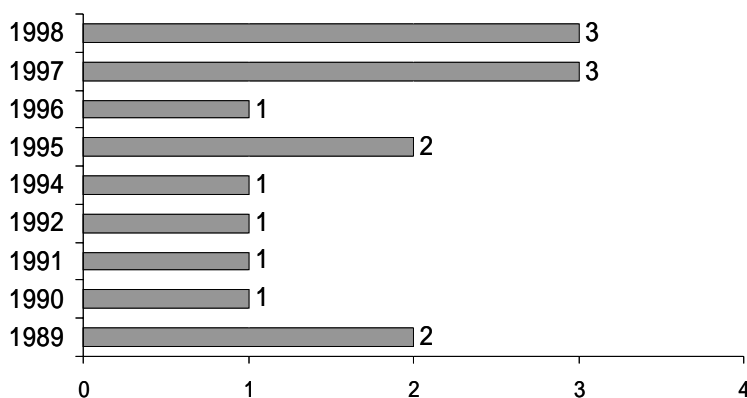


As a percentage, fewer of the aggravated child molester inmates (5%) had a prior conviction for the crime of child molestation than did the child molesters (16%) who were sentenced to prison from 1990 to 1998. See *Figure 5-12*.

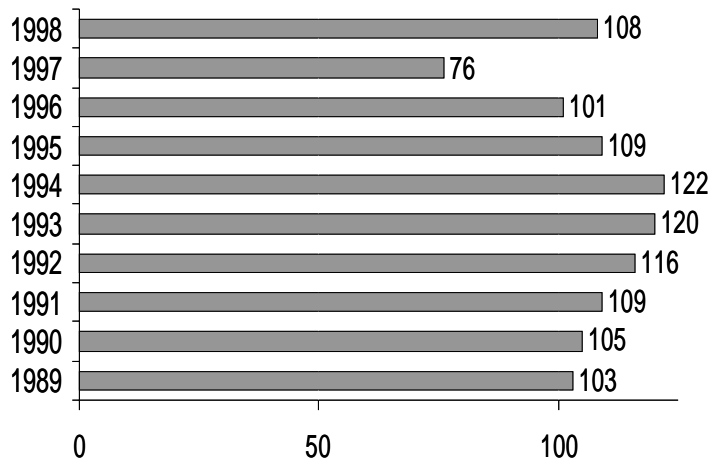
Sentencing Patterns

The annually imposed life sentences fluctuated between 1 and 3 from 1990 to 1998 with only one life sentence being passed down in 5 of the 10 years. See *Figure 5-13*. As *Figure 5-14* reflects, non-life sentences have dropped from the peak of 122 in 1993 to 106 in 1998. In 1997, fewer than 80 inmates were admitted for year-specific sentences for aggravated child molestation convictions.

Figure 5-13: Life Sentences Incoming Georgia Inmates Convicted of Aggravated Child Molestation

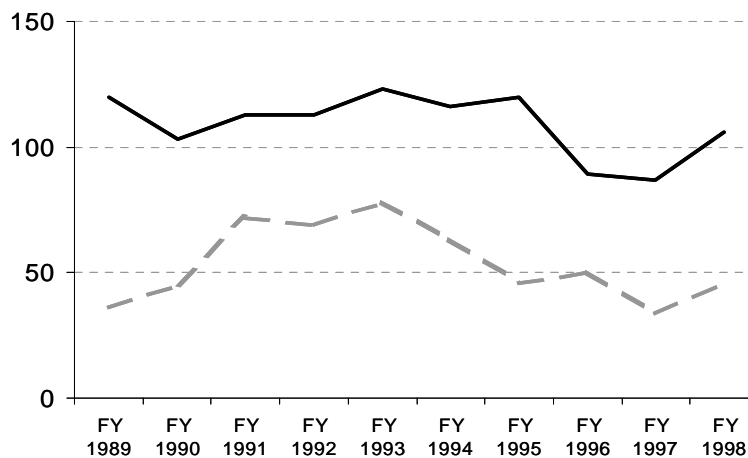


**Figure 5-14: Non-Life Sentences
Incoming Georgia Inmates
Convicted of Aggravated Child Molestation**

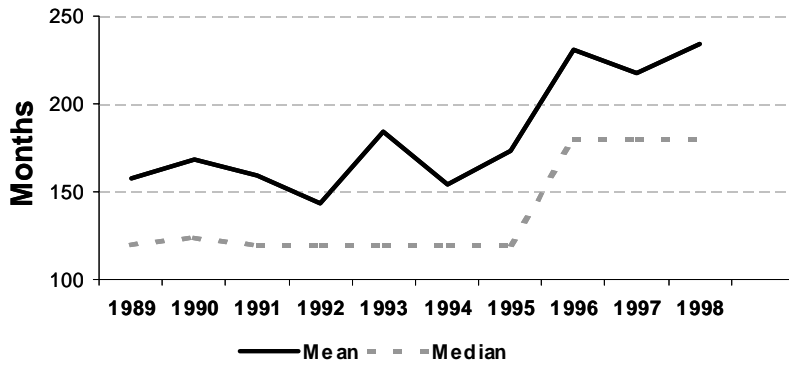


Excluding life sentences, the numbers of admissions and releases from prison for aggravated child molestation have both decreased from a peak in FY1993, although the downward trend was reversed in FY1998. See *Figure 5-15*. As *Figure 5-16* shows, the average length of prison sentence (in months) imposed on an *incoming* convicted aggravated child molester has considerably increased since 1994. The mean sentence crossed the 200-month threshold in 1996, and it continues to increase. *Figure 5-17* reflects that the percentage of prison sentence length by those inmates *released* from FY1988 to FY1999 has upsurged from 20% to over 70%.

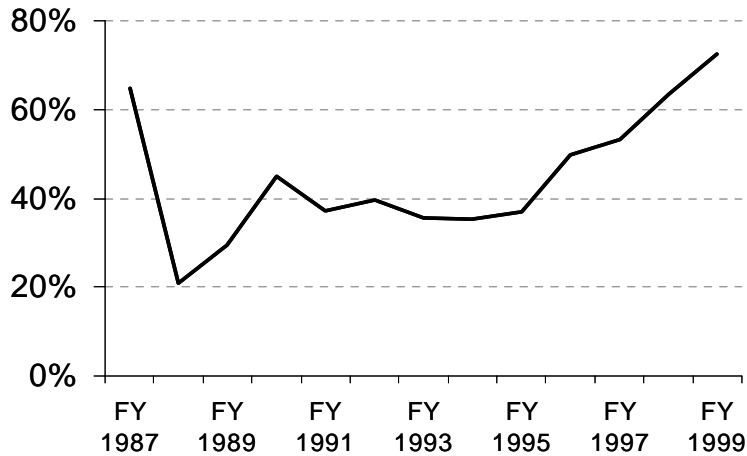
**Figure 5-15: Georgia Admissions and Releases
(Excluding Life Sentences)
1989-1998
AGGRAVATED CHILD MOLESTATION**



**Figure 5-16: Sentence Length (in Months)
Incoming Georgia Inmates (Excluding "Lifers")
AGGRAVATED CHILD MOLESTATION**



**Figure 5-17: Percent Time Served
Georgia Releases
1972-1999
Aggravated Child Molestation**



CHAPTER SIX

Enticing a Child for Indecent Purposes

Statutory and Decisional Law

Pursuant to O.C.G.A. § 16-6-5, a person commits the offense of enticing a child for indecent purposes “when he or she solicits, entices, or takes any child under the age of 16 years to any place whatsoever for the purpose of child molestation or indecent acts.”

The offense of enticing a child “does not require that the lewd act be accomplished or even attempted, merely that it was intended as motivation for the enticement ... (t)hat the child may have willingly allowed himself to be enticed is of no consequence ... (t)he child’s consent would not vitiate a defendant’s conviction” (7A, *E.G.L. XXI*, § 169, 1990 Revised).

“A person convicted of the offense of enticing a child for indecent purposes shall be punished by imprisonment for not less than one nor more than 20 years. Upon a first conviction of the offense of enticing a child for indecent purposes, the judge may probate the sentence; and such probation may be upon the special condition that the defendant undergo a mandatory period of counseling administered by a licensed psychiatrist or a licensed psychologist. However, if the judge finds that such probation should not be imposed, he shall sentence the defendant to imprisonment. Upon a second or third conviction of such offense, the defendant shall be punished by imprisonment for not less than five years. For a fourth or subsequent conviction of the offense of enticing a child for indecent purposes, the defendant shall be punished by imprisonment for 20 years. Adjudication of guilt or imposition of sentence for a conviction of a third, fourth, or subsequent offense of enticing a child for indecent purposes, including a plea of nolo contendere, shall not be suspended, probated, deferred, or withheld” O.C.G.A. § 16-6-5(b).

“The crime of enticing a child for indecent purposes in violation of OCGA § 16-6-5 requires the showing of a joint operation of the act of enticing a child and the intention to commit acts of indecency or child molestation.” *Lasseter v. State*, 197 Ga. App. 498, 498 (1990).

Characteristics of Imprisoned Offenders

The overwhelming majority (71%) of the defendants who were convicted of enticing a child and sentenced to the State prison system from 1989-1998 were white; less than one-third (29%) were non-white. See *Figure 6-1*. Only 3% of the 58 defendants who entered the State system for enticing a child were female. Most of these offenders are age 20-29 (36%) and 30-39 (28%). See *Figure 6-2*. One half of those convicted of enticing a child had IQ scores in the average intelligence range (50%). Two percent of the offenders had scores which indicate mental impairment and 21% scored in the 71-85 range which indicates borderline mental impairment. See *Figure 6-3*.

Figure 6-1: Race of Incoming Georgia Inmates Convicted of Enticing a Child 1990-1999 (n=58)

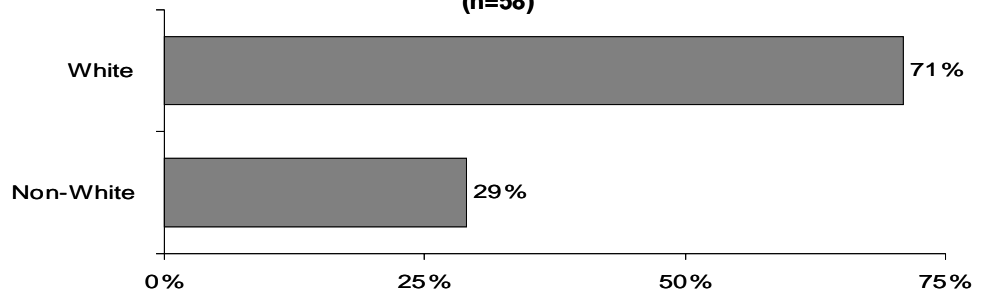


Figure 6-2: MEAN AGE AT SENTENCING (1990-1999) Incoming Georgia Inmates Convicted of ENTICING A CHILD

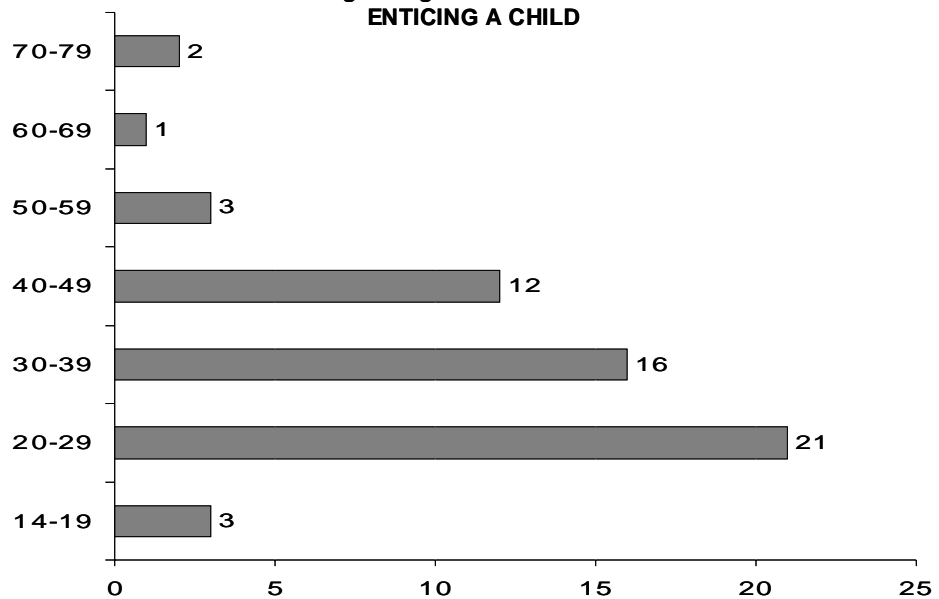
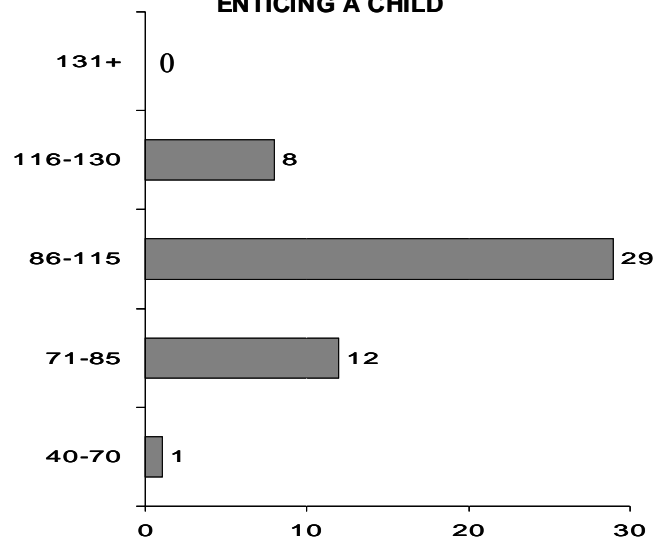
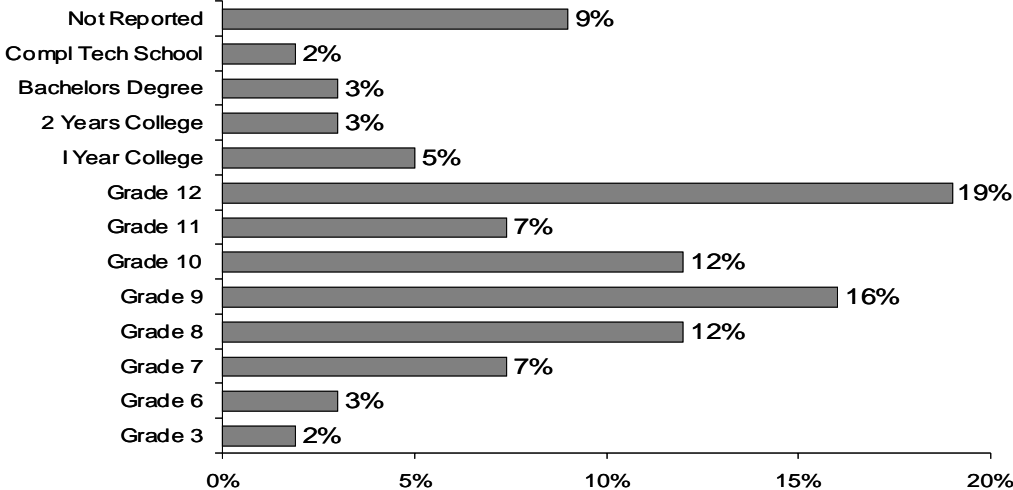


Figure 6-3: IQ Scores Incoming Georgia Inmates (1990-1999) ENTICING A CHILD



The highest level of education most frequently attained by child enticers sentenced to prison in Georgia was a high school education (19%). Eighth, tenth, and ninth grade levels were the second most frequent (12%, 12%, and 16%, respectively). Some college education comprised ten percent (11%) of the total child enticer offender population. See *Figure 6-4*.

Figure 6-4: Educational Level of Incoming Georgia Inmates Convicted of Enticing a Child 1990-1999



Forty-three percent of the child enticers processed through the GDCP reported being employed full-time when they were arrested. Almost one-fifth (16%) reported having been unemployed for more than six months prior to their arrest, and 12% reported being unemployed less than six months prior to arrest. See *Figure 6-5*. Over one-half (52%) of the child molesters were classified at intake as being “middle class,” with less than one-third being classified as “minimum standard” (28%). See *Figure 6-6*.

Figure 6-5: Employment Status of Incoming Georgia Inmates Convicted of Enticing a Child 1990-1999

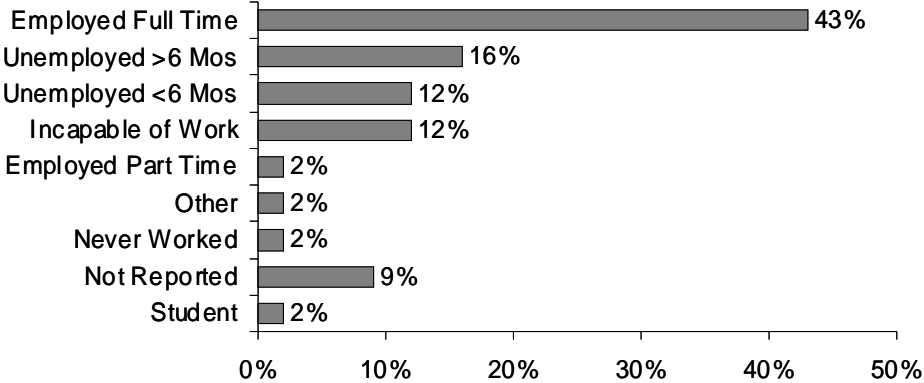
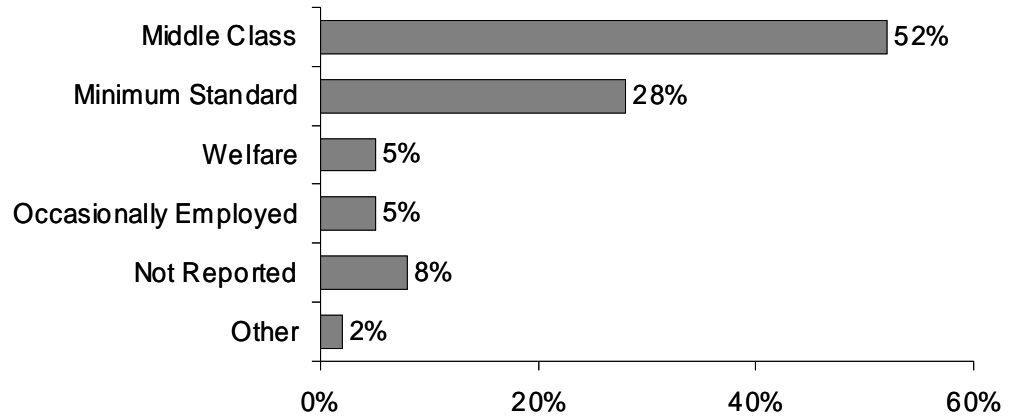
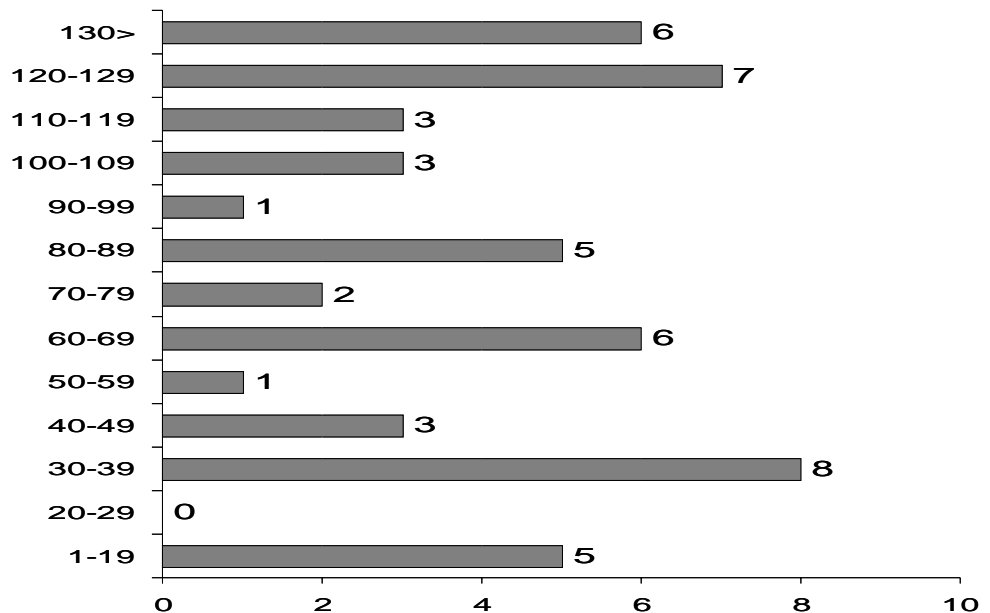


Figure 6-6: Social Class of Incoming Georgia Inmates Convicted of Enticing a Child 1990-1999

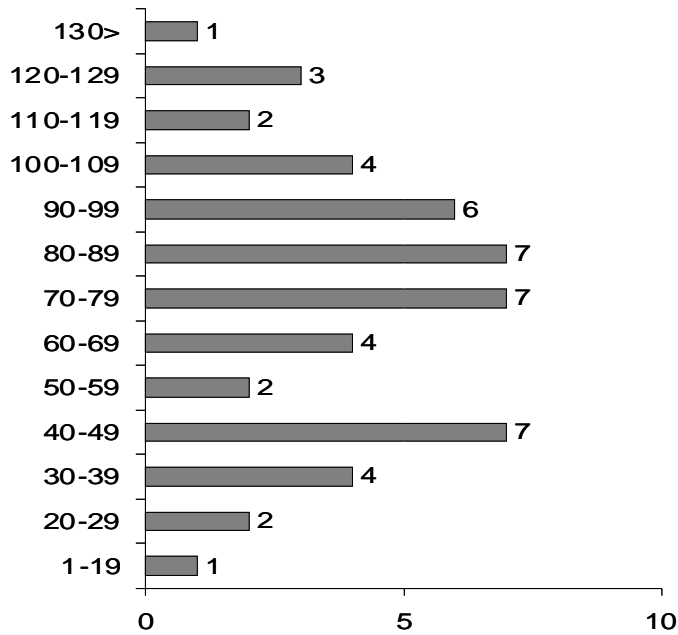


Unlike other offender groups whose twelfth grade scores represented such a larger portion of the population, for the crime of enticing a child, only 12% of the population had a twelfth grade reading level (See *Figure 6-7*). The largest group, third grade, was only 14% of the offender group. Six offenders (11%) did, however, score at a level higher than twelfth grade. WRAT-Math scores were dismal. The highest score range frequency (12%) was shared by fourth, seventh, and eighth grade levels. Only five percent of test scores showed a twelfth grade level. See *Figure 6-8*.

Figure 6-7: WRAT – Read Scores Incoming Georgia Inmates (1990-1999) ENTICING A CHILD



**Figure 6-8: WRAT – Math Scores
Incoming Georgia Inmates (1990-1999)
ENTICING A CHILD**



Diagnosed Behaviors of Imprisoned Offenders

As determined by the diagnostic counselors during the classification process, 34% of the incoming child enticers were classified as being drug abusers or drug experimenters; 66% of the incoming inmates were classified as showing no evidence of drug abuse. See *Figure 6-9*. Seventeen percent of the inmates were classified as alcohol abusers, and 9% as alcoholics; 74% showed no evidence of an alcohol problem. See *Figure 6-10*.

**Figure 6-9: DRUG BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
ENTICING A CHILD**

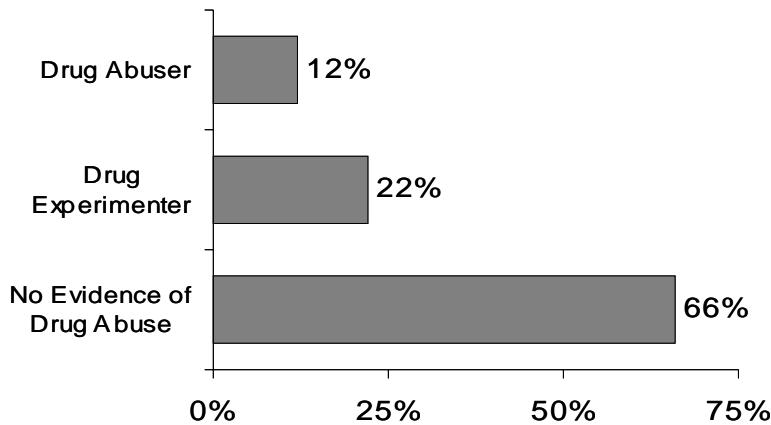
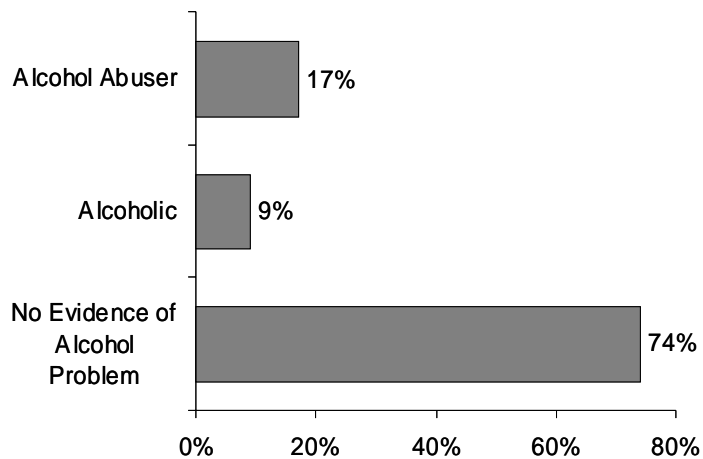
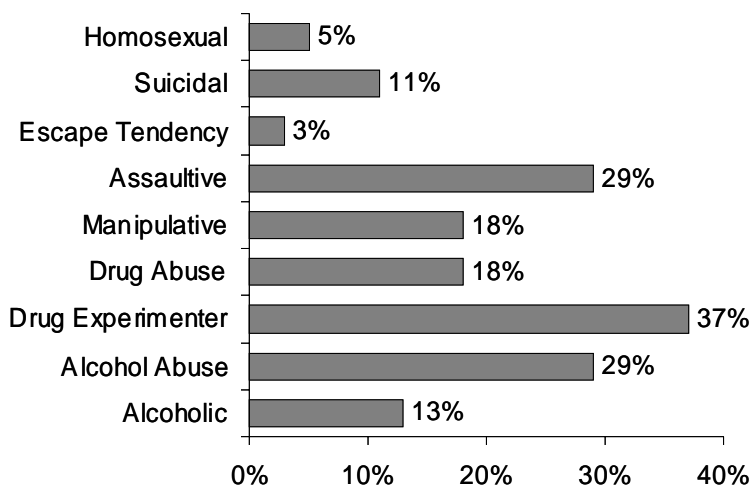


Figure 6-10: ALCOHOL BEHAVIOR PROBLEMS INCOMING GEORGIA INMATES 1990-1999 ENTICING A CHILD



Of the behavior problems identified and indexed to the 58 child enticers, the most common behavior problem was drug experimentation (37%), followed by drug abuse (29%), and being assaultive (29%). See *Figure 6-11*.

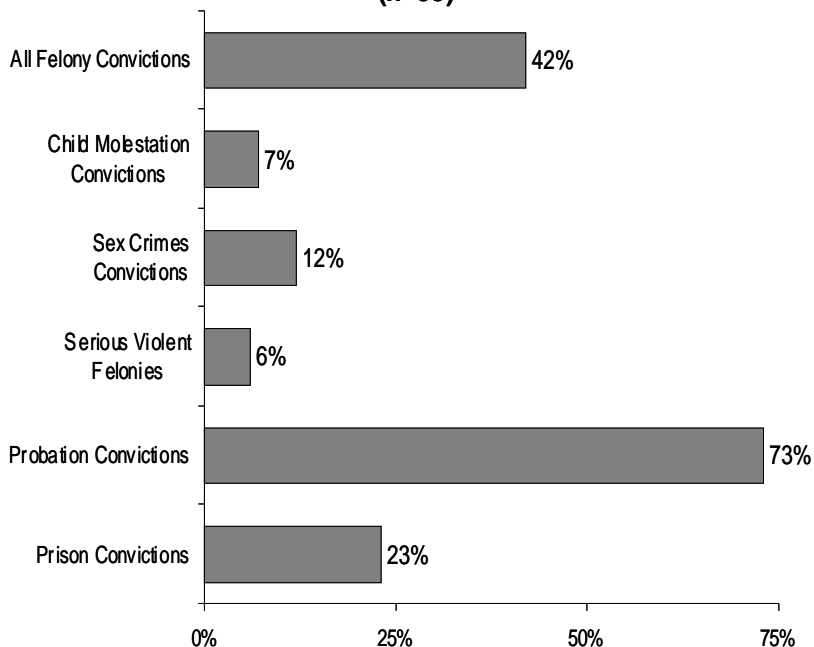
Figure 6-11: DIAGNOSED BEHAVIORS OF INCOMING GEORGIA INMATES 1990-1999 ENTICING A CHILD



Criminal Histories of Imprisoned Offenders

Over one-third (42%) of the child enticers committed to the Georgia prison system had at least one prior felony conviction, and 7% had a conviction for a felony now identified as a “serious violent felony.” Six percent of the admissions had a prior conviction for child molestation, and 2% had a prior sex crime conviction. Seventy-seven percent had no prior prison convictions. See *Figure 6-12*.

Figure 6-12: Criminal Histories of Court Commitments to Georgia Prison for Enticing a Child for Indecent Purposes 1990-1999 (n=58)

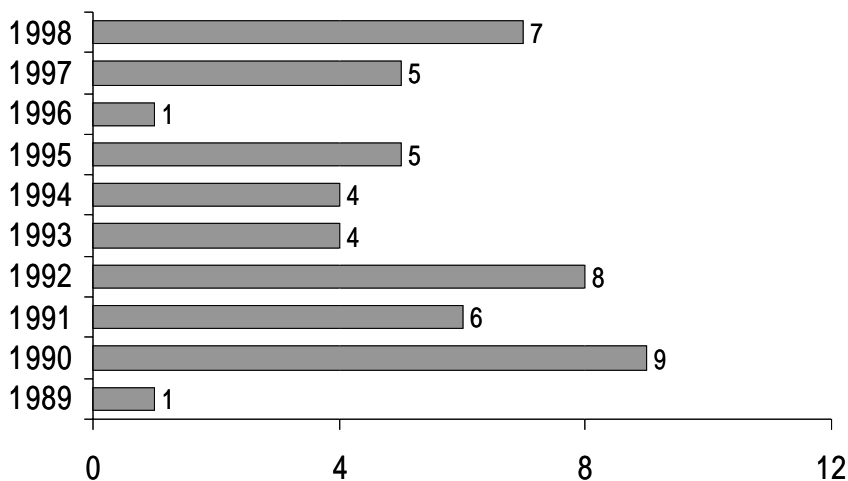


Over two-thirds (73%) had histories of prior probation convictions (misdemeanor or felony); and 23% had a prior prison conviction.

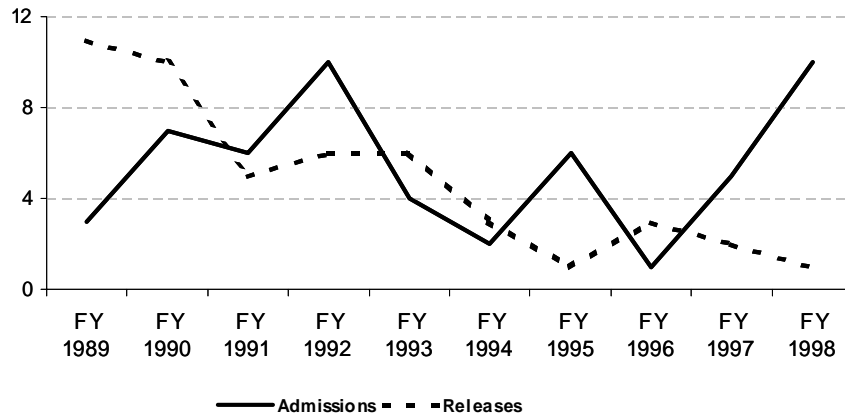
Sentencing Patterns

The number of child enticers annually admitted to prison has fluctuated during the past ten years. See *Figure 6-13*. As *Figure 6-14* illustrates, the number of child enticers annually released from Georgia prisons has steadily declined from over 10 in 1989 to less than three in 1998.

Figure 6-13: Non-Life Sentences Incoming Georgia Inmates Convicted of Enticing a Child

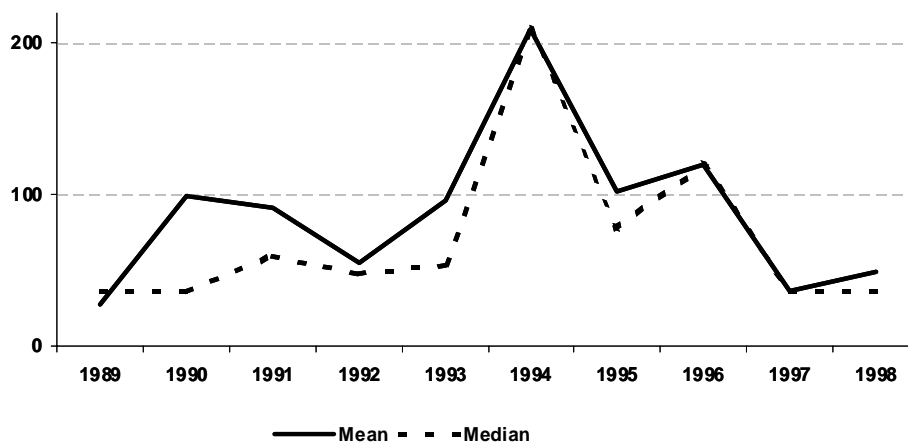


**Figure 6-14: Georgia Admissions and Releases
(Excluding Life Sentences)
1989-1998
ENTICING A CHILD**

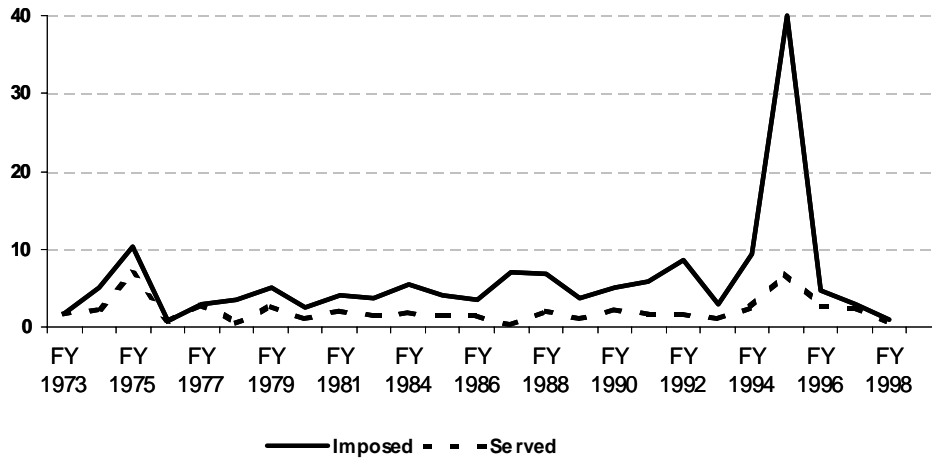


The mean sentence length has varied from 1989-1998 with a dramatic increase in 1994 to over 200 months. In 1998 the mean sentence was approximately 30 months. See *Figure 6-15*. For the exiting child enticers, the average sentence served has moved between zero and three years, except for the years 1975 and 1994 when the served sentences jumped to over five years. See *Figure 6-16*. The sentences actually imposed also remained somewhat constant (0-10 years) with the exception of 1994 when sentences exploded and peaked at 40 years. As *Figure 6-17* illustrates, the percentage of time served between 1973 and 1997 shows no consistency; ranging from 100% to 19%.

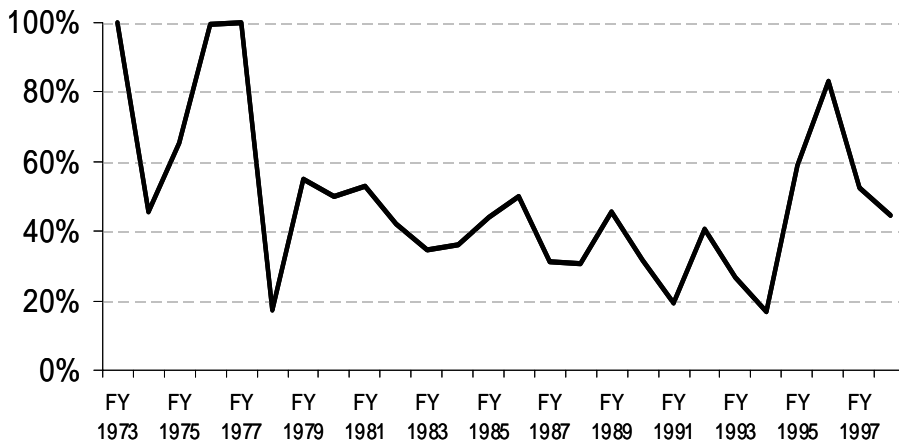
**Figure 6-15: Sentence Length (in Months)
Incoming Georgia Inmates (Excluding "Lifers")
Enticing a Child**



**Figure 6-16: Sentences Imposed and Served
Georgia Releases
1972-1998
ENTICING A CHILD**



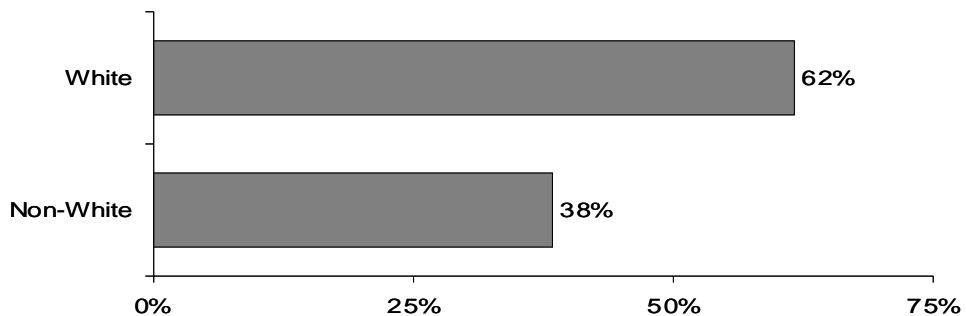
**Figure 6-17: Percent Time Served
Georgia Releases
1973-1998
ENTICING A CHILD**



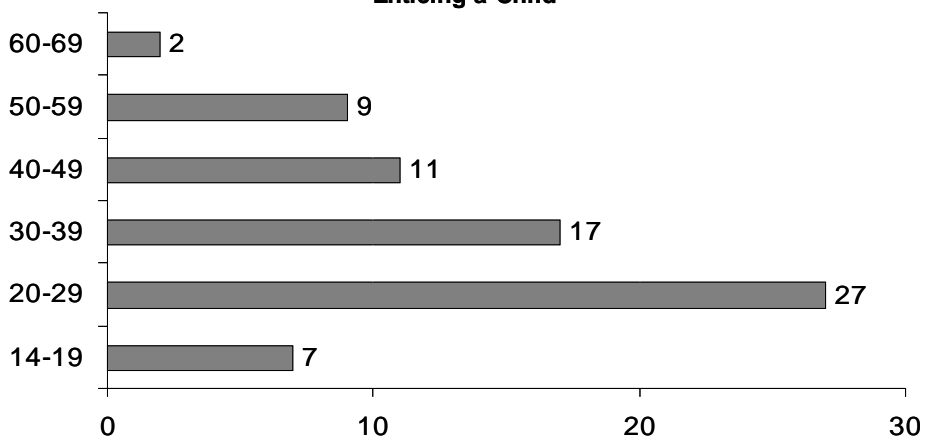
Probationers

Of the 73 child enticers sentenced to felony-length terms of supervised probation during the past four years, 62% were white and 38% were non-white. See *Figure 6-18*. As were the inmates admitted from 1989-1999, the probationers were mostly 20-29 year olds (37%). See *Figure 6-19*. Eighty-six percent completed 7-12 years of school and 14% completed some college coursework or post-secondary education, compared to the inmates with 11%. See *Figure 6-20*.

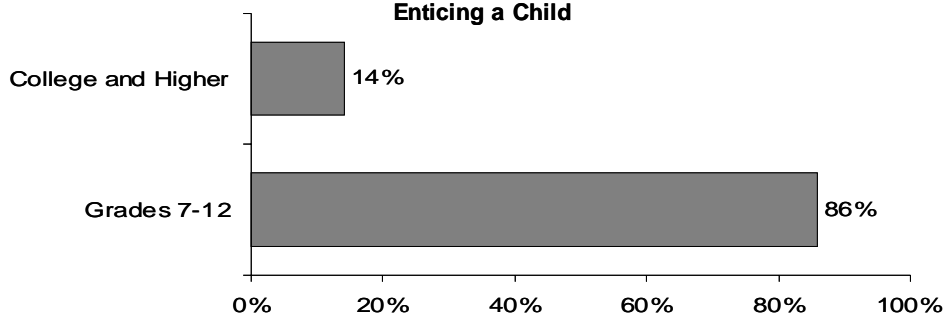
**Figure 6-18: Race of Probation Starts
Convicted of Enticing a Child
1995-1998**



**Figure 6-19: Mean Age at Start of Probation
1995-1999
Enticing a Child**

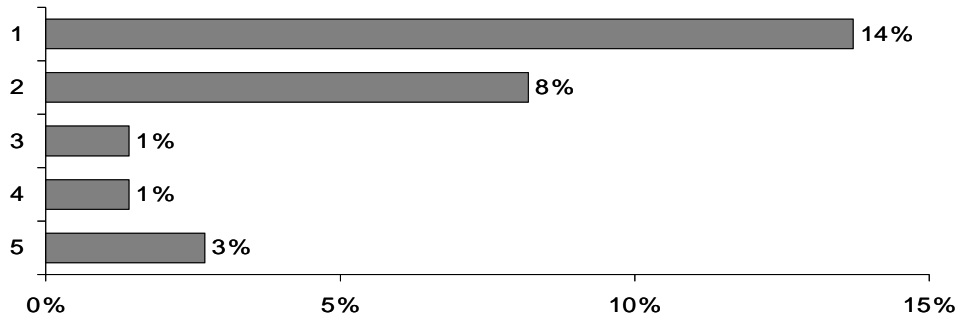


**Figure 6-20: Educational Level
New Probation Starts
1995-1999
Enticing a Child**



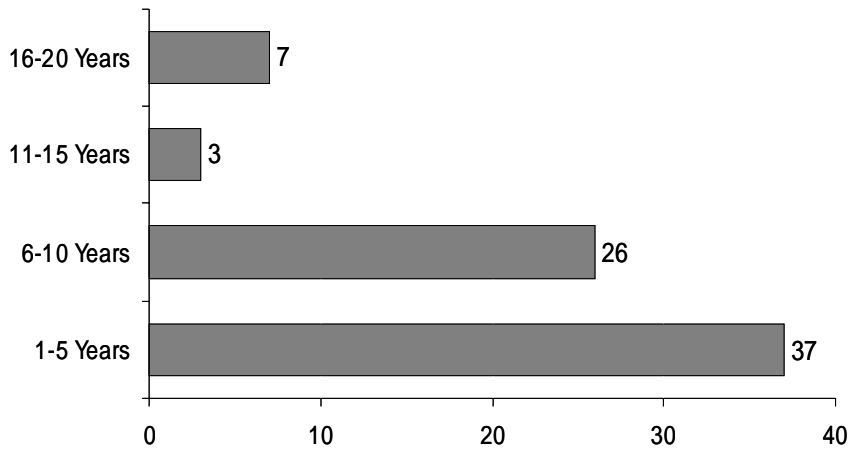
Fewer probationers had a prior felony conviction (27%) than the inmates incarcerated for enticing a child (42%). Compare *Figure 6-21* with *Figure 6-12*.

**Figure 6-21: Number of Felony Convictions
in Probationer's Past
New Starts 1995-1999
Enticing a Child**



The most frequently imposed probated sentence for enticing a child was 1-5 years, with 6-10 years being second. See *Figure 6-22*.

**Figure 6-22: Sentence Length for Most Serious Offense
Probation Starts 1995-1999
Enticing a Child**



CHAPTER SEVEN

Rape

Statutory and Decisional Law

In Georgia, a person commits the offense of rape “when he has carnal knowledge of a female forcibly and against her will, or a female who is less than ten years of age ... carnal knowledge in rape occurs when there is any penetration of the female sex organ by the male sex organ ... a person convicted of the offense of rape shall be punished by death, by imprisonment for life without parole, by imprisonment for life, or by imprisonment for not less than ten nor more than 20 years” (O.C.G.A. § 16-6-1).

In 1997, the Georgia General Assembly amended the statute to increase the minimum sentence from one year to ten years, and added the crime to the list of “serious violent felonies” known as the “seven deadly sins.” Pursuant to the Sentence Reform Act of 1994, (Ga. L. 1994, p. 1959), persons convicted of “serious violent felonies,” including rape, are required to serve minimum mandatory terms of imprisonment which cannot be suspended, stayed, probated, deferred, or withheld by the sentencing court. Additionally, the sentences ordered by the superior courts for convictions of “serious violent felonies” must be served in their entirety and cannot be reduced by parole or by any earned time, early release, work release, or other such sentence-reducing measures. Rapists are not eligible for first offender treatment (Ga. L. 1998, p. 180, § 1).

In 1999, Georgia adopted the provision of the Model Penal Code definition of rape regarding the act of sexual intercourse by a man with a child less than ten years of age.

Rape “is highly reprehensible, both in a moral sense and in its almost total contempt for the personal integrity and autonomy of the female victim. . . . Short of homicide, it is the ‘ultimate violation of self.’” *Coker v. Georgia*, 433 U.S. 584, 599 (97 S. Ct. 2861, 53 L. Ed. 2d 982) (1977).

Using a definition of rape that includes forced vaginal, oral, and anal intercourse, the *National Violence Against Women Survey* found that rape is a crime committed primarily against youth. Eighteen percent of the 8,000 women surveyed by telephone reported that they had experienced a completed or attempted rape sometime during their lives; .03 percent reported that they had experienced a completed or attempted rape within the 12 months previous to the survey (*Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey*, National Institute of Justice and Centers for Disease Control and Prevention, 1998).

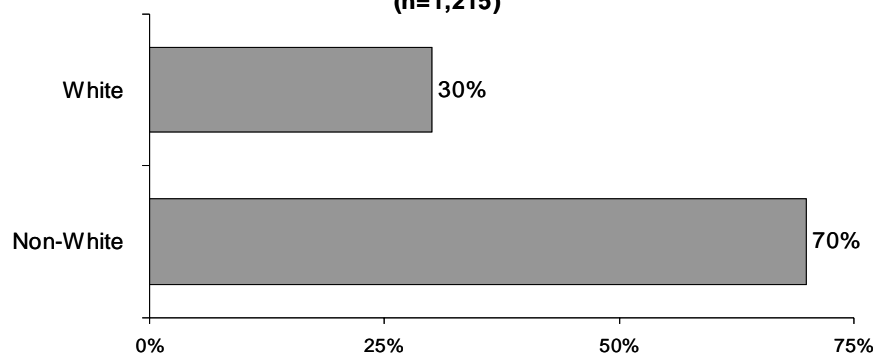
The Supreme Court of Georgia has noted “rape cases have too often focused on the actions of the victim rather than the misconduct of the suspect. Unlike other sexual offenses, rape historically has required corroboration, victims have had to show that they physically resisted with all their strength to prove lack of consent,

and defendants have presented evidence on the prior sexual conduct of the victims. Fortunately, these evidentiary problems are beginning to be addressed...” (State v. Collins, 270 Ga. 42, 44 (1998)).

Characteristics of Imprisoned Offenders

The majority of defendants who were convicted of rape and sentenced to the State prison system from 1989 to 1999 were non-white (70%); less than one-third were white (30%). See Figure 7-1.

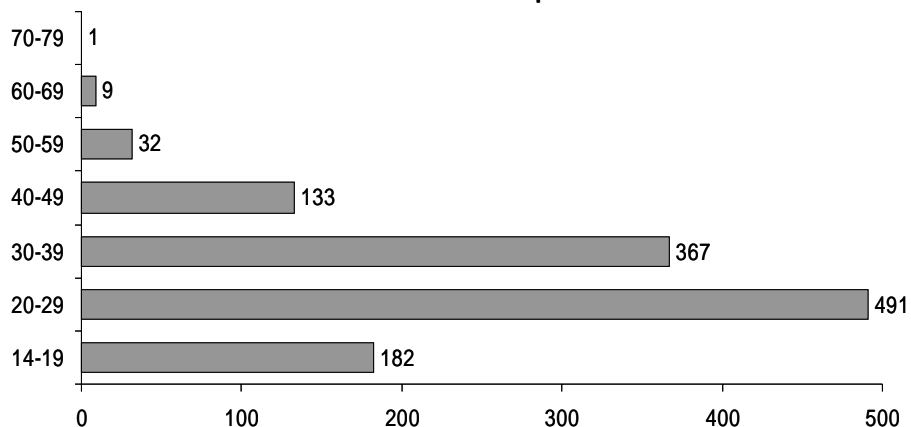
Figure 7-1: Race of Incoming Georgia Inmates Convicted of Rape 1990-1999 (n=1,215)



Nationally, of the estimated 33,800 imprisoned rapists in state institutions in 1994, 52% were white and 43% were black. . (Sex Offenses and Offenders: An Analysis of Data on Rape and Sexual Assault, Greenfeld, 1997)

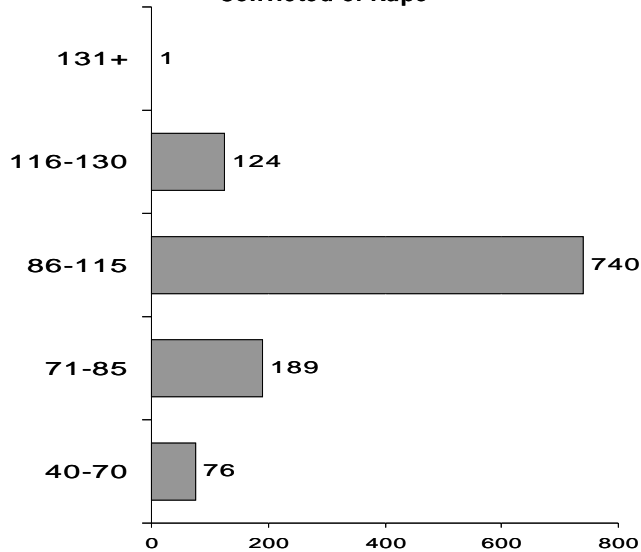
While 169 rapists age 40-79 have been admitted and processed at the GDCP, most of the rapists incarcerated in Georgia during the past ten years have been age 20-29 (40%) and 30-39 (30%). Teenage rapists comprised 15% of the offender population. See Figure 7-2.

Figure 7-2: AGE AT SENTENCING (1990-1999) Incoming Georgia Inmates Convicted of Rape



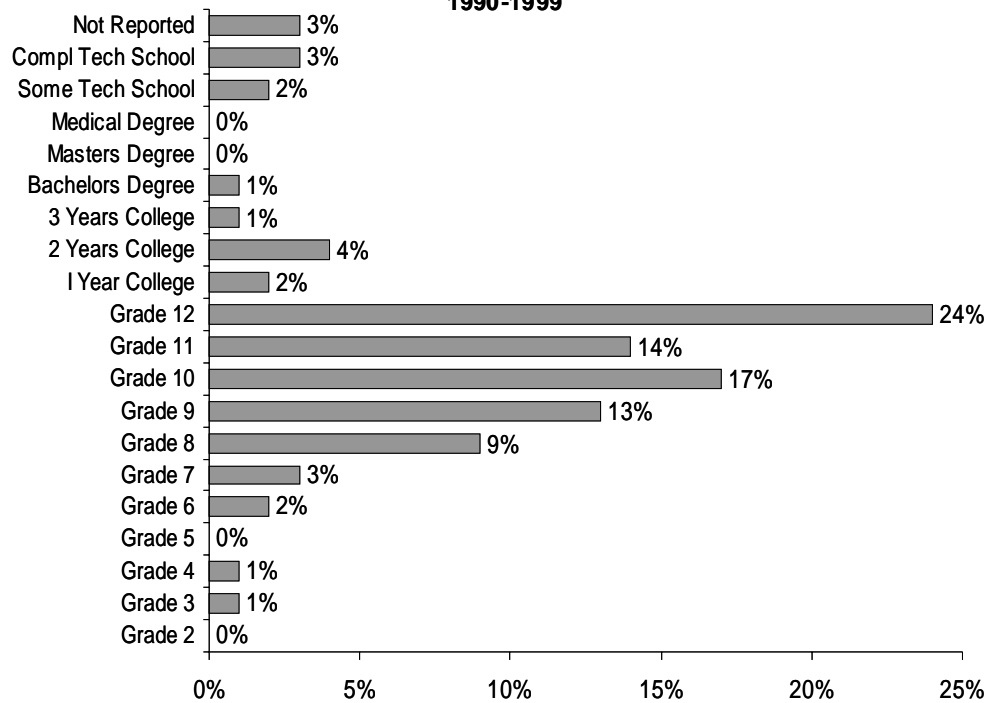
The majority of incarcerated rapists scored in the average range on IQ tests (61%). Six percent of the rapists scored in the mental impairment range and 16% scored between 71-85 which indicates borderline mental impairment. See *Figure 7-3*.

**Figure 7-3: IQ Scores
Incoming Georgia Inmates (1990-1999)
Convicted of Rape**



The highest level of education most frequently attained by rapists sentenced to prison in Georgia was a high school diploma (24%). Tenth and eleventh grade educational levels were the second most frequent (17% and 14%, respectively), followed closely by ninth grade (13%). Offenders with at least some college education comprised eight percent of the total rapist offender population. See *Figure 7-4*.

**Figure 7-4: Educational Level of
Incoming Georgia Inmates
Convicted of Rape
1990-1999**



Over one-third (37%) of the rapists processed through the GDCP reported being employed full-time when they were arrested. Nearly one-third (30%) reported having been unemployed for more than six months prior to their arrest, and 13% reported being unemployed less than six months prior to arrest. See *Figure 7-5*. Over one-half (51%) of the rapists were classified at intake as being “middle class,” with less than one-third (30%) being classified as “minimum standard.” See *Figure 7-6*.

Figure 7-5: Employment Status of Incoming Georgia Inmates Convicted of Rape 1990-1999

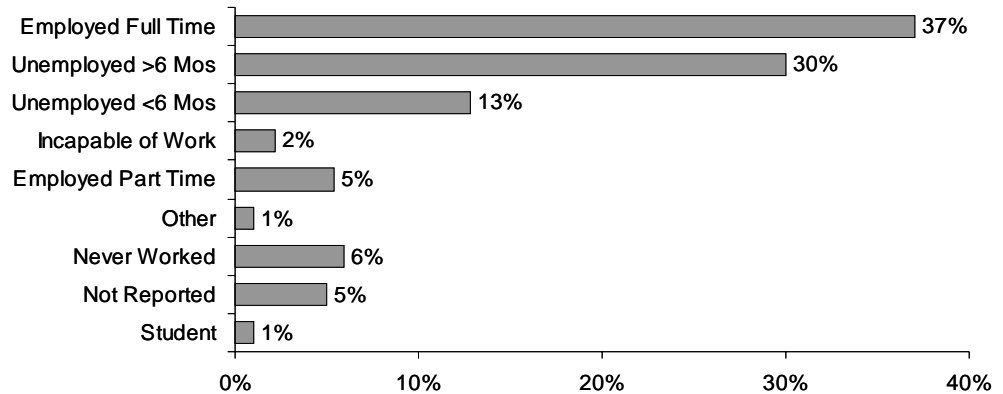


Figure 7-6: Social Class of Incoming Georgia Inmates Convicted of Rape 1990-1999

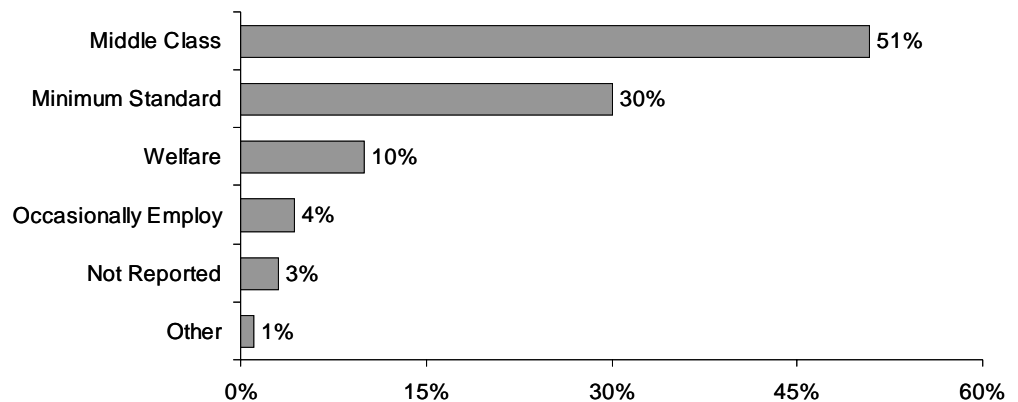
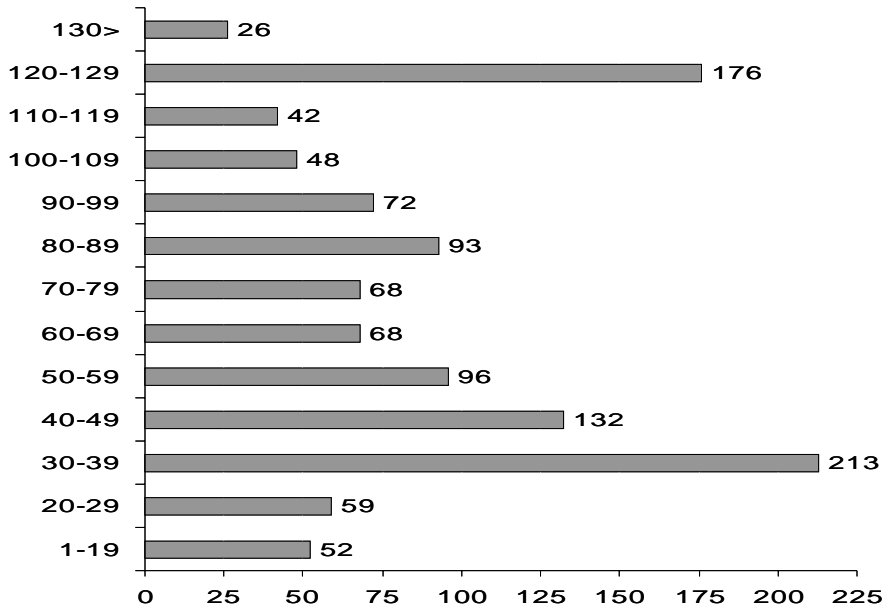
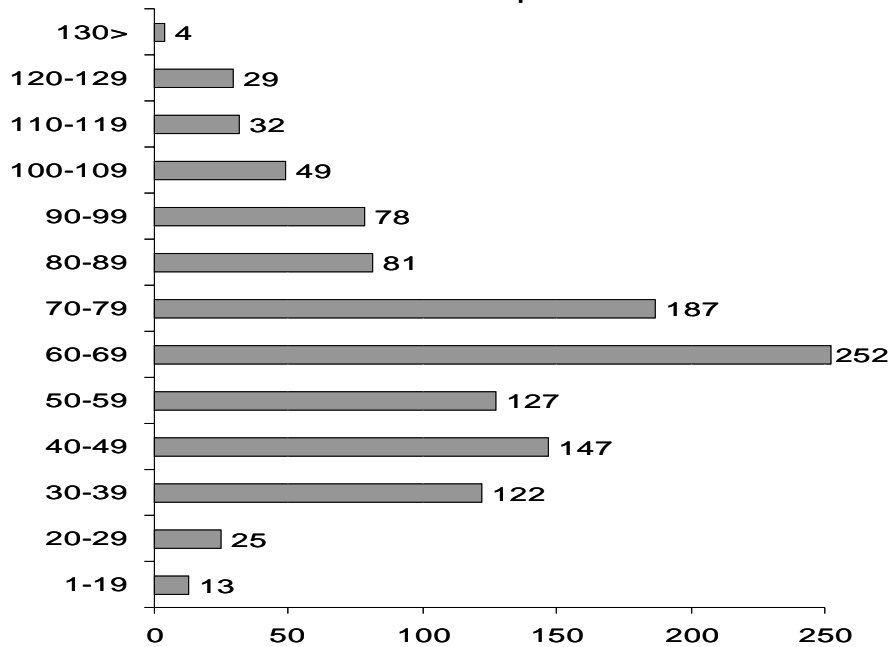


Figure 7-7 highlights that while a substantial number of rapists scored very low on the WRAT-Read test (18% scored at the third grade level), a sizeable percentage (14%) scored at the twelfth grade reading level. The most frequent WRAT-Math scoring range (21%) was the sixth grade level, followed by the seventh grade (15%), and the fourth grade (12%). See *Figure 7-8*.

**Figure 7-7: WRAT – Read Scores
Incoming Georgia Inmates (1990-1999)
Convicted of Rape**



**Figure 7-8: WRAT – Math Scores
Incoming Georgia Inmates (1990-1999)
Convicted of Rape**

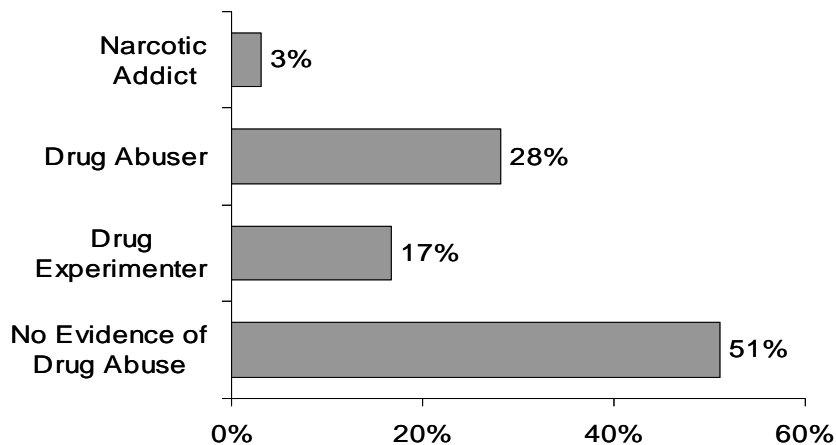


Diagnosed Behaviors of Imprisoned Offenders

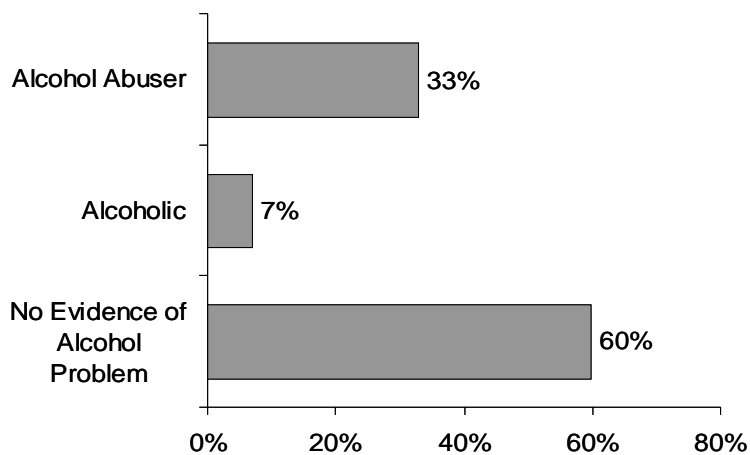
As determined by the diagnostic counselors during the classification process, 45% of the incoming rapists were classified as being drug abusers or drug experimenters; 51% of the incoming inmates were classified as showing no evidence of drug

abuse. See *Figure 7-9*. Thirty-three percent of the inmates were classified as alcohol abusers, and 7% as alcoholics; 60% showed no evidence of an alcohol problem. See *Figure 7-10*.

**Figure 7-9: DRUG BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
RAPE**

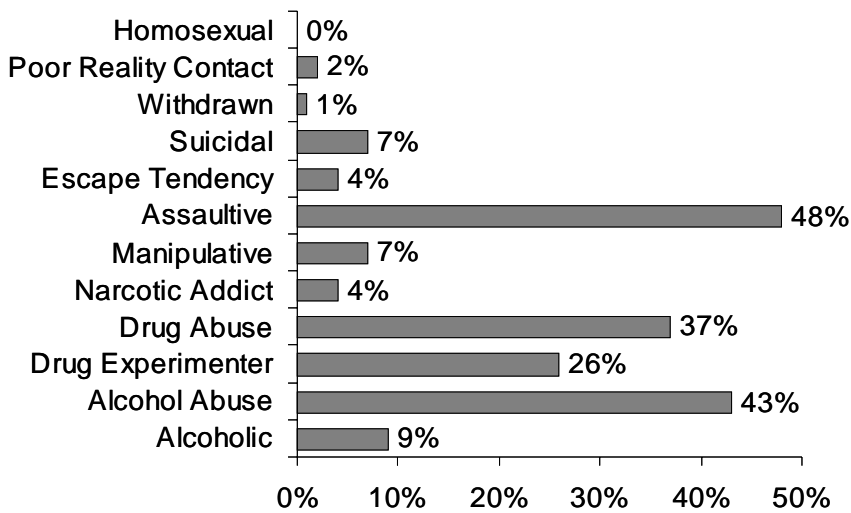


**Figure 7-10: ALCOHOL BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
RAPE**



Of the total number of behavior problems identified among the 1,215 rapists, the most common behavior was being assaultive (48%), followed by alcohol abuse (43%), and drug abuse (37%). See *Figure 7-11*.

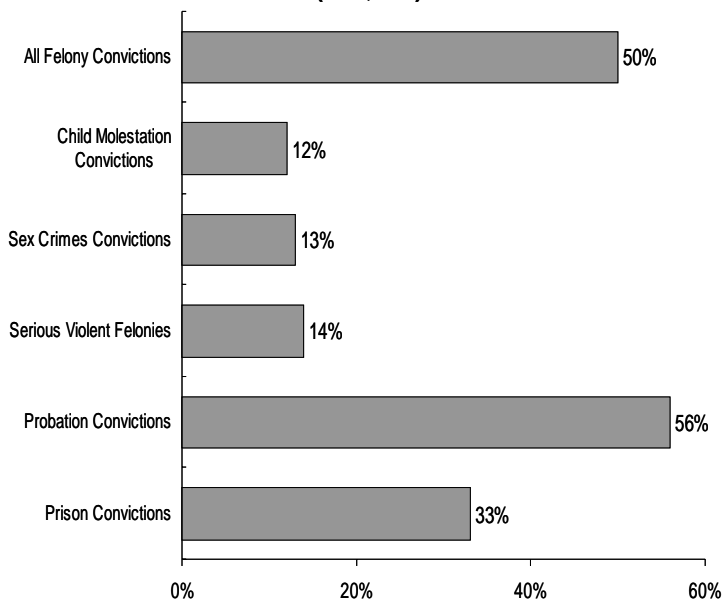
Figure 7-11: DIAGNOSED BEHAVIORS OF INCOMING GEORGIA INMATES 1990-1999
RAPE



Criminal Histories of Imprisoned Offenders

One-half of the rapists committed to the Georgia prison system had at least one prior felony conviction, and 14% had a conviction for a felony now identified as a “serious violent felony.” Over one-half (56%) had histories of prior conviction(s) that resulted in the imposition of a probated sentence (misdemeanor or felony); one-third (33%) had a prior conviction that resulted in a prison sentence leaving 67% with no prior prison conviction. Twelve percent of the admissions had a prior conviction for child molestation, and 13% had a prior sex crime conviction. See *Figure 7-12*.

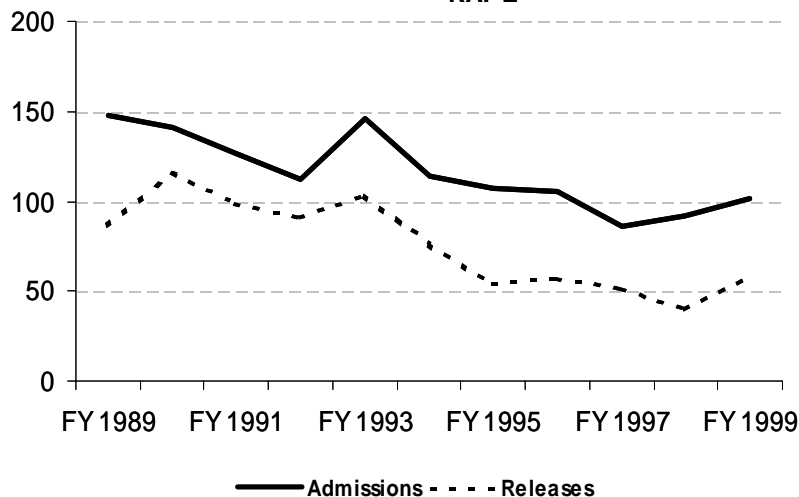
Figure 7-12: Criminal Histories of Court Commitments to Georgia Prison for Conviction for Rape 1990-1999 (n=1,215)



Sentencing Patterns

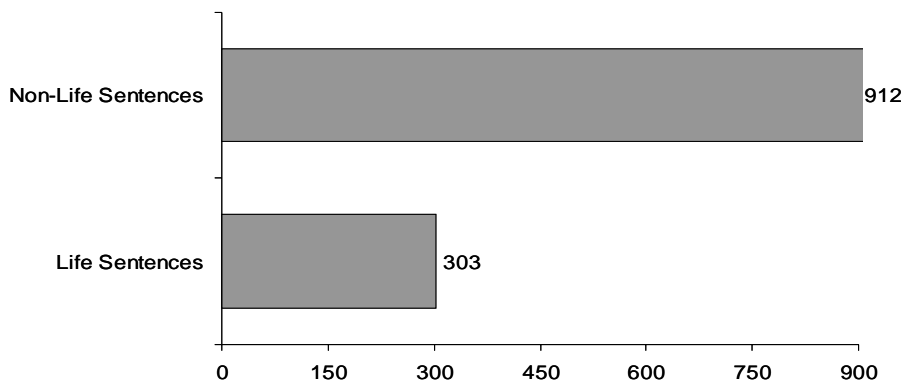
The number of annual admissions for non-life rape convictions and the number of inmate releases from incarceration have steadily declined during the past ten years. *Figure 7-13* shows the downward trend of the total number of admissions and releases from FY1989 through FY1999.

Figure 7-13: Georgia Admissions and Releases (Excluding Life Sentences) 1989-1999 RAPE



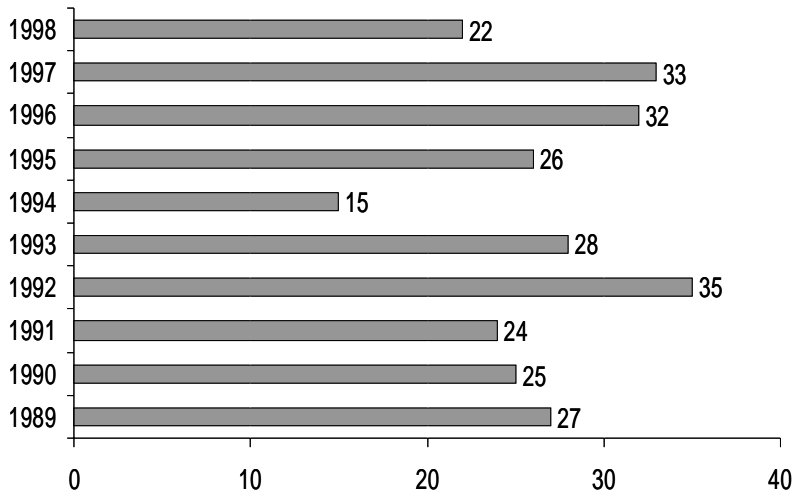
From 1989 to 1998, of those offenders whom entered the Georgia prison system for rape convictions; 912 received “non-life” sentences, and 303 received “life” sentences. See *Figure 7-14*.

Figure 7-14: ADMISSIONS TO GEORGIA PRISON SYSTEM 1989-1998 RAPE

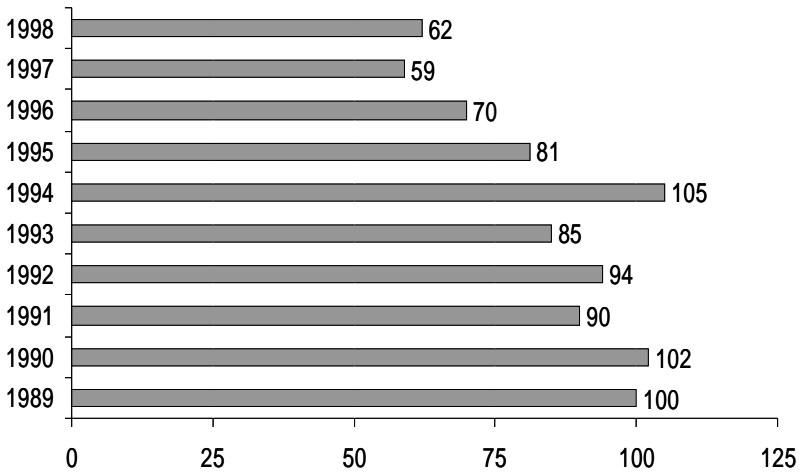


The annual number of Georgia rapists receiving “life” sentences has remained between 20 and 35 since 1989, except for 1994 when only 15 rapists received life sentences. See *Figure 7-15*. The number of “non-life” sentences imposed on incoming inmates has declined from 100 in 1989 to less than 65 in 1997 and 1998. See *Figure 7-16*.

**Figure 7-15: Life Sentences
Incoming Georgia Inmates
Convicted of Rape**



**Figure 7-16: Non-Life Sentences
Incoming Georgia Inmates
Convicted of Rape**



The reduction in the number of prison admissions may be a function of the reductions in the number of reported incidents and arrests in the State. There were 2,357 reported forcible rapes in Georgia in 1996 (32.1 per 100,000 inhabitants), compared to 3,057 in 1992 (45.3 per 100,000). (*Crime in the U.S. 1992, 1996*, FBI). Forcible rape arrests in Georgia numbered 395 in 1997, as compared to 841 in 1993. *Sourcebook of Criminal Justice Statistics 1997*, Bureau of Justice Statistics.

At the national level, as measured by the *National Crime Victimization Survey*, the rate of rape victimizations (per 1,000 persons) in 1998 (.5) was one-half that of 1993 (1.0). The FBI reports that the “95,769 forcible rapes reported to law enforcement agencies across the Nation during 1996 represented the lowest total since 1989” (*Crime in the United States 1996*, FBI). The Bureau of Justice Statistics reports that forcible rape arrests rates (per 100,000 inhabitants) have declined from 16.0 in 1990 to 12.8 in 1996.

While in Georgia the mean sentence length for *incoming* inmates convicted of rape, excluding life sentences, remained relatively steady from 1989 to 1993. Beginning in 1994 the average sentence length increased to over 200 months in 1996, but declined for the next two years. See *Figure 7-17*.

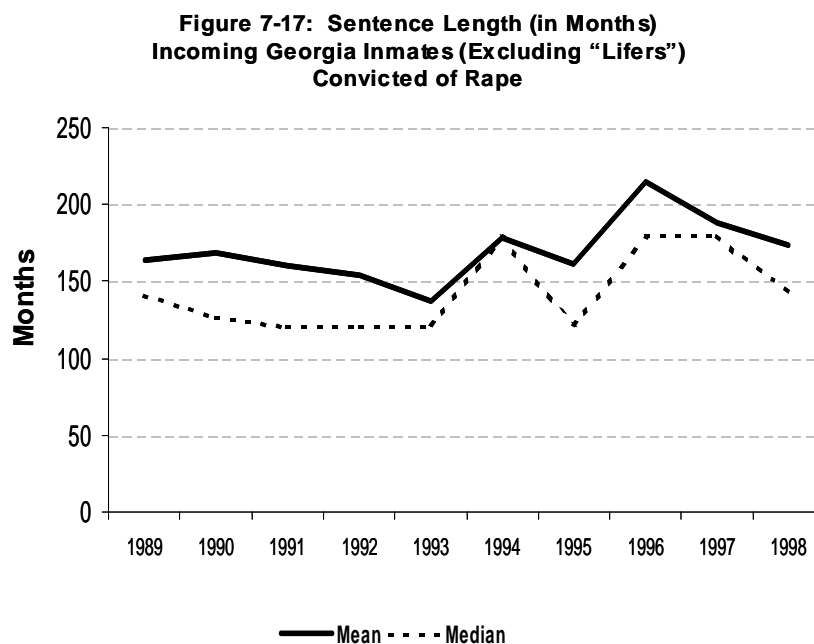
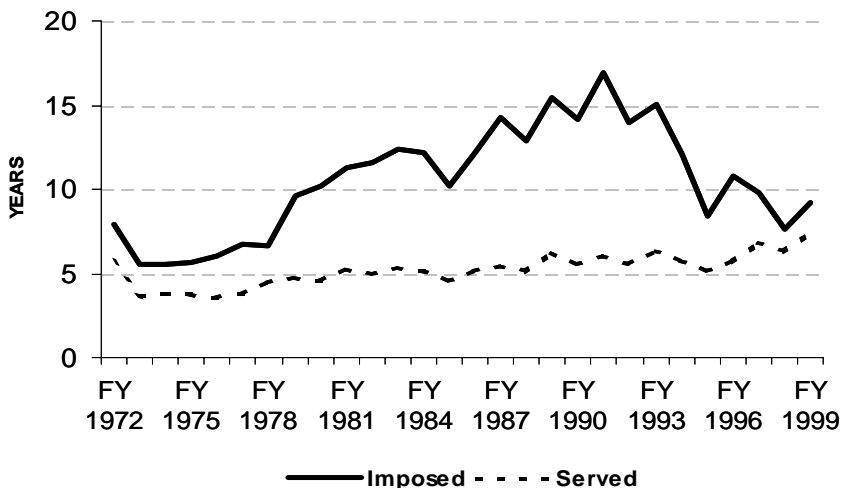


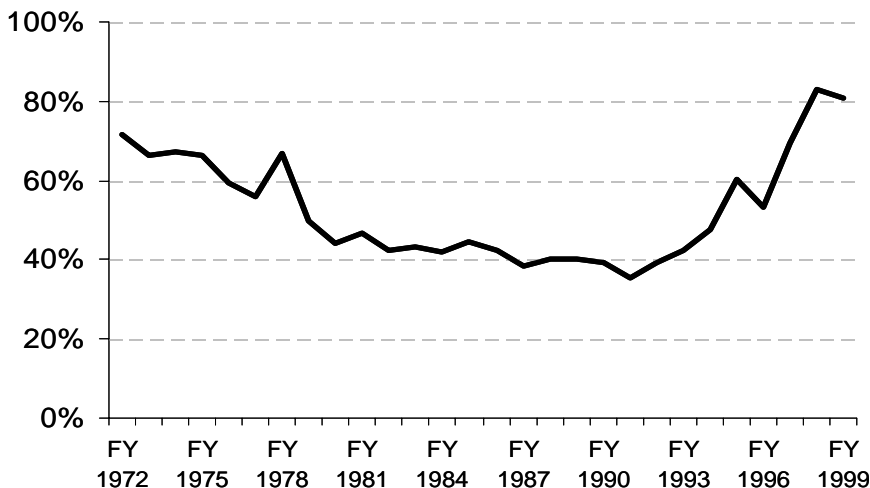
Figure 7-18 highlights the trends in the lengths of “non-life” sentences imposed and actually served (in years) for those rapists *exiting* the State prison system from FY1972 to FY1999. Since FY1972, the years of incarceration served by rapists who were *released* from sentences of “non-life” in prison varies only slightly between three and seven years.

Figure 7-18: Non-Life Sentences Imposed and Served Georgia Releases 1972-1999 RAPE



There has been a reversal in the trend of the percentage of their sentences that have actually been served in prison. While that percentage experienced a twenty-year decrease from FY1972 to FY1992, it has dramatically increased from the low of 40% in FY1992 to a level of over 80% in FY1998. See *Figure 7-19*.

Figure 7-19: Percent Time Served Year-Specific Sentences for Rape Georgia Releases FY 1972 – FY 1999



The average sentence for criminals *released* in 1992 who had been convicted of rape in the United States was 117 months; the average time served was 65 months, which equated to 56% of the actual sentence served. (*Greenfeld, Lawrence A., 1995, "Prison Sentences and Time Served for Violence," page 1, Bureau of Justice Statistics, U.S. Department of Justice, Washington, D.C.*)

CHAPTER NINE

Statutory Rape

Statutory and Decisional Law

In Georgia, a person commits the offense of statutory rape when he or she engages in sexual intercourse with any person under the age of 16 years and not his or her spouse, provided that no person shall be convicted on the unsupported testimony of the victim. O.C.G.A. § 16-6-3(a).

The Child Protection Act of 1995 amended O.C.G.A. § 16-6-3 to increase the operative age of the victim from 14 to 16 (Ga. L. 1995, p. 957, § 1).

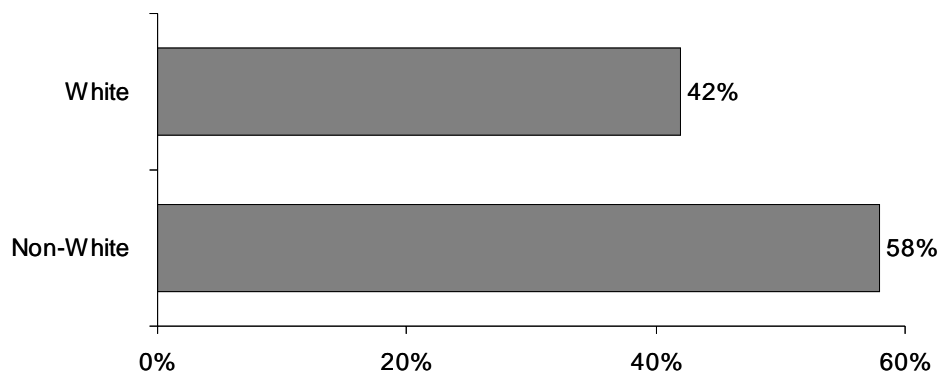
“Statutory rape is a strict liability crime based solely on the act of sexual intercourse with an underage victim” *State v. Collins*, 270 Ga. 42, 44 (1998). “Consent is not a defense to a criminal statutory rape charge under OCGA § 16-6-3.1” (*McNamee et al. v. A.J.W., a minor et al.*, A99A0502, Ct. Appeals Ga., 99 FCDR 2445, 1999). Under current Georgia law, a “male or a female may be the victim of statutory rape. Likewise, a male or female may be the perpetrator of the crime of statutory rape” (7A, *E.G.L.* XXI, § 152, 1990 Revised).

“A person convicted of the offense of statutory rape shall be punished by imprisonment for not less than one nor more than 20 years; provided, however, that if the person so convicted is 21 years of age or older, such person shall be punished by imprisonment for not less than ten nor more than 20 years; provided, further, that if the victim is 14 or 15 years of age and the person so convicted is no more than three years older than the victim, such person shall be guilty of a misdemeanor” (O.C.G.A. § 16-6-3(b)).

Characteristics of Imprisoned Offenders

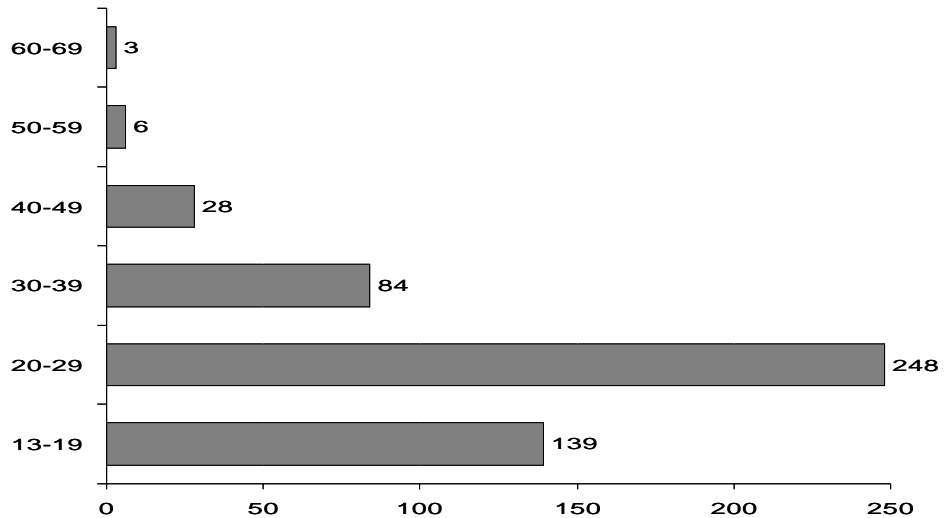
The majority (58%) of defendants who were convicted of statutory rape and sentenced to the State prison system from 1990 to 1999 were non-white; 42% were white. See *Figure 9-1*. Only 1% (4) of the defendants who entered the State system for statutory rape were female.

**Figure 9-1: Race of Incoming Georgia Inmates
Convicted of Statutory Rape
1990-1999
(n=508)**



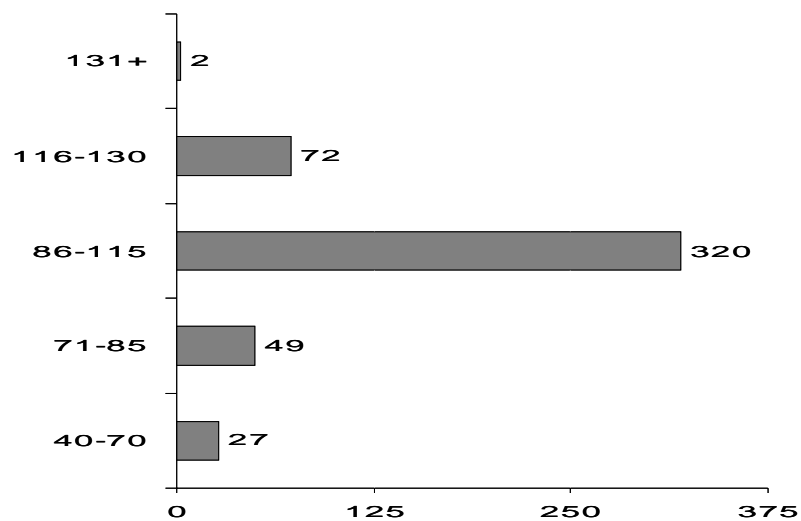
Slightly less than one-half (49%) of the statutory rapists processed at the GDCP were 20-29 years of age. Twenty-seven percent of the offenders incarcerated for statutory rape were between the ages of 13 and 19. Fifteen percent (17%) were 30-39 years old. See *Figure 9-2*.

**Figure 9-2: AGE AT SENTENCING (1990-1999)
Incoming Georgia Inmates Convicted of
STATUTORY RAPE**



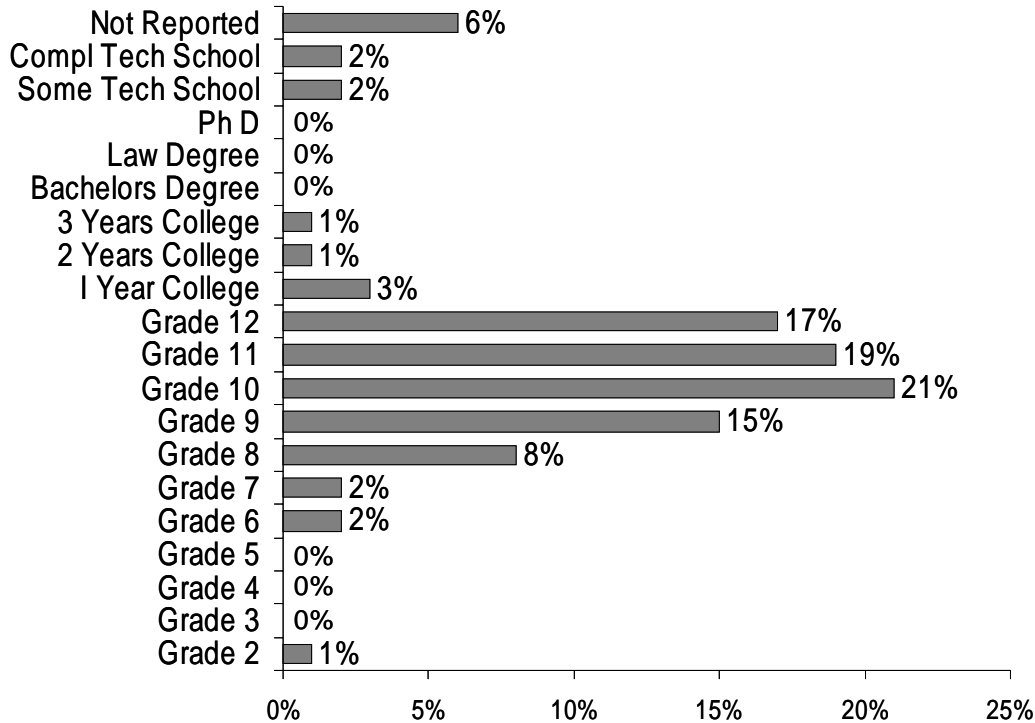
The majority of those individuals convicted of statutory rape are of average intelligence (63%) with IQ scores ranging from 86-115. Fourteen percent score between 116-130 indicating above average intelligence, whereas 10% score in the range 71-85, borderline mental impairment. The remaining five percent are mentally impaired with IQ scores of 40-70. See *Figure 9-3*.

**Figure 9-3: IQ Scores
Incoming Georgia Inmates (1990-1999)
STATUTORY RAPE**



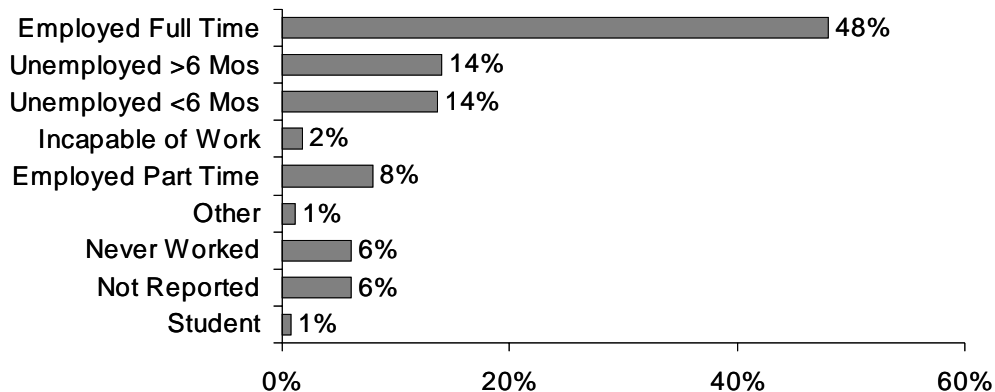
The highest level of education most frequently attained by statutory rapists sentenced to prison in Georgia from 1990 to 1999 was a tenth grade education (21%). Twelfth grade and eleventh grade educational level were the second most frequent, with 17% and 19%, respectively. Ninth grade followed close with 15%. Offenders with at least some college education comprised only a small percentage (5%) of the total offender population. See *Figure 9-4*.

Figure 9-4: Educational Level of Incoming Georgia Inmates Convicted of Statutory Rape 1990-1999



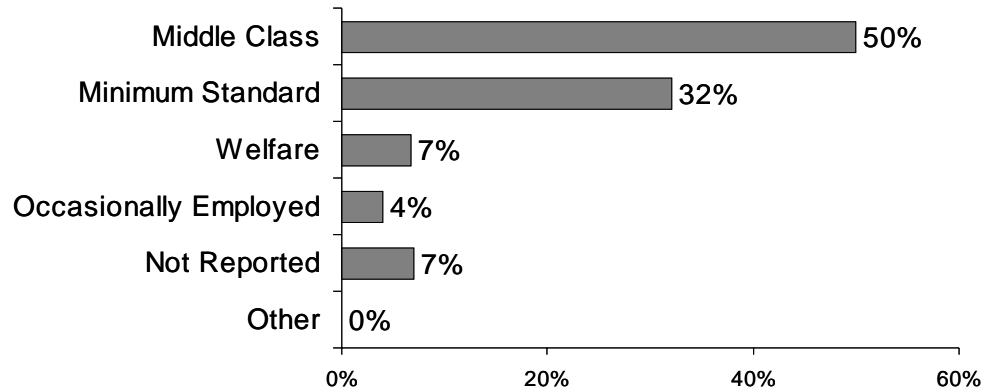
Forty-eight percent of the statutory rapists processed through the GDCP reported being employed full-time when they were arrested. Only 14% reported having been unemployed for more than six months prior to their arrest, and 14% reported being unemployed less than six months prior to arrest. See *Figure 9-5*.

Figure 9-5: Employment Status of Incoming Georgia Inmates Convicted of Statutory Rape 1990-1999



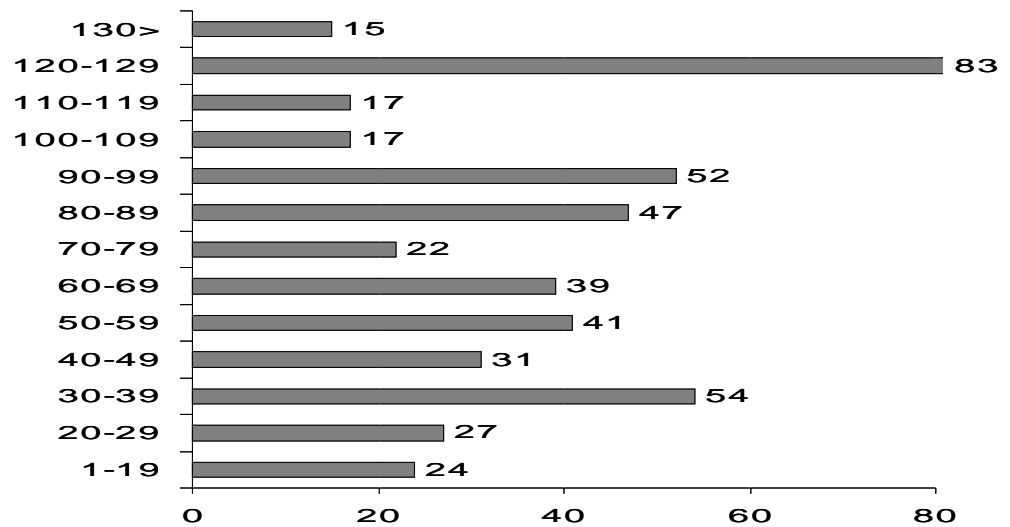
As *Figure 9-6* reflects, one-half (50%) of the statutory rapists were classified at intake as being “middle class,” with little less than one-third (32%) being classified as “minimum standard.”

Figure 9-6: Social Class of Incoming Georgia Inmates Convicted of Statutory Rape 1990-1999

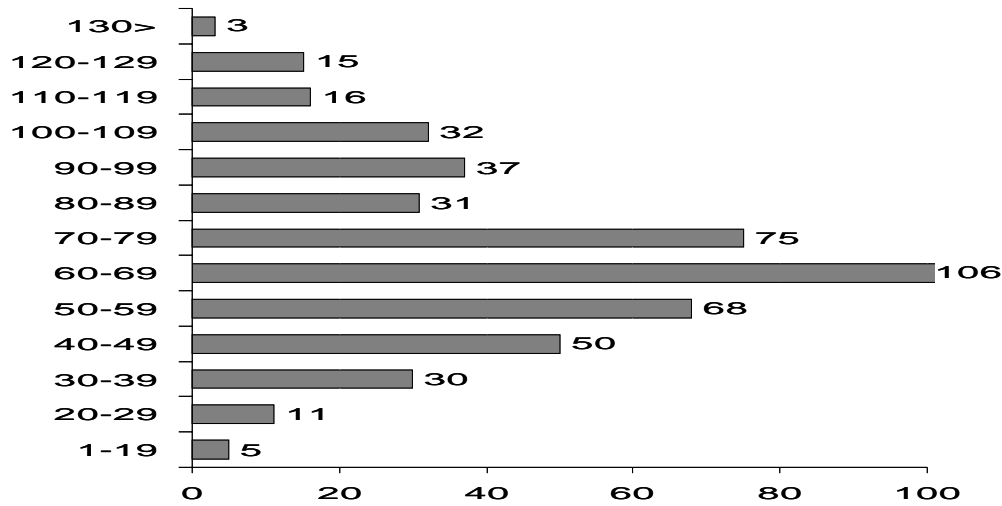


Sixteen percent of the statutory rapists tested at the twelfth grade reading level. *Figure 9-7*. The WRAT-Math scores were most frequent in the sixth grade range (21%). See *Figure 9-8*.

Figure 9-7: WRAT – Read Scores Incoming Georgia Inmates (1990-1999) STATUTORY RAPE



**Figure 9-8: WRAT – Math Scores
Incoming Georgia Inmates (1990-1999)
STATUTORY RAPE**



Diagnosed Behaviors of Imprisoned Offenders

Forty-four percent of the incoming statutory rapists were classified as being drug abusers or drug experimenters. Fifty-five percent of the incoming inmates were classified as showing no evidence of drug abuse. See *Figure 9-9*. Nineteen percent of the inmates were classified as alcohol abusers, and 5% as alcoholics; a very high percentage (76%) showed no evidence of an alcohol problem. See *Figure 9-10*.

**Figure 9-9: DRUG BEHAVIOR
PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
STATUTORY RAPE**

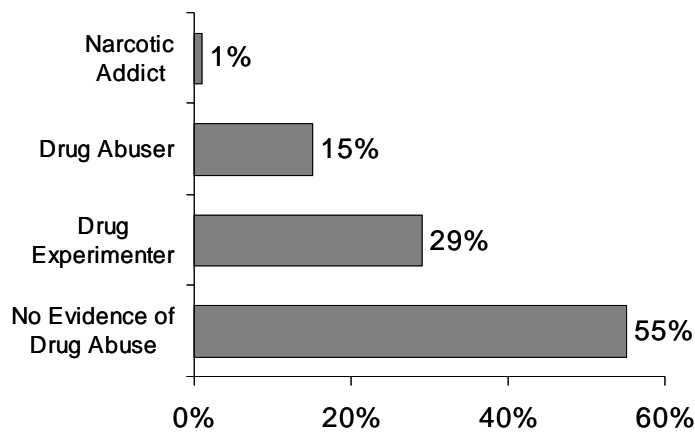
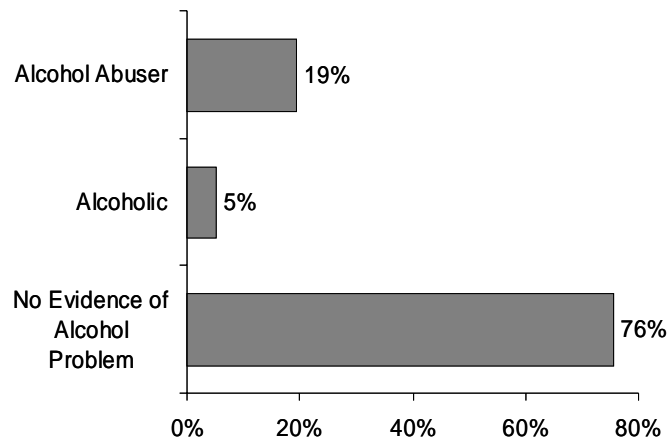
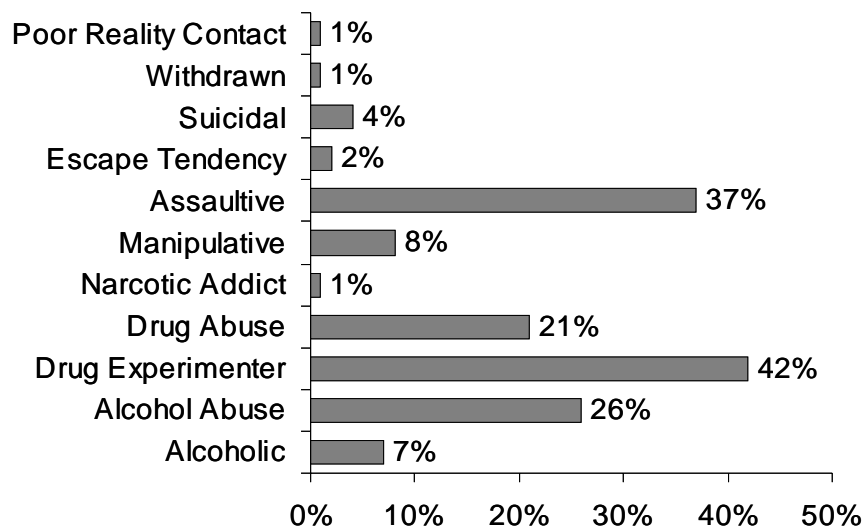


Figure 9-10: ALCOHOL BEHAVIOR PROBLEMS INCOMING GEORGIA INMATES 1990-1999 STATUTORY RAPE



Of the behaviors diagnosed to the statutory rapists, the most common behavior problem was drug experimentation (42%), followed by being assaultive (37%), and alcohol abuse (26%). See *Figure 9-11*.

Figure 9-11: DIAGNOSED BEHAVIORS OF INCOMING GEORGIA INMATES 1990-1999 STATUTORY RAPE

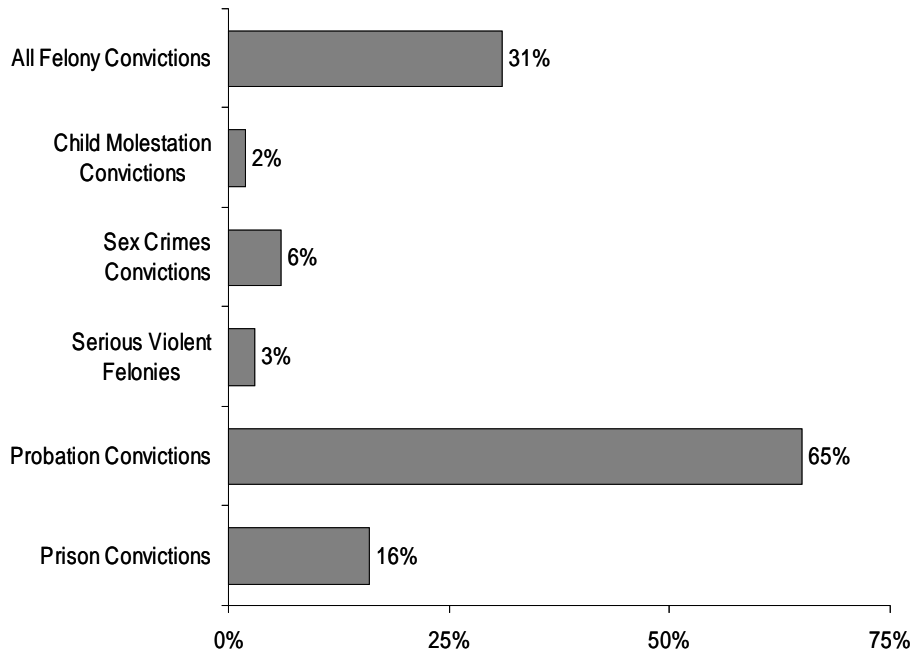


Criminal Histories of Imprisoned Offenders

As *Figure 9-12* depicts, just under one-third (31%) of the statutory rapists committed to the Georgia prison system had at least one prior felony conviction, and 3% had a conviction for a felony now identified as a “serious violent felony.” Sixty-five percent had histories of prior conviction(s) that resulted in the imposition

of a probated sentence (misdemeanor or felony); 16% had a prior conviction that resulted in a prison sentence leaving 84% with no prior prison conviction. Two percent of the admissions had a prior conviction for child molestation, and 6% had a prior sex crime conviction.

Figure 9-12: Criminal Histories of Court Commitments to Georgia Prison for Statutory Rape 1990-1999 (n=508)



Nationally, of the estimated 1,450 offenders serving time in state prisons in 1994 for statutory rape, 56% had prior convictions, 31% had prior convictions for violence, and 26% had prior convictions for rape or sexual assault. (*Sex Offenses and Offenders: An Analysis of Data on Rape and Sexual Assault*, Greenfeld, 1997)

Sentencing Patterns

As *Figure 9-13* clearly shows, the number of statutory rape non-life sentences tripled from 1995-1998 (28 to 95). This dramatic increase may be due to the 1995 statutory amendment that raised the operative age of the victim from 14 to 16. Compared to the skyrocketing admissions (13 in 1989, 84 in 1998) the releases have stayed relatively constant ranging between 17 and 28 per year between 1989 and 1998.

**Figure 9-13: Non-Life Sentences
Incoming Georgia Inmates
Convicted of Statutory Rape**

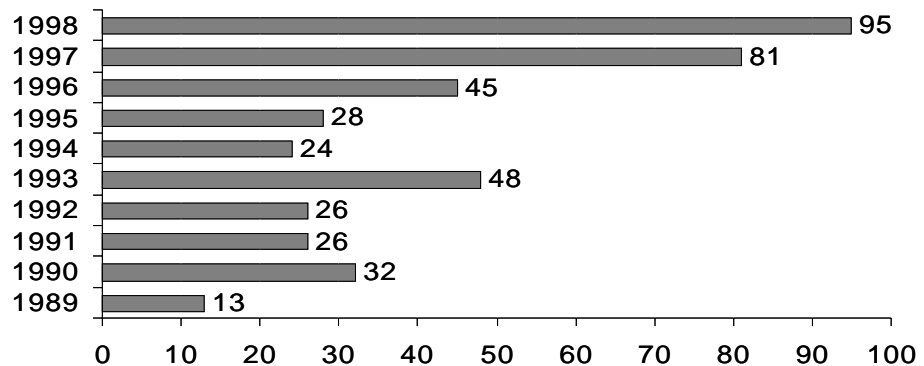
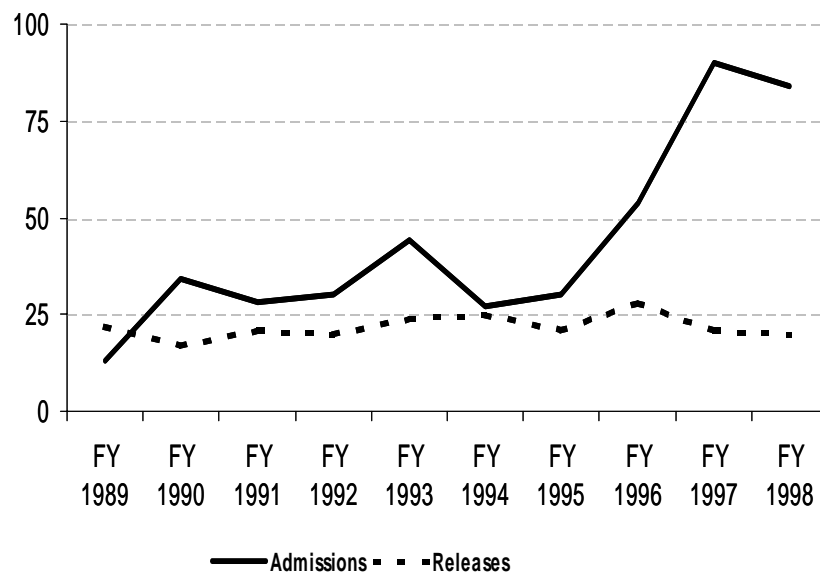


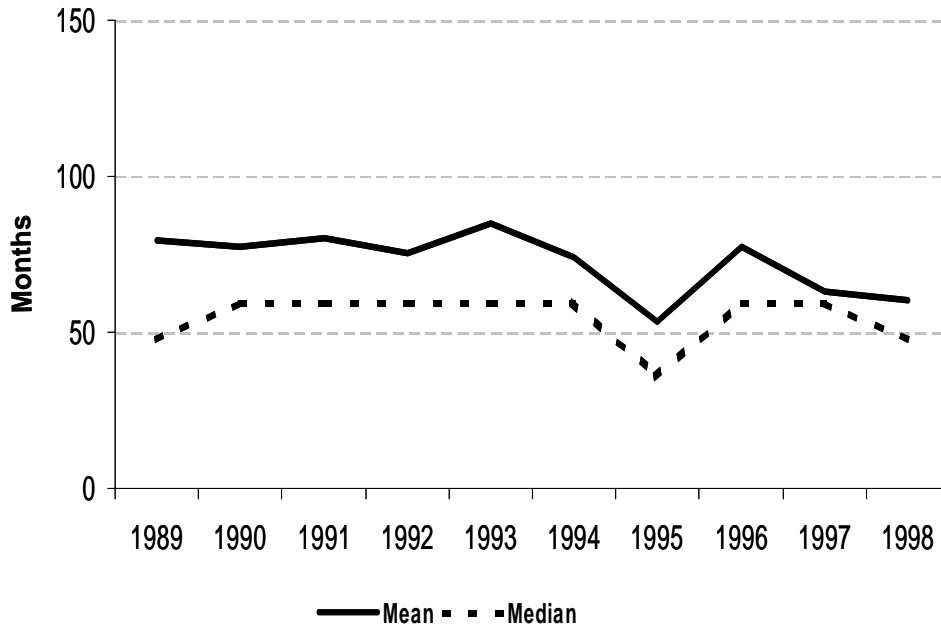
Figure 9-14 shows the number of annual admissions previously noted relative to the number of releases, the latter having remained relatively constant during the past ten years.

**Figure 9-14: Georgia
Admissions and Releases
(Excluding Life Sentences)
1989-1998
STATUTORY RAPE**



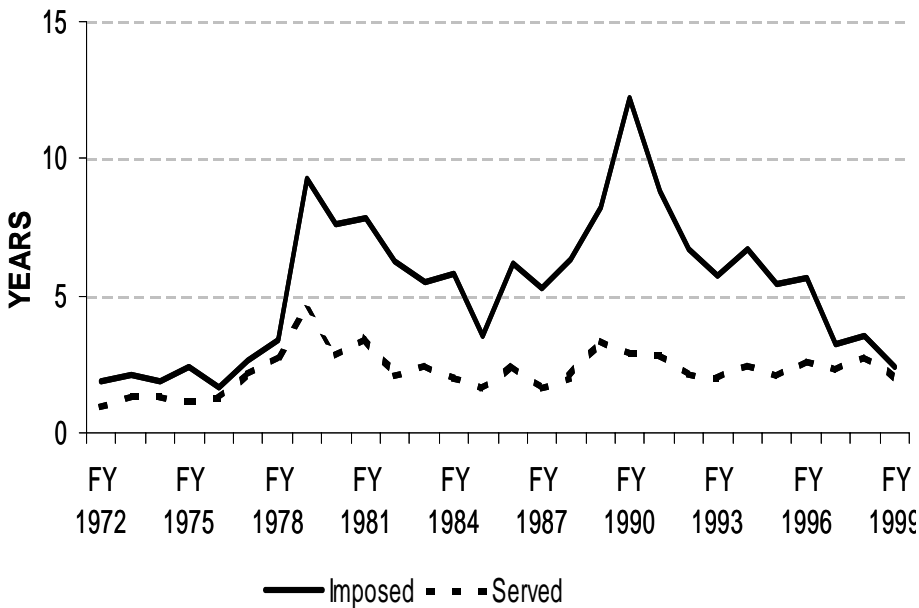
Except for a modest increase in 1993 and a noticeable increase in 1996, the mean sentence length imposed on *incoming* statutory rapists in Georgia has declined during the past ten years from a high of over 75 months in 1989 to the current level of 58 months. See Figure 9-15.

**Figure 9-15: Sentence Length (in Months)
Incoming Georgia Inmates (Excluding "Lifers")
Convicted of Statutory Rape**

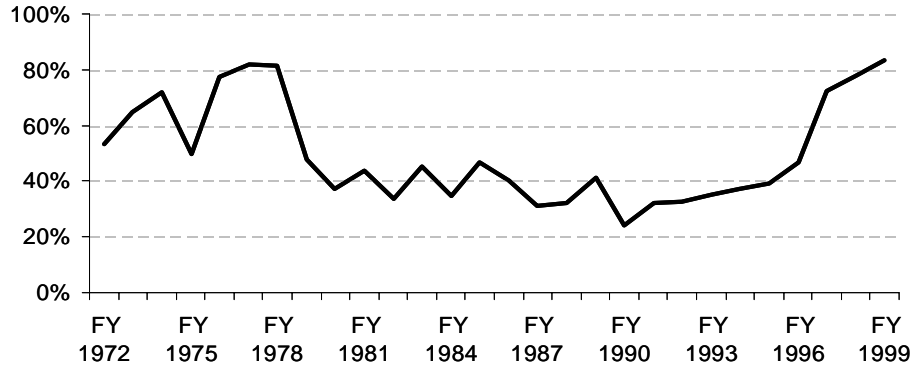


The sentence imposed varies across the board from a low in 1976 of 1.65 years to a high in 1990 of 12.19 years. See *Figure 9-16*. The percentage of time served peaked in 1977 with 82% and plummeted through the 80's to a low of 24%. In 1990 the percentage of time served shot back up to its present high of 84% in 1999, as shown in *Figure 9-17*.

**Figure 9-16: Sentences Imposed
and Served
Georgia Releases
1972-1999
STATUTORY RAPE**



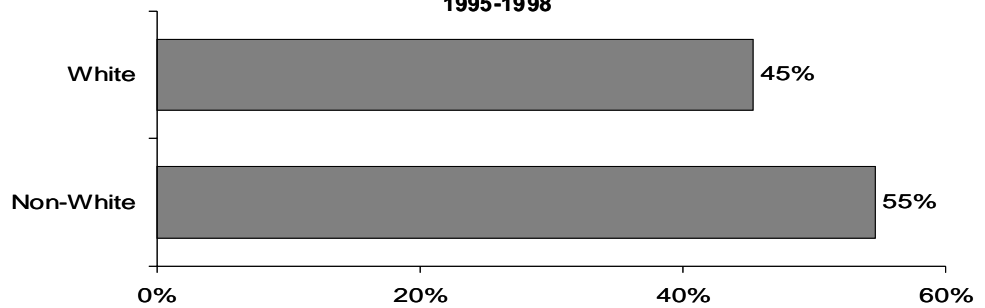
**Figure 9-17: Percent Time Served
Georgia Releases
1972-1999
STATUTORY RAPE**



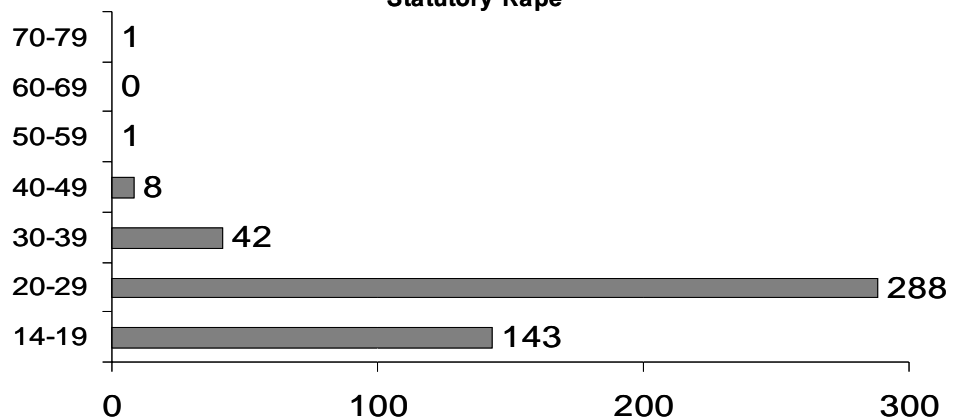
Probationers

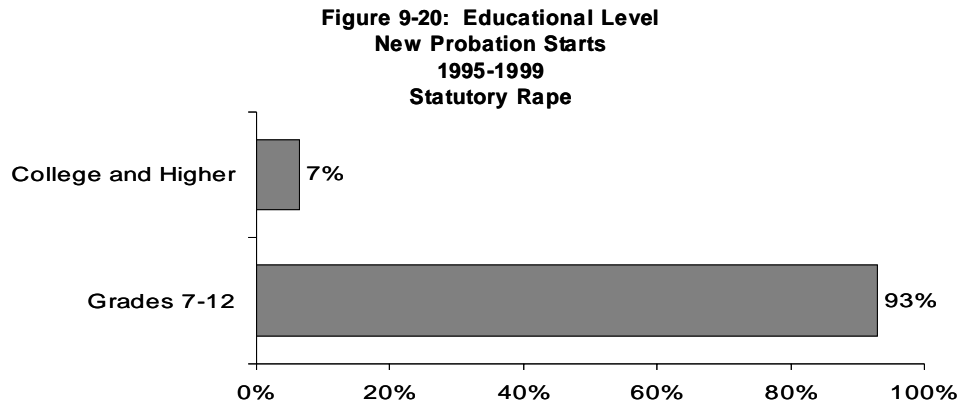
Of the 483 statutory rapists sentenced to felony-length terms of supervised probation during the past four years, 55% were non-white and 45% were white. See *Figure 9-18*. The probationers were mostly 20-29 years old. See *Figure 9-19*. In comparison to the inmates, a higher percentage of the probationers had completed 7-12 years of school (82% - 93%), while a slightly higher percentage of the probationers (7%) had completed some college coursework or more post-secondary education than the inmates (5%). Compare *Figure 9-20* with *Figure 9-4*.

**Figure 9-18: Race of Probation Starts
Convicted of Statutory Rape
1995-1998**

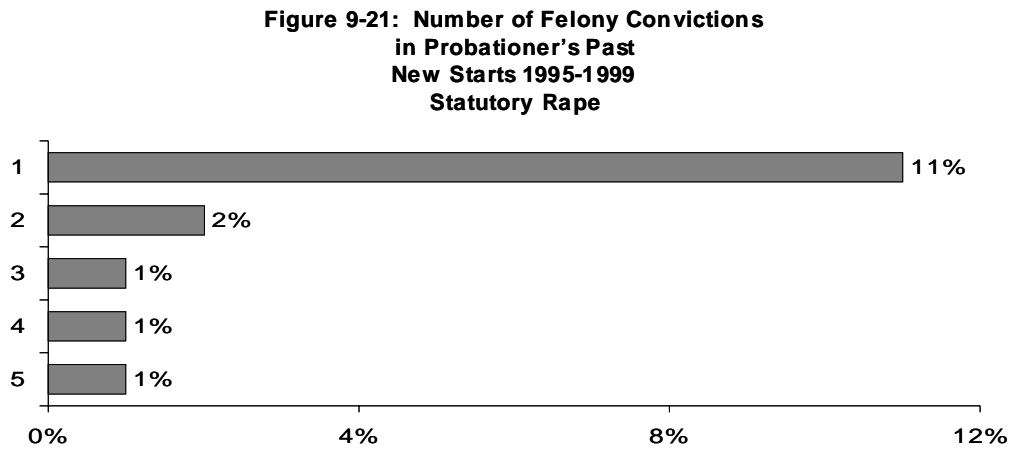


**Figure 9-19: Mean Age at Start of Probation
1995-1999
Statutory Rape**

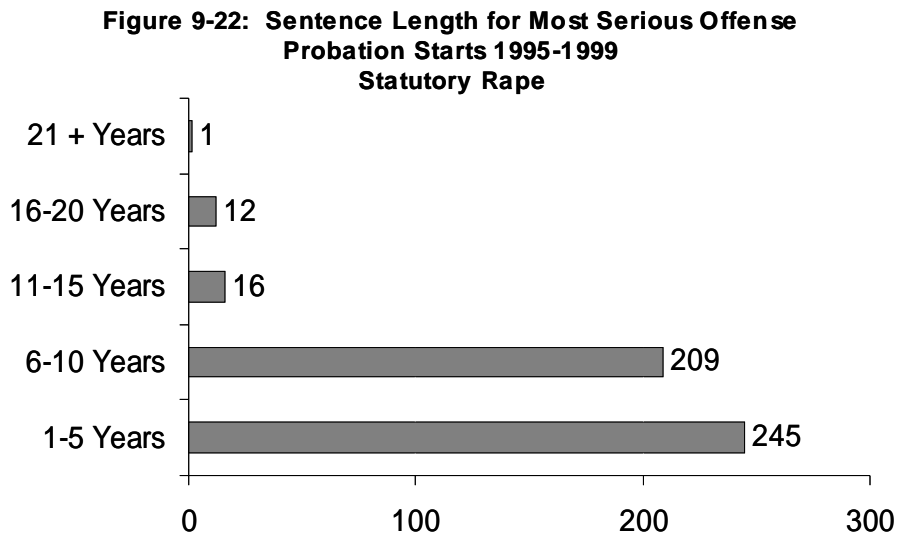




The percentage of probationers who had a felony conviction in their criminal history (16%) was half the percentage of inmates who had a felony in their past (31%). Compare *Figure 9-21* with *Figure 9-12*.



The most frequently imposed probated sentence for statutory rape was 1-5 years (245 probationers), with 6-10 years being second (209 probationers). See *Figure 9-22*.



CHAPTER TEN

Aggravated Sodomy

Statutory and Decisional Law

A person commits the offense of aggravated sodomy in Georgia when he or she commits sodomy with force and against the will of the other person (sodomy is the performance or submission to any sexual act involving the sex organs of one person and the mouth or anus of another). The fact that the person allegedly sodomized is the spouse of a defendant is not a defense to a charge of aggravated sodomy. O.C.G.A. § 16-6-2(a).

In November 1999, the Supreme Court of Georgia ruled that the separate and distinct element of “force” may not be presumed in aggravated sodomy cases with child victims. (S99G0864, S. Ct. Ga. 11/1/99))

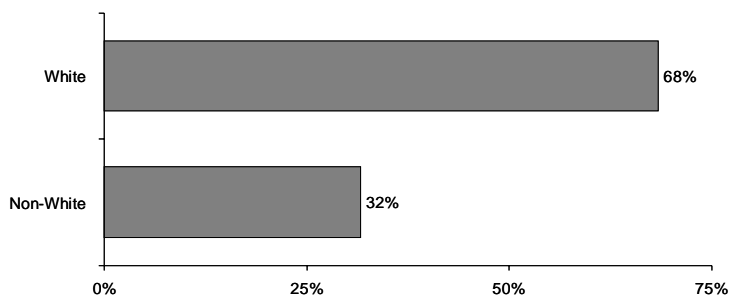
“A person convicted of the offense of aggravated sodomy shall be punished by imprisonment for life or by imprisonment for not less than ten nor more than 20 years” (O.C.G.A. § 16-6-2(b)).

Pursuant to the Sentence Reform Act of 1994, (Ga. L. 1994, p. 1959), persons convicted of “serious violent felonies,” including aggravated sodomy, are required to serve minimum mandatory terms of imprisonment which cannot be suspended, stayed, probated, deferred, or withheld by the sentencing court. Additionally, the sentences ordered by the superior court for convictions of “serious violent felonies” must be served in their entirety and cannot be reduced by parole or by any earned time, early release, work release, or other such sentence-reducing measures. Also, persons convicted of aggravated sodomy are not eligible for first offender treatment (Ga. L. 1998, p. 180, § 1).

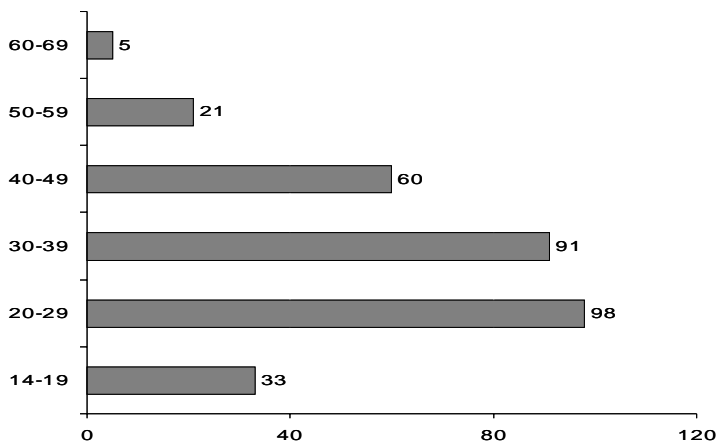
Characteristics of Imprisoned Offenders

The overwhelming majority (68%) of the defendants who were convicted of aggravated sodomy and sentenced to the Georgia prison system from 1989 to 1999 were white; less than one-third (32%) were non-white. See *Figure 10-1*. None of the defendants who entered the State system for aggravated sodomy were female. Most of these offenders were age 20-29 (31%) and 30-39 (29%). Ten percent (10%) of the offenders were teenagers. See *Figure 10-2*.

**Figure 10-1: Race of Incoming Georgia Inmates
Convicted of Aggravated Sodomy
1990-1999
(n=318)**

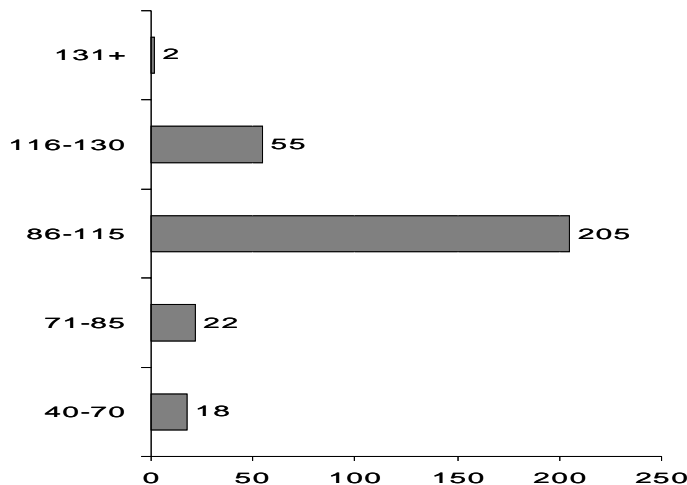


**Figure 10-2: AGE AT SENTENCING (1990-1999)
Incoming Georgia Inmates Convicted of
AGGRAVATED SODOMY**



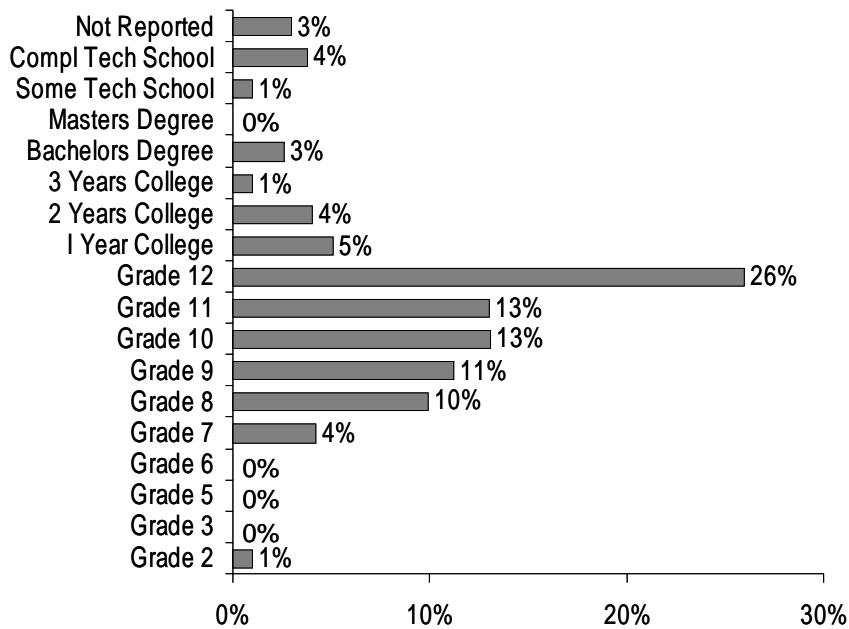
The most common IQ classification for this group was average intelligence (68%). Seventeen percent were borderline mental impairment and six percent were mentally impaired. Less than one percent were classified as “gifted.” See *Figure 10-3*.

**Figure 10-3: IQ Scores
Incoming Georgia Inmates (1990-1999)
AGGRAVATED SODOMY**



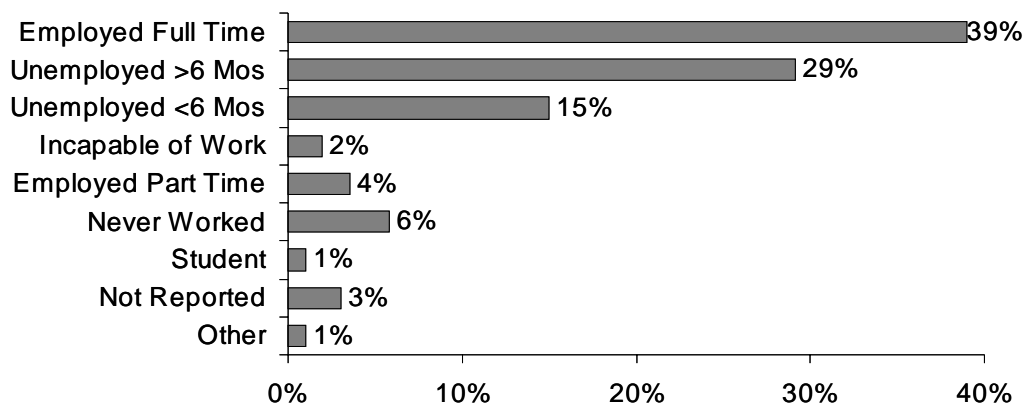
Twenty-six percent of aggravated sodomists sentenced to prison in Georgia attained a high school diploma. Tenth and eleventh grade (each with 13%) educational levels were the second most frequent, followed closely by ninth and eighth grade (11% and 10% respectively). Offenders with at least some college education comprised a significant percentage (13%) of the total offender population. See *Figure 10-4*.

Figure 10-4: Educational Level of Incoming Georgia Inmates Convicted of Aggravated Sodomy 1990-1999



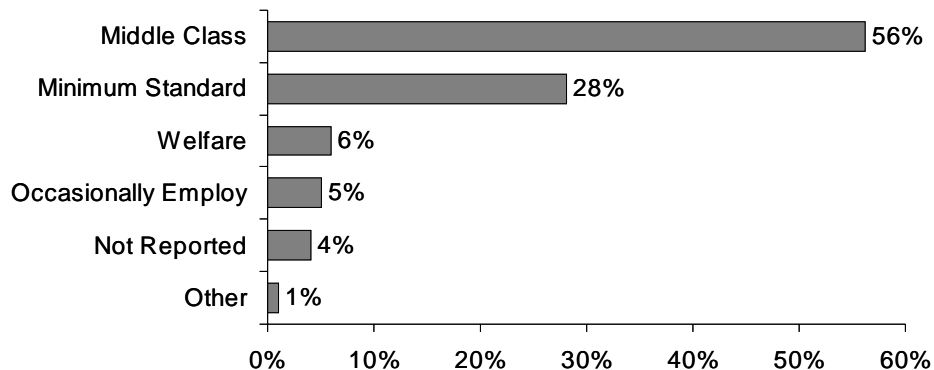
Less than one-half (39%) of the inmates processed through the GDCP for aggravated sodomy reported being employed full-time when they were arrested. Twenty-nine percent reported having been unemployed for more than six months prior to their arrest, and 15% reported being unemployed less than six months prior to arrest. See *Figure 10-5*.

Figure 10-5: Employment Status of Incoming Georgia Inmates Convicted of Aggravated Sodomy 1990-1999



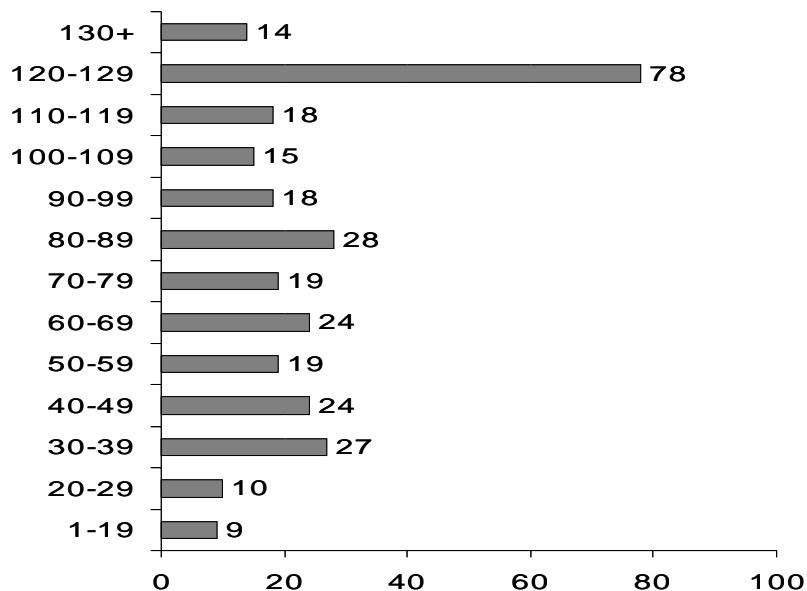
Over one-half (56%) of the aggravated sodomists were classified at intake as being “middle class,” with less than one-third (28%) being classified as “minimum standard.” See *Figure 10-6*.

Figure 10-6: Social Class of Incoming Georgia Inmates Convicted of Aggravated Sodomy 1990-1999

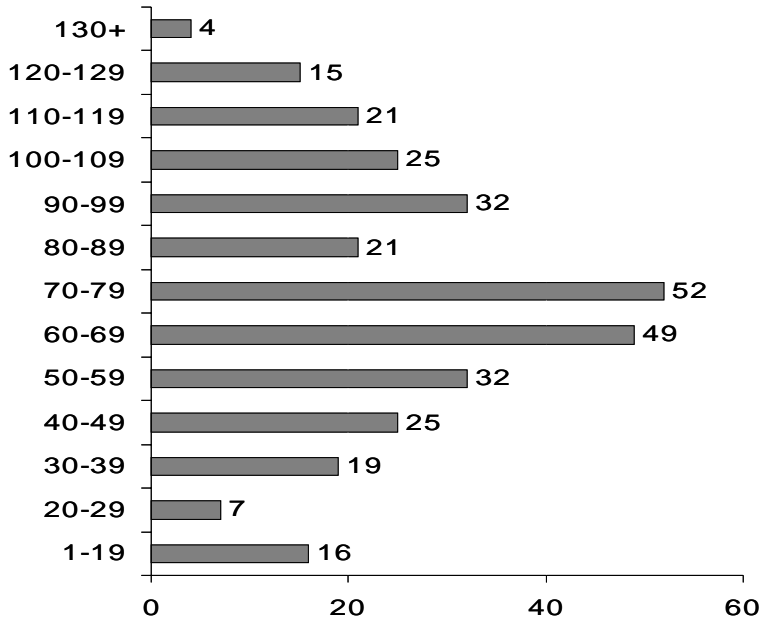


Twenty-five percent of the aggravated sodomy inmates (78) scored at the twelfth grade level on the WRAT-Read test. Various numbers of inmates scored in the remaining grade levels, but no level included more than 30 inmates. See *Figure 10-7*. As *Figure 10-8* highlights, the WRAT-Math scores were distributed around a mode of seventh grade; 52 scores in this grade level constituted 16% of the total.

Figure 10-7: WRAT – Read Scores Incoming Georgia Inmates (1990-1999) AGGRAVATED SODOMY



**Figure 10-8: WRAT – Math Scores
Incoming Georgia Inmates (1990-1999)
AGGRAVATED SODOMY**



Diagnosed Behaviors of Imprisoned Offenders

As determined by the GDCP diagnostic process, 46% of the incoming aggravated sodomists were identified as being narcotic addicts, drug abusers or drug experimenters; 54% of the incoming inmates were classified as showing no evidence of drug abuse. See *Figure 10-9*. Thirty-two percent of the inmates were classified as alcohol abusers, and 9% as alcoholics; 59% showed no evidence of an alcohol problem. See *Figure 10-10*.

**Figure 10-9: DRUG BEHAVIOR
PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
AGGRAVATED SODOMY**

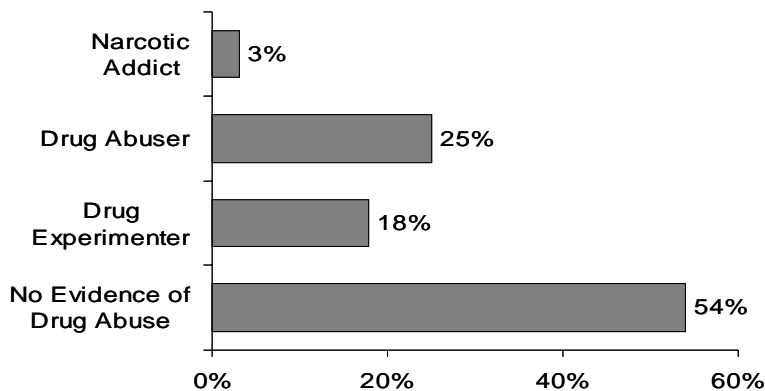
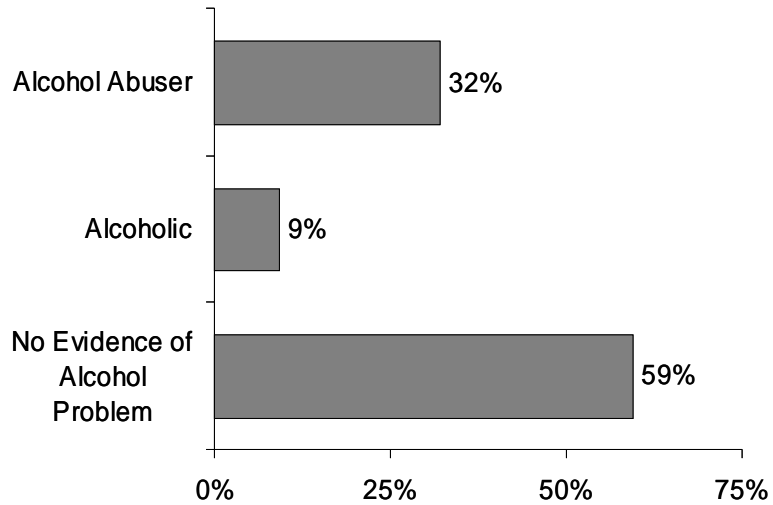
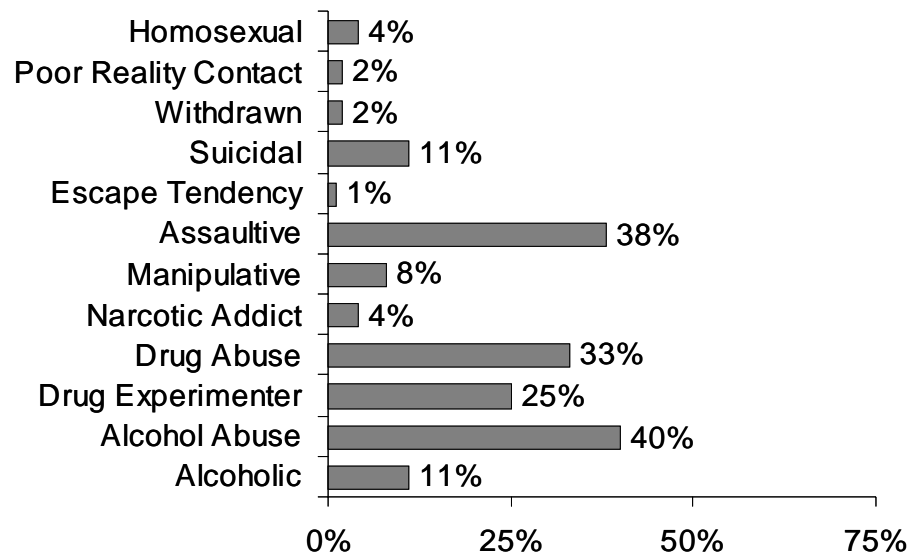


Figure 10-10: ALCOHOL BEHAVIOR PROBLEMS INCOMING GEORGIA INMATES 1990-1999 AGGRAVATED SODOMY



Of the diagnosed behaviors identified and indexed to the 318 aggravated sodomists, the most common behavior problem was alcohol abuse (40%), followed by being assaultive (38%), and drug abuse (33%). See *Figure 10-11*.

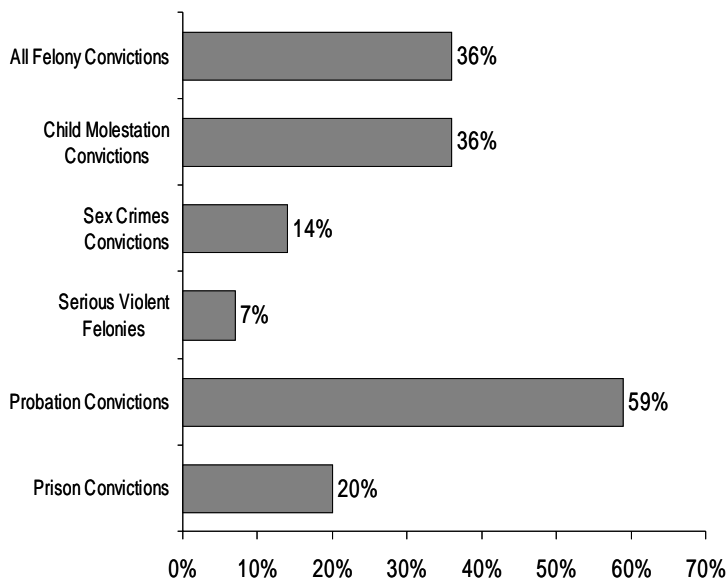
Figure 10-11: DIAGNOSED BEHAVIORS OF INCOMING GEORGIA INMATES 1990-1999 AGGRAVATED SODOMY



Criminal Histories of Imprisoned Offenders

Over one-third (36%) of the inmates committed to the Georgia prison system for aggravated sodomy had at least one prior felony conviction, and 7% had a conviction for a felony now identified as a “serious violent felony.” Over one-half (59%) had histories of prior conviction(s) that resulted in the imposition of a probated sentence (misdemeanor or felony); 20% had a prior conviction that resulted in a prison sentence. As many as 80% had no prior prison conviction. See Figure 10-12.

Figure 10-12: Criminal Histories of Court Commitments to Georgia Prison for Aggravated Sodomy 1990-1999 (n=318)



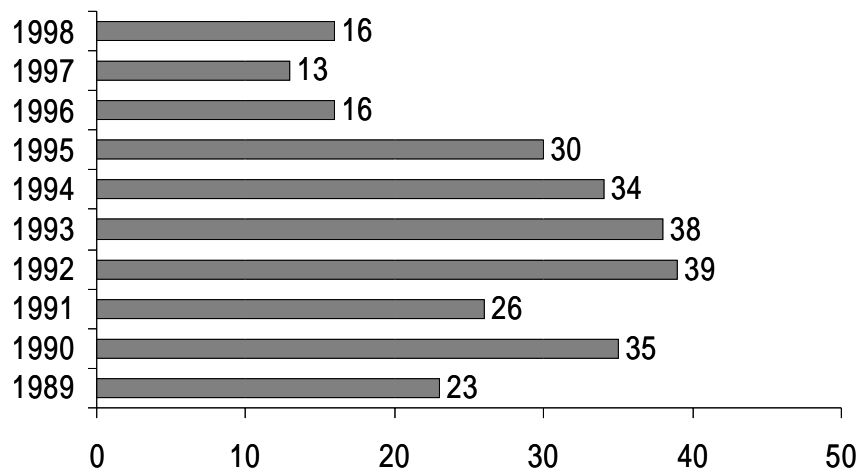
Over one-third (36%) of the admissions had a prior conviction for child molestation, and 14% had a prior sex crime conviction.

Nationally, of the estimated 2,500 offenders serving time in state prisons in 1994 for forcible sodomy, 70% had prior convictions, 32% had prior convictions for violence, and 20% had prior convictions for rape or sexual assault. (*Sex Offenses and Offenders: An Analysis of Data on Rape and Sexual Assault*, Greenfeld, 1997)

Sentencing Patterns

The annual number of admissions to the State prison system for aggravated sodomy has declined since a ten-year high of 39 in 1992. As Figure 10-13 reflects, during each of the past three years (1996-1998), there were less than 20 annual admissions for “non-life” sentences for this crime.

Figure 10-13: Non-Life Sentences Incoming Georgia Inmates Convicted of Aggravated Sodomy



The annual number of imposed “life sentences” has been as high as six (1989 and 1990), and as low as one (1991). See *Figure 10-14*.

Figure 10-14: Life Sentences Incoming Georgia Inmates Convicted of Aggravated Sodomy

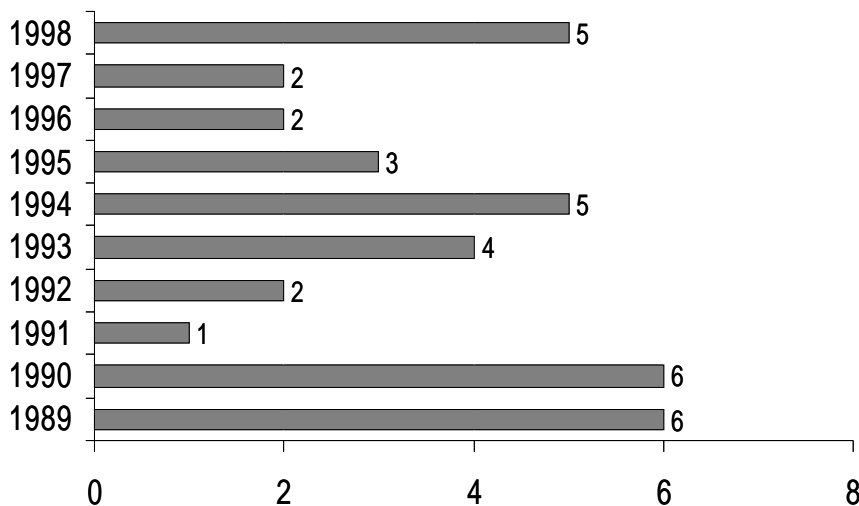
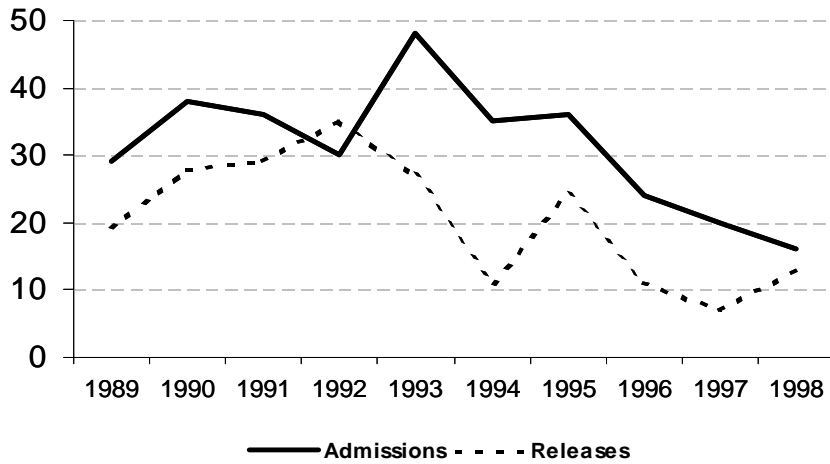


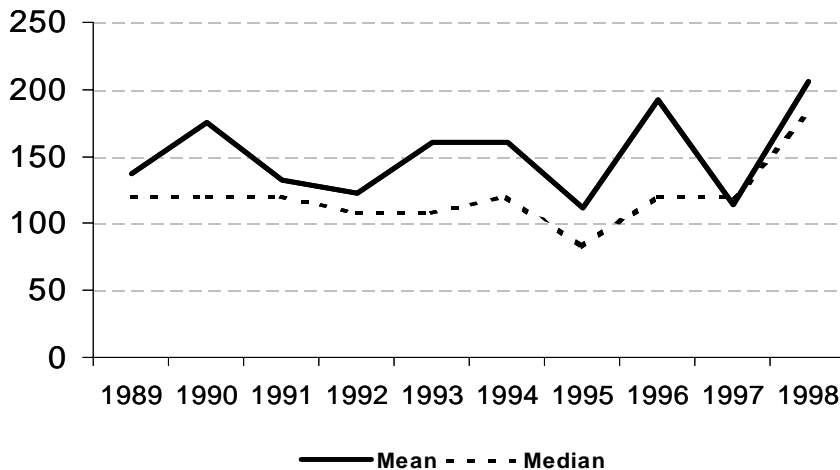
Figure 10-15 highlights the downward trend in the total number of non-life admissions for aggravated sodomy convictions from FY1989 to FY1997. Annual releases have also declined to 7 in FY1998 from a high of 35 in FY1993 with only a slight increase in 1998.

**Figure 10-15: Georgia Admissions and Releases
(Excluding Life Sentences)
1989-1998
AGGRAVATED SODOMY**



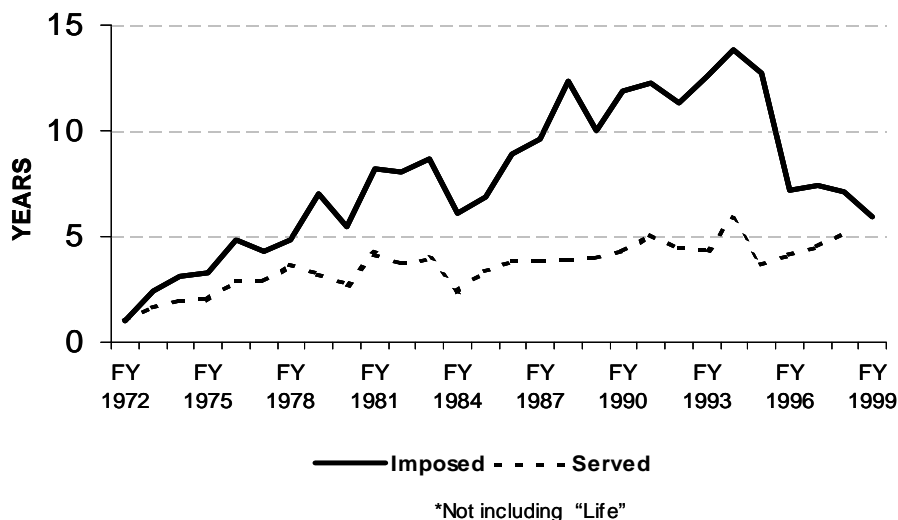
While the average sentence length imposed on *incoming* aggravated sodomists has fluctuated between 100 and 200 months during the past ten years, the median sentence remained relatively stable from 1989-1994 at just over 100 months, showing an increase to a 1998 high of 180 months. See *Figure 10-16*.

**Figure 10-16: Sentence Length (in Months)
Incoming Georgia Inmates (Excluding "Lifers")
AGGRAVATED SODOMY**

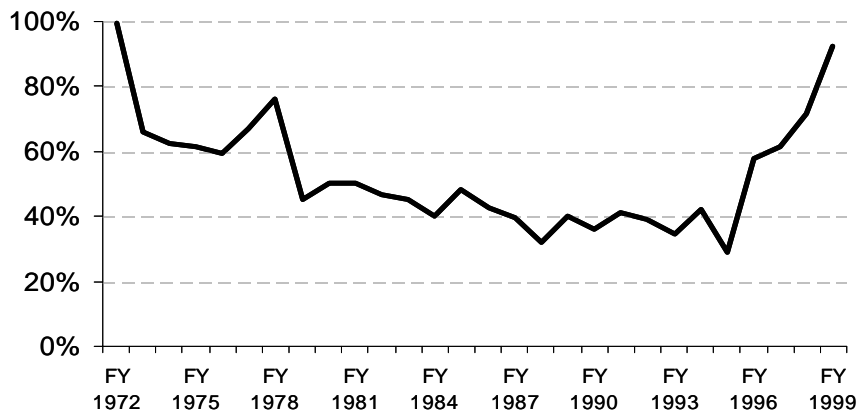


Aggravated sodomists *exiting* the State prison system over the past 25 years have been sentenced, on average, to an increasing term of "non-life" imprisonment, except for FY1994-FY1998 when the average sentence sharply dropped. See *Figure 10-17*. The percentage of their sentence that was actually served in prison decreased considerably from FY1978 to FY1995, but has dramatically increased since FY1995 to a current level approaching 90%. See *Figure 10-18*.

**Figure 10-17: Sentences* Imposed and Served
Georgia Releases
FY1972-FY1999
AGGRAVATED SODOMY**



**Figure 10-18: Percent Time Served
Non-Life Sentences
Georgia Releases
1972-1999
AGGRAVATED SODOMY**



CHAPTER ELEVEN

Criminal Attempt to Commit Aggravated Sodomy

Statutory and Decisional Law

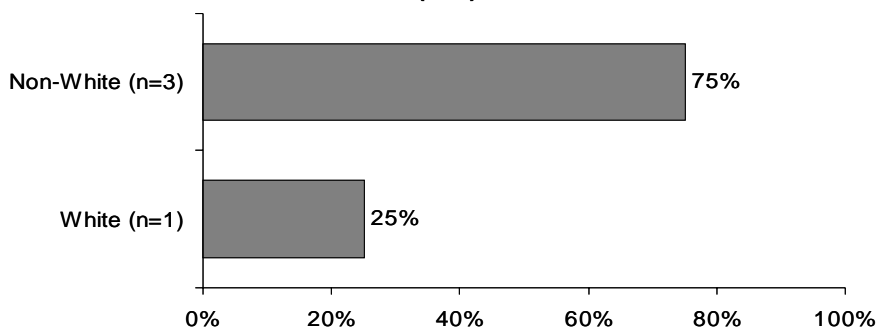
In Georgia, a person commits the offense of criminal attempt when, “with intent to commit a specific crime, he performs any act that constitutes a substantial step toward the commission of that crime” (O.C.G.A. § 16-4-1). “A person convicted of the offense of criminal attempt to commit a felony shall be punished by imprisonment for not less than one year nor more than one-half the maximum period of time for which he could have been sentenced if he had been convicted of the crime attempted” (O.C.G.A. § 16-4-6).

A person commits the offense of aggravated sodomy in Georgia “when he or she commits sodomy with force and against the will of the other person” (O.C.G.A. § 16-6-2(a)). “A person convicted of the offense of aggravated sodomy shall be punished by imprisonment for life or by imprisonment for not less than ten nor more than 20 years” (O.C.G.A. § 16-6-2(b)).

Characteristics of Imprisoned Offenders

Three of the four defendants who were convicted of criminal attempt to commit aggravated sodomy and sentenced to the State prison system were non-white (75%); only one was white (25%). See *Figure 11-1*. Two of these offenders were in their 20’s and two were in their 40’s.

**Figure 11-1: Race of Incoming Georgia Inmates
Convicted of Criminal Attempt to Commit Aggravated Sodomy
1990-1999
(n=4)**



One of the inmates had an IQ of 79; two had an IQ of 99; and, one had an IQ of 105. One of the inmates convicted for criminal attempt to commit aggravated sodomy had completed high school; two had completed tenth grade; and, one had completed ninth grade. Only one of the inmates processed through the GDCP reported being employed full-time when he was arrested. One reported having been unemployed for more than six months prior to their arrest, and two reported being unemployed less than six months prior to arrest.

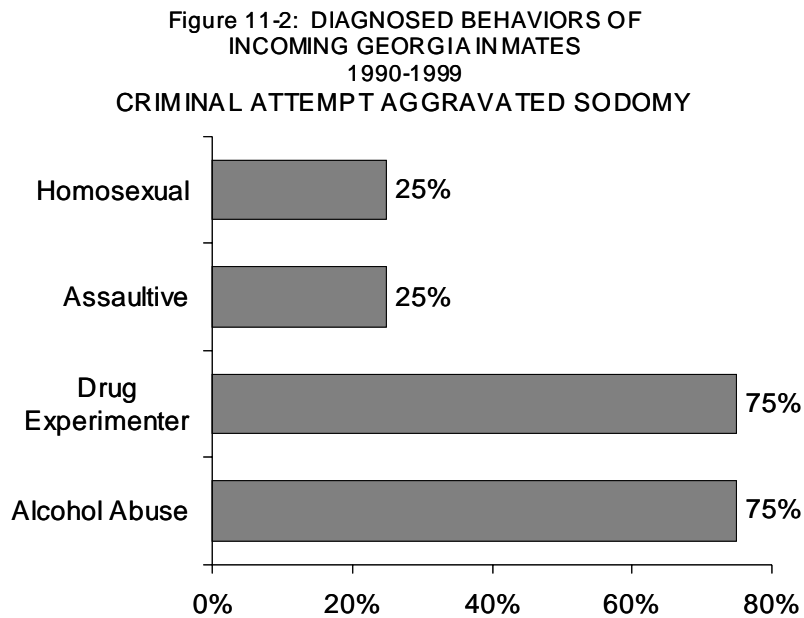
Three of the incoming inmates were classified at intake as being “middle class,” and one was classified as “minimum standard.”

Each inmate scored differently on the WRAT-Read test; one at the first grade level, one at the fourth grade level, one at the eleventh grade level, and one at the twelfth grade level. Two of the inmates scored at the tenth grade level on the WRAT-Math test, and the other two scored at the fifth and sixth grade levels.

Diagnosed Behaviors of Imprisoned Offenders

Three of the incoming inmates were classified as being drug experimenters; only one was classified as showing no evidence of drug abuse. Three of the inmates were classified as alcohol abusers, and one showed no evidence of an alcohol problem.

The most common diagnosed behavior among the four inmates was drug experimentation and alcohol abuse (3). See *Figure 11-2*.



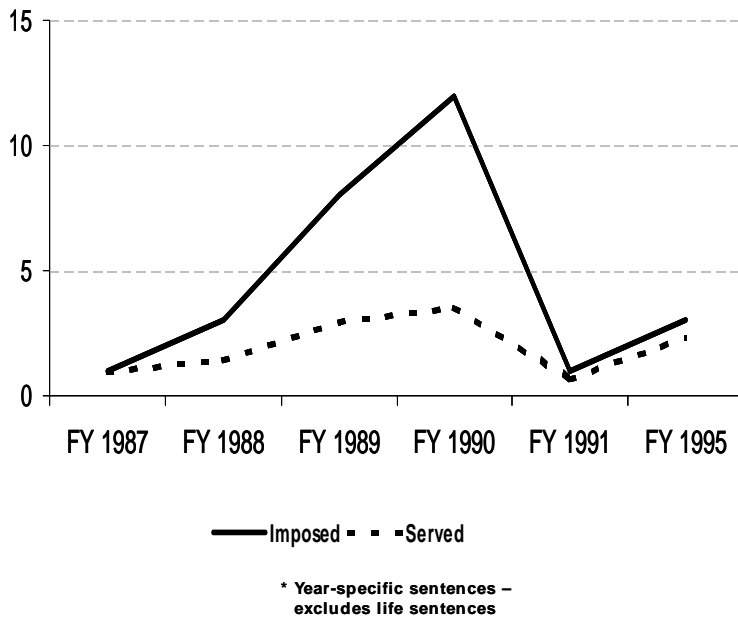
Criminal Histories of Imprisoned Offenders

Three of the inmates convicted of criminal attempt to commit aggravated sodomy had previously been convicted of crimes that resulted in their being sentenced to a term of supervised probation. No other criminal history information was documented in OTIS for the inmates.

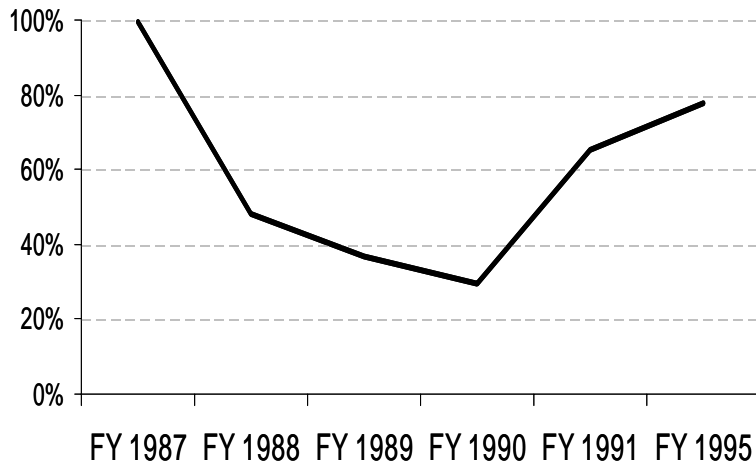
Sentencing Patterns

Figure 11-3 and Figure 11-4 reflect the sentences imposed and served by exiting inmates who served prison sentences for the crime, as well as the percentage of their imposed sentence that they actually served.

**Figure 11-3: Sentences* Imposed and Served
by Georgia Inmates Released
1987-1995
Criminal Attempt to Commit Aggravated
Sodomy**



**Figure 11-4: Percent Time Served*
Georgia Releases
1987-1995
Criminal Attempt to Commit Aggravated Sodomy**



CHAPTER TWELVE

Aggravated Sexual Battery

Statutory and Decisional Law

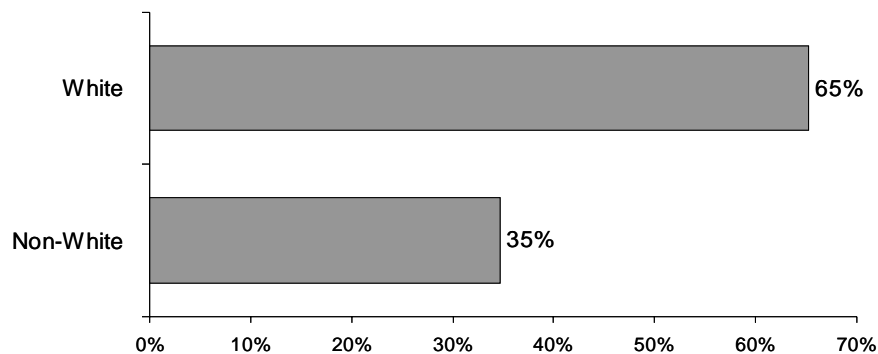
In Georgia, a person commits the offense of aggravated sexual battery when he intentionally penetrates with a foreign object the sexual organ or anus of another person without the consent of that person, the term “foreign object” meaning any article or instrument other than the sexual organ of a person. O.C.G.A. § 16-6-22.2. The Court of Appeals of Georgia has stated “it is clear the term ‘foreign object’ includes not only inanimate articles or instruments, but also a person’s body part, other than a sexual organ, such as a finger” (*Burke v. State*, 208 Ga. App. 446, 446, 430 S.E.2d 816, 816 (1993)). In *Hendrix v. State* (230 Ga. App. 604, 607, 497 S.E.2d 236, 239 (1997)) the court ruled that “penetration however slight” would suffice to satisfy the statutory element of the crime... A person convicted of the offense of aggravated sexual battery shall be punished by imprisonment for not less than ten nor more than 20 years (O.C.G.A. § 16-6-22.2).

Pursuant to the Sentence Reform Act of 1994, (Ga. L. 1994, p. 1959), persons convicted of “serious violent felonies,” including aggravated sexual battery, are required to serve minimum mandatory terms of imprisonment which cannot be suspended, stayed, probated, deferred, or withheld by the sentencing court. Additionally, the sentences ordered by the superior court for convictions of “serious violent felonies” must be served in their entirety and cannot be reduced by parole or by any earned time, early release, work release, or other such sentence-reducing measures. Also, persons convicted of aggravated sexual battery are not eligible for first offender treatment (Ga. L. 1998, p. 180, § 1).

Characteristics of Imprisoned Offenders

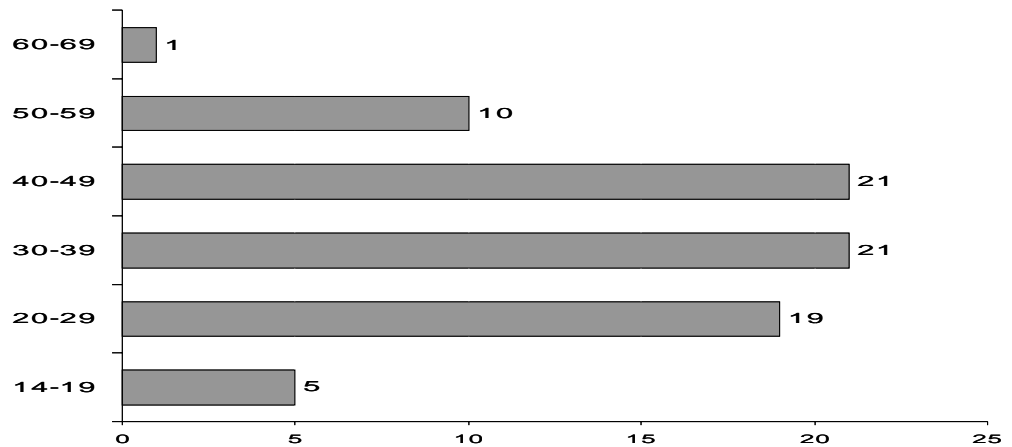
The majority (65%) of the 77 defendants who were convicted of aggravated sexual battery and sentenced to the State prison system were white; slightly more than one-third (35%) were non-white. See *Figure 12-1*. Only two of those defendants were females.

**Figure 12-1: Race of Incoming Georgia Inmates
Convicted of Aggravated Sexual Battery
1990-1999
(n=77)**



Unlike the mean ages at sentencing for most of the sexual assault crimes in this report, there was a greater distribution across the age groups for the offenders convicted of aggravated sexual battery. In fact, the same percentage (27%) were 40-49 and 30-39. Twenty-five percent were 20-29 and ten offenders (13%) were 50-59 years old. See *Figure 12-2*.

**Figure 12-2: AGE AT SENTENCING (1990-1999)
Incoming Georgia Inmates Convicted of
AGGRAVATED SEXUAL BATTERY**



The majority of aggravated sexual battery offenders fell into the 86-115 range of IQ scores (52%). Twenty-one percent fell into the above average category of 116-130. Sixteen percent fell into the 71-85 range of borderline mental impairment and the remaining five percent into the 40-70 range indicating mental impairment. See *Figure 12-3*. The highest level of education most frequently attained by aggravated sexual batterers sentenced to prison in Georgia was a high school diploma (22%). The eleventh grade educational level was the second most frequent (18%), followed by ninth and tenth, both with 14%. Offenders with at least some college education constituted a surprising percentage (11%) one of whom had a Ph. D. See *Figure 12-4*.

**Figure 12-3: IQ Scores
Incoming Georgia Inmates (1990-1999)
AGGRAVATED SEXUAL BATTERY**

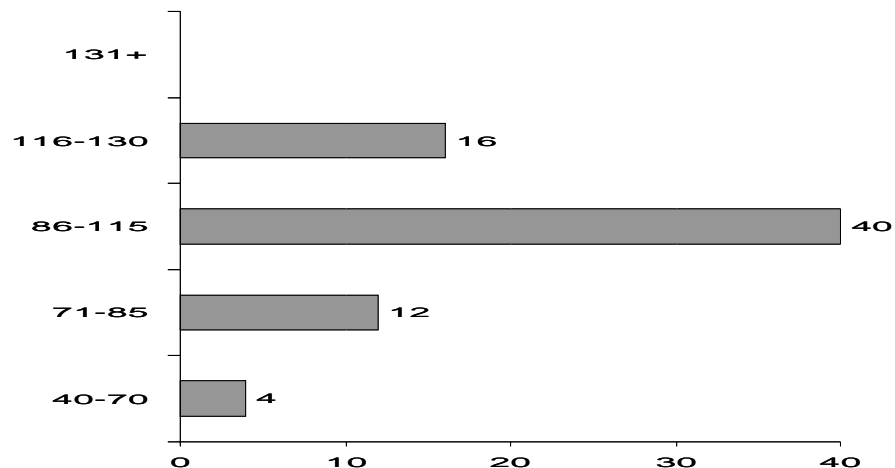
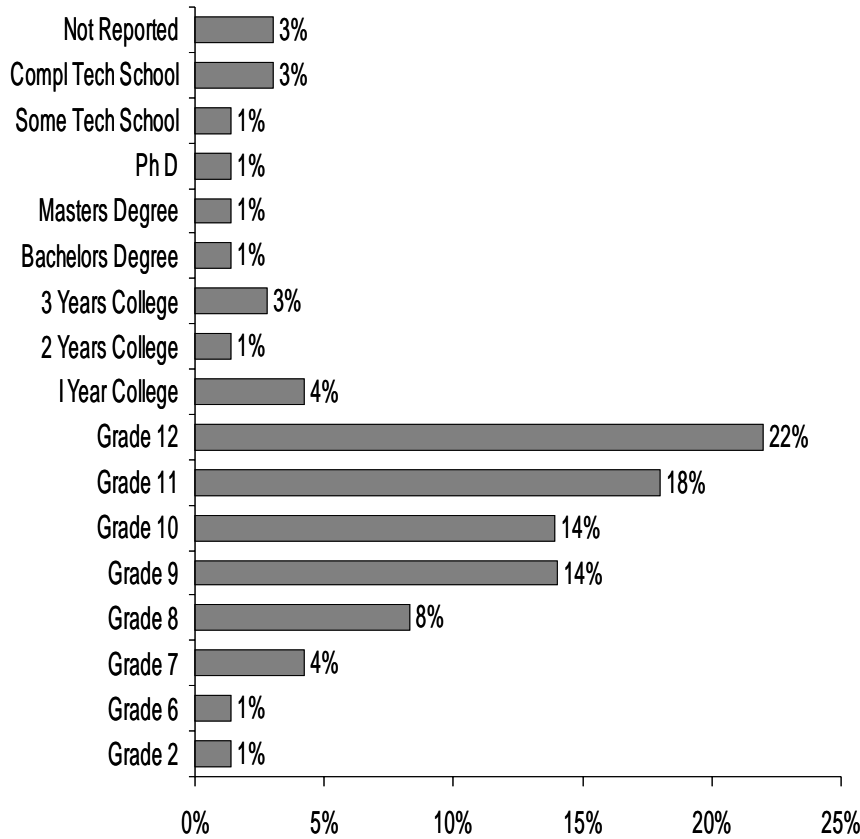


Figure 12-4: Educational Level of Incoming Georgia Inmates Convicted of Aggravated Sexual Battery 1990-1999



Sixty-five percent of the aggravated sexual batterers processed through the GDCP reported being employed full-time when they were arrested. Only 10% reported having been unemployed for more than six months prior to their arrest, and another 10% reported being unemployed less than six months prior to arrest. See *Figure 12-5*. Almost one-half (48%) of the aggravated sexual batterers were classified at intake as being “middle class,” with slightly more than one-third (34%) being classified as “minimum standard.” Nine percent reported being on welfare. See *Figure 12-6*.

Figure 12-5: Employment Status of Incoming Georgia Inmates Convicted of Aggravated Sexual Battery 1990-1999

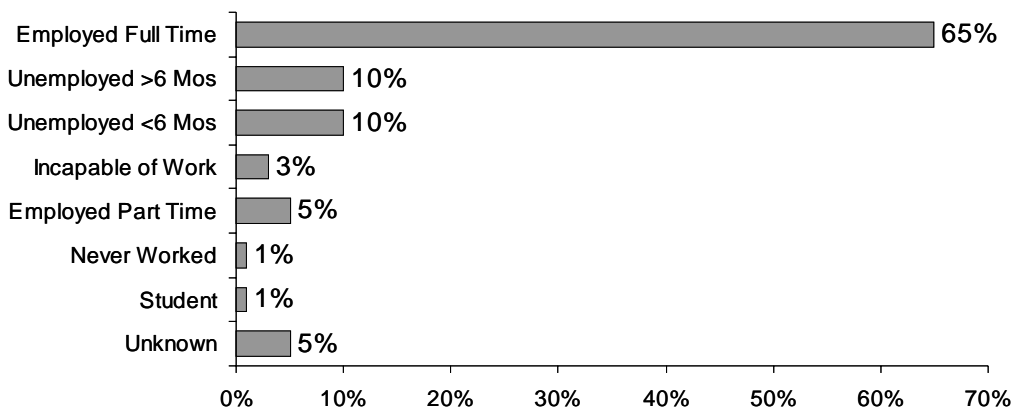
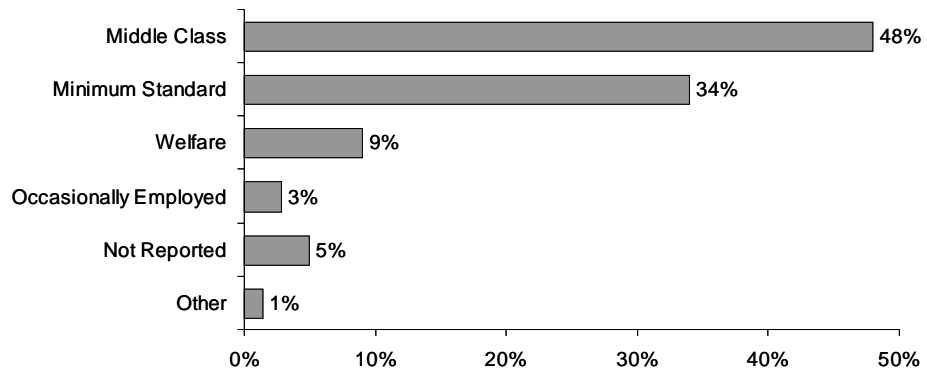
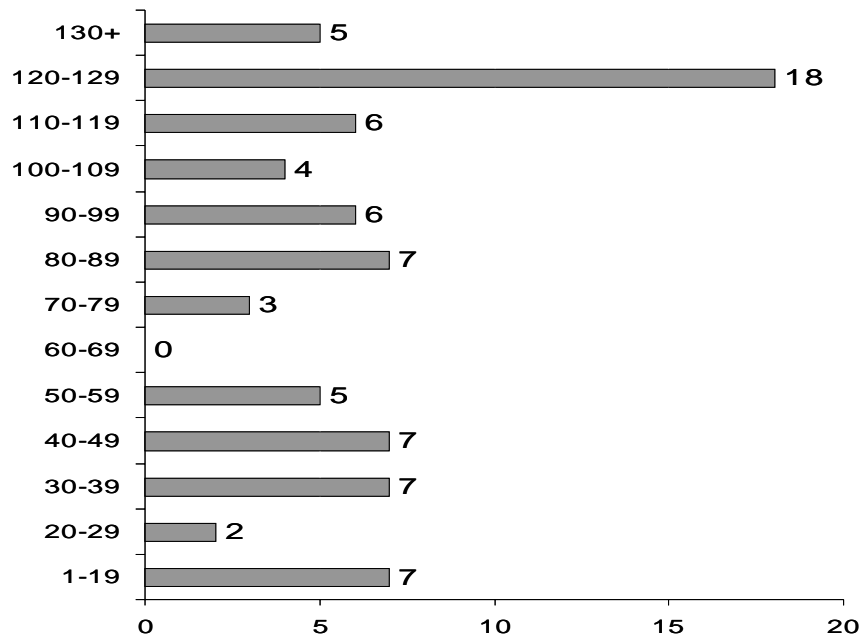


Figure 12-6: Social Class of Incoming Georgia Inmates Convicted of Aggravated Sexual Battery 1990-1999

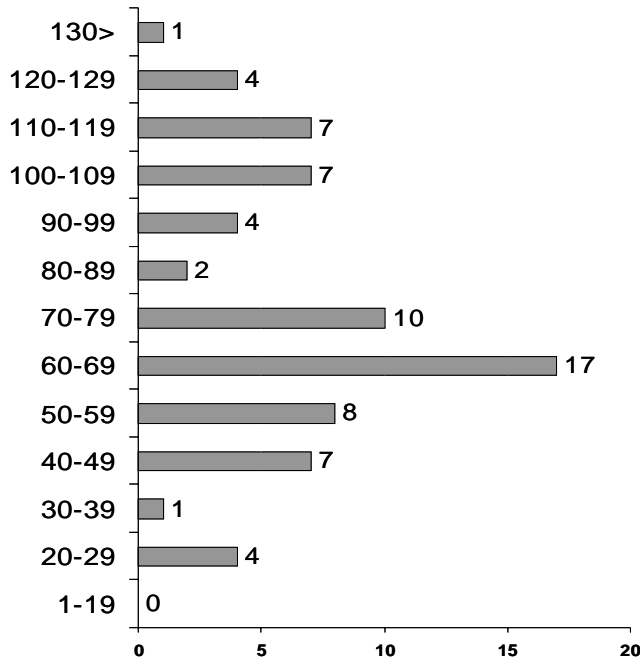


While the most frequent WRAT-Read score was the twelfth grade level, a considerable number of inmates scored in the lower grade ranges. The WRAT-Math scores were distributed around a mode of sixth grade. See *Figure 12-7* and *Figure 12-8*.

Figure 12-7: WRAT – Read Scores Incoming Georgia Inmates (1990-1999) AGGRAVATED SEXUAL BATTERY



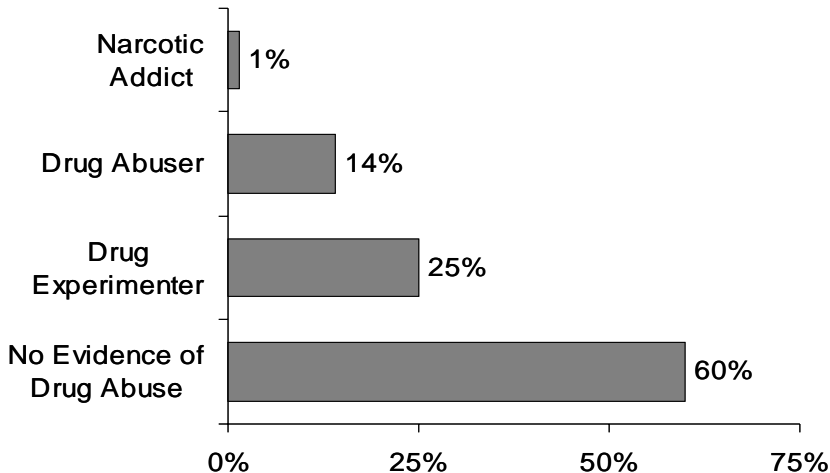
**Figure 12-8: WRAT – Math Scores
Incoming Georgia Inmates (1990-1999)
AGGRAVATED SEXUAL BATTERY**



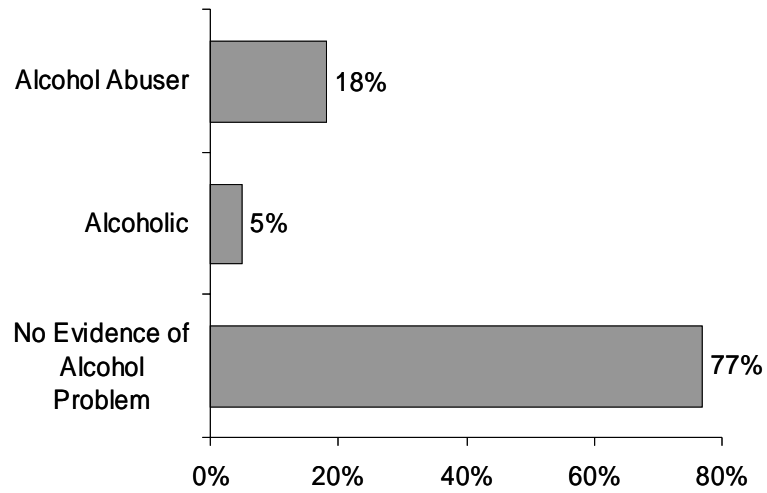
Diagnosed Behaviors of Imprisoned Offenders

As determined by the GDCP diagnostic process, 40% of the incoming aggravated sexual batterers were classified as being narcotic addicts, drug abusers or drug experimenters; 60% of the incoming inmates were classified as showing no evidence of drug abuse. See *Figure 12-9*. Eighteen percent of the inmates were classified as alcohol abusers, and 5% as alcoholics; a high percentage, 77%, showed no evidence of an alcohol problem. See *Figure 12-10*.

**Figure 12-9: DRUG BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
AGGRAVATED SEXUAL BATTERY**

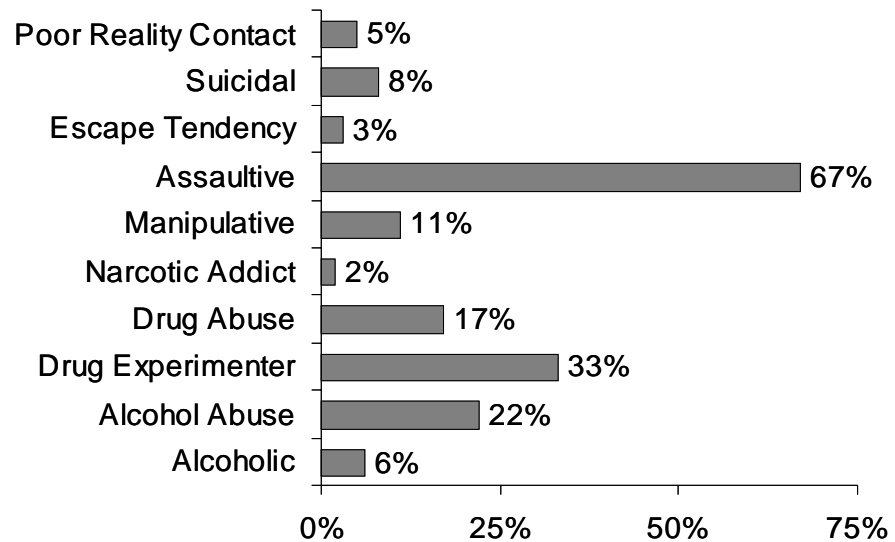


**Figure 12-10: ALCOHOL BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
AGGRAVATED SEXUAL BATTERY**



Of the numerous diagnosed behaviors identified and indexed to the 77 aggravated sexual batterers, the most common diagnosed behavior was being assaultive (67%). As *Figure 12-11* shows, drug experimentation (33%) ranked second, followed by alcohol abuse (22%).

**Figure 12-11: DIAGNOSED BEHAVIORS OF
INCOMING GEORGIA INMATES
1990-1999
AGGRAVATED SEXUAL BATTERY**

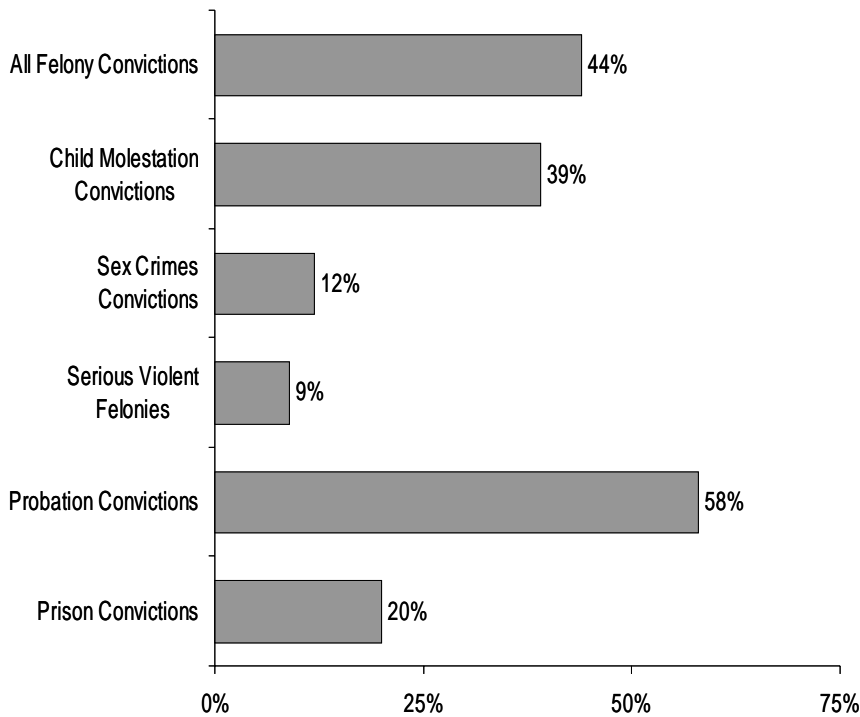


Criminal Histories of Imprisoned Offenders

As many as 44% of the aggravated sexual batterers committed to the Georgia prison system had at least one prior felony conviction, but 9% had a conviction for a felony now identified as a “serious violent felony.” Over one-half (58%) had histories of prior conviction(s) that resulted in the imposition of a probated sentence (misdemeanor or felony). Twenty percent had a prior conviction that resulted in a prison sentence.

Thirty-nine percent of the admissions had a prior conviction for child molestation, and 12% had a prior sex crime conviction. Seventy-eight percent had no prison conviction in their past. See *Figure 12-12*.

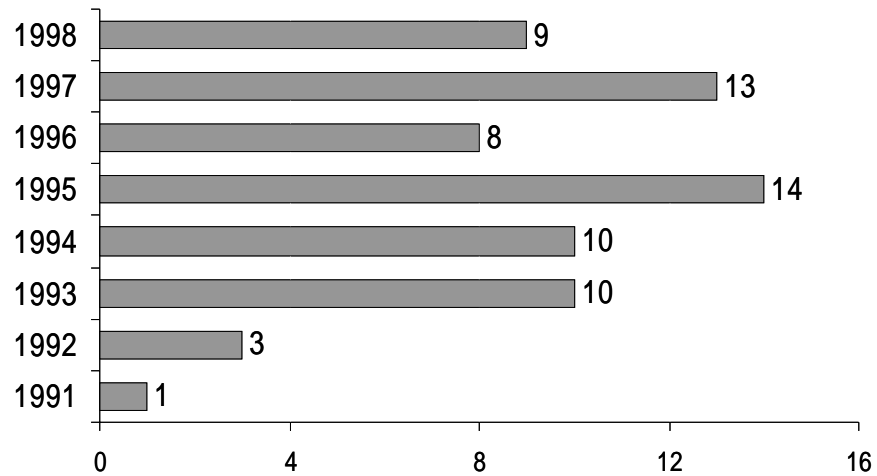
Figure 12-12: Criminal Histories of Court Commitments to Georgia Prison for Aggravated Sexual Battery 1990-1999 (n=77)



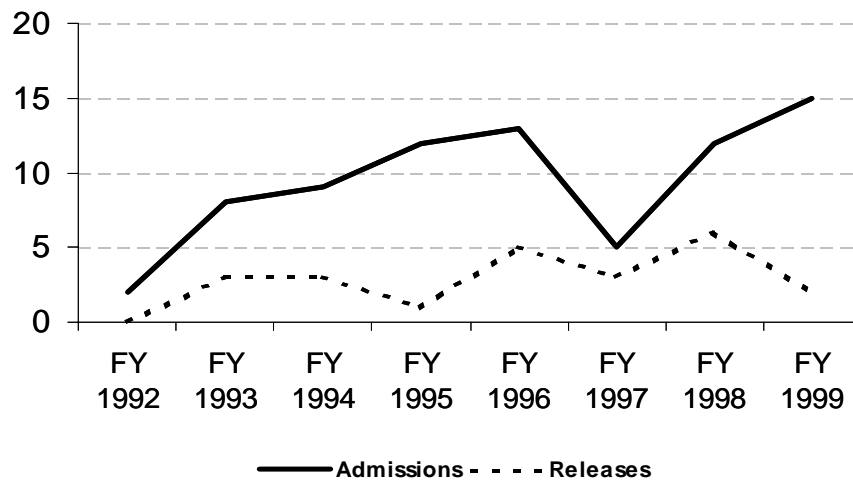
Sentencing Patterns

As *Figure 12-13* shows, the number of non-life sentences imposed by judges for convictions for aggravated sexual battery bounced between 14 and 9 from 1995 to 1998. *Figure 12-14* reflects the numbers of annual admissions and releases from FY1992 to FY1999. At a low of 2 in 1992 to a high of 13 in 1996 then plummeting and rebounding in 1999 with 15, releases have fluctuated greatly.

**Figure 12-13: Non-Life Sentences
Incoming Georgia Inmates
Convicted of Aggravated Sexual Battery**

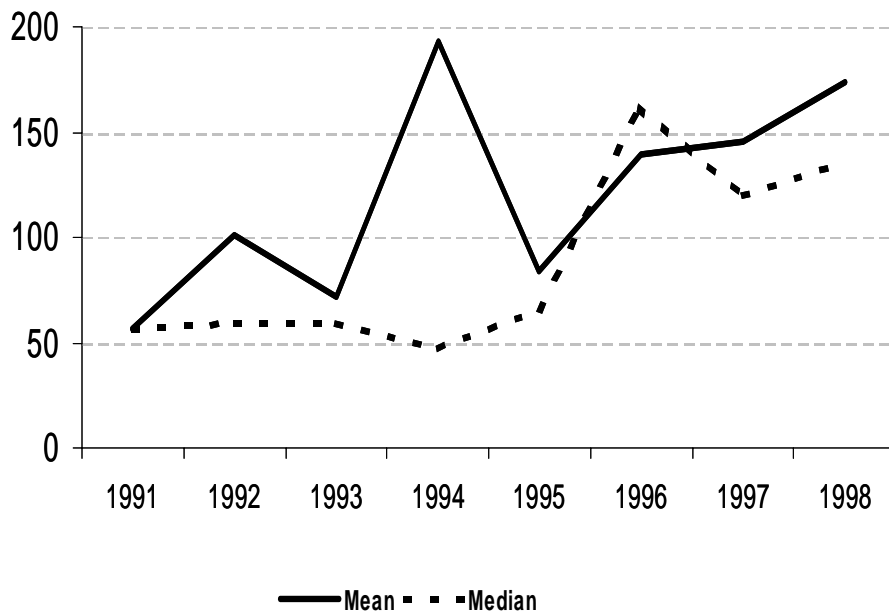


**Figure 12-14: Georgia Admissions and Releases
(Excluding Life Sentences)
1992-1999
AGGRAVATED SEXUAL BATTERY**



The mean length of sentence imposed on *incoming* inmates has been on a general increase since 1991. It spiked sharply in 1994, but after dropping down to less than 100 months the following year it has continued to increase and approach the 200-month threshold. See *Figure 12-15*.

**Figure 12-15: Sentence Length (in Months)
Incoming Georgia Inmates (Excluding "Lifers")
AGGRAVATED SEXUAL BATTERY**



For those aggravated sexual batterers *exiting* the State prison system, the sentences they received (in years) have slightly increased since FY1996 after spiking upward in FY1995. The number of years that they actually served has more than tripled during that time. See *Figure 12-16*. The percentage of their sentence that was actually served in prison has doubled from FY1995 and tripled from FY1993. See *Figure 12-17*.

**Figure 12-16: Sentences Imposed and Served
Georgia Releases
1993-1999
AGGRAVATED SEXUAL BATTERY**

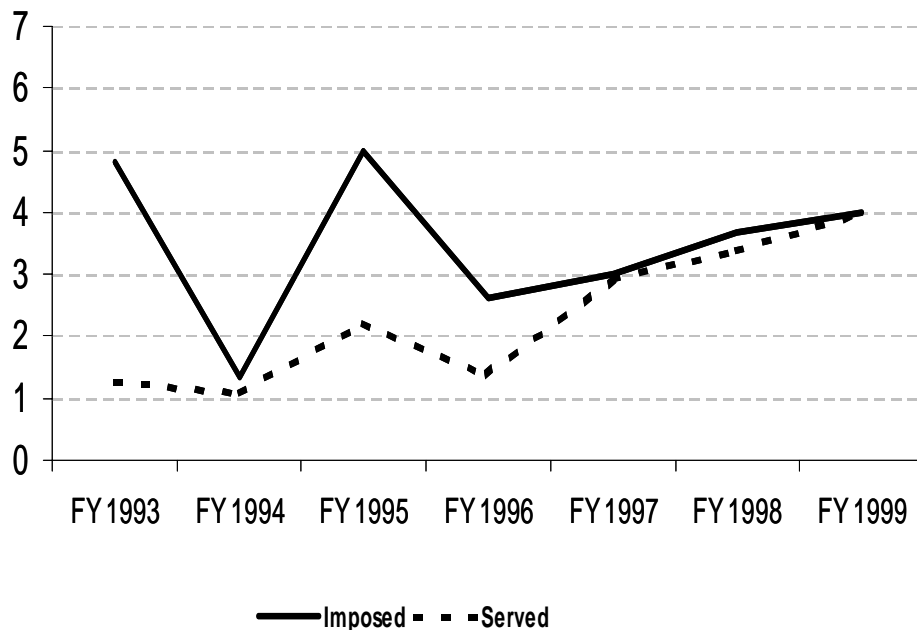
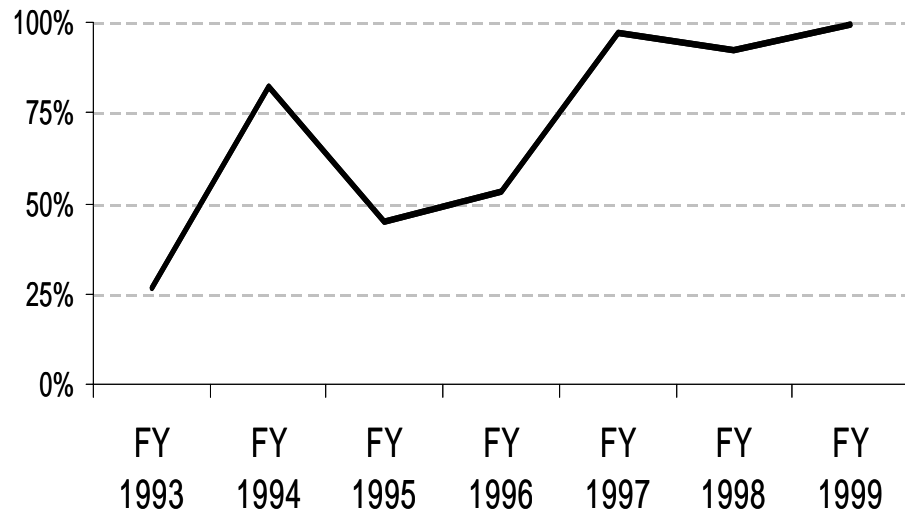


Figure 12-17: Percent Time Served
Georgia Releases
1993-1999
AGGRAVATED SEXUAL BATTERY



CHAPTER THIRTEEN

Sexual Assault Against a Person in Custody

Statutory and Decisional Law

“The offense of sexual assault against persons in custody came into being in 1983 (Ga. L. 1983, p. 721), and the class of victims was enlarged in 1990 to include a person ‘who is enrolled in a school . . .’ (Ga L. 1990, p.1003.)” (*Randolph v. State*, 269 Ga. 147, 147 (1998). The health care situation paragraph was added by the Georgia General Assembly in 1999 (Ga. L. 1999, p. 562, § 5).

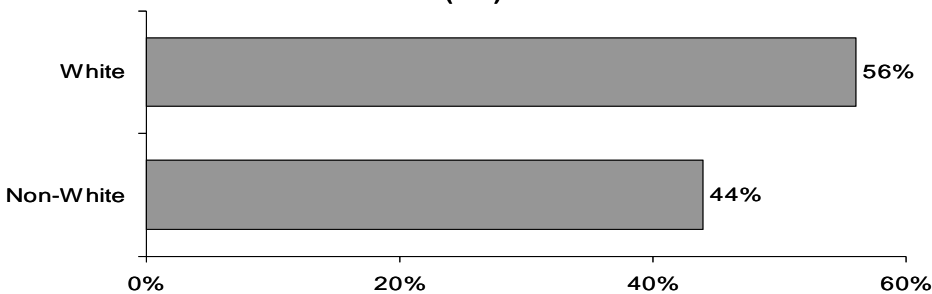
A custodian, supervisor, or disciplinarian commits sexual assault when he/she engages in sexual contact with any person who is in the custody of law, being supervised by an official of the correctional system, enrolled in a school, a patient of a psychotherapist, or who is detained in or is a patient in a hospital or other institution. A person convicted of sexual assault shall be punished by imprisonment for not less than one nor more than three years.

A person who is an employee, agent, or volunteer at any facility licensed or required to be licensed relating to long-term care facilities, or relating to personal care homes, or who is required to be licensed relating to home health care and hospices, commits sexual assault when such person engages in sexual contact with another person who has been admitted to or is receiving services from such facility, person, or entity. A person convicted of sexual assault pursuant to this subsection shall be punished by imprisonment for not less than one nor more than five years, or a fine of not more than \$5,000.00, or both. Any violation of this subsection shall constitute a separate offense.

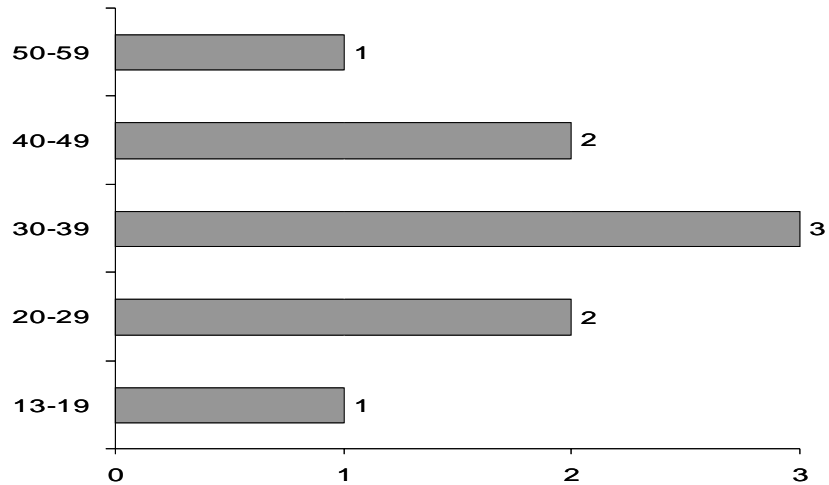
Characteristics of Imprisoned Offenders

Of the defendants who are convicted of sexual assault against a person in custody and sentenced to the State prison system were white (56%); three were non-white (44%). See *Figure 13-1*. All were males, and their ages varied across the age

Figure 13-1: Race of Incoming Georgia Inmates Convicted of Sexual Assault Against a Person in Custody 1990-1999 (n=9)



**Figure 13-2: AGE AT SENTENCING (1990-1999)
Incoming Georgia Inmates Convicted of
Sexual Assault Against a Person in Custody**



groups. See *Figure 13-2*.

These offenders are, for the majority, of average intelligence. Two scored an above average intelligence and only one showed a mental impairment. See *Figure 13-3*. Three of these offenders had a high school diploma; one had completed some college coursework, one had a bachelors and one a masters

**Figure 13-3: IQ Scores
Incoming Georgia Inmates (1990-1999)
Sexual Assault Against a Person in Custody**

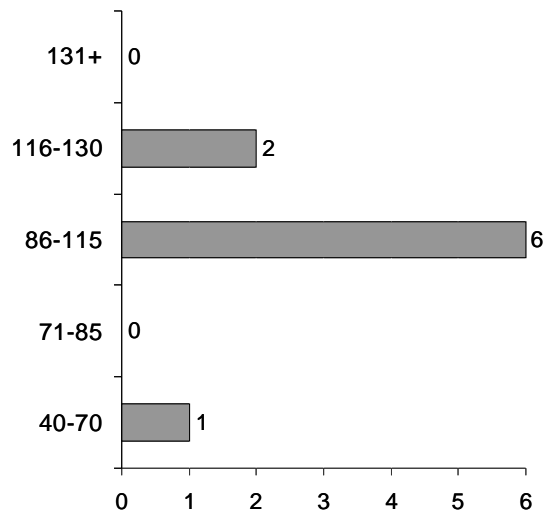
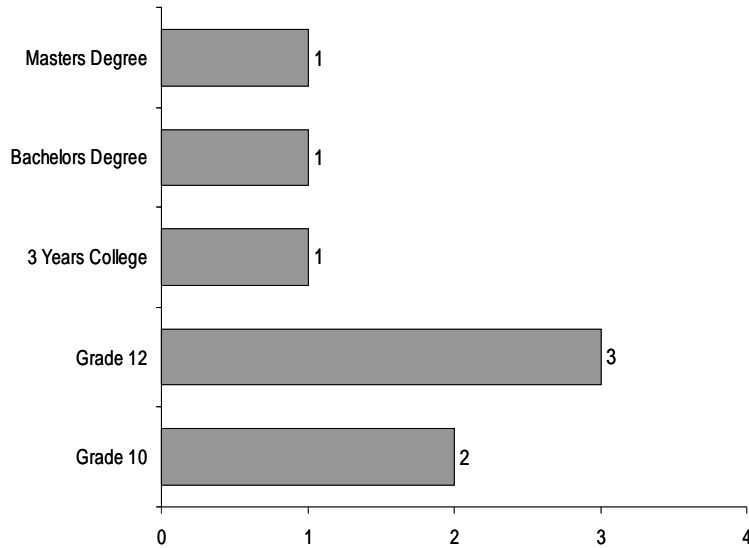


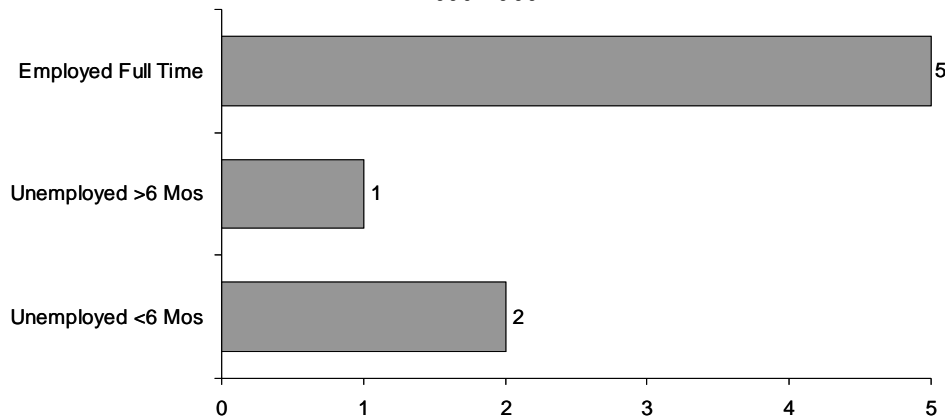
Figure 13-4: Educational Level of Incoming Georgia Inmates Convicted of Sexual Assault Against a Person in Custody 1990-1999



degree. See *Figure 13-4*.

Five of the offenders processed through the GDCP reported being employed full-time when they were arrested. One had been unemployed for more than six months prior to their arrest, and two reported being unemployed less than six

Figure 13-5: Employment Status of Incoming Georgia Inmates Convicted of Sexual Assault Against a Person in Custody 1990-1999

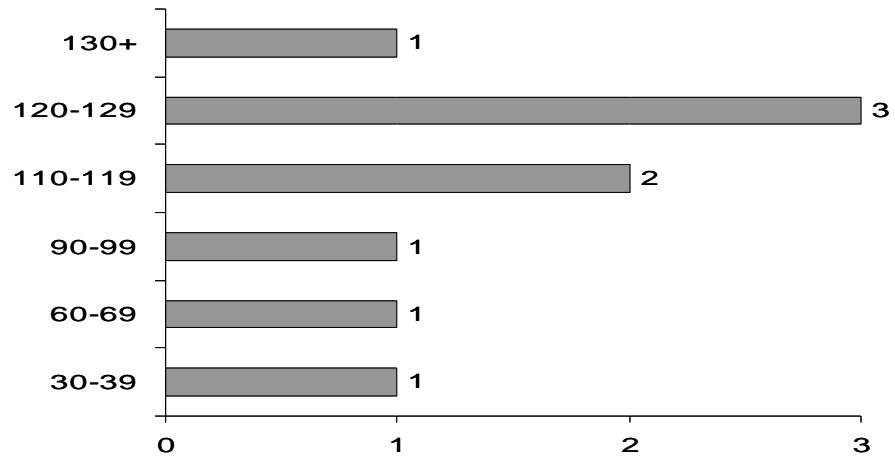


months prior to arrest. See *Figure 13-5*.

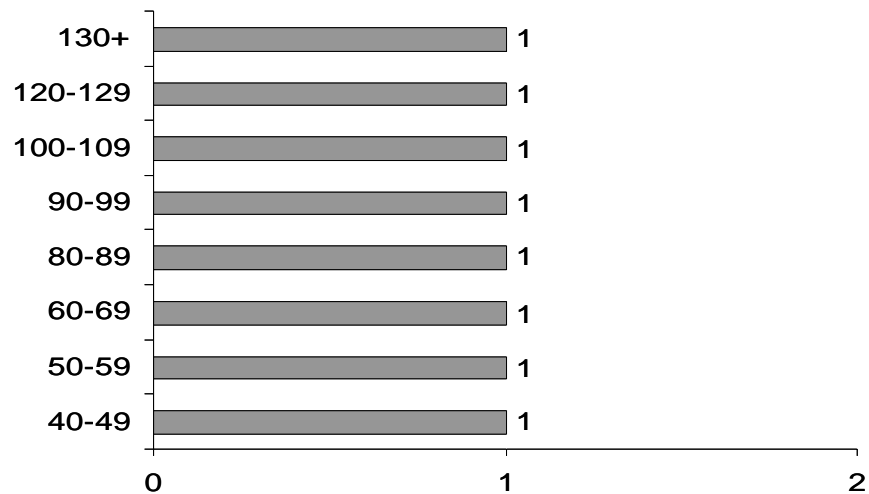
All but one of the offenders imprisoned for sexual assault against a person in custody were classified at intake as being “middle class.”

Five of the inmates tested at the eleventh and twelfth grade reading levels; one tested at the ninth grade level, and another tested at the sixth grade level. One was mentally impaired and one gifted. The WRAT-Math scores were evenly

**Figure 13-6: WRAT – Read Scores
Incoming Georgia Inmates (1990-1999)
Sexual Assault Against a Person in Custody**



**Figure 13-7: WRAT – Math Scores
Incoming Georgia Inmates (1990-1999)
Sexual Assault Against a Person in Custody**



distributed across eight score ranges. See *Figure 13-6* and *Figure 13-7*.

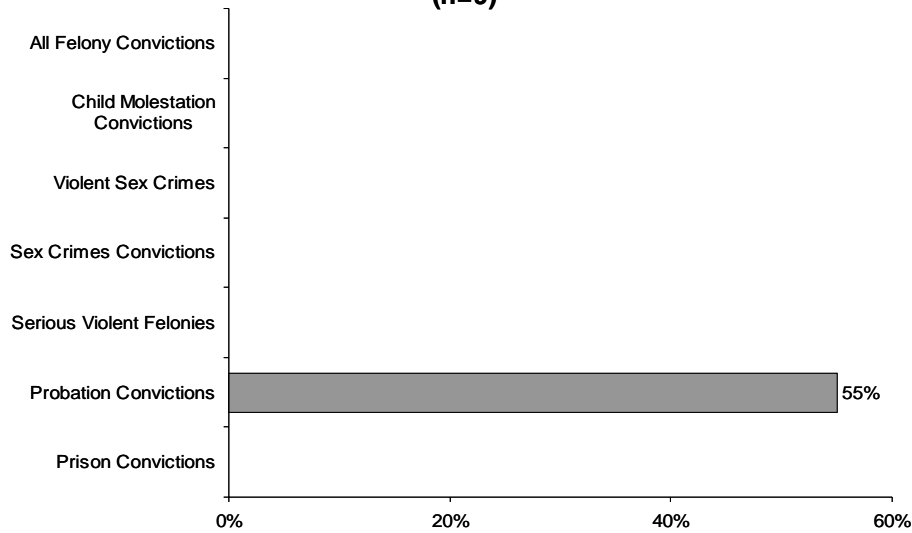
Diagnosed Behaviors of Imprisoned Offenders

As determined by the diagnostic counselor during the classification process, only one of the incoming offenders was classified as being a drug experimenter. Only one of the inmates was classified as alcohol abuser; the others showed no evidence of drug or alcohol problems.

Criminal Histories of Imprisoned Offenders

Five of the inmates incarcerated for sexual assault against a person in custody had been convicted of a crime in the past that resulted in probation. See *Figure*

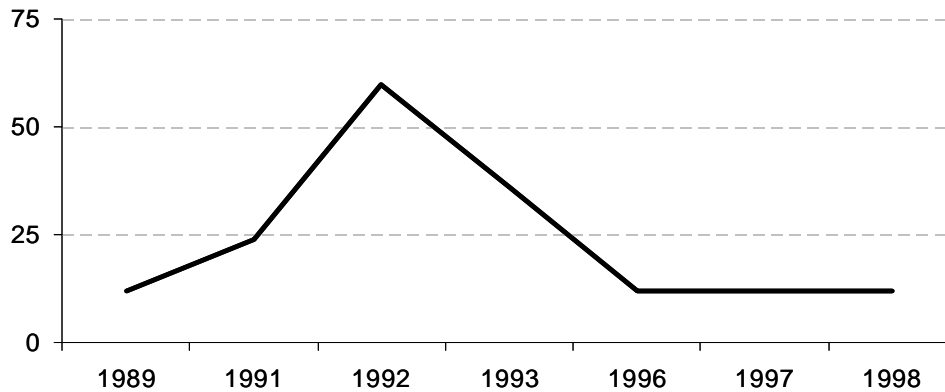
**Figure 13-8: Criminal Histories of
Court Commitments to Georgia Prison
for Sexual Assault Against a Person in Custody
1990-1999
(n=9)**



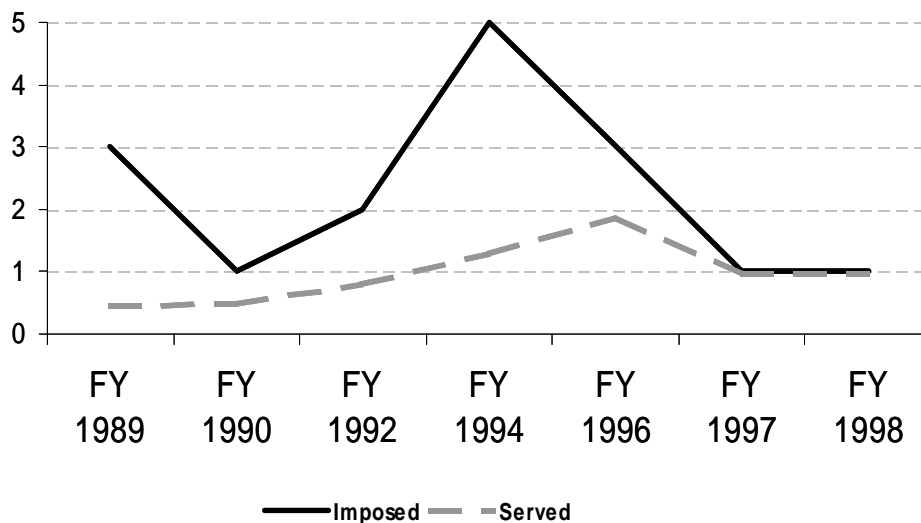
13-8. No other criminal history information was recorded in OTIS.
Sentencing Patterns

The mean sentence length, in months, imposed upon these offenders from 1989 to 1998 is shown in *Figure 13-9*. Sentences peaked at over 50 months in 1992 and have since dropped to 1989 levels of less than 20 months. Sentences imposed and served on the inmates released from custody from FY1988 to FY1998 are shown in *Figure 13-10*. These imposed sentences ranged from 5 in 1994 to current

**Figure 13-9: Sentence Length (in Months)
Incoming Georgia Inmates (Excluding "Lifers")
Sexual Assault Against a Person in Custody
1989-1998**



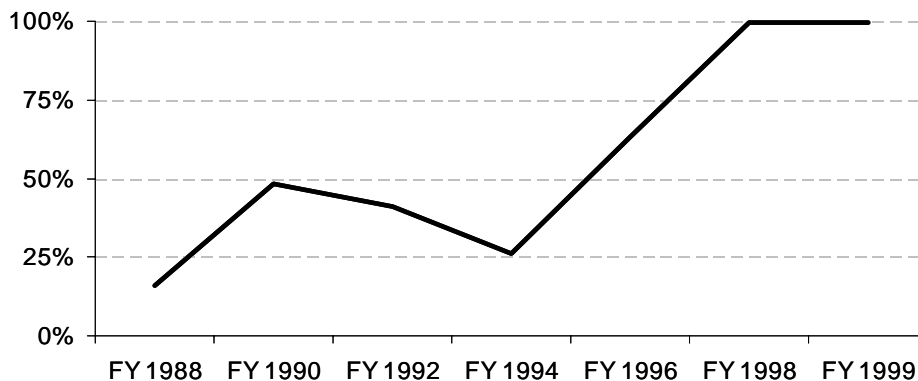
**Figure 13-10: Sentences Imposed and Served
(Excluding Life Sentences)
1989-1998 Releases from Prison
Sexual Assault Against a Person in Custody**



lengths of one year.

For *exiting* inmates, the percentage of their sentences that these offenders have actually served in prison has significantly increased since FY1988; it now ap-

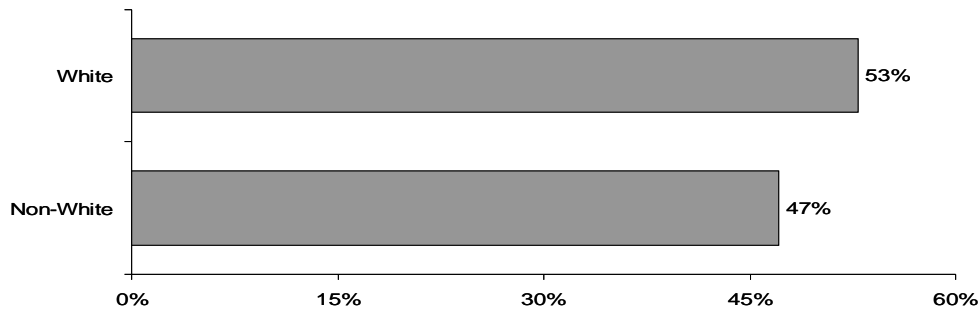
**Figure 13-11: Percent Time
Served
Georgia Releases
1988-1999
Sexual Assault Against a
Person in Custody**



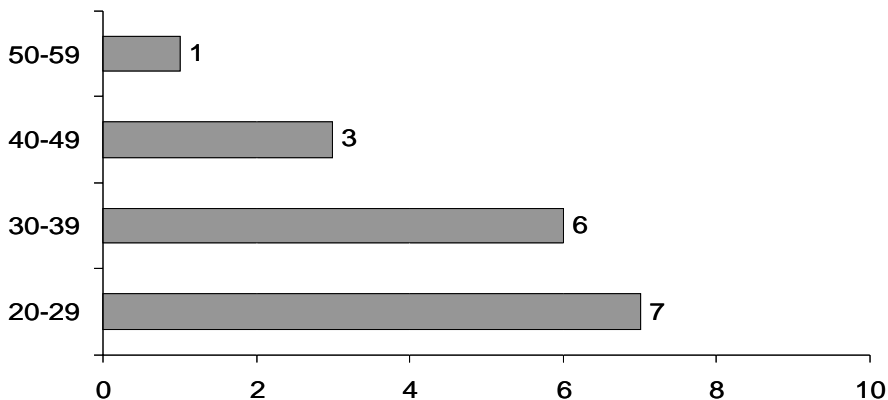
proaches 100%. See *Figure 13-11*.
Probationers

Of the 17 victims of sexual assault against persons in custody sentenced to felony-length terms of supervised probation during the past four years, 53% were white and 47% were non-white. See *Figure 13-12*. All were male offenders,

**Figure 13-12: Race of Probation Starts
Sexual Assault Against a Person in
Custody
1995-1998**



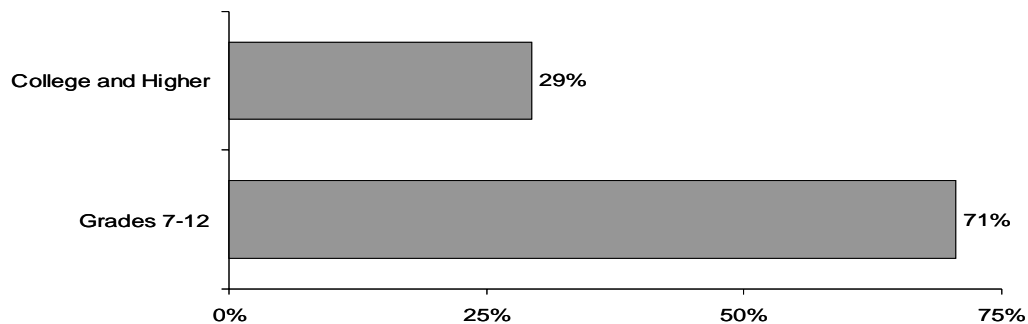
**Figure 13-13: Mean Age at Start of Probation
1995-1999
Sexual Assault Against a Person in Custody**



most were 20-39 years old. See *Figure 13-13*.

A similar percentage of these probationers had completed grades 7-12 (71%) relative to the inmates (72%), and the groups' percentage of completion of post-secondary education was also very similar (29% and 28%, respectively). Com-

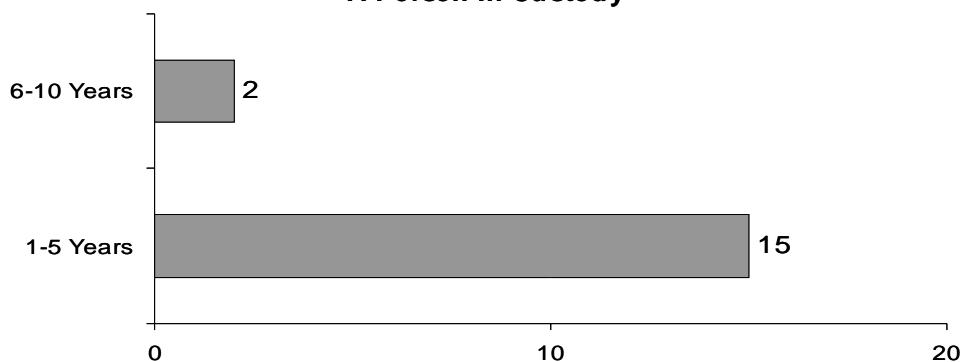
**Figure 13-14: Educational Level
New Probation Starts
1995-1999
Sexual Assault Against a Person in Custody**



pare *Figure 13-14* with *Figure 13-4*.

None of the probationers had a felony conviction in their criminal history, and the most frequently imposed probated sentence for sexual assault against a person in custody was 1-5 years (15 offenders), with 6-10 years being second (2 offenders). See *Figure 13-15*.

**Figure 13-15: Sentence Length for Most Serious Offense
Probation Starts 1995-1999
Convicted of Sexual Assault Against
A Person In Custody**



CHAPTER FOURTEEN

Aggravated Stalking

Statutory and Decisional Law

“A person commits the offense of aggravated stalking when such person, in violation of a bond to keep the peace ... , temporary restraining order, temporary protective order, permanent restraining order, permanent protective order, preliminary injunction, or permanent injunction or condition of pretrial release, condition of probation, or condition of parole in effect prohibiting the behavior described in this subsection, follows, places under surveillance, or contacts another person at or about a place or places without the consent of the other person for the purpose of harassing and intimidating the other person” (O.C.G.A. § 16-5-91(a)).

In Georgia, a person convicted of aggravated stalking is guilty of a felony and upon conviction can be punished by imprisonment for not less than one nor more than ten years. See O.C.G.A. § 16-5-91(b).

Inclusion in Study Explained

While aggravated stalking is not, in and of itself, a crime of sexual assault, it is known that repeated or court order-defying stalking can escalate to physical violence on victims, many of whom are sexually abused by the offenders.

According to a 1998 report, “(t)he National Violence Against Women Survey provides compelling evidence of the link between stalking and other forms of violence in intimate relationships. Eighty-one percent of the women who were stalked by a current or former husband or cohabiting partner were also physically assaulted by the same partner, and 31 percent of the women who were stalked by a current or former husband or cohabiting partner were also sexually assaulted by the same partner” (*Stalking in America: Findings From the National Violence Against Women Survey*, Tjaden and Thoennes, 1998).

Inmate Characteristics

The 155 defendants who were convicted of aggravated stalking and sentenced to the State prison system were evenly distributed as to race: one-half were white and one-half were non-white. See Figure 14-1. Only 2% of those defendants who entered the State system for aggravated stalking were females. Nearly one-half (48%) of these incarcerated offenders were age 30- 39; the next most frequent age group was 20-29 years (30%). See *Figure 14-2*.

Figure 14-1: Race of Incoming Georgia Inmates Convicted of Aggravated Stalking 1990-1999 (n=155)

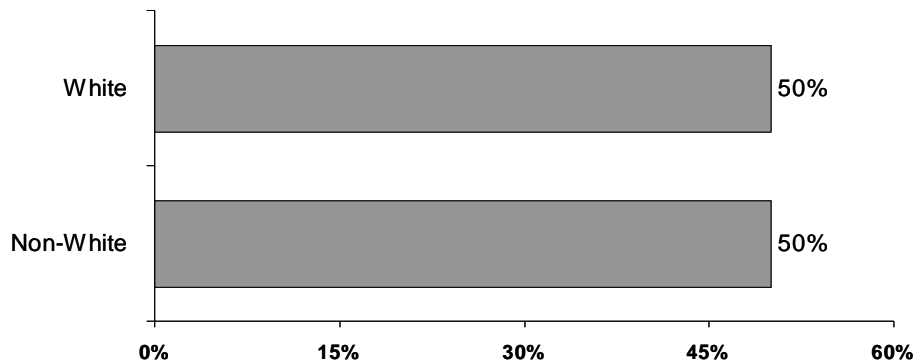
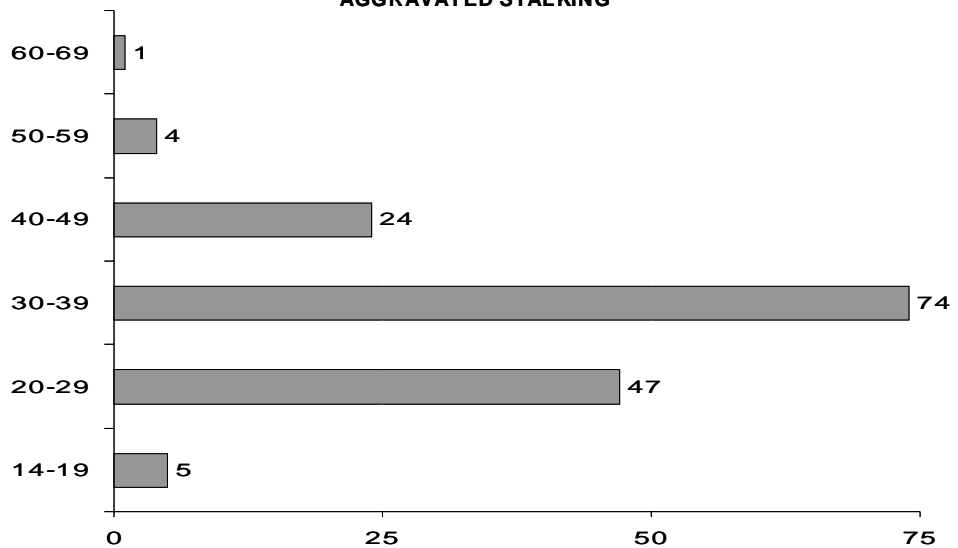
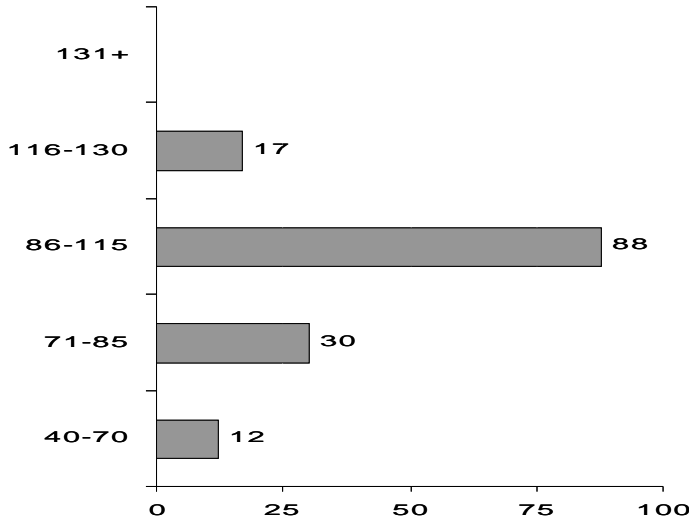


Figure 14-2: MEAN AGE AT SENTENCING (1990-1999) Incoming Georgia Inmates Convicted of AGGRAVATED STALKING

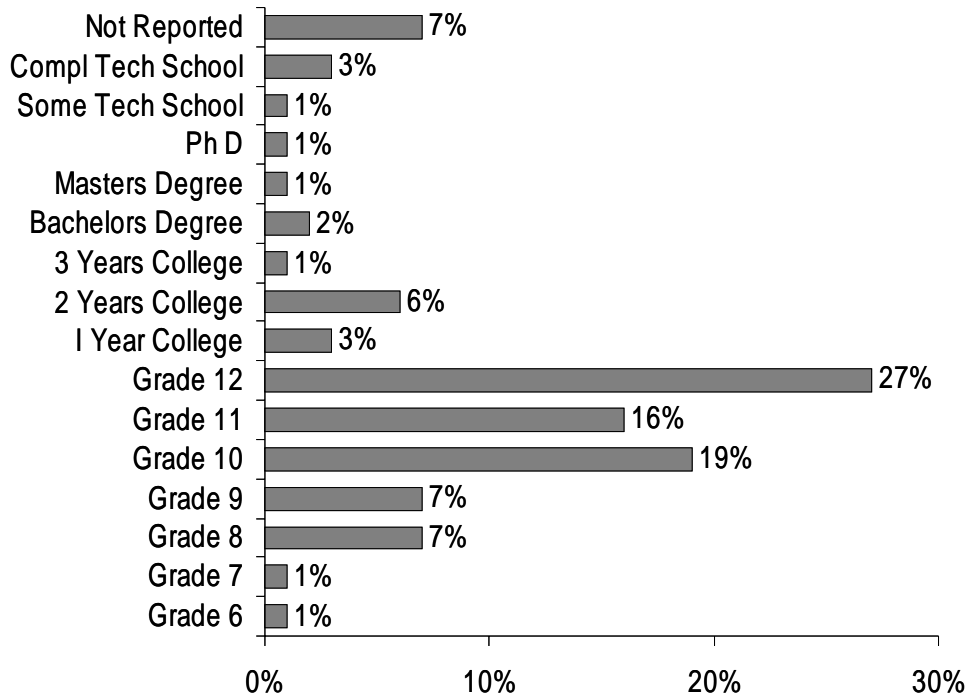


Fifty-seven percent of this group was of average intelligence. Nineteen percent scored a level indicating borderline mental impairment. The mentally impaired ranking captured eight percent of this offender group and a surprising 11% showed above average intelligence. See *Figure 14-3*. The highest level of education most frequently attained by aggravated stalkers sentenced to prison in Georgia was a high school diploma (27%). Tenth and eleventh grade educational levels were the second most frequent (19% and 16%, respectively), followed distantly by ninth grade and eighth (7%). Offenders with at least some college education comprised a significant percentage (14%) of the total aggravated stalker offender population. See *Figure 14-4*.

**Figure 14-3: IQ Scores
Incoming Georgia Inmates (1990-1999)
AGGRAVATED STALKING**



**Figure 14-4: Educational Level of
Incoming Georgia Inmates
Convicted of Aggravated Stalking
1990-1999**



Sixty-seven percent of the aggravated stalkers processed through the GDCP reported being employed full-time when they were arrested. Only 7% reported having been unemployed for more than six months prior to their arrest, and only 8% reported being unemployed less than six months prior to arrest. See *Figure 14-5*. Over one-half (59%) of the aggravated stalkers were classified at intake as being “middle class,” with less than one-quarter (23%) having been classified as “minimum standard.” See *Figure 14-6*.

Figure 14-5: Employment Status of Incoming Georgia Inmates Convicted of Aggravated Stalking 1990-1999

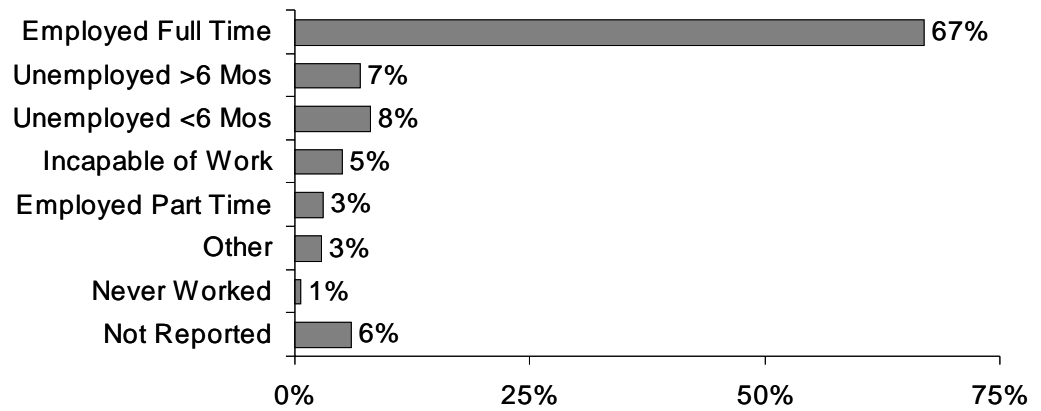
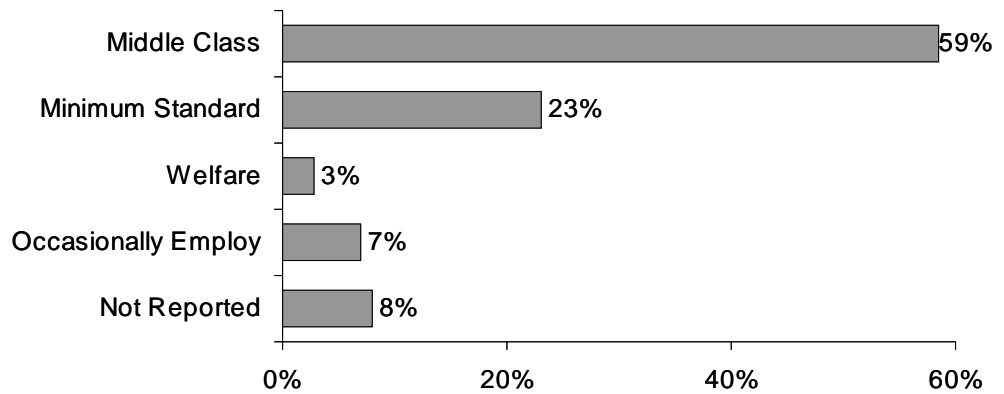
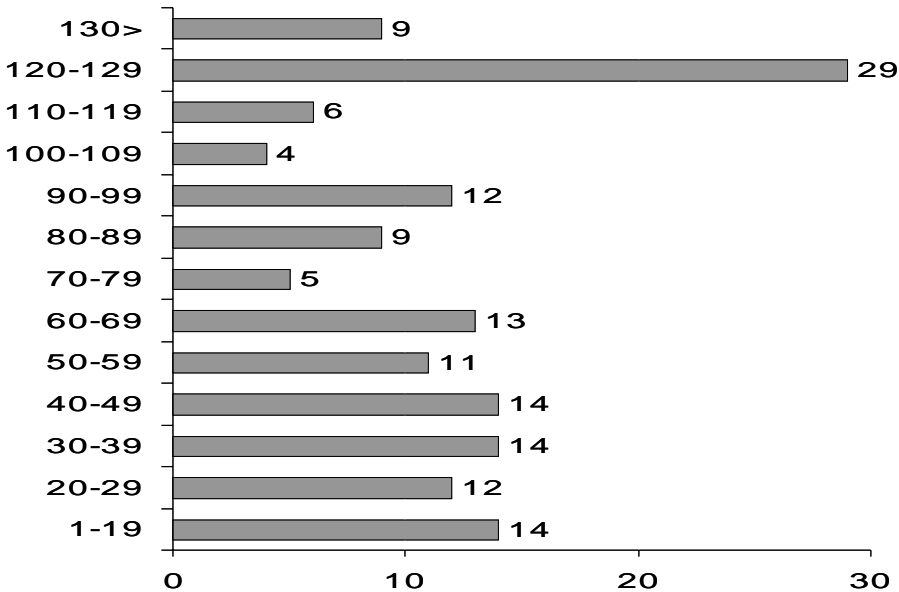


Figure 14-6: Social Class of Incoming Georgia Inmates Convicted of Aggravated Stalking 1990-1999

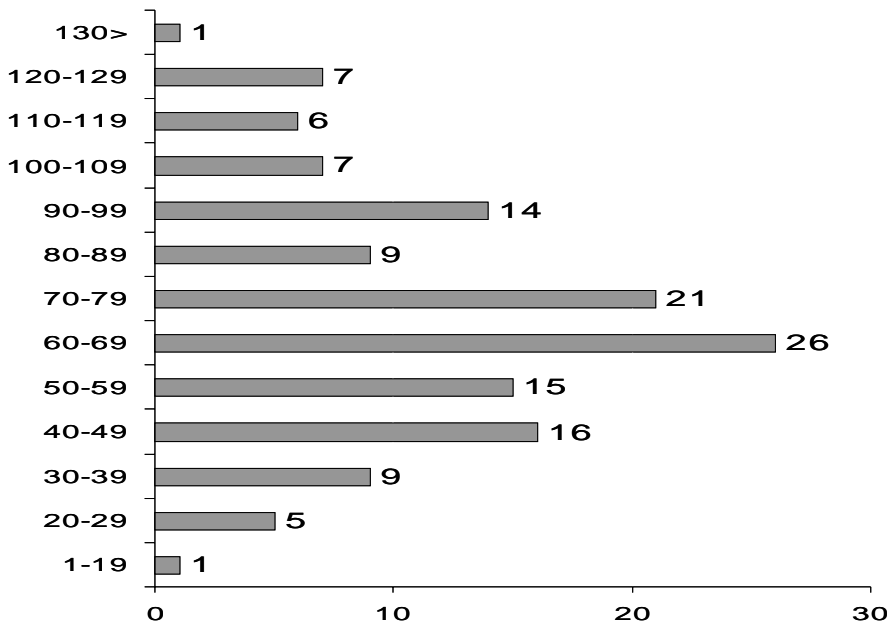


More inmates scored at the twelfth grade range (19%) on the WRAT-Read than any other range; the remaining scores were distributed among the lower reading levels, except for nine inmates who scored higher than twelfth grade level. See *Figure 14-7*. The WRAT-Math scores were distributed around a mode of a sixth grade level. See *Figure 14-8*.

**Figure 14-7: WRAT – Read Scores
Incoming Georgia Inmates (1990-1999)
AGGRAVATED STALKING**



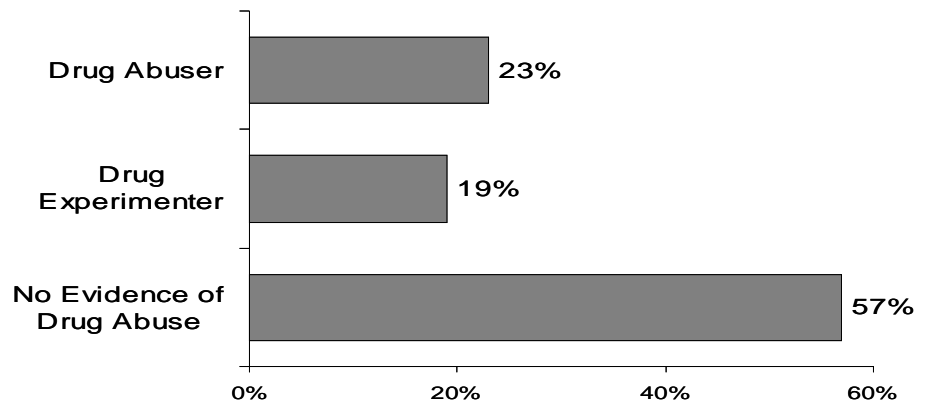
**Figure 14-8: WRAT – Math Scores
Incoming Georgia Inmates (1990-1999)
AGGRAVATED STALKING**



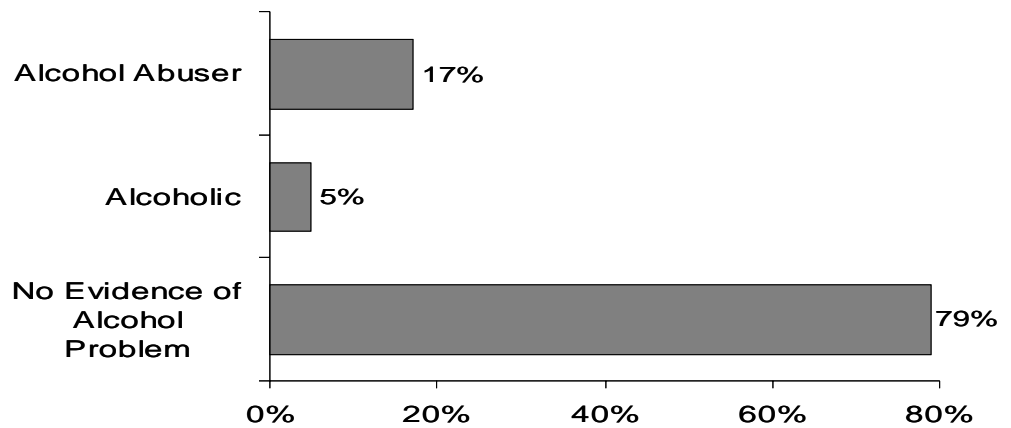
Diagnosed Behaviors

As determined by the GDCP diagnostic process, 42% of the incoming aggravated stalkers were classified as being drug abusers or drug experimenters; 59% of the incoming inmates were classified as showing no evidence of drug abuse. See *Figure 14-9*. Seventeen percent of the inmates were classified as alcohol abusers, and 5% as alcoholics. Over three-quarters (79%) showed no evidence of an alcohol problem. See *Figure 14-10*.

**Figure 14-9: DRUG BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
AGGRAVATED STALKING**

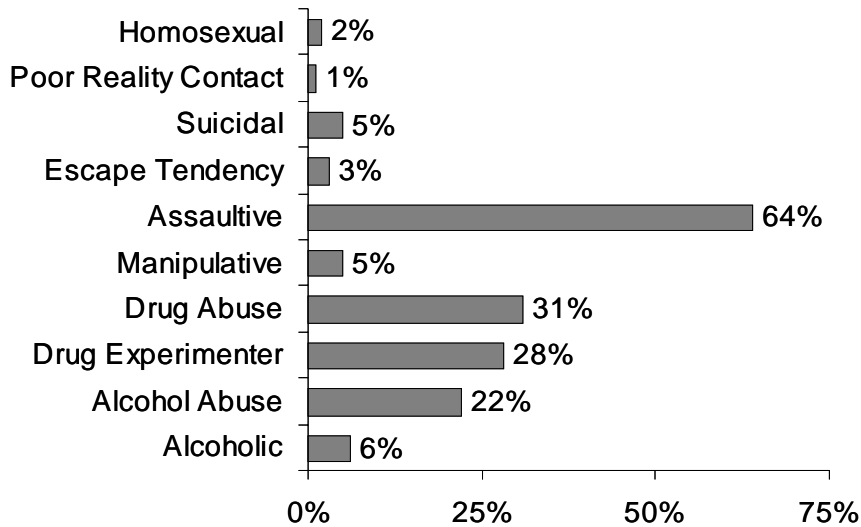


**Figure 14-10: ALCOHOL BEHAVIOR PROBLEMS
INCOMING GEORGIA INMATES
1990-1999
AGGRAVATED STALKING**



Of the numerous behaviors identified and indexed to the 155 imprisoned aggravated stalkers, the most common behavior problem was being assaultive (64%), followed by drug abuse (31%) and drug experimentation (28%). See *Figure 14-11*.

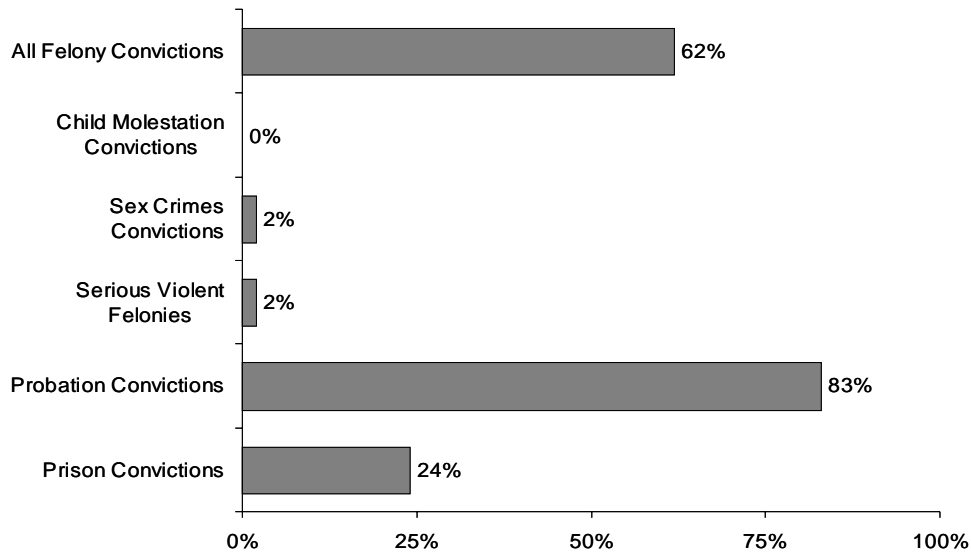
Figure 14-11: DIAGNOSED BEHAVIORS OF INCOMING GEORGIA INMATES 1990-1999 AGGRAVATED STALKING



Criminal Histories of Inmates

Over one-half (62%) of the aggravated stalkers committed to the Georgia prison system had at least one prior felony conviction, and 2% had a conviction for a felony now identified as a “serious violent felony.” None had a prior conviction for child molestation, and 2% had a prior sex crime conviction. Over three-quarters (83%) had histories of prior conviction(s) that resulted in the imposition of a probation sentence (misdemeanor or felony). Twenty-four percent had a prior conviction that resulted in a prison sentence leaving 56% with no prior prison conviction. See *Figure 14-12*.

Figure 14-12: Criminal Histories of Court Commitments to Georgia Prison for Aggravated Stalking 1990-1999 (n=155)



Sentencing Patterns

As Figure 14-13 highlights, the annual number of admissions of aggravated stalkers generally has been increasing since 1989; in 1998, 34 offenders were admitted to Georgia prisons. The mean prison sentence length imposed on these offenders has varied between 30 and 40 months during the past four years, while the median sentence has remained level at 24 months. See *Figure 14-14*.

Figure 14-13: Non-Life Sentences Incoming Georgia Inmates Convicted of Aggravated Stalking

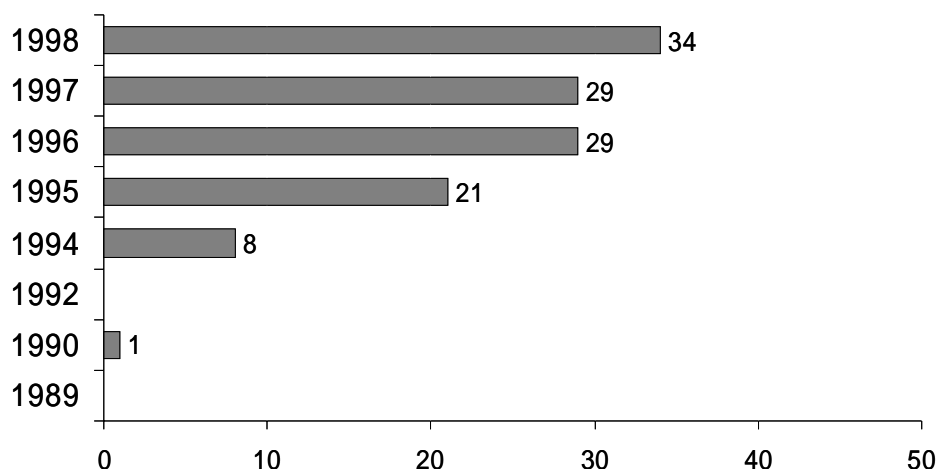
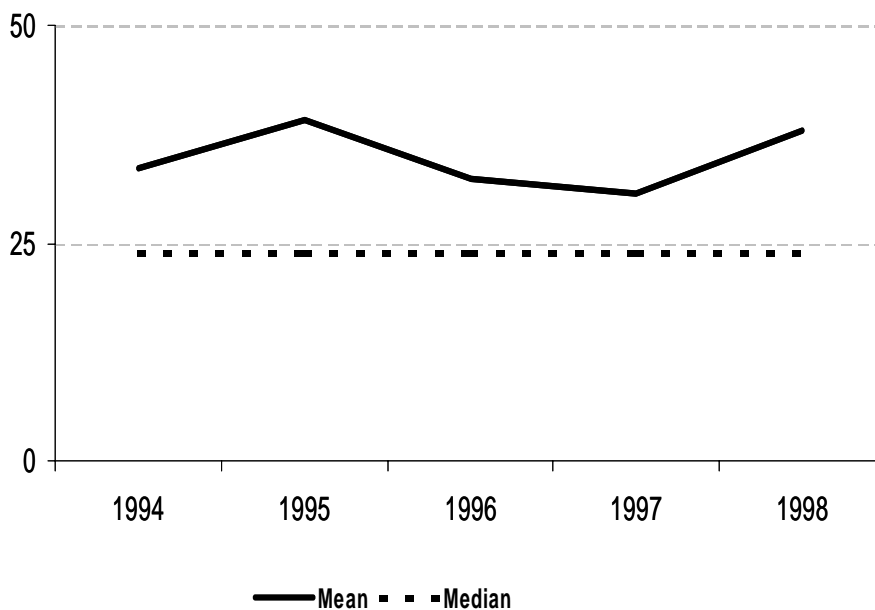


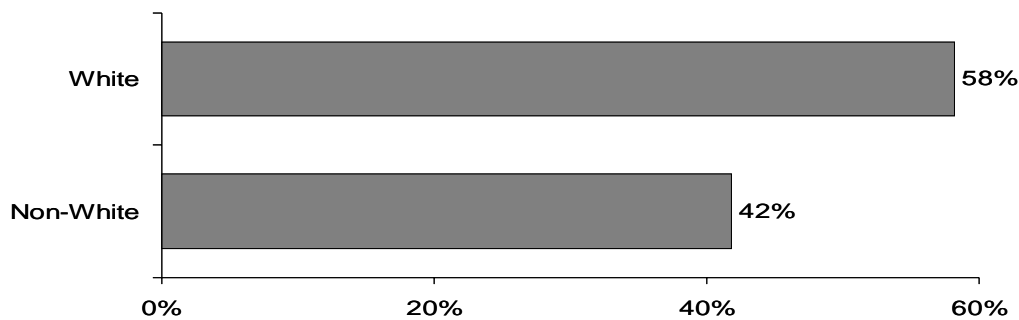
Figure 14-14: Sentence Length (in Months) Incoming Georgia Inmates (Excluding "Lifers") AGGRAVATED STALKING



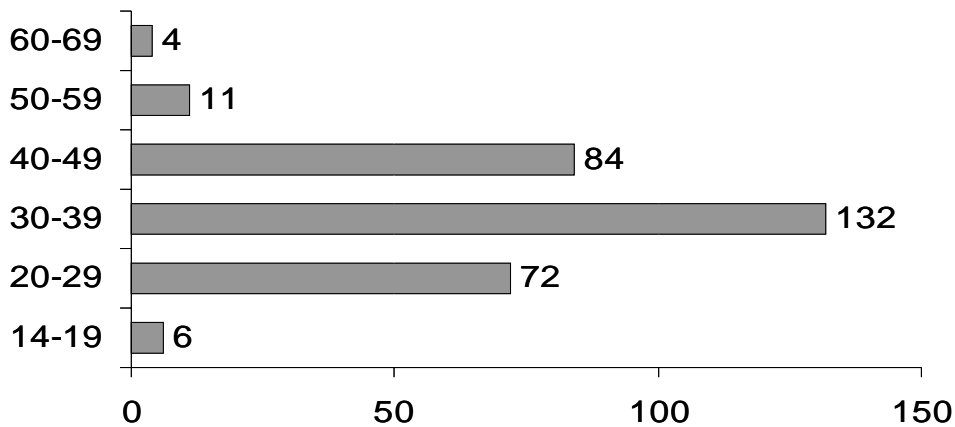
Probationers

Of the 309 aggravated stalkers sentenced to felony-length terms of supervised probation during the past four years, 58% were white and 42% were non-white. See *Figure 14-15*. As were the inmates admitted from 1989-1998, the probationers were mostly 30-39 year olds. See *Figure 14-16*. In comparison to the inmates, a higher percentage of the probationers had completed 7-12 years of school (77% - 80%), while, as a percentage, more probationers (20%) than inmates (14%) had completed some college coursework or more post-secondary education. Compare *Figure 14-17* with *Figure 14-4*.

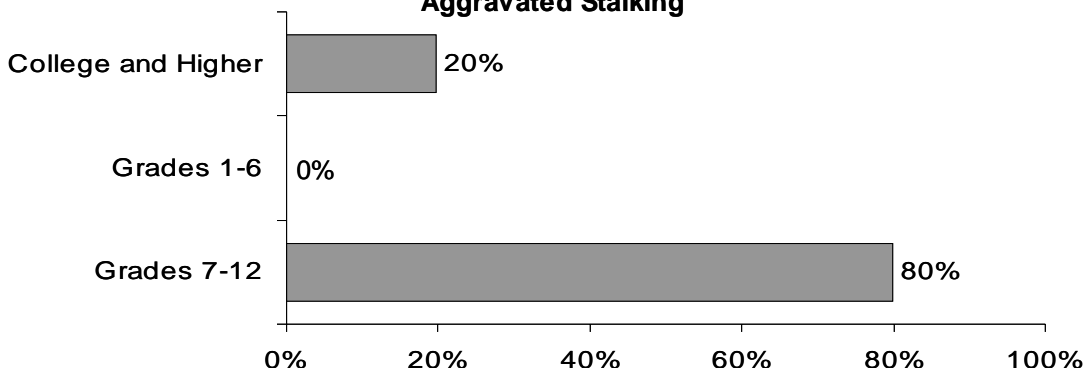
**Figure 14-15: Race of Probation Starts
Convicted of Aggravated Stalking
1995-1998**



**Figure 14-16: Mean Age at Start of Probation
1995-1999
Aggravated Stalking**

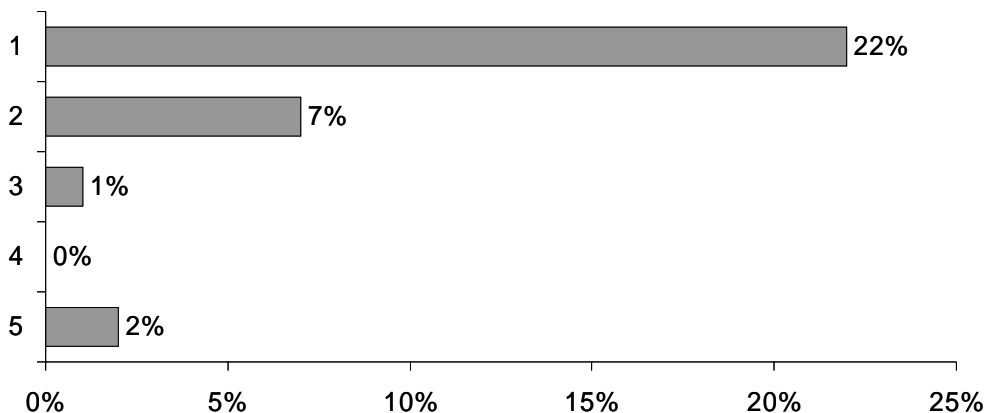


**Figure 14-17: Educational Level
New Probation Starts
1995-1999
Aggravated Stalking**

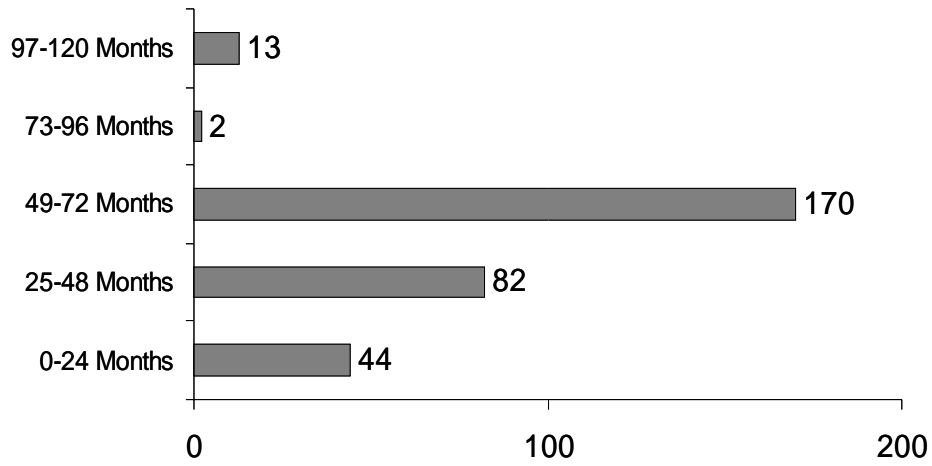


Thirty-two percent of the probationers had a felony conviction in their criminal history, as compared to 62% of the inmates. Compare *Figure 14-18* with *Figure 14-12*. The most frequently imposed probated sentence for aggravated stalking was 49-72 months, with 25-48 months being a distant second. See *Figure 14-19*.

**Figure 14-18: Number of Felony Convictions
in Probationer's Past
New Starts 1995-1999
Aggravated Stalking**



**Figure 14-19: Sentence Length for Most Serious Offense
Probation Starts 1995-1999
Aggravated Stalking**



CHAPTER FIFTEEN

Summary and Conclusion

This document was designed to serve as the source of baseline data on the characteristics of sexual assaulter offenders in Georgia and their accountability as measured by sentence impositions.

Data drawn from OTIS, compiled and analyzed by the authors, and presented in this report served as the basis for a comprehensive overview of current knowledge about these offenders and the sanctions that they received by superior courts across Georgia over the past ten years.

Limitations of the Analyses

While the data in this report might have improved the understanding of sexual assault offenders in Georgia, and have illuminated important trends in sexual assault offender accountability in Georgia, it is important to remember that the focus of the analyses was on *convicted offenders only*.

Beyond the scope of the study was an examination of the numbers and types of arrests for sexual assault offenses in Georgia, the outcomes of the accusation and pre-trial phases, and the manner in which all cases against criminal defendants are ultimately adjudicated or disposed. We know that there “are more persons arrested than charged, more persons charged than finally brought to adjudication, more persons adjudicated than found guilty, and more persons found guilty than subjected to incarceration. As the caseload moves through it, the criminal justice process sifts out cases ...” (Wayne LaFave, *Modern Criminal Law: Cases, Comments and Questions*, § 1, p. 13 (1988)). If that reality is conceptualized as a funnel into which a person’s entry into the system is initiated by arrest, then the current study was limited to a review of the narrow range of cases that poured out of the spout at the end of the sequence of events. In short, the study was not an empirical study of the many consequences of the various decision-making stages within the complex adult criminal justice system.

Highlights of the Analyses

While it is evident that there is considerable diversity among these offenders, several introductory generalizations can be made. One, females account for a very small percentage of convicted and sentenced offenders; and two, as a percentage of the total, most child victim offenders who are sentenced to prison in Georgia are white (70-77%), and most rapists (rape, attempted rape, and statutory rape) who are sentenced to prison are non-white (59-70%). This generalization about race among prisoners can also be made about probationers. As a percentage, most of the child-victim offenders who are sentenced to prison in Georgia are white (58-65%), and most rapists (rape, attempted rape, and statutory rape) who are sentenced to probation are non-white (55-86%).

Across all of the crime groups, 40-55% of the imprisoned offenders tested at the 86-115 I.Q. range which indicates average intelligence (except for attempted rape - 39%).

The age distribution of the inmates was consistent across the crimes, with the 20-29 age range being the most frequent. The percentage of offenders in the 30-39 age range was, however, more than those in the 20-29 age range for three of the crimes (child molestation, aggravated child molestation, and aggravated sodomy).

Generally, a high school degree was the educational level most frequently attained by the inmates

The percentage of inmates who were employed full-time at the time of their arrest ranged from a low of 25% for offenders convicted of attempted aggravated sodomy to a high of 64% for offenders convicted of aggravated sexual battery. At least 50% of the offenders sentenced to prison in all crimes except aggravated sexual battery were classified as “middle class.”

Another key finding is that while for those inmates who were diagnosed with some type of behavior problem, drug experimentation or drug abuse were the two most prevalent diagnoses. Across all crimes except for one, attempted aggravated sodomy, at least 50% of the incoming inmates at the GDCP were diagnosed as having no drug or alcohol problem.

The annual numbers of child-victim offenders admitted to Georgia prisons was generally down in the early 1990, but then rebounded in the latter years of the decade. The number of inmates admitted for rape convictions noticeably declined during the 1990's, but no pattern emerged for admissions for attempted rape. Statutory rape admissions skyrocketed after 1996. Aggravated sexual battery and aggravated sodomy admissions showed opposite trends during the decade, the former increasing five-fold, and the latter decreasing by almost one-half.

Non-life sentence lengths remained relatively stable for imprisoned child molesters; they increased for aggravated child molesters, and spiked, but then dropped for child enticers. Sentence lengths, excluding “life” sentences for imprisoned forcible rapists increased until the mid-1990's, but then decreased until the end of the decade. There was no pattern in the lengths of sentences for imprisoned attempted rapists. Statutory rape sentence lengths saw a gradual decline throughout the time period studied.

The most pronounced and significant trend detected by the study was the substantial increase in the percentage of the court-imposed prison sentence being served by persons convicted of sexual assault during the latter part of the 1990's. From percentages as low as 20-30%, across all sex crimes studied the average proportion of sentences served in prison by these offenders dramatically increased to levels of 70-90%. The percentages of prison sentences served by offenders ranged from a low of 20-30% to a high of 70-90%.

Recommended Research Agenda

This report presents currently available State data, but it is anticipated that even more could be learned as the Criminal Justice Coordinating Council gains access to historical data on arrests and case dispositions. The following paragraphs highlight the need for additional and more comprehensive research in the area of sexual offender accountability, specifically the analysis of arrest and case attrition data that precedes case disposition data.

The analyses reported here should be seen, however, as an initial step in the State's attempt to assess sexual assault offender accountability. A promising area for future research would be the comprehensive review of sexual assault case initiation, attrition, and disposition that would include data from all phases of the total process by which the state apprehends, tries, and punishes sexual assault offenders.

The development of useful state-specific knowledge of sexual assault case generation and adjudication could commence with detailed multi-year analyses of criminal history record information indexed to persons arrested for sexual crimes in Georgia. That data, if subjected to a proper quantitative research methodology, could potentially yield valuable information to support informed policy decisions towards the achievement of the State's goal of increasing sexual assault offender accountability.

Longitudinal analyses of case processing (providing a summary of the time between key points in the system) supported by criminal history record information submitted by law enforcement and court agencies could highlight the results of effective relationships among police, defense attorneys, public prosecutors, service providers, advocates, and judges.

In those judicial circuits in which data outcomes might raise an inference of effective prosecution strategies and cooperative initiatives, on-site process evaluations could document in detail the structure and processes pertinent to sexual assault cases.

In addition to modeling effective criminal justice responses to these types of crimes, the quantitative historical information could serve as baselines against which the impact of new system enhancements (VAWA funded initiatives) could be measured in the future.

