

REPORT OF THE  
VIRGINIA COUNCIL ON HUMAN RIGHTS ON

**Racial and Cultural Insensitivity  
and Its Impact on the  
Criminal Justice System**

TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA



**SENATE DOCUMENT NO. 51**

COMMONWEALTH OF VIRGINIA  
RICHMOND  
1994



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TO: The Honorable L. Douglas Wilder, Governor of Virginia  
Members of the General Assembly

Senate Joint Resolution 228 and House Joint Resolution 463 directed the Virginia Council on Human Rights, assisted by Norfolk State University and Virginia Commonwealth University, to study the impact of racial and cultural insensitivity on violent crime.

It is with pleasure that I submit this report for your review and consideration.

Respectfully submitted,

  
Edwin C. Allison  
Chairperson

ECA/sdn

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**PART ONE**  
**INTRODUCTION**

**I. BACKGROUND OF THE STUDY:**

The committee on Senate Joint Resolution 228 and House Joint Resolution 463 grew out of the Governor's Violent Crime Task Force in 1993. The Virginia Council on Human Rights, assisted by Virginia Commonwealth University and Norfolk State University, were charged to study the impact of racial and cultural insensitivity on violent crime. The study was to include, but not be limited to, "the determination of (I) the extent of the impact of race and its effect on violent crime such as hate crime, (II) differences in the criminal justice response to victims and offenders based on race or ethnic origin, and (III) the impact of racism on housing, job opportunities, economic development, health, and education and the resulting impact on violent crime." The committee was also asked to submit recommendations for changes in the criminal justice system.

**II. THE MISSION OF THE COMMITTEE:**

The mission of the committee, as decided by the committee, was as follows: "To study the impact of racial and cultural insensitivity on violent crime and the differences in the criminal justice system's response to victims and offenders based on race and ethnic origin". This came directly from the stated charges, yet was narrowed due to the limited amount of time given. Because of the importance of the charges, the committee recommends that further studies be done to help eliminate insensitivity within the criminal justice system.

**III. MEMBERSHIP OF THE COMMITTEE**

The committee was made up of the following members:

Mona Adkins Easley, Director, Virginia Council on Human Rights  
Edwin "Zeke" Allison, Chairperson, Virginia Council on Human Rights  
Douglas Adams, Council member, Virginia Council on Human Rights  
Elsie Barnes, D.A., Political Science Professor, Norfolk State University  
Victor Collins, Director of Minority Student Affairs, Virginia Commonwealth University  
Neal Kauder, Senior Research Analyst, Department of Criminal Justice Services  
Bakeer Rasheed, Representative of the public at large

Report prepared by Jocelyn Strother, Research Specialist, Virginia Council on Human Rights

*Data was provided (see Section VI) by Neal Kauder, Senior Research Analyst, Department of Criminal Justice*

#### IV. STUDY APPROACH TAKEN

The committee studied the criminal justice system through presentations, group discussions and public hearings. Presentations were made by different agencies and groups involved in the criminal justice system. These included the Department of Corrections, the Parole Board, the Offender Aid and Restoration Program, the Department of Criminal Justice Services, the Governor's Office, and those from the Juvenile Justice System.

There were five public hearings held: Richmond, Alexandria (two were held here), Roanoke and Norfolk. These hearings were advertised in local papers and telephone calls were made and letters were sent to different local agencies including Police, Probation and Parole, Social Services, Virginia Cares, Commonwealth Attorneys, Human Rights Offices, and District Courts.

The committee was presented data with regard to such issues as arrest and conviction patterns and the incidence of hate crime. This information was used to help guide committee deliberations and served as an indicator for further areas of study. The data was also used to help define the specific issues which surround the subject of cultural insensitivity and its impact on the criminal justice system. Selected results of this data analysis are provided in Part Six.

Whereas presentations and public hearings brought about information from outside sources, discussions among the committee members brought about more ideas and points of interest. With these sources of information, strong recommendations to aid the criminal justice system have been made.

## **PART TWO**

### **SUMMARY**

#### **I. REASON FOR THE STUDY**

It has been said that the criminal justice system is racially and culturally insensitive when it considers minorities and, therefore, unfair when it comes to those who are involved in the system. It is believed by many that particular key figures in the system such as police, judges, attorneys, probation officers and parole officers are insensitive to those in the minority. This report will offer recommendations to help alleviate this insensitivity.

The committee hoped to distinguish between the general population's ill perception of the criminal justice system and the realities of the system. The question that was put to every perception was: "Is the perception of the justice system true or false?" If the perception is a correct accusation, then the focus should be on correcting the assessed problem. If the perception is an incorrect accusation, then the focus should be on correcting the perception of the justice system. Part Five covers some of these perceptions throughout the state.

#### **II. DESCRIPTION OF RESULTS**

Several of the listed recommendations in Parts Three and Four mention already available program opportunities that should become mandatory. This is to ensure that all offenders going through the system get an equal opportunity to take part in a program that is needed by all. This is so that it does not matter whether the offender is black or white, rich or poor, which often times is the basis of institutional discrimination, or that there is a lack of space in any given program.

This report does not necessarily give a definite plan of action. What it does, is give options to choose from when it is time to define that plan. It was designed to give an overall look at the justice system and to then give ideas on improving racial and cultural sensitivity in key areas of the system.

## PART THREE

### RECOMMENDATIONS

*Recommendation 1:* It should be mandatory that the Department of Corrections make available General Education Diploma (GED) classes to all inmates who wish to participate.

*Recommendation 2:* The General Assembly should instruct trial courts to organize a standard formatted list of all available sentencing options and court processes that may effect the offender. This mechanism needs to be given to the defense attorney and be discussed with the offender in order to allow more equal access to the system.

*Recommendation 3:* The Department of Corrections should mandate a training program for inmates to prepare them to reenter society before they leave the correctional facility. This may include transition programs to help the inmates begin to do things for themselves.

*Recommendation 4:* The General Assembly should aid in providing employment for ex offenders by encouraging state government to take the lead and facilitate other private businesses in hiring ex offenders.

*Recommendation 5:* The Department of Corrections should have available appropriate alcohol and drug recovery programs inside correctional units for those inmates who want to participate and provide more recovery institutions for those offenders who need treatment and not necessarily incarceration. This will also add more sentencing options.

*Recommendation 6:* That the General Assembly mandate further study of the economics, socialization and race of those who enter the system. The racial discrimination that occurs may not necessarily be direct, but has a disparate impact on blacks because of the high percentage incarcerated that are in a low socio-economic status.

*Recommendation 7:* An extra effort in hiring a more culturally diverse criminal justice management and leadership staff should be made. This includes police, all aspects of the court, probation and parole systems. It is important to include more women and more minorities to ensure a more representative offender/victim/staff ratio.

*Recommendation 8:* Ensure that an adequate amount of time is spent between the offender and his appointed attorney prior to any hearing or trial. An established "least amount of time to be spent" should be examined for its feasibility.

*Recommendation 9:* The Department of Corrections should be given funds to hire more probation and parole officers in order to reduce the officer/client ratio.

*Recommendation 10:* The General Assembly needs to implement a plan where all of the people involved in the recruiting of criminal justice system personnel and the personnel selected for those positions be required to take classes in cultural awareness. This should begin with those in leadership positions; for instance, a chief and deputy chief of police. They may not have as much direct contact with the public as the community police officer, but they do have an effect on how that officer conducts his/her policing.

*Recommendation 11:* The Department of Corrections should examine the use of trust account funds to help the inmate pay any restitution or accruing fees, such as child support. When the inmate is released, there will be less of a burden with debts.

*Recommendation 12:* To ensure a reduction of hate crime in the future, cultural awareness classes should be provided in all schools: elementary through colleges supported by state funds.



## PART FOUR

### EXPLANATIONS OF THE RECOMMENDATIONS

#### COURTS AND SERVICES

*Recommendation 2:* The General Assembly should instruct trial courts to organize a standard formatted list of all available sentencing options and court processes that may effect the offender. This mechanism needs to be given to the defense attorney and be discussed with the offender in order to allow more equal access to the system. Many complaints were made about people not knowing what services could be rendered and this creates a disadvantage, most often for those with little money. The perception is that those with money can "work" the system. When the same information is given to everyone equally, there will be less of a basis for this perception. Information to include may involve plea bargaining, incarceration alternatives, services while incarcerated, judge verses jury trials and appointed verses private counsel. This list of all available avenues should be given to the offender.

*Recommendation 7:* An extra effort in hiring a more diverse criminal justice management and leadership staff should be made. This includes police, all aspects of the court, probation and parole systems. It is important to include more women and, especially, more minorities to ensure proper representation of the offender and victim populations. When a black male is arrested by a white police officer, appointed a white attorney, sentenced before a white judge and put into a prison that has a majority black population, this black male's perception of the system is likely to be one of discontent. To help improve this negative perception by offenders of the various components of the criminal justice systems and ensure proper treatment, there needs to be a stronger peer representation of those coming into the system.

*Recommendation 8:* Ensure that an adequate amount of time is spent between the offender and his appointed attorney prior to any hearing or trial. An established "least amount of time to be spent" should be examined for its feasibility. The committee was given examples of cases where the defense attorney called the offender in jail and asked, "How do you plea?" or where the defense attorney saw the client for the first time at court. These were the extent of the consultations. Because of this, there is no possible way that this offender could have received proper representation or even feel that he is being given a fair chance.

*Recommendation 9:* The Department of Corrections should be given funds to hire more probation and parole officers in order to reduce the officer/client ratio. Because of the strong needs of the ex offender, a considerable amount of time should be spent between the offender and his officer. This is a very critical time period for the offender. With guidance, it will be easier for the parolee to be successful.

## OFFENDER TRAINING AND REHABILITATION

*Recommendation 1:* It should be mandatory that the Department of Corrections make available General Education Diploma (GED) classes to all inmates who wish to participate. Currently, GED classes are not offered in all correctional facilities. At the age of sixteen the offender has the right to drop out of school. Sixty four percent of all those convicted of a violent crime between 1990-1992 did not have a high school diploma. When a willing offender goes to class and gains a GED, he/she is much more likely to be successful when released.

*Recommendation 3:* The Department of Corrections should mandate a training program for inmates to prepare them to reenter society before they leave the correctional facility. When training is put together with the Parole system which aids ex offenders, a smooth transition can be made when reentering society. Without the support and the training of basic skills, including interviewing skills, the ex offender would more than likely end up in jail once again.

*Recommendation 4:* The General Assembly should aid in providing employment for ex offenders by encouraging state government to take the lead and facilitate other private businesses in hiring ex offenders. The recidivism rate is strongly effected by the lack of employment of ex offenders. One of the biggest problems noted by ex offenders and those that work directly with ex offenders is the lack of employment opportunity. Most applications ask if the applicant has ever been convicted of a felony. When the employer sees the answer "yes", the applicant is usually told "no" to employment. Give an incentive to companies and businesses that hire ex offenders, such as some form of a tax break. Otherwise, these ex offenders may become offenders once again.

*Recommendation 5:* The Department of Corrections should have available appropriate alcohol and drug recovery programs inside correctional units for those inmates who want to participate and provide more recovery institutions for those offenders who need treatment and not necessarily incarceration. After viewing data on convicted felons, it was found that 1/3 of all those convicted suffered from alcohol abuse. Discussions throughout the study have brought up the point that incarceration is not always the answer. Many times an offender needs rehabilitation, not punishment. This will also add more sentencing options.

*Recommendation 11:* The Department of Corrections should examine the use of trust account funds to help the inmate pay any restitution or accruing fees, such as child support. This should help reduce the recidivism rate in two ways: first, by teaching the offender responsibility; and second, by alleviating some of the burden of debts that can be overwhelming to someone reentering society with no means of repaying the debt. The ex offender knows that if fees and debts are not paid, he could end up back in prison.

## GENERAL

*Recommendation 10: The General Assembly needs to implement a plan where all of the people involved in recruiting of criminal justice system personnel and the personnel selected for those positions be required to take classes in cultural awareness. This should begin with those in leadership positions; for instance, a chief and deputy chief of police. They may not have as much direct contact with the public as the community police officer, but they do have an effect on how that officer conducts his/her policing. Others that should possibly be included are judges, wardens, attorneys, teachers, principals, and those people who are in leadership positions and are decision makers.*

*Recommendation 12: To ensure a reduction of hate crime in the future, cultural awareness classes should be provided in all schools: elementary through colleges supported by state funds. Make it mandatory for students to take classes in a foreign language beginning in elementary school. This is another form of cultural awareness training, because culture and history ought to be involved in teaching a language.*

## FURTHER RESEARCH

*Recommendation 6: That the General Assembly mandate further study of the economics, socialization and race of those who enter the system. The racial discrimination that occurs may not necessarily be direct, but has a disparate impact on blacks because of the high percentage incarcerated that are in a low socio-economic status. As noted in the charges of the study, economic development and socialization, including housing, job opportunity and education, are two key issues when studying racial and cultural insensitivity in the criminal justice system. Between 1990-1992, 62% of those convicted of violent offenses were non-white (less than 1% were other than black). This high percentage gives reason to question why it is that so many non-whites end up in the system when their general population percentage is so much lower. To explain this, it is necessary to look at the non-white's socio-economic status.*

## PART FIVE

### PERCEPTIONS AND EXPLANATIONS

**Perception 1:** Some people in the general population believe that there is sentencing disparity based on racial, economic and other non-legal factors.

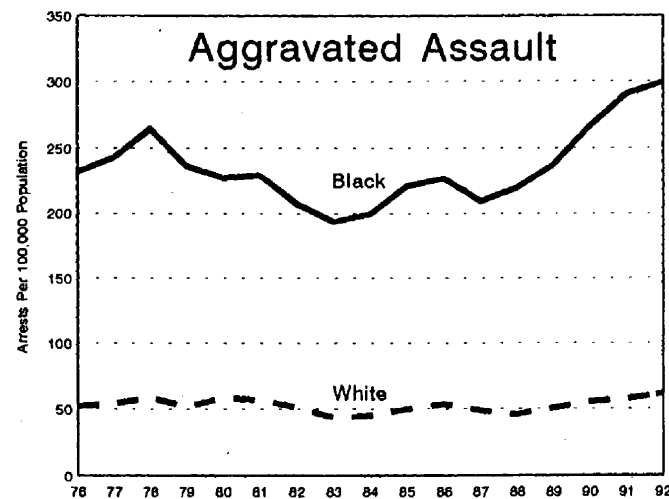
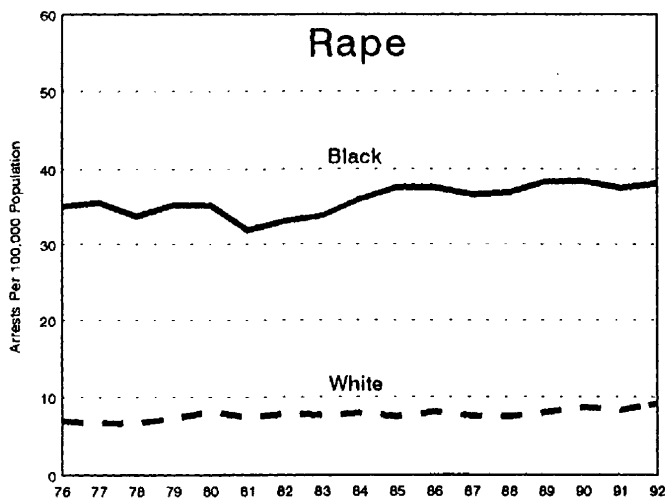
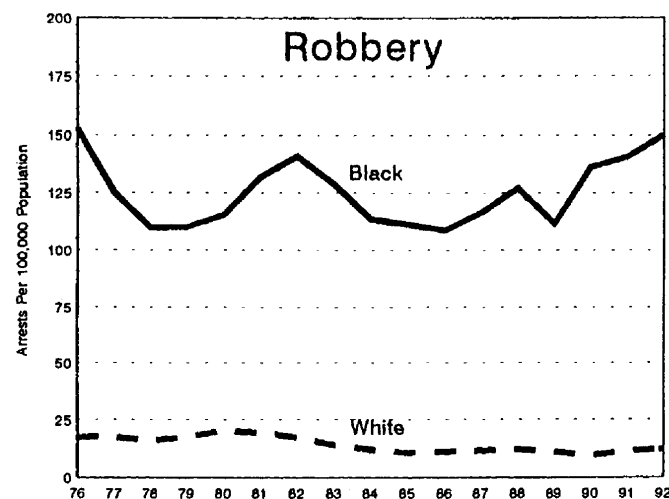
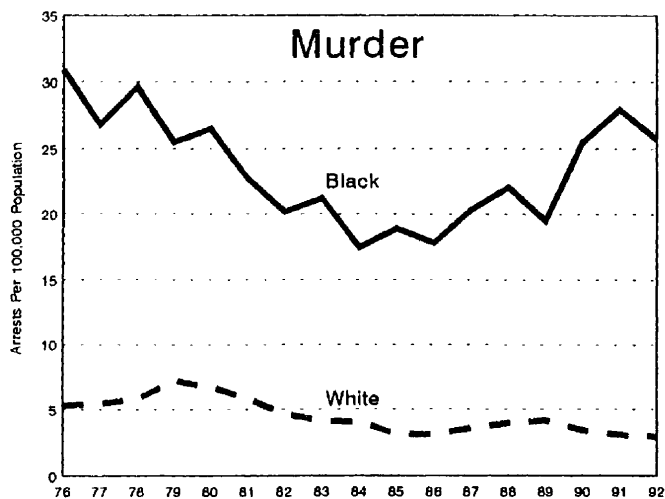
**EXPLANATION:** This perception has been verified to some extent based on a study of sentencing disparity and the use of sentencing guidelines. This study also found that many other non-legal factors could play a role in the sentencing process. Sentencing guidelines, although not a panacea, did aid in alleviating disparity in areas of the state which used the guidelines.

**Perception 2:** A portion of the general public believes that police are harder on blacks than on whites.

**EXPLANATION I:** It is true that at the street level a higher percentage of blacks are arrested more often than whites, especially for drugs, but this may not necessarily be due to the police being harder on blacks. This may be due to the fact that community policing is done at the street level, which is where most of the complaint calls come from and where the use and selling of drugs is more open and easier to find, as opposed to a suburban basement or country club. This also explains the difference in the arrest rate between crack and powder cocaine. The crack cocaine is cheaper and is usually at the street level, where more arrests are made. Powder cocaine is more expensive and harder to find.

**EXPLANATION II:** On the other hand, police, even black officers, have admitted to being wary of the black man and may therefore treat him differently than any other person. Complaints of police harassment often stem from young black men being approached, not necessarily because of their behavior, but because they may fit a profile or stereotype that has been engraved in the officer's mind. This perception can be avoided with the help of proper training and improved relationships between police and citizens.

# Violent Crime Arrest Rates in Virginia Racial Comparisons (1976-1992)

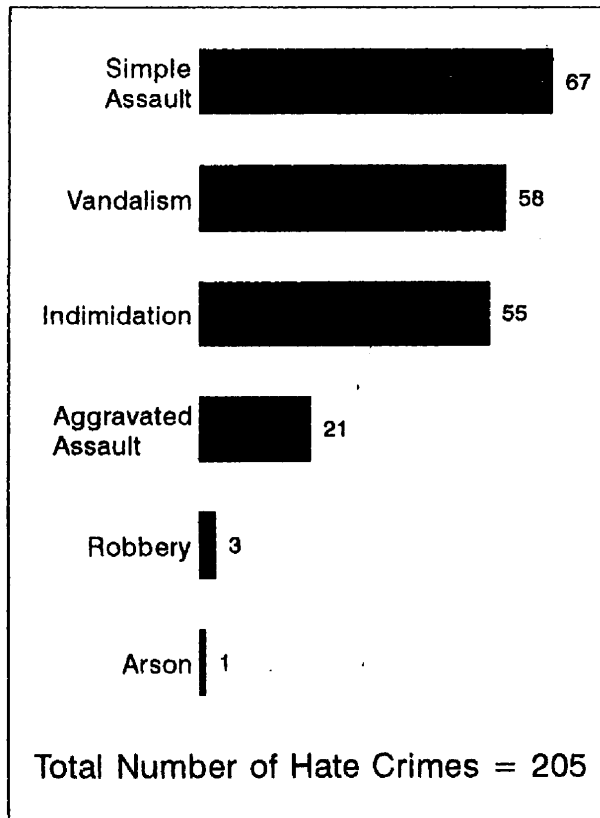


Prepared By: Criminal Justice Research Center, DCJS  
Data Source: Uniform Crime Reports, FBI

- Over 99% of the individuals arrested in Virginia between 1982 & 1992 were black or white.

# Reported Hate Crimes in Virginia During 1992

- A "Hate Crime" is an offense committed against a person or property which is motivated, in whole or in part, by the offender's bias against a race, religion, ethnic/national origin group, or sexual orientation group.

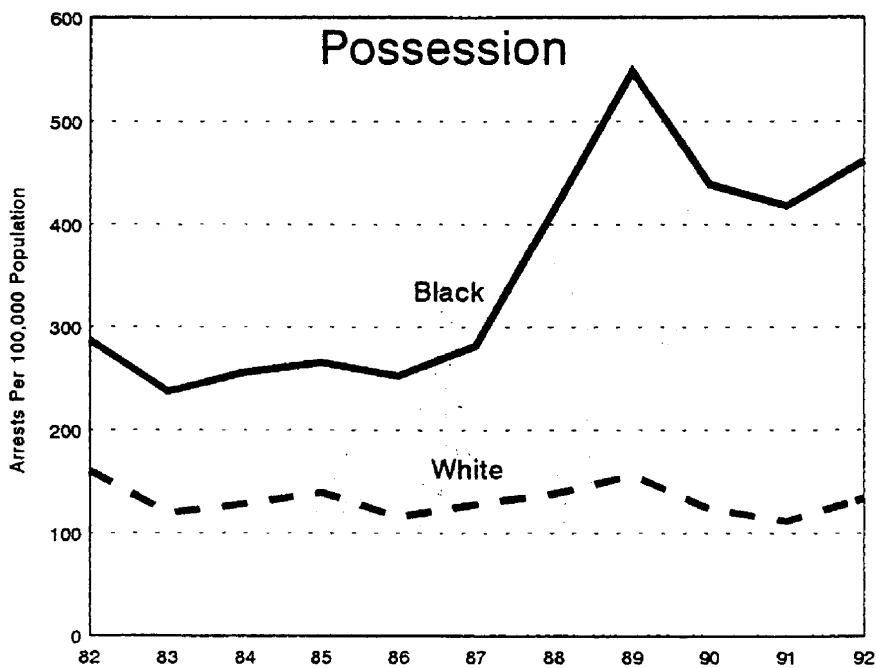
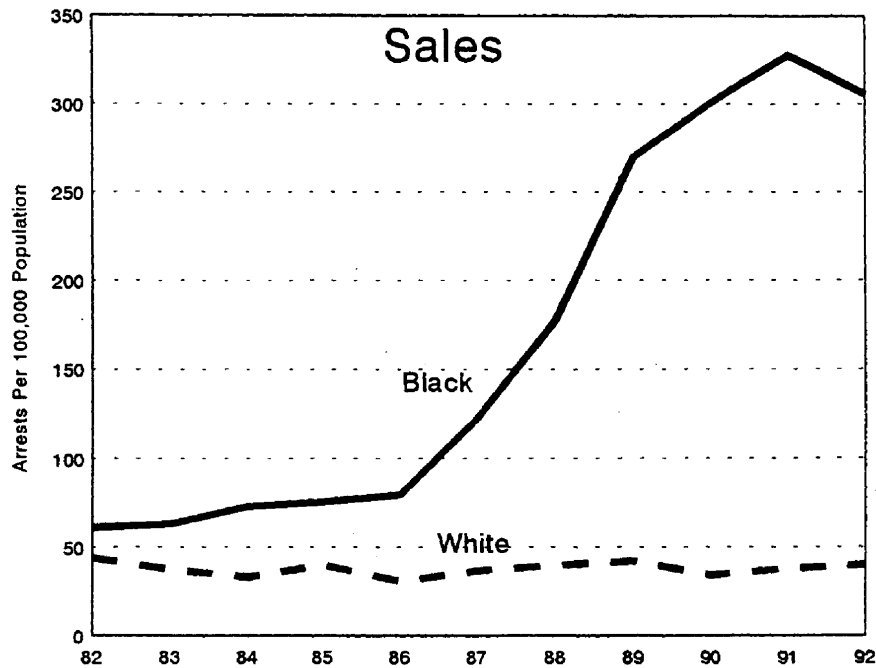


- Statistics reported by all localities as part of the State Police Uniform Crime Reporting Program (Mandated 1991)

- Simple Assault - An unlawful attack where neither the offender displays a weapon, nor the victim suffers serious injury.

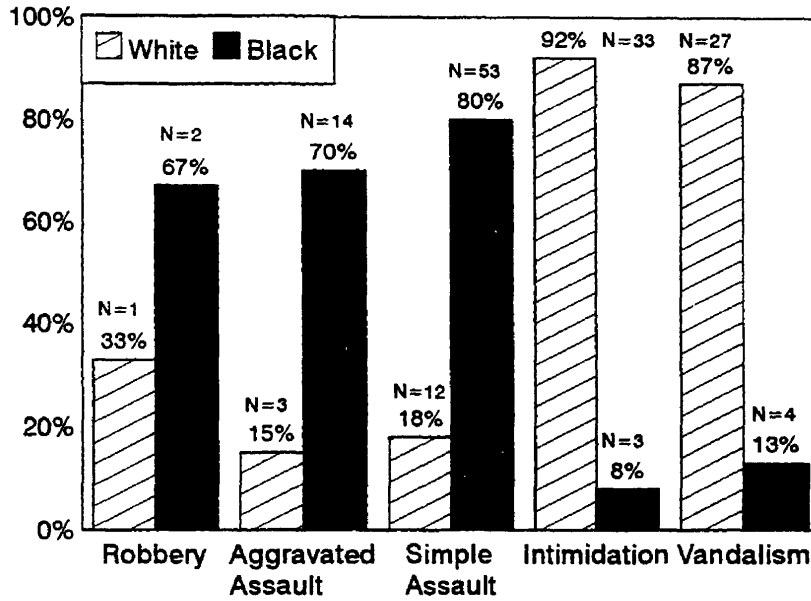
- Intimidation - Place another person in reasonable fear of bodily harm by using threatening words or other conduct (no weapon or physical contact).

# Drug Crime Arrest Rates in Virginia Racial Comparisons (1976-1992)



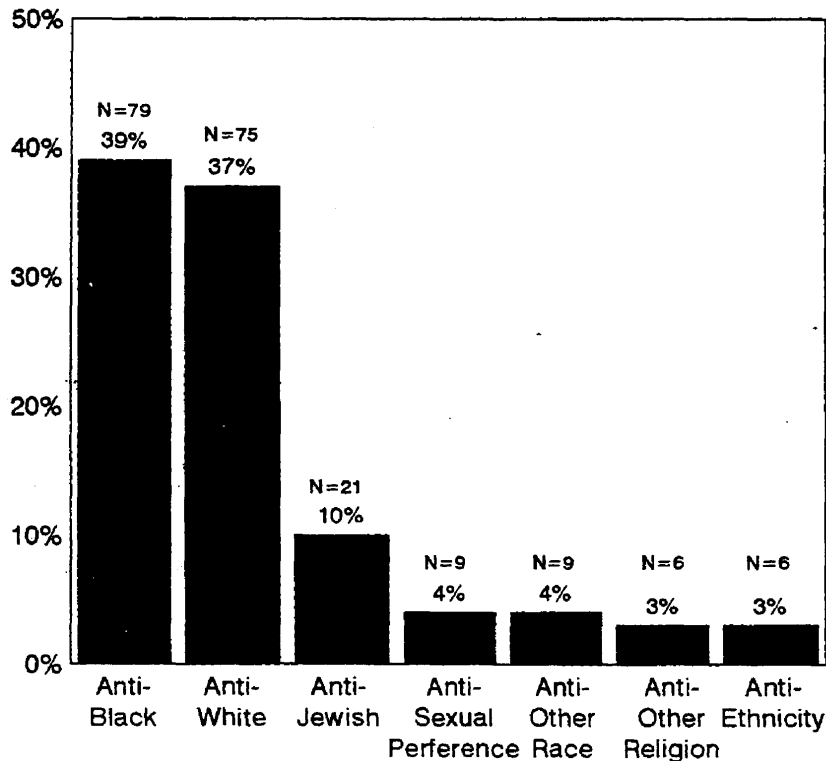
• Over 99% of the individuals arrested in Virginia between 1982 & 1992 were black or white.

# Type of Hate Crime Reported in Virginia By Offender's Race During 1992



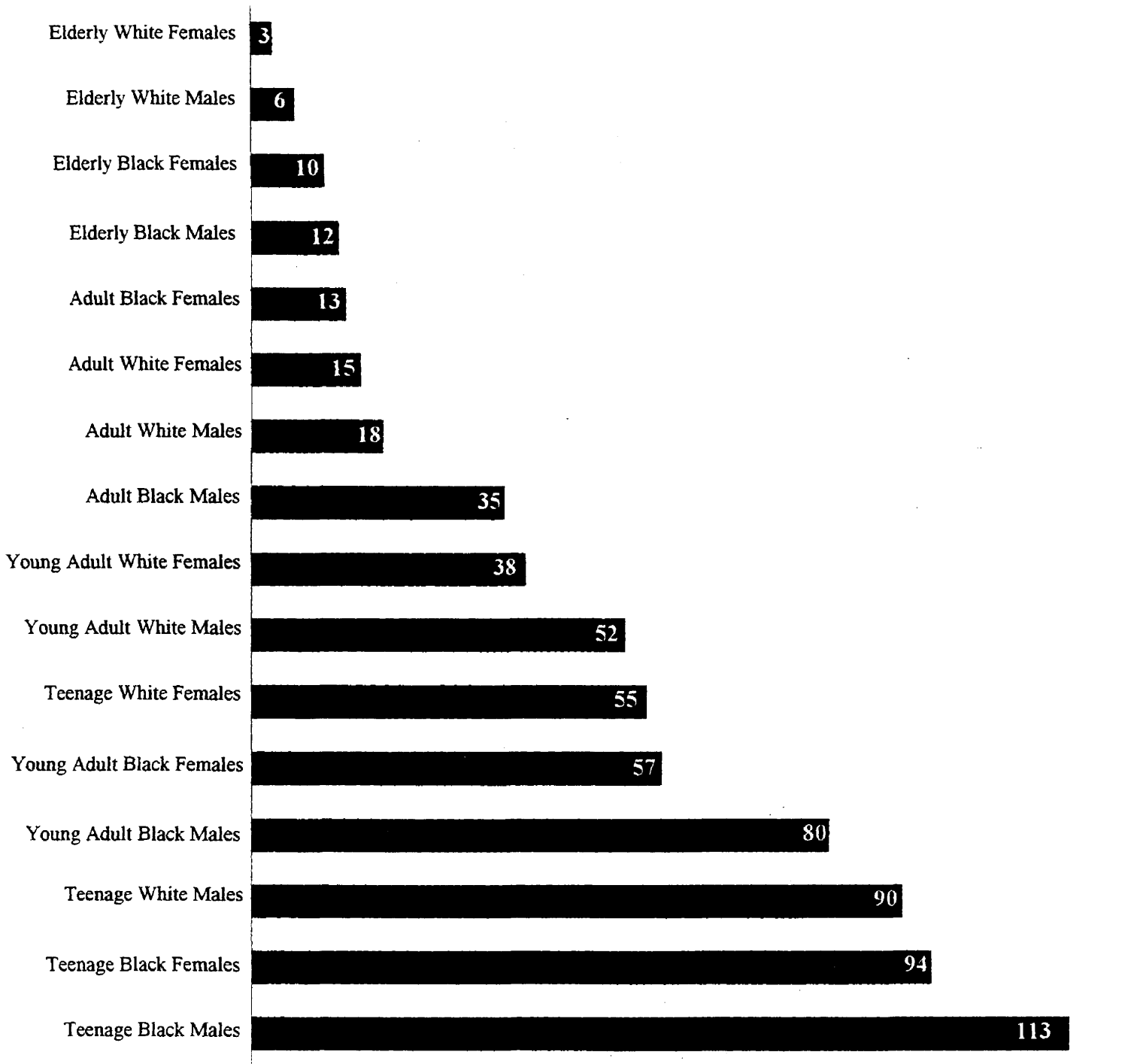
Note: 97.4% of the offenders were either white or black.

# Bias Motivation For the Hate Crimes Committed in Virginia During 1992





## Victimization Rates Of Violent Crime Per 1,000 Persons in the United States (1992)



*Note: Teenage=Age 12-19  
 Young Adult=Age 20-34  
 Adult=Age 35-64  
 Elderly=Age 65+*

# Race of Offender by Race of Victim for Violent Crimes in Virginia During 1992

