



ATLANTA REPEAT OFFENDER COMMISSION EXECUTIVE SUMMARY

Atlanta Police Foundation
Atlanta Crime Research Center
October 4, 2019

OVERVIEW

Crime in Atlanta often results from the repeated bad acts of a small number of individuals whose criminal histories are seemingly minimized by a court and probation system that quickly releases them from incarceration, whereupon the police arrest them again for newly committed crimes.

Repeat Offenders are defined as persons who have three or more prior felony convictions.

The leniency shown to these bad actors by the judicial system results in recidivistic crimes that prey on the public, often resulting in egregious injury or public fear by citizens and the neighborhoods who feel as if they've been terrorized.

Regarding repeat offenders, the police do their detection job well. They know where the criminals live. They know where they commit their crimes. And they arrest and re-arrest these bad actors only to have these serial offenders sentenced to minimal incarceration, then freed to begin anew their criminal activity.

- Why do the courts fail to incarcerate these felons?
- Don't law-abiding citizens deserve protection from serial felons?
- Why are judges failing to incarcerate people who repeatedly choose to commit serious crimes?
- Why do judges allow probation of persons, four-times convicted, who brazenly carry firearms despite prior convictions and in violation of law?

The Atlanta Repeat Offenders Commission (AROC) was empaneled to examine the scope of this problem and offer recommendations to fix it.

The AROC seeks to establish:

- Greater awareness by the public of the repeat offender problem in Atlanta
- Transparency into the sentencing decisions by judges, so the public has a clear line of sight into how each judge in Fulton County Superior Court sentences repeat offenders
- Recommendations to streamline the criminal justice process to ensure judges have accurate and timely information on prior convictions of defendants who appear before them
- Collaboration between the City, Fulton County and state agencies to track repeat offenders through the judicial system

SUMMARY FINDINGS

- Approximately 18 percent of felony cases adjudicated in Fulton County Superior Court in 2017 and 2018 were committed by ROs
 - 1065 RO cases of roughly 6,000 felony cases in 2017
 - 903 RO cases of roughly 5,000 felony cases in 2018
- In 2017 and 2018, just 23 percent of City of Atlanta repeat offenders were sentenced to confinement by Fulton County Superior Court judges -- a decrease of nearly 14 percent from the 37 percent who were sentenced to confinement in 2016

- In 2017 and 2018, 22 percent of repeat offenders were carrying firearms when they committed the most recent crime for which they were convicted – an especially egregious outrage since convicted felons are prohibited by law from carrying firearms.
- Sentencing variability of convicted ROs to confinement ranged from a low of 10 percent to a high of 48 percent -- an alarming range of judicial discretion in sentencing a population of individuals who have three or more prior felony convictions
- The most common sentence imposed by judges for ROs in 2017 and 2018 was “time served,” applied in 37 percent of cases. This represents the time a defendant spends in jail awaiting trial. *In Fulton County, this averages 95 days, for a felon convicted of his/her fourth felony.*
- **Multiple Repeat Offenders** are defined as individuals who have multiple felony arrests by the Atlanta Police Department within the same year.
 - In 2017, there were 67 such individuals, yet only 16 were sentenced to serve time in prison
 - In 2018, there were 86 such individuals, yet only 31 were sentenced to serve time in prison

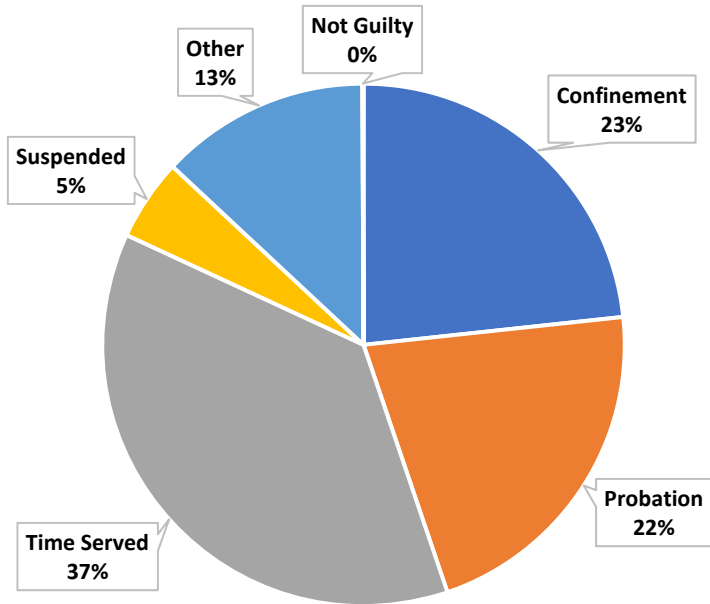
What is particularly vexing is that Repeat Offenders are demonstrably the most dangerous individuals in society, regularly preying on innocent citizens, with seemingly no remorse as evidenced by their repeated criminal actions.

Their repeated criminal actions demonstrate that they are impervious to leniency afforded by lesser sentences than confinement. Judges, however, seemingly act as if further leniency might somehow reform repeat offenders -- despite overwhelming evidence to the contrary.

Were the criminal consequences to society of judicial leniency regarding ROs benign, this would not be a problem. But the statistical summaries herein, and the obvious evidence of specific cases, demonstrates that the consequences are often serious and demand solutions.

Repeat offenders who persist in carrying a firearm in the commission of a crime present a serious, arguably imminent risk to the public. Their serial criminal acts demonstrate that sentencing leniency has failed to mitigate their behavior.

Figure 1. 2017 & 2018 Adjudicated RO Cases



As Figure 1. (left) demonstrates, 77 percent of repeat offenders were not sentenced to serve time.

(Other – includes Nolle-Pros, Dead Docket and Dismissal cases)

**Figure 2. Total 2017 & 2018 Adjudicated RO Cases = 1288
Cases with Gun Related Charges = 282**

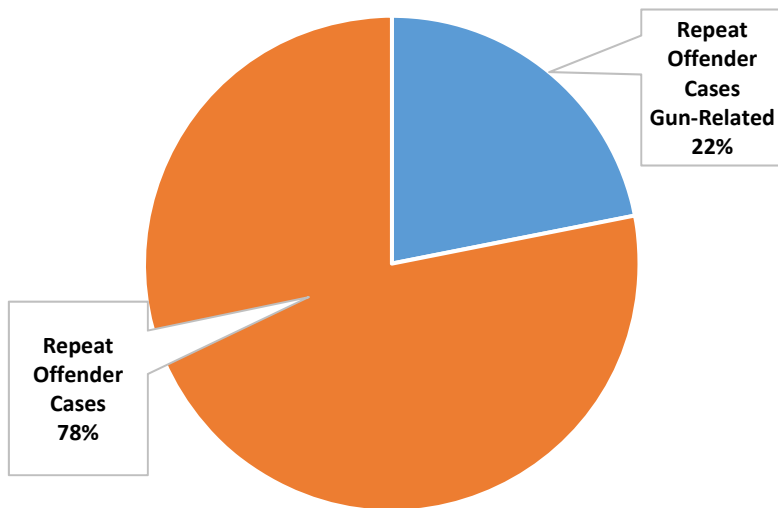


Figure 2. shows of the total number of repeat offender adjudicated cases, 22 percent included gun-related charges.

Two cases below illustrate the severity of the RO problem. (Names of offenders have been omitted.)

Case One:

- A man with 13 felony convictions since 2002 was arrested and charged in a 2016 burglary.
- He was convicted and sentenced to 15 years of probation and transferred to the Gift Transitional Center.
- Defendant later was arrested, tried and convicted for aggravated assault with a deadly weapon, for which he was sentenced to two years of probation.
- In 2018, the defendant was arrested and convicted for entering an automobile and committing criminal damage to property.
- This individual, convicted of 13 felonies over 16 years, was sentenced to time served, which was commuted to a sentence of four years of probation and entry to the Tall Pines Assisted Living program.
- Three judges passed sentences on this felon who committed most of his crimes while on probation. The defendant was never sentenced to confinement despite a history of repeated violent offenses, each of which was a serious violation of his prior sentence(s).

Case Two

- A man with eight felony convictions dating back to 2006, including convictions for aggravated assault and possession of a firearm by a convicted felon, was charged in 2017 with aggravated assault, criminal damage to property and, once again, possession of a firearm by a convicted felon.
- He received a sentence of 15 years, meted out as three years of weekend confinement, seven years of probation and five years of a suspended sentence.
- The offender's probation was revoked after he failed three times to report to his probation officer.
- The offender was re-arrested, then released again for violating his probation by failing to report to his probation officer.
- After release, he was subsequently arrested again for domestic battery.
- Just two months later, he was charged with criminal attempt to commit murder and aggravated assault.
- Despite this 13-year history of convictions and increasingly violent charges, he remains free on bond while awaiting trial on his most recent offenses.

JUDICIAL SCORECARDS

Below, is a chart that reviews the 2017 and 2018 sentencing records of the Fulton County Superior Court judges for repeat offender cases. The judges' records herein demonstrate the huge variability in repeat offender sentencing. This chart reflects only the cases where the Repeat Offender has four or more felony convictions.

It is important to note that even in cases of repeat offenders – *persons found guilty of a felony after already having been convicted of three prior felonies* – judges have considerable discretion regarding sentencing.

2017 & 2018 Combined Judges' RO Scorecard									
Judge	Total No. of RO Cases	Total RO Adjudicated	Active / Assigned	RO Adjudication Outcomes					% of Confinement
				Confinement	Probation	Released - Time Served	Suspended	Other	
Robert C. I. McBurney	24	23	1	11	4	7	0	1	48%
Kimberly M. E. Adams	101	81	20	36	9	21	5	10*	44%
Henry M. Newkirk	114	86	28	33	9	31	3	10	38%
Thomas A. Cox, Jr.	96	60	36	22	9	23	2	4	37%
Shawn Ellen LaGrua	101	72	29	26	19	19	0	8	36%
Gail Tusan	69	47	22	16	13	16	0	2	34%
Eric Dunaway	97	69	28	22	7	28	3	9	32%
Todd Markle	54	53	1	13	16	13	3	8	25%
Rebecca Rieder	43	13	30	3	3	4	0	3	23%
Shukura Millender	49	24	25	5	7	8	1	3	21%
Constance C. Russell	95	79	16	15	2	36	15	11	19%
Richard Hicks**	33	32	1	6	15	4	1	6	19%
Jane Barwick	62	27	35	5	8	9	0	5	19%
Rotating Magistrates / Specialized Judges**	126	87	39	15	24	30	3	15	17%
Alford J. Dempsey, Jr.	34	30	4	5	4	15	6	0	17%
Craig L. Schwall	98	66	32	11	18	27	3	7	17%
Kevin Farmer	53	19	34	3	5	4	1	6	16%
Doris Downs	81	79	2	12	21	30	8	8	15%
Tom Campbell	72	71	1	10	15	35	4	7	14%
Paige R. Whitaker	43	39	4	5	12	15	3	4	13%
John J. Goger	62	62	0	7	12	32	1	10	11%
Karen Woodson**	49	46	3	5	14	25	0	2	11%
Kelly Lee Ellerbe	108	97	11	10	22	38	3	24	10%
Melynee Leftridge**	8	8	0	1	5	1	0	1	13%
Emily Richardson	30	7	23	1	2	3	0	1	14%
Rachel Krause	48	6	42	0	2	3	0	1	0%
Jeffrey W. Frazier**	3	3	0	1	0	1	0	1	33%
Lillian N. Caudle**	1	1	0	0	0	0	0	1	0%
Ural Glanville	1	1	0	1	0	0	0	0	100%
Drug Court Judges	12	12	0	0	2	10	0	0	NA
Overall Total	1755	1288	467	300	277	478	65	168	23%

*Jury Verdict - Not Guilty - Included in OTHER
 **Magistrate Judge

AROC'S MANDATE

The egregious nature of Repeat Offenders will certainly shock the general public. But it frustrates all who administer the criminal justice system in the City of Atlanta and Fulton County.

The Atlanta Repeat Offender Commission (AROC) was originally chartered by the mayor of Atlanta in April 2014 to examine how the criminal justice system charges, tries, and sentences felony repeat offenders, as well as identify process improvements that will ensure judicial fairness to defendants and greater protection to the citizens of Atlanta from individuals who repeatedly are convicted of criminal behavior.

AROC is chaired by Dave Wilkinson, president & CEO, of the Atlanta Police Foundation. It is composed of senior officials from offices of the Fulton County Superior Court, Fulton County District Attorney, Atlanta Police Department, the Atlanta Police Foundation, Fulton County Sheriff, the Georgia Bureau of Investigation (GBI), Department of Community Supervision, Fulton County Circuit Public Defender, Fulton County Magistrate Court, Atlanta City Council and the Fulton County Board of Commissioners.

This report examined repeat offender court cases from crimes committed in 2017 and 2018 in the City of Atlanta and adjudicated in Fulton County Superior Court by June 2019.

The data was sourced from records from the Fulton County Superior Court, the Atlanta Police Department, Fulton County Sheriff, and the GBI.

It was analyzed by the Atlanta Crime Research Center (ACRC), staffed by employees of the Atlanta Police Foundation and researchers from the Andrew Young School of Policy Studies (AYSPS), Department of Criminal Justice and Criminology at Georgia State University. The ACRC director is William Sabol, a professor at AYSPS.

The AROC is supported by a Working Group made up of personnel from each of the law enforcement, judicial and governmental agencies represented on the Commission.

Other cities and states across the nation have comparable repeat offender challenges which have been addressed by a variety of approaches – some of which may bear exploration by Atlanta.

- In Baltimore, the mayor, DA, and governor joined with federal, state and local law enforcement agencies on an intense round-up of violent repeat offenders.
- In Chicago, local law enforcement focused on gun offenders due to research that revealed that gun offenders are likely to be recidivists.
- In Seattle and Tampa, emphasis on violent repeat offenders resulted in judges requesting and authorities securing more timely information on repeat offenders.

The consensus from the AROC and the Working Group notes

- Every agency in the criminal justice system is accountable and must embrace changes
- Communication of defendants' RO history by various law enforcement (state, county, city) throughout the criminal justice system must be timely and accurate
- Knowledge of judicial sentencing decisions will result in better understanding by the public of the scope of the RO issues in Atlanta

RECOMMENDATIONS

- **Publish quarterly scorecard of Fulton County Superior Court judges' sentencing records for Repeat Offenders.**
 - *Impact: Invite public and media scrutiny to judges' sentencing so that the public can evaluate whether the judicial system is acting in best interest of public safety.*
- **Each RO defendant's criminal history will be provided to the presiding judge at the sentencing hearing.**
 - *Impact: Currently, cases often disposed without complete criminal history. Sentencing would be improved to comply with state statues that ROs be sentenced to full extent of the law. Our objective is to evaluate RO cases from the perspective of "the offender" rather than from the perspective of "the offense."*
- **DA's office to provide to RO Working Group an updated monthly list of all RO felony arrestees.**
 - *Impact: Currently, tracking ROs in the judicial system is spotty. DA identification of RO cases will ensure greater real-time knowledge of ROs who are "in the system."*
- **Fulton County Superior Court will provide a monthly report of all Closed Cases of ROs in Fulton County.**
 - *Reporting RO cases within the current year will provide a timely view of RO processing by FCSC judges – adding another level of accountability.*
- **AROC Working Group will work to evaluate the judicial information flow and recommend technology enhancement needs.**
 - *Impact: Currently, there are significant information gaps from RO processing from booking in the jail, Complaint Room, first court appearance. Lags in reporting from one stage of the criminal justice system to the next result in incomplete and inaccurate knowledge by agencies throughout the process from arrest, through arraignment, pre-trial activity and the trial itself.*
- **Establish a pilot program of enhanced electronic monitoring of the most severe repeat offenders. This will include:**
 - **Waiver of 4th amendment rights, so that probationers can be searched at any time by a police officer**
 - **Imposition of a curfew (10 pm)**
 - **Possibility of banishment – prohibition of the probationer from presence in a specified locale (usually the scene of past criminal activity)**
 - **Intense electronic monitoring by APD, as opposed to a third-party company.**
 - *Impact: Mandating severe restricts and more electronic monitoring of the most egregious ROs will assist the Department of Corrections in managing, tracking ROs on probation. This will also assist APD in identifying location of felons who are on probation.*

- **DA will designate all Repeat Offender cases in Odyssey system so that all such cases are readily identifiable in Case Manager.**
 - *Impact: RO Working Group will track and report recidivism, highlighting how often “less than confinement” sentences of ROs result in new violent or other crimes.*
- **Ensure timely updates by APD and Fulton County law enforcement within the three different Odyssey case management systems.**
 - *Impact; Odyssey currently has three different case management systems, requiring timely and simultaneous updates to each to ensure accurate RO identification.*
- **Assist GBI in applying for federal grants from NCHIP to fund technology and training to capture timely and accurate RO criminal history information.**
 - *Impact: Fulton County ranks last in Georgia with open dispositions from GBI on criminal histories which leads to mismanagement and inadequate sentencing. Capturing this information in a timely basis will provide judges with complete criminal histories of defendants.*

The Atlanta Police Foundation and the Atlanta Crime Research Center will issue periodic reports on repeat offender sentencing trends in the Fulton County Superior Courts.

These reports will be designed to give citizens a clear line of sight into how our criminal justice system operates, how individual judges sentence repeat offenders and how our criminal justice system deals with those individuals whose repeated, serial criminal actions impact the safety of our city.

Notes:

Detailed charts and graphs of the AROC review of 2017 and 2018 Repeat Offender cases can be found in the complete report, which follows this executive summary.

KEY DEFINITIONS

When reading the full report, please keep in mind the following definitions.

*Consistent with the AROC's first report issued in 2016, a "**repeat offender**" is defined as an individual with three prior felony convictions.*

*"**Confinement**" is a sentence of imprisonment imposed by a judge after the conclusion of a trial in which the defendant is found guilty.*

*"**Time served**" is a sentence imposed by a judge who has determined that a guilty defendant requires no further time in jail or prison other than that he/she has already served in jail while awaiting trial.*

*"**Time served plus probation**" is a sentence imposed by a judge who has determined that a guilty defendant requires no further incarceration if the conditions of his/her probation are met.*

*"**Suspended sentence**" is a sentence imposed by a judge who has determined that a guilty defendant is freed unless he/she violates the terms of probation or otherwise comes before the Court for another crime, in which case the sentence would be enforced.*



ATLANTA CRIME RESEARCH CENTER

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