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Convicted Sex Offenders in Texas:  
An Overview of Sentencing Dynamics and the Impact of  
Altering Sentencing Policy

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February 13, 1995

Criminal Justice Policy Council  
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Austin, Texas 78711  
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Tony Fabelo, Ph.D.  
Executive Director

# Convicted Sex Offenders in Texas: An Overview of Sentencing Dynamics and the Impact of Altering Sentencing Policy

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U.S. Department of Justice  
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*Report Authored by:*

**Bill Bryan**

## Note from the Director

This report presents an overview of convicted sex offenders in Texas. Information is included on offender and victim characteristics, offense characteristics, and sentencing practices. Additional information is presented on the estimated impact of six potential changes in sentencing policies, four of which resemble proposed legislation. The data used in this report is drawn from the Sentencing Dynamics Study which was conducted by the Criminal Justice Policy Council in 1992 for the state legislature. The Sentencing Dynamics Study is based on a large sample of offenders convicted in 1991 from Harris, Dallas, Tarrant, Bexar, Travis, El Paso, and Nueces Counties.

Highlights of some the findings are discussed below.

The vast majority of the victims in sex offenses were female and juvenile.

- Females comprised 91% of all Sex Assault victims and 84% of all Indecency with Child victims. Victims were under the age of 18 in 65% of all Sex Assault cases, while 39% of all Indecency with Child victims were under the age of 10.

Sex offenses were often not a "stranger crime". Sex offenses were most often committed against a family member or acquaintance, usually occurred within a residence, and often occurred repeatedly over time.

- Children were especially likely to be victimized by a person known to them. In 61% of all Aggravated Sex Assault/Child offenses the victim was a family member. 88% of all Aggravated Sex Assault/Child offenses were committed in a residence. The fact that 41% of all Aggravated Sex Assault/Child offenses occurred repeatedly over time is also evidence that children were often victims of an offender who was familiar to them.

Convicted sex offenders were less likely to have a prior felony conviction than other types of convicted felons. Those sex offenders with a prior felony conviction were likely to have a prior prison sentence and/or be under felony supervision when they committed their offense.

- 34% of all offenders convicted of Sex Assault offenses had a prior felony conviction, while 27% of Indecency With Child offenders had a prior felony. These percentages compare with 56% of property and 42% of violent and drug offenders who had a prior felony when convicted. However, 65% of sex offenders who had a prior felony conviction also had a prior prison sentence and 66% of sex offenders with a prior felony were under some type of felony supervision (parole, probation, or deferred adjudication) when they committed their offense.

Offenders convicted of sex offenses against children were disposed to deferred adjudication more often than those convicted of sex offenses against adults.

- Offenders were disposed to deferred adjudication in 40% of the Aggravated Sexual Assault/Child cases, and 33% of the Indecency with Child cases. Offenders convicted of the two sex offenses against adult victims, Aggravated Sex Assault and Sex Assault, received deferred adjudication in 20% and 27% of the cases, respectively. The nature of sex offenses against children (often involving a young child as the victim/witness and a family member as the offender) serves as one explanation for the difference in sentencing patterns between these two types of crimes.

Current proposals vary widely in their impact on prison capacity.

- S.B. 112, which mandates all sex offenders with child victims to serve 85% of their prison sentence, would require 2,664 prison beds to accommodate the impact of this legislation. In contrast, S.B. 78 would have no substantial impact on prison capacity. This bill eliminates community supervision as a sentencing option for sex offenders who commit crimes against children while under community supervision for certain sex offenses. Additional proposals involve eliminating deferred adjudication for certain sex offenses and requiring a life without parole sentence for certain first degree sex offenders.

Tony Fabelo, Ph.D.  
Executive Director

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# I. Overview

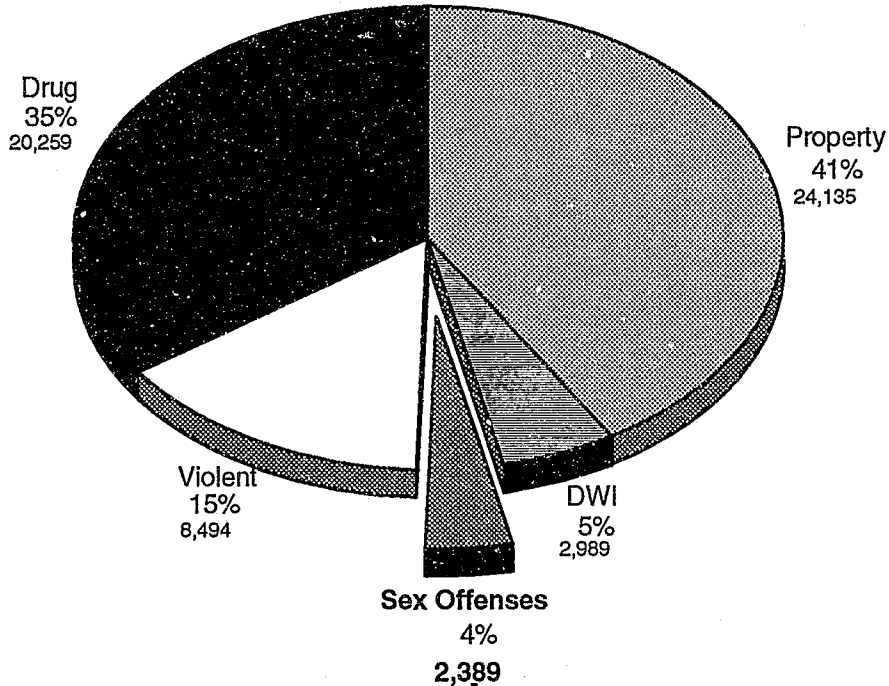
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# Sex Offenses Comprised a Small Proportion of All Convictions in the Seven Most Populous Counties in 1991

Total Felons Convicted by Offense Group\*  
FY 1991

Total Offenders  
58,266



Sex Assault  
1,563  
65%

Indecency W/Child  
826  
35%

Sex Assault  
Child  
16%

Aggravated  
Sex Assault  
17%

Indecency by Exposure  
30%

Aggravated  
S.A./Child  
42%

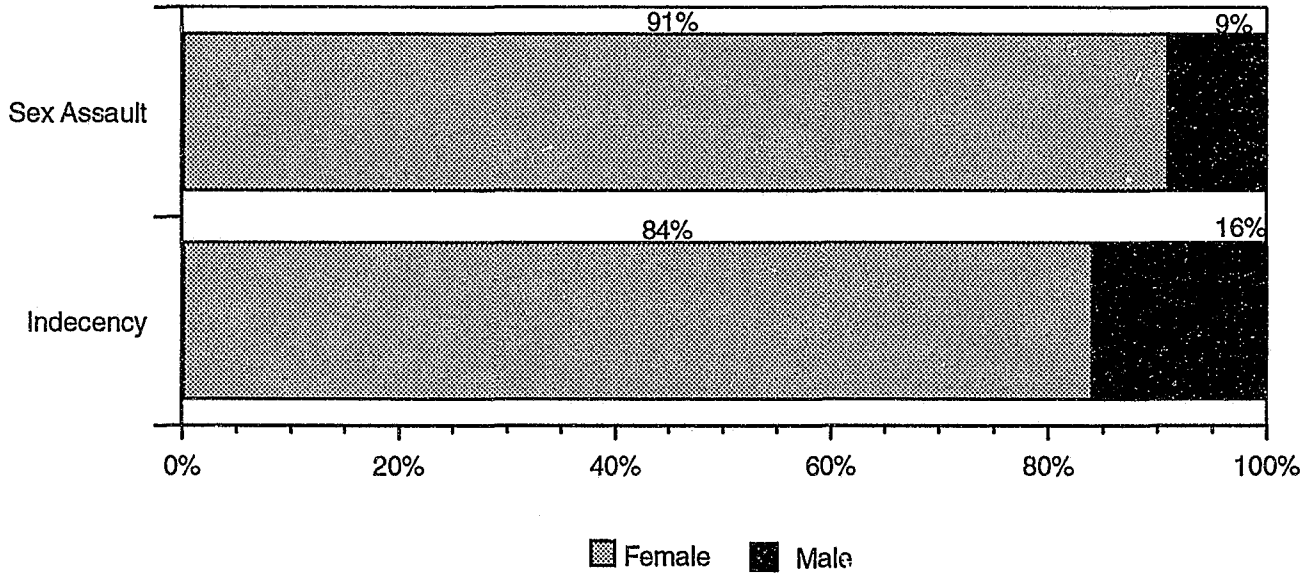
Sex Assault  
25%

Indecency  
by Contact  
70%

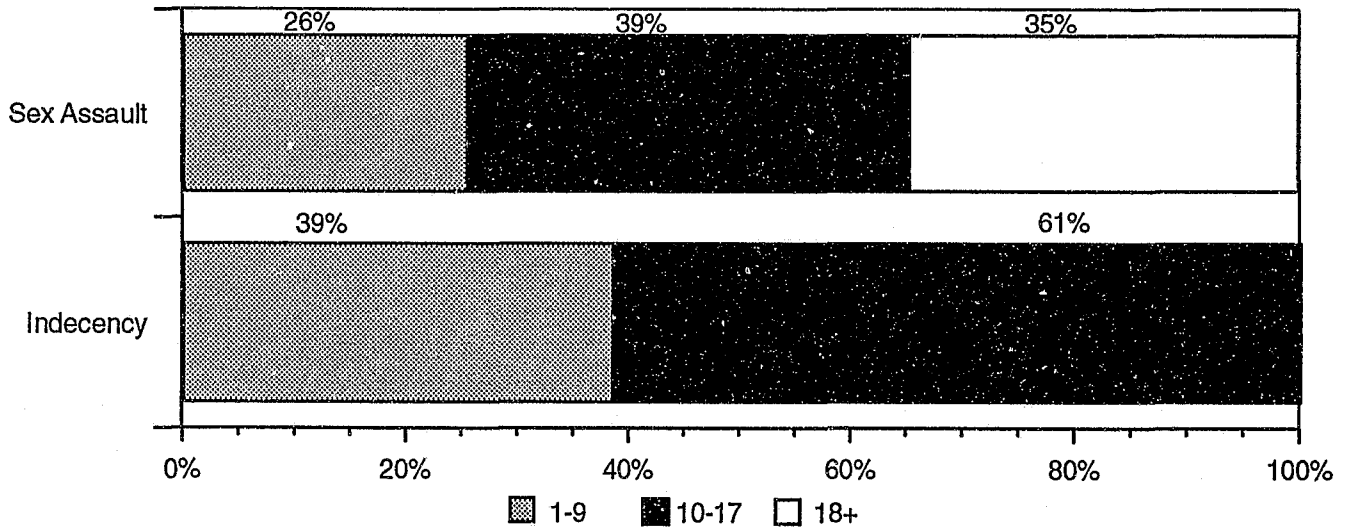
\*Sex Assault, a violent offense, is classified here, along with Indecency, into the category of sex offenses

# Victims of Sex Offenses Were Overwhelmingly Female and Juvenile

Offense Type by Victim Gender



Offense Type by Victim Age

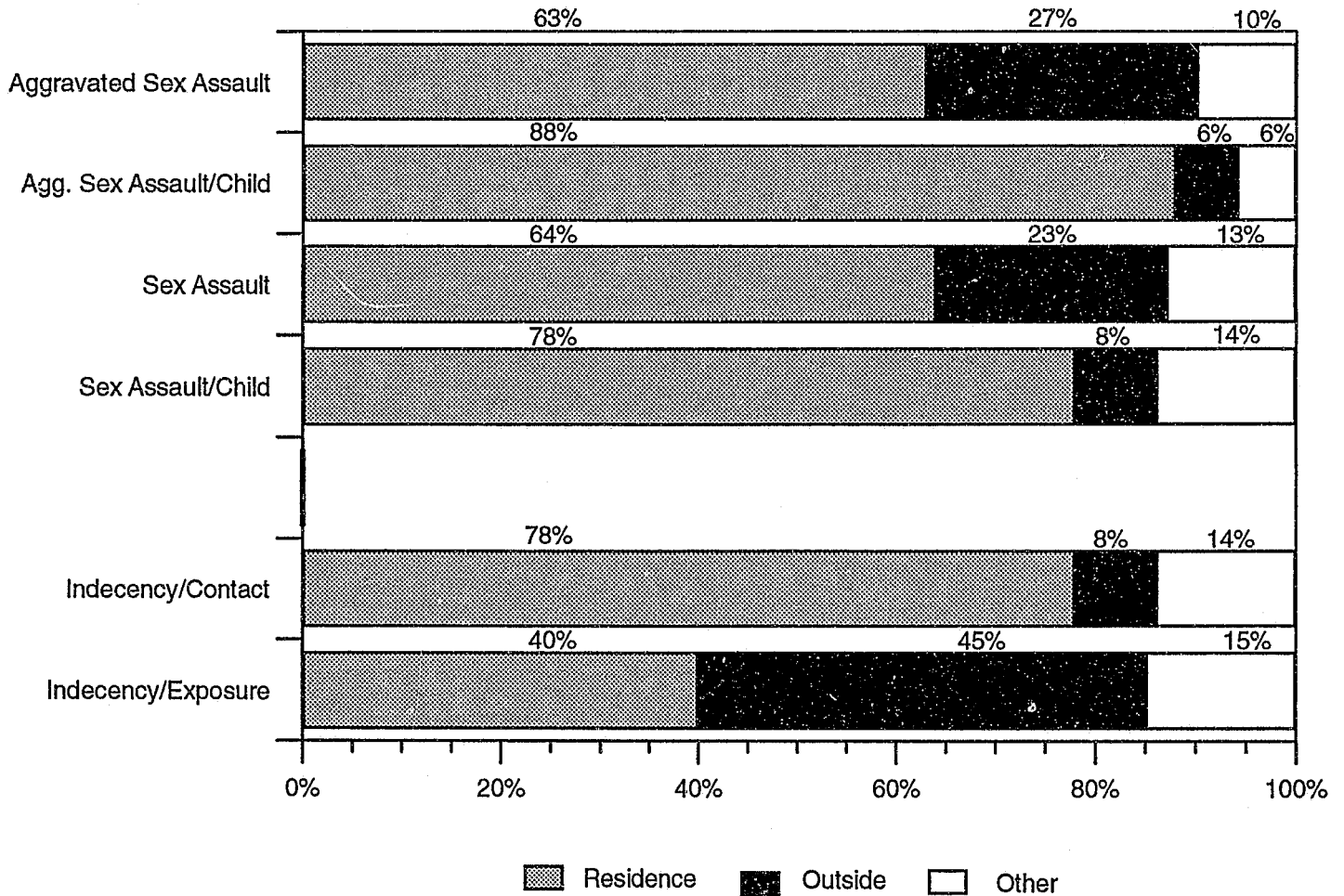


- Indecency with Child by Exposure is the specific sex offense with the largest percentage of male victims (22%)
- 65% of all Sex Assault victims are under the age of 18 while 39% of all Indecency victims are under the age of 10



# Sex Offenses Occurred Primarily within a Residence

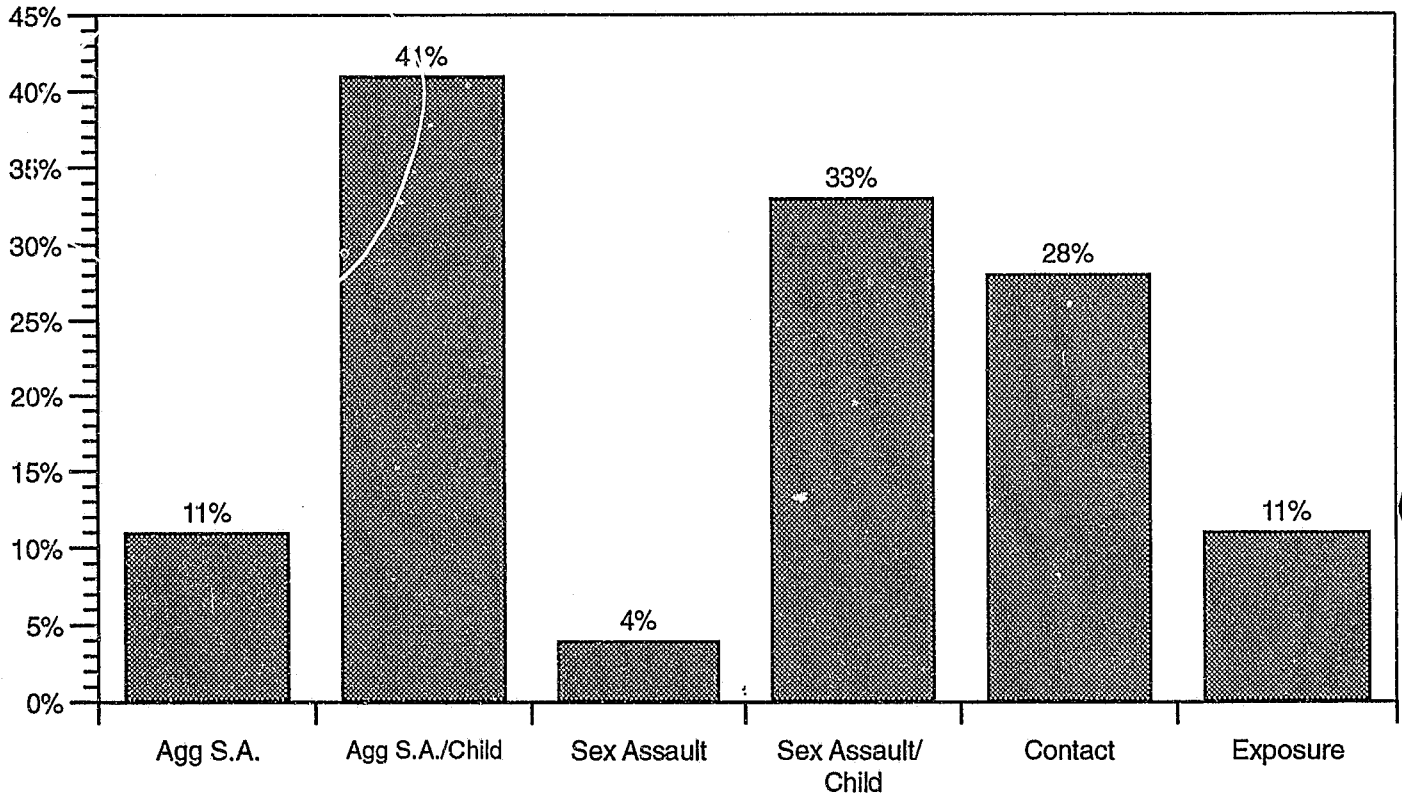
Location of Sex Assaults and Indecency Offenses



- While a residence was the location of the majority of all sex offenses, offenses against children were even more likely to occur in a residence
- Indecency with Child by Exposure was the only specific offense to have a different pattern of location, with 45% of offenses occurring outside and 40% occurring in a residence

# Sex Offenses Against Children Often Occurred Repeatedly Over Time

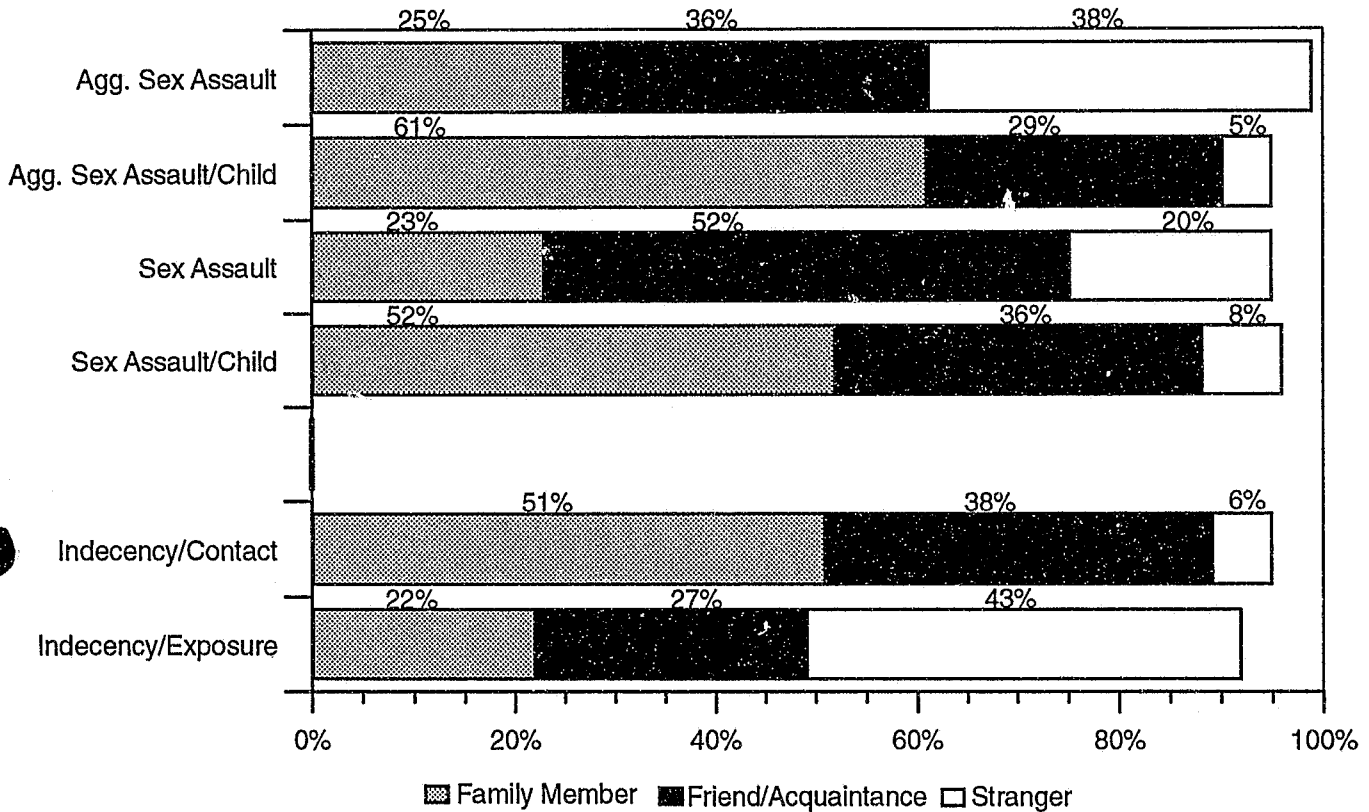
Percentage of Offenders Who Committed Continuing Offenses



- Continuing offenses are those that occurred over a period of time, with multiple instances of the offense during this period
- Offenses involving children had a higher percentage of continuing offenses than those involving adults

## Sex Offenses Were Primarily Committed Against a Family Member or Acquaintance

Victim's Relationship to Offender: Sex Assault and Indecency Offenses\*

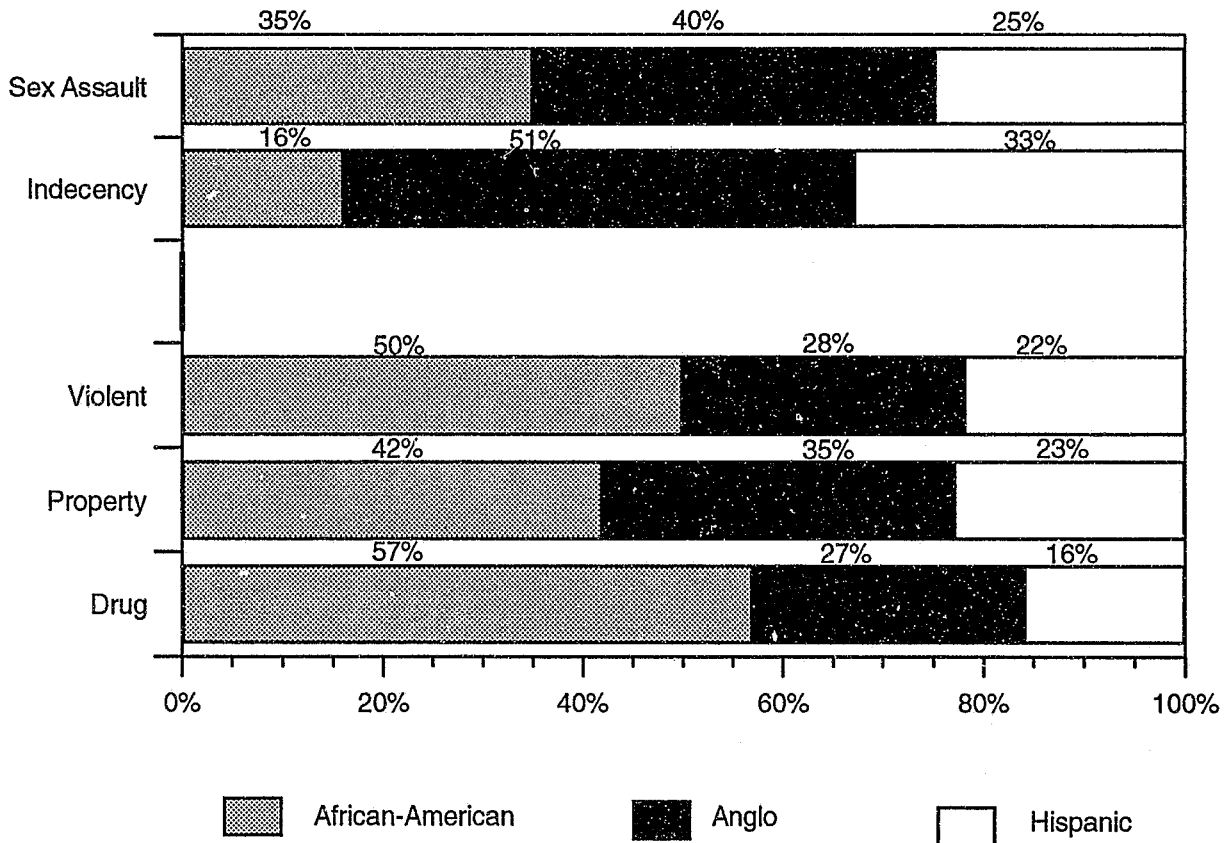


- Offenders victimized a family member or acquaintance in over 50% of each type of sex offense (with the exception of Indecency with Child by Exposure)
- Whenever offenders victimized a child, the offender was most often a member of the child's family (with the exception of Exposure)

\*Percentages do not add to 100% due to missing data

# Anglos Comprised a Larger Percentage of Sex Offenders than of Violent, Property, or Drug Offenders

Offense Type by Race of Offender



- Anglo offenders comprise the largest racial/ethnic group within the sex offenses, while African-American offenders comprise the largest racial/ethnic group within violent, property, and drug offenses
- Anglos are the largest group of offenders for specific offenses involving children as victims
  - ◆ Agg. Sex Assault/Child offenders were: 49% Anglo, 23% African-American, & 28% Hispanic
  - ◆ Sex Assault/Child offenders were: 41% Anglo, 35% African-American, & 24% Hispanic
  - ◆ Agg. Sex Assault offenders were: 38% Anglo, 47% African-American, & 15% Hispanic
  - ◆ Sex Assault offenders were: 27% Anglo, 47% African-American, & 26% Hispanic

## Convicted Sex Offenders Primarily Committed Their Crimes Against Members of Their Own Race/Ethnic Group

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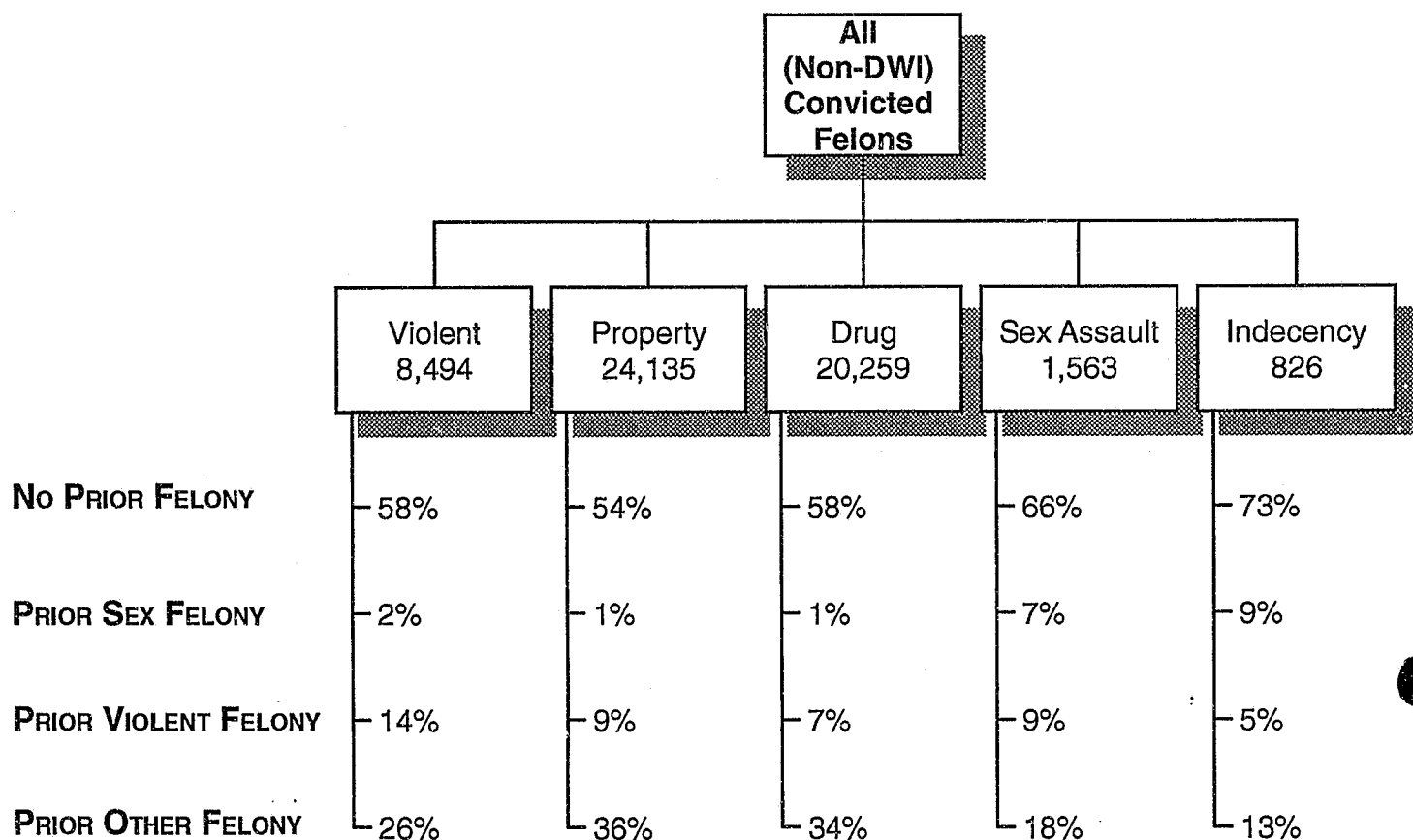
**Offender's Race by Victim's Race: Sex Assault and Indecency**

Victim's Race

<b>SEX ASSAULT</b>	African-American	Anglo	Hispanic
African-American	75%	22%	3%
Anglo	1%	92%	7%
Hispanic	1%	18%	81%
<b>INDECENCY</b>			
African-American	80%	11%	9%
Anglo	4%	84%	12%
Hispanic	3%	18%	79%

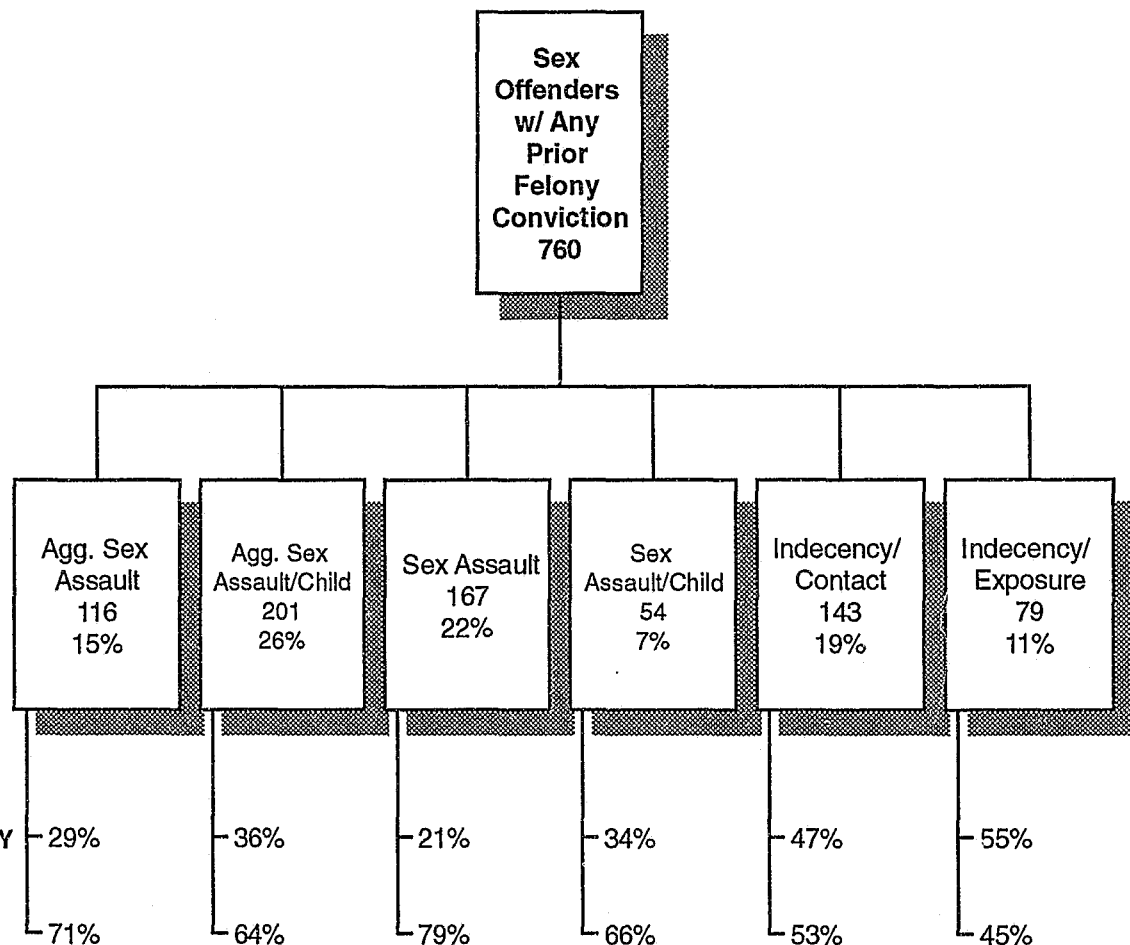
Offender's  
Race

## Convicted Sex Offenders Were Less Likely to Have a Prior Felony Conviction than Other Convicted Felons



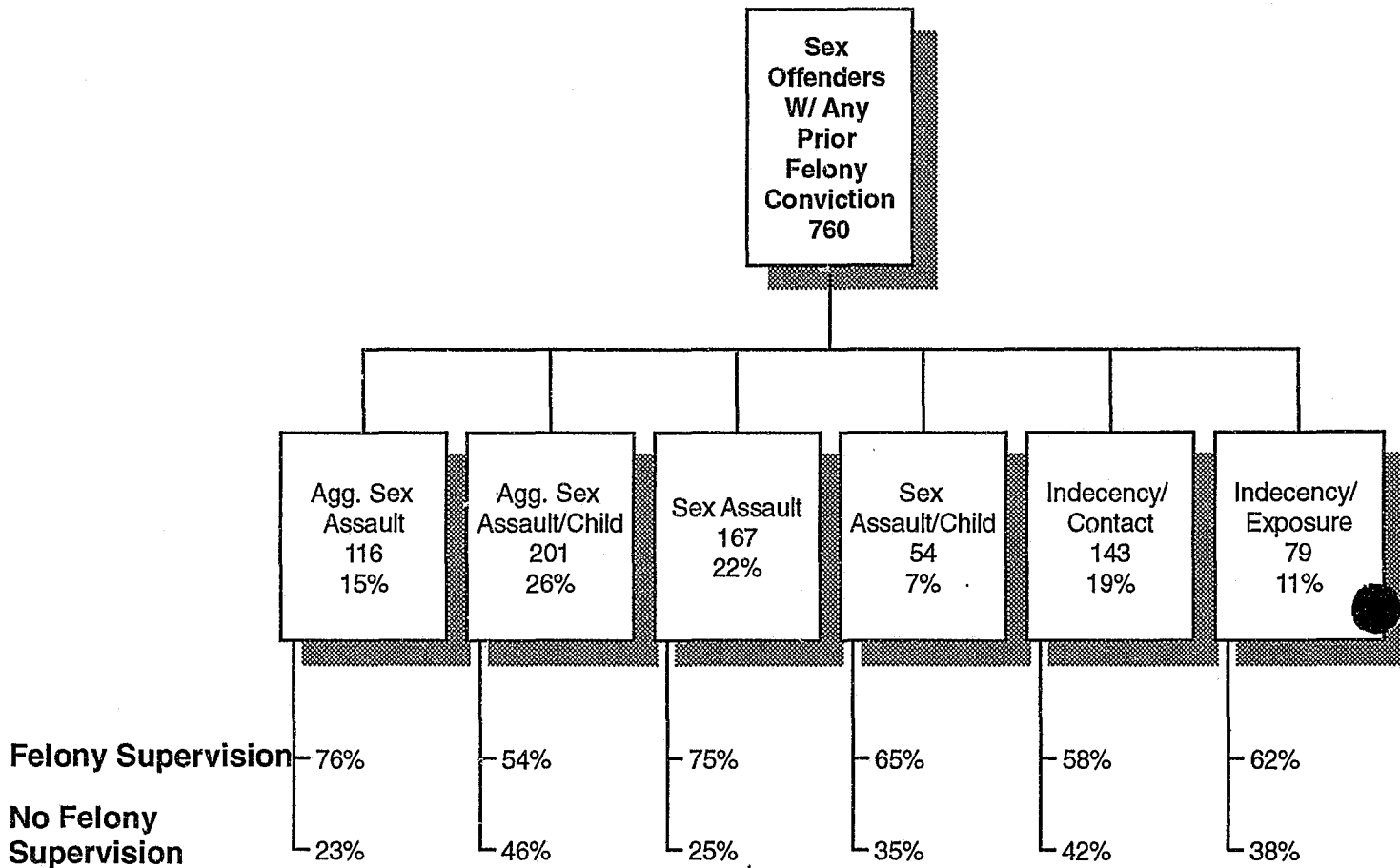
- The above prior history categories are defined as:
  - ♦ No Prior Felony- the offender has no prior felony conviction of any kind
  - ♦ Prior Sex Felony- the offender has at least one prior sex felony conviction (Sex Assault or Indecency with Child)
  - ♦ Prior Violent Felony- the offender has at least one prior violent felony conviction but has no prior sex felony convictions
  - ♦ Prior Other Felony- the offender has at least one prior felony conviction but has no prior sex or violent felony convictions
- 34% of felons convicted of Sex Assault and 27% of felons convicted of Indecency with Child had a prior felony, while 43% of all other convicted felons had a prior felony
- Felons convicted of sex offenses were more likely to have a prior sex felony than other convicted felons
  - ♦ 7% of felons convicted of Sex Assault had a prior sex felony (Sex Assault or Indecency) while only 1% of all other convicted felons had a prior sex felony
  - ♦ 9% of felons convicted of Indecency with Child had a prior sex felony (Sex Assault or Indecency) while only 1% of all other convicted felons had a prior sex felony

## A Large Percentage of Sex Offenders Who Did Have at Least One Prior Felony Conviction Had a Prior Prison Sentence



- The above prior criminal history categories are defined as:
  - ♦ Prior Probation Only- the offender has at least one prior felony probation sentence but no prison sentence
  - ♦ Prior Prison- the offender has at least one prior prison sentence (the offenders in this category may have a prior probation sentence in addition to a prior prison sentence)
- Offenders with a prior felony who were convicted of offenses with adult victims were more likely to have a prior prison sentence than those convicted of offenses with child victims
- Compared to other types of offenders with a prior felony, a smaller percentage of sex offenders had a prior prison sentence (65%) than did violent (73%), property (74%), or drug (71%) offenders

## A Large Percentage of Sex Offenders with a Prior Felony Conviction Were under Felony Supervision When They Committed Their Offense



- In the above categorization offenders were considered under felony supervision if they were on probation, deferred adjudication, or parole when they committed their offense
- Offenders with a prior who were convicted of sex offenses with adult victims were more likely to be on felony supervision than those convicted of offenses with child victims
- Compared to other types of offenders with a prior felony, a smaller percentage of sex offenders were under felony supervision (66%) than were violent (76%), property (84%), or drug (77%) offenders



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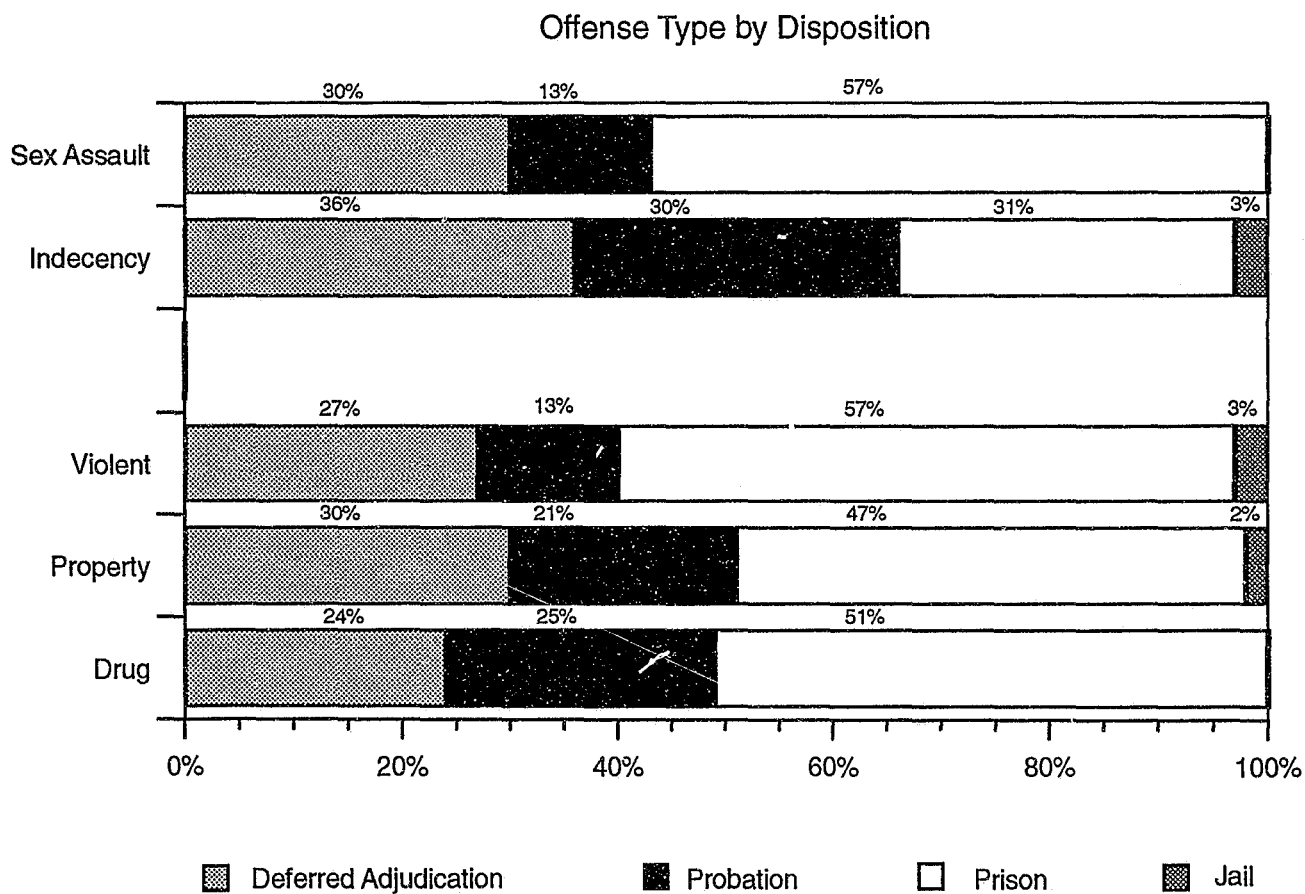
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## **II. Sentencing Information**

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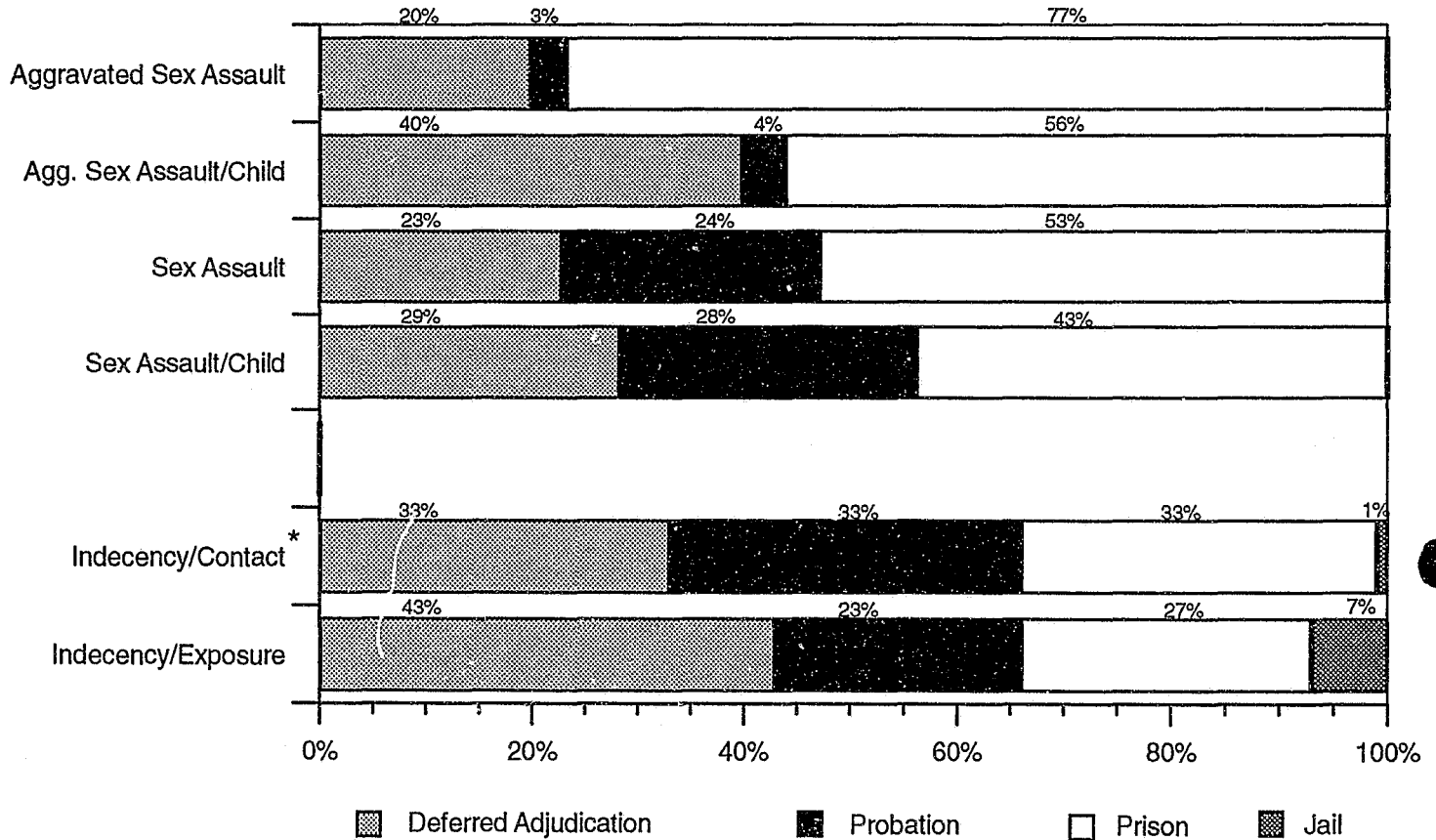
# Offenders Convicted of Sex Offenses Were Disposed to Deferred Adjudication More Often than Offenders Convicted of Violent or Drug Offenses



- Deferred adjudication is a sentencing option which allows the court, after receiving a plea of guilty, to defer further proceedings without entering an adjudication of guilt and place the defendant under community supervision
- Offenders sentenced to jail were disposed under article 12.44 of the Texas Penal Code which allows third degree felons to be punished as misdemeanants

# Offenders Convicted of Sex Offenses against Children Were Disposed to Deferred Adjudication More Often than Those Convicted of Sex Offenses against Adults

Specific Offense by Sentence Type:  
Sex Assault and Indecency with Child

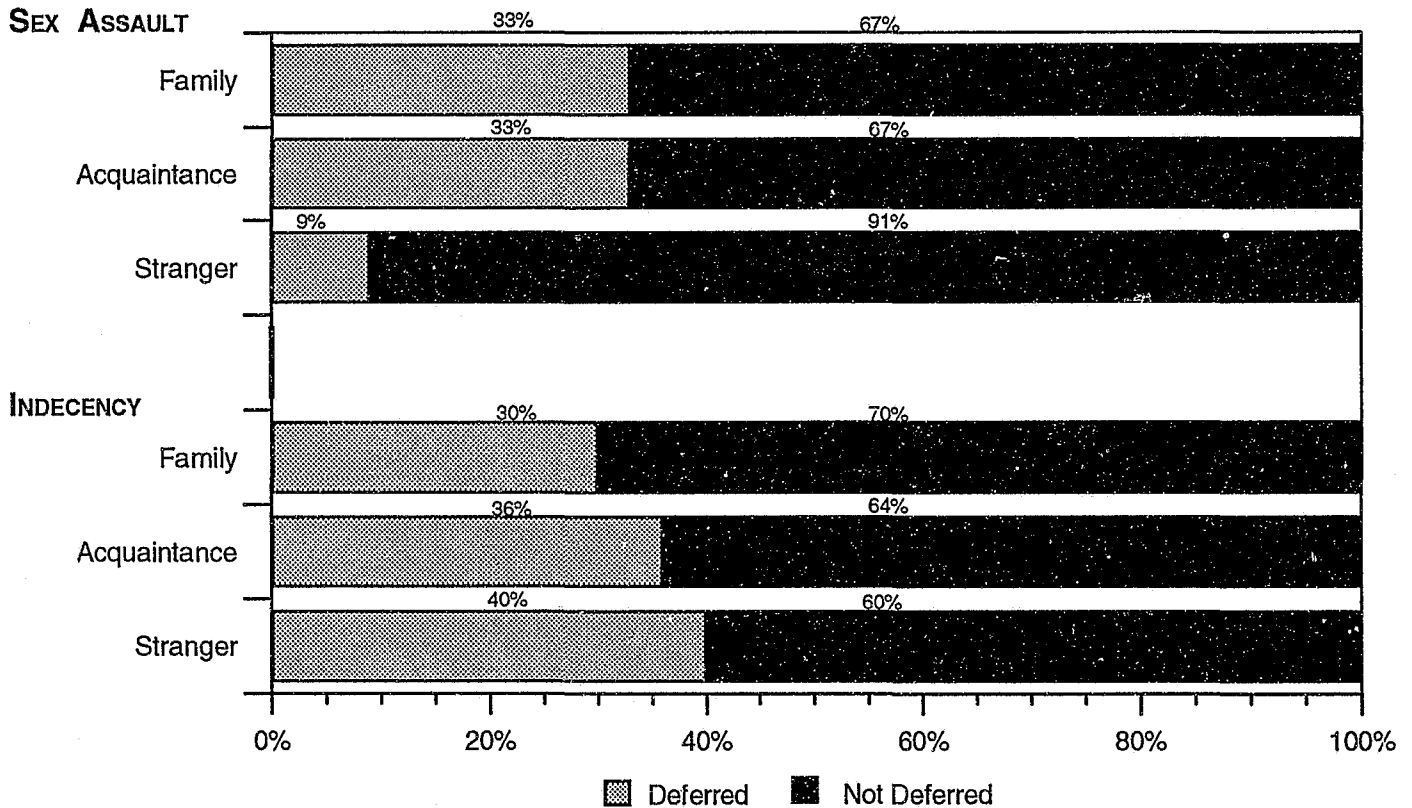


- Aggravated Sex Assault and Sex Assault, the two specific offenses which involve adults, had lower percentages of offenders disposed to deferred adjudication (20% and 23% respectively) than did the four offenses which involved children as victims
- Overall, 43% of all felons convicted of any Sex Assault offense received a non-prison sentence
  - ♦ Texas law prohibits judges from sentencing felons convicted of aggravated (3G) offenses to probation but allows deferred adjudication which was used for 40% of the felons convicted of Aggravated Sex Assault/Child and for 20% of the felons convicted of Aggravated Sex Assault
  - ♦ Texas law allows juries to sentence offenders convicted of aggravated (3G) offenses to probation

\*Indecency by Contact was not an aggravated (3G) offense in 1991. As of Sept., 1994 Indecency by Contact is a 3G offense and offenders are no longer eligible for probation sentences from a judge

# Offenders Convicted of Sex Assault against Family Members or Acquaintances Received Deferred Adjudication More Often than Those Convicted of "Stranger" Sex Assault

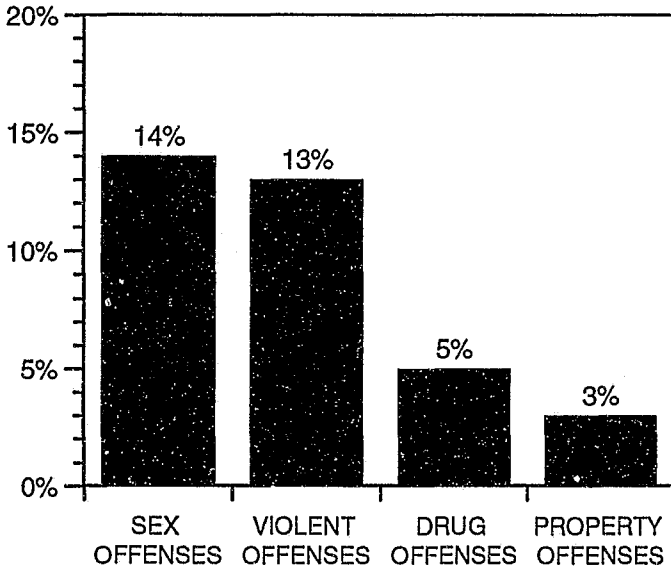
Relationship of Victim to Offender by Percentage Deferred: Sex Assault and Indecency with Child



- While Sex Assault offenders committing offenses against strangers did not commonly receive deferred adjudication, Indecency offenders who committed an offense against a stranger often did
  - ♦ Partial explanation may lie in the age of the victim, 80% of all "stranger" Sex Assaults had an adult victim while Indecency is a crime against children, whose vulnerable nature as potential witnesses may make prosecution more difficult

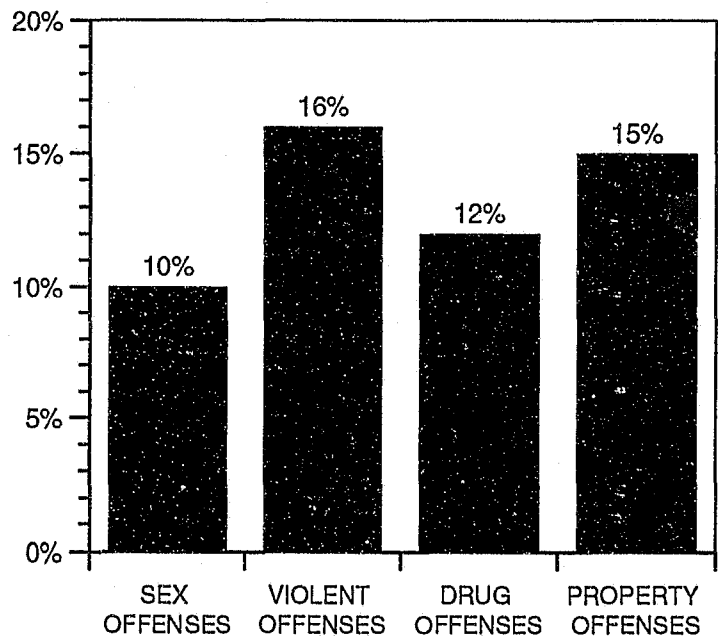
# Offenders Convicted of Sex Offenses Had Their Original Charge Reduced More Often than Offenders Convicted of Violent, Drug, or Property Offenses

Percentage of Offenders with Reduced Charges by Offense Type



- 14% of all Indecency offenders had their original charge reduced before disposition
  - ♦ 17% of all Indecency by Contact dispositions were originally charged as some type of Sex Assault
    - Most of these cases were charged as Aggravated Sex Assault/Child
- 14% of all Sex Assault Offenders had their original charge reduced before disposition
  - ♦ 38% of all Sex Assault/Child dispositions were charged as Aggravated Sex Assault/Child
  - ♦ 25% of all Sex Assault dispositions were charged as Aggravated Sex Assault

Percentage of Offenders Receiving an Enhanced Sentence by Offense Type



- Felons who have one prior felony conviction may have their sentence enhanced by one degree level, while felons who have two prior felony convictions may have their sentence enhanced to a 25 year minimum
- As a whole, sex offenders were less likely to receive sentence enhancements than were violent, property, or drug offenders
- Sex offenders with adult victims were more likely to receive sentence enhancements than sex offenders with child victims
  - ♦ 20% of Aggravated Sex Assault offenders had their sentence enhanced while 5% of both Sex Assault/Child and Indecency with Child by Contact offenders had enhanced sentences

## Average Prison Sentence Length (Yrs.) by Offense by Prior Criminal History

	No Prior Felony	One Prior Felony	Two + Prior Felonies
<b>Agg. Sex Assault</b>			
Number	155	69	47
% to Prison	61%	97%	100%
Avg. Prison Sent. (Yrs.)	19.8	21.1	39.9
<b>Agg. S. A./Child</b>			
Number	450	116	85
% to Prison	42%	83%	93%
Avg. Prison Sent. (Yrs.)	17.4	18.4	22.7
<b>Sex Assault</b>			
Number	223	74	94
% to Prison	23%	86%	96%
Avg. Prison Sent. (Yrs.)	7.8	14.4	17.7
<b>Sex Assault/Child</b>			
Number	196	41	13
% to Prison	28%	100%	100%
Avg. Prison Sent. (Yrs.)	8.8	10.7	13.5
<b>Contact</b>			
Number	437	78	64
% to Prison	18%	77%	100%
Avg. Prison Sent. (Yrs.)	8.3	10.2	17.3
<b>Exposure</b>			
Number	168	50	29
% to Prison	8%	56%	90%
Avg. Prison Sent. (Yrs.)	4.8	5.8	10.2

## Average Prison Sentence Length (Yrs.) by Offense by Offenders Relationship to Victim\*

	F a m i l y	A q u a i n t a n c e	S t r a n g e r
<b>A g g . S e x A s s a u l t</b>			
Number	69	98	102
% to Prison	54%	73%	96%
Avg. Prison Sent.	16.2	21	30.9
<b>A g g . S . A . / C h i l d</b>			
Number	398	186	30
% to Prison	58%	49%	90%
Avg. Prison Sent.	17.9	18.6	24.6
<b>S e x A s s a u l t</b>			
Number	90	203	79
% to Prison	34%	59%	58%
Avg. Prison Sent.	17.4	13	16.4
<b>S e x A s s a u l t / C h i l d</b>			
Number	129	89	21
% to Prison	43%	46%	43%
Avg. Prison Sent.	10.3	10.4	6.7
<b>C o n t a c t</b>			
Number	294	218	35
% to Prison	35%	33%	31%
Avg. Prison Sent.	11.1	12	11
<b>E x p o s u r e</b>			
Number	54	67	105
% to Prison	35%	30%	26%
Avg. Prison Sent.	9.3	5.6	10.2

\* Categories do not add to total offense numbers due to missing data

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# **III. Impact Of Potential Policy Changes**

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## Potential Policy Changes

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- **Scenario 1:** All sex offenders sentenced to prison to serve 85% of sentence
  
- **Scenario 2:** Sex offenders sentenced to prison who have a prior prison sentence to serve 85% of sentence
  
- **Scenario 3:** Sex offenders sentenced to prison who have a prior sex felony conviction to serve 85% of sentence
  
- **Scenario 4:** Life without parole for sex offenders sentenced to prison who have a prior sex felony conviction
  
- **Scenario 5:** No deferred adjudication for sex offenders
  
- **Scenario 6:** No community supervision for sex offenders under community supervision at time of offense
  
- The following assumptions were used in estimating the impact of the above scenarios
  - ♦ Current time served estimates are based on 35% of sentence served for non-aggravated offenses and 55% of sentence served for aggravated offenses (including Indecency with Child by Contact)
  - ♦ Time served for scenarios involving life without parole is based on an average lifespan of 74 years
  - ♦ Sentence lengths are assumed to stay the same as 1991 sentence lengths

## Scenario 1: Sex Offenders Sentenced to Prison to Serve 85% of Sentence

Sex Offenders: Number To Prison, Estimated Average Time Served (Yrs.), And Estimated Time Served at 85% (Yrs.)

	Number	# (%) To Prison	Average Prison Sentence	Estimated Time Served	Time Served at 85%	Added Time Served
Agg. S.A.	271	209 (77%)	24.8	13.6	21.1	7.5
<b>Agg. S.A./Child*</b>	651	365 (56%)	18.8	10.3	15.9	5.6
Sex Assault	390	206 (53%)	14.2	5.0	12.1	7.1
<b>S.A./Child*</b>	251	109 (43%)	10.1	3.5	8.6	5.1
<b>Contact*</b>	579	191 (33%)	11.5	6.3	9.8	3.5
<b>Exposure*</b>	247	67 (27%)	8.5	3.0	7.2	4.2

\*Categories affected by S.B. 112

## Scenario 2: Sex Offenders Sentenced to Prison Who Have a Prior Prison Sentence to Serve 85% of Sentence

Sex Offenders Sentenced To Prison: Number w/ Prior Prison, Estimated Time Served (Yrs.), Estimated Time Served at 85% (Yrs.)

	To Prison	# (%) With Prior Prison	Average Prison Sentence	Estimated Time Served	Time Served at 85%	Added Time Served
Agg. S.A.	209	82 (39%)	35.7	19.6	30.3	10.7
Agg. S.A./Child	365	118 (32%)	21.4	11.8	18.2	6.4
Sex Assault	206	131 (64%)	17.3	6.0	14.7	8.7
S.A./Child	109	35 (32%)	11.6	4.1	9.9	5.8
Contact	191	72 (38%)	16.2	8.9	13.8	4.9
Exposure	67	27 (40%)	13.4	4.7	11.4	6.7

## Scenario 3: Sex Offenders Sentenced to Prison Who Have A Prior Sex Felony Conviction to Serve 85% of Sentence

Sex Offenders Sentenced To Prison: Number w/ Prior Sex Offense, Estimated Time Served (Yrs.), Estimated Time Served at 85% (Yrs.)

	To Prison	# (%) With Prior Sex Offense	Average Prison Sentence	Estimated Time Served	Time Served at 85%	Added Time Served
Agg. S.A.	209	23 (11%)	29.7	16.3	25.2	8.9
Agg. S.A./Child	365	62 (17%)	27.2	15.0	23.1	8.1
Sex Assault	206	22 (11%)	15.7	5.5	13.3	7.8
S.A./Child	109	7 (6%)	9.8	3.4	8.3	4.9
Contact	191	40 (21%)	17.1	9.4	14.5	5.1
Exposure	67	20 (30%)	10.6	3.7	9.0	5.3

## Scenario 4: Life Without Parole for Sex Offenders Sentenced to Prison Who Have A Prior Sex Felony Conviction

Sex Offenders Sentenced To Prison: Number w/ Prior Sex Offense, Estimated Time Served (Yrs.), Estimated Impact of Life Without Parole Policy On Time Served (Yrs.)

	To Prison	# (%) With Prior Sex Offense	Average Prison Sentence	Estimated Time Served	Average Age	Time Served if Life	Added Time if Life
Agg. S.A.	209	23 (11%)	29.7	16.3	30	44	27.7
<b>Agg. S.A./Child*</b>	365	62 (17%)	27.2	15.0	40	34	19.0
Sex Assault	206	22 (11%)	15.7	5.5	31	43	37.5
S.A./Child	109	7 (6%)	9.8	3.4	40	34	30.6
Contact	191	40 (21%)	17.1	9.4	38	36	26.6
Exposure	67	20 (30%)	10.6	3.7	39	35	31.3

\*Category affected by S.B. 45

- Data does not specify the specific sex offense of a prior, as a result, the number of offenders with prior sex offenses against children is not available

## Scenario 5: No Deferred Adjudication for Sex Offenders

Sex Offenders Receiving Deferred Adjudication: Estimated Number to Prison, Estimated Prison Sentence (Yrs.), and Estimated Time Served (Yrs.)

	Number	# W/ Deferred Adjudication	Est. # to Prison if no Deferred	Est. Prison Sentence	Est. Time Served
Agg. S.A.	271	53 (20%)	26	24.8	13.6
<b>Agg. S.A. /Child*</b>	652	261 (40%)	130	18.8	10.3
Sexual Assault	390	90 (23%)	45	14.2	5.0
<b>S.A. /Child*</b>	250	71 (29%)	35	10.1	3.5
<b>Contact*</b>	579	190 (33%)	95	11.5	6.3
<b>Exposure*</b>	247	106 (43%)	53	8.5	3.0

\*Categories affected by S.B. 82

- The above estimates of prison sentences and time served are based on the assumption that 50% of Sex Offenders who are now receiving deferred sentences will receive prison sentences if deferred adjudication is not an option in the future

## Scenario 6: No Community Supervision for Sex Offenders Under Community Supervision at Time of Offense: No Substantial Impact on Prison Time Served

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Sex Offenders: Number and Sentence Type of Offenders under Community Supervision at Time of Offense

	Number	Number (%) under C. S.	Number Sentenced to Prison	Number Sentenced to Community Supervision
Agg. S.A.	271	22 (8%)	20	2
<b>Agg. S.A./Child*</b>	651	32 (5%)	30	2
Sexual Assault	390	7 (2%)	5	2
<b>S.A./Child*</b>	251	9 (4%)	9	0
<b>Contact*</b>	579	31 (5%)	28	3
<b>Exposure*</b>	247	18 (7%)	10	8

\*Categories affected by S.B. 78

- Data does not specify the offense for which an offender was under community supervision, as a result, the number of offenders under supervision for sex crimes against children is not available

## Estimated Total Prison Capacity to Accommodate Impact of Scenarios 1-5

	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Agg. Sex Assault	1,175	658	154	478	265
Yrs. to Initial Impact	14	20	16	16	1
Yrs. to Max. Impact	21	30	25	44	14
Agg. S. A./Child	1,533	566	376	883	1,004
Yrs. to Initial Impact	10	12	15	15	1
Yrs. to Max. Impact	16	18	23	34	10
Sexual Assault	1,097	855	129	618	169
Yrs. to Initial Impact	5	6	5	5	1
Yrs. to Max. Impact	12	15	13	43	5
Sex Assault/Child	419	152	26	160	92
Yrs. to Initial Impact	3	4	3	3	1
Yrs. to Max. Impact	9	10	8	34	3
Contact	501	265	153	798	448
Yrs. to Initial Impact	6	9	9	9	1
Yrs. to Max. Impact	10	14	14	36	6
Exposure	211	136	79	469	119
Yrs. to Initial Impact	3	5	4	4	1
Yrs. to Max. Impact	7	11	9	35	3

- Scenario 1: All sex offenders sentenced to prison to serve 85% of sentence
- Scenario 2: Sex offenders sentenced to prison who have a prior prison sentence to serve 85% of sentence
- Scenario 3: Sex offenders sentenced to prison who have a prior sex felony conviction to serve 85% of sentence
- Scenario 4: Life w/out parole for sex offenders sentenced to prison who have a prior sex felony conviction
- Scenario 5: No deferred adjudication for sex offenders

**NOTE:**

- The impact of the policies on the prison population is reduced by 25% due to the estimated incapacitation and deterrent effects of the policies
- Years to Initial Impact is the number of years for the policy to begin to consume additional prison beds
- Years to Maximum Impact is the number of years for the policy to reach maximum impact on prison capacity