



Geriatric Inmates in Virginia Prisons

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Truth-in-Sentencing Reform in Virginia



The abolition of parole is a key issue in the 1993 gubernatorial campaign

1992

1993

1994

1995

Soon after his inauguration, the new governor forms a task force to develop a comprehensive sentence reform plan

Governor's Task Force on Parole Abolition and Sentencing Reform

- ❖ **Task force sought advisory testimony**

- **Town hall meetings**

**Citizen concern over lack of
truth in sentencing**

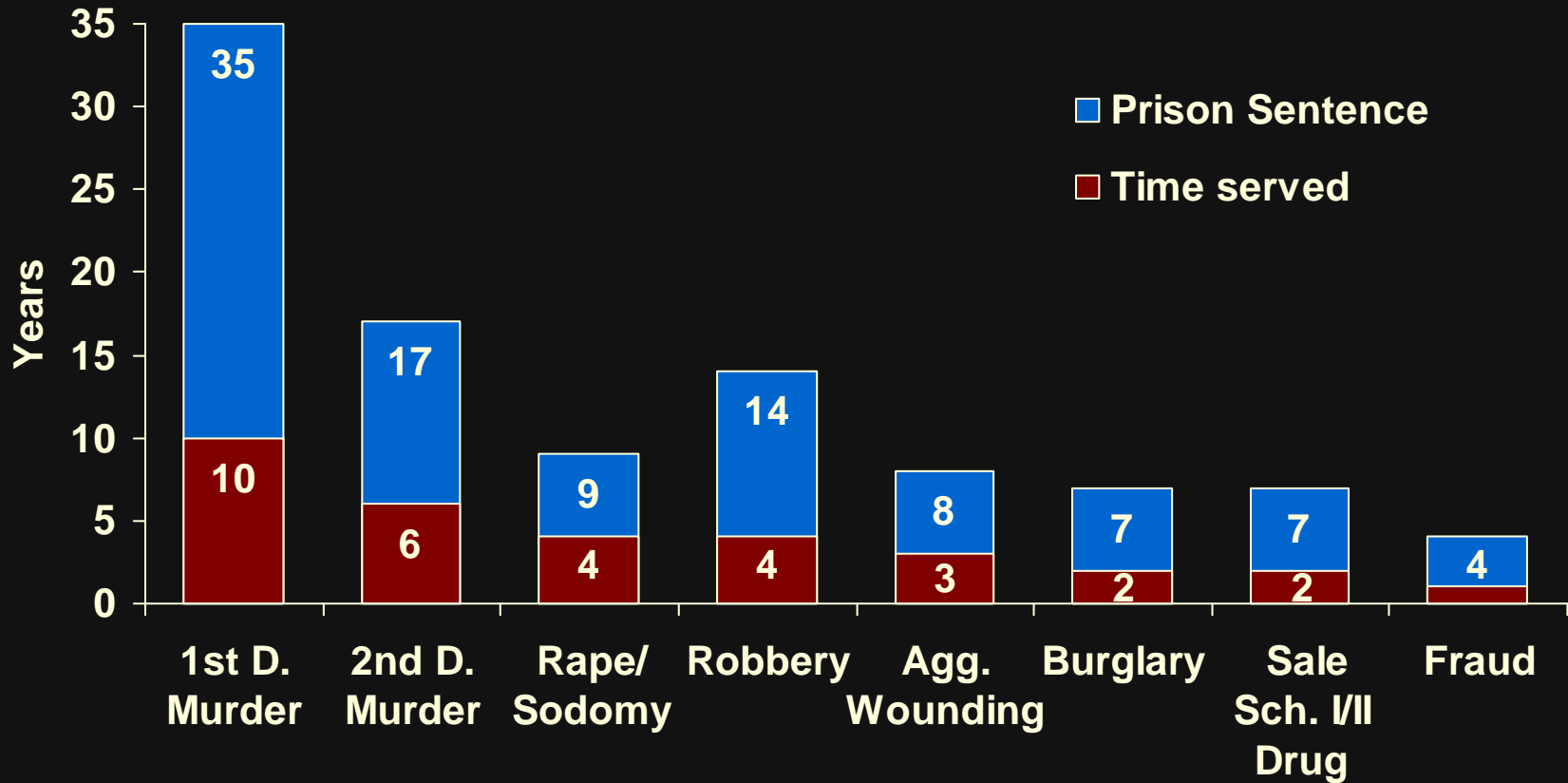
- **U.S. Sentencing Commission**

- **Other states**

**Florida, North Carolina,
Pennsylvania and Texas**

- ❖ **Task force staff conducted a thorough review
of historical sentencing and time served**

Average Prison Sentence Imposed and Time Served by Inmates 1993 Releases



In September 1994, sentencing reform legislation is adopted during a special session of the Virginia General Assembly

1992

1993

1994

1995

Sentencing reform provisions take effect for felonies committed on or after January 1, 1995

Goals of Sentencing Reform

Abolish parole

**Establish truth-in-sentencing
(minimum 85% time served)**

**Target violent felons for longer
terms of incarceration**

**Redirect prison-bound low-risk
offenders to less costly sanctions**

**Expand alternative punishment
options for some non-violent felons**

**Create a sentencing commission
to oversee a system of discretionary
sentencing guidelines**

Reduce sentencing disparities



Methodology to Create Historically-Based Sentencing Guidelines Under No-Parole § 17.1-805

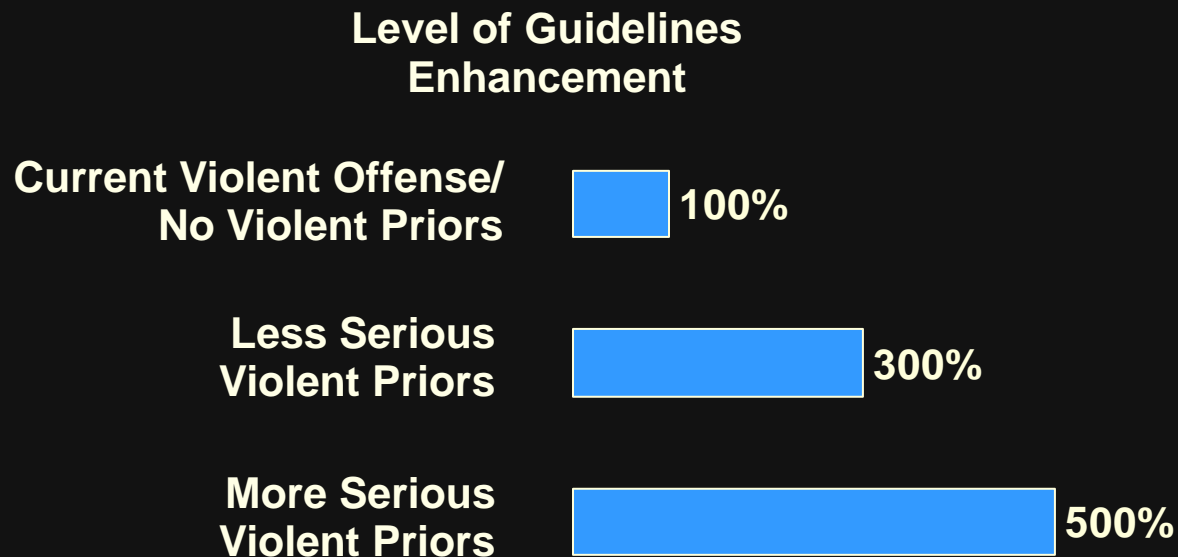
- ❖ **Sentencing guidelines in place prior to 1995 were based on historical sentencing practices**
 - **Judges imposed sentences knowing that the offender would serve only a percentage of it before being granted parole**
- ❖ **These guidelines were converted to reflect the historical time served by similarly situated offenders**

Methodology to Create Historically-Based Sentencing Guidelines Under No-Parole § 17.1-805

- ❖ Historical time served figures were increased by 13.4% (anticipated rate of earned sentence credit)**
 - ❖ The highest 25% and lowest 25% of time served values were eliminated**
 - ❖ The midpoint of the remaining cases was identified**
 - ❖ This served as base recommendation**
-

Methodology to Create Historically-Based Sentencing Guidelines Under No-Parole § 17.1-805

Base recommendation was increased or “enhanced” by 100%, 300%, or 500% for violent offenders with current or prior violent felony convictions



Note: Certain burglaries defined as violent crimes. Violent offender definition includes including juvenile adjudications.

Impact of Truth-in-Sentencing/No-Parole Laws

Nonviolent offenders are serving serve about the same amount of time as they did historically under the parole system

With legislatively mandated enhancements built into the guidelines, violent offenders are recommended for sentences that result in significantly longer lengths of stay than those served under the parole system

Virginia's Geriatric Release Provision



The geriatric release provision was enacted as part of the abolition of parole and truth-in-sentencing reform package passed by the General Assembly in 1994

Under § 53.1-40.01, any person serving a sentence for a felony offense other than a Class 1 felony (i) who has reached the age of sixty-five or older having served at least five years of his sentence or (ii) who has reached the age of sixty or older having served at least ten years of his sentence may petition the Parole Board for conditional release

Virginia's Geriatric Release Provision



Originally applicable only to offenders sentenced under truth-in-sentencing laws, the 2001 General Assembly expanded this provision to apply to all prison inmates

Rationale for Geriatric Release

With violent offenders targeted for very lengthy terms of incapacitation under truth-in-sentencing and no discretionary parole release, some prisoners will remain incarcerated well into old age

Research shows that, as offenders age, they are less likely to recidivate

Some inmates, by virtue of their age and physical condition, are unlikely to pose a threat to public safety



Rationale for Geriatric Release

Moreover, cost to the Department of Corrections, particularly in medical expenses, is significantly higher for older inmates

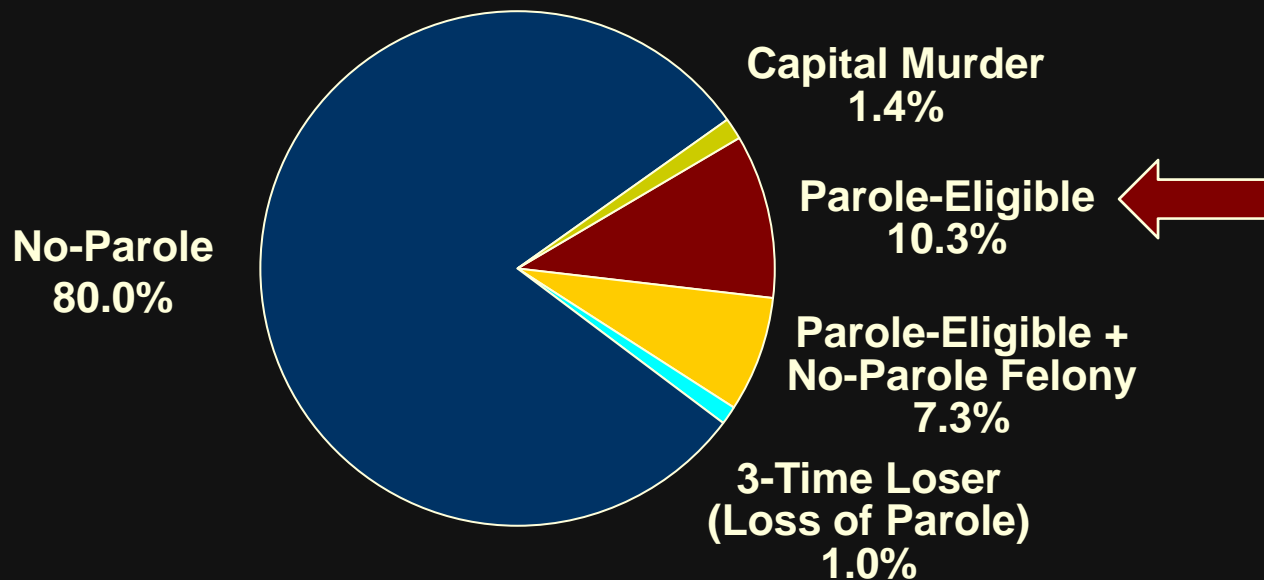


*Study of Parole-Eligible and
Geriatric Inmates in Virginia*



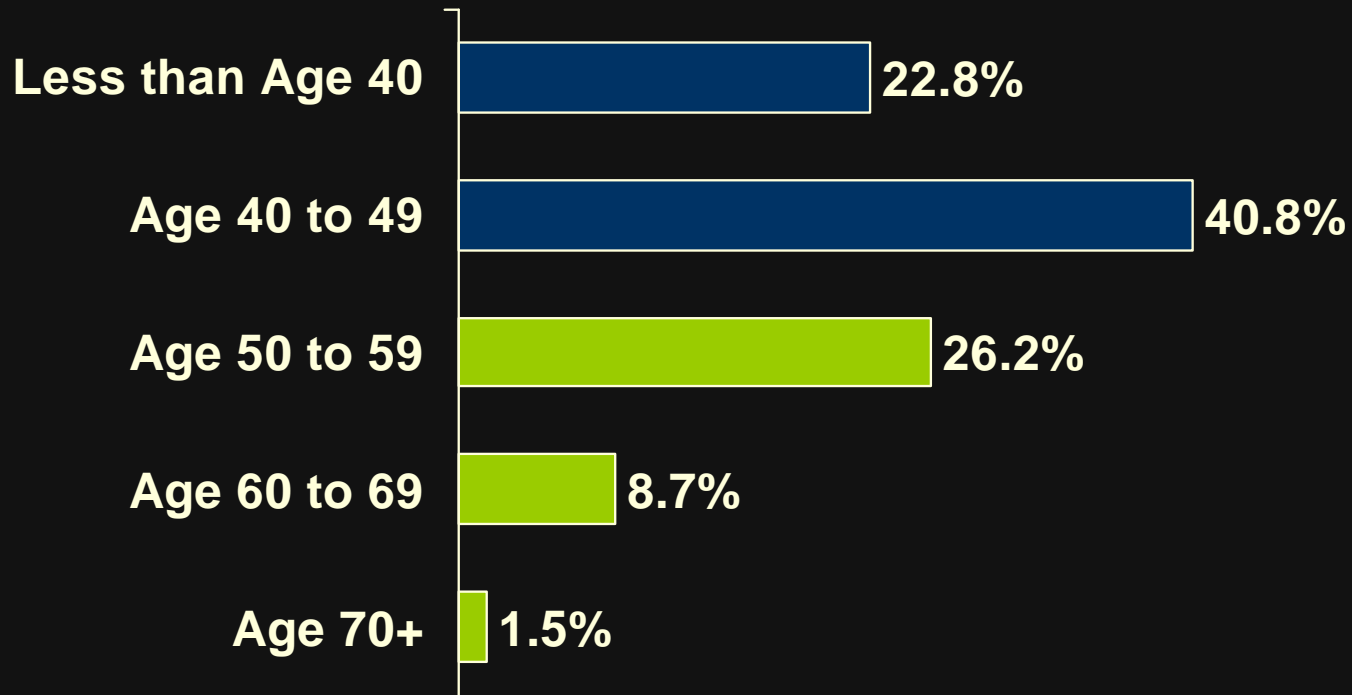
While parole was abolished for offenders committing felonies on or after January 1, 1995, offenders who committed their crimes prior to that date remain eligible for parole consideration

**State-Responsible Prison Inmates
Classified as of December 31, 2008**



36,232 Classified Prison Inmates

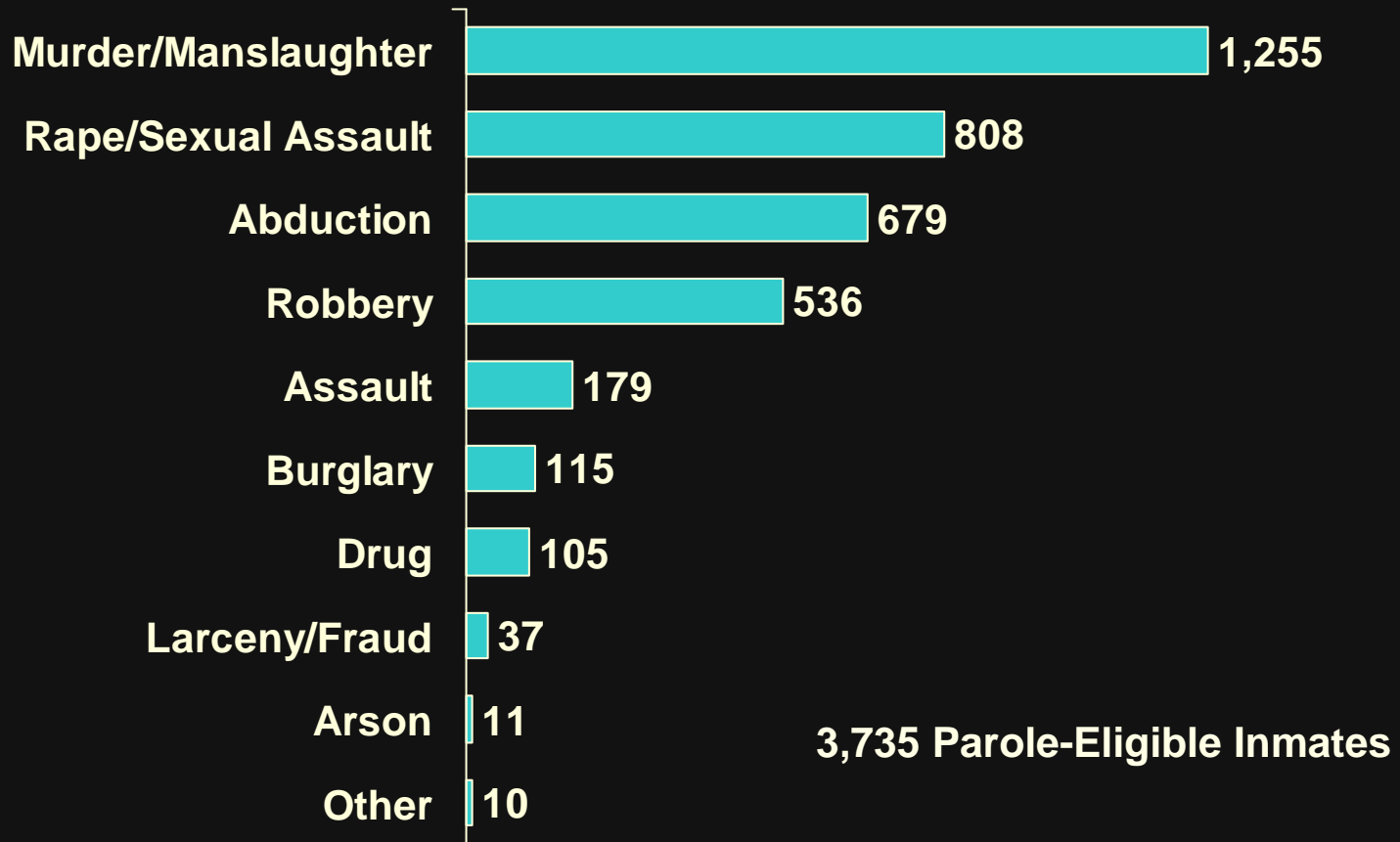
Parole-Eligible Inmates as of December 31, 2008 by Age



3,735 Parole-Eligible Inmates

Note: Excludes offenders who also have no-parole felonies

Parole-Eligible Inmates as of December 31, 2008 by Most Serious Offense (as Classified by DOC)

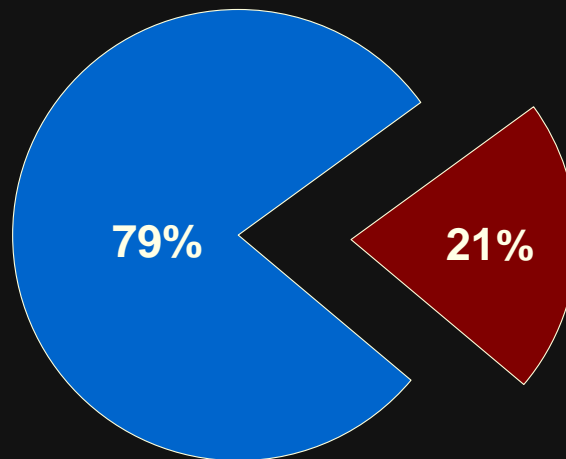


Note: Most serious offense as classified by DOC may not be the same as the most serious offense identified by the sentencing guidelines. Excludes offenders who also have no-parole felonies.

Parole-Eligible Inmates for Whom a Guidelines Recommendation Could Be Calculated

For 79% of the parole-eligible inmates, the time served through the end of 2008 was within the guidelines recommendation the offender would have received had he been sentenced under the no-parole system

(2,635 inmates)



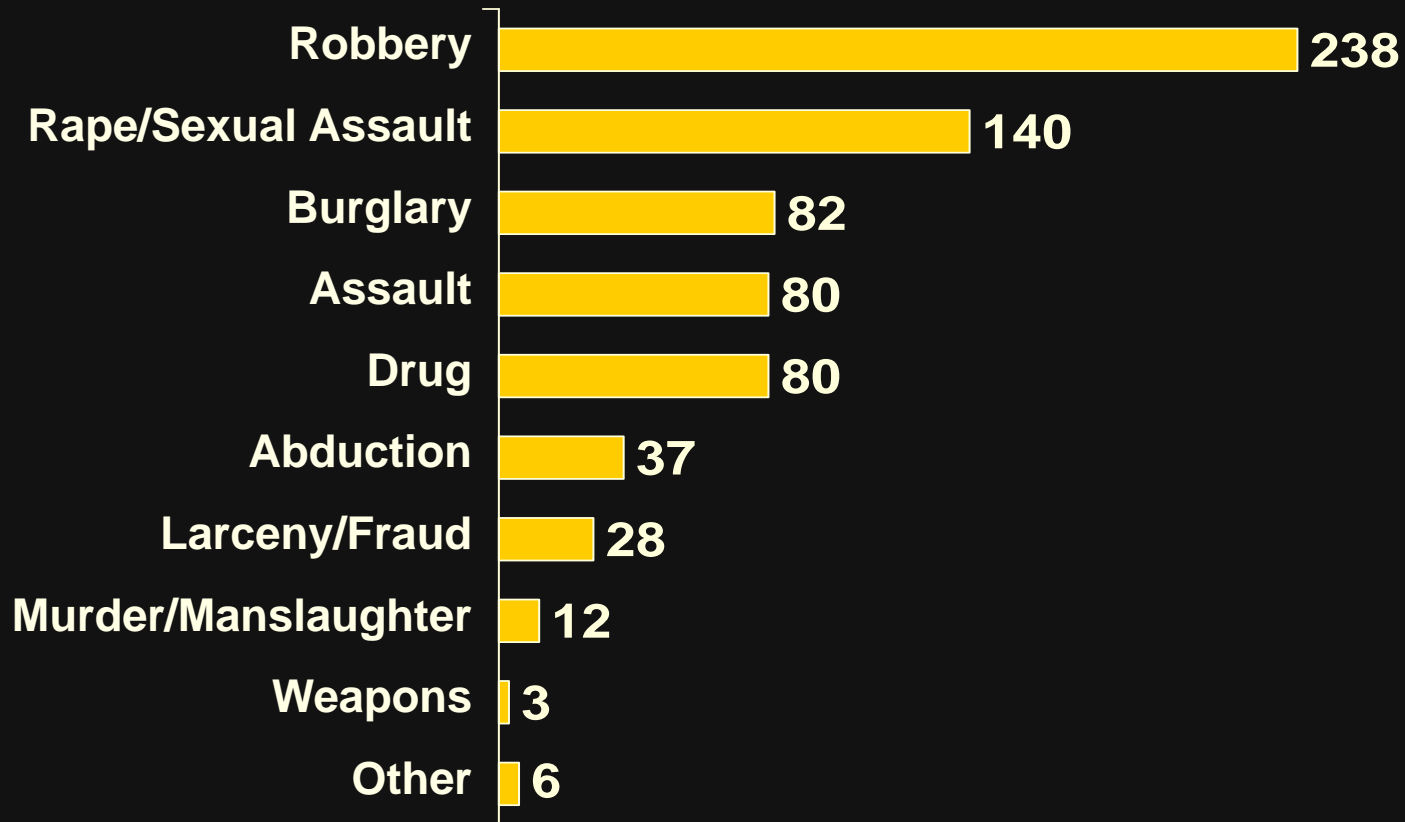
For 21% of the parole-eligible inmates, the time served in custody through the end of 2008 had exceeded the range recommended by the no-parole guidelines

(706 inmates)

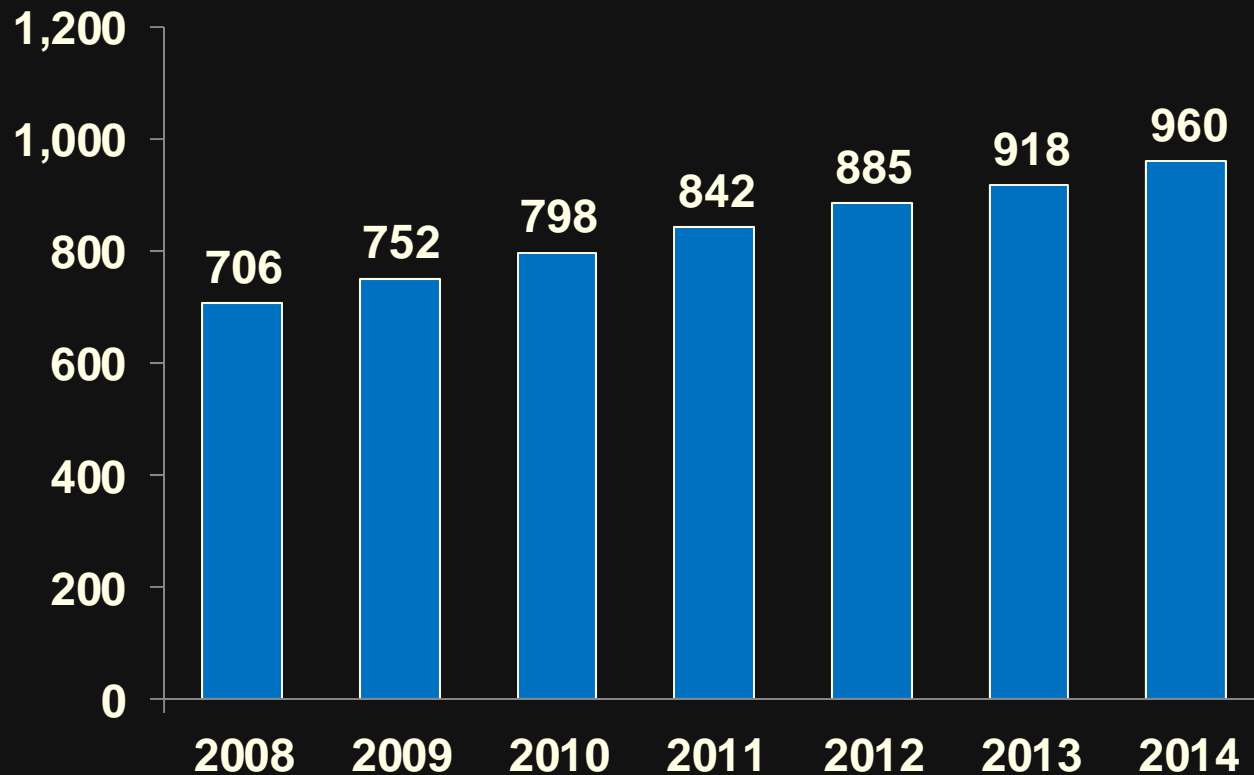
3,341 Parole-Eligible Inmates with Sufficient Information to Score the Sentencing Guidelines

Most Serious Offense

706 Parole-Eligible Inmates Whose Time Served Exceeded the Guidelines Recommendation

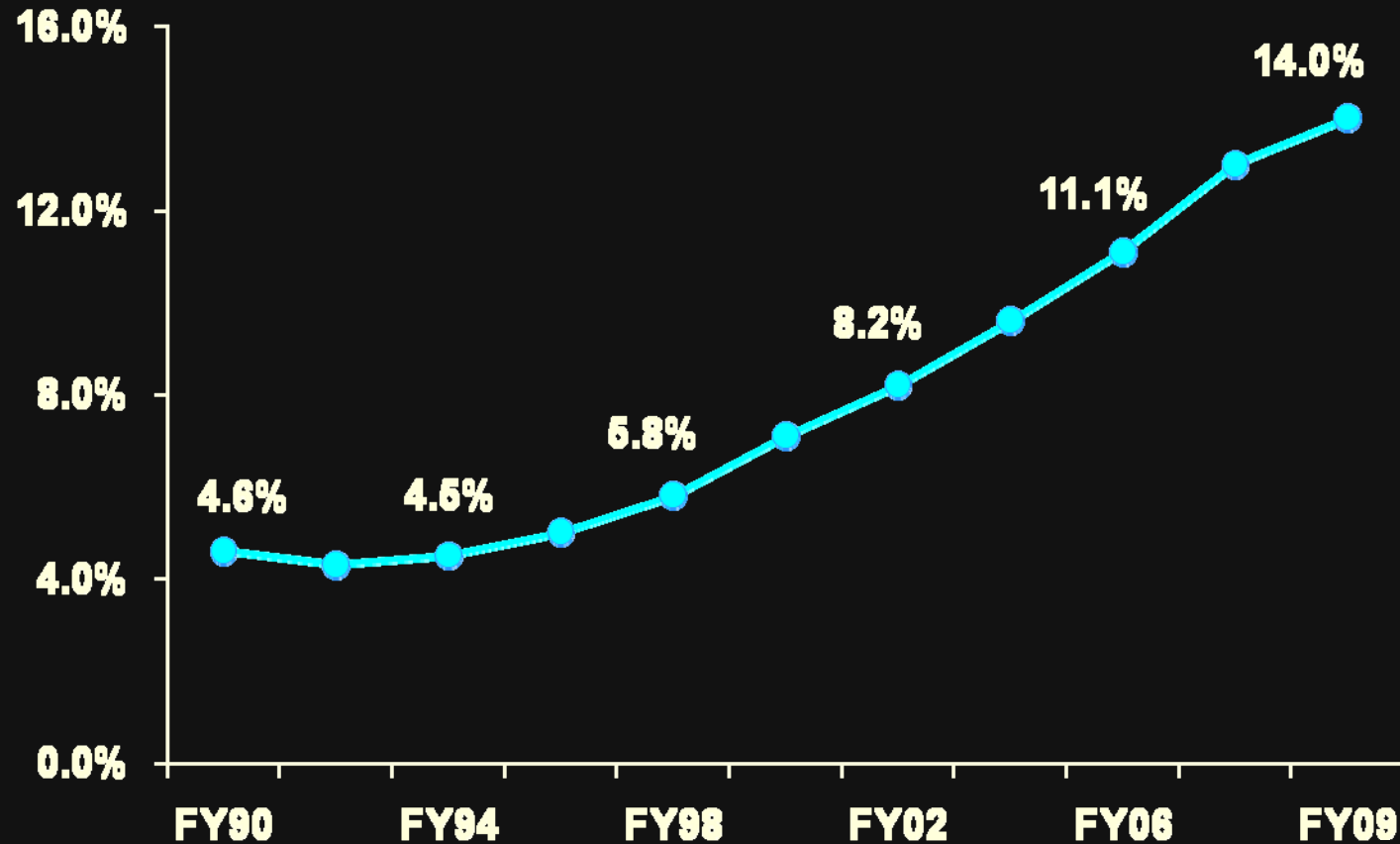


Number of Parole-Eligible Inmates Whose Time Served Will Exceed the Guidelines Recommendation by Year



Note: Inmates who are expected to reach their mandatory parole date prior to exceeding the guidelines high-end recommendation are excluded.

Percent of Virginia's State-Responsible Prison Population Age 50 and Over



Inmates Eligible for Geriatric Release

- ❖ As specified in § 53.1-40.01, an inmate must apply to the Parole Board to be considered for release under the geriatric provision**
- ❖ An inmate eligible for discretionary parole release is considered for parole annually once he reaches his parole eligibility date; parole consideration is automatic**
- ❖ According to Parole Board policy, if a parole-eligible inmate chooses to apply for geriatric release, he loses his discretionary parole hearing for that year**

Inmates Eligible for Geriatric Release as of December 31, 2008

	State-Responsible Inmate Population	Inmates Eligible for Geriatric Release		
		Parole System Inmates	Truth-in-Sentencing Inmates	Total
December 31, 2001	32,946	231	14	245
December 31, 2004	35,916	328	47	375
December 31, 2008	38,256	460	115	575

The number of inmates eligible for geriatric release has been increasing, reaching 575 at the end of 2008

Because truth-in-sentencing is applicable to felonies committed on or after January 1, 1995, a relatively small number of offenders sanctioned under truth-in-sentencing laws have qualified for geriatric release consideration

Inmates Eligible for Geriatric Release by Age and Time Served

	Age 60 to 64 and Served at Least 10 Years		Age 65 or More and Served at Least 5 Years	
	Number	Median Time Served*	Number	Median Time Served*
December 31, 2001	112	19 yrs.	133	12 yrs.
December 31, 2004	184	20 yrs.	191	14 yrs.
December 31, 2008	292	21 yrs.	283	17 yrs.

* Median time served is the middle value, where half of the values are higher and half are lower

Applications for Geriatric Release

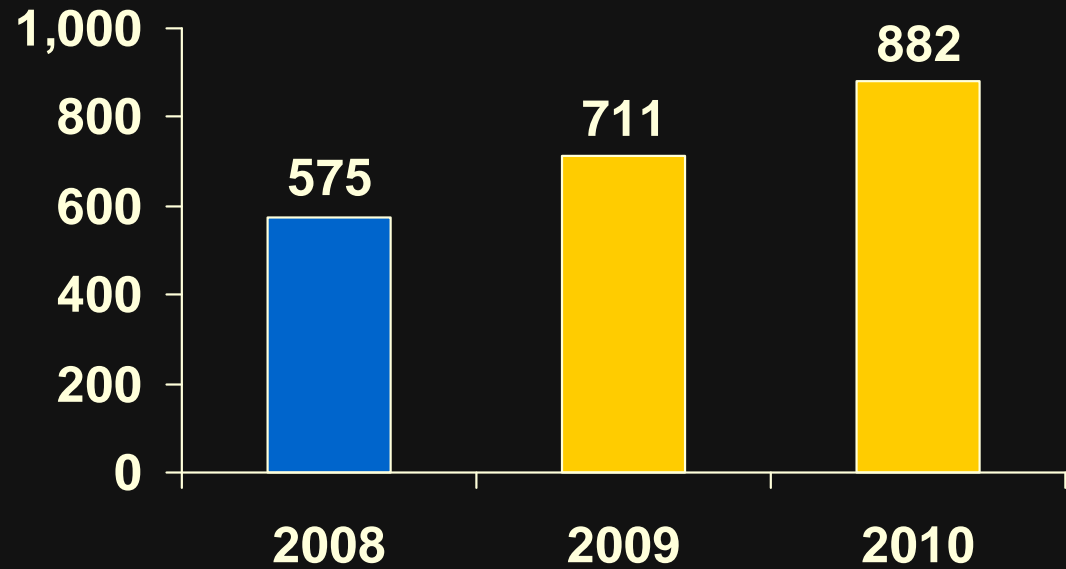
- ❖ **Data from the Parole Board reveals that few eligible inmates have applied to be considered for geriatric release**
 - **Only 61 (11%) of the 575 eligible inmates submitted an application to the Parole Board in 2008**

- ❖ **This is most likely because the majority of inmates eligible for geriatric release are also eligible for discretionary parole release**
 - **Parole-eligible inmates are automatically considered annually by the Parole Board and the inmate need not take any specific action**

Inmates Granted Geriatric Release

As of August 2009, the Parole Board had granted geriatric release to 12 inmates since the provision took effect in 1995

Projected Number of Geriatric-Eligible Inmates, 2009 and 2010



The number of inmates eligible for geriatric release is expected to continue to grow significantly, as more inmates sentenced under the truth-in-sentencing system reach the necessary age and time-served qualifications for geriatric release

Projection is based on inmates confined as of December 31, 2008

Note: A portion of these inmates may reach their mandatory parole release date or the expiration of their sentence before they reach the necessary age and time-served thresholds to qualify for geriatric release.

