

# Burglary Sentencing Patterns in Georgia, 1972-1991: An Analysis of Incarcerated Offenders

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#### Abstract

This study examined burglary sentencing patterns in the State of Georgia between 1972 and 1991. Crime severity and prior criminal record were the main determinants of sentence length for burglars. Although gender and age had significant effects on sentencing, other offender attributes such as race, education, marital status, employment and economic status did not affect sentence length. Among the State's 45 judicial circuits, mean sentence lengths differed significantly. In particular, rural burglars received longer sentences than did their urban counterparts.

Analyses of sentencing trends between 1972 and 1991 showed that mean sentence lengths increased gradually until 1984 and decreased somewhat after that. Even with that slight decline, mean sentence lengths in recent years were still higher than they were prior to the mid '70s. The 1978 legislative enactment requiring a minimum mandatory sentence for repeat burglary convictions has neither increased the mean sentence lengths of repeat burglars nor reduced the variation of sentence lengths. Factors other than the repeat burglary legislation have induced the increase of mean sentence lengths since 1977.

## **I. Introduction**

This report describes sentencing patterns of convicted burglars in Georgia's 45 judicial circuits during the fiscal years 1972 through 1991. Because judges' sentencing decisions are greatly influenced by the type of crime committed, we stratified our analyses by crime type. In this initial report, we selected burglary for two reasons. First, inmates convicted for burglary accounted for the greatest number of incarceration records, which is especially useful in examining sentencing variations due to time period, circuits, offense and offender attributes. The incarceration data of the Georgia Department of Corrections (GDC) between 1972 and 1991 revealed that 23.1% of prison admissions had involved burglary. Comparatively, admissions involved any one of the other offenses accounted for a much smaller percentage of the total incarceration records: theft 4.7%, armed robbery 4.4%, aggravated assault 5.4% and drug sale 7% (the remaining 55% were related to other types of crimes). Having such a large number of convicted burglars in each circuit/year allowed us to assess the impacts of individual characteristics, circuit and year factors on sentence length.

The second reason we selected burglary was that we intended to evaluate the impact of several legislative changes on sentencing. Through the examination of sentencing trends over the past 20 years, we could assess how such legislation might affect judges' sentencing decisions. The following sections describe the data base and our major findings concerning burglary sentencing patterns in Georgia.

## **II. Description of the data base**

The primary data source for this research was the inmate file maintained by the

Evaluation and Statistics Section of the Georgia Department of Corrections. On July 1, 1971, the GDC began maintaining computerized records for convicted criminals who were sentenced to prison or probation by Superior Court judges in the State's 45 circuits. As of June 30, 1991, the GDC's inmate file had accumulated 233,036 incarceration records. Each incarceration record represents an inmate's "episode" in the penal institution. If an inmate was released on parole and was later rearrested for parole revocation, this inmate would have another "episode" record for his/her new admission. In order to study the initial sentencing of burglary offenders, we included only those inmates who were initially sentenced to prison by the State's Superior Court judges. Offenders who came to prison from a probation revocation or a parole revocation were excluded from the study. By selecting only convicted burglars initially sentenced to prison during the 20-year period, a total of 30,257 cases was generated.

Hagan and Bumiller<sup>1</sup> (1983:18-19) suggested that judges' sentencing decisions are influenced by four general types of attributes: offense attributes (e.g., offense type, monetary losses, crime severity level); offender attributes (e.g., gender, race, age, education, marital status, employment status, social class and prior criminal record); case-processing attributes (e.g., presentence report, attorney type, plea); and contextual attributes (e.g., urban/rural court type, caseloads). GDC's inmate file provides information on offense and offender attributes; however, the GDC data do not include information on case-processing attributes such as pre-trial status and recommendations of prosecutors and probation officers. In this

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<sup>1</sup>John Hagan and Kristin Bumiller, Making Sense of Sentencing: A Review and Critique of Sentencing Research, in *Research on Sentencing: The Search for Reform*, Alfred Blumstein, Jacqueline Cohen, Susan E. Martin and Michael H. Tonry (eds.), 1983, Pp. 1-54.

study, offender and contextual attributes were used as predictor variables for length of sentence. The dependent variable in the study was the sentence length in days imposed by the sentencing judge.

### **III. Description of sentencing patterns**

#### **A. Sentencing patterns by offender attributes**

The second column of Table 1 presents percentages of inmates for the variables of race, gender, employment status, marital status, educational level, financial situation, age at sentencing, urban/rural residency and prior incarceration. These percentage data suggest that over the 20-year period a typical convicted burglar in Georgia was male, nonwhite, single, high-school educated and unemployed. He was between the ages of 18 and 25, reported an annual income of less than \$7,500 and lived in an urban county.

The third column of Table 1 shows results of breakdowns of sentence length by nine offender attributes. These results allow us to examine the differences in sentence lengths across categories within each offender attribute. It is important to note here that the sentence differences shown in the Table are tentative because they reveal the association between sentence length and only one independent variable. Since many of the independent variables are highly correlated, it is possible that a significant effect for one predictor variable will disappear once other variables are held constant. To eliminate this possible spuriousness, the effects of different independent variables including offender and contextual attributes must be assessed simultaneously in a multivariate procedure. This analysis is presented in Section IV, after our discussion of sentencing patterns by year and by circuit.

Table 1 shows that convicts who were male, unemployed, rural residents with prior incarceration record were likely to receive longer sentences than those who were female, employed, urban residents without prior record. The data also show that sentence length generally increased as convicts grew older. Contrary to our initial expectations, offenders who were married, had a college education and made more than \$7,500 per year were likely to be given longer sentences than those who were single, had an elementary/high school education and earned less than \$7,500 per year. It may be that a married burglar who is highly educated and in higher economic status is able to plan and execute burglaries that yield substantial monetary gain. If we take into account crime severity level, the effects of marital status, education and social economic status on sentence length may disappear. In our later multivariate analysis, we would hold the level of crime severity constant and examine the independent effects of these offender attributes on sentencing.

#### B. Sentencing patterns by year

Figure 1 displays mean sentence length for the years 1972 through 1991. The Figure shows that mean sentence length increased over the 20 years but that there was a slight tendency, after peaking in 1984, for the mean sentence length to decline. However, mean sentence lengths were still higher in recent years than they were prior to the mid '70s.

The Appendix presents a listing of possible factors influencing the sentencing procedure and sentence length during the study period. One factor that might have influenced mean sentence length was the 1978 legislative enactment requiring a minimum mandatory sentence for repeat burglary convictions. Under this legislation, a defendant upon

conviction for a second burglary would receive a two to twenty year prison sentence without possibility of the sentence being suspended and probated. We thus speculated that this statute might increase mean sentence lengths for repeat burglars. We also speculated that the legislation might reduce the variation in sentence lengths because it established a mandatory limit of sentence lengths.

An examination of the sentencing trends for repeat and first-time burglars suggests that our speculations were not supported. As shown in Figure 1, both series increased slightly after 1978 and showed a similar trend throughout the study period. It seems that the effect of this legislation is not so much to increase sentence length as it is to prevent an offender convicted a second or third time for burglary to be placed on probation or suspended sentence. We also conducted a test to examine whether the mandatory sentence statute for repeat burglars might have diminished the sentencing variations. Results of the statistical test did not support our hypothesis.

As mentioned earlier, mean sentence length has been declining in recent years. It would be important in future research to evaluate how new sentencing options created in the '80s, such as Special Alternative Incarceration (SAI), intensive probation supervision and probation boot camps, might have affected the length of sentence.

### C. Sentencing patterns by circuits

The mean sentence length of each of the 45 Georgia circuits is presented in Figure 2. We categorized these circuits into urban and rural courts and found that, on the average, burglars in rural circuits received a prison sentence of 5.42 years, while burglars in urban

circuits were sentenced to an average 4.32 years in prison. A graph showing the mean sentence lengths for rural and urban circuits over the study period is presented in Figure 3. The Figure shows that over the entire 20-year period rural burglars received longer prison sentences than did urban burglars. The diagram also reveals that the differences in sentence lengths between urban and rural circuits increased as the years progressed. This difference in rural/urban sentencing increased particularly after 1979 and again after 1987. As a result, the circuit differences in the early and late '80s are much more pronounced than they were in the '70s.

#### **IV. Multivariate analysis of sentencing**

Using multiple regression techniques, we tested the independent effects of individual, court and year factors on sentence length. This analysis excluded those convicted burglars who received multiple (i.e., concurrent or consecutive) sentences. Since crime severity is considered one of the most important factors in sentencing, we selected those cases in which crime severity data from the State Board of Pardons and Paroles' parole guidelines information system were available. Because computerized crime severity data were not available until parole guidelines were established in 1979, this analysis was primarily based on the recent cases sentenced after that year.

The variables included in the analysis were eight offender attributes, crime severity level, circuit location and 12 dummy variables for the 13-year period of 1979-1991. Results of the multivariate analysis of individual and contextual factors for a sample of 3,263 cases are displayed in Table 2.

#### A. Effects of individual factors on sentence length

Results in Table 2 demonstrate that crime severity level and prior incarceration record were the two most potent variables in predicting a convict's sentence length, in that they have greater t-values than do other factors. The results strongly suggest that an offender's punishment was primarily determined by the crime committed and the extensiveness of his/her past record. As hypothesized earlier, marital status, education and economic status did not affect the length of sentence holding constant crime severity level.

The Table shows that gender has a significant effect on sentence length after controlling for all other factors. That is, male burglars received longer sentences than did their female counterparts. Females might have been treated more leniently because judges may consider them as less dangerous or judges may have taken their role as mother into account. An alternative explanation is that female burglars played a subordinate role in the crimes whereas their male partners took the dominate role. Consequently, female burglars are subject to less severe punitive action.

Another offender attribute related to sentence length was the offender's age. The data suggest that older burglars were likely to receive longer sentences than were younger burglars. Our correlation analysis found that age was significantly associated with prior record. In part, then, older burglars received longer sentences because they were more likely than younger burglars to have prior records. But results in the Table indicate that age might have affected sentence length through other factors as well. It might be that the various components of a burglary, such as the use of equipment and weapons, techniques imposed to break security systems, the selection of residential units in wealthy neighborhoods

and a leading role in the criminal group, are more common among aged burglars than among their younger counterparts. These components may have mediated the effects of age on sentence length.

As mentioned earlier, results in Table 2 were based on an analysis of a subsample of cases where crime severity data were available. We found that results from this subsample were comparable to those based on the original sample.

#### B. Effects of court and year factors on sentence length

Table 2 reveals that the relationship between circuit location and sentence length was significant even when other factors were held constant. This suggests that rural judges tended to give longer sentences to burglars than did urban judges. Rural burglars' longer sentences may be explained by either judges' attitudes or contextual attributes, but further analysis is required to answer this question.

The year in which defendants were sentenced was a significant predictor of sentence length. However, by themselves variables for years cannot provide a meaningful explanation for the yearly fluctuations in sentencing. Future analyses should consider such annual factors as court budget, prison capacity and court caseload.

#### V. Summary and possible future directions

In this study, we found that legal factors like crime severity and prior criminal record were the main determinants of sentence length for burglars. Gender and age also had significant effects on sentencing, but other offender attributes (race, education, marital status,

employment and economic status) did not affect sentence length.

The analyses showed that mean sentence lengths differed significantly among the State's 45 judicial circuits. More specifically, we found that rural burglars received longer sentences than did their urban counterparts. Future analyses should consider how such aggregate-level factors as official burglary rate, percentage of non-white population and unemployment rate have affected sentencing patterns. We will need to collect data from other sources such as the Administrative Office of the Court, the Georgia Crime Information Center and GDC's statistical reports to test the effects of these aggregated factors on sentencing. Since the impact of these factors on sentencing may be dependent on the types of crimes analyzed, it will also be interesting to extend the analysis to such crimes as rape, assault and drug trafficking.

Results of the present study suggested that year factors had a great impact on length of sentence. To examine the impacts of these factors on sentencing, it is important to gather information regarding annual court budgets, caseloads and prison capacity and incorporate them into the analytic model. Adding these year variables to the analysis would improve our understanding of the fluctuations in sentencing.

In addition to the above research efforts, a theoretical test of specific deterrence merits further analyses. We can use the GDC data to assess the impact of specific deterrence on incarcerated offenders. If sentencing can be predicted by individual and aggregated factors, we will be able to obtain an expected sentence length based on the prediction scale. The degree of difference between the expected and imposed sentences can be used as a measure of specific deterrence. We will then be able to evaluate the inhibiting effects of

specific deterrence on offenders' subsequent criminality.

Table 1  
Individual Characteristics and Mean Sentence Length in Days

	<u>Number of cases</u>	<u>Percent of total inmates</u>	<u>Mean sentence length</u>
<b>Gender</b>			
Female	597	2.0	1369
Male	29660	98.0	1792
<b>Race</b>			
White	13934	46.0	1816
Non-white	16323	54.0	1755
<b>Marital status</b>			
Single	18252	60.3	1885
Married	7595	25.1	2001
<i>Missing cases</i>	<i>4410</i>	<i>14.6</i>	<i>987</i>
<b>Education</b>			
1-9 years	10910	36.1	1883
10-12 years	14890	49.2	1917
Some college	642	2.1	2029
College graduate	52	.2	2297
<i>Missing cases</i>	<i>3763</i>	<i>12.4</i>	<i>915</i>
<b>Age</b>			
Below 21	10170	33.6	1645
21-25	9430	31.2	1735
26-30	5359	17.7	1926
31-35	2795	9.2	1978
36-40	1305	4.3	2037
41-45	670	2.2	1874
46 and above	528	1.7	2092
<b>Employment status</b>			
Employed full time	8899	29.4	1818
Employed part time	1476	4.9	1824
Unemployed < 6 months	6281	20.8	1984
Unemployed > 6 months	5743	19.0	2268
Never worked	248	.8	2281
<i>Missing cases</i>	<i>7609</i>	<i>25.2</i>	<i>1187</i>
<b>Economic status</b>			
On welfare	3211	10.6	1937
Occasionally employed	115	.4	1992
At minimum standard (annual household income < \$7500)	12068	39.9	1964
Above minimum standard (annual household income > \$7500)	7452	24.6	2063
<i>Missing cases</i>	<i>7411</i>	<i>24.5</i>	<i>1138</i>

Table 1 (Continued)

	<u>Number of cases</u>	<u>Percent of total inmates</u>	<u>Mean sentence length</u>
<b>Home county</b>			
Urban county	15531	51.3	1631
Rural county	14726	48.7	1944
<b>Prior incarceration record</b>			
No prior incarceration record	22194	73.4	1585
One or more prior incarceration record(s)	8063	26.6	2330

Table 2  
Individual, Court and Year Factors in Regression Model

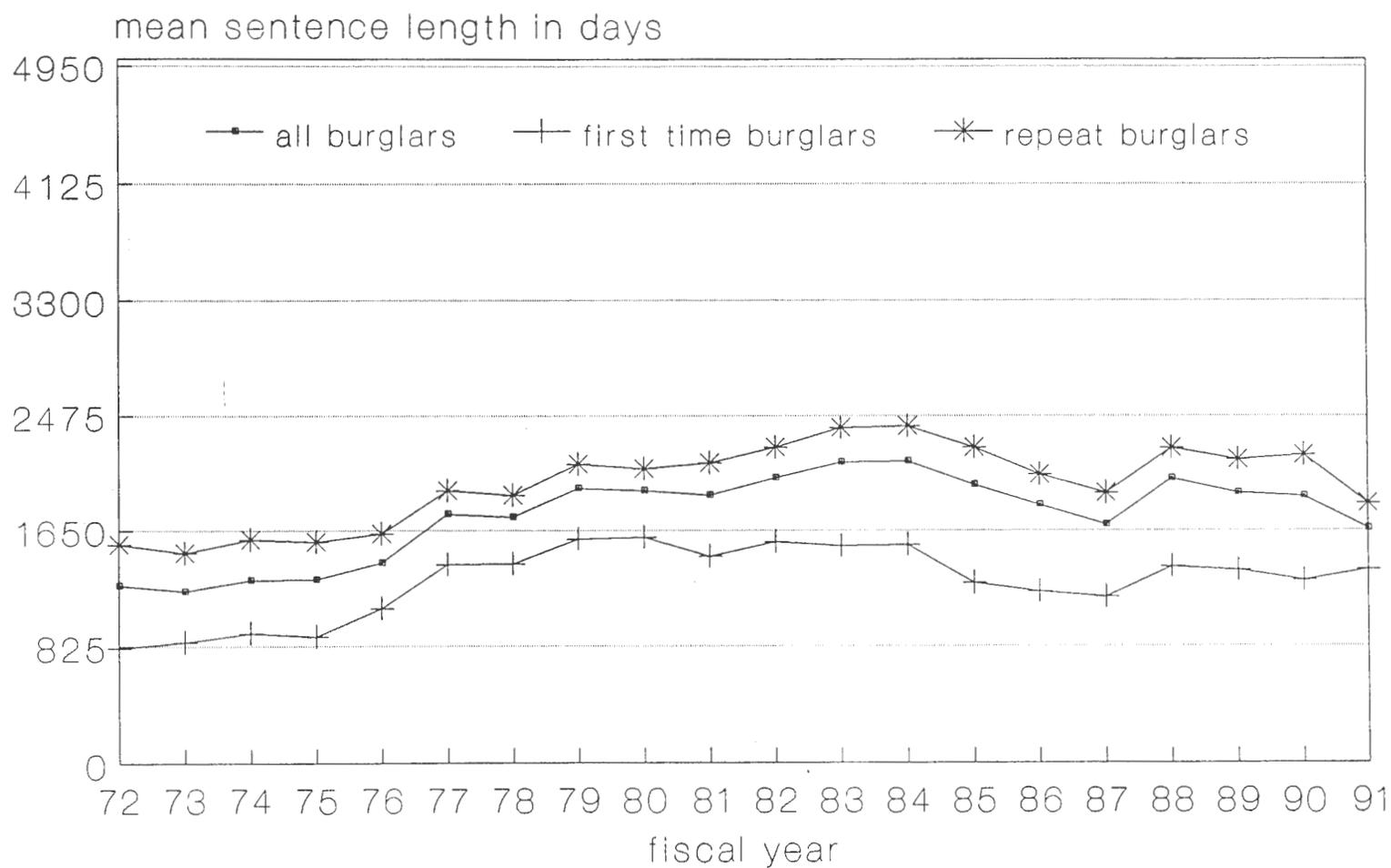
	<u>DF</u>	<u>R<sup>2</sup> change</u>	<u>F-value</u>	<u>Beta</u>
<b>Legal Factors:</b>	2	.035	55.03***	
Crime severity level				.163***
Prior incarceration				.119***
<b>Individual Factors:</b>	8	.022	8.66***	
Male				.051**
Non-white				.008
Marital status				-.006
Education				.004
Unemployment				.025
Economic status				-.002
Age				.262**
Age x Age <sup>1</sup>				-.115
<b>Rural Court:</b>	1	.004	11.73***	.063***
<b>Year Factors:</b>	12	.063	16.82***	
12 dummy variables				
R square = .152				

<sup>1</sup> the square term of Age

\* p < .05    \*\* p < .01    \*\*\* p < .001

# Figure 1: Sentence length for burglars

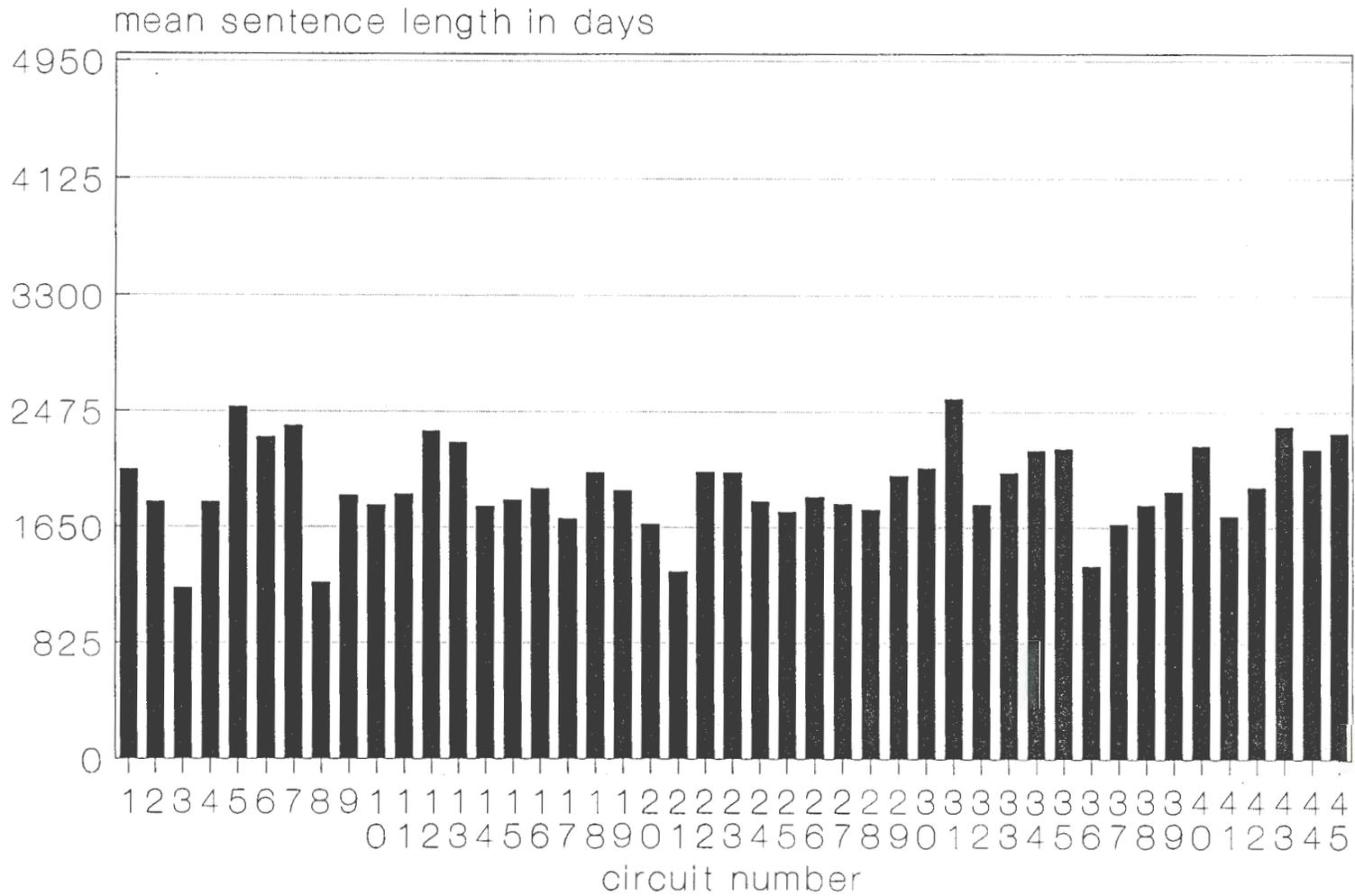
First time\*, repeat\*\*, and all burglars



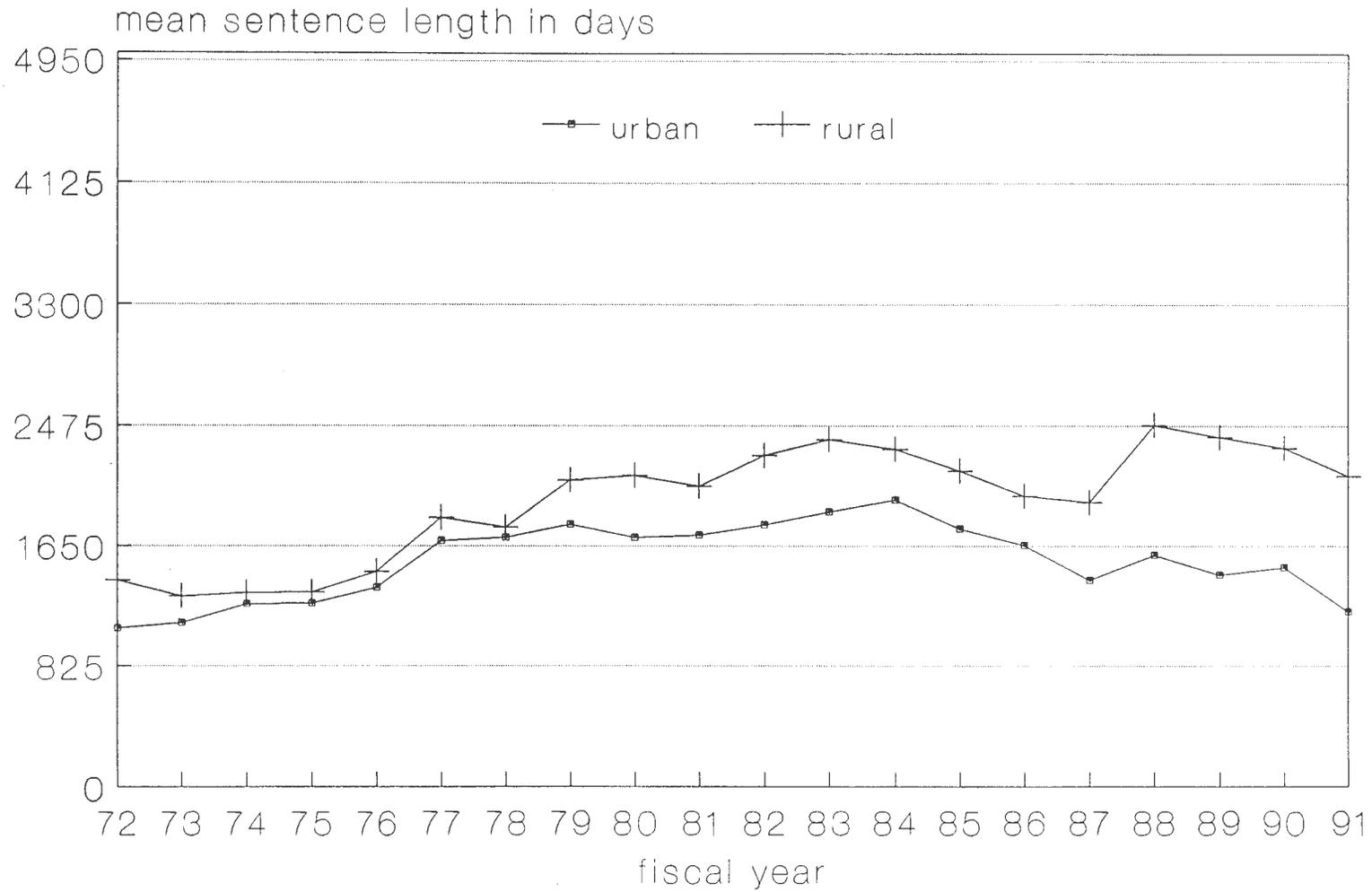
\*No prior property crime arrest  
 \*\* at least one property crime arrest  
 SD= 1654, Mean=1783

# Figure 2: Sentence length for burglars

## Sentence length in 45 circuits



# Figure 3: Sentence length for burglars Urban and rural court circuits



## APPENDIX

### REVIEW OF FACTORS IMPACTING SENTENCING PROCEDURES AND OPTIONS BY YEAR

#### 1974

(1) Removal of juries from setting sentence length (See Endnote 1)

Sentencing process is changed in that juries are removed from setting determinate sentence length for all felonies not punishable by life imprisonment and judge now has that authority (Code section 27-2502; Title 17-10-1 approved March 20, 1974).

(2) Judicial review of sentence greater than five years

Provided for review of sentences of imprisonment for period of five years by a panel of three superior court judges. Panel has authority to reduce sentence length, but not suspend or probate sentence (Code section 27-2511.1; Title 17-10-6 approved March 20, 1974).

(3) Repeat offenders

Provided that upon second felony conviction - ELIGIBLE for the maximum penalty by law. Upon fourth felony conviction must serve maximum sentence and cannot be paroled prior to serving maximum sentence (Code section 27-2511; Title 17-10-7 approved March 20, 1974).

#### 1976

Enactment of earned time allowances

Enacted earned time allowances for all inmates except those serving life sentences. Allowances may not exceed half of the period of confinement imposed by the court. Disciplinary actions taken by wardens and superintendents are reviewed by Commissioner of Corrections and inmates may forfeit a specified period or up to half of earned time if disciplinary actions involved violation of correctional rules and regulations and all or any portion of earned time if violation is a crime punishable by law (Title 42-5-100 approved March 25, 1976 and effects those sentenced after July 1, 1976).

#### 1978

Mandatory sentences for repeat burglars

Provided mandatory sentences for repeat burglary convictions: upon second conviction - not less than 2 no more than 20 years and upon third conviction - not less than 5 no more than 20 years. Sentences cannot be suspended or probated (Code 26-1601, Title 16-7-2 approved March 2, 1978). This overrides repeat offender legislation passed in 1974.

1979

Parole guidelines instituted

1981

- (1) Release from prison prior to completion of minimum sentence  
FIRST offenders may be released prior to serving minimum sentence (Code Section 27-2502(b); Title 17-10-1 approved April 4, 1981).
- (2) Early release of 4,000 inmates due to overcrowding.

1982

- (1) Amendment to First Offender Act  
Allows offenders sentenced to confinement to still be eligible for first offender status (Title 42-8-62 approved April 20, 1982, effective November 1, 1982.)
- (2) Riot at Reidsville. Federal court orders \$40 million to reconstruct and expand capacity of prison system.

1983

- (1) Earned time abolished  
Earned time is abolished (See Endnote 2) and parole guidelines are adjusted to facilitate prison population management (Section 42-5-100 amended, effective January 1, 1984). Those who committed crimes after January 1, 1984 are not eligible for earned time.
- (2) Community service and Special Alternative Incarceration (SAI) are available as alternatives to prison.
- (3) Intensive Probation Supervision (ISP)  
ISP begins in 19 pilot circuits.

1984

Period of SAI reduced from 180 to 90 days.

1988

(1) Home Confinement Probation

Home confinement probation is available as alternative to incarceration.

(2) Commutation of 5,000 inmates by Board of Pardons and Parole

During Fiscal year 1988 (7-87 to 7-88) the State Board of Pardons and Parole released 5,000 state sentenced inmates by commutation of sentences. Non-violent offenders who were sentenced to serve less than two years - on average served four months.

1989

(1) Authority given to governor to expand bed space if state of emergency is declared

Authorizes the Governor, upon certification by the Commissioner of Corrections and approval of the Director of the Office of Planning and Budget that the state prison system has exceeded capacity for at least 90 consecutive days, to declare a state of emergency. Upon such declaration, the Department of Corrections may establish permanent or temporary confinement facilities (Section 42-2-14 effective March 1, 1989).

(2) Community service alternative to incarceration

Judge may order offender to perform community service or order a 40 hour a week work detail as a disciplinary action in lieu of incarceration (Section 42-8-72 effective March 30, 1989).

(3) Alternatives to probation revocation

Court is to consider community service, intensive probation, diversion centers, probation detention centers or alternatives at probation revocation hearings (Section 42-8-38 effective July 1, 1989).

(4) Probation Detention Centers

Probation detention centers are available as alternatives to incarceration.

1990

Additional fines to fund construction

Courts may impose extra penalty equal to 10 percent of fine, bail or bond amount to fund construction, operation and staffing of county (local) penal facilities (Sections 15-21-90 through 15-21-95 effective January 1, 1990).

1991

Criteria for SAI eligibility is expanded

Age limitations for Special Alternative Incarceration are expanded to 17-30 year olds  
(Section 42-8-35.1, effective 7-1-91)

## ENDNOTES

(1) From 1939 to 1964, sentencing in Georgia was indeterminate and imposed by juries - jury provided a minimum and maximum range of time to be served within the legislatively prescribed penalty. Effective July 1, 1964 juries had to provide a set amount of time to be served (determinate sentence) within the legislatively prescribed range available. In 1974 juries were removed from the sentencing process and left only to determine guilt or not guilt of a defendant.

(2) From 1956 - 1976 good time was statutorily awarded and extra earned time allowances were awarded for exemplary and deserving prisoners. Rate for statutory good time for felony prisoners (except those serving life sentences) was two months for second year of sentence, three months for each remaining year through the tenth, inclusive, and four months for each remaining year of the sentence.