

# Virginia State Crime Commission Sex Offender Task Force

## Supplemental Recidivism Analysis of Virginia's Sex Offenders

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Virginia Criminal Sentencing Commission  
October 25, 2005





# Sex Offender Recidivism in Virginia 2005 Study

# Sex Offender Recidivism Analysis - Methodology

- All FY1998, FY1999 and FY2000 releases from prison and jail, as well as those given probation without active incarceration, were identified
  - 2,080 felony sex offenders identified
  - Minimum of 5-year follow-up for all releases (average – 6 ½ years)
- Criminal history reports (rap sheets) were requested from State Police
  - Virginia
  - FBI
  - Other states

# Sex Offenders Released from Prison and Jail or Placed on Supervised Probation FY1998, 1999, 2000 (N=2,080)

<b>Initial Conviction Offense</b>	<b>Offenders</b>	<b>Percent of Cases</b>
<b>Aggravated Sexual Battery</b>	<b>675</b>	<b>32.5%</b>
<b>Rape</b>	<b>492</b>	<b>23.6</b>
<b>Carnal Knowledge</b>	<b>326</b>	<b>15.7</b>
<b>Indecent Liberties</b>	<b>303</b>	<b>14.6</b>
<b>Forcible Sodomy</b>	<b>156</b>	<b>7.5</b>
<b>Non-forcible Sodomy</b>	<b>64</b>	<b>3.1</b>
<b>Object Sexual Penetration</b>	<b>27</b>	<b>1.3</b>
<b>Kidnap Immoral Purpose</b>	<b>25</b>	<b>1.2</b>
<b>Incest</b>	<b>12</b>	<b>.5</b>






The four most serious statutory crimes (rape, forcible sodomy, object penetration and aggravated sexual battery) comprised 2 out of every 3 cases studied.



# Sex Offenders Released from Prison By Type of Release FY 1998, 1999, 2000 (N=1,345)

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<b>Release Type</b>	<b>Cases</b>	<b>Percent of Cases</b>
<b>Released on Parole</b>	<b>918</b>	 <b>68.3%</b>
<b>Released under Truth-in-Sentencing</b>	<b>356</b>	 <b>26.5%</b>
<b>Release Type Unknown</b>	<b>71</b>	 <b>5.3%</b>

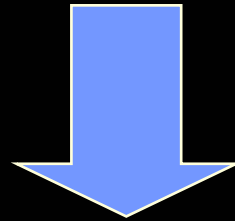
# Sex Offender Recidivism Rates (N=2,080)

Recidivism Measure	Cases	Recidivism Rates
Any New Arrest	1,087	52.3%
Any New Felony Arrest	854	41.1%
Any New Conviction	824	39.6%
Any New Sex or Person Crime Arrest	544	26.2%
Any New Felony Conviction	449	21.6%
Any Sex Offender Registry Violation Arrest	556	26.7%



Depending upon the measure of failure sex offender recidivism rates range from 22% to 52%.

# Recidivism



**a re-arrest for a sex offense  
or other crime against the person**



## For What Types of Crimes were Recidivists Re-arrested?

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Type of New Sex or Person Crime	Cases	Percent of Cases
Felony	317	64%
Misdemeanor	176	36%

**Note:** Analysis is based on recidivism as measured by a new sex or person crime arrest.





# What Type of New Sex/Person Crimes Were Committed By Recidivists?

Type of Crime	Cases	Percent of Cases
Assault	304	62%
Other Sex Offenses	89	18%
Rape	48	9.7%
Kidnapping	15	3%
Robbery	13	2.6%
Criminal Traffic	12	2.4%
Public Order	8	1.6%
Murder	4	.8%



Among those who had a Sex Offender Registry violation arrest, how many were arrested for a new sex or person crime?

Type of Arrest	Cases	Percent of Cases
Arrested for New Sex or Person Crime	234	42.1%
Other	322	57.9%

# Sex Offender Recidivism Rates by Initial Conviction Offense (N=2,080)

Initial Conviction Offense	Cases	Recidivism Rates
Rape	173	35.2%
Carnal Knowledge	112	34.4%
Agg. Sexual Battery	151	22.4%
Object Penetration	6	22.2%
Forcible Sodomy	32	20.5%
Kidnap Immoral Purpose	5	20.0%
Indecent Liberties	55	18.2%
Nonforcible Sodomy	9	14.1%
Incest	1	8.3%



Those initially convicted of rape and carnal knowledge exhibited the highest recidivism rate – over one third.



Among those offenders released for aggravated sexual battery, how many were originally charged with a more serious offense?



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<b>Indictment Offense</b>	<b>Cases</b>	<b>Percent of Cases</b>
<b>Aggravated Sexual Battery</b>	<b>418</b>	<b>81%</b>
<b>Rape</b>	<b>90</b>	<b>17.4%</b>
<b>Kidnapping with intent to defile</b>	<b>3</b>	<b>.6%</b>
<b>Robbery</b>	<b>3</b>	<b>.6%</b>
<b>Burglary with intent to murder, rape or rob</b>	<b>2</b>	<b>.4%</b>



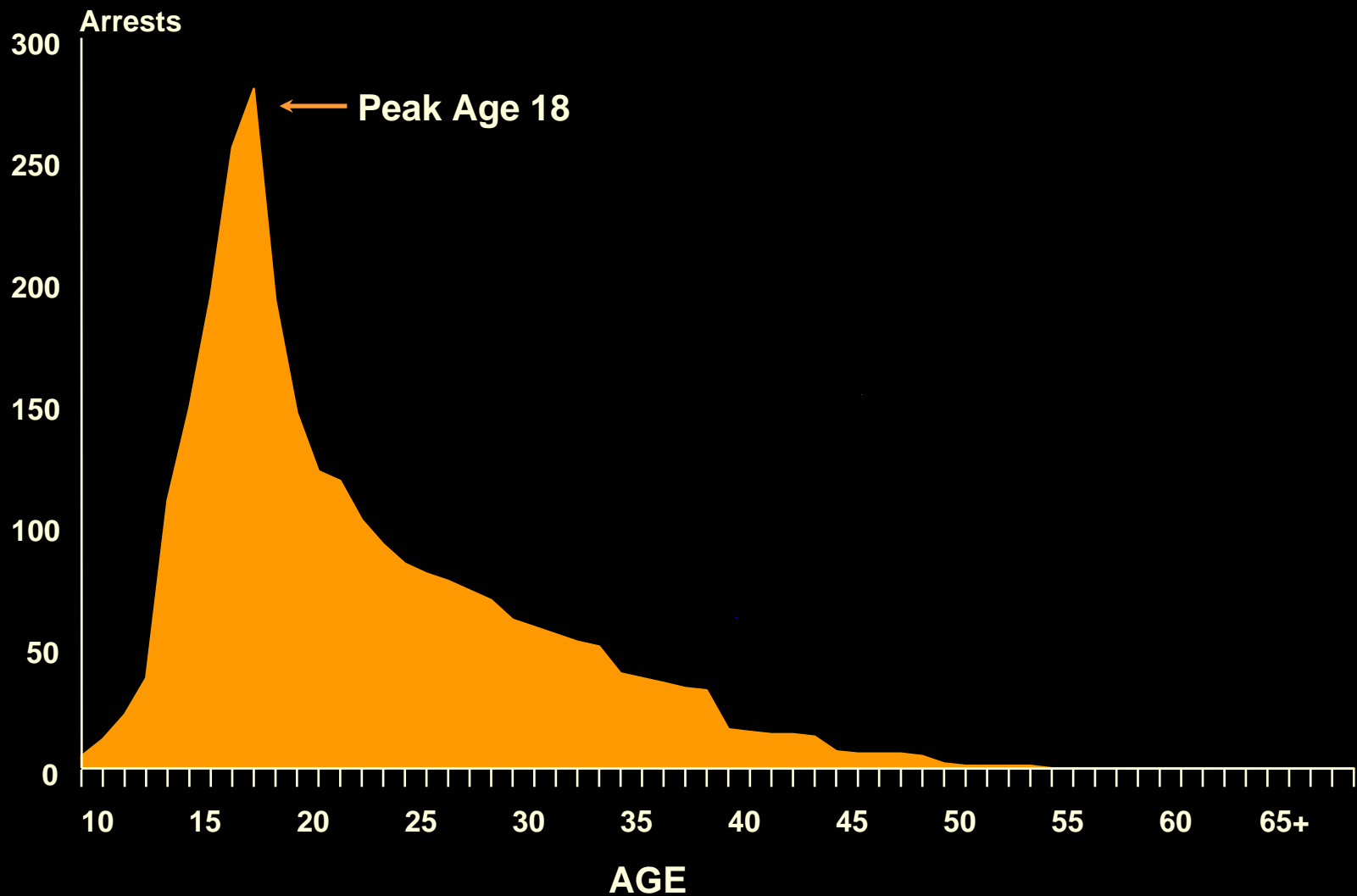
## Did Recidivism Rates Vary Among those Convicted of Different Types of Aggravated Sexual Battery?

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<b>Initial Conviction Offense</b>	<b>Cases</b>	<b>Recidivism Rates</b>
<b>Agg. Sexual Battery Victim under Age 13</b>	<b>414</b>	 <b>19.1%</b>
<b>Agg. Sexual Battery Victim Age 13 and older</b>	<b>153</b>	 <b>23.5%</b>

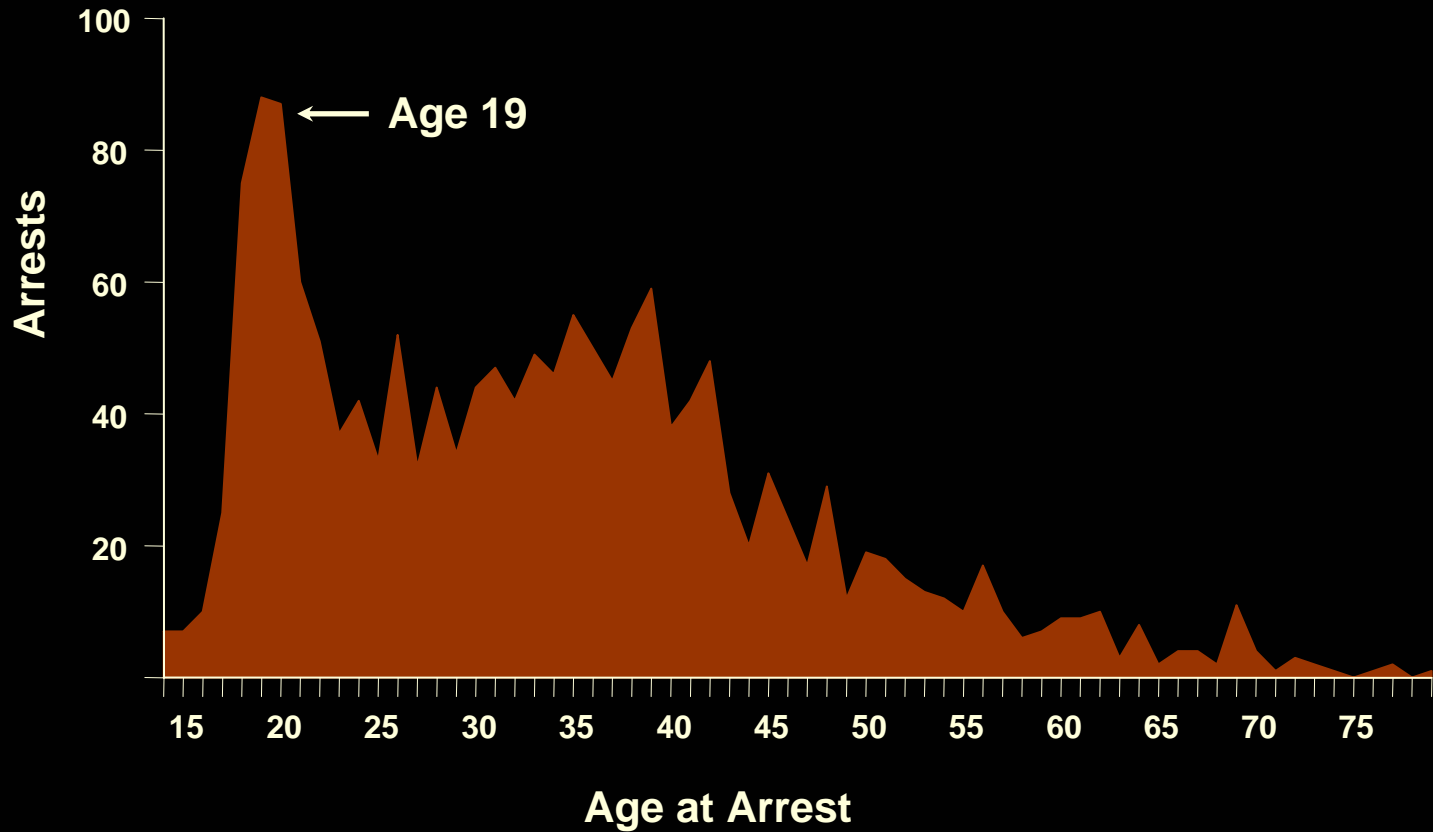


# Age Distribution for Robbery Arrests in Virginia



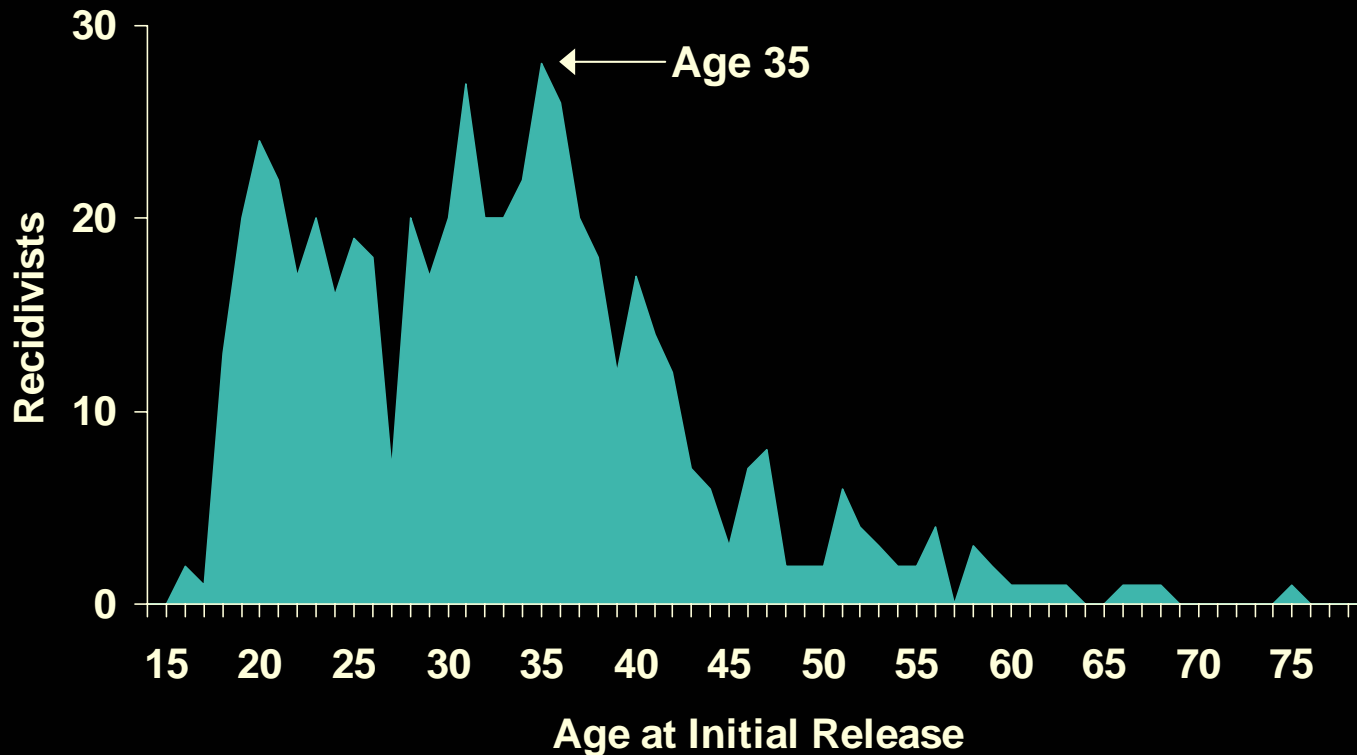


# Age Distribution for Felony Sex Offense Arrestees





# Age Distribution for Felony Sex Offense Recidivists



Note: Analysis is based on recidivism as measured by a new sex or person crime arrest.



# Sex Offender Recidivism Rates by Age at Release from Incarceration or Probation Placement (N=2,080)

Age	Cases	Recidivism Rate
Up to 24	135	36.5%
25 - 34	190	31.7%
35 - 46	170	23.1%
46 or Older	48	13%



While the youngest sex offenders recidivated at the highest rate, the pace of recidivism remained high for offenders into their middle ages.



# What are the Recidivism Rates by Offense and By Age at Release from Incarceration or Probation Placement?

Offense	Recidivism Rates				
	Age at Release				OVERALL
	Up to 24	25 to 34	35 to 46	46 or more	
Rape (n=492)	50.0%	40.1%	28.6%	27.3%	35.2%
Carnal Knowledge (n=324)	36.3%	36.8%	27.5%	0.0%	34.4%
Aggravated Sexual Battery (n=673)	28.2%	27.8%	23.5%	11.3%	22.4%
Object Penetration (n=27)	42.9%	25.0%	16.7%	0.0%	22.2%
Forcible Sodomy (n=155)	27.3%	34.2%	20.9%	5.1%	20.5%
Kidnapping - Intent to Defile or for Immoral Purpose (n=25)	0.0%	25.0%	25.0%	0.0%	20.0%
Indecent Liberties (n=303)	42.3%	20.7%	14.9%	12.2%	18.2%
Non-Forcible Sodomy (n=64)	11.1%	17.4%	17.6%	6.7%	14.1%
Incest (n=12)	NA	0.0%	0.0%	20.0%	8.3%
<b>OVERALL</b>	<b>36.5%</b>	<b>31.7%</b>	<b>23.1%</b>	<b>13.0%</b>	<b>26.2%</b>

Note: Analysis is based on recidivism as measured by a new sex or person crime arrest.



# Virginia State Crime Commission Sex Offender Task Force

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**October 25, 2005**

**Criminal Penalties for Sex Offenses**

**Co-Chairman, Delegate Robert F. McDonnell**

**Co-Chairman, Delegate David B. Albo**



## *Pending Federal Legislation*

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- Other states and the federal government are examining the need for increased penalties for serious sex offenses as a means of protecting the public.
- Currently, there are two notable pieces of Federal legislation to improve the registration, commitment and monitoring of sex offenders, as well as, enhancing the criminal penalties for sex offenses:
  - H.R. 3132 The Children's Safety Act of 2005 (Sensenbrenner); and,
  - H.R. 1505 The Jessica Lunsford Act (Brown-Waite).
- The Children's Safety Act passed the House; the Jessica Lunsford Act remains in subcommittees.



## *Children's Safety Act of 2005*

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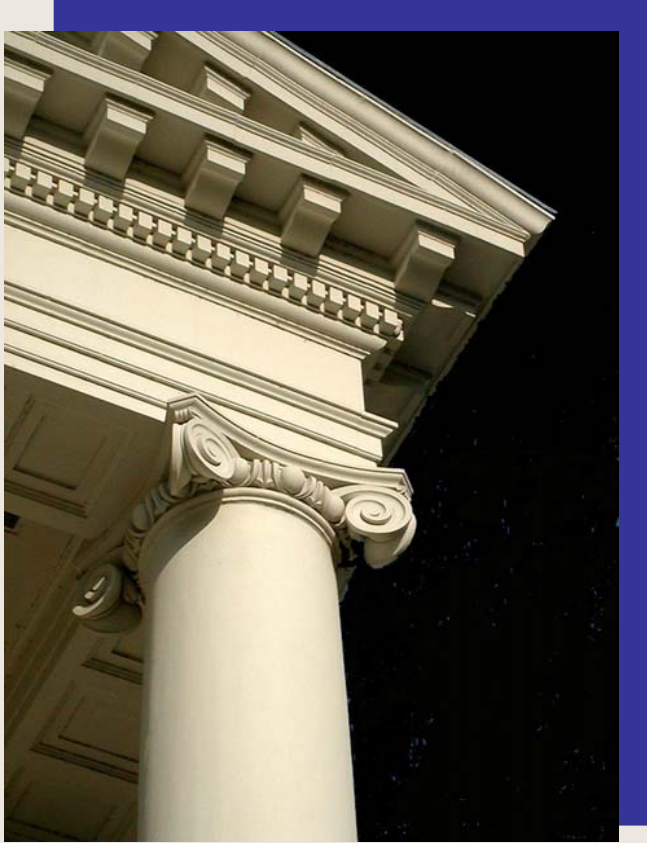
- The Children's Safety Act:
  - (1) Increases penalties for violent crimes against persons under age 12 to include death or life imprisonment if the crime results in the death of a person under that age.
  - (2) Increases penalties for sexual offenses against children:
    - Aggravated Sexual Abuse of Children results in imprisonment of mandatory 30 years to life;
    - Abusive Sexual Contact with Children results in mandatory 10 years imprisonment to 25 years;
    - Activities Relating to Material Involving the Sexual Exploitation of Children results in imprisonment of mandatory 25 years to life for a first offense and life sentence for a second offense; and,
    - Activities Relating to Material Constituting or Containing Child Pornography results in mandatory 25 years to life for a first offense and a life sentence for a second offense.



## *Florida's Jessica Lunsford Act*

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- The State of Florida enacted HB 1877, the Jessica Lunsford Act, on May 2, 2005.
- The Florida Act:
  - Raised the degree of seriousness for the offense of lewd and lascivious molestation of a child 12 years or younger, committed by someone 18 years or older to be considered a life felony;
  - This offense requires a split sentence with a mandatory term of imprisonment of 25 years; and,
  - The offender must remain on electronic monitoring for the remainder of his/her natural life.
- Additionally, HB 1877 requires electronic monitoring for any person who is conditionally released for a crime committed on or after September 1, 2005 and the victim was 15 years or younger.



# Virginia Sex Offender Recidivism

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## *Increased Penalties for Sex Offenses*

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- To determine the adequacy and impact of Virginia's criminal penalties for the most serious sex offenses, staff:
  - (1) examined long-term recidivism for a sample of 2,080 sex offenders released from FY 1998-FY 2000;
  - (2) conducted a review of the *Code of Virginia* to identify the criminal penalties and sentencing practices for serious sex offenses in the Commonwealth; and,
  - (3) reviewed national criminal records for a sample of 378 offenders convicted of the SVP predicate sex offenses that were released from the Department of Corrections since July 1, 2003 to determine the extent of short-term recidivism.





## *Recidivism of SVP Eligible Offenders*

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- Of the 378 SVP eligible sex offenders released from DOC since July 1, 2003:
  - 55 (15%) were re-arrested and charged with at least one felony sex crime;
  - 72 (19%) were re-arrested for one or more other felony crimes; and,
  - 62 (16%) were re-arrested for one or more misdemeanor crimes.
- 47 (12%) were arrested for a violation of the Sex Offender Registry requirements.
- 12 offenders were arrested for 2 or more felony sex offenses.



## *Example: Offender A*

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- Offender A – DOC predicate offense was rape; offender received a 6 year sentence, with 1 year suspended.
- Since July 1, 2003, Offender A has been arrested for 4 felony sex offenses and 7 other felony offenses, including failure to register:
  - 7/23/04 Rape  
Forcible Sodomy  
Abduction and Kidnapping  
Abduction – Extort money for immoral purposes  
Possession/transport of a firearm by a convicted felon  
3 charges of use of a firearm in commission of a felony
  - 9/29/04 Failure to Register
  - 10/8/04 Rape  
Forcible Sodomy



*Example: Offender A*

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- To date, Offender A has been convicted of 2 of these felony offenses and 1 felony count of failure to register.
- Sentences:
  - (1) Possession/Transport of a Firearm by a Convicted Felon - 5 Years Imposed;
  - (2) Rape - 50 Years Imposed, 40 Suspended; and,
  - (3) Failure to Register – 6 Months Imposed.



*Example: Offender B*

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- Offender B – DOC predicate offenses were two convictions of aggravated sexual battery; offender received a 20 year sentence with 14 years suspended.
- Since July 1, 2003, Offender B has been arrested for 15 felony offenses, including 4 offenses for failure to register, and 2 misdemeanor offenses:
  - 7/25/03            Trespassing  
                          Breaking and Entering w/ Intent to Commit a Felony  
                          Grand Larceny  
                          Possession of Burglary Tools
  - 8/11/04            Possession of a Controlled Substance



**Example: Offender B**

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- 10/24/04 Possession of Burglary Tools  
Wearing a Mask in a Public Place  
Grand Larceny  
Felony Destruction of Property  
Breaking and Entering with Intent to Commit a Felony
- 10/29/04 4 counts of Failure to Register
- 11/5/04 Revocation of Suspended Sentence and Probation
- 5/13/05 Manufacture, Sale, Poss. w/ Intent Controlled  
Substance  
Contempt of Court

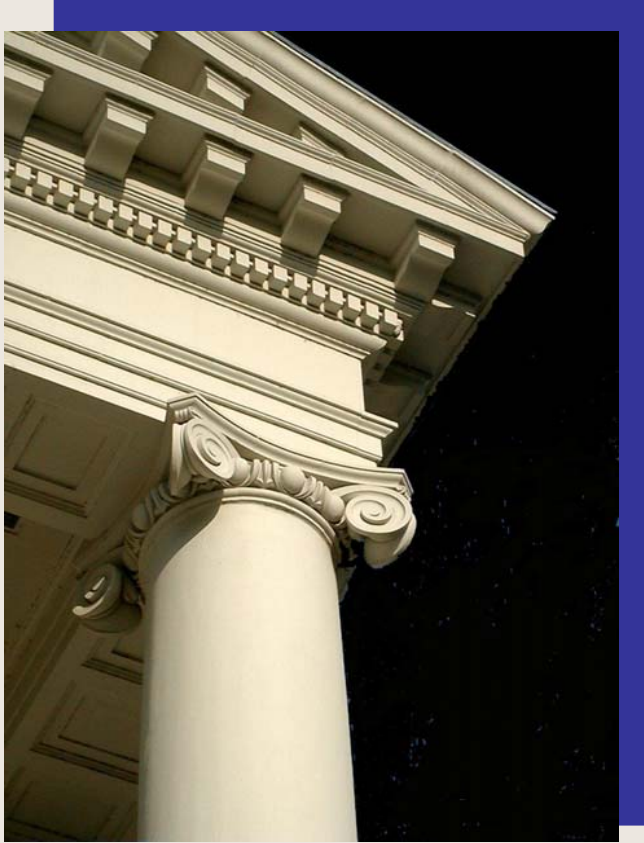
- To date, NCIC records and consultation with the Circuit Court Clerk, indicate convictions for five felony offenses and 1 misdemeanor offense; sentencing is scheduled for November 2005.
- All 4 felony charges of Failure to Register were nolle prossed/dismissed.



**Example: Offender C**

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- Offender C – DOC predicate offense was rape; offender received a 15 year sentence, with 10 years, 11 months suspended.
- Since July 1, 2003, Offender C has been arrested for 5 felony sex offenses and 2 other felony charges, including Failure to Register:
  - 7/29/03                      5 charges of Rape
  - 8/31/04                      Revocation of Suspended Sentence and Probation
  - 10/22/04                      Failure to Register
- To date, Offender C has been convicted of one count of aggravated sexual battery and given a 10 year sentence, with 8 years suspended.



## **Increased Penalties for Sex Offenses**

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## *Increased Penalties for Sex Offenses*

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- **Recommendation 1**

Amend the *Code of Virginia* to require a mandatory minimum 25 years to life sentence for a first time conviction of the following serious sex offenses when the victim is under the age of 13:

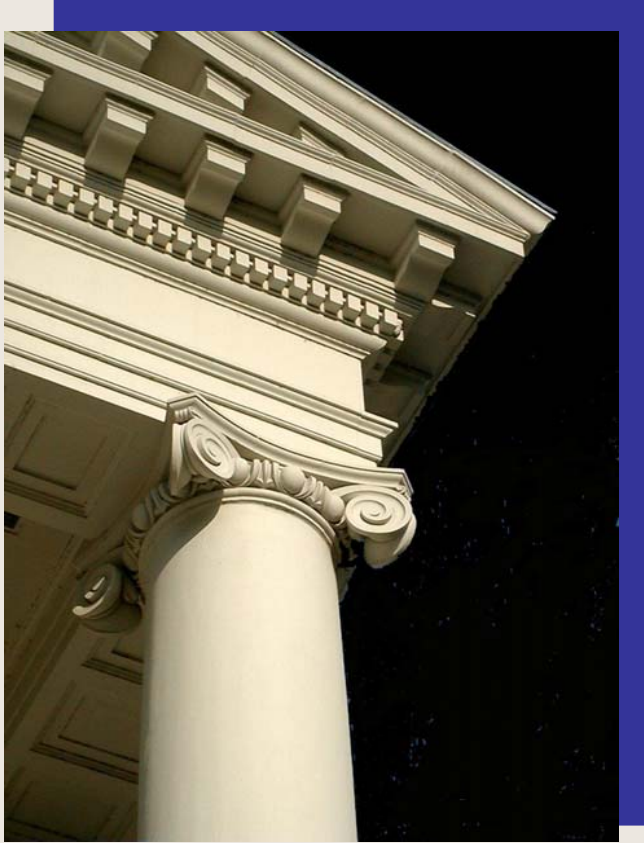
- Forcible Sodomy;
- Object Sexual Penetration; and,
- Rape.





## Current Penalties for Sex Offenses

<b>Charge</b>	<b><i>Code of Virginia</i> Section</b>	<b>Sentence Range</b>	<b>Midpoint on Sentencing Guidelines</b>	<b>Jessica Lunsford Act Provisions</b>
Forcible Sodomy	§ 18.2-67.1	5 years to life imprisonment	12 Years, 9 Months	25 years to life imprisonment
Object Sexual Penetration	§ 18.2-67.2	5 years to life imprisonment	11 Years, 5 Months	25 years to life imprisonment
Rape	§ 18.2-61	5 years to life imprisonment	11 Years, 5 Months	25 years to life imprisonment



## **Increased Probation for Sex Offenses**

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## *Increased Probation for Sex Offenses*

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- The Crime Commission analyzed the post-release supervision requirements for a sample of 160 offenders released from DOC since July 1, 2003 for the SVP predicate offenses of rape, forcible sodomy and object sexual penetration.
- 23% (37) of the released predicate offenders had no form of supervised probation or parole:
  - Rape 20 offenders;
  - Forcible Sodomy 12 offenders; and,
  - Object Penetration 5 offenders.
- Additionally, another 11% (18) of the offenders had a post-release supervision requirement of less than 3 years.



## ***Mandatory Supervised Probation for Sex Offenses***

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- **Recommendation 2**

Amend the *Code of Virginia* to allow for a mandatory minimum of 3 years supervised probation with electronic monitoring for the following sex offenses:

- Forcible Sodomy (§ 18.2-67.1);
- Object Sexual Penetration (§ 18.2-67.2);
- Rape (§18.2-61);
- Kidnapping with Intent (§ 18.2-48(i) &(iii));
- Aggravated Sexual Battery (§ 18.2-67.3); and,
- Carnal Knowledge (§ 18.2-63).



## ***Mandatory Unsupervised Probation for Sex Offenses***

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- **Recommendation 3**

Amend the *Code of Virginia* to provide for mandatory unsupervised probation for the duration of the sentence allowed for the following sex offenses:

Forcible Sodomy – Life;

Object Sexual Penetration – Life;

Rape – Life;

Kidnapping with Intent – Life;

Aggravated Sexual Battery – 20 years; and,

Carnal Knowledge – 10 years.



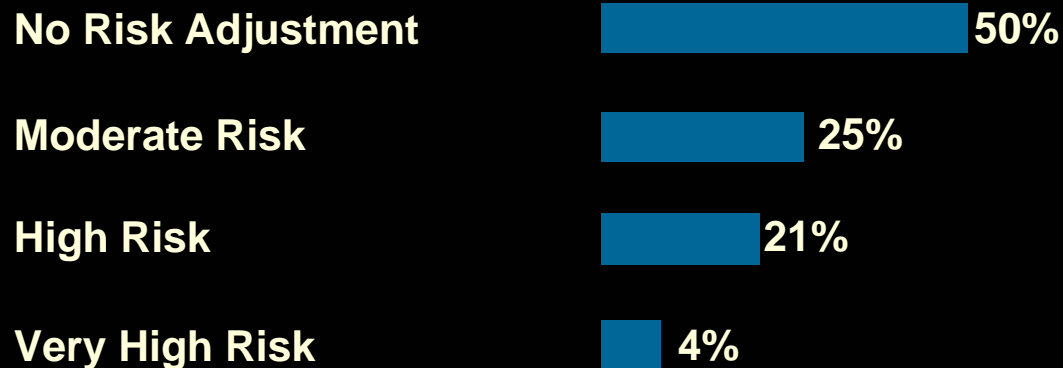
# Felony Sentencing Guidelines

## Sex Offender Risk Levels (FY 2002 – 2005)

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### Rape, Forcible Sodomy, Object Penetration (N=847)

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# Average Prison Term in Completed Rape, Sodomy and Object Penetration Cases (FY 2002 – 2005)

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## Rape, Forcible Sodomy, Object Penetration (N=838)

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