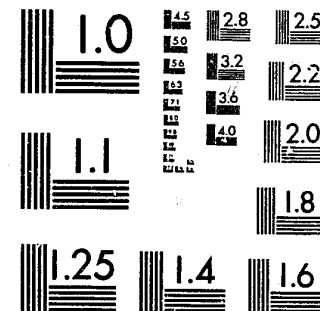


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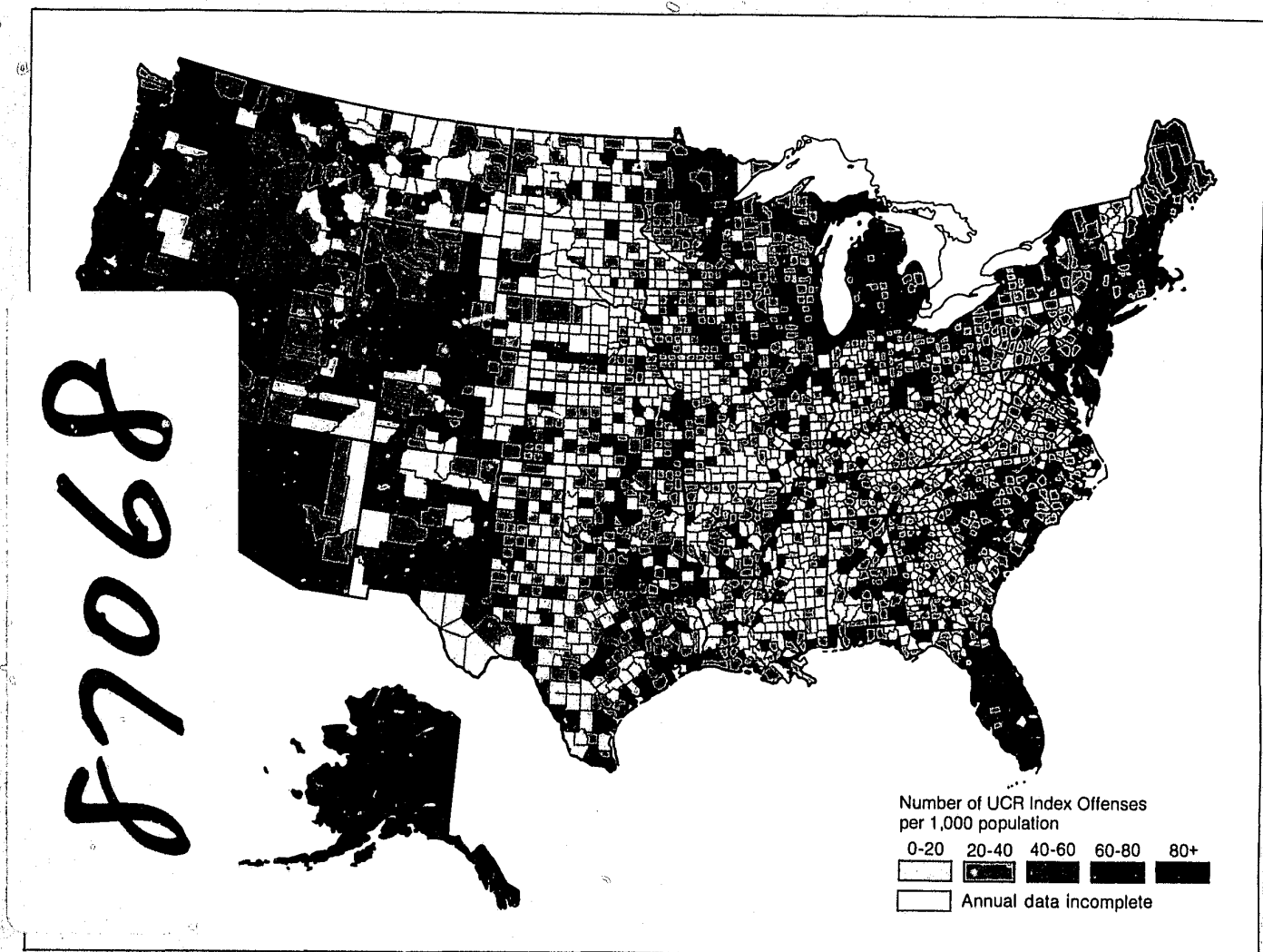
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U.S. Department of Justice  
Bureau of Justice Statistics



# Report to the Nation on Crime and Justice

## The Data



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(revised September 1983)

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U.S. Department of Justice  
Bureau of Justice Statistics



# Report to the Nation on Crime and Justice

## The Data

NCJ-87068, October 1983

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National Institute of Justice

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**Introduction**

The Bureau of Justice Statistics presents to the Nation this first comprehensive picture of crime and criminal justice in the United States. Relying heavily on graphics and a non-technical format, it brings together a wide variety of data from BJS's own statistical series, the FBI Uniform Crime Reports, the Bureau of the Census, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and many other research and reference sources. Because it analyzes these and other rich data sources, this report should interest the general public as well as criminal justice practitioners, researchers, and educators in our universities, colleges, and high schools.

This report contains national figures on crime and the criminal justice system and answers such questions as: How much crime is there? Who does it strike? When? Where? Who is the typical offender? What is the government's response to crime? How differently are juveniles handled from adults? What happens to convicted offenders? What are the costs of jus-

tice and who pays? It presents previously unpublished findings on such topics as crime severity and incorporates new analyses of publicly available data, including the first historical cost analysis of the criminal justice system that accounts for inflation.

Graphic excellence and clarity of expression are the hallmarks of this attempt to assist the Nation as it seeks to appreciate the enormity and complexity of the crime problem and grapples with proposals to confront it. These hallmarks, however, should not overshadow the prodigious effort and painstaking attention to detail that have gone into the report. I wish to pay tribute to the professionalism, scholarly ingenuity, resourcefulness, and dedication of those who prepared this report and of those 40 or so individuals in the U.S. Department of Justice, universities, and research organizations who carefully reviewed it.

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To ensure the quality of the report, outside experts were involved in its development and review. Selected for their familiarity with the subject matter and experience in presenting technical information to nontechnical audiences, the external reviewers were—

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Marianne W. Zawitz  
*Editor*

### Chapter I

## The criminal event

Michael R. Rand  
Patsy A. Klaus  
Bruce M. Taylor

This chapter gives an overview of crime as it exists in our Nation with data that answer such questions as—

How are crimes defined? What are the most common serious crimes? How much is known about white-collar crime?

How do people rank the seriousness of different crimes? How much agreement is there among the public about the seriousness of various crimes?

What are the two main sources of national crime statistics? What do they measure? How and why do they differ?

How much crime is there? Have crime rates gone up or down? What do different kinds of statistics tell us about crime trends?

When do crimes occur?

Where do crimes occur?

What kinds of weapons are used in various types of crimes? How often are handguns used in crime?

To what extent are crimes committed by strangers and by relatives, and by people known or related to the victim?

Chapter I was written by Michael R. Rand, Patsy A. Klaus, and Bruce M. Taylor of the BJS staff. Invaluable contributions were also made by Siretta L. Kelly and other members of the Center for Demographic Studies, U.S. Bureau of the Census; by Robert Figlio and other members of the Center for Studies in Criminology and Criminal Law, University of Pennsylvania; and by Christopher A. Innes and other staff members of the Inter-University Consortium for Political and Social Research at the University of Michigan.



What is crime?

Crimes are defined by law

In this report, we define crime as all behaviors and acts for which a society provides formally sanctioned punishment.<sup>1</sup> In the United States, what is criminal is specified in the written law, primarily State statutes. What is included in the definition of crime varies among Federal, State, and local jurisdictions.

Criminologists devote a great deal of attention to defining crime in both general and specific terms. This definitional process is the first step toward the goal of obtaining accurate crime statistics.

How do violent crimes differ from property crimes?

Violent crime refers to events such as homicide, rape, and assault that may result in injury to a person. Robbery is also considered a violent crime because it involves the use or threat of force against a person.

Property crimes are unlawful acts with the intent of gaining property but which do not involve the use or threat of force against an individual. Larceny, burglary, and motor vehicle theft are examples of property crimes.

How do felonies differ from misdemeanors?

Criminal offenses are also classified according to how they are handled by the criminal justice system. Most jurisdictions recognize two classes of offenses: felonies and misdemeanors.

Felonies are not distinguished from misdemeanors in the same way in all jurisdictions, but most States define felonies as offenses punishable by a year or more in a State prison. While the same act may be classified as a felony in one jurisdiction and as a misdemeanor in another, the most serious crimes are never "misdemeanors" and the most minor offenses are never "felonies."

What are the characteristics of the most common serious crimes?

Crime	Definition	Facts
Homicide	Causing the death of another person without legal justification or excuse.	<ul style="list-style-type: none"><li>• Homicide is the least frequent violent crime.</li><li>• 93% of the victims were slain in single-victim situations.</li><li>• At least 55% of the murderers were relatives or acquaintances of the victim.</li><li>• 24% of all murders occurred or were suspected to have occurred as the result of some felonious activity.</li></ul>
Rape	Unlawful sexual intercourse with a female, by force or without legal or factual consent.	<ul style="list-style-type: none"><li>• Most rapes involved a lone offender and a lone victim.</li><li>• About 36% of the rapes were committed in the victim's home.</li><li>• 58% of the rapes occurred at night, between 6 p.m. and 6 a.m.</li></ul>
Robbery	Unlawful taking or attempted taking of property that is in the immediate possession of another, by force or threat of force.	<ul style="list-style-type: none"><li>• Robbery is the violent crime that typically involves more than one offender (in about half of all cases).</li><li>• Slightly less than half of all robberies involved the use of a weapon.</li><li>• Less than 2% of the robberies reported to the police were bank robberies.</li></ul>
Assault	Unlawful intentional inflicting, or attempted inflicting, of injury upon the person of another. <i>Aggravated assault</i> is the unlawful intentional inflicting of serious bodily injury or unlawful threat or attempt to inflict bodily injury or death by means of a deadly or dangerous weapon with or without actual infliction of injury. <i>Simple assault</i> is the unlawful intentional inflicting of less than serious bodily injury without a deadly or dangerous weapon or an attempt or threat to inflict bodily injury without a deadly or dangerous weapon.	<ul style="list-style-type: none"><li>• Simple assault occurs more frequently than aggravated assault.</li><li>• Assault is the most common type of violent crime.</li></ul>

Sources: BJS Dictionary of criminal justice data terminology, 1981. FBI Uniform Crime Reports, 1981, BJS National Crime Survey, 1981.

What are some other common crimes in the United States?

Drug abuse violations—Offenses relating to growing, manufacturing, making, possessing, using, selling, or distributing narcotic and dangerous nonnarcotic drugs. A distinction is made between possession and sale or manufacturing.

Sex offenses—In current statistical usage, the name of a broad category of varying content, usually consisting of all offenses having a sexual element except for forcible rape and commercial sex offenses.

Fraud offenses—The crime type comprising offenses sharing the elements of practice of deceit or intentional misrepresentation of fact, with the intent of unlawfully depriving a person of his property or legal rights.

Drunkenness—Intoxication, but does not include "driving under the influence."

Disturbing the peace—Unlawful interruption of the peace, quiet, or order of a community, including offenses called "disorderly conduct," "vagrancy," "loitering," "unlawful assembly," and "riot."

Crime	Definition	Facts
Burglary	Unlawful entry of any fixed structure, vehicle, or vessel used for regular residence, industry, or business, with or without force, with the intent to commit a felony or larceny.	<ul style="list-style-type: none"><li>• 42% of all household burglaries occurred without forced entry.</li><li>• In the burglary of more than 3 million American households, the offenders entered through an unlocked window or door or used a key (for example, a key "hidden" under a doormat).</li><li>• About 34% of the no-force household burglaries were known to have occurred between 6 a.m. and 6 p.m.</li><li>• Residential property was targeted in 67% of reported burglaries; non-residential property accounted for the remaining 33%.</li><li>• Three-quarters of the nonresidential burglaries for which the time of occurrence was known took place at night.</li></ul>
Larceny (theft)	Unlawful taking or attempted taking of property other than a motor vehicle from the possession of another, by stealth, without force and without deceit, with intent to permanently deprive the owner of the property.	<ul style="list-style-type: none"><li>• Pocket picking and purse snatching most frequently occur inside nonresidential buildings or on street locations.</li><li>• Unlike most other crimes, pocket picking and purse snatching affect the elderly as much as other age groups.</li><li>• Most personal larcenies with contact occur during the daytime, but most household larcenies occur at night.</li></ul>
Motor vehicle theft	Unlawful taking or attempted taking of a self-propelled road vehicle owned by another, with the intent of depriving the owner of it permanently or temporarily.	<ul style="list-style-type: none"><li>• Motor vehicle theft is relatively well reported to the police because reporting is required for insurance claims and vehicles are more likely than other stolen property to be recovered.</li><li>• About three-fifths of all motor vehicle thefts occurred at night.</li></ul>
Arson	Intentional damaging or destruction or attempted damaging or destruction by means of fire or explosion of the property without the consent of the owner, or of one's own property or that of another by fire or explosives with or without the intent to defraud.	<ul style="list-style-type: none"><li>• Single-family residences were the most frequent targets of arson.</li><li>• More than 17% of all structures where arson occurred were not in use.</li></ul>

Driving under the influence—Driving or operating any vehicle or common carrier while drunk or under the influence of liquor or narcotics.

Liquor law offenses—State or local liquor law violations, except drunkenness and driving under the influence. Federal violations are excluded.

Gambling—Unlawful staking or wagering of money or other thing of value on a game of chance or on an uncertain event.

Status offenses—Acts that are illegal only if committed by a juvenile, for example, truancy.

What are white-collar crimes?

There is much debate over the proper definition of "white-collar" crime. Reiss and Biderman define it as violations of law "that involve the use of a violator's position of significant power, influence or trust . . . for the purpose of illegal gain, or to commit an illegal act for personal or organizational gain."<sup>2</sup>

White-collar crimes include such traditional illegalities as embezzlement, bribery, fraud, theft of services, theft of trade secrets, forgery, smuggling, tax evasion, obstruction of justice, and others, where the violator's position of fiduciary trust, power, or influence has provided the opportunity to abuse lawful institutions for unlawful purposes. White-collar offenses frequently involve deception.

New forms of white-collar crime involving political and corporate institutions have emerged in the past decade. For example, the dramatic growth in high technology has brought with it sensational accounts of computerized "heists" by sophisticated felons seated safely behind computer terminals. The specter of electronic penetration of the Nation's financial assets has spurred widespread interest in computer security by business and government alike.

In the area of political crime, exposés of illegal campaign contributions and the ability of powerful financial elements to influence government have gravely disturbed the public.

Some organized crime is white-collar crime

"Organized crime" refers to those self-perpetuating, structured, and disciplined associations of individuals, or groups, combined together for the purpose of obtaining monetary or commercial gains or profits, wholly or in part by illegal means, while protecting their activities through a pattern of graft and corruption.

Organized crime groups possess certain characteristics that include but are not limited to the following:

- Their illegal activities are conspiratorial.
- In at least part of their activities, they commit or threaten to commit acts of violence or other acts that are likely to intimidate.
- They conduct their activities in a methodical, systematic, or highly disciplined and secret fashion.
- They insulate their leadership from direct involvement in illegal activities by their intricate organizational structure.
- They attempt to gain influence in government, politics, and commerce through corruption, graft, and legitimate means.
- They have economic gain as their primary goal, not only from patently illegal enterprises such as drugs, gambling, and loansharking, but also from such activities as laundering illegal money through and investment in legitimate business.

How serious are various types of crimes?

The public's ranking of the severity of crimes was measured through a national survey

The National Survey of Crime Severity (NSCS) was conducted in 1977. It described 204 illegal events—from playing hooky from school to planting a bomb that killed 20 people in a public building. This survey of a nationwide sample of people is the largest measure ever made of how the public ranks the seriousness of specific kinds of offenses.

Severity scores were developed by asking a national sample of people to assign scores of any value they felt was appropriate to specific questionnaire items. Because of the large number of items in the severity scale, no one was asked to respond to all

the items. One innovation of the survey was that people were allowed to assign any value they felt appropriate to an item—the scale had no upper limits. Mathematical techniques were used to take everyone's answers and convert them to ratio scores that reflect the feelings of everyone in the sample. These scores were derived from geometric means that were calculated from the various scores assigned by the people who responded to the questionnaire.

The National Survey of Crime Severity found that many diverse groups of people generally agree about the relative severity of specific crimes

However, the severity scores assigned by crime victims are generally higher

than those assigned by nonvictims. For most people, the severity of a crime of theft depends on the dollar value of the loss rather than on the background of the person making the judgment.

There are some differences, however, among different groups of people.

- The severity scores assigned by blacks and members of other racial groups are generally lower than those assigned by whites.
- Older people found thefts with large losses to be slightly more severe than did people of other age groups.

Almost everyone agrees that violent crime is more serious than property crime

However, people make distinctions about seriousness depending on the circumstances of the crime. For example, an assault is viewed as more serious if a parent assaults a child than if a man assaults his wife, even though both victims require hospitalization. These differences are greater for assaults that result in death.

In deciding severity, people seem to take into account such factors as—

- The ability of the victim to protect him/herself
- Extent of injury and loss
- For property crimes, the type of business or organization from which the property is stolen

- The relationship of the offender to the victim.

"White-collar" crimes, such as fraud against consumers, cheating on income taxes, pollution by factories, pricefixing, and accepting of bribes, are viewed as seriously as (or more seriously than) many of the conventional property and violent crimes.

Within particular categories of crime, severity assessments are affected by factors such as whether or not injury occurred and the extent of property loss. For example, all burglaries or all robberies are not scored at the same severity level because of the differing characteristics of each event (even though all of the events fit into the same general crime category).

How do people rank the severity of crime?

Severity score and offense

72.1—Planting a bomb in a public building. The bomb explodes and 20 people are killed.

52.8—A man forcibly rapes a woman. As a result of physical injuries, she dies.

43.2—Robbing a victim at gunpoint. The victim struggles and is shot to death.

39.2—A man stabs his wife. As a result, she dies.

35.7—Stabbing a victim to death.

35.6—Intentionally injuring a victim. As a result, the victim dies.

33.8—Running a narcotics ring.

27.9—A woman stabs her husband. As a result, he dies.

26.3—An armed person skyjacks an airplane and demands to be flown to another country.

25.9—A man forcibly rapes a woman. No other physical injury occurs.

24.9—Intentionally setting fire to a building causing \$100,000 worth of damage.

22.9—A parent beats his young child with his fists. The child requires hospitalization.

21.2—Kidnaping a victim.

20.7—Selling heroin to others for resale.

19.5—Smuggling heroin into the country.

19.5—Killing a victim by recklessly driving an automobile.

17.9—Robbing a victim of \$10 at gunpoint. The victim is wounded and requires hospitalization.

16.9—A man drags a woman into an alley, tears her clothes, but flees before she is physically harmed or sexually attacked.

16.4—Attempting to kill a victim with a gun. The gun misfires and the victim escapes unharmed.

15.9—A teenage boy beats his mother with his fists. The mother requires hospitalization.

15.5—Breaking into a bank at night and stealing \$100,000.

14.1—A doctor cheats on claims he makes to a Federal health insurance plan for patient services.

13.9—A legislator takes a bribe from a company to vote for a law favoring the company.

13.0—A factory knowingly gets rid of its waste in a way that pollutes the water supply of a city.

12.2—Paying a witness to give false testimony in a criminal trial.

12.0—A police officer takes a bribe not to interfere with an illegal gambling operation.

12.0—Intentionally injuring a victim. The victim is treated by a doctor and hospitalized.

11.8—A man beats a stranger with his fists. He requires hospitalization.

11.4—Knowingly lying under oath during a trial.

11.2—A company pays a bribe to a legislator to vote for a law favoring the company.

10.9—Stealing property worth \$10,000 from outside a building.

10.5—Smuggling marijuana into the country for resale.

10.4—Intentionally hitting a victim with a lead pipe. The victim requires hospitalization.

10.3—Illegally selling barbiturates, such as prescription sleeping pills, to others for resale.

10.3—Operating a store that knowingly sells stolen property.

10.0—A government official intentionally hinders the investigation of a criminal offense.

9.7—Breaking into a school and stealing equipment worth \$1,000.

9.7—Walking into a public museum and stealing a painting worth \$1,000.

9.6—Breaking into a home and stealing \$1,000.

9.6—A police officer knowingly makes a false arrest.

9.5—A public official takes \$1,000 of public money for his own use.

9.4—Robbing a victim of \$10 at gunpoint. No physical harm occurs.

9.3—Threatening to seriously injure a victim.

9.2—Several large companies illegally fix the retail prices of their products.

8.6—Performing an illegal abortion.

8.5—Selling marijuana to others for resale.

8.5—Intentionally injuring a victim. The victim is treated by a doctor but is not hospitalized.

8.2—Knowing that a shipment of cooking oil is bad, a store owner decides to sell it anyway. Only one bottle is sold and the purchaser is treated by a doctor but not hospitalized.

7.9—A teenage boy beats his father with his fists. The father requires hospitalization.

7.7—Knowing that a shipment of cooking oil is bad, a store owner decides to sell it anyway.

7.5—A person, armed with a lead pipe, robs a victim of \$10. No physical harm occurs.

7.4—Illegally getting monthly welfare checks.

7.3—Threatening a victim with a weapon unless the victim gives money. The victim gives \$10 and is not harmed.

7.3—Breaking into a department store and stealing merchandise worth \$1,000.

7.2—Signing someone else's name to a check and cashing it.

6.9—Stealing property worth \$1,000 from outside a building.

6.5—Using heroin.

6.5—An employer refuses to hire a qualified person because of that person's race.

6.4—Getting customers for a prostitute.

6.3—A person, free on bail for committing a serious crime, purposefully fails to appear in court on the day of his trial.

6.2—An employee embezzles \$1,000 from his employer.

5.4—Possessing some heroin for personal use.

5.4—A real estate agent refuses to sell a house to a person because of that person's race.

5.4—Threatening to harm a victim unless the victim gives money. The victim gives \$10 and is not harmed.

5.3—Lending money at an illegally high interest rate.

5.1—A man runs his hands over the body of a female victim, then runs away.

5.1—A person, using force, robs a victim of \$10. No physical harm occurs.

4.9—Snatching a handbag containing \$10 from a victim on the street.

4.8—A man exposes himself in public.

4.6—Carrying a gun illegally.

4.5—Cheating on Federal income tax return.

4.4—Picking a victim's pocket of \$100.

4.2—Attempting to break into a home but running away when a police car approaches.

3.8—Turning in a false fire alarm.

3.7—A labor union official illegally threatens to organize a strike if an employer hires nonunion workers.

3.6—Knowingly passing a bad check.

3.6—Stealing property worth \$100 from outside a building.

3.5—Running a place that permits gambling to occur illegally.

3.2—An employer illegally threatens to fire employees if they join a labor union.

2.4—Knowingly carrying an illegal knife.

2.2—Stealing \$10 worth of merchandise from the counter of a department store.

2.1—A person is found firing a rifle for which he knows he has no permit.

2.1—A woman engages in prostitution.

1.9—Making an obscene phone call.

1.9—A store owner knowingly puts "large" eggs into containers marked "extra-large."

1.8—A youngster under 16 years old is drunk in public.

1.8—Knowingly being a customer in a place where gambling occurs illegally.

1.7—Stealing property worth \$10 from outside a building.

1.6—Being a customer in a house of prostitution.

1.6—A male, over 16 years of age, has sexual relations with a willing female under 16.

1.5—Taking barbiturates, such as sleeping pills, without a legal prescription.

1.5—Intentionally shoving or pushing a victim. No medical treatment is required.

1.4—Smoking marijuana.

1.3—Two persons willingly engage in a homosexual act.

1.1—Disturbing the neighborhood with loud, noisy behavior.

1.1—Telling bets on the numbers.

1.1—A group continues to hang around a corner after being told to break up by a police officer.

0.9—A youngster under 16 years old runs away from home.

0.8—Being drunk in public.

0.7—A youngster under 16 years old breaks a curfew law by being out on the street after the hour permitted by law.

0.6—Trespassing in the backyard of a private home.

0.3—A person is a vagrant. That is, he has no home and no visible means of support.

0.2—A youngster under 16 years old plays hooky from school.

Source: *The seriousness of crime: Results of a national survey* (forthcoming). Center for Studies in Criminology and Criminal Law, University of Pennsylvania, Philadelphia. The entire questionnaire will be published verbatim in a forthcoming technical report of the Bureau of Justice Statistics. (The entries here have been slightly edited.)

Uniform Crime Reports (UCR) and the National Crime Survey (NCS) are the main sources of national crime statistics

National crime statistics focus on selected crimes

The two sources, UCR and NCS, concentrate on measuring a limited number of well-defined crimes. They do not cover all possible criminal events. Both sources use commonly understood definitions rather than legal definitions of crime.

"Crime" covers a wide range of events. It isn't always possible to tell whether an event is a crime. For example, if your personal property is missing, you may not know for certain whether it was stolen or simply misplaced.

The UCR Index shows trends in eight major crimes

In 1927, the International Association of Chiefs of Police (IACP) formed a committee to create a uniform system for gathering police statistics. The goal was to develop a national system of statistics that would overcome variations in the way crimes were defined in different parts of the country.

Because of their seriousness, frequency of occurrence, and likelihood of being reported to the police, seven crimes were selected as the basis for the UCR Index for evaluating changes in the volume of crime. Arson was added as the eighth UCR Index offense in 1978.

The NCS adds information about victims and crimes not reported to police

In 1973, to learn more about crimes and the victims of crime, the National Crime Survey began to measure crimes not reported to police as well as those that are reported. Except for homicide (which is well reported in police statistics) and arson (which is difficult to measure using survey techniques), the NCS measures the same crimes as the UCR. Both the UCR and NCS count attempted as well as completed crimes.

How do UCR and NCS compare?

	Uniform Crime Reports	National Crime Survey
Offenses measured:	Homicide Rape Robbery (personal and commercial) Assault (aggravated) Burglary (commercial and household) Larceny (commercial and household) Motor vehicle theft Arson	Rape Robbery (personal) Assault (aggravated and simple) Household burglary Larceny (personal and household) Motor vehicle theft
Scope:	Crimes reported to the police in most jurisdictions; considerable flexibility in developing small-area data	Crimes both reported and not reported to police; all data are for the Nation as a whole; some data are available for a few large geographic areas
Collection method:	Police department reports to FBI	Survey interviews; periodically measures the total number of crimes committed by asking a national sample of 60,000 households representing 135,000 persons over the age of 12 about their experiences as victims of crime during a specified period
Kinds of information:	In addition to offense counts, provides information on crime clearances, persons arrested, persons charged, law enforcement officers killed and assaulted, and characteristics of homicide victims	Provides details about victims (such as age, race, sex, education, income, and whether the victim and offender were related to each other) and about crimes (such as time and place of occurrence, whether or not reported to police, use of weapons, occurrence of injury, and economic consequences)
Sponsor:	Department of Justice Federal Bureau of Investigation	Department of Justice Bureau of Justice Statistics

The portraits of crime from NCS and UCR differ because they serve different purposes and are based on different sources

These are some of the more important differences in the programs, thought to account for a good deal of the differences in resulting statistics:

- The UCR counts only crimes coming to the attention of the police. The NCS obtains information on both reported and unreported crime.
- The UCR counts crimes committed against all people and all businesses, organizations, government agencies, and other victims. NCS counts only crimes against persons age 12 or older and against their households.

- The two programs, because they serve different purposes, count crimes differently, in some instances. For example, a criminal robs a victim and steals someone else's car to escape. UCR only counts the robbery, the more serious crime. NCS could count both; one as a personal crime and one as a household crime.
- Each program is subject to the kinds of errors and problems typical of its method of data collection that may serve to widen or narrow the differences in the counts produced by the two programs. For example, it is widely believed by analysts that the rise in the number of rapes reported to police stems largely from the special programs established by many police departments to treat victims of rape more sympathetically.

How much crime is there?

In 1981 almost a third of all households were victimized by violence or theft

- Nearly 25 million households were victimized by at least one crime of violence or theft.
- Almost 18 million households, or 21% of those in the Nation, were victimized by at least one theft during the year.
  - 6 million, or 7%, were burglarized at least once.
  - Less than 2% were victimized by the theft or attempted theft of a motor vehicle.
  - 6% of all households had members who were victims of at least one violent crime of rape, robbery, or aggravated or simple assault.

A violent crime by strangers and/or a burglary struck 10% of all households in 1981

Public opinion polls show that burglaries and violent crime by strangers are high on the list of the greatest public concerns and fears. Nearly 9 million U.S. households were touched by one or more of these crimes in 1981—the household was burglarized and/or one or more of its members was raped, robbed, or assaulted by a stranger. Of these 9 million households, most—about 5.5 million—were victimized by burglaries alone, but more than half a million suffered both burglaries and violent crime by strangers.

41 million victimizations occurred in 1981

Personal crimes	
Crimes of violence	
Rape	178,000
Robbery	1,381,000
Aggravated assault	1,796,000
Simple assault	3,228,000
Crimes of theft	
Larceny with contact	605,000
Larceny without contact	15,258,000
Household crimes	
Burglary	7,394,000
Larceny	10,176,000
Motor vehicle theft	1,439,000
Total	41,455,000

Source: BJS National Crime Survey, 1981.

Property crime outnumbered violent crimes by 9 to 1

Property crimes  
5,223 per 100,000  
U.S. population

Property crimes	
Larceny-theft	53.8%
Burglary	28.1%
Motor vehicle theft	8.1%
Violent crimes	
Aggravated assault	4.8%
Robbery	4.3%
Forcible rape	0.6%
Murder	0.2%
	100.0%*

Violent crimes  
577 per 100,000  
U.S. population

\*Percents do not add to 100% because of rounding

Source: FBI Uniform Crime Reports, 1981.

13 million UCR Index Crimes were reported to police in 1981

Violent crimes	1,321,900
Murder	22,520
Forcible rape	81,540
Robbery	574,130
Aggravated assault	643,720
Property crimes	11,968,400
Burglary	3,739,800
Larceny-theft	7,154,500
Motor vehicle theft	1,074,000
Total	13,290,300

Note: Offenses may not add to totals due to rounding.  
Source: FBI Uniform Crime Reports, 1981.

Businesses are prime targets of robbers and burglars

- In 1980, businesses were robbed at a rate 10 times higher than the rate for private persons.
- In the same year, businesses were burglarized at a rate more than 5 times higher than the rate for households.

Businesses reported more than 1 million burglaries and more than 100,000 robberies in 1981

More than half of the 1.1 million non-residential burglaries reported to the police in 1981 occurred at night. Only 17% were known to have taken place during the day. (In 29%, the time of day was not known.)

In 1981, more than 140,000 completed or attempted robberies were reported to the police by stores, gas stations, banks, and other commercial establishments. Convenience stores were hit by 35,000 robberies—about 1.5 times the number of gas station robberies and 5 times the number of bank robberies.

## What are the trends in crime?

To understand the magnitude of crime in our society, it is important to compare current levels of crime with those of the past

To gain the best perspective, crime trends should be examined over the longest possible period. Additionally, it is essential to standardize for population growth over time by using crime rates. The analysis of crime trends here uses crime rates from several different sources: the National Crime Survey, which has been conducted since 1973; the Uniform Crime Reports, which are analyzed for 11 years (1971-81); and homicide statistics from coroners' reports to the National Center for Health Statistics (NCHS) which are available from 1900. As previously discussed, all of these sources measure only specific types of crime.

Short-term trends point toward varied conclusions:

- Some crimes have increased in frequency while others have declined.
- The rates for crimes reported to police generally show short-term increases.
- The percentage of households victimized by at least one crime has changed very little in recent years.

However, these short-term trends portray only a part of the trend picture. For example, the homicide trend displayed by the NCHS data has risen sharply since 1960, but the homicide rate has only recently surpassed the previous high point reached in 1933.

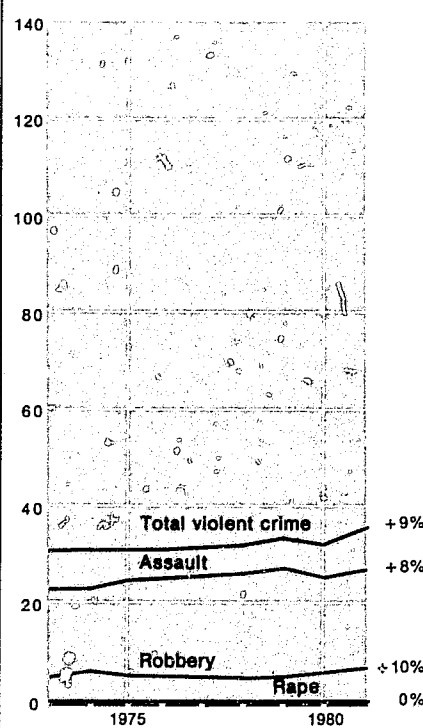
### The percentage of households touched by crime changed little during the past 7 years

In 1981, 30% of all U.S. households were touched by crime. Each of these households was victimized by at least one burglary, larceny, or motor vehicle theft, or one or more of its members were victims of a rape, robbery, or assault by strangers.

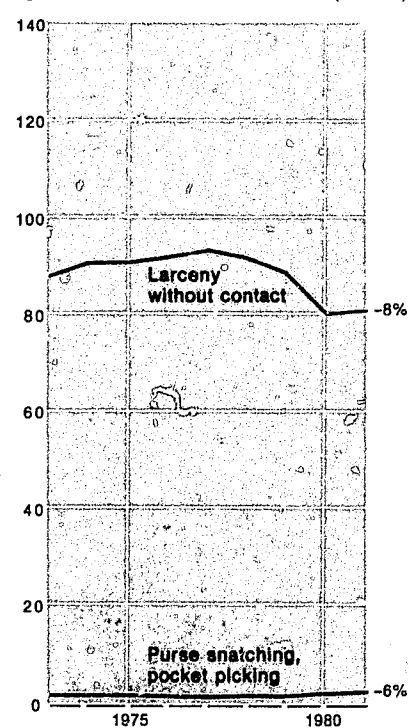
This was only slightly lower than the 32% touched by crime in 1975. This small overall drop resulted from a decrease (from 16% to 13%) in the proportion of households touched by personal larceny without contact. Taken together, the percentage of households touched by all other NCS-measured crimes—violence, burglaries, household larcenies, and motor vehicle thefts—remained virtually unchanged from 1975 to 1981.

### The National Crime Survey shows relatively little change in victimization rates between 1973 and 1981

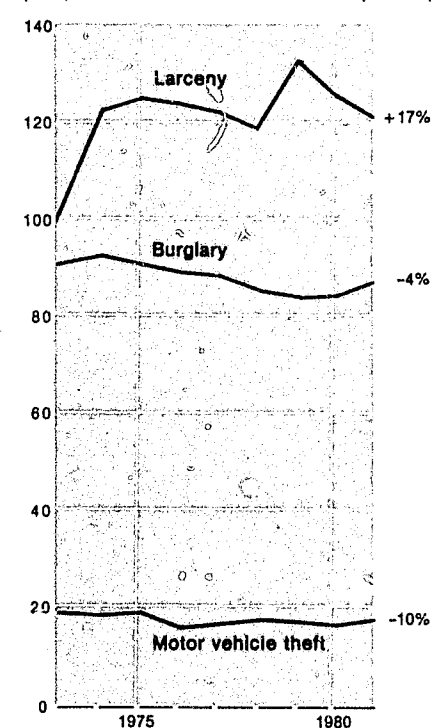
#### Violent crimes against persons per 1,000 persons age 12 and older



#### Crimes of theft against persons per 1,000 persons age 12 and older



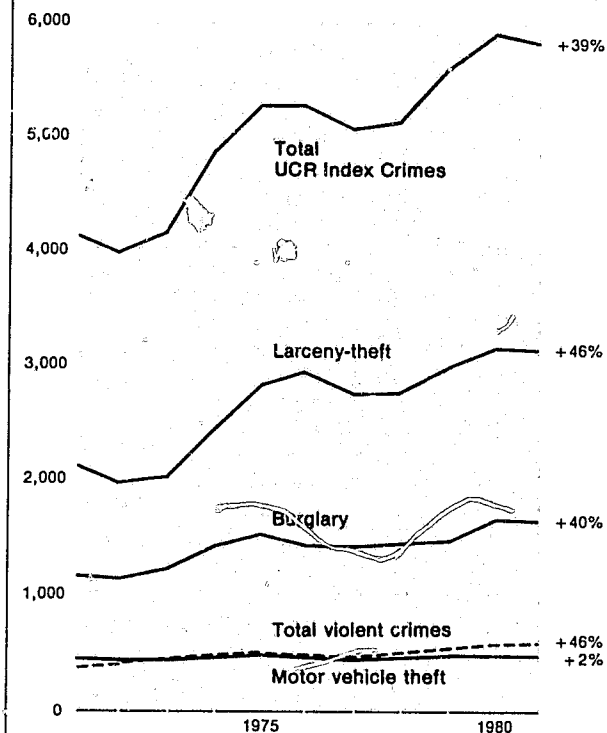
#### Crimes against households per 1,000 households



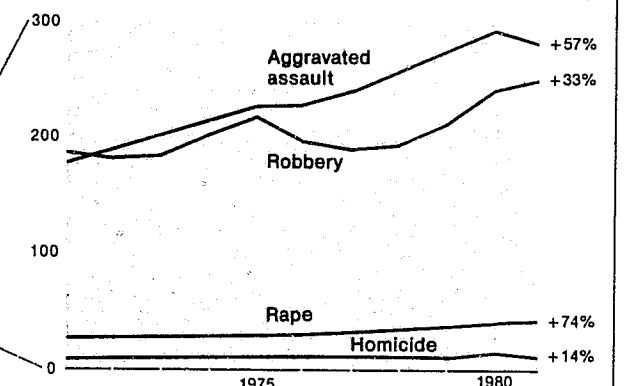
Source: BJS National Crime Survey, 1973-81.

### UCR shows increases in all Index Crimes reported by police during the 1970's

#### UCR Index Crimes per 100,000 U.S. population



#### Violent UCR Index Crimes per 100,000 U.S. population



Source: FBI Uniform Crime Reports, 1971-81.

### NCS and UCR examine different aspects of crime and crime trends

The two statistical series are complementary measures of crime in much the same way that the Consumer Price Index and the Producer Price Index are complementary measures of the economy.

As previously discussed, NCS and UCR serve different purposes and use different methodologies. These differences are thought to account for a large part of the apparent divergence between NCS and UCR trends:

- The UCR counts only crimes coming to the attention of the police. NCS obtains information on both reported and unreported crime.
- The UCR counts crimes committed against all people and all businesses, organizations, government agencies, etc. NCS counts only crimes against persons age 12 or older and their households.

- The two programs, because they serve different purposes, count crimes differently, in some instances.
- The two series compute rates using different population bases.

Additionally, differences in these trends are suspected to result, in part, from increases in citizen reporting related to various efforts, including introduction of 911 numbers, increased police presence and neighborhood watch programs, and improvements in UCR reporting by police agencies.

### Much of the difference between the NCS and UCR burglary trends can be explained

Between 1973 and 1981, the NCS burglary rate decreased by 4% but the UCR rate increased by 34%. A large portion of this difference appears to be caused by—

- Differences in the bases used to calculate the rates. The NCS base is households while the UCR base is

population. The number of U.S. households grew at a much faster rate than the general population during the 1970's so the NCS rate for the later 1970's was lower relative to the UCR rate.

• Differences in the coverage of each series. NCS includes burglaries not reported to police, but UCR measures burglaries to nonresidential buildings. When NCS rates for reported burglaries are based on total U.S. population and are compared with UCR residential burglary rates, both series show increases.

• Removal from UCR consideration of incidents that are not found to be crimes by the police. When such incidents are removed from UCR, the two series rates become closer. The trend lines for the two series track more closely for forcible entry, the burglary event least likely to be removed from UCR consideration.



### Homicide data provide added perspective to crime trends

The National Center for Health Statistics derives homicide data from death certificates filed throughout the United States, based on the judgments of appropriate authorities as to the causes or probable causes of death.

Homicide data have been compiled from death certificates for the entire 20th century to date. This makes it possible to view rises and drops in the homicide rate against a backdrop of events and developments of national magnitude in order to explore the possibility that any of these events or developments have had any influence on the homicide rate.

Three major long-term trends in homicide are evident. From 1903 to 1933, the rate rose from 1.1 to 9.7 homicides per 100,000 people. Between 1934 and 1958, it fell to 4.5. From 1961 through 1980, it rose again to 11.0. Many minor, short-term trends

are also evident, such as the 1945-47 rise within a long-term falling trend.

While it is safe to say that many national events combine to contribute to affect the crime rate, some occurrences seem of such magnitude that their influence seems to be a major factor:

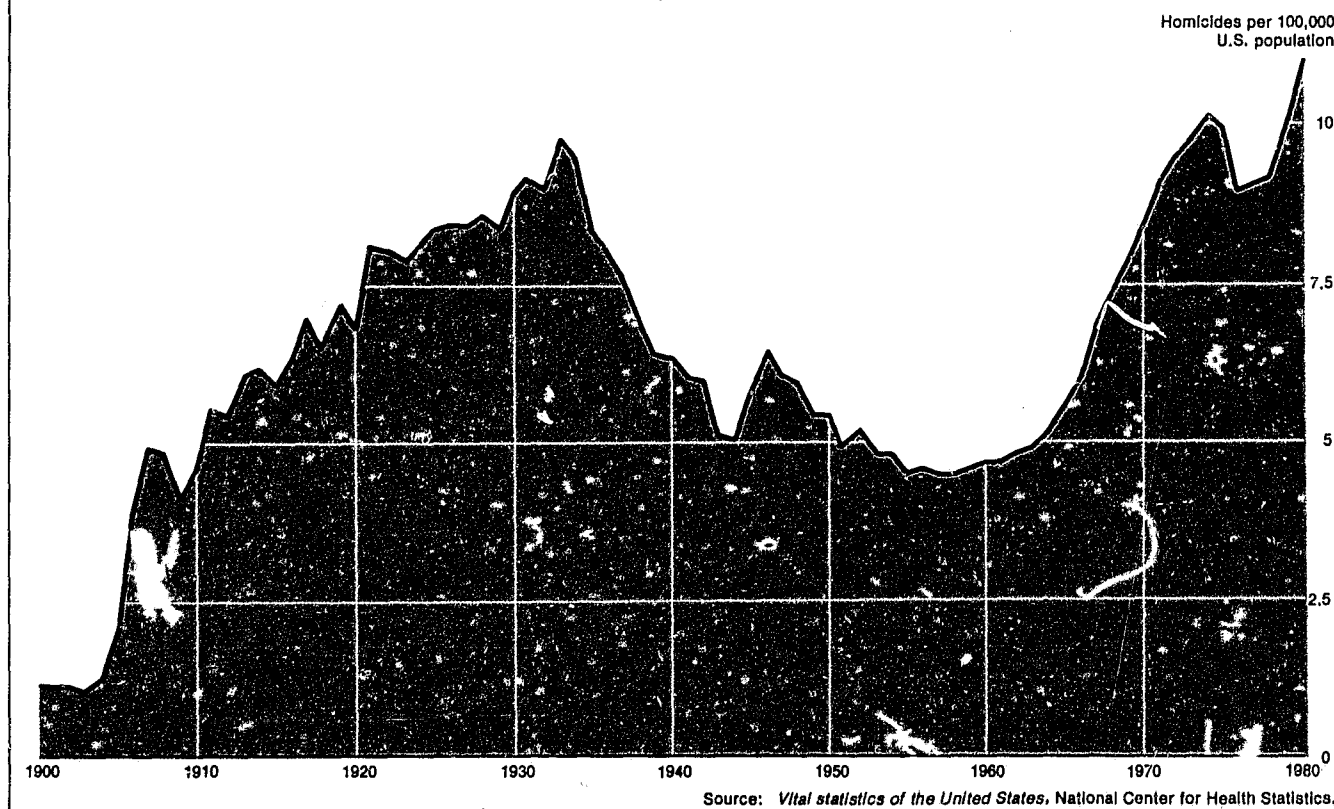
- World War II clearly affected the homicide rate, by a sharp decline during the war years, and a short-term rise immediately after the war's end, when most of the soldiers returned home.
- The postwar baby boom generation began to reach age 16 in the early 1960's, at the same time the homicide rate began to rise sharply. As discussed in Chapter II, violent victimization is most prevalent among people under age 30. Therefore, when the baby boom representing a large proportion of the population reached the victimization-prone ages, the homicide rate would be expected to increase.

### UCR and Public Health statistics both show that the homicide rate has been rising since 1961

Despite differences between the two series, historically, they have tracked very closely. Homicide statistics are generally regarded as the most reliable and valid of all crime statistics.

Because the two series serve different purposes, they consider homicide from somewhat different perspectives and therefore do differ slightly.

### In 1980, the homicide rate was the highest level in this century



### When does crime occur?

#### The warmer months are the peak season for many types of crime

The impact of seasonality on crime rates can range from essentially no effect for robbery to fluctuations of roughly 65% for household larceny of \$50 or more. NCS data indicate that almost all types of personal and household crimes are more likely to occur during the warmer months of the year. UCR data show that the number of rapes reported to the police also peaks during the summer months.

Among the possible explanations for this warm weather trend, the most probable ones are—

- People spend more time outdoors during these months, making them more vulnerable to some crimes.
- Individuals leave their homes more frequently during this time of year, or leave doors and windows open, making their residences more vulnerable to property crimes.

A notable exception to this trend is personal larceny of less than \$50, which shows a drop during the summer months. Most likely this results from a decline in school-related thefts during the summer.

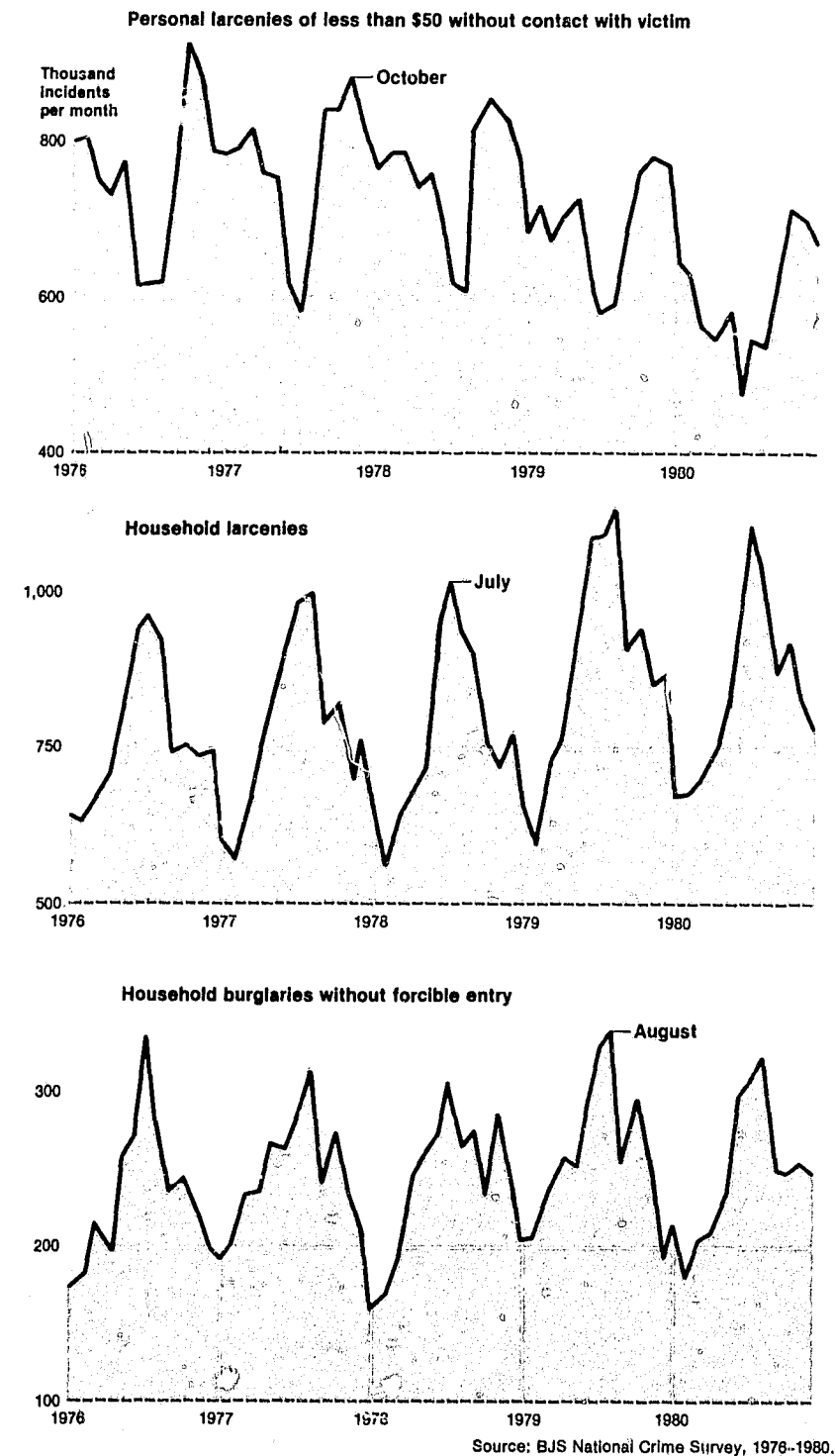
#### Crime incidence varies with time of day

In 1980, among the crimes most likely to occur during evening or nighttime hours were motor vehicle theft (68%) and serious violent offenses such as personal robbery (58%) and aggravated assault (56%).

Among the crimes least likely to happen at night were simple assault (48%), purse snatching and pocket picking (38%), and personal larceny without contact (45%).

Many people do not know when some crimes took place. However, among victims who did know, burglaries (53%) occur more often during the day, and household larcenies (70%)—which do not involve either illegal entries or break-ins—happen more often at night.

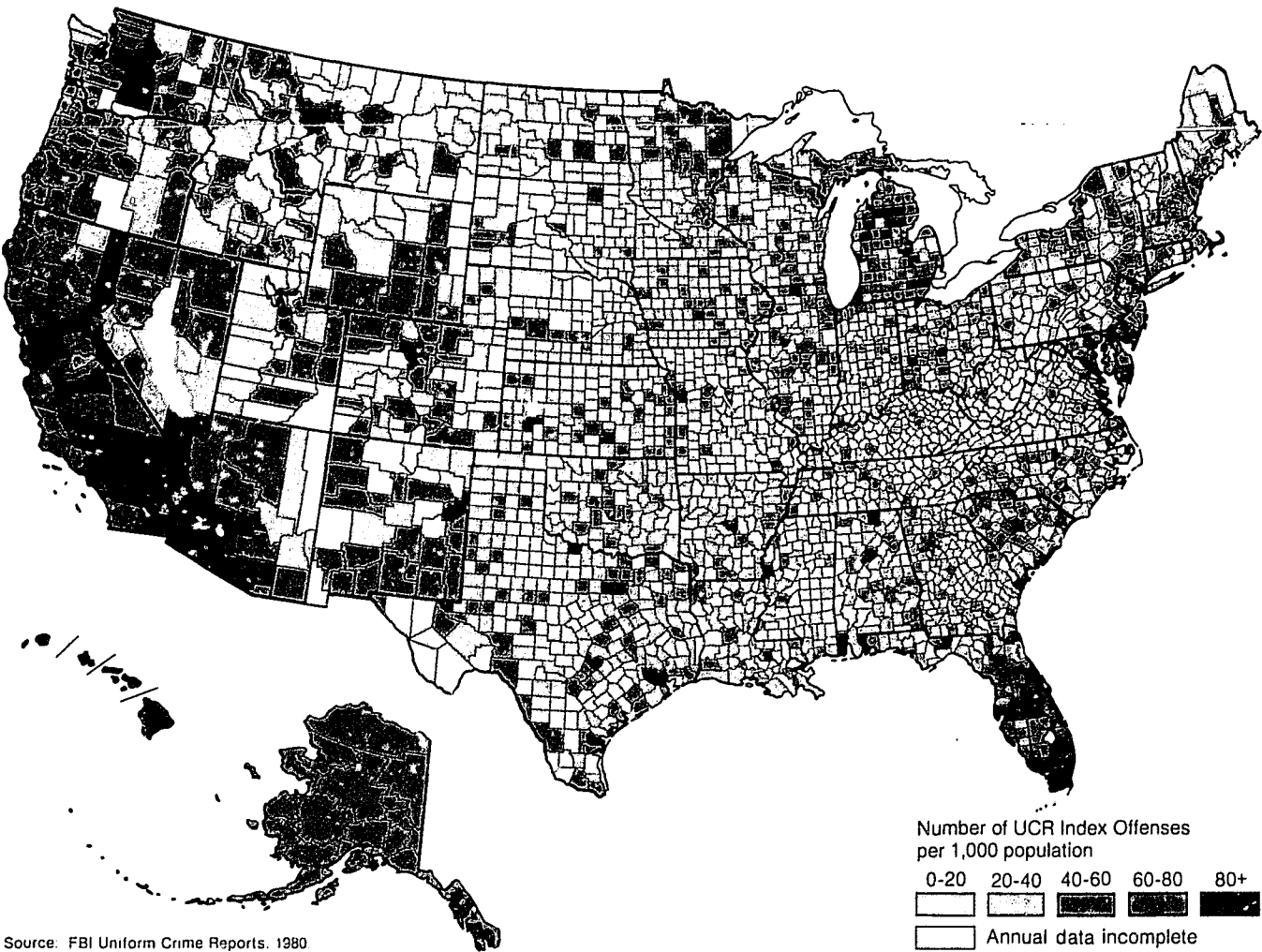
### Some types of larceny and burglary show strong seasonal trends





Where does most crime occur?

UCR Index Crime rates are highest in the West, lowest in Central and Appalachian regions



Source: FBI Uniform Crime Reports, 1980

Counties with the highest crime rates tend to be very urban or resort areas; those with the lowest rates tend to be very rural

Many factors can account for particularly high or low county crime, but generally—

- Counties with very low per capita crime rates tend to be rural. Such areas may genuinely experience less crime, but it is also true that these areas often have small police or sheriff departments, many of them with part-time staffs. Coupled with an absence of the sophisticated resources often available to larger

departments, these staffing patterns may partially depress the number of crimes detected.

- Counties with extremely high crime rates are usually urbanized, independent cities, such as Baltimore and St. Louis, that report separately from their suburbs, or resort areas that have a high number of transients relative to their resident population. Among the latter are Atlantic County, New Jersey; Nantucket, Massachusetts; and Summit County, Colorado. Because crime rates are computed on the resident population, these findings for resort areas are not surprising.

Rates of reported crimes vary by region

In eight of nine regions of the country, rates of reported property crime were lower in 1981 than in 1980. The 1981 rates were highest in the Pacific and Mountain regions largely because all States in the two regions (except Idaho, Montana, and Wyoming) had rates higher than average for the United States.

In six of the nine regions, rates of reported violent crime were also lower in 1981 than in 1980. The regions where the 1981 rates were higher than in 1980 were New England and the Middle and South Atlantic. The high rates in the Middle Atlantic and Pacific regions were due largely to very high rates in New York (1,070), Nevada (896), California (863), and New Mexico (672).

The proportion of crime occurring in urban, suburban, and rural areas has shown little change

- Over the 9 years ending in 1981—
- Most UCR Index Crimes in all areas were property crimes, but the share of violent crimes was larger in Standard Metropolitan Statistical Areas (SMSA's) (more than 10%) than in other types of places (less than 7%).
  - Violent and property crime rates were consistently higher for SMSA's, roughly comparable for suburbs and non-SMSA cities, and consistently lower for rural areas.
  - Increases in violent crime were greatest for non-SMSA cities and for rural areas.
  - Disproportionate increases were noted in rates for violent crime in suburban and rural areas.

NCS data confirm UCR findings about where crime occurs

NCS data show that violent crime rates per 1,000 resident population were consistently highest for central cities and consistently lowest for rural areas. The rate for suburban areas consistently fell between that for central cities and that for rural areas. The differences for robbery are particularly strong: rates per 1,000 were 15 for central city residents; 6 for suburbanites, and 3 for rural residents. It should be noted that survey respondents are classified by their place of residence, not the place in which an incident occurred. While it is reasonable to expect that most incidents took place in the type of place where the victim resided, it is possible, for example, that some suburban residents were victimized in central cities.

Patterns of property crime were similar: households in central cities were the most likely to be victimized and those in rural areas were the least likely to be victimized. There is no clear trend in burglary and household larceny for central cities of different sizes, but the likelihood of motor vehicle theft increases for households in larger central cities.

87% of violent crimes occurred away from victim's home

- National Crime Survey data for 1980 indicate that—
- Only 13% of the total number of violent crimes occurred in and around its victim's home, but 20% of all rapes occurred there.
  - 39% of violent crimes committed by persons known to the victim took place in or near the victim's home, while only 15% of those committed by strangers occurred there.
  - 86% of all household larcenies took place near the victim's home rather than inside the dwelling—partly because thefts inside the home often involve illegal entries or break-ins and thus would be classified as burglaries.
  - Personal larcenies without contact were also more likely to be committed outside, but most personal larcenies with contact (such as pocket picking) occurred inside a nonresidential setting rather than outdoors.

Place of occurrence	% crimes of violence (rape, robbery, assault)	% larceny without contact
On street, park, playground, school ground, or parking lot	41%	44%
Inside nonresidential building	15	21
Inside own home	13	•
Near own home	11	•
Inside school	5	16
Elsewhere	15	19
Total	100%	100%

\*By definition, personal larceny without contact cannot occur in these locations.

Source: BJS National Crime Survey, 1980.

Metropolitan areas have the highest rates of reported crime

	UCR Index crime rates per 100,000 population			
	Violent crimes	% change* 1973-81	Property crimes	% change* 1973-81
<b>Standard Metropolitan Statistical Areas (SMSA's)</b> <small>Urbanized areas that generally include at least one central city of 50,000 or more inhabitants, the county in which it is located, and contiguous counties that satisfy certain criteria of population and integration with the central city.</small>	691	+ 37%	5,913	+ 37%
<b>Non-SMSA cities</b> <small>Cities that do not qualify as SMSA central cities and are not included in other SMSA's.</small>	330	+ 49%	4,834	+ 55%
<b>Suburban areas</b> <small>Suburban cities other than central cities and counties within metropolitan areas.</small>	373	+ 50%	4,503	+ 36%
<b>Rural areas</b>	173	+ 17%	2,004	+ 51%

\*This period was chosen for comparison, as 1973 was the first year for which the current crime classification was used in FBI tabulations of UCR index crimes.

Source: FBI Uniform Crime Reports, 1981.

# What is the involvement of weapons in crime?

## Except for homicide, most violent crimes do not involve the use of weapons

Weapon use	Homicide	Rape	Robbery	Assault**
Firearm	62%	7%	18%	9%
Knife	19	15	21	9
Other	13	1*	9	14
Type unknown	0	2*	2	1
None used	6	77	54	68
Total	100%	100%	100%	100%

Note: Because some victimizations involve more than one type of weapon, detail may add to more than 100%.

\* Estimate is based on 10 or fewer samples and is therefore statistically unreliable.

\*\* Includes simple assaults, which by definition do not involve the use of a weapon.

Source: National Crime Survey, 1981.  
Uniform Crime Reports, 1981.

## Victims used or brandished a gun or knife to protect themselves in only 2% of all violent crimes

In about a fourth of all violent crimes, victims protected themselves using physical force or with some object used as a weapon.

Because the circumstances of every victimization differ (time, place, nearness of people who might help, characteristics of victim, etc.), it is not possible to make inferences about the relationship between protective measures taken and the outcome of the victimization.

## Armed offenders seldom had more than one type of weapon

In about 95% of all victimizations between 1973 and 1979 in which offenders possessed weapons, the offenders had only one type of weapon (that is, only guns or only knives or only other objects used as weapons).

## Weapons are more often used than assaults in killings of law enforcement officers

Of the 91 law enforcement officers killed in the line of duty in 1981, three-quarters (69) were killed by handguns. Twelve officers were killed by rifles and five by shotguns. Only five officers died from other than firearm wounds; one was stabbed, two were struck by vehicles, one was killed by a blunt instrument, and one drowned.

Officers assaulted by gunbearing offenders sustained the lowest percentage of injuries.

Means of assault	% of all assaults	% resulting in personal injury
Firearm	6%	18%
Knife	3	34
Other weapon	8	41
Hands, fists, feet, etc.	83	36
Total	100%	

Source: FBI Uniform Crime Reports, 1981.

## Bombing incidents declined by 45% between 1975 and 1981

The number of actual and attempted bombings in the United States fell from 2,074 in 1975 to 1,142 in 1981.

- Personal injuries from bombings dropped from 326 to 133 and deaths from 69 to 30.
- In 1975, three major bombings resulted in a very high number of deaths and injuries.
- In 1980, actual bombings made up 83% of the total number of bombing incidents.

Targets of bombing incidents	% of all incidents (actual and attempted)
Residence	33%
Commercial establishments	21
Vehicles	15
Schools	7
Government property (including military and postal)	4
Persons	3
Police/fire department buildings/property	1
Miscellaneous	15
Total	100%

Note: Percents do not add to 100% because of rounding.

Source: FBI Bomb Summary, 1981.

## Terrorist groups claimed responsibility for only 20 of the 1,249 bombing incidents in 1980

Fifteen of these 20 were actual explosions. The three most common motives attributed to nonterrorist bombings in 1980 were animosity, mischief, and revenge. Half of all bombings were done for unknown motives.

# People are particularly fearful of being victimized by strangers

## When people worry about crime, they worry most about being injured by strangers

The fear of crime, in general, is the fear of a random unprovoked attack or robbery by a stranger. In 1967, the President's Commission on Law Enforcement and the Administration of Justice concluded that "... the fear of crimes of violence is not a simple fear of injury or death or even of all crimes of violence, but, at bottom, a fear of strangers."<sup>3</sup>

As measured by the National Crime Survey, an offense by a stranger includes those committed by persons identified by the victim as strangers and by those identified as "known by sight." They do not include crimes committed by acquaintances, friends, family members, or other relatives.

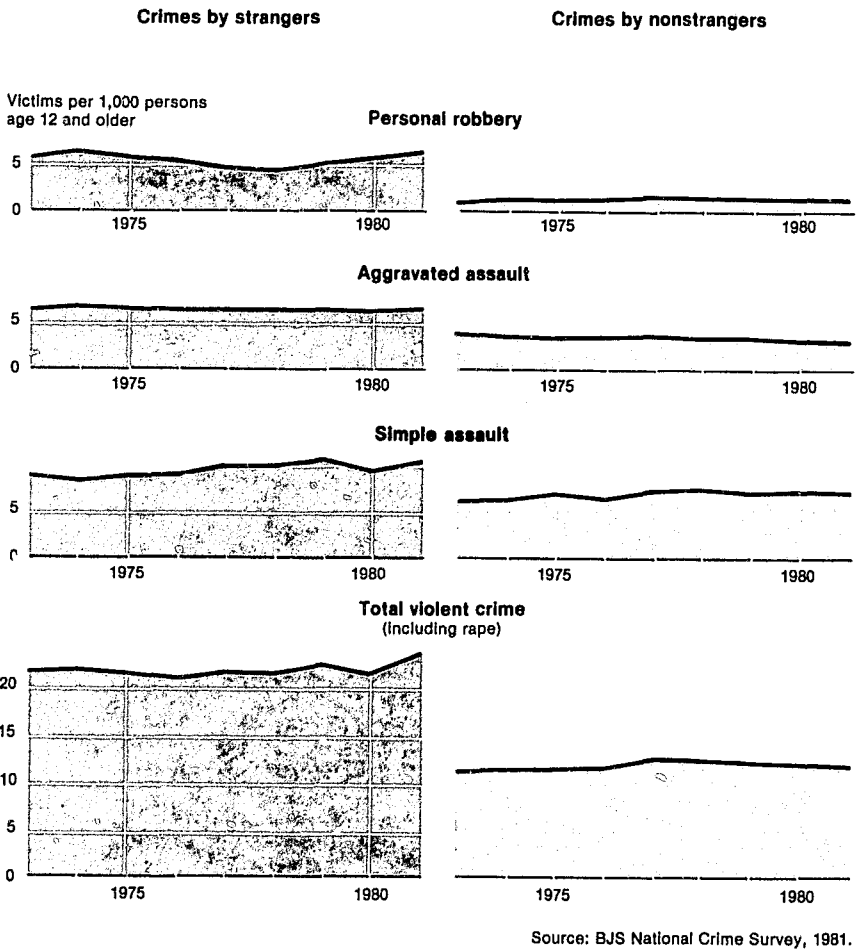
## Most violent crimes except murder are committed by strangers

More than half of all homicides are committed by someone known to the victim. Three of every five of all other violent crimes are committed by strangers.

- Acquaintances commit more than 38% of all homicides and a fourth of all other violent crimes.
- Relatives commit 17% of all homicides but only 7% of other violent crimes.
- Robbery is the violent crime most often committed by strangers (76%) and homicide is the least often committed by strangers (16%).
- Almost half of all assaults are by acquaintances or relatives.
- In 30% of homicides, the relationship between the victim and offender cannot be determined.

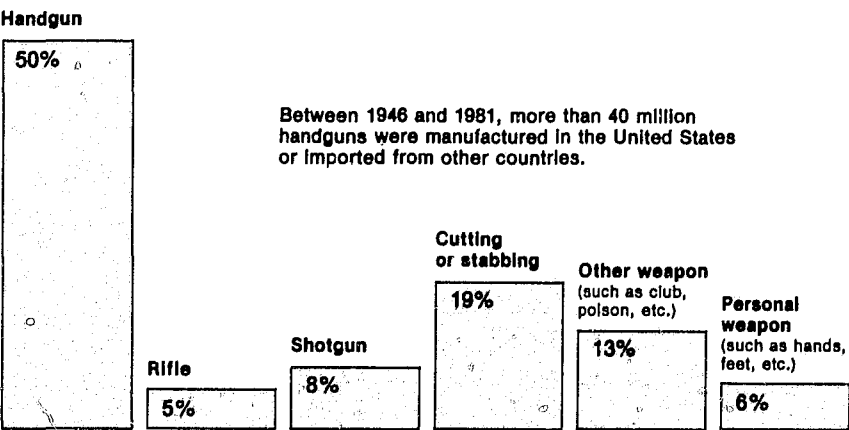
It is widely believed that a very large proportion of crimes committed by relatives are not reported to the police and are not revealed to crime survey interviewers.

## Strangers commit most violent crimes, especially robbery



Source: BJS National Crime Survey, 1981.

## Half of all homicides are committed with handguns



Source: FBI Uniform Crime Reports, 1981.

## Robbery victims run a high risk of injury from unarmed strangers

The likelihood that a victim will lose property in a robbery attempt by a stranger is—

- 80% if the robber wields a gun
- 60% if the robber wields a knife
- 54% if the robber is unarmed or threatens the victim with a stick, bottle, club, or other such weapon.

However, the likelihood that a robbery victim will be injured by a stranger is—

- 53% if the robber displays a stick, bottle, or other such weapon
- 34% if the robber is unarmed
- 25% if the robber is armed with a knife
- 17% if the robber is armed with a gun.

One possible explanation for this is that victims may be more willing to resist offenders armed with sticks, bats, etc. than they are those armed with knives or guns.

### Basic sources

*Dictionary of criminal justice data terminology*, second edition, Bureau of Justice Statistics, U.S. Department of Justice, NCJ-76939 (Washington: USGPO, 1981).

#### National Crime Survey:

*Crime and seasonality*, Bureau of Justice Statistics, NCJ-64818 (Washington: U.S. Department of Justice, May 1980).

*Criminal victimization in the U.S., 1980-81 changes based on new estimates*, BJS technical report, NCJ-87577 (Washington: U.S. Department of Justice, March 1983).

*Criminal victimization in the United States, 1980*, Bureau of Justice Statistics, NCJ-84015 (Washington: U.S. Department of Justice, June 1983).

*Households touched by crime*, BJS bulletin, NCJ-84406 (Washington: U.S. Department of Justice, September 1982).

*Measuring crime*, BJS bulletin, NCJ-75710 (Washington: U.S. Department of Justice, February 1981).

#### Uniform Crime Reports:

*Crime in the United States* (annual), Federal Bureau of Investigation, U.S. Department of Justice (Washington: USGPO), 1970-1980.

*Vital statistics of the United States* (annual), National Center for Health Statistics, Public Health Service, U.S. Department of Health and Human Services.

### Notes

<sup>1</sup>*Dictionary of criminal justice data terminology*, second edition, Bureau of Justice Statistics, U.S. Department of Justice, NCJ-76939 (Washington: USGPO, 1981), p. 61.

<sup>2</sup>Albert J. Reiss, Jr. and Albert D. Biderman, *Data sources on white-collar lawbreaking*, National Institute of Justice (Washington: U.S. Department of Justice, September 1980), p. 1.

<sup>3</sup>*The challenge of crime in a free society*, a report by the President's Commission on Law Enforcement and the Administration of Justice (Washington: USGPO, 1967), p. 52.

## Chapter II

# The victim

Patsy A. Klaus  
Michael R. Rand  
Bruce M. Taylor

This chapter profiles victims of crime with data that answer such questions as—

How do crime rates compare with the rates of other life events?

Is there a relationship between the fear of crime and actual risks of victimization?

What groups of people are most likely and least likely to become victims of crime?

What are the risks of becoming a victim of rape, robbery, or assault?

What kinds of households are victimized by crime?

Is a person more likely to be victimized by a stranger or by a relative or acquaintance?

How does crime affect its victims?

How do victims of violent crime protect themselves?

Why are only a third of all crimes against people and their households reported to the police?

Which States have compensation programs to help victims of violent crime?

Chapter II was written by Patsy A. Klaus, Michael R. Rand, and Bruce M. Taylor of the BJS staff. Adolfo L. Paez of the Center for Demographic Studies, U.S. Bureau of the Census, prepared the data on risks of various life events. Invaluable contributions were also made by other members of the Center for Demographic Studies, U.S. Bureau of the Census, particularly by Siretta L. Kelly and by Sandra Brill Stalker of the National Organization for Victim Assistance.

The fear of crime affects many people, including some who have never been victims of crime

How do crime rates compare with the rates of other life events?

Events	Rate per 1,000 adults per year*
Accidental injury, all circumstances	290
Accidental injury at home	105
Personal theft	82
Accidental injury at work	68
Violent victimization	33
Assault (aggravated and simple)	25
Injury in motor vehicle accident	23
Divorce	23
Death, all causes	11
Serious (aggravated) assault	9
Death of spouse	9
Robbery	7
Heart disease death	4
Cancer death	2
Rape (women only)	2
Accidental death, all circumstances	0.5
Motor vehicle accident death	0.3
Pneumonia/influenza death	0.3
Suicide	0.2
Injury from fire	0.1
Homicide/legal intervention death	0.1
Death from fire	0.03

These rates are an approximate assessment of your chances of becoming a victim of these events. More precise estimates can be derived by taking account of such factors as age, sex, race, place of residence, and lifestyle. Findings are based on 1979-81 data, but there is little variation in rates from year to year.

\*These rates have been standardized to exclude children (those under age 15 to 17, depending on the series). Fire injury/death data are based on the total population, because no age-specific data are available in this series.

Sources: Current estimates from the National Health Interview Survey, United States, 1981, Vital and Health Statistics Series 10, no. 141, October 1982; Advance report of final divorce statistics, 1979, Monthly Vital Statistics Report, vol. 30, no. 2, supplement, May 29, 1981; Advance report on final mortality statistics, Monthly Vital Statistics Report, vol. 31, no. 6, supplement, September 30, 1982, National Center for Health Statistics, U.S. Public Health Service, Washington, D.C. Preliminary estimates of the population of the United States, by age, sex, and race, 1970 to 1981, Series P-25, no. 917, U.S. Bureau of the Census, Washington, D.C., 1982. "Fire loss in the United States during 1981," Michael J. Karter, Jr., Fire Journal, vol. 76, no. 5, National Fire Protection Association, Quincy, Mass., September 1982.

The chance of being a violent crime victim, with or without injury, is greater than that of being hurt in a traffic accident

The rates of some violent crimes are higher than those of some other serious life events. For example, the risk of being the victim of a violent crime is higher than the risk of being affected by divorce, or death from cancer, or injury or death from a fire. Still, a person is much more likely to die from natural causes than as a result of a criminal victimization.

People fear crime in general but think their own neighborhood is safer than other neighborhoods

Public opinion polls show that most people have mixed feelings about their fear of crime. However, different polls using different methods and asking different questions get varying results. When asked about the impact of crime on their daily lives, people usually express less fear than of crime in general. Most say they feel safe when out alone in their neighborhood and think that their neighborhoods are less dangerous than others. Yet they believe that people in general have limited their activities because of crime.

The groups of people who have the highest risk of becoming victims are not the ones who express the greatest fear of crime. Females and the elderly are not in the population groups most victimized, yet they generally express a greater fear of crime than do people in groups who face a much greater risk. The Reactions to Crime project found that such impressions can be explained by the content of communications about crime. Such communications emphasize stories about elderly and female victims. These stories may become reference points for women and the elderly to judge the seriousness of their own condition.

The extent to which fear levels impair the quality of life is difficult to measure

The relationship between fear of crime and actual risk of victimization is difficult to assess. It may be that groups such as the elderly reduce their risk of victimization by restricting their activities to reduce their exposure to danger. If this behavior is a response to fear of crime, such fear is itself a form of victimization.

It is difficult to determine when limitations in lifestyle result from fear of crime and when they result from other factors such as physical impairment, lack of transportation, or lack of economic resources. For example, the Reactions to Crime project found that household protective measures taken by people in general are linked to social and economic factors rather than to the direct threat of crime or neighborhood crime conditions.

Relatives, friends, and neighbors who hear about a crime become as fearful as the victim

When one household in a neighborhood is affected by a crime, households in the entire neighborhood may feel more vulnerable. Studies have shown that victimization experience does not have as much impact on the victim's attitudes as one might expect. These findings suggest the possibility that people who have not been victimized personally may be very strongly affected when they hear about the victimization experiences of others. The Reactions to Crime project, in particular, found that indirect reaction to crime is often intense.

The risk of victimization depends on a combination of factors

- Who are the victims of crime?
- Victims of crime are more often men than women.
  - Younger people are much more likely than the elderly to be victims of crime. But the elderly have a greater fear of crime and may restrict their lives in ways that reduce their chances of being victimized.
  - Blacks are more likely to be victims of violent crime than whites or members of other racial groups.
  - The divorced and the never married are more likely than the married or the widowed to be victims of crime. These differences may result in part because of the age differences of people in various marital-status groups.
  - Violent crime rates are higher for lower income people.
  - Theft rates are highest for people with low incomes (less than \$3,000 per year) and those with high incomes (more than \$25,000 per year).
  - Students and the unemployed are more likely than housewives, retirees, or the employed to be victims of crime.
  - Rural residents are less often crime victims than are people living in cities.
  - Young black males have the highest violent crime rates; elderly white females have the lowest rates.

Victimization rates per 1,000 persons age 12 and over

	Personal crimes of...		Personal crimes of...		Personal crimes of...	
	violence*	theft*	violence*	theft*	violence*	theft*
Total (U.S.)	35	85				
Sex						
Male	46	91				
Female	25	80				
Age						
12-15	59	128				
16-19	68	132				
20-24	68	133				
25-34	44	101				
35-49	23	78				
50-64	13	51				
65 and over	8	22				
Race and origin						
White	33	85				
Black	50	85				
Other	38	81				
Hispanic	39	86				
Non-Hispanic	35	85				
Marital status by sex						
Males						
Never married	80	137				
Divorced/separated	68	133				
Married	26	63				
Widowed	15	40				
Females						
Never married	42	120				
Divorced/separated	65	112				
Married	13	64				
Widowed	11	34				
Income						
Less than \$3,000	67	106				
\$3,000-\$7,499	45	66				
\$7,500-\$9,999	43	71				
\$10,000-\$14,999	40	82				
\$15,000-\$24,999	31	84				
\$25,000 or more	28	104				
Education						
0-4 years	14	26				
5-7 years	19	28				
8 years	13	29				
9-11 years	25	46				
High school graduate	20	63				
1-3 years college	36	94				
College graduate	27	105				
Employment status						
Retired	10	27				
Keeping house	15	41				
Unable to work	24	26				
Employed	37	97				
In school	56	121				
Unemployed	76	118				
Residence						
Central city	52	101				
1,000,000 or more	64	113				
500,000-999,999	54	106				
250,000-499,999	45	91				
50,000-249,999	42	93				
Suburban	33	94				
Rural	24	60				
Race, sex, and age summary						
White males						
12-15	69	139				
16-19	95	144				
20-24	91	145				
25-34	52	104				
35-49	28	76				
50-64	14	50				
65 and over	8	26				
White females						
12-15	40	133				
16-19	37	133				
20-24	44	124				
25-34	35	95				
35-49	16	80				
50-64	10	55				
65 and over	6	18				
Black males						
12-15	95	92				
16-19	112	111				
20-24	86	164				
25-34	57	124				
35-49	35	85				
50-64	28	40				
65 and over	28	38				
Black females						
12-15	69	90				
16-19	49	81				
20-24	61	88				
25-34	40	103				
35-49	36	80				
50-64	27	37				
65 and over	12	28				

\*Personal crimes of violence include rape, robbery, and assault. Personal crimes of theft include larceny without contact, purse snatching, and pocket picking.

Source: BJS National Crime Survey, 1981.

### Who are the victims of violent crime?

- Assault is the most common violent crime.
- Violent crime (except for rape) affects men more than women.
- People with low incomes have the highest violent crime victimization rate.

	Rates per 1,000 persons		
	Robbery	Assault	Rape
<b>Sex</b>			
Male	10	36	*
Female	5	18	2**
<b>Age</b>			
12-15	12	46	1
16-19	12	53	2
20-24	12	54	2
25-34	8	35	1
35-49	5	17	*
50-64	5	8	*
65 and over	4	4	*
<b>Race and origin</b>			
White	6	26	1
Black	17	31	2
Other	10	27	*
Hispanic	12	25	*
Non-Hispanic	7	27	1
<b>Marital status</b>			
Divorced/separated	15	48	3
Never married	13	47	2
Married	4	16	*
Widowed	5	6	*
<b>Income</b>			
Less than \$3,000	16	47	4
\$3,000-\$7,499	12	31	2
\$7,500-\$9,999	9	32	1
\$10,000-\$14,999	8	31	1
\$15,000-\$24,999	6	25	1
\$25,000 or more	5	23	*
<b>Employment status</b>			
Retired	6	4	*
Keeping house	4	11	1
Unable to work	6	18	*
Employed	7	29	1
In school	11	44	*
Unemployed	13	60	3
<b>Residence</b>			
Central city	15	35	1
Suburban	6	26	1
Rural	3	21	1

\*Too few cases in the survey sample to obtain statistically reliable data.  
 \*\*This rate based on women only; the rate based on the total population is 1.

Source: BJS National Crime Survey, 1981.

### What kinds of households are the victims of crime?

- Larceny is the most common property crime; motor vehicle theft is the least common.
- Hispanics are more often victims of household crimes than non-Hispanics.
- Household crimes more often affect households headed by younger people.
- Household crime rates are highest for households with six or more people.
- Renters have higher rates than home owners.
- Households in central cities have higher rates than suburban or rural households.

	Rates per 1,000 households		
	Burglary	Household larceny	Motor vehicle theft
<b>Age of household head</b>			
12-19	218	184	29
20-34	115	156	25
35-49	95	138	20
50-64	68	104	12
65 and over	54	63	7
<b>Race or origin of household head</b>			
White	83	119	16
Black	134	142	24
Other	68	118	13
Hispanic	104	148	29
Non-Hispanic	87	120	17
<b>Income</b>			
Less than \$3,000	132	118	12
\$3,000-\$7,499	99	120	12
\$7,500-\$9,999	89	121	14
\$10,000-\$14,999	87	123	20
\$15,000-\$24,999	80	129	19
\$25,000 or more	83	123	18
<b>Number of persons in household</b>			
1	84	77	15
2-3	86	115	17
4-5	93	165	19
6 or more	109	196	21
<b>Form of tenure</b>			
Home owned or being bought	73	110	13
Home rented	115	141	25
<b>Place of residence</b>			
Central city	120	149	26
1,000,000 or more	115	116	38
500,000-999,999	126	166	27
250,000-499,999	129	159	24
50,000-249,999	114	163	15
Outside central city (suburban)	80	119	17
Nonmetropolitan (rural)	68	98	8

Source: BJS National Crime Survey, 1981.

## What is the relationship between victim and offender?

### Men, blacks, and young people face the greatest risk of violent crime by strangers

During 1973-79, men were victimized by violent strangers at an annual rate almost triple that of women (29 vs. 11 per 1,000). Blacks were more than twice as likely as whites to be robbed by strangers.

The overall chance of becoming a victim of violent crime by strangers decreases with age but the robbery rate does not drop as much across age groups as do the rates of other violent crimes. For example, persons age 25-34 suffered 4.8 robberies and 7.4 aggravated assaults per 1,000 people, while persons age 65 and older suffered 3.7 robberies but only 0.6 aggravated assaults per 1,000 people.

Because many older people are physically unable to move about outside their home and, according to published surveys, many have curtailed their outside activities because of their fear of crime, it is possible that the risk of robbery for older persons who continue to be active and mobile may be as great as that for the population as a whole.

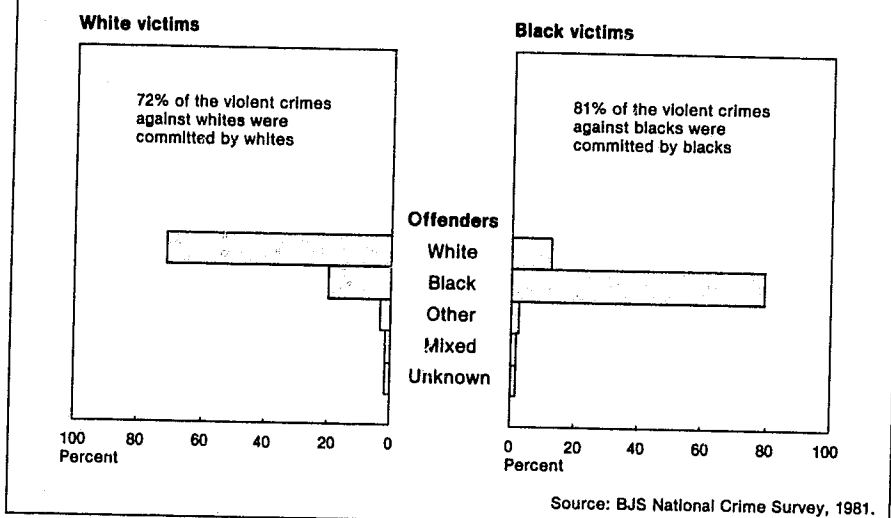
### Women were more vulnerable than men to assaults by acquaintances and relatives<sup>1</sup>

Two-thirds of all assaults on divorced and separated women were committed by acquaintances and relatives.

Half of all assaults on women who have never been married and 40% of assaults on married women were committed by nonstrangers.

More than half of all assaults on women, but only a third of those on men, were committed by relatives or acquaintances.

### Victims and offenders are of the same race in 3 out of 4 violent crimes



### Spouses or former spouses committed 5% of the assaults by lone offenders

NCS data show that during 1973-77 95% of all assaults on spouses or ex-spouses were committed by men. In only 5% of such assaults was the offender the wife or ex-wife of the victim.

In almost three-quarters of spouse-on-spouse assaults, the victim was divorced or separated at the time of the incident.

### Young offenders did not appear to be singling out the elderly as victims of robbery and assault

During 1973-77, there was little difference between persons age 65 or older and the rest of the population in the rates at which they were robbed or assaulted by youths under age 21.



How does crime affect its victims?

Losses from personal and household crime exceeded \$10 billion in 1980

NCS data indicate that in 1980 direct cash and property losses from personal robberies, personal and household larcenies, household burglaries, and privately owned motor vehicle theft approached \$9.5 billion. The amount recovered by insurance or other means was reported to be less than \$3.6 billion. This figure probably underestimates the amount recovered by insurance because the claims of many respondents remained unsettled at the time of the NCS interview. In addition, almost \$600 million worth of damage was done to personal and household property.

UCR data show that reported commercial robberies, nonresidential burglaries, and shoplifting surpassed \$1 billion in 1980. The overall economic impact of crime is staggering, particularly when it includes such consequences of crime as lost productivity resulting from victims' absence from work, medical care, and the introduction of security measures to discourage victimization.

Computer-related fraud, arson for profit, embezzlement, and a number of types of underground economic activity result in economic losses, but the impact of many such crimes is difficult to measure. Simon and Witte estimated that the total income for the underground economy in 1980 was somewhere between \$170 billion and \$300 billion. The social costs of such activity include lost tax revenues, treatment programs for drug abusers, higher insurance premiums, burned-out neighborhoods resulting from professional arson rings, increased property crime as a means to support drug habits, and increased law enforcement efforts to apprehend smugglers, drug dealers, arsonists, and other offenders. The full cost of operating the criminal justice system is also an indirect cost of crime.

The economic impact of crime hits the poor most heavily

The cost of crime is borne by all segments of society, but to different degrees. NCS data for 1980 show that the dollar loss from crimes involving money, property loss, or destruction of property rises with income.

The average loss from such a crime was about—

- \$180 for victims with a family income of less than \$6,000 a year
- \$340 for those with family incomes of \$25,000 or more.

The burden of such crimes expressed as a proportion of reported family income decreased with increasing family income. In 1980, the relative impact per incident was 5 times greater on families with yearly incomes of less than \$6,000 than for those with incomes of \$25,000 or more. However, this gap has been narrowing in recent years. In 1977, the relative impact was 10 times greater on the low than on the high-income families. This change may partially result from the movement of individuals or households more prone to victimization into higher income categories because of inflation, but there is also evidence of a significant upward change between 1977 and 1980 in the economic burden of such crimes on all income levels except on family households with incomes of less than \$6,000.

2 million injuries or deaths resulted from violent crime

Based on UCR data for 1980, an estimated 23,044 people were murdered.

NCS data for 1980 show that—

- 2,014,300 injuries resulted from violent crimes other than homicide.
- 30% of all rape, robbery, and assault victims were injured.
- 15% of the victims of violent crime required some kind of medical attention; 8% required hospital care.

The likelihood of injury was—

- Greater for females than males even when rape was excluded from the analysis.
- Greater for blacks than for whites.

The relationship of the victim to the offender also influences the likelihood of injury

- Victims were more likely to report injury requiring medical attention when the offender was an acquaintance rather than a stranger.
- Victims were more likely to be injured seriously if the assailant was a relative rather than an acquaintance or a stranger.
- The victim's relationship to the offender tended to vary with the type of crime, and this may have some influence on these results. Still, when the effect of victim-offender relationship on injury is examined separately for each of the four violent crime types, injury was consistently less likely to result when the assailant was a stranger rather than an acquaintance or relative. There was also some indication of a greater likelihood of injury when the offender was a relative rather than a stranger or acquaintance. These results may be tempered by the possibility that victims may be reluctant to report victimizations by relatives to an interviewer. Consequently, they may mention only the most serious of such incidents.

How do victims of violent crime protect themselves?

• Rape victims are more likely than other violent crime victims to use force, try a verbal response, or attract attention, and they are less likely than the others to do nothing to protect themselves.

• Robbery victims are the least likely to try to talk themselves out of being victimized and the most likely to do nothing.

• Assault victims are the least likely to attract attention and the most likely to attempt some form of nonviolent evasion.

• Compared with simple assault victims, aggravated assault victims are more likely to use a weapon, less likely to try to talk themselves out of the incident, and less likely to do nothing to defend themselves. The fact that weapons are used more frequently by victims of aggravated assault than by victims of any other violent crime leads to the suspicion that some of these victims may have played a part in causing the incident.

Victim response*	Percent of victims who used response by type of crime*		
	Rape	Robbery	Assault
<b>Weapons use</b>			
Used or brandished gun or knife	1%	2%	2%
<b>Physical force</b>			
Used or tried physical force	33	23	23
<b>Verbal response</b>			
Threatened, argued, reasoned, etc. with offender	17	8	13
<b>Attracting attention</b>			
Tried to get help, attract attention, scare offender away	15	7	6
<b>Nonviolent evasion</b>			
Resisted without force, used evasive action	10	11	19
<b>Other</b>	5	4	7
<b>No self-protective actions</b>	19	45	30
<b>Total</b>	100% (873)	100% (5,668)	100% (24,876)

\*Victim self-protective responses are listed in the table in order of assertiveness. If victims indicated that they took more than one type of action, only the most assertive action was used in the analysis.

Source: BJS National Crime Survey, 1973-79.

Likelihood of injury appears to be related to a victim's self-protective response

Most violent victimizations do not result in serious injury. Yet, NCS data for 1973 to 1979 show that some self-protective responses to violent crimes are more likely than others to be associated with serious injury.<sup>2</sup>

Of all responses reported by victims to NCS, physical force, trying to attract attention, and doing nothing to protect oneself or property resulted in the highest proportions of seriously injured victims (16%, 14%, and 12%, respectively). On the other hand, those who tried to talk themselves out of their predicament or took nonviolent evasive action were less likely to incur serious injury (both 6%).<sup>3</sup>

The NCS provides no information on the sequence of events in a crime incident. Thus, the relatively high association of no self-protection with injury may reflect either passive victims presenting no obstacles to injury or victims who are injured at the start of

an incident and who are reluctant to risk further harm by acting in any way. Consequently, the data do not always indicate the probability of subsequent injury resulting from various self-protective strategies, but they do suggest that some actions may be more dangerous than others.

The pattern of serious injury associated with each of the self-protective measures was consistent for all NCS-measured violent crimes except robbery and simple assault. (Victims of these crimes were less likely than victims of other violent crimes to be injured seriously if they did nothing to protect themselves.) This finding is noteworthy, since each type of violent crime tends to provoke different responses by victims. For example, rape victims are particularly likely to use physical force to repel rapists. This may be an automatic reaction to being grabbed, or it may be a deliberate act intended to be self-protective. In either case, the NCS data indicate that a victim who uses physical force

against an offender runs a relatively high risk of serious injury.

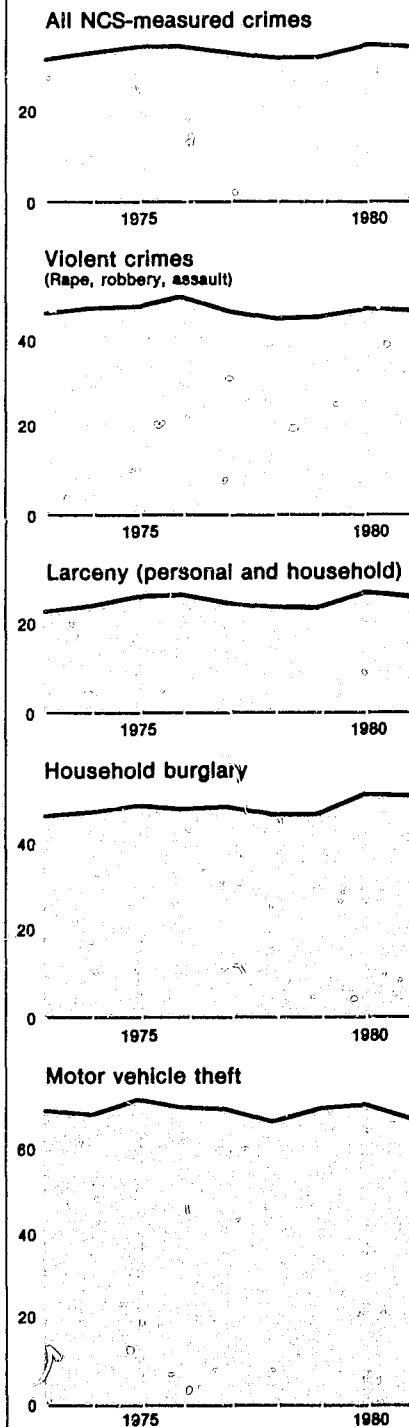
These results further suggest that adapting responses to different types of violent crime incidents may not be helpful in avoiding injury. Rape victims took those actions more likely to be tied to injury more frequently than did assault victims, and robbery victims were even more likely to react in this manner. In fact, violent crime victims as a group tended to take the self-defensive actions that were more rather than less closely associated with serious injury. Sixty-two percent of all violent crime victims interviewed by the NCS reported that they took one or more such actions.

Each incident of violent crime has unique features that may affect how victims are able to protect themselves, but the NCS data suggest that the responses of physical force, attracting attention, or deliberate inaction are related to a higher likelihood of injury.

# Most crimes are not reported to the police

## Only a third of all crimes are reported to the police

Percent reported to police



Source: BJS National Crime Survey, 1981.

## Information about the extent to which crime is reported to police has only become widely available in the past decade

It has long been known that many crimes do not come to the attention of the police, but it was only with the development of victimization surveys that systematic information became available on crimes that are not reported.

Early surveys undertaken by researchers working with the President's Commission on Law Enforcement and Administration of Justice in 1967 undertook studies to measure the so-called "dark figure" of crime. These early surveys found that a vast number of crimes do not come to police attention.

Since 1973, the National Crime Survey has provided yearly findings on the extent to which crimes are reported to the police, the characteristics of crimes that are and are not reported, and the reasons for not reporting.

## Reporting rates varied by type of crime and sex and age of victim—but not by race

In 1981, the rate of reporting to the police was higher for—

- Violent crimes than for personal crimes of theft (47% vs. 27%)
- Female than for male victims of violent crimes (52% vs. 44%)
- Older than for younger victims.

Whites, blacks, Hispanics, and non-Hispanics reported both violent crimes and personal crimes of theft at more or less the same rates.

## Reporting rates were higher for motor vehicle theft than for burglary and for household larceny

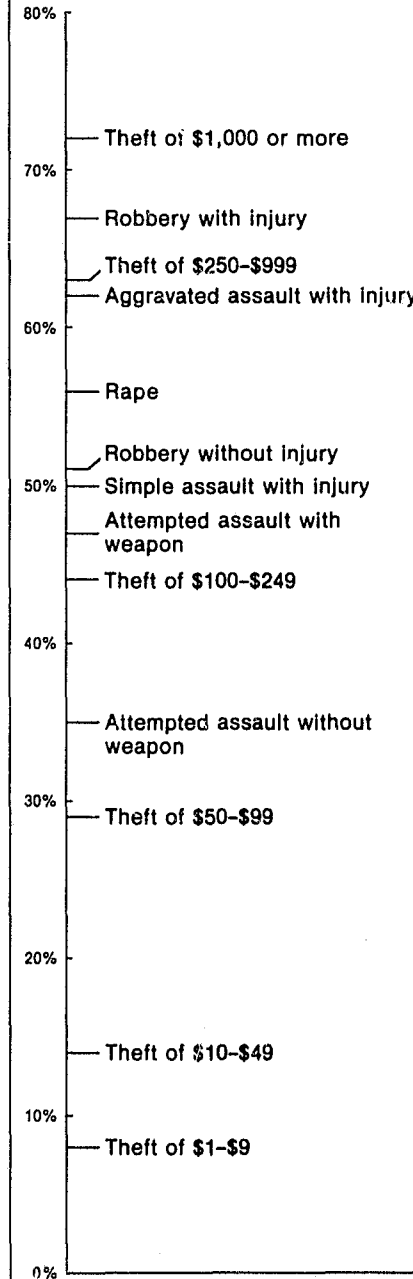
In 1981, the rates of reporting to the police were—

- 67% for motor vehicle theft
- 51% for household burglary
- 26% for household larceny.

There were only minor differences in the rates at which whites and blacks reported these three household crimes.

## Thefts resulting in large losses and serious violent crimes with injury are most likely to be reported to the police

Percent reported to the police



Source: BJS National Crime Survey, 1981.

## The highest income group was more likely than the lowest income group to report household crimes to the police

	Under \$3,000	\$25,000 and over
Household burglary	43%	59%
Household larceny	25	31
Motor vehicle theft	47	71

Source: BJS National Crime Survey, 1981.

## Homeowners were more likely than renters to report household crimes

	Owners	Renters
Household burglary	55%	47%
Household larceny	29	25
Motor vehicle theft	72	66

Source: BJS National Crime Survey, 1981.

## Roughly half of all crimes by strangers and by nonstrangers were reported to the police

NCS data reveal very little difference between the rates of reporting crimes by strangers and by nonstrangers. In 1980, 49% of the crimes by strangers and 44% of the crimes by nonstrangers were reported.

There was little difference, as well, between stranger and nonstranger crime reporting for any of the crimes of rape, robbery, aggravated assault, and simple assault.

This finding is somewhat surprising and may be the result of underreporting of crimes by relations and acquaintances. It may be that victims may be more willing to relate crimes by relatives or acquaintances if the crimes

have already been reported to police. Other people may not think of themselves as victims of crimes when assaulted by relatives and therefore may not relate incidents to survey interviewers. Because of this selective underreporting of some crimes by relatives and acquaintances, the percentage of such crimes reported to police obtained from survey data would be higher than it really is.

## Many violent crimes were unreported because they were "private matters," and many crimes of theft were "not important enough to report"

Percent of victimizations not reported to the police, by reason for not reporting

	Private/personal matter	Nothing could be done/lack of proof	Not important enough	Reported to someone else	Police wouldn't want to be bothered	Too inconvenient	Fear of reprisal	All other reasons	Not given
Crimes of violence									
Rape	35%	18%	4%	8%	*%	2%	16%	42%	2%
Robbery	15	21	15	9	9	6	7	39	5
Aggravated assault	31	10	22	11	7	3	5	22	4
Simple assault	32	8	30	14	7	2	3	14	3
Crimes of theft									
Burglary	9	23	23	7	10	2	1	44	2
Larceny	8	23	39	3	10	2	1	32	2
Motor vehicle theft	12	18	16	8	8	3	*	52	1

Note: Percents add to more than 100% for each type of crime because some people gave more than one reason for not reporting.

\*0 or less than 0.5%.

Source: BJS National Crime Survey, 1981.

Compensation for crime victims has become more available, particularly in the past 10 years

Victim compensation programs are a relatively new phenomenon

In 1965, California launched the first statewide program. Since then, more than half of all States have started similar programs, most of them in the past 5 years.<sup>4</sup> These programs have been established in response to the problems faced by the victims of violent crime, particularly those who cannot afford medical expenses or loss of earnings. These State programs complement many other efforts to aid crime victims; such efforts include rape crisis centers and prosecutors' victim assistance programs.

Most programs provide for recovery of medical expenses and some lost earnings

Under many programs, if a victim dies, his or her family becomes eligible to apply for reimbursement of out-of-pocket medical and funeral expenses. At present, none of the programs reimburse the victim for property loss or damage. States usually deny awards to a victim who provoked the crime, was involved in an illegal activity when the crime occurred, or was related to the offender. Some States compensate only State residents as opposed to visitors to the State.

Victim compensation awards totaled \$34 million in 1980

To pay for their victim compensation programs—

- 14 States rely on penalty assessments against convicted offenders.
- Another 14 States rely on legislative appropriations.
- The remaining States rely on a combination of the two sources.

Restitution to the victim by the offender usually reduces the compensation award.

In 11 States, money earned by offenders as a result of their crimes, such as by writing books, is put into an account from which victims are compensated. This approach was established by the New York legislature when convicted murderer David Berkowitz, the "Son of Sam" murderer, had expectations of making a great deal of money by selling his story.

37 States and the District of Columbia have compensation programs to help victims of violent crime

State	Financial award	To qualify, victim must—		
		show financial need	report to police within:	file claim within:
Alaska	\$0-40,000	No	5 days	24 months
California	\$100-23,000	Yes	*	12 months
Colorado	\$25- 1,500	No	3 days	6 months
Connecticut	\$100-10,000	No	5 days	24 months
Delaware	\$25-10,000	No	*	12 months
D.C.	\$0-25,000	Yes	7 days	6 months
Florida	\$0-10,000	Yes	3 days	12 months
Hawaii	\$0-10,000	No	*	18 months
Illinois	\$0-15,000	No	3 days	12 months
Indiana	\$100-10,000	No	2 days	3 months
Iowa	\$0- 2,000	No	1 day	6 months
Kansas	\$100-10,000	Yes	3 days	12 months
Kentucky	\$100-15,000	Yes	2 days	12 months
Louisiana	\$250-10,000	No	3 days	12 months
Maryland	\$100-45,000	Yes	2 days	6 months
Massachusetts	\$100-10,000	No	2 days	12 months
Michigan	\$100-15,000	Yes	2 days	1 month
Minnesota	\$100-25,000	No	5 days	12 months
Missouri	\$200-10,000	No	2 days	12 months
Montana	\$0-25,000	No	3 days	12 months
Nebraska	\$0-10,000	No	3 days	24 months
Nevada	\$100- 5,000	Yes	5 days	12 months
New Jersey	\$100-25,000	No	90 days	24 months
New Mexico	\$0-12,500	No	30 days	12 months
New York	\$0-20,000†	Yes	7 days	12 months
North Dakota	\$100-25,000	No	3 days	12 months
Ohio	\$0-25,000	No	3 days	12 months
Oklahoma	\$0-10,000	No	3 days	12 months
Oregon	\$250-23,000	No	3 days	6 months
Pennsylvania	\$100-25,000	No	3 days	12 months
Rhode Island	\$0-25,000	No	10 days	24 months
South Carolina	\$300-10,000	No	2 days	6 months
Tennessee	\$100-10,000	No	2 days	12 months
Texas	\$0-50,000	Yes	3 days	6 months
Virginia	\$100-10,000	Yes	2 days	6 months
Washington	\$200-15,000†	No	3 days	12 months
West Virginia	\$0-20,000	No	3 days	24 months
Wisconsin	\$0-12,000	No	5 days	24 months

\*Must report but no time limit specified.  
†Plus unlimited medical expenses.

Source: State Legislatures, November/December 1981; with additions from the National Organization of Victim Assistance.

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Notes

<sup>1</sup>It is widely believed that crimes by relatives and close acquaintances are underreported in the survey. For this reason, the number of crimes committed by non-strangers may be somewhat understated, and the proportion of crimes committed by strangers may be somewhat overstated.

<sup>2</sup>Injury requiring medical attention was chosen as the indicator for serious injury. This variable was judged to be a better summary of serious injury than a straightforward summary of reported injury, as the latter would include minor bruises, cuts, and scratches. Also, the NCS records information on medical attention only for those victims who actually report an injury and thus excludes many visits to doctors or hospitals that are purely cautionary.

<sup>3</sup>As discussed in the Technical Appendix, analyses were performed that controlled for other possible influences on the likelihood of injury including—

- type of crime
- relationship of victim to offender
- number of offenders
- age and sex of victims
- types of weapons carried by offenders.

When these factors were controlled, the relationship of serious injury to self-protective action still held true, indicating that overall these findings cannot be accounted for by a number of other possible explanations.

<sup>4</sup>"Crime victim compensation: A survey of State programs," Gerald Ranker and Martin Meager, *Federal Probation Quarterly*, March 1982.

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### Chapter III

## The offender

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Mimi Cantwell

This chapter profiles arrestees and offenders with data that address such questions as—

How do we know who commits crime?  
What do we know about the offender?  
How many offenders are there?

Who is the "typical" offender? How  
are offenders and victims similar?  
How are they different?

What crimes are committed by offenders?

What are the characteristics of career  
criminals? How much crime do they  
account for?

How much crime is attributable to  
youths?

To what extent do blacks, Hispanics,  
and other ethnic groups participate in  
crime?

Are women becoming more involved in  
crime?

What are the family, economic, and  
educational backgrounds of jail and  
prison inmates?

What is the role of drugs and alcohol  
in offenders' lives? How does drug and  
alcohol use by offenders differ from  
that of the general population?

Chapter III was written by Mimi Cantwell of the Center for Demographic Studies, U.S. Bureau of the Census. Invaluable contributions were also made by Ralph A. Rossum and Lawrence A. Greenfeld of the BJS staff and by John F. Wallerstedt of the Center for Demographic Studies.

Who commits crime and why?

There are no definitive answers to the why of crime

The questions of *who* and *why* are often confused. We know, for example, that offenders are typically young urban males, economically and educationally disadvantaged, disproportionately black as to the proportion of blacks in the population, and frequently products of unstable homes. Many people think that such characteristics are the causes of crime. Yet none of these characteristics can rightfully be described as a cause of crime; most persons in these categories are law-abiding citizens.

Numerous explanations for why people commit crimes have been propounded

Historically, the causes of criminal behavior have included explanations ranging from the influences of evil spirits to the abnormal shape of the skull. Contemporary theories for the causes of crime still abound but can be grouped into three general explanations:

- The sociogenic—focuses on the environment's effect on the individual and places responsibility for crime on society.<sup>1</sup> It identifies as the causes of crime such factors as poverty, ignorance, high unemployment, inadequate housing, and poor health. To these general environmental factors, it adds the impact of unstable homes, viewing their consequent discord, absence of affection and consistent discipline, and improper moral instruction as especially contributory to juvenile delinquency and youth crime. However, recent research has shown that these factors do not account for long-term fluctuations in crime.<sup>2</sup> Moreover, these factors cannot explain why under certain circumstances, one individual commits a crime and another does not.
- The psychogenic—focuses on psychological factors and understands crime to be the result of an individual's propensity and inducement toward crime.<sup>3</sup> Propensity toward crime is determined by the individual's ability to conceptualize right and wrong, to manage impulses and postpone present gratifications, and to anticipate

and take account of consequences that lie in the future as well as by the individual's fondness of risk and willingness to inflict injury on others. Inducement relates to situational factors such as access and opportunity that may provide the individual with the necessary incentives to commit a crime. Under this explanation, while many environmental factors contribute to an individual's propensity to commit crime, the individual is responsible for his behavior. Further, inducements toward committing crime may be inherent in our technological age which, among other things, allows increased access through greater mobility.

- The biogenic—focuses on biological functions and processes and relates human behavior, specifically criminal behavior, to such biological variables as brain tumors and other disorders of the limbic system, endocrine abnormalities, neurological dysfunction produced by prenatal and postnatal experiences of infants, and chromosomal abnormalities (the XYY chromosomal pattern).<sup>4</sup>

How do we know who commits crime?

- Three major sources provide information about offenders:
- Studies of groups of persons in the general population
  - Interviews with victims
  - Records of persons who come into contact with the criminal justice system.
- Studies of the general population typically focus on a birth cohort (a group of persons born in the same year). Several large studies of this kind have been the richest source of information about the characteristics of juvenile offenders. Such studies observe the group over a number of years and note characteristics that are more commonly shared by offenders than by nonoffenders.

Much information can sometimes be obtained from crime victims. For example, victims of robbery, assault, or rape are often able to describe the age, sex, and race of their assailants in interviews conducted for the National Crime Survey.

Official records and survey data provide much information about persons who come into contact with the criminal justice system through arrest, juvenile detention, or incarceration in jail or prison. The data included are not presented to support any particular theory of why people commit crime. Rather, they are the available measures of offender characteristics. Some offender characteristics such as psychological profiles which are difficult to measure are not included.

What we know about criminals refers mainly to "street criminals" and to repeat offenders

A very large number of the persons who come into contact with the criminal justice system are offenders who commit crimes that are readily detectable and for which they are more likely to be arrested, convicted, and sentenced to jail or prison. As a result, the proportion of "street criminals" is probably overrepresented in offender statistics in relation to the proportion of offenses committed by white-collar criminals, whose crimes are less readily detected and who may be less likely to be incarcerated once convicted.

Moreover, national arrest data are complicated by the repeated appearance of a small number of persons. Those who enter jail and, even more so, prisons, are more representative of repeaters than of the criminal population in general. Thus, the profile of offenders that emerges is largely that of the repeat and serious offender.

How many offenders are there?

The most conservative estimates suggest that—

- 36 to 40 million persons—16-18% of the total U.S. population—have arrest records for nontraffic offenses.
- The proportions of offenders who are male and nonwhite (blacks and other races) are considerably higher than their proportions in the general population.

Who is the "typical" offender?

Most crimes are committed by men, especially by men under age 20

Half of all persons arrested for UCR Index Crimes were youths under age 20 and four-fifths were males. By far the highest rate of offending, according to a study by Michael Hindelang, occurs among young black males age 18-20, a fact suggested by arrest data and confirmed by eyewitness reports from crime victims. This does not mean that persons commit crime because they are young, male, or black, but these characteristics are probably associated with other factors in crime.

Offenders and victims share many traits

Like victims of crime, the offenders described in arrest, jail, and prison data are predominantly male and disproportionately young, black, and unmarried, as compared to the general population.

Violent offenders, like victims of violent crime, are typically low-income youths with a high likelihood of unemployment.

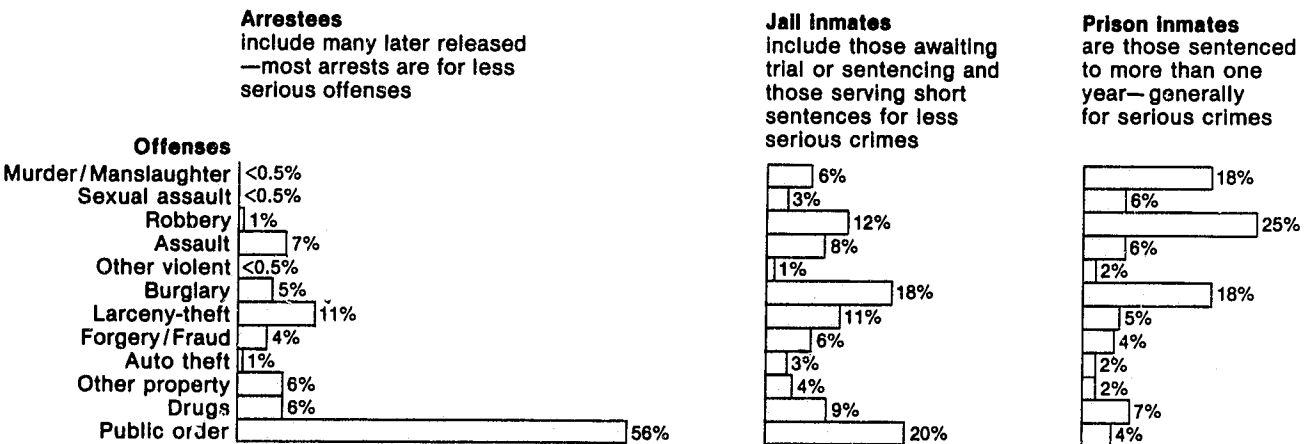
What are the characteristics of offenders?

	U.S. population 1980	1981				
		Index crime arrestees		Convicted jail inmates	State prison inmates	Federal prison inmates
	226,545,805	Violent 464,826	Property 1,828,928	91,411	340,639	28,133
<b>Sex</b>						
Male	49%	90%	79%	94%	96%	94%
Female	51	10	21	6	4	6
<b>Race</b>						
White	86	53	67	58	52	63
Black	12	46	31	40	47	35
Other	2	1	2	2	1	2
<b>Ethnic origin</b>						
Hispanic	6	12	10	10	9	16
Non-Hispanic	94	88	90	90	91	84
<b>Age</b>						
Under 15	23	5	14	*	0	0
15-19	9	25	36	14	7	0
20-29	18	42	31	53	56	34
30-39	14	17	11	19	25	40
40-49	10	7	4	9	8	17
50-59	10	3	2	4	3	7
60+	16	1	2	1	1	2

\*Less than 0.5%.

Sources: Statistical Abstract of the United States 1981. Crime in the United States, 1981, 1982. Profile of inmates of local jails, 1980. Prisoners in State and Federal institutions on December 31, 1981, 1983. Unpublished revised U.S. Census data. Unpublished age data for State and Federal prisoners.

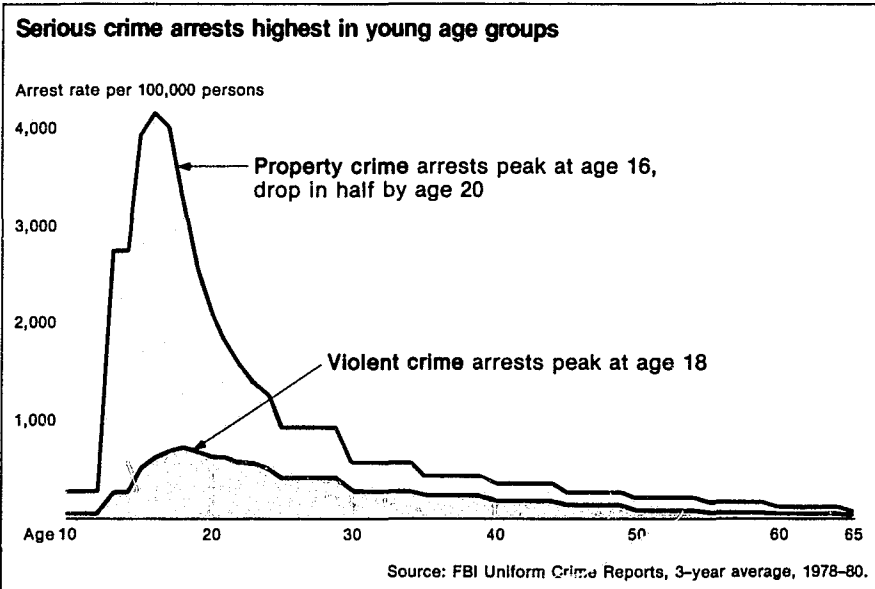
For what mix of offenses are persons arrested, jailed, and imprisoned?



Sources: FBI Uniform Crime Reports, 1980. Survey of jail inmates 1978. Survey of prison inmates 1979.



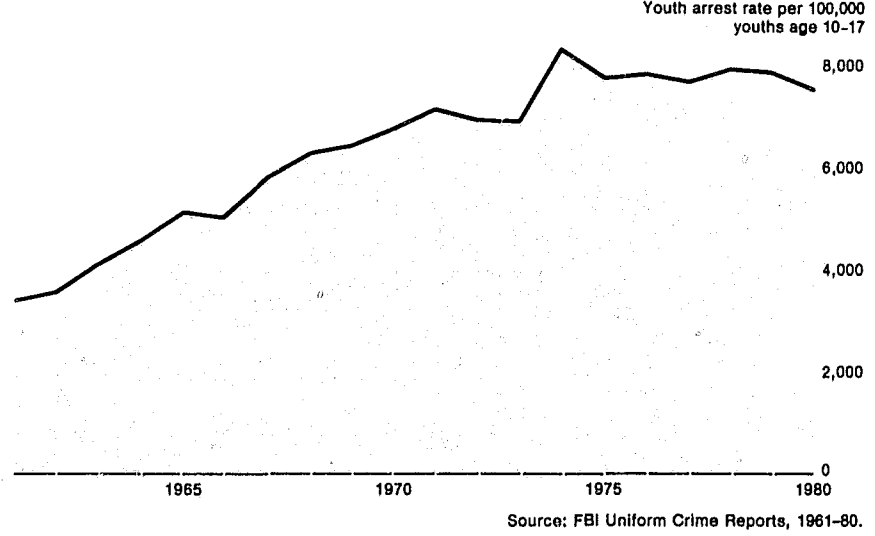
# What is the role of youth in crime?



## Participation in crime declines with age

Except for a minority of offenders, the intensity of criminal activity slackens, perhaps beginning after the mid-20's. When repeat offenders are apprehended, they serve increasingly longer sentences, thus incapacitating them for long periods as they grow older. In addition, a study of habitual offenders by the Rand Corporation shows that the success of habitual offenders in avoiding apprehension declined as their criminal careers progressed. Even though offense rates declined over time, the probabilities of arrest, conviction, and incarceration per offense all tended to increase.

## Youth arrest rate rose during the 1960's, but leveled off after 1974



## Data for the 1970's reveal a drop in the total number of arrests of youths under age 18

At the same time the number increased by 14% for persons age 18 and older. The drop in total arrests of youths under age 18 is due partly to a decline in the number of youths age 10-17 in the U.S. population after 1974. The rate of youth arrests leveled off during the 1970's, following a sharp rise in the 1960's.

However, between 1972 and 1981, arrests increased for UCR Index Crimes (both violent and property crime) for youths under age 18, but the increases were smaller than for persons age 18 and older—31% vs. 66% for violent crimes, and 22% vs. 112% for serious property crimes.

## Property crimes are more typical of youths than of older offenders

Arrest records for 1981 show that youths under age 18 were more likely than older persons to be picked up for property crimes (36% vs. 14%); about the same proportion of each age group was arrested for violent crimes (4% vs. 5%). Because of the heavy involvement of youth in serious property crime, the UCR Index Crimes accounted for a far greater proportion of crime committed by youths under age 18 than of those committed by older persons. Arrests, however, are only a general indicator of criminal activity. The greater likelihood of arrests for young people may be due partly to their lack of experience in offending and also to their involvement in the types of crimes for which apprehension is more likely, for example, purse snatching vs. fraud. Moreover, since youths often commit crime in groups, the resolution of a single crime may lead to several arrests.

## Violent juvenile offenders and adult felons have very similar characteristics

Several comprehensive studies, including Hamperian's profile of violent juvenile offenders in an urban Ohio county, have revealed a striking resemblance between the serious juvenile offender and the adult felon. The findings of these studies suggest that, while the subclass of chronic violent juvenile offenders is small, there is a strong probability of progression from serious juvenile to serious adult criminal careers.

Serious juvenile offenders, like adult felons—

- Are predominantly male
- Are disproportionately black and Hispanic as compared to their proportion of the population
- Are typically disadvantaged economically
- Are likely to exhibit interpersonal difficulties and behavioral problems both in school and on the job
- Often come from one-parent families or families with a high degree of conflict, instability, and inadequate supervision.

## Gang membership is a major difference between youth and adult criminals

A major difference between juvenile and adult offenders is the importance of gang membership and the tendency of youth to engage in group criminal activity.

A recent national survey of law enforcement officers found that, while the problem is disproportionately large in the largest cities, gangs are also found in cities of less than one-half million population. Gang members are more likely than other young criminals to engage in violent crime, particularly robbery, rape, assault, and weapons violations.

NCS data show that personal crimes of violence by multiple offenders rather than by lone offenders are more likely to involve juvenile offenders. However, during the 1973-80 period there was some decrease in the tendency of young criminals to operate in groups.

## There is conflicting evidence on escalation of seriousness

There is conflicting evidence on whether juveniles tend to progress from less to more serious offenses. Much evidence suggests that violent adult offenders began their careers with violent juvenile crimes; thus, they began as, and remained, serious offenders. However, minor offenses of youths are often dealt with informally and may not be recorded in crime statistics.

## Juvenile delinquents are predominantly male

However, because of the important role played by status offenders in juvenile crime, the male/female disparity is not quite so strong as in the case of adults. (Status offenses are acts that would not be considered criminal if committed by adults, for example, running away from home, incorrigibility, or truancy.)

Females in jails and prisons make up a smaller proportion of the inmate population (6%) than they do in juvenile

institutions (20%). The total number of girls in custody declined by 28% during the 1970's (1974-79); the number of boys in custody increased 1%. Girls, by the nature of their offenses, were more affected by the trend toward deinstitutionalization of the status offender.

## Girls are more likely than boys to be held for noncriminal offenses

Detention status	Boys	Girls
Delinquent: adjudicated by juvenile court	75%	39%
Status offender: held for acts that would not be crimes for adults	9	28
Voluntary admission: commitment without court adjudication	8	15
Dependent, neglected, or abused	6	14
Emotionally disturbed or mentally retarded	2	4

Source: Children in custody: A report on the juvenile detention and correctional facility census of 1979.

## Proportionately fewer blacks are in juvenile custody than in jail or prison

This is largely because juvenile institutions house so many female status offenders, most of whom are white. In 1979, blacks accounted for one in three residents of public juvenile facilities and one in five residents of private facilities. Nonetheless, the proportion of black juveniles in custody (27%) was nearly twice as high as that of blacks age 10-19 (14%) in the U.S. population.

# A small group of career criminals commits the vast majority of crimes

## Relatively few offenders are career criminals

Many studies have shown that only a small group of any criminal subset are repeat offenders. The Wolfgang Philadelphia studies found that for males born in 1958, 23% of those with one or more arrests could be defined as chronic offenders (that is, they had five or more nontraffic arrests by age 18). This relatively small proportion contrasts with the following proportions of males and females in the study who had no arrests or fewer than five arrests:

	Males	Females
Never arrested	67%	86%
Arrested only once	14	8
Arrested 2-4 times	11	5
Arrested 5 or more times	7	1

The proportion of chronic offenders was higher for nonwhite males (11%) than for white males (4%) and for nonwhite females (2%) than for white females (1%).

## Probability of arrest increases with each subsequent arrest

Long-term studies show that once a person is arrested, the likelihood of further arrest increases with each subsequent arrest. Wolfgang's Philadelphia data revealed the following probabilities of rearrest for young men:

- 33% of the entire group had one arrest.
  - 53% of those with one arrest went on to a second arrest.
  - 62% of those with two arrests went on to a third.
  - 71% of those with three arrests went on to a fourth.
- Once a youth had gotten beyond the third crime, the likelihood of further criminality remained at about 71%.

## Career criminals, though few in number, account for most crime

Even though chronic repeat offenders (those with five or more arrests by age 18) make up a relatively small proportion of all offenders, they commit a very high proportion of all crimes. The evidence includes data for juveniles and adults, males and females, and for urban and rural areas. In Wolfgang's Philadelphia study, chronic offenders accounted for 23% of all male offenders in the study, but they had committed 61% of all the crimes. Of all crimes by all members of the group studied, chronic offenders committed:

- 61% of all homicides
- 76% of all rapes
- 73% of all robberies
- 65% of all aggravated assaults.

## Repeat offenders commit a disproportionately large number of street crimes in urban areas

A Washington, D.C., study confirmed the great extent of criminal activity by career criminals. In that study, persons who had four or more arrests between 1971 and 1975 made up 24% of all the arrests during this period.

## Repeat criminality is not limited to urban settings

Polk's study of a nonmetropolitan Pacific Northwest county showed that there is a very high likelihood of adult arrests among boys who had a delinquency charge by age 18.<sup>5</sup>

## Few repeaters are full-time criminals

Few chronic offenders can be considered "career" criminals in the sense that crime is their full-time occupation. A recent Rand Corporation study showed that most repeat offenders had other irregular sources of income and used periods of unemployment to commit crime. Other studies indicate that habitual criminals do not want conventional employment and that, after release from prison, most convicted felons return to crime.<sup>6</sup>

## Chronic violent offenders start out and remain violent

Violent offenders typically begin their criminal careers by committing violent crimes as juveniles. The 1958 Wolfgang Philadelphia study, for example, shows a high probability of violent recidivism. That is, the more injury-offenses the youths committed, the more likely they were to commit further injury-offenses. For males—

- 26% of the entire group had one violent offense
- 34% of this group went on to a second violent offense
- 43% of the three-time violent offenders went on to a fourth violent offense.

For males, the probability of subsequent offenses continues to increase as the number of offenses rises at least up through six offenses, given five prior offenses. For females who were three-time offenders, the data also show a higher probability of a fourth violent offense, and of a fifth violent offense, given four.

## Prior criminal behavior is one of the best predictors of future criminality

Age at first contact with police (arrest or otherwise) is also very important. Research shows that youths whose first police contact was in their early teens had a greater number of future police contacts than those whose first contact was later.

## Relatively few offenders specialize

Most criminals engage in several types of crime:

- Repeat offenders tend to switch between misdemeanors and felonies and between violent and property crimes, often engaging in related types of crime such as property and drug offenses.<sup>7,8</sup>

- It appears that juveniles, even more than adults, are generalists. This may be due partly to the random, unplanned nature of much juvenile crime.

# How many offenders are female?

## Relatively few offenders are female

	Females in group
All arrests (adults and juveniles)	16%
Index crime arrests	19
Violent crime arrests	10
Property crime arrests	21
Larceny	29
Nonlarceny	7
Under correctional supervision	
Juveniles	20
Jail inmates	7
Prison inmates	4

Source: FBI Uniform Crime Reports, 1981. *Children in custody: A report on the juvenile detention and correctional facility census of 1979*. Jail inmates 1982, BJS bulletin, February 1983. *Prisoners in 1982*, BJS bulletin, April 1983.

## The number of women in prison grew at a near record rate in 1981

The 15% increase in the number of women in State and Federal prisons was second only to the alltime record increase set in 1975. The 1981 increase for females exceeded that of males, and between 1970 and 1981 the number of females rose by more than 150% while that of males increased by 78%. Yet, because their number was so much smaller than that of men, women's share of prisoners remained at 4%. Similar patterns were found in the jail population.

## Offense patterns differ for males and females

Men commit more crimes and are arrested for the more serious crimes. Arrest, jail, and prison data all suggest that women have a stronger relative involvement than men in property crimes such as larceny, forgery, fraud, and embezzlement, and in drug offenses. Men are more likely than women to be involved in robbery or burglary.

In both jail and prison, burglary was the charge or conviction of 19% of the men, but only 5% of the women. These proportions were reversed in the case of forgery, fraud, and embezzlement. Almost twice the proportion of women as of men were incarcerated for some type of drug offense.

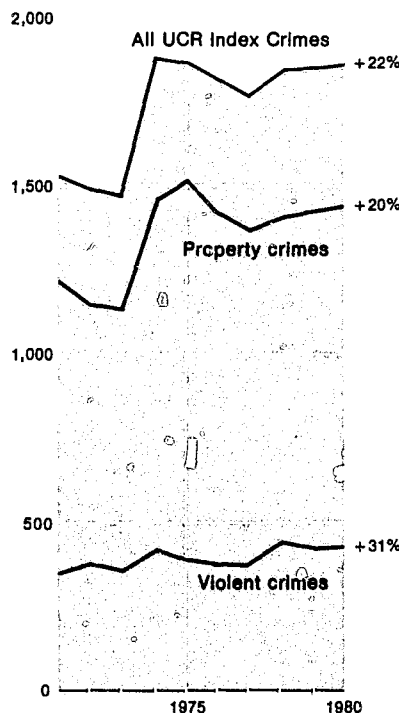
## While most arrests are of males, the share of arrests that are of females is highest for larceny-theft

UCR Index Crimes	Males	Females
Murder	87%	13%
Rape	99%	1%
Robbery	93%	7%
Aggravated assault	87%	13%
Burglary	94%	6%
Larceny-theft	71%	29%
Motor vehicle theft	91%	9%
Arson	89%	11%

Source: FBI Uniform Crime Reports, 1981.

## For UCR Index Crimes, the rate of arrest of females is much lower than that of males, but has risen faster

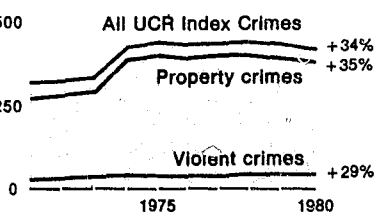
**Males**  
Arrest rate per 100,000 resident population      % change (1971-80)



The increase in the rate of arrests of females —

- Resulted mainly from increases in property crimes, especially larceny
- For violent crime was similar to that for males
- For all crimes, including non-Index Crimes, was almost twice that for men

**Females**  
Arrest rate per 100,000 resident population      % change (1971-80)



Source: Published and unpublished UCR data for 1971-80, adjusted for population coverage.

# A relatively large proportion of offenders come from minority groups

## The numbers of black victims and of black criminals were disproportionately high

Blacks were victimized by crime, especially violent crime, at a higher rate than whites. Black males sustained the highest victimization rate of any race/sex group, largely because of their vulnerability to robbery.

The proportion of blacks among offenders varied considerably among arrestees, jail inmates, and prison inmates. Blacks, who constituted 12% of the U.S. population in 1980, accounted for—

- 26% of all arrests in 1981.
- 34% of all UCR Index Crime arrests.
- 46% of all arrests for violent crimes.

The proportion of blacks in local jails was 40% and in State prisons, 47%. According to Blumstein, the disproportion of blacks in the prison population is mostly attributable to age, seriousness of crime, prior criminal record, and other legally relevant factors. This finding neither rules out nor confirms the possibility of some discrimination in the criminal justice system.

## Victim reports confirm pattern of arrests by race

The pattern of racial involvement in arrests shown in police records closely parallels that reported by victims of crime in the National Crime Survey. For example, about 40% of the persons arrested for robbery in 1979 were black males age 18 or older; victim reports for the same year suggested that 44% of all robbers were black males age 18 or older.

## Lifetime probability of incarceration is three times higher for blacks

The likelihood that any adult male will have served time in a juvenile or adult jail or prison by age 64 is estimated to be 18% for blacks and 3% for whites.<sup>9</sup> However, after the first confinement, the likelihood of further commitments is similar for white and black males. About a third of each group who have ever been confined will have experienced four confinements by age 64.

## The proportion of black State prisoners in the South is most consistent with their share of the U.S. population

	Blacks as a percent of prison population	Blacks as a percent of U.S. population	Ratio of prison proportion to U.S. proportion
United States	47%	12%	4 to 1
Northeast	50	10	5 to 1
North Central	47	9	5 to 1
South	53	19	3 to 1
West	26	5	5 to 1

Source: Prisoners in State and Federal Institutions on December 31, 1981.

## Black arrest rates were higher for violent than for property crimes

During 1981, 26% of all arrests involved blacks (73% involved whites and 1%, members of other races). Among UCR Index Crimes, the arrest rate of blacks was higher for violent than for property crimes:

	Whites	Blacks
All Index Crimes	64%	34%
Violent crimes	53	46
Murder	50	49
Rape	50	48
Robbery	39	60
Assault	61	37
Property crimes	67	31
Burglary	69	30
Larceny-theft	66	32
Motor vehicle theft	68	30
Arson	78	21

Note: Percentages do not add to 100% because arrests of persons of other races are not shown.

Source: FBI Uniform Crime Reports, 1981.

Consistent with their arrest pattern, blacks were more likely than whites to have been sentenced to prison for violent crimes, particularly robbery, and less likely to have been sentenced for property crimes, particularly burglary.

## The proportion of Hispanics in prisons and jails is greater than in the total U.S. population

Fifteen million Hispanics make up 6% of the U.S. population. This number is divided about equally between males and females.

Hispanics (both white and black)—

- Accounted for 12% of all arrests for violent crimes and 10% of all arrests for property crimes in 1981.
- Made up 10% (25,005) of the male prison population in 1979 and 11% (15,667) of the jail population in 1978.
- Made up 7% (811) of the female prison population in 1979 and 7% (682) of the jail population in 1978.
- Were more likely than non-Hispanics to be serving time for violent crimes, but overall they resembled whites rather than blacks in the types of crimes for which they were in prison.

# Many offenders have backgrounds that include a turbulent home life, lack of family ties, and poor education

## Knowing about offenders' backgrounds tells us about their lives, not necessarily why they committed crime

While turbulent home life, lack of family ties, and poor education are frequently present in the backgrounds of offenders, these factors may or may not contribute to crime. Some theories suggest that some of these factors are symptoms of maladjustment as is criminal behavior. Clearly, most persons who share these factors in their backgrounds are not criminals.

## A high number of offenders come from unstable homes

Research shows a higher incidence of unstable homes among delinquents than among nondelinquents. State prison inmates were more likely than not to have grown up in a home with only one parent present or to have been raised by relatives. Forty-seven percent of all inmates grew up in a two-parent household; in contrast, 77% of all children under age 18 in 1979 were living with two-parent families.

Because criminal careers typically begin at a young age, the identification of characteristics that distinguish delinquents from nondelinquents has been given considerable attention and has focused largely on what researchers term "under the roof culture"—the interactions of love, discipline, and supervision that occur between parents and children in the home.<sup>10</sup>

## Violent behavior is linked to abuse as children and to neurological abnormalities

Violent behavior and physical and psychological abnormalities often appear among children and adolescents subjected to extreme abuse and violence in their families. Lewis and others in a study comparing an extremely violent group of delinquent boys with a group of less violent delinquent boys found striking psychological and neurological differences between the two groups. The more violent group exhibited a wide range of neurological abnormalities, were significantly more likely to have paranoid symptoms, and were more

likely to have suffered and to have witnessed physical abuse. They also had far more severe verbal deficiencies.

## Prison inmates were likely to have relatives who served time

Forty percent of prison inmates had an immediate family member (father, mother, brother, or sister) who had served time in jail or prison. Similar data are not available for noncriminals, but it is highly unlikely that the proportion is as high.

## Most offenders were not married

Among jail and prison inmates—

- About half had never been married and another 20% were divorced or separated (vs. about half unmarried and 4% divorced or separated among U.S. males age 20-29).
- 20% were married (vs. 47% of the comparable U.S. population).

The proportion of divorced and separated whites was much higher in jails and prisons than in the U.S. population; the marital status of black inmates was closer to that of blacks in the U.S. population.

## Most inmates had dependent children

Despite the high proportion of unmarried inmates, more than half had children, almost all of them under age 18. More than a third had three or more children. In most cases, children were cared for by the inmate's immediate family while the inmate was in jail or prison.

## The level of education reached by jail and prison inmates was far below the national average

These data overrepresent street criminals as opposed to white-collar criminals; only about 40% of all jail and prison inmates had completed high school (vs. 85% of 20- to 29-year-old males in the U.S. population).

- The proportion of high school dropouts (those who started but did not complete high school) was about 3 times larger among the incarcerated.
- Fully 6% of all prisoners had no schooling or only kindergarten. Their

rate of incarceration was more than 3 times that of high school dropouts, the group with the next highest incarceration rate.

- College graduates had an extremely low incarceration rate.

Incarceration rate (per 1,000 U.S. males age 20-29)

No school/kindergarten	259
1-7 years	83
8th grade	70
9-11 years	46
12th grade	11
13-15 years	6
16 or more years	1

## Educational level was closely related to type of offense

- For whites, drug offenses and property crimes such as forgery, fraud, and embezzlement were more characteristic of those with at least 12 years of formal schooling than of those with less than 8 years.
- Confinement for public order crimes or for burglary was more apt to be associated with the lower educational levels.
- Imprisonment for drug offenses or for robbery was more commonly associated with high school graduates.
- Prisoners who had some college prior to incarceration were more likely than those with less education to have been convicted of a nonviolent offense and less likely to have had a past record.

Prior to arrest many inmates had little or no legal income

Unemployment was experienced by many offenders

About 40% of all males in jail had been unemployed at the time they entered jail. Among the 60% who were working, 12% were working only part time. This compared with an 84% employment rate for the U.S. male population age 18-54 and with only 3% limited to part-time work.

Many prison inmates were unemployed prior to arrest. The highest incarceration rate among U.S. males age 16-64 was among those who were unemployed:

	Incarceration rate per 100,000 U.S. population
In labor force	396
Employed	356
Unemployed	933
Not in labor force	442
Total	405

Source: Prisons and prisoners, January 1982.

A high proportion of adult felons lacked steady employment

Adult felons were more likely than the general population to have never worked at all or to have held a wide variety of short-term jobs. Some 40% of a group of prisoners in a Rand Corporation study were evenly divided between these two extremes. On the average, these felons committed more crimes, particularly more property crimes, than the 60% who had a more stable employment history.

As noted by Freeman, research shows some connection between crime and unemployment, but fails to show a well defined, clearly quantifiable linkage.<sup>11</sup> He adds that stronger evidence exists that shows criminal sanctions having a greater impact on crime than labor/market factors and that the widely different crime rates of cities and States are loosely linked to labor/market conditions. As with other characteristics, most unemployed people do not become criminals.

Motivations for crime range from thrill-seeking to need for money

Juveniles who went on to have adult criminal careers have stated that their main motives for crime were thrill-seeking, status, attention-getting, or peer influence, according to a Rand Corporation study of habitual felons. As criminals approach adulthood, the reasons cited shift to financial needs, especially to money for drugs and alcohol.

Average inmate was at the poverty level before entering jail

Almost half of all male inmates in jail in 1978 said they had incomes under \$3,000 prior to arrest. Thus the median income (for those reporting any income at all) was roughly a third of that for the general population. The median income for both male and female jail inmates was near the "poverty level" as defined by the U.S. Government (\$3,147 for persons age 14-64 in 1977).

The relationship between poverty and crime is widely debated. Hirschi concludes that research finds many delinquents to be better off than other adolescents in their immediate area.<sup>12</sup> Wilson also notes in *Thinking about crime* that crime may be seen to increase in poor neighborhoods; however, it does not increase in neighborhoods that experience a depression nor decrease as they experience prosperity.

The proportion of blue-collar workers was higher in prison than in the general population

Occupation	Prison population	U.S. population age 16-64
White-collar	15%	40%
Blue-collar	69	47
Farm	3	5
Service	10	8

Note: 3% of prison inmates did not report occupation.

Source: Profile of State prison inmates: Sociodemographic findings from the 1974 survey of inmates of State correctional facilities, 1979.

Few prison inmates had been working in their customary occupation

Before their arrest, 40% of all prisoners who were working were employed outside what they considered to be their customary occupation. For many, this suggests their inability to find work in their chosen field, and it also suggests some degree of under-employment.

Many inmates had income from nontraditional sources before entering jail

Among jail inmates—

- 25% had no source of income prior to arrest or depended on welfare, Social Security, or unemployment benefits.
- Only 4% said that their main source of income was illegal.
- 70% said that their main source of income had been a wage or a salary.

Relatively more female than male inmates—

- Depended on welfare, unemployment benefits, or Social Security (30% vs. 11%); many received Aid to Families with Dependent Children.
- Depended on family, friends, or loans from third parties for their subsistence (25% vs. 14%).
- Admitted that their main income was from illegal activities (6% vs. 4%).

Almost twice as many black as white women had income other than wages or salaries, mainly unemployment and social welfare funds.

Drug and alcohol abuse is common among offenders

The drug abuse-crime link is complex

Research on the link between crime and drug abuse has yielded what often appear to be conflicting conclusions. Studies show that, among prison inmates, the drug abusers, more than others, tended to be involved in money-producing crimes.

The Rand career criminal study found that, among felons, drug abusers committed more burglaries, con-type crimes, and drug sales than burglars, con-men, and drug dealers who did not use drugs. For other crimes, there were no appreciable differences between drug users and nondrug users in either the number of prisoners involved or in the number of crimes they committed.

Similar findings emerged from the 1979 national survey of State prisoners. Among violent criminals, only robbers had a relatively high proportion (38%) of inmates who said they had been under the influence of drugs, and most of these said they had been under the influence of marijuana.

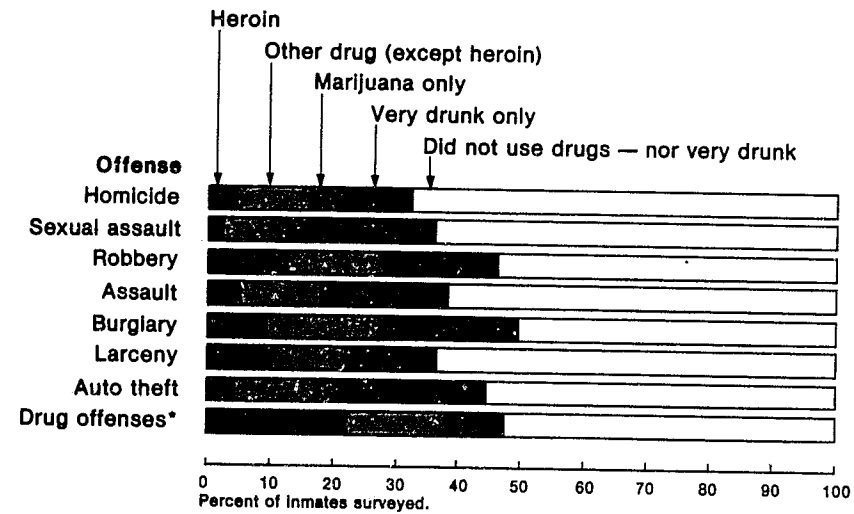
Ball's study of Baltimore addicts showed that drug users committed an enormous number of crimes, mainly theft and drug dealing, and that, on the average, the typical addict committed a crime every other day. However, other research shows that most heroin-addicted criminals were involved in crime before they became addicted and that traditional income sources, rather than street crimes, are the major source of support for the drug habit.<sup>13</sup>

Drug and alcohol abuse was far greater among offenders than among nonoffenders

According to findings from a 1979 survey of prison inmates—

- More than 75% of all State prisoners had used one or more illicit drugs in their lifetime, about double the rate for the U.S. population, reported by the National Institute of Drug Abuse.
- Heroin, used by only 4% of all youths age 18-25, was used by 28% of all inmates, most of whom used it

2 out of 5 prison inmates reported they were under the influences of drugs or were very drunk around the time of the offense



\*Includes trafficking and possession.

Source: Survey of State prison inmates, 1979.

at least once a week before they entered prison.

- Cocaine, used by 41% of the prisoners, was also widely used by 18-to-25-year-olds outside prison (28%).

- Marijuana was the most commonly used drug, both by inmates and by persons outside prison. Of all prisoners, 86% had used it, compared with 68% of the general population age 18-25. The number of young people who had used only marijuana and no other drug was the same for inmates and the general population—one out of five.

- Amphetamines and barbiturates were used by close to 40% of the prisoners, about twice the proportion who used it outside prison.

- More than a third of all inmates drank heavily; that is, at any one drinking session they typically drank the equivalent of eight cans of beer, seven 4-ounce glasses of wine, or nearly nine ounces of 82-proof liquor; during the year before their arrest, two-thirds drank heavily every day.

At the time of their offense, a third of the prisoners had been under the influence of a drug

- Most were under the influence of marijuana, but usually in combination with another more serious drug such as heroin.
- 9% were under the influence of heroin.
- 5% were under the influence of cocaine, amphetamines, or barbiturates.
- Among inmates, women were more likely than men to have been under the influence of heroin (14% vs. 8%).
- White inmates were more likely than black inmates to have been drinking heavily (35% vs. 15%).

Drinking problems were common for career criminals

- Prison inmates with a large number of prior convictions were more likely than other inmates to have been drinking just prior to their current offense.
- Habitual offenders drank more frequently, consumed more at one session, and were more likely to get drunk than one-time offenders.



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## Chapter IV

# The response to crime

Marianne W. Zawitz  
Thimi R. Mina  
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Lawrence A. Greenfeld  
Joseph L. White

This chapter gives an overview of criminal justice at all levels of government—Federal, State, and local. It not only examines the criminal justice process and institutions but also the philosophical base and legal mandates of our system of justice. It contains data and research findings that quantify crucial actions at four key stages of the criminal justice process:

Entry into the system  
Prosecution and pretrial services  
Adjudication  
Sentencing and corrections.

The data presented answer such questions as—

How does the criminal justice system process cases? What is discretion and how is it exercised in the handling of criminal cases?

How does police strength in your county compare to that of other counties? What is the relationship between police strength and crime?

How many people were arrested in a typical year? For what offenses are they arrested?

What percentage of crimes result in an arrest? What impact does delay in victim reporting have on arrests?

What is the role of the prosecutor?

How many arrests result in prosecution? How many prosecutions result in convictions?

To what extent are defendants released pending trial? How many released defendants fail to appear for trial or commit additional offenses?

What is the role of the public defender? How are defense services for indigents provided in your State?

Are juveniles handled differently than adults? Can juveniles be tried in a criminal court?

How are the Federal and State courts organized? To what extent do the various courts interact?

What are the main differences between adult and juvenile courts?

How many cases brought by the prosecutor result in guilty pleas? How many result in guilty verdicts? How often are cases tried before a jury?

How long does it take for a criminal case to move through the criminal justice system?

To what extent do requirements for jury duty vary among the States?

How many States recognize a defense of insanity? What is the difference between competency to stand trial and the insanity defense?

Is the criminal caseload of appeals courts increasing? In what circumstances are State cases reviewed by Federal courts?

In what ways have most States recently changed their approach to sentencing and corrections?

How many people are under some form of correctional supervision? How do sentence lengths differ from actual time served?

Are correctional populations increasing? How many prisoners are confined in State and Federal institutions? How many are on death row?

In what types of facilities are prisoners held?

What States have prisons that are seriously crowded?

How many parolees return to prison? How many inmates were previously in prison?

Chapter IV was written by Marianne W. Zawitz, Thimi R. Mina, C. Mae Kuykendall, and Lawrence A. Greenfeld of the BJS staff and by Joseph L. White of The Academy, Inc. Assistance on this chapter was provided by Judith McNally and Tammy S. H. Baldwin, also of the BJS staff. Invaluable contributions were also made by Christopher A. Innes of the Inter-university Consortium on Political and Social Research; Barbara Boland of INSLAW, Inc.; Robert L. Spangenberg of Abt Associates, Inc.; D. Alan Henry of the Pretrial Services Resource Center; Linda McKay, Cheryl V. Martorana, and Maureen A. O'Connor of the National Institute of Justice; Judith Hawes of the Center for Jury Studies of the National Center for State Courts; Richard B. Lynch of the Criminal Justice Mental Health Standards Project of the American Bar Association; James A. McCafferty of the Administrative Office of the United States Courts; and Mimi Cantwell of the Center for Demographic Studies, U.S. Bureau of the Census.



## Section 1. An overview

**The response to crime is a complex process that involves many agencies, levels, and branches of government**

**The response to crime is primarily provided by government through the criminal justice system**

A loose confederation of agencies at all levels of government together provides the means by which we apprehend, try, and punish offenders. Our American system of justice has evolved from the English common law into a complex series of procedures and decisions. There is no single criminal justice system in this country; rather there are many systems that, while similar, are individually unique.

Criminal cases may be handled differently in different jurisdictions, but court decisions based on the due-process guarantees of the U.S. Constitution require that specific steps be taken in the administration of criminal justice.

The following description of the criminal and juvenile justice systems portrays the most common sequence of events in the response to serious criminal behavior.

### Entry into the system

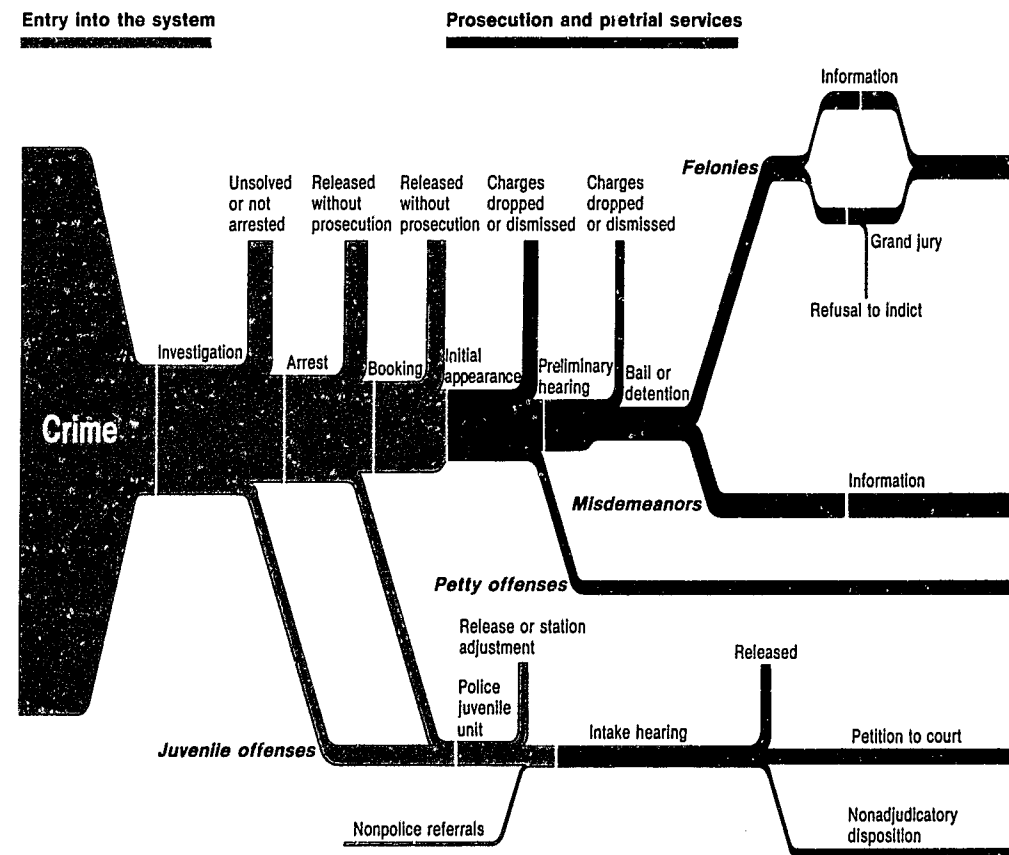
Most crime is not responded to by the justice system because it has not been discovered or reported (see chapter 1). Law enforcement agencies usually learn about crime from the reports of citizens, discovery by a police officer in the field, or from investigative and intelligence work.

Once a law enforcement agency has established that a crime has been committed, a suspect must be identified and apprehended for the case to proceed through the system. Sometimes, a suspect is apprehended at the scene; however, identification of a suspect often requires an extensive investigation. Very often, no one is identified or apprehended.

### Prosecution and pretrial services

After an arrest, law enforcement agencies present information about the case and about the accused to the prosecutor who will decide if formal charges will be filed with the court. If no charges are filed, the accused must be released. The prosecutor can also drop charges

### What is the sequence of events in the criminal justice system?



**Note:** This chart gives a simplified view of caseload flow through the criminal justice system. Procedures vary among jurisdictions. The weights of the lines are not intended to show the actual size of caseloads.

after making efforts to prosecute  
(*nolle prosequi*).

A suspect who is charged with a crime must be taken before a judge or magistrate without unnecessary delay. At the initial appearance, the judge or magistrate informs the accused of the charges and decides whether there is probable cause to detain the accused person. In some jurisdictions, a pretrial-release decision is made and the defense counsel is assigned at the initial appearance. If the offense is minor, the determination of guilt and assessment of a penalty may also occur at this stage.

In many jurisdictions, the initial appearance may be followed by a preliminary hearing. The main function of this hearing is to discover whether there is probable cause to believe that the accused committed a known crime within the jurisdiction of the court. If the judge does not find probable cause, the case is dismissed; however, if the judge or magistrate finds probable cause for such a belief, or the accused waives his right to a preliminary hearing, the case may be bound over to a grand jury.

The flowchart illustrates the criminal justice system through three main horizontal paths, each with various stages and potential outcomes.

- Top Path (Adjudication and Sentencing and corrections):**
  - Adjudication:** Starts with **Arraignment**. It can lead to **Charge dismissed** or **Acquitted**. If proceeding, it goes to **Trial**. From **Trial**, it can lead to **GUILTY PLEA** or **Reduction of charge**. A **GUILTY PLEA** leads to **Sentencing**.
  - Sentencing and corrections:** From **Sentencing**, it can lead to **Appeal** or **Probation**. From **Probation**, it can lead to **Revocation** (which leads to **Penitentiary**) or **Out of system**. From **Penitentiary**, it can lead to **Parole** (which leads to **Out of system**) or **Revocation** (which leads back to **Penitentiary**). Other outcomes from **Penitentiary** include **Pardon and clemency** and **Capital punishment**.
- Middle Path (Adjudication and Sentencing and corrections):**
  - Adjudication:** Starts with **Arraignment**. It can lead to **Charge dismissed** or **Acquitted**. If proceeding, it goes to **Trial**. From **Trial**, it can lead to **GUILTY PLEA** or **Reduction of charge**. A **GUILTY PLEA** leads to **Sentencing**.
  - Sentencing and corrections:** From **Sentencing**, it can lead to **Fine** or **Probation**. From **Fine**, it can lead to **Nonpayment** (which leads to **Jail**) or **Out of system**. From **Probation**, it can lead to **Revocation** (which leads to **Jail**) or **Out of system**. From **Jail**, it can lead to **Nonpayment** (which leads back to **Jail**) or **Out of system**.
- Bottom Path (Adjudicatory hearing):**
  - Adjudicatory hearing:** Starts with **Released** or **Disposition**. From **Disposition**, it can lead to **Probation** or **Juvenile Institution**.
  - Probation and Juvenile Institution:** From **Probation**, it can lead to **Revocation** (which leads to **Juvenile Institution**) or **Out of system**. From **Juvenile Institution**, it can lead to **Parole** (which leads to **Out of system**) or **Revocation** (which leads back to **Juvenile Institution**).

Source: Adapted from *The challenge of crime in a free society*, President's Commission on Law Enforcement and Administration of Justice, 1967.

A grand jury hears evidence against the accused presented by the prosecutor and decides if there is sufficient evidence to cause the accused to be brought to trial. If the grand jury finds sufficient evidence, it submits to the court an indictment (a written statement of the essential facts of the offense charged against the accused). Where the grand jury system is used, the grand jury may also investigate criminal activity generally and issue indictments called grand jury originals that initiate criminal cases.

Some felony cases and misdemeanor cases proceed by the issuance of an information (a formal, written accusa-

tion submitted to the court by a prosecutor). Indictments are usually required in felony cases. However, the accused may choose to waive a grand jury indictment and, instead, accept service of an information for the crime.

### Adjudication

Once an indictment or information has been filed with the trial court, the accused is scheduled for arraignment. At the arraignment, the accused is informed of the charges, advised of the rights of criminal defendants, and asked to enter a plea to the charges.

If the accused pleads guilty or pleads *nolo contendere* (accepts penalty without admitting guilt), the judge may accept or reject the plea. If the plea is accepted, no trial is held and the offender is sentenced at this proceeding or at a later date. The plea may be rejected if, for example, the judge believes that the accused may have been coerced. If this occurs, the case may proceed to trial.

If the accused pleads not guilty or not guilty by reason of insanity, a date is set for the trial. A person accused of a serious crime is guaranteed a trial by jury. However, the accused has the right to ask for a bench trial where the judge, rather than a jury, serves as the finder of fact. In both instances, the prosecutor and defense present evidence by questioning witnesses while the judge decides on issues of law. The trial results in acquittal or conviction on the original charges or on lesser included offenses.

After the trial, a defendant may request appellate review of the conviction or sentence. In many criminal cases appeals are a matter of right; all States with the death penalty provide for automatic appeal of a death sentence. However, under some circumstances and in some jurisdictions, appeals may be subject to the discretion of the appellate court and may be granted only upon acceptance of a defendant's petition for a writ of *certiorari*.

### Sentencing and corrections

After a guilty verdict or guilty plea, sentence is imposed. In most cases, the judge decides on the sentence, but in some States, the sentence for capital offenses such as murder is decided by the jury.

In arriving at an appropriate sentence, a sentencing hearing may be held at which evidence of aggravating or mitigating circumstances will be considered. In assessing the circumstances surrounding a convicted person's criminal behavior, courts often rely on presentence investigations performed by probation agencies or other designated authorities.

The sentencing choices available to judges and juries vary widely among jurisdictions and may include—

- Death penalty
- Incarceration in a prison, jail, or other detention facility
- Probation—allowing the convicted person to remain at liberty but subject to certain conditions and restrictions
- Fines—primarily applied as penalties in minor offenses
- Restitution—which requires the offender to provide financial compensation to the victim.

If sentenced to prison, the convicted person may be eligible for parole after serving a specific portion of his or her sentence. Parole is the conditional release of a prisoner before the prisoner's full sentence has been served. The decision to grant parole is made by a paroling authority such as a parole board, which has power to grant or revoke parole or to discharge a parolee altogether. The manner in which parole decisions are made varies widely among jurisdictions.

**The juvenile justice system**

The processing of juvenile offenders is not entirely dissimilar to adult criminal processing, but there are crucial differences in the procedures. Many juveniles are referred to juvenile courts by law enforcement officers, but many others are referred by school officials, social service agencies, neighbors, and even parents, for behavior or conditions that are determined to require intervention by the formal system for social control.

When juveniles are referred to the juvenile courts, their intake departments, or prosecuting attorneys, determine whether sufficient grounds exist to warrant the filing of a petition requesting an adjudicatory hearing or a request to transfer jurisdiction to criminal court. In a few States and at the Federal level, prosecutors under certain circumstances may file criminal charges against youths directly in adult courts.

The court with jurisdiction over juvenile matters may reject the petition or the juveniles may be diverted to other agencies or programs in lieu of further court processing. Examples of

diversion programs include alcohol or drug counseling, driver education, or psychiatric therapy.

If a petition for an adjudicatory hearing is accepted, the juvenile may be brought before a court quite unlike the court with jurisdiction over adult offenders. In disposing of cases, juvenile courts usually have far more discretion than adult courts. In addition to such options as probation, commitment to correctional institutions, restitution, or fines, State laws grant juvenile courts the power to order removal of children from their homes to foster homes or treatment facilities. Juvenile courts may also order partici-

**Discretion is exercised throughout the criminal justice system**

Discretion is "an authority conferred by law to act in certain conditions or situations in accordance with an official's or an official agency's own considered judgment and conscience."<sup>1</sup> Traditionally, criminal and juvenile justice officials, in particular the police, prosecutors, judges, and paroling authorities, have been given a wide range of discretion.

Legislative bodies have recognized that they cannot foresee every possibility, anticipate local mores, and enact laws that clearly encompass all conduct that is criminal and all that is not.<sup>2</sup> Therefore, those charged with the day-to-day response to crime are expected to exercise their own judgment within guidelines set by law.

Discretion is also necessary to permit the criminal and juvenile justice systems to function within available resources.<sup>3</sup> The enforcement and prosecution of all laws against all violators is beyond the financial resources available. Therefore, criminal and juvenile justice officials must have the authority to allocate resources in a way that meets the most compelling needs of their own communities.

The limits of discretion vary from State to State and locality to locality.

pation in special schools aimed at shoplifting prevention, drug counseling, or driver education. They may also order referral to criminal court for trial as adults.

Despite the considerable discretion associated with juvenile court proceedings, juveniles are afforded most of the due-process safeguards associated with adult criminal trials. Sixteen States permit the use of juries in juvenile courts; however, in light of the U.S. Supreme Court's holding that juries are not essential to juvenile hearings, most States do not make provisions for juries in juvenile courts.

For example, the range of options available to judges when they sentence offenders varies greatly. In recent years, some States have sought to limit the judges' discretion in sentencing by passing mandatory and determinate sentencing laws.

**Who exercises discretion?**

These criminal justice officials...	...must often decide whether or not or how to—
<b>Police</b>	Enforce specific laws Investigate specific crimes Search people, vicinities, buildings Arrest or detain people
<b>Prosecutors</b>	File charges or petitions for adjudication Seek indictments Drop cases Reduce charges
<b>Judges or magistrates</b>	Set bail or conditions for release Accept pleas Determine delinquency Dismiss charges Impose sentence Revoke probation
<b>Correctional officials</b>	Assign to type of correctional facility Award privileges Punish for disciplinary infractions
<b>Paroling authority</b>	Determine date and conditions of parole Revoke parole

**The response to crime is founded in the intergovernmental structure of the United States**

Under our form of government, each State and the Federal Government has its own criminal justice system. All systems must respect the rights of individuals set forth in the U.S. Constitution and defined in case law.

State constitutions and laws define the criminal justice system within each State and delegate the authority and responsibility for criminal justice to various jurisdictions, officials, and institutions. State laws also define criminal and delinquent behavior.

Municipalities and counties further define their criminal justice systems through local ordinances that prescribe additional illegal behavior and establish those local agencies responsible for criminal justice processing which were not established by the State.

Congress has also established a criminal justice system at the Federal level to respond to Federal crimes such as bank robbery, kidnaping, and transporting stolen goods across State lines.

**The response to crime is mainly a State and local function**

Very few crimes are under exclusive Federal jurisdiction. The responsibility to respond to most crime rests with the State and local governments. Police protection is primarily a function of cities and towns while corrections is primarily a function of State governments. More than three-fifths of all justice personnel are employed at the local level.

	Percent of criminal justice employment by level of government		
	Local	State	Federal
Police	75%	14%	11%
Judicial	66	29	5
Legal services and prosecution	63	27	10
Public defense	56	41	3
Corrections	38	57	4
Other	38	45	17
Total	64%	27%	9%

Source: Justice expenditure and employment in the U.S., 1979.

**More than one agency has jurisdiction over some criminal events**

The response to most criminal actions is usually begun by local police who react to violation of State law. If a suspect is apprehended, he or she is prosecuted locally and may be confined in a local jail or State prison. In such cases, only one agency has jurisdiction at each stage in the process.

However, some criminal events because of their characteristics and location may come under the jurisdiction of more than one agency. For example, such overlapping occurs within States when local police, county sheriffs, and State police are all empowered to enforce State laws on State highways.

Congress has provided for Federal jurisdiction over crimes that—

- Materially affect interstate commerce
- Occur on Federal land
- Involve large and probably interstate criminal organizations or conspiracies
- Are offenses of national importance, such as the assassination of the President.<sup>4</sup>

Bank robbery and many drug offenses are examples of crimes for which the States and the Federal Government both have jurisdiction. In cases of dual jurisdiction, an investigation and a prosecution may be undertaken by all authorized agencies, but only one level of government usually pursues a case.

**Within States, the response to crime also varies from one locality to another**

This is because of statutory and structural differences and differences in how discretion is exercised. Local criminal justice policies and programs change in response to local attitudes and needs. For example, the prosecutor in one locality may concentrate on particular types of offenses that plague the local community while the prosecutor in another locality may concentrate on career criminals.

**The response to crime also varies on a case-by-case basis**

No two cases are exactly alike. At each stage of the criminal justice process, officials must make decisions that take into account the varying factors of each case. Two similar cases may have very different results because of various factors, including differences in witness cooperation and physical evidence, the availability of resources to investigate and prosecute the case, the quality of the lawyers involved, and the age and prior criminal history of the suspects.

**Differences in local laws, agencies, resources, standards, and procedures result in varying responses in each jurisdiction**

The variation in the outcomes of arrests for serious cases among five States is shown in the table below.<sup>5</sup> At the State level, some of this variation can be explained by differences among States; for example—

- Arrestees released by magistrates during pretrial appearances are considered prosecuted in New York; this raises the proportion prosecuted.
- Pennsylvania uses a pretrial diversion program in which successful participants are not considered convicted; this lowers the conviction rate.

	% of arrests for serious crimes that result in...		
	Prosecution	Conviction	Incarceration
New York	97%	56%	25%
California	76	57	39
Pennsylvania	76	39	15
Oregon	73	49	22
Arkansas	61	40	18

Source: Offender-based transaction statistics supplied by the States.<sup>6</sup>

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### Notes

<sup>1</sup>Roscoe Pound, "Discretion, dispensation and mitigation: The problem of the individual special case," *New York University Law Review* (1960) 35:925, 926.

<sup>2</sup>Wayne R. LaFave, *Arrest: The decision to take a suspect into custody* (Boston: Little, Brown & Co., 1964), pp. 63-184.

<sup>3</sup>Ibid.

<sup>4</sup>*Attorney General's Task Force on Violent Crime—Final report*, August 17, 1981 (Washington: U.S. Department of Justice, 1981), p. 2.

<sup>5</sup>The data provided in the table were derived from offender-based transaction statistics (OBTS) from five States. Each of these States has its own system for collecting the statistics. With the exception of Arkansas, which conducted a survey of all 1974 felony arrest records, the data systems rely on reporting of information from criminal justice agencies. Due to nonreporting, some arrests are not included. For example, California estimates that its OBTS data are underreported by about 35%. Because each system is

unique to its own State, some other differences exist between data sets, such as year of collection and types of crimes included.

<sup>6</sup>Data for this table were from the following sources:

*New York*: Data provided by Division of Criminal Justice Services, State of New York, from offender-based transaction statistics for all arrests on UCR Index offenses that were disposed of in 1979.

*California: Adult felony arrest dispositions in California*, Bureau of Criminal Statistics and Special Services, Criminal Identification and Information Branch, Division of Law Enforcement, Department of Justice, State of California, September 1980 (presents 1979 data).

*Pennsylvania*: Data provided by the Crime Statistics Division, Pennsylvania Commission on Crime and Delinquency, for all arrests on UCR Index offenses that were disposed of in 1979.

*Oregon: What happens after arrest in Oregon? A report of disposition and sentences for 1979: Part 1 felony arrests*, Oregon Law Enforcement Council, June 1982.

*Arkansas: Felony processing in Arkansas, a Statistical Analysis Center special report*, State of Arkansas Criminal Justice and Highway Safety Information Center, December 1977 (contains data on the disposition of all persons arrested for felonies in 1974).

## Section 2. Entry into the criminal justice system

### The initial response to crime is usually by the police

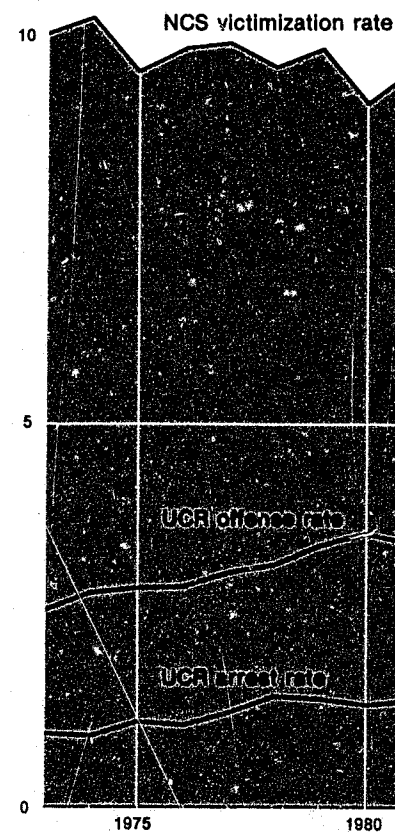
#### The system responds directly to only a small amount of crime

The criminal justice system generally responds to crimes brought to its attention through direct observation or citizen reporting, but, as noted in chapter II, most crime is not reported to the police.

Because most reported crimes are not solved by arrest, the proportion of all crimes handled directly by the criminal justice system through the processing of a suspect is relatively small. Indirectly, the criminal justice system may be dealing with more crime than appears in arrest data because the offenders who are processed may be responsible for much more crime than that for which they are arrested (see chapter III).

The following chart depicts this fallout for the crime of aggravated assault.

Rate per 1,000 persons age 12 and older



Sources: BJS National Crime Survey, 1973-81. FBI Uniform Crime Reports, 1973-81.

#### Law enforcement is only one of several roles of police

Two main roles of police officers are—

- Law enforcement—applying legal sanctions (usually arrest) to behavior that violates a legal standard.
- Order maintenance—taking steps to control events and circumstances that disturb or threaten to disturb the peace. For example, a police officer may be called on to mediate a family dispute, to disperse an unruly crowd, or to quiet an overly boisterous party.

Two secondary roles of police officers are—

- Information gathering—asking routine questions at a crime scene, inspecting victimized premises, and filling out forms needed to register criminal complaints.
- Service-related duties—a broad range of activities, such as assisting injured persons, animal control, or fire calls.

Wilson's analysis of citizen complaints radioed to police on patrol showed that—

- Only 10% required enforcement of the law.
- More than 30% of the calls were appeals to maintain order.
- 22% were for information gathering.
- 38% were service-related duties.

#### Several investigative techniques are used by the police

- Detection techniques are used when a crime has been committed, but the suspect has not been identified, or if identified, has not been apprehended.
- Undercover techniques are used when a person is suspected of participating in criminal activity, yet no specific crime has been committed. An example of undercover work would be when a person is suspected of being involved with an organized drug-dealing operation and police investigators pose as drug buyers. The investigators hope to discover a drug sale that will implicate the suspect.
- Intelligence techniques are used when there is no identified crime or suspect. An investigator seeks only information; following hunches or tips, the investigator looks for relationships; the relationship sought may

consist of finding similarities between a series of crimes committed in the area or simply of finding out that "something is up."<sup>1</sup>

#### Traditionally, the police function has been dominated by local governments

• More than 90% of all municipalities with a population of 2,500 or more have their own police forces. However, there is a trend toward consolidating law enforcement functions among local communities.

• In 1977, there were 11,475 municipal, 81 county, and 1,806 township general-purpose police agencies in the United States employing 488,832 full-time equivalent employees.

• There are 3,077 sheriffs' departments, nearly all of them at the county level. The responsibilities of the sheriffs cover a range of duties including standard police protection services, serving judicial process papers, and operating jails and detention facilities.

• Other participants in State and local law enforcement include State agencies such as the 52 State police and highway patrols and some 1,122 special police agencies including park rangers, harbor police, transit police, and campus security forces. In addition to their independent responsibilities, these agencies often provide valuable support to local law enforcement agencies in technical areas such as forensics and identification.

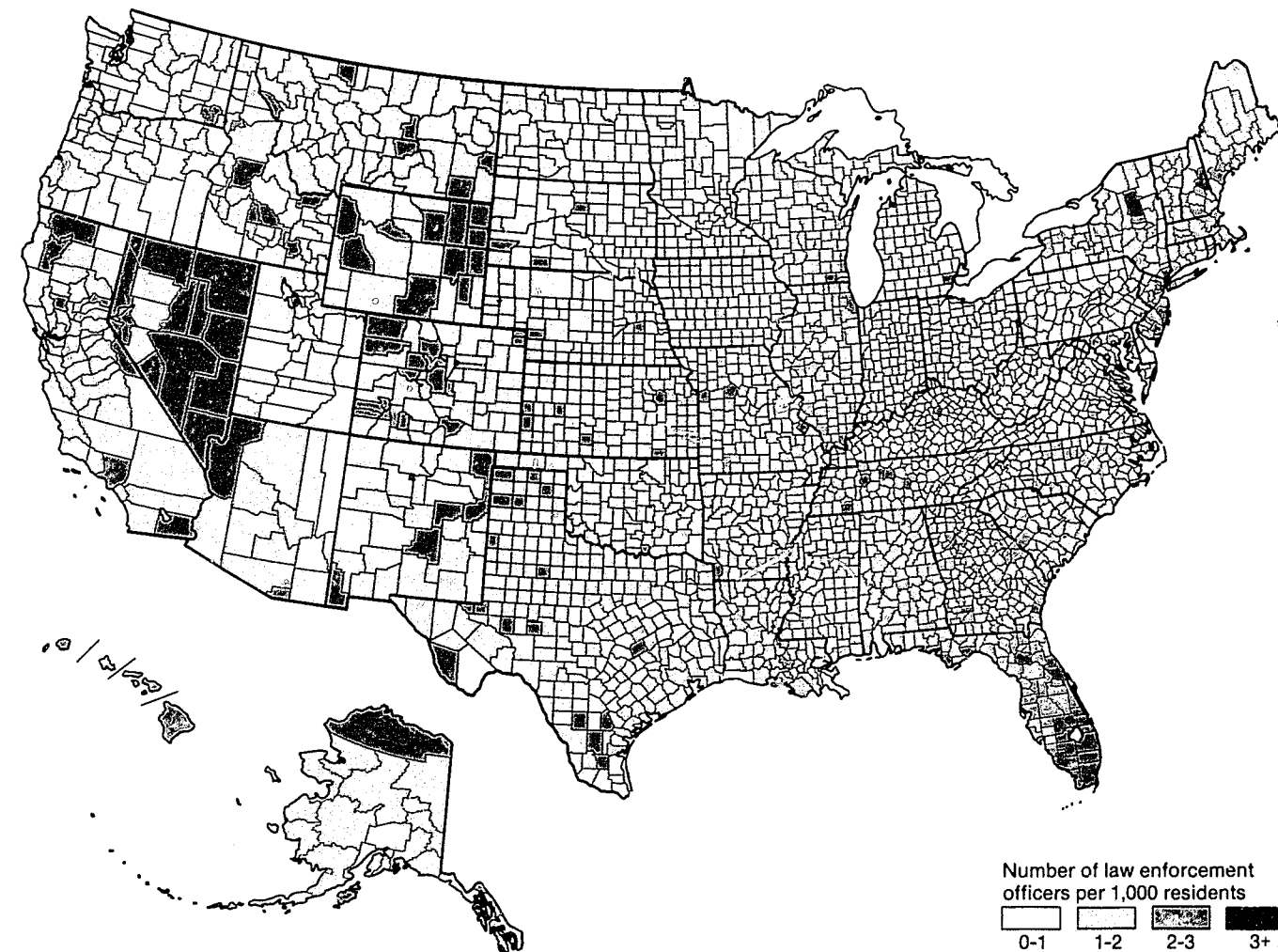
#### There are more than 50 law enforcement agencies at the Federal level<sup>2</sup>

The Federal agencies that have the largest law enforcement workloads are the—

- Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA) in the Department of Justice
- Internal Revenue Service; the U.S. Customs Service; the Bureau of Alcohol, Tobacco and Firearms; and the Secret Service in the Department of the Treasury
- Postal Inspection Service of the U.S. Postal Service.

## What is the relationship between police strength and crime?

Most counties have between 1 and 3 police officers per 1,000 residents



Source: Compendium of public employment, Census of governments, U.S. Bureau of the Census, 1977.

### There is no standard level of police protection

Police employment in the United States ranges from 0 to 44 police per 1,000 residents; however, 80% of all counties have between 1 and 3 officers per 1,000 residents. The number of officers per square mile ranges from 0 in Angoon Division, Alaska, where State police and Federal authorities enforce the law, to 1,278.5 in the Manhattan Borough of New York City. Yet, some counties that greatly differ in population and land area have similar levels of police

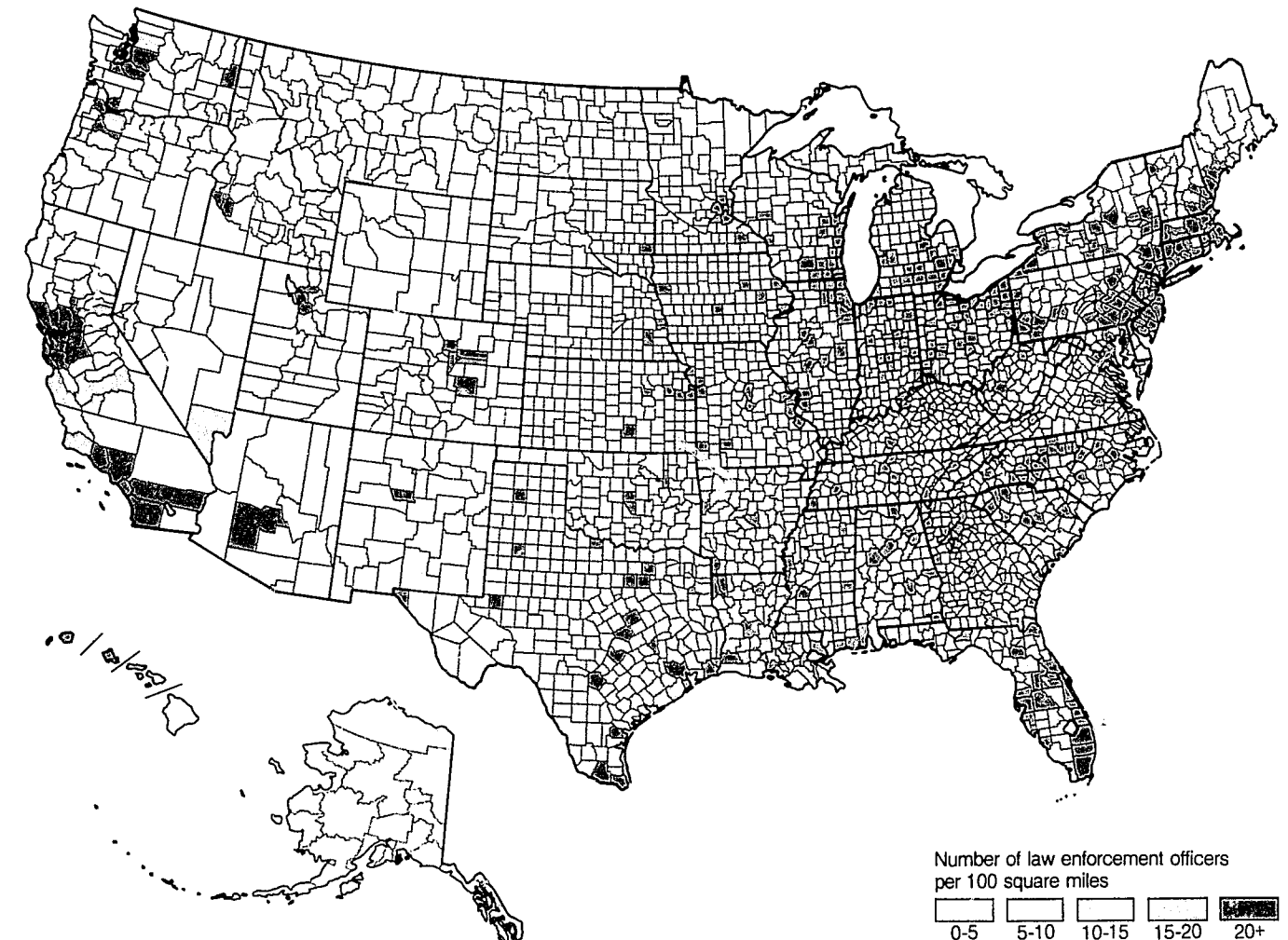
protection. For example, San Diego County, with a population of more than 1.5 million in 1977 and Brown County, Wisconsin (containing the city of Green Bay), with a population of close to 170,000, both have about 2 officers per 1,000 residents.

### No single factor determines the police strength of a given area

Decisions on the size of a police force may be determined by a variety of factors including the budgetary constraints of a city or county (see chapter V).

- Many people believe that increased police employment will result in higher levels of protection and will lead to reductions in crime. However, there is no simple and clear-cut relationship between either the number of police officers on duty and the rate at which crime occurs or between crime rates and budget allocations for law enforcement. If a relationship is to be found between crime rates and police, it may be associated more with the tactics of law enforcement officers than with their numbers.<sup>3</sup>
- The rate of law enforcement officers per capita shows little relationship to

Most counties have fewer than 5 police officers per 100 square miles



Source: Compendium of public employment, Census of governments, U.S. Bureau of the Census, 1977.

county population. The analysis of per capita police rates per county shows that the size of the law enforcement contingent is influenced more by such special factors as the presence of universities and large numbers of commuters or tourists than by the size of resident population.

- The area of a county also shows little or no relationship to either police employment levels or the number of police per square mile. Some studies have shown that the strength of the police force is lessened as the enforcement area in square miles goes up.<sup>4</sup>

- One factor that appears to contribute to police strength is density. As the number of residents per square mile increases, there is likely to be an increase in the number of police per capita.

### State and local police employment per capita rose by 56% in 20 years

Between 1957 and 1977, the number of police officers per 1,000 residents of the United States increased from 1.6 to 2.5. Around the same time, the reported crime rate rose 436% (from

1.1 UCR Index Crimes per 1,000 population in 1960 to 5.9 in 1980).

- Between 1957 and 1977, growth in the number of police officers per capita—
- Occurred in all regions of the country.
- Was highest (76%) in the South.
- Was lowest (43%) in the Northeast which in 1977 had the highest number of police officers per capita.



Most criminal cases are initiated by arrest

When a crime has been committed, a suspect must be identified and apprehended for the case to proceed through the system

Sometimes, a suspect is apprehended at the scene; however, often extensive investigations are required to identify a suspect, and, in many cases, no one is identified or apprehended. Law enforcement agencies have wide discretion in determining when to make an arrest, but to arrest a suspect properly, they must obtain an arrest warrant from the court prior to arrest or they must be able to show that they had probable cause that the suspect committed the crime at the time of arrest. A suspect who is arrested (taken into physical custody) must then be booked (official recording of the offenses alleged and the identity of the suspect). In some States, law enforcement agencies must fingerprint suspects at the time of arrest and booking.

Most persons enter the criminal justice system through the arrest process, but some enter by other means

For example, a person may be issued a citation by a police officer requiring a court appearance to answer a criminal charge. Generally, a citation creates a mandatory obligation to appear in court. However, in some jurisdictions, a payment of money can be made in lieu of a court appearance. The common example of such a provision is the minor traffic violation. In addition to citation, a person may be issued a summons (a written order by a judicial officer requiring an appearance in court to answer specific charges). A third means of entering the criminal justice system is through the issuance of an indictment by a grand jury. Grand jury indictments usually follow the referral of allegations and evidence by the prosecutor. Occasionally, a grand jury will issue an indictment following a criminal investigation initiated by the prosecutor. Such an indictment is commonly known as a grand jury original.

10.8 million arrests were reported by law enforcement agencies in 1981

Rank	Offense	Estimated number of arrests
1	All other offenses (except traffic)	1,908,700
2	Driving under the influence	1,531,400
*3	Larceny-theft	1,261,600
4	Drunkenness	1,155,400
5	Disorderly conduct	787,100
*6	Burglary	518,900
7	Simple assaults	494,200
8	Liquor law violations	483,500
9	Marijuana violations	400,300
10	Fraud	295,100
*11	Aggravated assault	283,270
12	Vandalism	242,600
	Weapons: carrying, possessing, etc.	179,700
*14	Robbery	153,890
15	Runaway	153,300
16	Stolen property: buying, receiving, possessing	129,500
17	Motor vehicle theft	129,200
18	Prostitution and commercial vice	106,600
19	Curfew and loitering law violation	94,800
20	Forgery and counterfeiting	86,600
21	Opium or cocaine and their derivatives	72,100
22	Sex offenses (except forcible rape)	72,000
23	Other dangerous drug violations	67,500
24	Offenses against family and children	56,500
25	Gambling	40,700
26	Vagrancy	33,000
*27	Forcible rape	31,710
*28	Murder and nonnegligent manslaughter	21,590
*29	Arson	20,600
30	Synthetic or manufactured drug violations	20,000
31	Suspicion	16,200
32	Embezzlement	8,700

\*UCR Index Crimes.

Source: FBI Uniform Crime Reports, 1981.

Juveniles may be arrested for conduct that would not be considered criminal if committed by an adult

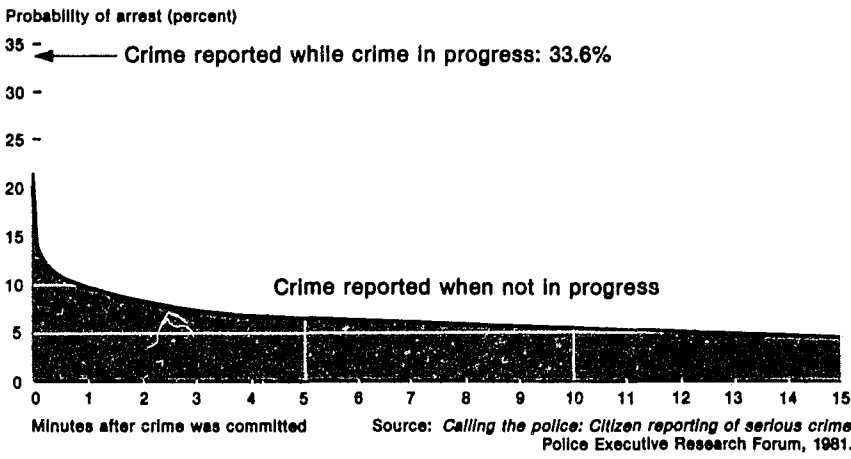
Such conduct, termed status offenses, includes violation of curfew, running away from home, truancy, possession of an alcoholic beverage, and incorrigibility. The FBI estimates that in 1981 law enforcement agencies made 248,000 arrests of juveniles for violations of curfew, loitering, and running away from home.

Law enforcement officials have considerable discretion in dealing with arrested juveniles

Of 1,383,380 arrests of juvenile in 1981—

- 34% were released without referral to any court or welfare agency.
- 58% of the arrested juveniles were referred to juvenile courts.
- 5% were referred to adult criminal courts.
- Less than 2% were referred to welfare or secondary police agencies.

The probability of an arrest declines sharply if the incident is not reported to the police within seconds after a confrontational crime



Police response time is important in securing arrests only when they are called while the crime is in progress or within a few seconds after the crime was committed

The study by the Police Executive Research Forum suggests that after a certain time elapses, the response time of the police following a delayed report of a confrontational crime may be of little relevance to the making of an arrest for the crime. In many cases, timely reporting by citizens may not occur because of problems in leaving the crime scene and reaching a telephone, a decision to chase or restrain the criminal personally, or the need to care for a personal injury. Moreover, where discovery crimes are involved (those noticed after the crime has been completed), very few arrests may result even if citizen reporting immediately follows discovery; by this time the offender may be safely away. If a suspect is arrested, the length of delay between the offense and the arrest may crucially affect the ability of the government to prosecute the suspect successfully.

Several factors affect the ability of police to make arrests which result in conviction

A principal factor relating to the criminal event and the arrest itself is the availability of tangible evidence and credible witnesses. The ability of the government to prosecute criminal cases successfully depends largely on evidence that establishes proof that a crime was committed and that an arrested person committed it. Evidence may be presented at the trial through witnesses, records, documents, and other concrete objects. The acquisition of criminal evidence is generally the task of the arresting police officer. Under the exclusionary rule, evidence obtained improperly may not be used in court.

A study of criminal conviction rates in the District of Columbia by the Institute for Law and Social Research demonstrated a strong relationship between the availability and strength of evidence and conviction of criminal defendants. For example, of all arrests for violent crimes brought before the District of Columbia Superior Court in

1974, the conviction rate in cases was 35% where tangible evidence was recovered, compared with only 24% where no tangible evidence was recovered. In addition, when at least two lay witnesses were available to testify about a crime, the conviction rate was 39%, compared with only 21% in cases when less than two witnesses were available.

Delay in apprehension affects the ability of police to make arrests that result in conviction

This is largely due to the fact that when delay is short, the ability of the police to recover tangible evidence from a "warm crime scene" is enhanced. For example, in the District of Columbia study cited above, conviction rates for robbery, larceny, and burglary declined significantly as time between offense and arrest increased.

Percent of arrests for robbery, larceny, and burglary that resulted in conviction by elapsed time from offense to arrest

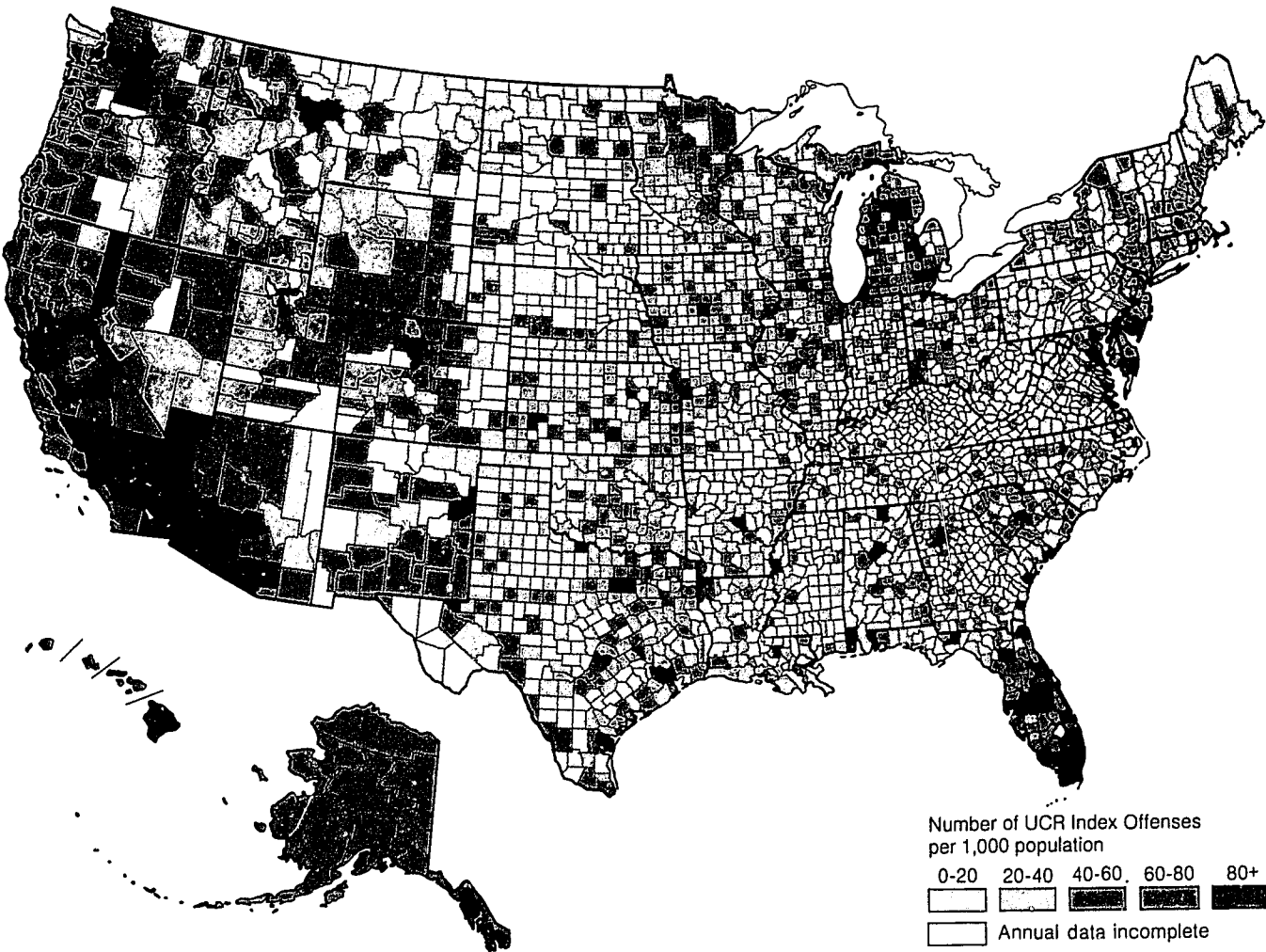
Elapsed time	Robbery	Larceny	Burglary
0-5 minutes	38%	34%	43%
6-30 minutes	36	30	45
30 minutes to 24 hours	30	29	40
More than 24 hours	26	26	38

Source: What happens after arrest? Institute for Law and Social Research, 1978.



For most crimes, no one is apprehended

For every five offenses reported to police...



Source: FBI Uniform Crime Reports, 1980.

When is a crime considered solved?

Law enforcement agencies measure solved cases by counting clearances, that is, the number of cases in which a known criminal offense has resulted in the arrest, citation, or summoning of a person in connection with the offense or in which a criminal offense has been "resolved" (location and identity of suspect known), but an arrest is not possible because of exceptional circumstances such as death of suspect or refusal of the victim to prosecute.

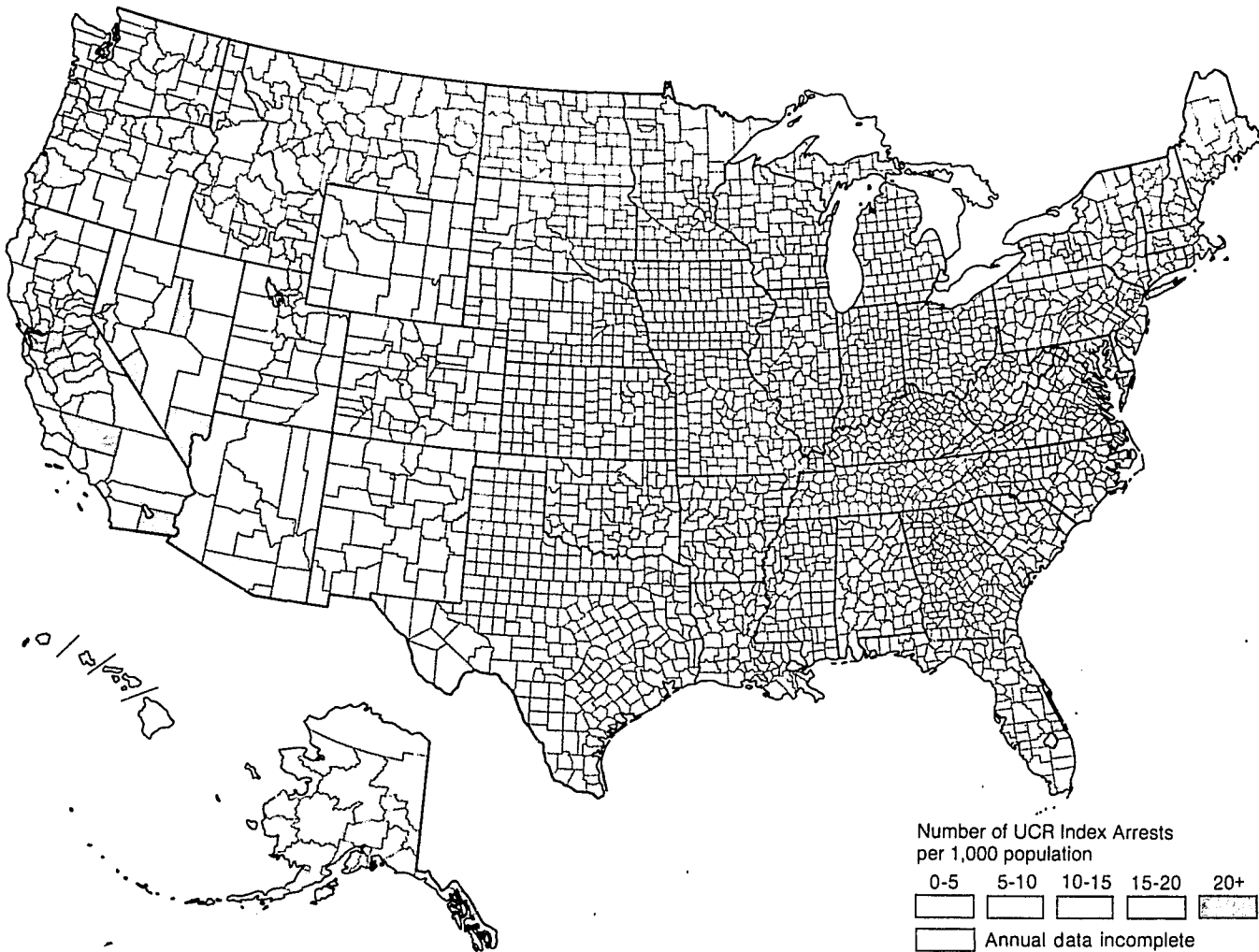
The interpretation of clearance statistics must be approached with caution. For example, a number of criminal offenses may be designated as cleared when a single offender has been apprehended for their commission. However, because the crimes may have involved the participation of multiple suspects, the term clearance may suggest that a criminal investigation has closed, when in fact it may be continued until the remaining suspects are apprehended. Additionally, a case may be cleared even though the suspect will not be processed for that offense or is later absolved of wrongdoing.

Most crimes are not cleared by arrest

	Reported crimes cleared by arrest
Murder	72%
Aggravated assault	58
Forcible rape	48
Robbery	24
Larceny-theft	19
Burglary	14
Motor vehicle theft	14
All UCR Index Crimes	19

Source: FBI Uniform Crime Reports, 1981.

...there is approximately one arrest



Source: FBI Uniform Crime Reports, 1980.

Serious violent crimes are more likely to be cleared than serious property crimes

The rate of clearance for crimes of violence (murder, forcible rape, aggravated assault, and robbery) is nearly 43%, as compared with the 17% clearance rate for property crimes (burglary, larceny, motor vehicle theft). This wide variation is largely due to the fact that—

- Victims often confront perpetrators in violent crime incidents.
- Witnesses are more frequently available in connection with violent crimes than with property crimes.

- Intensive investigative efforts are employed more frequently with crimes of violence, resulting in a greater number of arrests.

UCR Index arrest rates for counties tend to follow a pattern similar to crime rates

Counties with very high arrest rates tend to be urbanized, independent cities, such as Baltimore and Richmond, which also have high crime rates. Counties with low arrest rates do not display a consistent pattern, which is probably due in part to arrest reporting practices.

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## Notes

<sup>1</sup>James Q. Wilson, *The investigators*, (1978), pp. 21-23.

<sup>2</sup>Bala Rektor, *Federal law enforcement agencies* (1975).

<sup>3</sup>Colin Loftin and David McDowall, University of Michigan, discuss the studies undertaken in this area. "The police, crime, and economic theory: An assessment," *American Sociological Review* (June 1982) 47(3):393-401.

<sup>4</sup>James S. Kakalik and Sorrel Wildhorn, *Aids to decisionmaking in police patrol*, a report prepared for the U.S. Department of Housing and Urban Development, (Santa Monica, Calif.: Rand, February 1971) p. 90.

## Section 3. Prosecution and pretrial services

### The prosecutor's duty is to seek justice

#### The American prosecutor is unique in the world

First, the American prosecutor is a public prosecutor representing the people in matters of criminal law. Traditionally, European societies viewed crimes as wrongs against an individual whose claims could be pressed through private prosecution. Second, the American prosecutor is usually a local official, reflecting the development of autonomous local governments in the colonies. Finally, as an elected official, the local American prosecutor is responsible only to the voters.

#### Prosecution is the function of representing the government in criminal cases

After the police arrest a suspect, the prosecutor coordinates the government's response to crime—from the initial screening, when the prosecutor decides whether or not to press charges, through trial and, in some instances, at the time of sentencing, by the presentation of sentencing recommendations.

Prosecutors have been accorded much discretion in carrying out their responsibilities in that they make many of the decisions that determine whether or not a case will proceed through the criminal justice process.

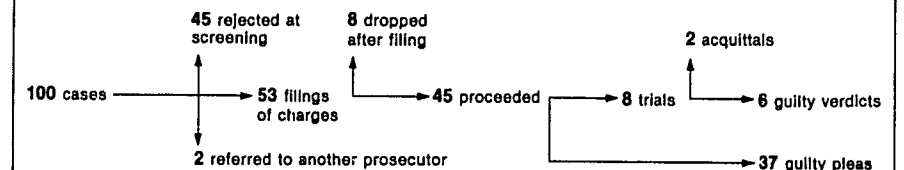
#### Prosecuting officials include local prosecutors and district attorneys, State attorneys general, and U.S. attorneys

Prosecution is predominantly a State and local function carried out by more than 8,000 State, county, municipal, and township prosecution agencies. In all but five States, local prosecutors are elected officials. Many small jurisdictions engage a part-time prosecutor who also maintains a private law practice. Prosecutors in urban jurisdictions often have offices staffed by many full-time assistants. Federal prosecution is the responsibility of 94 U.S. attorneys who are appointed by the President.

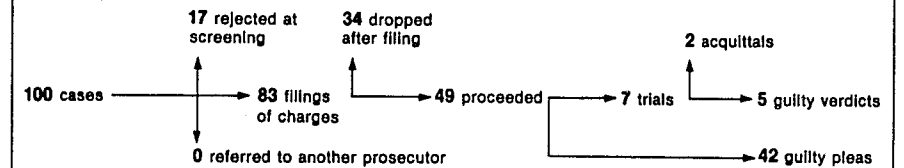
#### Differences in how prosecutors handle felony cases can be seen in 3 jurisdictions

Outcome of felony cases presented to prosecutor

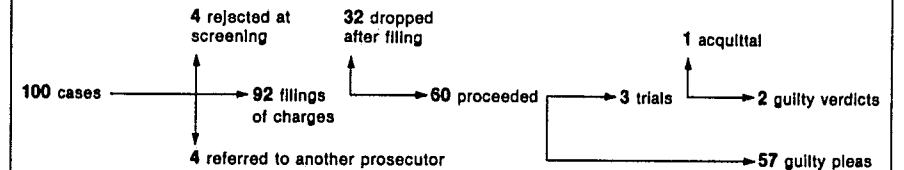
##### New Orleans, Louisiana



##### Washington, D.C.



##### Manhattan Borough, New York



Source: B. Boland, INSLAW, Inc., *The prosecution of felony arrests*, BJS, forthcoming 1983.

#### The decision to charge is solely at the prosecutor's discretion

Once an arrest is made and the case is referred to the prosecutor, most prosecutors screen cases to determine whether the cases merit prosecution. The prosecutor can refuse to prosecute, for example, because of insufficient evidence. The decision to charge is not usually reviewable by any other branch of government. Some prosecutors accept almost all cases for prosecution; others screen out many cases.

#### The official accusation in felony cases is either a grand jury indictment or a prosecutor's bill of information

According to Jacoby, the accusatory process in a jurisdiction usually follows one of four paths:

- Arrest to preliminary hearing for bindover to grand jury for indictment
- Arrest to grand jury for indictment
- Arrest to preliminary hearing to a bill of information
- A combination of the above at the prosecutor's discretion.

Whatever the method of accusation, the State must demonstrate at this stage that there is probable cause to support the charge.

Nineteen States require indictments in felony prosecutions unless waived by the accused.<sup>1</sup> Five States require indictments only in cases that involve capital offenses.

#### The grand jury emerged from the American revolution as the people's protection against oppressive prosecution by the State

Today, the grand jury is a group of ordinary citizens, usually no more than 23, which has both accusatory and investigative functions. The jury's proceedings are secret and not adversarial so that most rules of evidence for trials do not apply. Usually, evidence is presented by the prosecutor who brings a case to the grand jury's attention. However, in some States, the grand jury is used primarily to investigate issues of public corruption and organized crime.

Why are some cases rejected or dismissed?

Once charges are filed, a case may be terminated only by official action

The prosecutor can drop a case after making efforts to prosecute (*nolle prosequi*), or the court can dismiss the case on motion of the defense on grounds that the government has failed to establish that the defendant committed the crime charged. The prosecution may also recommend dismissal, or the judge may take the initiative in dismissing a case. A dismissal is an official action of the court.

What are the most common reasons for rejection or dismissal?

Many criminal cases are rejected or dismissed because of—

- **Evidence problems** that result from a failure to find sufficient physical evidence that links the defendant to the offense
- **Witness problems** that arise, for example, when a witness fails to appear, gives unclear or inconsistent statements, is reluctant to testify, or is unsure of the identity of the offender
- **Office policy**, wherein the prosecutor decides not to prosecute certain types of offenses, particularly those that violate the letter but not the spirit of the law (for example, offenses involving insignificant amounts of property damage)
- **Due process problems** that involve violations of the Constitutional requirements for seizing evidence and for questioning the accused
- **Combination with other cases**, for example, when the accused is charged in several cases and the prosecutor prosecutes all of the charges in a single case
- **Pretrial diversion** that occurs when the prosecutor and the court agree to drop charges when the accused successfully meets the conditions for diversion, such as completion of a treatment program.

A prior relationship between victim and defendant was a major cause of witness problems

Williams found that problems with the complaining witness accounted for 61% of the refusals to prosecute

Evidence problems are the most common reason for prosecutors to reject cases

Jurisdiction	Number of cases rejected	Percent of cases rejected by reason for rejection							
		Evidence	Witness	Office policy	Due process	Combined with other case	Diversion	Other	
Golden, Colo.	49	20%	18	45	2	0	4	10	100%
Indianapolis, Ind.	155	40%	12	19	3	0	0	25	100%
Los Angeles, Calif.	19,197	70%	12	7	7	0	1	3	100%
Manhattan, N.Y.	1,062	50%	26	13	6	0	0	4	100%
New Orleans, La.	3,315	40%	31	12	10	0	7	0	100%
Salt Lake City, Utah	702	65%	20	10	2	0	1	2	100%
Washington, D.C.	1,442	22%	16	12	1	0	0	49	100%

Note: Percents may not add to 100% because of rounding.  
Source: B. Boland, INSLAW, Inc., *The prosecution of felony arrests* (Washington: BJS, forthcoming 1983).

Evidence and witness problems are also key reasons for case dismissals

Jurisdiction	Number of cases dismissed	Percent of cases dismissed by reason for dismissal							
		Evidence	Witness	Office policy	Due process	Combined with other case	Diversion	Other	
Golden, Colo.	774	10%	13	7	10	20	17	24	100%
Indianapolis, Ind.	254	31%	21	6	3	21	2	17	100%
Los Angeles, Calif.	5,514	6%	26	22	5	11	9	21	100%
Manhattan, N.Y.	8,597	18%	45	28	4	0	2	3	100%
New Orleans, La.	552	33%	15	19	7	7	8	11	100%
Salt Lake City, Utah	560	16%	17	5	3	57	3	1	100%
Washington, D.C.	2,781	17%	81	0	0	0	0	2	100%

Note: Percents may not add to 100% because of rounding.  
Source: B. Boland, INSLAW, Inc., *The prosecution of felony arrests* (Washington: BJS, forthcoming 1983).

violent crimes by nonstrangers and 54% of the dismissals.<sup>2</sup> Conviction rates are commensurately lower in cases involving family acquaintances; Boland showed that, in New Orleans, the conviction rate for crimes by strangers was 48%, but only 30% for crimes by friends or acquaintances and 19% for crimes by family members.

The Fourth Amendment prohibits unreasonable searches and seizures in the collection of evidence

Under the exclusionary rule evidence obtained in violation of the Fourth Amendment may not be used in criminal proceedings against the accused. Both the police and prosecutors drop cases based on what they find is improperly obtained evidence. An estimated 45,000 to 55,000 felony

and serious misdemeanor cases were dropped by prosecutors during 1977.<sup>3</sup>

Improperly obtained evidence and related problems appear to be major causes of rejections and dismissals in drug cases

A recent report from the National Institute of Justice found that 70% of the felony cases rejected in California were drug cases. In two local prosecutor's offices in California, 30% of all felony arrests for drug offenses were rejected because of search and seizure problems.

The Sixth Amendment of the Constitution provides the accused the right to be assisted by counsel

The function of the defense attorney is to protect the defendant's legal rights and to be the defendant's advocate in the adversary process

Defendants have the right to defend themselves, but most prefer to be represented by a specialist in the law. Relatively few members of the legal profession specialize in criminal law, but lawyers who normally handle other types of legal matters may take occasional criminal cases.

The right to the assistance of counsel is more than the right to hire a lawyer

Supreme Court decisions in *Gideon v. Wainwright* (1963) and *Argersinger v. Hamlin* (1972) established that the right to an attorney could not be frustrated by lack of means. For both felonies and misdemeanors for which incarceration can be the penalty, the State must provide an attorney to any accused person who is indigent.

The institutional response to this Constitutional mandate is still evolving as States experiment with various ways to provide legal counsel for indigent defendants.

A defendant is entitled to representation by counsel at every critical step in the criminal justice process

The Sixth Amendment provides the right to counsel in criminal prosecution but does not say what steps or proceedings are included. Through the years, the Supreme Court has held that a defendant has the right to counsel at such critical steps as police interrogation, police lineup, preliminary hearing, appeal, and even probation and parole revocation proceedings.

Each State adopts its own approach to providing counsel for indigents

Among the States—

- Some provide counsel to all indigents who have been charged with a misdemeanor; other States provide counsel only to those for whom a jail or prison term is possible.

- Some assess the cost of an attorney against the defendant and collect for it in installments after the trial; others provide counsel completely free of charge.
  - Some provide salaried attorneys who work for the State; some draw on the services of the private bar.
- These options are often used in combination.

Who defends indigents?

- An indigent person may be defended by—
- An elected or appointed attorney who is employed full time in a public defender's office
  - A private attorney specially appointed by the judge for a particular case
  - A private attorney who participates in a coordinated system for providing counsel to indigents
  - A private attorney who has been retained by the government under a contract to provide such services as part of the attorney's regular practice.

Standards and procedures for determining indigency vary

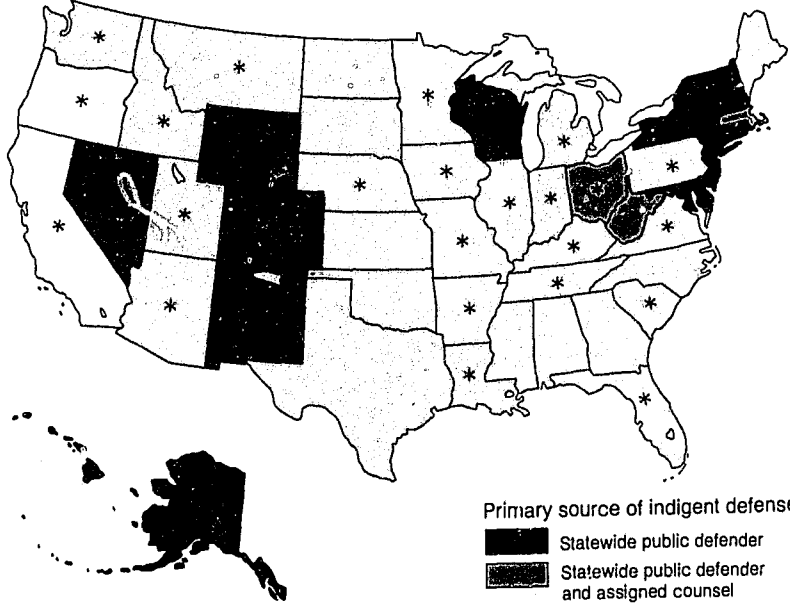
Preliminary estimates from the National Indigent Defense Survey indicate that more than half of all defendants charged with felonies are classified as indigent despite the variation in standards. Indigency rates for defendants charged with a misdemeanor are much lower because the eligibility criteria for misdemeanants are more restrictive in many States.

Organization and funding of indigent defense programs vary among the States

Thirty-three States provide complete or partial funding of indigent defense. In the other 19 States, funding comes from the county.

In 33 States, indigent defense services are organized at the county level alone or in combination with a statewide system or with judicial districts; 13 States have statewide organizations only; 4 States use judicial districts.

Ad hoc appointment of counsel remains the primary source of indigent defense



\* Much indigent defense provided locally.

Source: Preliminary data from the 1982 National Indigent Defense Survey, Abt Associates, Inc.

Most defendants are eligible for release pending trial

The traditional objective of bail or other pretrial release options is to assure appearance at trial

In medieval times, the accused was bailed to a third party who would be tried in place of the accused if the accused failed to appear. As the system evolved, the guarantee became the posting of a money bond that was forfeited if the accused failed to appear. In the United States, the Eighth Amendment states that bail shall not be excessive, but it does not grant the right to bail in all cases. The right to bail for many offenses was established by Federal and State laws early in our history.

The modern bail reform movement resulted in new release options

The movement was based on the belief that detaining the poor because they could not afford bail violated the prohibition against excessive bail. In the early 1960's, seeking alternatives to the commercial bail bondsman, the Vera Institute created the Manhattan bail project, which showed that defendants with community ties could be released without bail and in most cases still return for trial.

The Pretrial Services Resource Center reports that more than 200 pretrial service programs currently operate throughout the Nation. Since the Federal Bail Reform Act of 1966, many States have passed laws that limit the role of bondsmen. Five States (Kentucky, Oregon, Wisconsin, Nebraska, and Illinois) have eliminated bail bonding for profit. Kentucky dealt with both bondsmen and release programs in 1976 when it banned bondsmen and set up a statewide system of pretrial services agencies.

Both financial bonds and alternative release options are used today

Financial bond

**Fully secured bail**—The defendant posts the full amount of bail with the court.

**Privately secured bail**—A bondsman signs a promissory note to the court for the bail amount and charges the defendant a fee for the service (usually 10% of the bail amount). If the defendant fails to appear, the bondsman must pay the court the full amount. Frequently, the bondsman requires the defendant to post collateral in addition to the fee.

**Percentage bail**—The courts allow the defendant to deposit a percentage (usually 10%) of the full bail with the court. The full amount of the bail is required if the defendant fails to appear. The percentage bail is returned after disposition of the case although the court often retains 1% for administrative costs.

**Unsecured bail**—The defendant pays no money to the court but is liable for the full amount of bail should he fail to appear.

Alternative release options

**Release on recognizance (ROR)**—The court releases the defendant on his promise that he will appear in court as required.

**Conditional release**—The court releases the defendant subject to his following of specific conditions set by the court such as attendance at drug treatment therapy or staying away from the complaining witness.

**Third party custody**—The defendant is released into the custody of an individual or agency that promises to assure his appearance in court. No monetary transactions are involved in this type of release.

Bail reform and other factors appear to have increased the number of people being released prior to trial

A 1976 study in 20 cities found that the release rate had risen from 48% in 1962 to 67% in 1971.<sup>4</sup> More recently, Toborg found that 85% of the defendants in her eight-site sample were released prior to trial.

Most unconvicted jail inmates have had bail set

Of 66,936 unconvicted jail inmates surveyed in 1978—

- 81% had bail set
- 46% could not afford the bond that had been set
- 17% had not had bail set
- 6% were held on nonbailable offenses such as murder
- 3% had not yet had a bail hearing
- 2% were held on detainers or warrants.

Most defendants are not detained prior to trial

In Toborg's study, 85% of the defendants in her eight-site sample were released before trial. Some jurisdictions are much less likely than others to release defendants on non-financial conditions, but the overall rate of release is similar. Some jurisdictions detain a high proportion of defendants at the time of arraignment, but eventually release most of them before trial. According to Erosi, the detention rate in Salt Lake City dropped from 41% at arraignment to between 10% and 12% before trial.

How many released defendants fail to appear in court?

Pryor and Smith found that—

- Upwards of 85% of all defendants released pending trial appeared for all court sessions
- People charged with the more serious offenses were more likely to appear
- Willful failure to appear where the defendant absconds or is returned by force did not exceed 4% of all released defendants.

How many of those released are rearrested prior to trial?

In Toborg's study of eight jurisdictions—

- 16% of all released defendants were rearrested; rates for individual jurisdictions ranged from 8% to 22%
- 30% of those rearrested were rearrested more than once
- About half of those rearrested were later convicted.

This is consistent with Pryor and Smith's analysis of release research that found rearrest rates between 10% and 20% with about half of those rearrested being convicted.

Many States have shown concern about the effect of pretrial release on community safety

Gaynes has noted that at the State level most changes in pretrial release practices prompted by concern over community safety have been enacted within the past decade, many since 1979. During 1982, voters in five States (Arizona, California, Colorado, Florida, and Illinois) approved constitutional amendments limiting the right to bail to assure community safety in pretrial release.

About three-fifths of the States have one or more provisions to ensure community safety in pretrial release

Type of provision	States that have enacted the provision
Exclusion of certain crimes from automatic bail eligibility	Colorado, District of Columbia, Florida, Georgia, Michigan, Nebraska, Wisconsin
Definition of the purpose of bail to ensure appearance and safety	Alaska, Arizona, California, Delaware, District of Columbia, Florida, Hawaii, Minnesota, South Carolina, South Dakota, Vermont, Virginia, Wisconsin
Inclusion of crime control factors in the release decision	Alabama, California, Florida, Georgia, Minnesota, South Dakota, Wisconsin
Inclusion of release conditions related to crime control	Alaska, Arkansas, Delaware, District of Columbia, Florida, Hawaii, Illinois, Minnesota, New Mexico, North Carolina, South Carolina, Vermont, Virginia, Washington, Wisconsin
Limitations on the right to bail for those previously convicted	Colorado, District of Columbia, Florida, Georgia, Hawaii, Michigan, New Mexico, Texas, Wisconsin
Revocation of pretrial release when there is evidence that the accused committed a new crime	Arkansas, Colorado, Illinois, Indiana, Massachusetts, Nevada, New York, Rhode Island, Virginia, Wisconsin
Limitations on the right to bail for crimes alleged to have been committed while on release	Colorado, District of Columbia, Florida, Maryland, Michigan, Nevada, Tennessee, Texas, Utah
Provisions for pretrial detention to ensure safety	Arizona, California, District of Columbia, Florida, Georgia, Hawaii, Michigan, Wisconsin

Source: Updated as of December 1982 from *Typology of State laws which permit consideration of danger in the pretrial release decision* by Elizabeth Gaynes for the Pretrial Services Resource Center, Washington, D.C., 1982.



Cases involving juveniles are handled much differently than cases involving adults

The juvenile court and a separate process for handling juveniles resulted from reform movements of the late 19th century

Until that time, juveniles who committed crimes were processed through the adult criminal courts. In 1899, Illinois established the first juvenile court based on the concepts that a juvenile was a salvagable human being who needed treatment rather than punishment and that the court was to protect the child from the stigma of criminal proceedings. Delinquency and other situations such as neglect and adoption were deemed to warrant the court's intervention on the child's behalf. The juvenile court also handled "status offenses" (such as truancy, running away, and incorrigibility), which are not applicable to adults.

Juvenile courts are very different from criminal courts

The language used in juvenile courts is less harsh. For example, juvenile courts—

- Accept "petitions" of "delinquency" rather than criminal complaints
- Conduct "hearings," not trials
- "Adjudicate" juveniles to be "delinquent" rather than find them guilty of a crime
- Order one of a number of available "dispositions" rather than sentences.

Despite the wide discretion and informality associated with juvenile court proceedings, juveniles are protected by most of the due process safeguards associated with adult criminal trials. For example—

- Prosecuting and defense attorneys are present at such hearings
- The State must prove its case beyond a reasonable doubt
- Juveniles have the right to appeal juvenile court decisions
- In more than a dozen States, juries are permitted in juvenile courts.<sup>5</sup>

Arrest is not the only means of referring juveniles to juvenile courts

While adults may begin criminal justice processing only through arrest, summons, or citation, juveniles may be referred to court by parents, schools, or other sources.

While 84% of the cases are referrals from law enforcement agencies—

- 3% are from parents and relatives
- 3% are from schools
- 2% are from probation officers
- 2% are from other courts
- 5% are from miscellaneous sources.

Most referrals to juvenile court are for property crimes, but 20% are for status offenses

Reasons for referrals to juvenile courts, 1979 estimates

11% Crimes against persons	
Criminal homicide	1%
Forcible rape	2
Robbery	18
Aggravated assault	22
Simple assault	52
Other	5
	100%
49% Crimes against property	
Burglary	26%
Larceny	41
Motor vehicle theft	9
Arson and vandalism	12
Stolen property offenses	5
Trespassing	4
Other	3
	100%
6% Drug offenses	
Narcotics	9%
Nonnarcotics	91
	100%
15% Offenses against public order	
Weapons offenses	10%
Sex offenses	6
Drunkenness	12
Disturbing the peace	22
Escape, contempt, probation, parole	19
Other	32
	100%
20% Status offenses	
Runaway	27%
Truancy	12
Curfew	7
Ungovernable	18
Liquor	28
Other	8
	100%
100% Total all offenses	

Note: Percents may not add to 100 because of rounding.

Source: *Delinquency 1979*, National Center for Juvenile Justice, preliminary draft.

"Intake" is the first step in the processing of juveniles

At intake, decisions are made about whether to begin formal proceedings. Intake is most frequently performed by the juvenile court, but prosecutors are becoming increasingly involved. In addition to beginning formal court proceedings, officials at intake may refer the juvenile for psychiatric evaluation, informal probation, or counseling, or, if appropriate, they may close the case altogether.

For a case involving a juvenile to proceed to a court adjudication, the intake unit must file a petition with the court

Intake units may handle most cases informally without a petition. The National Center for Juvenile Justice estimates that more than half of all juvenile cases accepted at intake are handled informally without a petition and are dismissed and/or referred to a social service agency.

Initial juvenile detention decisions are usually made by the intake staff

Prosecutors become involved in detention decisions at later stages of the processing. Juveniles may be released in the custody of their parents, put in protective custody (usually in foster homes or runaway shelters), or admitted to detention facilities. Separate juvenile detention facilities are usually provided, but in some jurisdictions juveniles are held in adult jails.

Relatively few juveniles are detained prior to court appearance

National Center for Juvenile Justice data show that slightly less than one case in five results in secure detention of a juvenile prior to adjudication. The offenses for which such detention may be ordered range from school truancy to murder. In 1979, 28% of those juveniles detained in secure facilities were being held for crimes against persons; 21%, for public order crimes; 18%, for property crimes; 17%, for drug-related crimes; and 17%, for status offenses.

Under certain circumstances, juveniles may be tried in criminal courts

Age at which criminal courts gain jurisdiction of young offenders ranges from 16 to 18 years old

Age of offender when under criminal court jurisdiction

16	17	18
Connecticut	Georgia	Alabama
New York	Illinois	Alaska
North Carolina	Louisiana	Arizona
Vermont	Massachusetts	Arkansas
	Michigan	California
	Missouri	Colorado
	South Carolina	Delaware
	Texas	District of Columbia
		Florida
		Hawaii
		Idaho
		Indiana
		Iowa
		Kansas
		Kentucky
		Maine
		Maryland
		Minnesota
		Mississippi
		Montana
		Nebraska
		Nevada
		New Hampshire
		New Jersey
		New Mexico
		North Dakota
		Ohio
		Oklahoma
		Oregon
		Pennsylvania
		Rhode Island
		South Dakota
		Tennessee
		Utah
		Virginia
		Washington
		West Virginia
		Wisconsin
		Wyoming
		Federal districts

Source: *Youth in adult courts*, Hamperian, et al., 1982.

All States allow juveniles to be tried as adults in criminal courts

Juveniles are referred to criminal courts in one of three ways—

- **Judicial waiver**—the juvenile court waives its jurisdiction and transfers the case to criminal court (the procedure is also known as "binding over" or "certifying" juvenile cases to criminal courts)
- **Concurrent jurisdiction**—the prosecutor has the discretion of filing charges for certain offenses in either juvenile or criminal courts
- **Excluded offenses**—the legislature excludes from juvenile court juris-

diction certain offenses, usually either very minor, such as traffic or fishing violations, or very serious, such as murder or rape.

Thirteen States authorize prosecutors to file cases in either the juvenile or criminal courts at their discretion

This procedure, known as concurrent jurisdiction, may be limited to certain offenses or to juveniles of a certain age. Eight of the 13 States provide concurrent jurisdiction options in the trial of youth for serious crimes.

46 States, the District of Columbia, and the Federal Government have judicial waiver provisions

Youngest age at which juvenile may be transferred to criminal court by judicial waiver

No specific age	10	13	14	15	16
Alaska	South Dakota	Georgia	Alabama	District of Columbia	California
Arizona		Illinois	Colorado	Idaho	Hawaii
Florida		Mississippi	Connecticut	Kansas	Kentucky
Maine			Delaware	Louisiana	Montana
New Hampshire			Indiana	Maryland	Nevada
Oklahoma			Iowa	Michigan	North Dakota
South Carolina			Massachusetts	New Mexico	Oregon
Washington			Minnesota	Ohio	Rhode Island
West Virginia			Missouri	Tennessee	Wisconsin
Wyoming			New Jersey	Texas	
Federal districts			North Carolina	Virginia	
			Pennsylvania		
			Utah		

Note: Many judicial waiver statutes also specify specific offenses that are waivable. This chart lists the States by the youngest age for which judicial waiver may be sought without regard to offense.

Source: *Youth in adult courts*, Hamperian, et al., 1982.

As of 1978, 31 States excluded certain offenses from juvenile court jurisdictions

Twenty States excluded only traffic, watercraft, fish, or game violations. The other 11 States excluded serious offenses; 8 also excluded some minor offenses. In Delaware, Indiana, Nevada, and Pennsylvania, persons of any age charged with a capital offense are prosecuted in adult courts.

About 11,000 juveniles were referred to criminal courts in 1978

Hamparian found that most juveniles tried in criminal courts were age 17 and were charged with property offenses. She also found that violent offenses were involved in less than a fourth of the judicial waivers or concurrent jurisdiction filings. Almost all juveniles charged under excluded-offense laws were charged with crimes against people because few other serious crimes are covered by those laws.

Juveniles tried as adults have a very high conviction rate, but most receive sentences of probation or fines

More than 90% of the judicial waiver or concurrent jurisdiction cases in Hamparian's study resulted in guilty verdicts, and more than half the convictions led to fines or probation. However, juveniles convicted under excluded-offense laws were more likely to be institutionalized. Among the juveniles sentenced to incarceration, about 14% received sentences that could have lasted, under the most severe circumstances, 10 or more years. However, those incarcerated generally received longer sentences than they would have received under a juvenile disposition. However, most youths, like adults, are released from confinement before serving their maximum sentences.



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### Notes

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<sup>3</sup>James Q. Wilson, editor, *Crime and public policy* (San Francisco: Institute for Contemporary Studies, 1983).

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## Section 4. Adjudication

### The courts are participants in and supervisors of the judicial process

#### The courts have several functions in addition to deciding about violations of the law

The courts are responsible for—

- Settling disputes between legal entities (persons, corporations, etc.)
- Invoking sanctions against violations of law
- Deciding whether acts of the legislative and executive branches are constitutional.

In making decisions about violations of the law, the courts must apply the law to the facts in individual cases. The courts have an impact on policy, while deciding individual cases, by handing down decisions about how the laws should be interpreted and carried out. Decisions of the appellate courts are the decisions most likely to have policy impact.

#### The use of an arm of the State in settling disputes is a relatively new concept

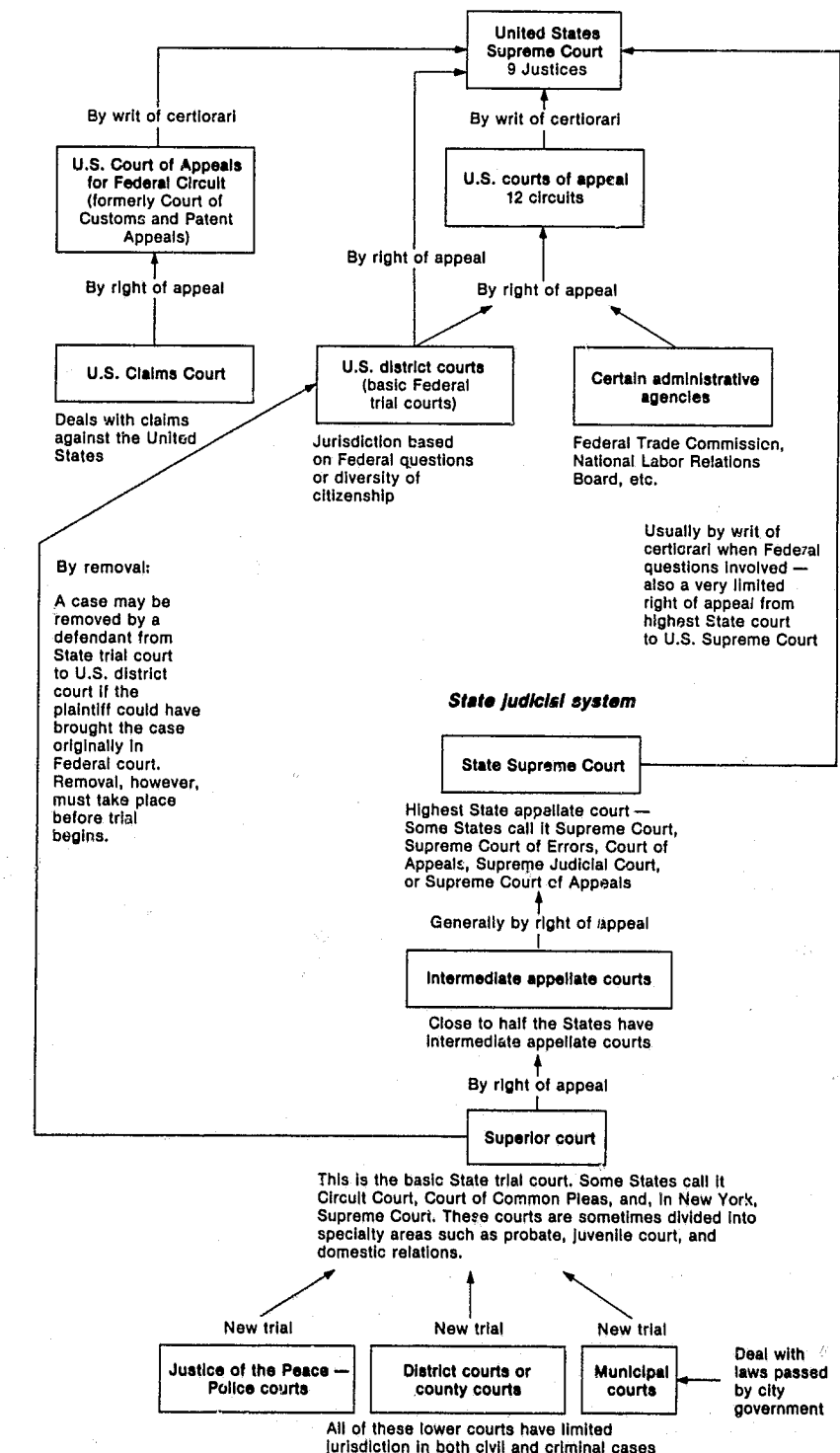
Until the Middle Ages, disputes between individuals, clans, and families, including criminal acts, were handled privately. Over time, some acts such as murder, rape, robbery, larceny, and fraud were determined to be crimes against the entire community, and the state intervened on its behalf. Today in the United States, the courts handle both civil actions (disputes between individuals or legal organizations) and criminal actions.

#### An independent judiciary is a basic concept of the U.S. system of government

To establish its independence and impartiality, the judiciary was created as a separate branch of government equal to the executive and legislative branches. Insulation of the courts from political pressure is attempted through the separation of powers doctrine, established tenure for judges, legislative safeguards, and the canons of ethics of the legal profession.

Courts are without the power of enforcement. The executive branch must enforce their decisions. Furthermore, the courts must request that the legislature provide them with the resources needed to conduct their business.

#### Courts at various levels of government interact in many ways



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Each State has established a system of trial and appeals courts

Generally, State court systems are organized according to three basic levels of jurisdiction:

• **Courts of limited and special jurisdiction** are authorized to hear only less serious cases (criminal misdemeanors and/or civil suits that involve small amounts of money) or to hear special types of cases such as divorce or probate suits. Such courts include traffic courts, municipal courts, family courts, small claims courts, magistrate courts, and probate courts.

• **Courts of general jurisdiction**, also called major trial courts, are unlimited in the civil or criminal cases they are authorized to hear. Almost all cases originate in the courts of limited or special jurisdiction or in courts of general jurisdiction. Most serious criminal cases are handled by courts of general jurisdiction. In 1977, there were 3,588 courts of general jurisdiction.

• **Appellate courts** are divided into two groups, intermediate appeals courts, which have limited jurisdiction, and courts of last resort, which have jurisdiction over final appeals from courts of original jurisdiction or intermediate appeals courts. As of 1983, 32 States had intermediate appellate courts, but all States had courts of last resort.

The U.S. Constitution created the Supreme Court and authorized the Congress to establish lower courts as needed

Currently, the Federal court system consists of various special courts, U.S. district courts (general jurisdiction courts), U.S. courts of appeals (intermediate appellate courts which receive appeals from the district courts and Federal administrative agencies), and the U.S. Supreme Court (the court of last resort). Organized on a regional basis, there are U.S. courts of appeals for each of 11 circuits and the District of Columbia. In the trial courts for the Federal system (the 94 U.S. district courts), approximately a quarter of a million cases were filed in 1982; there was one criminal case for every six

civil cases. In 1982, more than half of the criminal cases filed in district courts were for embezzlement, fraud, forgery and counterfeiting, traffic, or drug offenses.

Court organization varies greatly among the States

State courts of general jurisdiction are organized by districts, counties, dual districts, or a combination of counties and districts. In some States, the courts, while established by the State, are funded and controlled locally. In others, the court of last resort may have some budgetary or administrative oversight over the entire State court system. Even within States, there is a considerable lack of uniformity in the roles, organization, and procedures of the courts. This has led to considerable momentum among States to form "unified" court systems to provide in varying degrees for uniform administration of the courts, and, in many cases, for the consolidation of diverse courts of limited and special jurisdiction.

Most felony cases are brought in State and local courts

The traditional criminal offenses established under the English common law have been adopted, in one form or another, in the criminal laws of each of the States. Most cases involving "common law" crimes are brought to trial in State or local courts. Persons charged with misdemeanors are usually tried in the lower courts. Those charged with felonies (more serious crimes) are tried in courts of general jurisdiction.

In all States, criminal defendants may appeal most decisions of lower criminal courts; the avenue of appeal usually ends with the State supreme court. However, the Supreme Court of the United States may elect to hear the case, if the appeal is based on an alleged violation of the Constitutional rights of the defendant.

State courts process a large volume of cases, many of them minor

In 1981, more than 82 million cases were filed in State and local courts.

About 67% were traffic-related cases, 16% were civil cases (torts, contracts, small claims, etc.), 15% were criminal cases, and 2% were juvenile cases.

Civil and criminal cases both appear to be increasing. Of 40 States that reported for 1977 and 1981, 36 reported increases in the volume of criminal filings, and 38 reported increases of civil filings.

Judges are selected by popular election, by appointment, or by the merit plan

Thirty-two States use elections to select some judges; 19 States elect intermediate appeals court judges. Most judicial elections are nonpartisan, a method of selection designed to keep the judiciary insulated from partisan politics. In 37 States, some judges are appointed. Under the merit system, independent judicial commissions, which select nominees based on merit, operate in 22 States for initial selection although many other States also use the merit system to fill vacancies. In some States that use the merit system, voters may approve or disapprove of reappointments after the judge's initial term.

The separate system of justice for juveniles often operates within the existing court organization

Jurisdiction over juvenile delinquency, dependent or neglected children, and related matters is vested in various types of courts. In many States, the juvenile court is a division of the court of general jurisdiction. A few States have statewide systems of juvenile or family courts. Juvenile jurisdiction is vested in the courts of general jurisdiction in some counties and in separate juvenile courts or courts of limited jurisdiction in others. However the juvenile courts are organized, they process juveniles under a separate system based on the concepts of non-culpability and rehabilitation.

Most cases that are prosecuted result in convictions

Most cases brought by prosecutor result in a plea of guilty

Jurisdiction	Cases resulting in a plea of guilty	Number of cases filed
Rhode Island	79%	3,367
Kalamazoo Mich.	79	710
Milwaukee, Wis.	74	2,689
New Orleans, La.	70	3,894
Indianapolis, Ind.	67	1,491
Louisville, Ky.	66	1,496
St. Louis, Mo.	64	3,388
Manhattan, N.Y.	63	25,233
Los Angeles, Calif.	61	22,258
Salt Lake City, Utah	56	1,852
Washington, D.C.	51	6,857
Golden, Colo.	49	1,739
Geneva, Ill.	48	913

Source: B. Boland, INSLAW, Inc., *The prosecution of felony arrests*, (Washington: BJS, forthcoming 1983).

Many guilty pleas are the result of plea negotiations

According to McDonald's recent study, a negotiated plea occurs when a defendant pleads guilty with the reasonable expectation that the State will give some consideration such as reduction in the number or severity of the charges and/or a more lenient sentence.

Guilty pleas are sometimes explicitly traded for a less severe charge or sentence, but they also result from a straightforward admission of guilt by a defendant. This may result from a hope or impression that such a plea will be rewarded by a lighter sentence or from a concern that a trial will reveal damaging evidence.

The predominance of guilty pleas is not new in the criminal justice system. A study in Connecticut covering the 84 years from 1880 to 1954 concludes that between 1880 and 1910 only 10% of all convictions were obtained by trial.<sup>1</sup> In Boland's study of felony dispositions in 1979, the proportion of guilty pleas from all convictions in 13 jurisdictions ranged from 81% in Louisville to 97% in Manhattan Borough, New York.

Some jurisdictions have adopted an anti-plea-bargaining policy

According to McDonald, prohibitions against plea bargaining have been adopted in Alaska; New Orleans,

Louisiana; El Paso, Texas; Blackhawk County, Iowa; Maricopa County, Arizona; Oakland County, Michigan; and Multnomah County, Oregon. Many other jurisdictions have plea negotiation guidelines for prosecutors. Evaluations of Alaska's policy have shown that explicit plea bargaining has gradually disappeared.<sup>2</sup> McDonald found that eliminating or severely restricting plea bargaining by prosecutors had influenced judges toward greater leniency at sentencing.

A major reform has been to increase the responsibility of judges for ensuring fairness in plea negotiations

The judge does not examine the strength of the case against the defendant but does try to determine if unfair coercion was used to induce a plea.

The right that judges most commonly explain in open court to a defendant pleading guilty is the right to trial by jury. McDonald reports that about 30% of the time, judges asked the defendant if promises other than the plea agreement had been made; 65% of the time they asked if any threats or pressures had caused them to plead guilty. Judges rejected only 2% of the guilty pleas observed.

Most felony cases that reach trial are tried before a jury

A person accused of a crime is guaranteed a trial by jury. However, the accused may waive the right to trial by jury and be tried by a judge who serves as finder of fact and determines issues of law. Such trials are called bench trials. Brosi showed that the percentage of trials to felony filings was no more than 21% in all 12 jurisdictions studied. The mix of bench and jury trials for five jurisdictions was also reported as follows:

	Number of post-filing dispositions	Number of trials		
		Total	Jury	Bench
Los Angeles	7,064	922	489	433
Detroit	5,250	983	590	393
Washington	2,441	262	257	5
New Orleans	1,354	255	145	110
Indianapolis	985	206	140	66

Source: K. Brosi, *A cross-city comparison of felony case processing* (Washington: Institute for Law and Social Research, 1979), pp. 48-49.

Most cases that go to trial result in conviction

The conviction rate at trial varies by jurisdiction because of —

- Differences in screening policy
- Pleas in strong cases resulting in a relatively weaker mix of cases going to trial.

	Felony cases tried (1979)	
	Resulted in conviction	Number tried
Geneva, Ill.	96%	24
Salt Lake City, Utah	84	137
Louisville, Ky.	77	296
Indianapolis, Ind.	77	226
Los Angeles, Calif.	73	1,966
Milwaukee, Wis.	73	198
New Orleans, La.	70	690
Manhattan, N.Y.	70	675
Washington, D.C.	68	629
Kalamazoo, Mich.	68	68
St. Louis, Mo.	64	157
Rhode Island	64	111
Golden, Colo.	64	63

Source: B. Boland, INSLAW Inc., *The prosecution of felony arrests*, (Washington: BJS, forthcoming 1983).

18 States and the District of Columbia require a unanimous verdict in all trials

Currently, 45 States require unanimity in criminal verdicts, but 28 of these States do not require unanimity in civil verdicts. Five States (Louisiana, Montana, Oregon, Oklahoma, and Texas) do not require unanimous verdicts in criminal or civil trials.

The proportion of jury votes needed to convict varies among jurisdictions that do not require unanimity, ranging from two-thirds in Montana to five-sixths in Oregon.

All States require unanimity in capital cases, and the U.S. Supreme Court does not permit a criminal finding of guilt by less than a six-person majority. Thus, a six-person jury must always be unanimous in a criminal finding of guilty.

## The Sixth Amendment provides the right of a defendant to a speedy trial

### Concern about court delay is not new

As early as 1818, the legislature in Massachusetts adopted the auditor system to ease court congestion and delay.<sup>3</sup> However, what constitutes unreasonable delay in criminal proceedings has been difficult to define. In *Baker v. Wingo* (1972), the Supreme Court set down four factors to be weighed in determining whether a defendant had been denied his right to a speedy trial:

- Length of the delay
- Reasons for the delay
- Whether the defendant sufficiently assisted his right to a speedy trial
- Whether delay prejudiced the case of the defendant.

### New State and Federal laws safeguard the defendant's right to a speedy trial

The new "speedy trial laws" attempt to give precision to the guarantee of a speedy trial by introducing quantitative measures of unacceptable delay.

The Federal Speedy Trial Act of 1974 specifies time standards for each stage in the Federal court process. Thirty days are allowed from arrest to filing of an indictment or an information; 70 days are allowed between information or indictment and trial. Certain time periods, such as defense-requested continuances, are not counted. If the case processing time exceeds the limit, the case may be dismissed.

A number of States have passed laws modeled after the Federal law and the speedy trial standards of the American Bar Association. These laws differ somewhat on such matters as the kinds of events that do not count as elapsed time, but the major difference among them is in the amount of time they allow between arrest to trial. In New York State, the time limit is 180 days; in Louisiana, the limit is 730 days (2 years) for noncapital offenses and 1,095 days (3 years) for capital cases. Many speedy trial provisions set shorter time limits for the disposition of cases if the defendant is being detained.

### Most criminal cases are disposed of in 6 months or less, except in chronically delayed State courts

	Court disposition time*	
	Days required to process 50% of cases	Cases requiring more than 180 days
Wayne County, Mich.	64 days	10%
Portland, Ore.	67	3
New Orleans, La.	67	16
San Diego, Calif.	71	6
St. Paul, Minn.	74	5
Atlanta, Ga.	77	15
Seattle, Wash.	82	12
Pittsburgh, Pa.	103	9
Cleveland, Ohio	103	24
Ft. Lauderdale, Fla.	105	16
Miami, Fla.	106	22
Phoenix, Ariz.	114	14
Dallas, Tex.	115	28
Oakland, Calif.	116	29
Pontiac, Mich.	122	32
Philadelphia, Pa.	168	38
Houston, Tex.	181	52
Newark, N.J.	209	57
Bronx County, N.Y.	343	75

\*The time from arrest to either verdict, dismissal, guilty plea, or formal determination of entry into diversion or other special program.

Source: T. Church, Jr., et al., *Justice delayed: The pace of litigation in urban trial courts*, (Williamsburg, Va.: National Center for State Courts, 1978), p. 18.

### Cases resulting in trials generally take longer than ones that end in dismissals or guilty pleas

In the 14 jurisdictions studied by Boland, most felony cases were disposed of within 4 months from arrest. On average, cases that went to trial took more than 6 months.

### Most case processing time is consumed after filing

	Average number of days	
	Arrest to filing of charges	Filing of charges to disposition
Atlanta, Ga.	23	45
Bronx County, N.Y.	24	328
Cleveland, Ohio	28	71
Detroit, Mich.	21	33
New Orleans, La.	12	50
Newark, N.J.	79	99
Oakland, Calif.	36	58
Pontiac, Mich.	34	78
San Diego, Calif.	22	45

Source: T. Church, Jr., et al., *Justice delayed: The pace of litigation in urban trial courts*, (Williamsburg, Va.: National Center for State Courts, 1978), pp. 95-97.

### In some courts, long delays occur between conviction and sentencing

In 1977, before innovations were introduced in Las Vegas, 43 days elapsed between the end of trial and sentencing in half the cases. Some State laws have set 30 days as the limit between trials and sentencing. However, the many State courts that do not control the agencies that make presentence investigations can do little to reduce delays in this aspect of case processing.

### National standards recommend speedy hearings in juvenile courts

While it is seldom expressed in the context of the speedy trial provision of the Sixth Amendment, national standard-setting organizations generally agree on the need for speedy hearings in juvenile courts, particularly for alleged delinquents being held in detention. It is widely recommended that detention hearings take place within 24 to 48 hours, with periodic reviews every 7 to 10 days. It is further recommended that the same time restrictions be placed on intake departments to finish their investigations and to make their recommendations for juveniles held in detention. For nondetained juveniles, intake officials are to make recommendations within 30 days. Initial hearings for nondetained juveniles are recommended to be held within 3 to 5 days of filing the petition.

In recognition of these standards, many States have adopted what is known as trifurcated proceedings, in which separate hearings are held to determine—

- Whether a detained juvenile should continue to be held pending a hearing. Usually a detention hearing must be held within 1 to 3 days of the time of detention.
- If the juvenile is delinquent in accordance with the petition filed against him or her. These adjudicatory hearings are usually required to take place within 30 days for detained juveniles.
- What disposition should be ordered for a juvenile who has been adjudicated delinquent. Disposition hearings are generally ordered to take place within 30 days of adjudication.

## Defendants are entitled to trial by a jury of their peers

### Names of prospective jurors are selected from lists intended to make jury pools representative of the community

Twenty-three States use the voter registration list as the sole source of names for jury service. The use of merged voter and driver's license lists is either permitted or required by 10 States and the District of Columbia. A multiple-source list expands the pool from which jurors are drawn and may achieve more representative jury pools.

### Most States have statutory exemptions for jury service

The most common statutory exemptions are for undue hardship or public necessity, for personal bad health, or for persons serving as judicial officers. Many States also exempt specific occupations such as attorneys, doctors or dentists, clergy, elected officials, police officers, firemen, teachers, and sole proprietors of businesses.

### Only 15% of American adults have ever been called for jury duty

According to the Center for Jury Studies, the limited number of adults who have served as jurors results from several factors including—

- The age limits on prospective jurors set by many States
- The use of voter registration lists that represent only a portion of eligible voters (71% at the 1976 Presidential election)
- The replacement of names of jurors into the jury pool at too frequent intervals
- The number of exemptions to service permitted by law or granted by the court.

### The maximum period of service required of a juror varies by State

- 6 States (Alabama, Florida, Louisiana, Mississippi, North Carolina, and South Carolina) have terms of service of 1 week.
- 14 States limit terms to 2 weeks.
- 8 States do not specify terms.
- Vermont has the longest statutory limit with a 2-year term.

### Innovations have eased the burden of being a juror

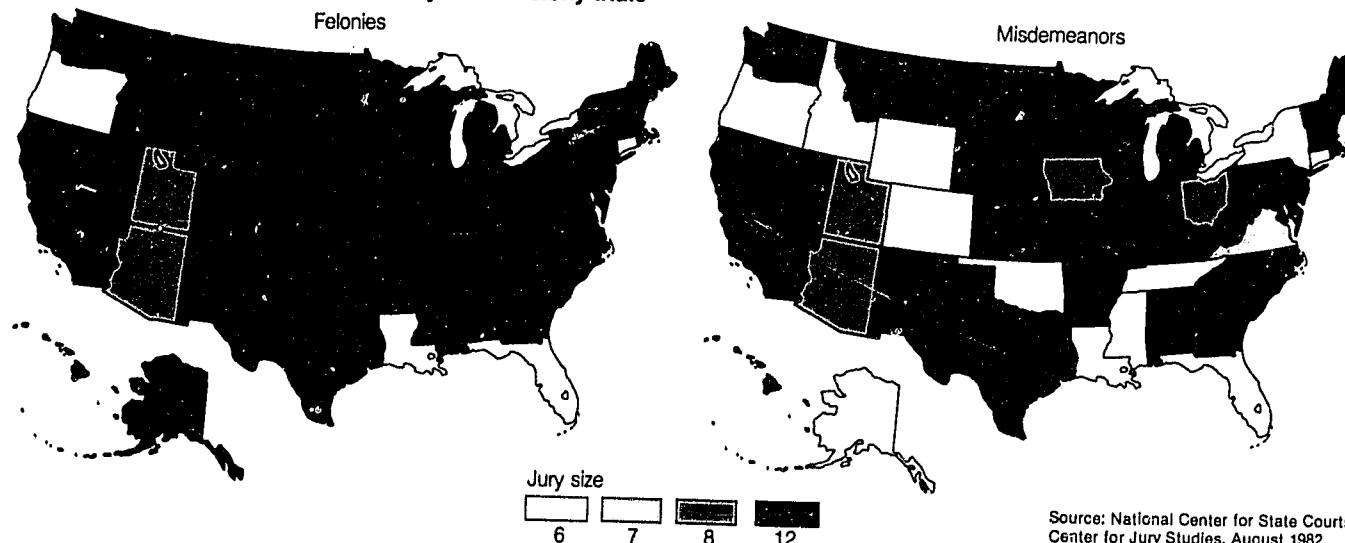
- 39 courts in 18 States have jurisdictions wherein a juror is called on for only 1 day to be available to sit in a single trial. Only if selected for a trial would a juror serve more than 1 day, until again randomly selected for jury service. It was recently estimated that 11% of the U.S. population resides in one-day/one-trial jurisdictions.

- Courts in 50 States (including all courts in 2 States) use a juror call-in system. In these States, jurors can dial a number to learn whether their attendance is needed on a particular day during their term of service.

### All States compensate trial jurors

Amounts provided to jurors range from \$3 a day in Colorado to \$30 a day in New Hampshire, Vermont, and the District of Columbia. Some States pay more when jurors actually serve on trials or after the juror has served for a specific period of time. Thirty-eight States also provide for travel reimbursement that ranges from 2¢ a mile in New Jersey to 20¢ a mile in Hawaii.

### All States require 12-member juries in capital cases; 6 States permit less than 12-member juries in felony trials



Source: National Center for State Courts, Center for Jury Studies, August 1982.

How does the criminal justice system handle the mental health of defendants?

In all States and the Federal courts, defendants may be found incompetent to stand trial

Defendants may be incompetent to stand trial on the basis of their mental health if they are found to be unable to understand the proceedings against them or to properly assist in their own defense. Such findings usually follow a court-ordered mental evaluation of the defendant.

According to Roesch and Golding, most defendants referred for competency evaluations are found competent. If found incompetent, a defendant may be committed for treatment until competent to stand trial.

In 1977, the Supreme Court held in *Jackson v. Indiana* that defendants found incompetent to stand trial could not be held indefinitely as a result of incompetency and that any such commitments must be justified by treatment progress. Some States have responded to this decision by setting treatment time limits after which defendants must be released. In all States, such defendants may be recommitted under civil commitment laws.

A defense of insanity is recognized by all but two States

Two States—Montana and Idaho—have passed laws that abolish the insanity defense. In Idaho, however, psychiatric evidence is allowed on the issue of the intent to commit a crime.

In most States, a formal notice of an intent to rely on the insanity defense must be filed by defendants who wish to claim insanity as a defense. Such defendants enter a plea of not guilty at time of trial.

One of two definitions usually governs the insanity defense

According to the American Bar Association, all Federal jurisdictions and 25 of the States use the definition adopted by the American Law Institute (ALI) in 1962 as part of the ALI Model Penal Code. It states that "A person is not responsible for criminal conduct if at the time of such conduct and as a

result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law."

Most other jurisdictions use the M'Naughton rule, formulated by the British House of Lords in 1843. It states that to establish a defense on the ground of insanity it is necessary to prove clearly that at the time of committing an act the party accused was laboring under such a defect of reason from disease of mind as not to know the nature and quality of the act or if he did know it he did not know that he was doing what was wrong. Lawyers call this the cognitive test, because the language hinges on "knowing." Some jurisdictions modify the M'Naughton rule by reference to "irresistible impulse." New Hampshire uses a rule devised by its Supreme Court in 1871, that a person is absolved of responsibility if the act committed is the offspring or product of mental disease.

Competency to stand trial and the insanity defense are frequently confused

The issue of insanity refers to the defendant's mental state at the time of the crime while the issue of competency concerns the ability of the defendant to assist in the preparation of his or her defense or to understand the proceedings. For example, a defendant may be found competent to stand trial but be found not guilty by reason of insanity.

States vary in many specific ways in their handling of an insanity defense

Variations relate to the definition of insanity, the availability of an alternate verdict of guilty but mentally ill, and the burden of proof. In all Federal jurisdictions and 24 States, the prosecution must prove that the defendant is sane after the defense introduces sufficient evidence to alter the presumption of sanity. In 26 States, the burden falls on the defense to prove the defendant's insanity.

Eight States provide a verdict of guilty but mentally ill

In States where this verdict is available, it is an alternative to (but does not preclude) a verdict of not guilty by reason of insanity.

According to the American Bar Association, since 1975, eight States have adopted the verdict of guilty but mentally ill; in chronological order, they are Michigan, Indiana, Illinois, Georgia, Kentucky, New Mexico, Delaware, and Alaska. Other States are considering adding such a verdict to those permitted by law.

The largest group of convicted or accused persons admitted to mental health facilities are drawn from the prison population

As shown below, in 1978 prison inmates made up 54% of the convicted or accused who were admitted to mental health facilities. The not-guilty-by-reason-of-insanity admissions, though a small fraction of all admissions (8%), constitute a much larger portion of the daily census (22%) due to a comparatively longer stay in mental health facilities. By contrast, the incompetent-to-stand-trial cases (32% of admissions) are reduced in the daily census (24%) due to fairly short lengths of stay and return to court for trial or consideration for civil commitment.

Legal status	In 1978			
	Admitted to mental facilities	In mental facilities on a single day	Total	%
Incompetent to stand trial	6,420	32	3,400	24
Not guilty by reason of insanity	1,625	8	3,140	22
Mentally disordered sex offenders	1,203	6	2,442	17
Mentally ill inmates	10,895	54	5,158	37
Total	20,143	100	14,140	100

Note: Percents may not add to 100% because of rounding.  
Source: Henry J. Steadman et al., "Mentally disordered offenders: A national survey of patients and facilities," *Law and Human Behavior* 6(1):31-38 (1982).

Criminal case appeals make up a small portion of the appellate caseload

Both convictions and sentences may be appealed

Defendants appeal their convictions on grounds that their rights were allegedly violated during the criminal justice process. The reversal of a conviction on appeal only sets aside the prior conviction. Defendants may be retried. In many States, criminal appeals are a matter of right and some States provide for an automatic appeal in death sentence cases. A sentence may be appealed on the grounds that it violates the Constitutional prohibition against cruel and unusual punishment.

Most criminal case appeals are decided in State courts

Cases originating in State courts are usually appealed through the State's appellate court system. State cases that involve a Constitutional question may be appealed to the U.S. Supreme Court.

Almost four-fifths of all appeals, including writs, are decided by State courts. The U.S. Supreme Court decides about 150 cases per year with full opinion. For State supreme courts, 200 to 300 cases decided with opinion is generally considered the norm.

In 1982 more appeals were filed in Federal appeals courts than at any time in their history

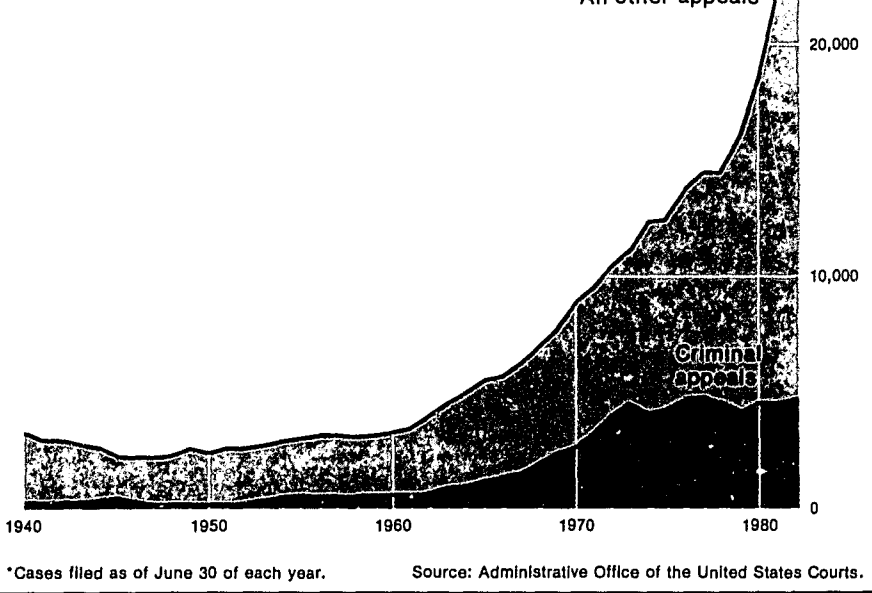
In 1982, 4,767 or 17.1% of the appeals filed were criminal cases. This was an increase over 1981, but the proportion of criminal appeals to other appeals was greatest during the 1970's when it reached an alltime high of 28.5% in 1973. In 1982, the 13,267 private civil appeals filed in U.S. Courts of Appeals represented the largest group of appeals.

The rate of appeal of Federal criminal convictions is very high. In some circuits, appeal is virtually automatic in criminal cases.<sup>4</sup> The rate of reversal is fairly low.

States have also had to contend with rising appellate caseloads

State appellate judges have had an increasing number of cases to handle; most States had a yearly increase of

The number of appeals in Federal criminal cases increased greatly in the early 1970's but has remained relatively constant since 1975



9% or greater in the 1970's.<sup>5</sup> The number of judges in State appellate courts grew at only one-sixth the rate of the appellate caseload in the 1970's.<sup>6</sup> Intermediate appellate courts were a principal means of meeting the increased caseload.

Petitions to the Federal courts by State prisoners claiming they are unlawfully detained are rarely successful

These petitions, known as writs of habeas corpus, are the primary means by which State prisoners have their convictions reviewed in the Federal courts. Such petitions can be heard by the U.S. district courts after a prisoner has exhausted all State remedies. Few habeas corpus petitions are successful. One study revealed that only 3% of the State petitions in Federal court resulted in relief.<sup>7</sup> The number of actions filed in Federal courts by State prisoners, including both habeas corpus and civil rights petitions, has more than doubled since 1970.

Few juvenile cases are appealed

Since 1967, juveniles have had the legal right to appeal juvenile court adjudications (*In re Gault*). At that time, State laws were not uniform. Over the past 15 years, State codes have been amended to acknowledge this right.

Prosecutors may file criminal charges against juveniles in States that grant concurrent jurisdiction to juvenile and criminal courts. This discretionary power is usually limited to certain crimes or to juveniles of specified ages. Once exercised, the prosecutor's decision to file criminal (instead of delinquency) charges is not subject to appeal.

In most States that permit transfers of juveniles to adult courts through judicial waivers, the waiver decision is appealable, but only after conviction in criminal court. In rejecting appeals prior to criminal prosecution, courts have ruled that the transfer order is not a final order and, therefore, does not necessitate an appeal in the absence of a statutory requirement.



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## Section 5. Sentencing and corrections

### Through sentencing, society expresses its objectives for the correctional process

#### The sentencing of criminal offenders is a reflection of multiple and often conflicting social objectives

These objectives are—

- **Rehabilitation**—removing or remediating presumed causes of crime by providing economic, psychological, or socialization assistance to offenders to reduce the likelihood of continuing in crime
- **Deterrence**—sanctioning convicted offenders to reduce crime by making the public and the offender aware of the certainty and severity of punishment for criminal behavior
- **Incapacitation**—separating offenders from the community to reduce the opportunity for further commission of crime
- **Retribution**—punishing offenders to express societal disapproval of criminal behavior without specific regard to prevention of crime by the offender or among the general public.

#### Attitudes about sentencing reflect multiple objectives and other factors

Hogarth's research on judicial sentencing attitudes and practices has shown that judges vary greatly in their commitment to one or more of these objectives when imposing sentences. Public opinion, as well, shows considerable divergence about the objectives to be served in sentencing. Like judges and the general public, legislators and the criminal penalties they fashion tend to mirror this lack of consensus.

Further complicating sentencing laws is the need for such penalties to be grounded in concerns for—

- **Fairness**—the severity of the punishment should be commensurate with the crime
- **Equity**—like crimes should be treated alike
- **Social debt**—the severity of punishment should take into account prior criminal behavior.

#### Judges are usually given a wide range of discretion in sentencing offenders

Maximum sentences are generally set by law, but judges can sometimes impose—

- Alternatives to imprisonment such as probation, fines, restitution to victims, or community service (such as cleaning up a public park),
- Combined sentences of a short period in a local jail (or prison in some States) followed by probation in the community, or
- Sentences to prison with a minimum time to be served in confinement or they can leave the sentence duration indeterminate (to be set by paroling authorities).

#### Disparity and uncertainty resulted from the lack of consensus over sentencing goals

By the early 1970's, researchers and critics of the justice system began to reveal that the mixed goals of the justice system and the discretionary opportunities for judges to fashion sanctions had—

- Reduced the *certainty* of sanctions, thereby presumably eroding the deterrent effect of corrections,
- Resulted in disparity in the *severity* of punishment with differences in the length and duration of sentences, and
- Been based on assumptions that could not be validated about the ability of various programs to change offender behavior or predict future criminality.

#### Sentencing reforms of the 1970's took two approaches—administrative and statutory

The administrative approach called on judges and parole boards to accept and apply voluntary guidelines for the kind and duration of punishment to be imposed on offenders for each type of crime and to regularize the sentencing adjustments made for such factors as the seriousness of the offense and the offender's criminal record.

The statutory approach called for laws that specify mandatory prison terms for specific crimes and fixed terms of imprisonment for certain classes of crimes.

Reforms of the 1970's sought to—

- Clarify the aims of sentencing
- Reduce disparity and discretion
- Channel limited resources into a more predictable penalty system
- Provide sanctions consistent with the "just deserts" concept.

Between 1975 and 1982—

- 10 States, beginning with Maine, abolished their parole boards
- Several States established administrative guidelines for determining parole release to minimize disparities in the length of prison stay
- More than 35 States enacted laws that require minimum sentences to incarceration for specified crimes
- Many States began to experiment with new forms of sentencing guidelines designed by the judiciary or by appointed sentencing commissions.



### States primarily use three strategies for sentencing

• **Indeterminate sentences** usually provide a minimum and a maximum term, either of which may be reduced by "good time" (time credits gained by inmates for good conduct or special achievement) or by a decision of the paroling authorities. The maximum sentence may be set as a range (for example, 5 to 10 years) rather than a specific number of years.

• **Determinate sentences** usually provide a fixed term that may be reduced by good time or parole. Judicial discretion may be available to grant probation or suspend the sentence. Sentencing laws generally provide a maximum (or a range) for sentence duration. Determinate systems are usually based on a definite length for a sentence that can be increased or decreased for aggravating or mitigating factors or on guidelines that define sentence lengths, deviations from which must be justified by sentencing judges.

• **Mandatory prison sentences** are defined by law and must be given upon conviction; the judge is not permitted to grant probation or to suspend the sentence.

### Most States apply a combination of sentencing strategies

Many States may have a predominant orientation toward one strategy (for example, indeterminate) and require another strategy (for example, mandatory sentences) for specific offenses. The strategies utilized by States are constantly evolving, thus complicating overall classification. As of September 1981, for example, some States that required mandatory prison sentences for certain offenses used a predominantly indeterminate strategy while others used a determinate strategy.

### Most States have some mandatory sentencing provisions

	Type of sentencing	Mandatory sentencing	Mandatory offenses
Alabama	Determinate	Yes	Repeat felony
Alaska	Determinate, presumptive	Yes	Murder, kidnaping, firearms, repeat felony
Arizona	Determinate, presumptive	Yes	Firearms, prior felony convictions
Arkansas	Determinate	Yes	Robbery, deadly weapons
California	Determinate, presumptive	No	
Colorado	Determinate, presumptive	No	
Connecticut	Determinate	Yes	Sex assault with firearm, burglary, repeat felony, assault on elderly
Delaware	Determinate	Yes	Murder, kidnaping, prison assault, robbery, narcotics, deadly weapon, habitual criminal, obscenity, others
Florida	Indeterminate	Yes	Drug
Georgia	Determinate	Yes	Armed robbery, burglary, drugs
Hawaii	Indeterminate	No	
Idaho	Determinate	Yes	Firearm, repeat extortion, kidnap or rape with bodily injury
Illinois	Determinate	Yes	Major offenses, specified felonies and offenses, repeaters, weapons
Indiana	Determinate, presumptive	Yes	Repeat felony, violent crime, deadly weapons
Iowa	Indeterminate	Yes	Forcible felonies, firearms, habitual offenders, drugs
Kansas	Indeterminate	Yes	Sex offense, firearms
Kentucky	Indeterminate	No	
Louisiana	Indeterminate	Yes	Drugs, violent crime
Maine	Determinate	No	
Maryland	Determinate, guidelines	Yes	Repeat violent offenders, handgun
Massachusetts	Indeterminate	Yes	Firearm, auto theft, drug trafficking
Michigan	Indeterminate	Yes	Murder, armed robbery, treason, firearms
Minnesota	Guidelines	No	
Mississippi	Determinate	Yes	Armed robbery, repeat felony
Missouri	Determinate	Yes	Dangerous weapon, repeat felony
Montana	Indeterminate	Yes	Firearms
Nebraska	Indeterminate	No	
Nevada	Determinate	Yes	2nd degree murder, 1st degree kidnaping, sexual assault, firearm, repeat felony
New Hampshire	Indeterminate	Yes	Firearms
New Jersey	Determinate, presumptive	Yes	Sexual assault, firearms
New Mexico	Determinate, presumptive	Yes	Firearms
New York	Indeterminate	Yes	Specified violent and nonviolent felonies
North Carolina	Determinate, presumptive	Yes	Armed robbery, 1st degree burglary, repeat felony with firearm
North Dakota	Determinate	Yes	Firearm
Ohio	Indeterminate	Yes	Rape, drug trafficking
Oklahoma	Determinate	Yes	Repeat felony
Oregon	Guidelines, indeterminate	Yes	Drugs
Pennsylvania*	Guidelines, indeterminate	Yes	Selected felonies with firearms, within 7 years of prior convictions, in or near public transportation
Rhode Island	Indeterminate	No	
South Carolina	Determinate	Yes	Armed robbery, drugs, bomb threat
South Dakota	Indeterminate	No	
Tennessee	Determinate, indeterminate	Yes	Specified felonies, firearms, repeat felony
Texas	Determinate	Yes	Repeat felony, violent offenses
Utah	Indeterminate	No	
Vermont	Indeterminate	Yes	Drugs, violent crime
Virginia	Indeterminate	No	
Washington	Indeterminate	Yes	Firearms, rape, repeat felony
West Virginia	Indeterminate	Yes	Firearms in felony
Wisconsin	Indeterminate	No	
Wyoming	Indeterminate	No	

\*Pennsylvania updated as of December 1982.

Sources: A survey of mandatory sentencing in the U.S., Richard S. Morelli, Craig Edelman, Roy Willoughby, Pennsylvania Commission on Crime and Delinquency, September 1981. Judicial and executive discretion in the sentencing process: Analysis of felony State code

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## Current sentencing alternatives reflect multiple objectives

### What types of sentences are usually given to offenders?

**Death penalty**—In some States for certain crimes such as murder, the courts may sentence an offender to death by electrocution, exposure to lethal gas, hanging, lethal injection, or other method specified by State law.

- As of 1982, 36 States had death penalty provisions in law.
- Most death penalty sentences have been for murder.
- As of yearend 1982, six persons had been executed since 1977; and 1,050 inmates in 31 States were under a sentence of death.

**Incarceration**—The confinement of a convicted criminal in a Federal or State prison or a local jail to serve a court-imposed sentence. Custody is usually within a jail, administered locally, or a prison, operated by the State or the Federal government. In many States, offenders sentenced to less than 1 year are held in a jail; those sentenced to longer terms are committed to the State prison.

- More than 4,300 correctional facilities are maintained by Federal, State, or local governments including 43 Federal facilities, 791 State-operated adult confinement and community-based correctional facilities, and 3,500 local jails which are usually county-operated.
- On a given day in 1982, approximately 412,000 persons were confined in State and Federal prisons and approximately 210,000 persons were confined in local jails.

**Probation**—The sentencing of an offender to community supervision by a probation agency, often as a result of suspending a sentence to confinement. Such supervision normally entails the provision of specific rules of conduct while in the community. If violated, a sentencing judge may impose a sentence to confinement. It is the most widely used correctional disposition in the United States.

- State or local governments operate more than 2,000 probation agencies. These agencies supervise nearly 1.6 million adults and juveniles on probation.

**Split sentences and shock probation**—A penalty that explicitly requires the convicted person to serve a period of confinement in a local, State or Federal facility (the "shock") followed by a period of probation. This penalty attempts to combine the use of community supervision with a short incarceration experience.

- 1977 and 1978 California data reveal that by far the most common disposition in felony cases was a combined sentence of jail and probation.

**Restitution**—The requirement that the offender provide financial remuneration for the losses incurred by the victim.

- By 1979, nearly all States had statutory provisions for the collection and disbursement of restitution funds. In late 1982, a restitution law was enacted at the Federal level.

**Community service**—The requirement that the offender provide a specified number of hours of public service work, such as collecting trash in parks or other public facilities.

- By 1979, nearly a third of the States authorized community service work orders. Community service is often imposed as a specific condition of probation.

**Fines**—An economic penalty that requires the offender to pay a specific sum of money within the limit set by law. Fines are often imposed in addition to probation or as an alternative to incarceration.

- Many laws that govern the imposition of fines are undergoing revision. These revisions often provide for more flexible means of ensuring equality in the imposition of fines, flexible fine schedules, "day fines" geared to the offender's daily wage, installment payment of fines, and a restriction on confinement to situations that amount to intentional refusal to pay.

### Changes in sentencing have resulted in changes in correctional practices

Many of the sentencing reforms have led to changes in the way correctional systems operate.

- The growth of determinate and mandatory sentences over the past decade and dissatisfaction with the uncertainties of indeterminate sentences (particularly the concept of linking sentence duration to rehabilitative progress or predictions of future behavior by paroling authorities) have

led, perhaps most important, to modifications of the parole decision. Many States are experimenting with parole guidelines systems and amendments to good-time and other incentives for controlling behavior during confinement and determining a release date.

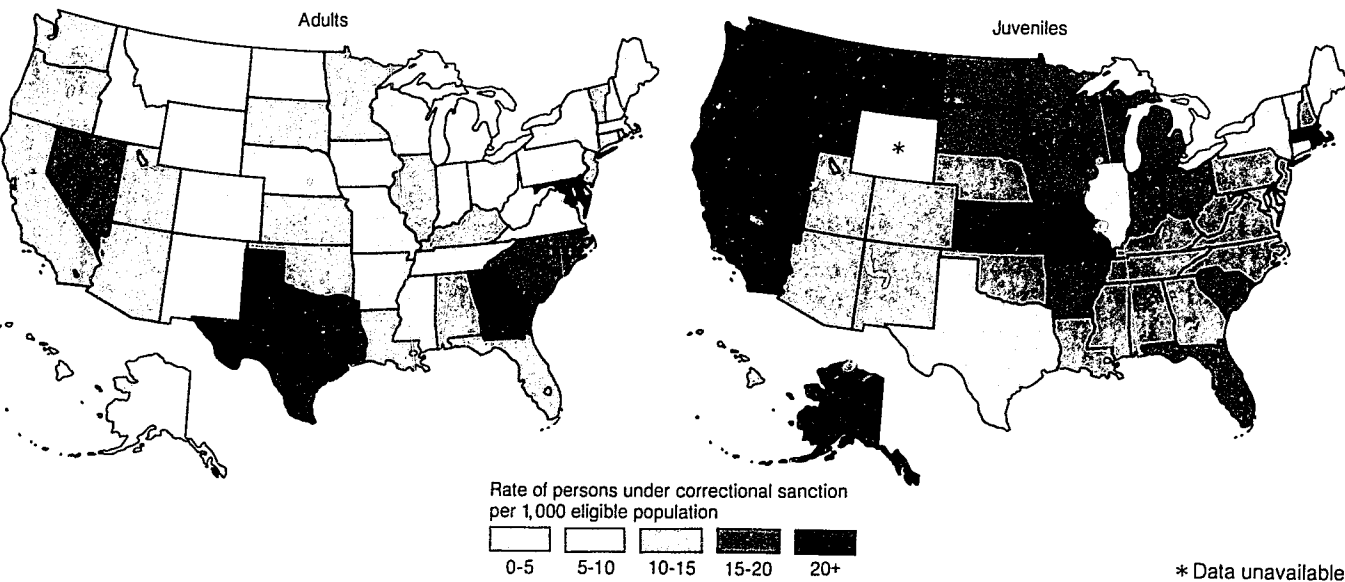
- New administrative requirements have also been attached to such traditional correctional practices as collecting victim restitution funds; imposing fees for probation supervision, room and board, and services

provided; and operating community-service punishments.

- The various sentencing reforms have led to small changes in the correctional clientele, such as lowering the age of juvenile court jurisdiction in some States; enactment of guilty but mentally ill provisions in a few States; and, in a small number of jurisdictions, the recent advent of laws providing for life sentences without parole.

How many people are under some form of correctional supervision?

More than 1% of the U.S. population is under some form of correctional sanction



Sources: "Prisoners in 1981," BJS bulletin, May 1982. "Census of jails and survey of jail inmates: Preliminary report," NPS bulletin SD-NPS-J-6P, February 1979. *Children in custody, 1979*, U.S. Bureau of the Census, forthcoming. "Probation and parole," BJS bulletin, August 1982. *State and local probation and parole systems*, February 1978.

Resident population—U.S. Bureau of the Census Supplementary Report P-25, number 913. Data on 1979 eligible juvenile population provided by U.S. Bureau of the Census, August 1982.

More than 2.4 million persons are estimated to be under some form of correctional care, custody or supervision

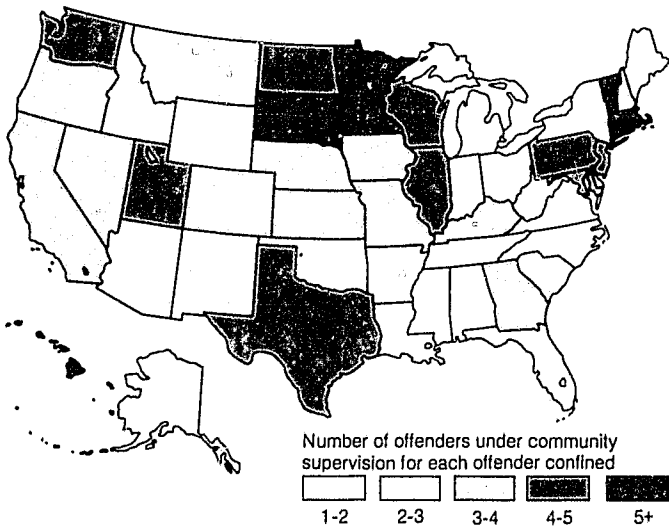
- 1.2% of all adults over age 18
- 1 in 45 adult males
- 1 in 441 adult females
- 1.5% of all eligible juveniles (age 10-17)

Adults (total)	1,973,000
Prison	369,000
Jail	158,000
Parole/other	224,000
Probation	1,222,000
Juveniles (total)	455,000
Detention*	74,000
Parole/aftercare	53,000
Probation	328,000

\*In public and private facilities.

Sources: *Prisoners in State and Federal Institutions 1981*, Survey of jail inmates 1978, *Parole in the United States 1979*, Probation in the United States 1979, *Juveniles in custody 1979*, *State and local probation and parole systems, 1978*.

Three out of four persons under correctional sanction are being supervised in the community



Sources: "Prisoners in 1981," BJS bulletin, May 1982. "Census of jails and survey of jail inmates: Preliminary report," NPS bulletin SD-NPS-J-6P, February 1979. *Children in custody, 1979*, Office of

Juvenile Justice and Delinquency Prevention. "Probation and parole," BJS bulletin, August 1982. *State and local probation and parole systems*, February 1978.

In all States, a majority of offenders are under community supervision rather than confinement

	Confined		Under supervision			Confined		Under supervision	
	Adults*	Juveniles*	Adults*	Juveniles*		Adults*	Juveniles*	Adults*	Juveniles*
Alabama	12,468	770	15,382	5,476	New Mexico	2,279	572	4,624	1,655
Alaska	1,062	373	1,454	892	New York	36,510	4,716	88,551	11,963
Arizona	7,695	1,218	15,608	3,944	North Carolina	18,557	1,201	45,247	7,244
Arkansas	4,560	901	6,718	4,546	North Dakota	425	193	1,227	1,403
California	57,453*	14,859	166,677	57,225	Ohio	20,345	3,734	36,471	21,669
Colorado	4,430	1,191	13,871	3,868	Oklahoma	6,924	1,265	17,400	4,197
Connecticut	4,647	614	26,962	2,296	Oregon	5,137	1,239	15,943	7,317
Delaware	1,716	206	4,517	800	Pennsylvania	15,763	3,272	63,361	16,975
Florida	33,501	2,740	51,582	16,372	Rhode Island	962	207	5,959	2,194
Georgia	22,299	1,419	66,202	10,259	South Carolina	10,855	767	22,476	7,136
Hawaii	1,202	145	5,465	1,245	South Dakota	946	382	5,259	1,359
Idaho	1,492	307	2,462	2,531	Tennessee	12,375	1,546	13,510	7,672
Illinois	19,257	1,691	74,196	10,376	Texas	42,433	3,118	173,473	15,728
Indiana	10,355	2,048	24,255	11,662	Utah	1,815	438	8,119	1,683
Iowa	3,367	814	10,635	5,387	Vermont	534	142	3,671	332
Kansas	3,746	1,425	14,162	5,152	Virginia	13,465	1,613	18,316	8,215
Kentucky	6,082	925	22,300	5,085	Washington	7,773	1,631	29,050	9,557
Louisiana	14,622	1,424	17,793	5,672	West Virginia	2,356	286	3,335	3,240
Maine	1,185	466	3,182	976	Wisconsin	6,242	1,273	22,920	9,103
Maryland	12,888	1,547	54,200	7,019	Wyoming**	802		1,335	
Massachusetts	6,096	804	30,618	15,222	Federal	28,133		65,293	
Michigan	20,700	2,714	32,135	18,701					
Minnesota	3,528	1,450	33,633	8,179	U.S. total	526,408	71,792	1,445,798	381,194
Mississippi	6,983	442	8,402	3,991					
Missouri	8,983	1,516	22,140	12,383					
Montana	1,102	291	3,011	2,097					
Nebraska	2,271	745	8,025	2,227					
Nevada	3,037	452	6,843	3,464					
New Hampshire	746	400	2,337	1,196					
New Jersey	10,831	1,815	45,032	12,045					

\*Includes estimated 2,093 adult inmates under the jurisdiction of the California Youth Authority.

\*\*Juvenile data from Wyoming excluded to protect confidentiality guarantees.

Sources: *Prisoners in 1981*, BJS bulletin, May 1982. *Census of jails and survey of jail inmates: Preliminary report*, NPS bulletin SD-NPS-J-6P (Washington: U.S. Department of Justice, February 1979). *Children in custody 1979* (Washington: U.S. Bureau of the Census, forthcoming). *Probation and parole*, BJS bulletin, August 1982. *State and local probation and parole systems*, February 1978.

Prison sentences for most inmates are much longer than the actual time they will serve

Sentences often have a wide variation between minimum and maximum terms and are longer for violent crimes

Offense	Average (median) sentence length in years		% of inmates sentenced to death or to life in prison
	Minimum	Maximum	
All crimes	4.3	8.6	10.6
Violent	5.6	13.3	15.3
Murder/attempted murder	10.5	21.9	33.3
Rape	5.8	14.9	13.4
Robbery	5.4	12.8	6.7
Property	2.7	5.6	2.2
Burglary	2.9	5.7	2.9
Larceny/auto theft	2.4	5.2	0.5
Forgery/fraud	2.6	5.4	1.4
Drug	3.0	5.7	13.1
Public order	2.3	4.5	3.7

Source: Survey of State Prison Inmates, 1979.

**Most prisoners are released before serving their maximum sentence**

Release from prison generally occurs as the result of the decision of a paroling authority, mandatory release, or expiration of sentence. In 1978 and 1979, four out of every five releases from prison were by parole.

- **Parole** is the release of a prisoner by the decision of a paroling authority. The offender is placed under the supervision of a parole officer who monitors the offender's compliance with rules of conduct imposed by the paroling authority.
- **Mandatory release** is based on earned "good time" (days earned for good behavior) or other statutory sentence-reduction measures and, though supervision is required after release, does not usually depend on the discretionary decision of a parole board.
- **Expiration of sentence** occurs when the maximum term imposed by the court is served and the offender must be released without further conditions or supervision.

**The release-from-prison process varies among jurisdictions**

How much time a prisoner will serve for a given offense usually depends on a long chain of decisionmaking processes that begin with the types of sentencing standards set by the State law, the degree of discretion allowed to a sentencing judge, and factors intrinsic to the particular prison system and paroling authority.

**Persons conditionally released from prison spend about a third of their maximum sentence in confinement**

Supervision by a parole agency is normally imposed on 75% to 80% of all persons released from prison. Data on persons entering such supervision in 1979 reveal that in half the cases the maximum sentence was at least 65 months but the average stay in confinement was only slightly more than 20 months. For those exiting parole, the average period of supervision in the community was about 21 months. Sentences to imprisonment appear to result in about equal lengths of confinement time and community supervision time, together accounting for nearly two-thirds of the maximum sentence.

**Parole is a selective process for releasing offenders**

The discretionary decision to release an offender on parole generally reflects a substantial weighing of information about the offender and the offense by the paroling authority.

- Nearly 2 out of every 3 parolees were committed to prison for a nonviolent offense compared with a prison population which is composed principally of persons incarcerated for violent offenses.
- Nearly 3 out of 4 entering parolees had never been confined prior to the immediate imprisonment for which parole was granted, but only about 1 in 3 inmates in the general prison population had such a background.
- 9 out of 10 persons released on parole had no prior record of parole violations.
- Parolees are also slightly younger than prison inmates; half of the parolees were younger than age 25.6 versus age 27.3 for inmates.

Juveniles receive dispositions rather than sentences

**Juvenile court dispositions tend to be indeterminate**

The dispositions of juveniles adjudicated to be delinquent extend until the juvenile legally becomes an adult or until the offending behavior has been corrected, whichever is sooner.

Of the 45 States that authorize indeterminate periods of confinement—

- 34 grant releasing authority to the State juvenile corrections agency
- 5 place such authority with the committing judges
- 6 delegate it to juvenile paroling agencies.

**The juvenile justice system is also undergoing changes in sentencing**

- Certain States, such as Georgia, Illinois, and New York, have new laws that mandate minimum periods of confinement when juveniles are adjudicated delinquent for having committed designated felonies.<sup>1</sup>
- Ohio recently set minimum periods of confinement in State facilities.<sup>2</sup>
- Washington uses a matrix of factors that requires variable minimum periods of confinement.<sup>3</sup>
- California imposes determinate periods of confinement for delinquents committed to State agencies on the basis of standards and guidelines promulgated by its paroling agency. Four States have adopted similar procedures, administered by the State agencies responsible for operating the juvenile corrections facilities. Although determinate sentencing is now used in six States, it does not apply to all offenses or offenders. In most cases, it applies only to specified felony cases or if the juvenile has prior adjudications for serious delinquencies.

**The outcomes of juvenile and adult proceedings are similar, but some options are not available in juvenile court**

For example, juvenile courts cannot order death sentences, life sentences, or sentences that could exceed the maximum jurisdiction of the court itself. In Arizona, the State supreme court held that, despite statutory jurisdiction of the juvenile courts to age 21, delinquents could not be held in State juvenile corrections facilities beyond age 18.<sup>4</sup>

Yet, juvenile courts may go further than criminal courts in determining the lifestyles of juvenile offenders who are placed in the community under probation supervision. For example, the court may order them to live in certain locations, to attend school, and to participate in programs that are intended to improve their behavior.

The National Center for Juvenile Justice estimates that almost 70% of the juveniles whose cases are not waived or dismissed are put on probation; about 10% are committed to an institution.<sup>5</sup>

**Almost 72,000 juveniles were in custody at yearend 1979; 12,600 of them were awaiting adjudication or placement**

About half lived in detention centers, training schools, or other institutions; this group was held under restrictive physical security and had limited contact with the outside community. The other half resided in shelters, group homes, or other open settings with minimal control.

Slightly more than two-thirds of the juveniles in custody were classified as delinquent; the other third were held for other reasons (status offenders, 13%; voluntary admissions, 9%; dependent, neglected, or abused juveniles, 8%; and emotionally disturbed or mentally retarded youth, 2%).

More than a third of all juveniles in custody were held in privately operated facilities.

**Juvenile offenders are housed in many kinds of facilities**

The range of facilities and programs—the housing of delinquents, status offenders, voluntary admissions, and dependent and neglected children in the same facilities—coupled with the participation of both the public and private sectors clearly distinguishes juvenile corrections from adult corrections.

A total of 2,576 public and private juvenile custody facilities were in operation nationwide at yearend 1979. Such facilities include detention centers, training schools, diagnostic centers, shelters, ranches, and group homes.

Four out of five public facilities are secure residences where residents are controlled through staff monitoring or hardware restraints. Virtually all group homes and most ranch-type facilities are nonsecure.

A third of the juveniles in custody are held for reasons other than a criminal charge. Some local governments that contract with private facilities pay for the care of children placed by the courts or by social welfare agencies.

In what type of facilities are prisoners held?

Confined offenders are housed in three types of facilities

• **Jails** are operated by local governments to hold persons awaiting trial or those sentenced to confinement for less than 1 year. In seven jurisdictions (Vermont, Rhode Island, Connecticut, Delaware, Alaska, Hawaii, and the District of Columbia), jails are operated by the same authority that administers the prison system. On June 30, 1982, an estimated 209,582 persons were held in local jails.

• **Prisons** are operated by State or Federal governments to hold persons sentenced under State or Federal laws to terms of confinement of more than 1 year. In both 1981 and 1982, about 4% of the population under the jurisdiction of prison systems were persons sentenced to 1 year or less or were unsentenced; about 61% of this group were in the seven jurisdictions with consolidated prison and jail systems or in Federal institutions (including more than 1,200 persons held for immigration authorities). At yearend 1982, 412,303 persons were being held under the jurisdiction of State and Federal prison authorities.

• **Community-based facilities** are operated publicly or privately (under contract) to hold persons for less than 24 hours a day to permit the offender limited opportunities for work, school, or other community contacts. Such facilities are used for a variety of purposes including specialized intervention or assistance (for example, drug or alcohol treatment), graduated release from prison—usually prior to parole—or as a sanction in lieu of prison or jail confinement. In 1979, 11,010 offenders resided in such facilities.

What are the characteristics of jails?

Number of jails	3,493
Facilities with populations of—	
Less than 10	1,538
10-249	1,825
250 +	130
Year built	
Before 1875	156
1875-1924	732
1925-1949	768
1950-1969	1,182
1970-1978	655
Employees	70,517
% administration	25
% custodial	53
% service	9
% other	13

Source: American prisons and jails, vol. III, 1980.

Two out of every three local jails in 1978 housed an average of fewer than 21 inmates on a given day

In February 1978 there were 3,493 local jails in the United States, a decline of 544 from the number reported in March 1970. Of the 3,493 jails, 65% reported an average daily population of less than 21 inmates. By contrast, 4% (130) of the jails each housed more than 250 inmates.

The South, which operated about half the jails in the Nation, housed about 43% of the national inmate population on an average day in 1978. While only about 3 out of 10 jails in the Northeast housed an average of less than 21 inmates on a given day, nearly 8 out of 10 jails in the North Central States were of this size.

To varying degrees, rapid population turnover occurs in all jails. Nationally, the average population is about 10% greater on weekends than on average weekdays. However, the average population is about 20% greater on weekends than on weekdays in such States as Iowa, North Dakota, South Dakota, Nebraska, West Virginia, Kentucky, Arkansas, Oklahoma,

Montana, Idaho, New Mexico, and Alaska. By contrast, highly urban jurisdictions such as Massachusetts, New York, New Jersey, Pennsylvania, Illinois, the District of Columbia, and Maryland report less than 5% difference between average weekday and weekend populations.

Jails house diverse populations

Nationally, the jail population is composed of a mix of persons in various stages of criminal justice processing.

Among the jail inmates are persons who—

- Are awaiting arraignment or trial (the unconvicted)
- Have been sentenced to a term in jail
- Have been sentenced to prison but are awaiting transport
- Are being held in jail because of prison crowding; there were more than 8,200 such persons in 1982
- Have been convicted of a violation of probation or parole.

It is estimated that in 1982, 57% of all jail inmates were unconvicted; the other 43% had been convicted.

Community-based facilities house 4% of the population of State prison systems

Relatively few inmates (11,010) in 1979 were housed in 223 community-based facilities.

- Nearly 64% of such inmates were in Southern States; the largest number (1,873) was in Florida.
- Nearly half the facilities reported an average daily population of between 21 and 60 inmates, but about half of all inmates lived in a facility housing 41 to 100 inmates. One in nine such facilities reported that their inmate populations exceeded their rated capacities.
- Only about 16% of community-based residents reside in housing units designed for one person; 42% live in housing units for between two and four persons.
- Community-based facilities reported one employee for every 3.2 inmates, one administrative employee for every 25 inmates, one custodial employee for every 6 inmates, one clerical/maintenance worker for every 18 inmates, and one professional/technical employee for every 17 inmates.

What are the characteristics of prisons?

	Federal	State
Number of prisons	38	521
Security level		
Maximum	13	140
Medium	17	207
Minimum	8	174
Inmate population		
Less than 500	10	366
500-999	18	80
1,000 or more	10	75
Year built		
Before 1875	0	25
1875-1924	3	76
1925-1949	16	125
1950-1969	8	156
1970-1978	11	139
Prisoners housed		
Males	31	460
Females	2	40
Coed	5	21
Prison employees		
Number	8,626	83,535
% administrative	2.2	2.2
% custodial	42.4	62.9
% service	23.0	15.9
% other	32.4	19.0

Source: "Prison facility characteristics, March 1978," American prisons and jails, vol. III, 1980.

State prisons are generally old and large

Prisons hold a somewhat less diverse population than do local jails. A large proportion of prisons are old and have many of the maintenance and operational deficiencies associated with other old, high-use buildings.

- Nearly 96% of State and Federal prisoners are sentenced persons with terms of more than 1 year.
- In 1979, more than half of the Nation's inmates resided in facilities with average daily populations of 1,000 or more.
- Nearly 44% of the Nation's prisons are more than 30 years old and these institutions house about 61% of the inmates.
- More than 11% of the imprisoned population resides in facilities built before 1875, and 8 out of 10 inmates in the oldest prisons are in facilities that house more than 1,000 persons.

Prisons are often classified by the level of security

• **Maximum or close custody prisons** are typically surrounded by a double fence or wall (usually 18 to 25 feet high) with armed guards in observation towers. Such facilities usually have large interior cell blocks for inmate housing areas. About 41% of the maximum security prisons were built before 1925.

• **Medium custody prisons** typically have double fences topped with barbed wire to enclose the facility. Housing architecture is quite varied, consisting of outside cell blocks in units of 150 cells or less, dormitories, and cubicles. More than 87% of the medium-custody prisons were built after 1925.

• **Minimum custody prisons** typically do not have armed posts and may or may not have fences to enclose the institution. To a large degree, housing consists of open dormitories. More than 60% of the minimum security prisons were built after 1950.

About half of all prison inmates are in maximum security prisons

In 1979, 52% of all prison inmates were held under maximum security conditions; 37% under medium security; and 11% under minimum security.

The proportion of inmates held in maximum security facilities ranged from 94% in Texas to less than 10% in New Hampshire, North Carolina, and Wyoming. In 14 States, more than half of all prisoners were confined in maximum security institutions. In 1978, about one in five inmates resided in maximum security facilities that housed more than 1,000 inmates and that were built before 1925.

Of the 150 prisons built between 1970 and 1978, 85% hold an average daily population of less than 500 inmates and three-quarters were designed for medium or minimum security.

Inmate composition and custody levels are generally linked to the age of a facility

As facility age increases, the proportion of—

- Inmates residing in maximum security custody increases
- Inmates classified as maximum security increases

- Inmates residing in facilities housing 1,000 or more inmates increases
- Younger inmates declines
- Violent offenders increases.

As of March 1978	Date Federal or State prison opened					Total
	Before 1875	1875-1924	1925-1949	1950-1969	1970-1978	
Number of inmates	31,361	73,575	65,257	68,272	39,522	278,987
Percent	11	26	24	25	14	100%
% of inmates residing in maximum security	90	69	36	38	35	51%
% of inmates classified as maximum security	61	48	32	32	25	38%
% of inmates residing in facilities greater than 1,000 inmates	77	69	53	52	8	53%
% of inmates less than 25 years old	37	36	37	44	42	39%
% of inmates confined for a violent offense	52	49	40	45	37	45%

Source: American prisons and jails, vol. III, 1980.



More prisoners are housed in cells than in dormitories and in multiple- than single-occupancy units; most units provide less than 60 square feet of floor space per person

	U.S. total	Federal	State
Number of inmates	256,676	28,124	228,552
Type of housing			
Cells	61.7%	48.3%	63.4%
Dormitories	38.3	51.7	36.6
Occupancy			
Single	40.9	38.4	41.2
Multiple	59.1	61.6	58.8
Density (sq. ft.)			
Less than 60	64.6	61.2	65.0
60-79	22.8	29.2	22.0
80 or more	12.6	9.6	13.0
Inmate/staff ratios			
Total	2.8	3.3	2.7
Administrative	125.9	147.2	123.7
Custodial	4.6	7.7	4.4
Service	16.8	14.2	17.2
Other	13.7	10.1	14.4

Source: American prisons and jails, vol. III, 1980.

#### Crowding and conditions of confinement pose difficult problems in most States

During the 1970's, State and Federal courts began to examine closely the operations of correctional facilities to ensure compliance with Eighth Amendment protections against cruel and unusual punishment.

As of February 1983—

- The courts had declared unconstitutional the entire prison systems of Alabama, Florida, Mississippi, Oklahoma, Rhode Island, Tennessee, Texas, and all male penal facilities in Michigan.
- One or more facilities in 21 States were operating under a court order or consent decree as a result of inmate crowding and/or the conditions of confinement.
- Seven States were involved in litigation relating to crowding and/or the conditions of release.

#### Many States are under court order or face litigation because of crowding

% of crowded inmates*	Entire prison system declared unconstitutional	One or more facilities under court order	One or more facilities in litigation	No litigation on crowding pending
80-100%	Texas		North Carolina South Carolina	
60-79%	Florida Mississippi Tennessee	Georgia Illinois Louisiana New Mexico		Nebraska
40-59%	Alabama Oklahoma	Maryland Missouri Nevada Ohio Oregon Washington		Alaska Arkansas
20-39%		Delaware Utah Virginia Wyoming		Hawaii Idaho Kansas New York
Less than 19%	Michigan** Rhode Island	Arizona Colorado Connecticut Indiana Iowa Kentucky New Hampshire	California Maine Massachusetts West Virginia Wisconsin	Minnesota Montana New Jersey North Dakota Pennsylvania South Dakota Vermont***

\*Crowded inmates are defined as those inmates in multiple inmate confinement units that provide less than 60 square feet of floor space per person as of March 1978.

\*\*Male prisoners only.

\*\*\*Vermont State prison closed.

Sources: American prisons and jails, vol. III, CCLU Newsletter, January 1983.

- In eight States, courts had appointed receivers or masters to operate the correctional systems or facilities, had ordered emergency release of inmates as a result of crowding, or had ordered the closing of specific institutions.

#### Many States hold prisoners in local jails because of crowding in prisons

Between 1976 and 1982, the number of States holding State prisoners in local jails increased from 10 to 17, and the number of prisoners held in local jails rose from about 7,700 to about 8,200. The holding of prisoners in jails is a function of the rise and fall of prison populations in some States, but a few States have a chronic problem. At yearend 1982, nearly two-thirds of all State prisoners held in local jails because of prison overcrowding were in four States: Alabama, Louisiana, Mississippi, and New Jersey.

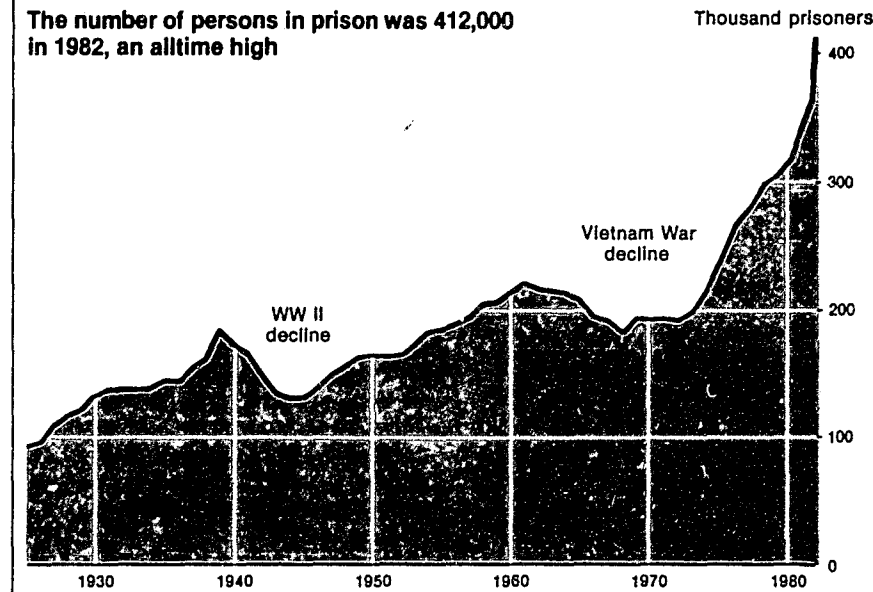
#### Many States are enlarging their prison systems or taking measures to control prison populations

Between October 1980 and September 1981, 36 States reported the addition of a total of nearly 20,000 beds with another 27,000 beds under construction and nearly 16,000 beds authorized by appropriation or bond issue. Nearly 60% of all the additions and planned additions to capacity are in the South.

Some States have developed statutory or administrative approaches to controlling prison population. Michigan's legislature approved an Emergency Prison Powers Act that is automatically triggered when its prisons are filled to capacity. The act provides for emergency reductions of prison terms and State use of local jails. Minnesota's sentencing guidelines provide for establishing sentence lengths to ensure a population/capacity balance.

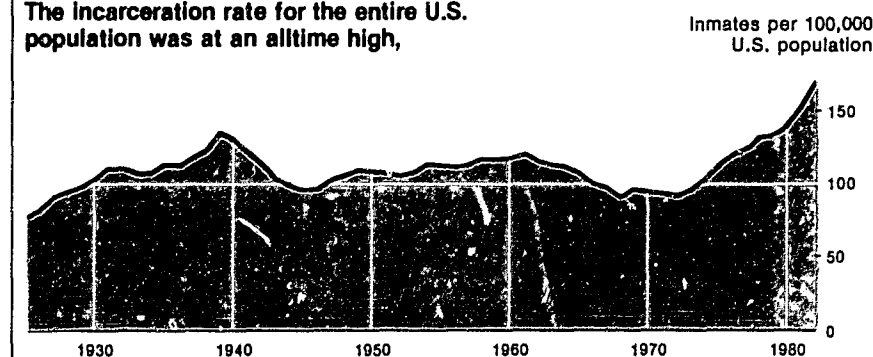
## What are the trends in correctional populations?

The number of persons in prison was 412,000 in 1982, an alltime high

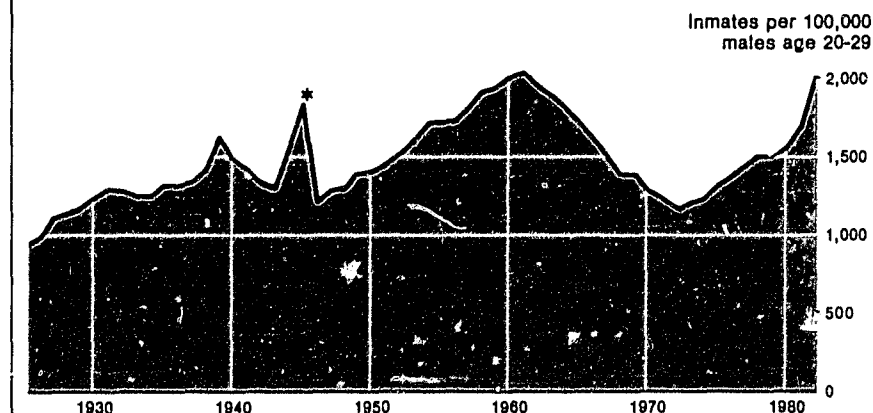


Source: Prisoners in State and Federal Institutions on December 31, 1982.

The incarceration rate for the entire U.S. population was at an alltime high,



but the rate for young adult males—while increasing—had not reached the peak of the 1960's



\*Base excludes soldiers overseas.

Sources: Prisoners in State and Federal Institutions on December 31, 1982. Population estimates from the U.S. Bureau of the Census.

The total population of State and Federal prisons increased by an average of more than 16,000 per year between 1977 and 1981

In 1981 alone, the net annual gain (37,309 inmates) was nearly 90% of the total gain from 1977 to 1980.

	Total admissions	Total releases	Net gains
1977	163,203	147,895	15,308
1978	162,574	154,484	8,090
1979	172,753	166,132	6,621
1980	182,617	169,826	12,791
1981	212,264	174,955	37,309

Average annual gain = 16,024.

#### The recent increases in prison population, while striking, are not unprecedented

From 1927 to 1931, for example, court admissions and conditional-release violators, two groups that account for most prison admissions, exceeded conditional and unconditional releases by an average of more than 14,000 inmates per year. By contrast, an average annual net loss of more than 10,000 inmates per year occurred between 1940 and 1944.

Between 1930 and 1981, the number of prison admissions received from courts grew by 143% from 66,013 to 160,272. During the same period, the number of males age 20-29 in the general population increased by 105%, for an average annual court commitment rate to prison of 666 per 100,000 males age 20-29. Thus, much of the change in the number of prison admissions received from courts is probably due to the growth in the number of males in the prison-prone age group. The 1980 court admission rate of 697 per 100,000 males age 20-29 is only about 5% higher than the average for the five decades since 1930.

#### Why are prison populations growing?

State departments of corrections attribute the increase in prison population to growth in the number of persons in the high-risk age group (age 20-29); changes in sentencing laws and practices that reflect increased interest in deterrence, incapacitation, and just deserts considerations; stricter law enforcement; and, in some cases, economic conditions.



**The court admission rate has remained relatively stable, but the number of conditional-release violators admitted to prison has increased**

In 1930, there were approximately 21 court admissions to prison for each conditional-release violator admitted; by 1981 this ratio had declined to 4.5 court admissions for each conditional-release violator admitted.

The growth in the number of conditional-release violators admitted to prison is obviously related to the increase in the number of persons released conditionally from prisons, an increase from about 30,000 in 1930 to 124,000 in 1981. Less obvious is the possibility that performance while on conditional release has been growing less successful or that supervision has become considerably more strict.

The ratio of conditional releases from prison to conditional-release violators admitted to prison has declined steadily. In 1930, this ratio was about 9.3 conditional releases for each conditional-release violator readmitted to prison; the same ratio was 7.4 in 1940, 4.9 in 1950, 3.9 in 1960, 3.6 in 1970, and 3.5 in 1981.

Over the 1930 to 1981 period, the proportion of conditional-release violators grew from about 13% of all admissions to prison to nearly 17%, while persons received from court declined by about 3% from 78.5% to 75.5% of all prison admissions.

**Trends in jail populations are not as dramatic as those of prison populations**

Over the period 1970-82, the 1-day count of jail residents increased from 160,863 to 209,582, a growth of 30%. Over the same period, the rate of confinement (the number of inmates per 100,000 general population) increased from 80 to 90 or by about 12.5%. However, if the rate is calculated on the number of males age 20-29 in the population, a decline of nearly 12% in the rate of jail confinement (from 1,106 in 1970 to 975 in 1982) would be observed. Jail populations in 1978 were slightly lower than in 1970.

These data suggest that jail populations generally have not been increasing at the rate experienced by prisons (a growth in population of more than 85% between 1970 and 1981). The reasons for such differences are not well understood but may be related to the rapid population turnover that occurs in jails. Based on 1982 data, it has been estimated that as many as 7 million admissions to jails may occur annually. If this is indeed the case, then small variations in 1-day counts probably understate the true magnitude of change over time in jail populations, activity and, most important, the number of persons who are confined in jail during a year.

**Annual admissions to juvenile facilities have been declining since 1974**

Over the period 1974-79, total admissions to juvenile facilities have declined by about 9.5%. Admissions to public facilities for juveniles declined by nearly 13%, while private facilities admissions increased by more than 29%.

Both public and private juvenile facilities demonstrated inconsistent patterns in 1-day counts of population over the time period. Public facilities increased such counts between 1974 and 1975 by about 2,000 and then declined by about 4,000 in 1977. Private facilities reported declines in both 1975 and 1979 over previous census counts.

Such inconsistencies between annual admissions and 1-day counts may reflect changes in length of stay. Between 1974 and 1979, length of stay in public facilities declined from an average of 118 days to 106 days. Over the same period, the length of stay in private facilities dropped 25% from an average of 349 days to 261 days. Such dramatic shifts in length of stay, particularly for private facilities, may help to account for a lower count in 1979 than in 1974 even though annual admissions were increasing.

The 1974-79 period was also marked by a rather dramatic increase in the number of public and private facilities available to house children. In 1974, there were 2,166 public and private facilities; by 1979, there were more than 2,550 facilities, an increase of nearly 18%.

**By the end of 1982, 37 States had death penalty laws in effect**

Of the more than 3,800 executions that have occurred since 1930—

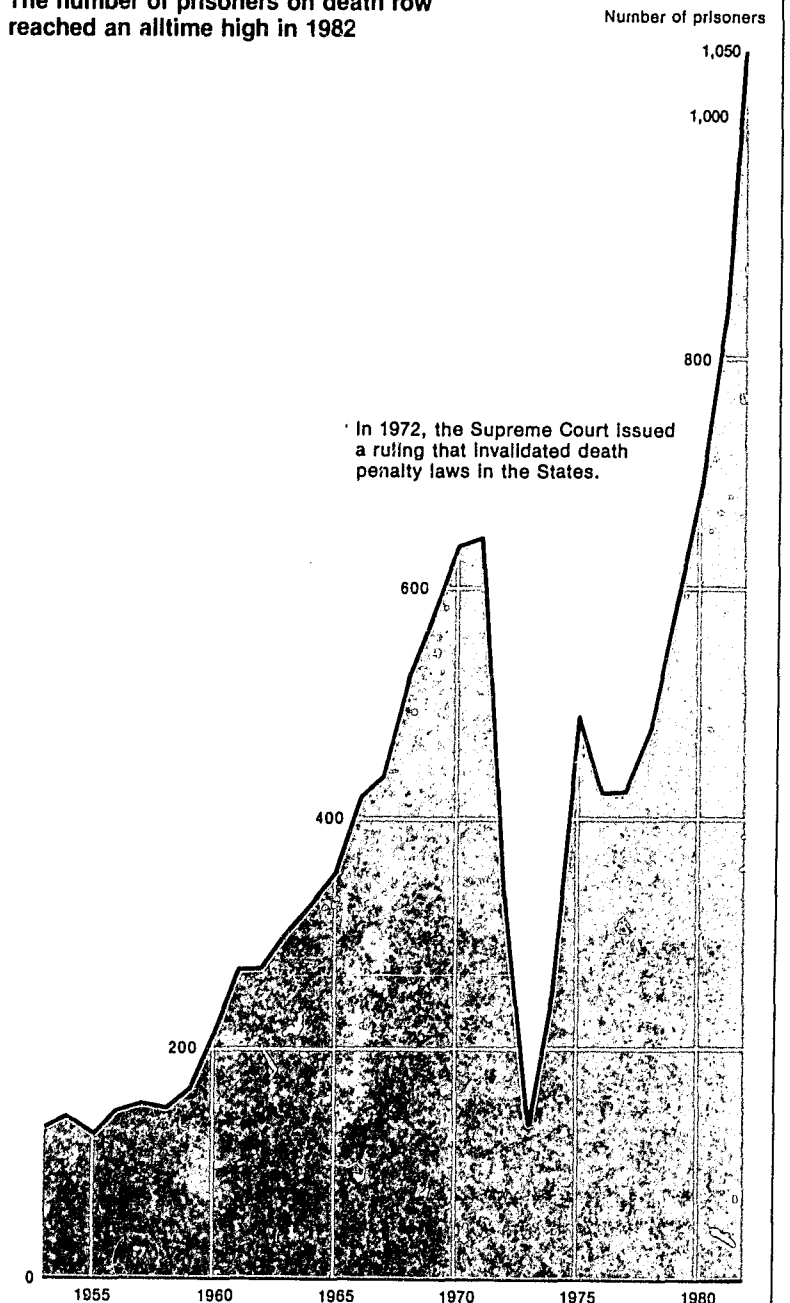
- 86% were for murder
- 60% took place in the South
- 76% occurred before 1950
- More than 53% of those executed were black
- Less than 1% of those executed were female.

In the 1972 landmark case of *Furman v. Georgia*, the U.S. Supreme Court ruled that the death penalty as applied in the various States often had been used in an arbitrary and capricious manner, thereby violating Eighth Amendment guarantees against cruel and unusual punishment. All of the more than 600 persons then living on death row eventually had their capital sentences removed. However, the numbers began to build up again as many States moved quickly to revise their capital punishment laws.

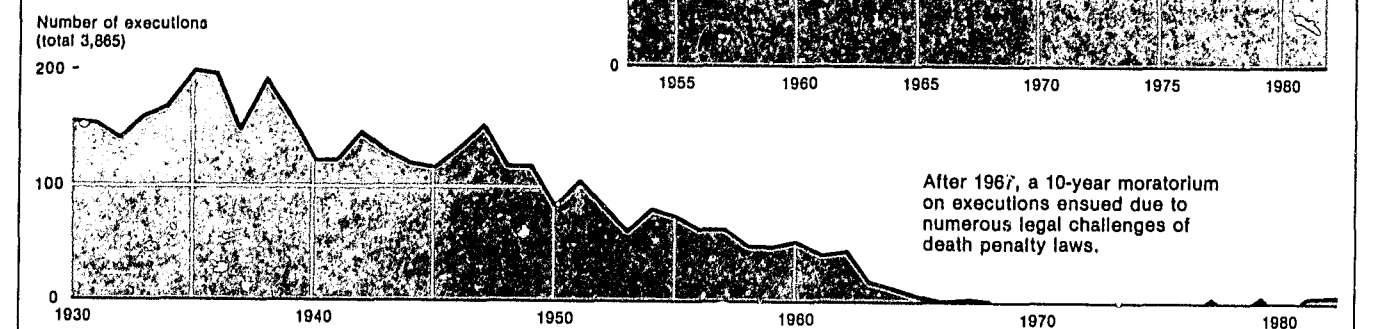
In 1977, the first execution in a decade was carried out in Utah. Two more executions followed in 1979 (one each in Florida and Nevada), one in 1981 (Indiana), and two in 1982 (Virginia and Texas). As of April 1983, one additional execution was conducted in Alabama.

At yearend 1982, the largest numbers were under sentence of death in Florida (189), Texas (148), California (120), and Georgia (100). During 1982, 28 of the 37 States with death penalty laws imposed a capital sentence on 264 persons.

**The number of prisoners on death row reached an alltime high in 1982**



**6 persons were executed between 1967 and 1982**



Source: Capital punishment, 1982.

Postcorrectional performance is difficult to assess

Some indicator of a return to criminal activity is typically used to evaluate postcorrectional performance

Rearrest, reindictment, reconviction, and reimprisonment measured over some period of time after release from prison are generally used to gauge the extent of success and failure (recidivism) associated with correctional programs.

The unit of time selected and the level of criminal justice system penetration (that is, more persons are likely to be rearrested than reimprisoned) will substantially affect judgments about the proportion failing or succeeding after a correctional experience.

Moreover, conditionally released populations (that is, parolees) are subjected to supervision requirements that, if violated, may result in a return to prison for noncriminal conduct (such as curfew violation or failure to report to a parole officer). Parolees, also, once discharged from supervision are not followed up further by State or local agencies and, thus, information on new criminal involvements would not generally be available.

Within 1 year after release on parole, about 12% of those released are likely to be back in prison

It is not possible from available national data to assess the total volume of criminal reinvolvements for all persons released from prison. However, it is possible to assess the extent to which those under parole supervision for up to 3 years are reconfined.

Within the first year of release from prison—

- 12% of the offenders under supervision are returned to prison; about half are returned for violations of their supervision requirements (a technical violation) or for a minor conviction; the other half are returned for new, major convictions.
- About 20% are successfully discharged within 1 year.
- Nearly two out of three releasees are continued on parole after completing the first year successfully.

Within 3 years after release on parole, 24% of the parolees are likely to be returned to prison

Within 3 years of release, 72% of parolees are still considered to be successful, either being discharged (56%) or continued on parole (16%). The proportion returned to prison (24%) is double the 1-year performance; this indicates that half of all parolees who will return to prison within 3 years of release do so in the first year. More than half (55%) of the returns to prison within 3 years are for technical violations of supervision requirements; the remainder are for new, major convictions.

	Parole status	
	Within 1 year	Within 3 years
Discharged	19%	56%
Continued on parole	65	16
Absconded	4	2
Return to prison	12	24
Died	1	2

Note: Totals may not add to 100% due to rounding. Source: Uniform Parole Reports, 1977.

Most prison inmates report having had prior sentences to confinement

Nearly 64% of all adult inmates have experienced prior sentences of incarceration—8% report prior juvenile incarceration only, 29% report prior adult confinements only, and 23% report previous juvenile and adult sentences to a correctional institution (4% did not report whether their prior confinement occurred during their juvenile or adult years).

Offenders admitted to prison in their thirties are more likely than any other age group to be repeat offenders. By contrast, those admitted to prison after age 60 are more likely than other age groups to be experiencing their first confinement.

Age at current admission	Number admitted to prison	% serving first sentence to confinement
Less than 18	6,254	56%
18-19	29,316	54%
20-29	149,662	44%
30-39	51,727	31%
40-49	15,072	37%
50-59	6,418	36%
60+	2,080	59%

Source: Survey of Prison Inmates, 1979.

After age 30, many repeat offenders begin to drop out of crime

The decline in the number of admissions after age 30, and the increase in the proportion of persons serving their first confinement sentence after age 40, indicates that substantial dropping-out from imprisonable criminal activity is occurring among repeat offenders as they enter middle age (age 40 or older).

The reasons why repeat offenders end their involvement in crime may be just as important for crime control purposes as the reasons why they begin. Shover's recent research based on interviews with middle-aged men who were criminally active during their younger years suggests that the justice system, in effect, physically "wears down" offenders. The process of repeatedly being arrested, appearing in court, and adjusting to prison life came to be perceived by these offenders as an exhausting ordeal. This suggests the possibility that a deterrent effect may be age-related—that is, as persistent offenders age, the costs of crime become greater, discouraging many from continuing their criminal careers.

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Notes

<sup>1</sup>Ga. Code Ann., Section 24A-23 (New Section 15-11-39-1); Illinois Annotated Statutes, Chap. 37, new para. 705-12; New York Family Court Act, Chap. 878, Secs. 712 and 753-A, Laws of 1976, as amended 1971.

<sup>2</sup>Ohio Revised Code, Section 2151.355.

<sup>3</sup>Revised Code of Washington, Title 13, authorized the State Department of Social and Health Services to develop dispositional standards.

<sup>4</sup>*In the matter of the appeal in Maricopa county*, Case No. J-86509, Supreme Court, 604 PAC 2nd 641, December 14, 1979.

<sup>5</sup>*Delinquency 1979*, National Center for Juvenile Justice, Research Division of the National Council of Juvenile and Family Court Judges, p. 22.

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## Chapter V

# The cost of justice

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Sue A. Lindgren

This chapter reports the costs of the criminal justice system and the relationship of justice spending to other government outlays. The data from this chapter answer such questions as—

What level of government spends the most for criminal justice? For police protection? For prosecution, legal services, and public defense? For the court system? For corrections?

What do justice dollars buy? How much does it cost to bring an offender to justice? To keep a person in prison or on probation? How much does it cost to build a prison? A jail?

How much does each State spend per capita for its justice system?

What is the relationship between a State's per capita spending for justice and its crime rate? Its tax base? Its tax revenues? Its degree of urbanization?

What portion of total government spending goes for criminal justice?

What percentage of total government spending has been used for police over the past 80 years and for corrections over the past 30 years?

Has government spending for justice functions increased over the past two decades even when inflation is considered?

Chapter V was written by Sue A. Lindgren of the BJS staff. Invaluable contributions were also made by Diana M. Cull, Alan R. Jones, Alan V. Stevens, and David J. Kellerman of the Government's Division of the Bureau of the Census; David Levin of the Bureau of Economic Analysis; Walter H. Sobel, F.A.I.A., Donald H. Mahan, A.I.A., and Rose M. Schmaus of Walter H. Sobel, F.A.I.A. and Associates; C. Raymond Marvin and George Condos of the National Association of Attorneys General; Mark A. Cuniff of the National Association of Criminal Justice Planners; Christopher A. Innes and Vicki Hartman of the Inter-university Consortium on Political and Social Research; Robert Spangenberg of Abt Associates, Inc.; Robert Lucke of the Advisory Commission on Intergovernmental Relations; Ann L. Pastore of the Michael J. Hindelang Criminal Justice Research Center; Mary E. Elsner of the National Center for State Courts; James A. McCafferty, William C. Hall, and Mark Silver of the Administrative Office of the United States Courts; Howard Safir, Edna E. Dolan, and Patricia H. Macherey of the United States Marshals Service; Julia P. McLaurin of the U.S. Bureau of Prisons; Elizabeth A. Clark of the U.S. Parole Commission; Gerald C. Quinlan and William E. Sheridan of the Justice Management Division, U.S. Department of Justice; Agent Marianne Gordon of the U.S. Secret Service; Edwin W. Zedlewski of the National Institute of Justice.

## Patterns of justice spending highlight the different responsibilities of each level of government

### State and local governments pay 87% of all government costs for criminal and civil justice

Level of government	1979 justice expenditure (billions)	Percent
Local	\$15.3	59%
State	7.4	28
Federal	3.4	13
Total	\$26.0*	100%

\*Does not add to total due to rounding.

The dominance of State and local governments in justice spending shows clearly that they, not the Federal Government, have primary responsibility for criminal justice in this country.

Spending by local governments exceeds that of State governments because municipalities have the main responsibility for police protection, which accounts for 53% of all justice spending. In fact, municipal spending for police alone amounts to 30% of all justice spending in the country.

This pattern of local dominance is seen in almost all of the States. Any major variation is due to unusual distribution of functional responsibility. For example, Alaska's State police force performs functions normally handled by local forces in other States; it spends twice as much as the local forces in Alaska.

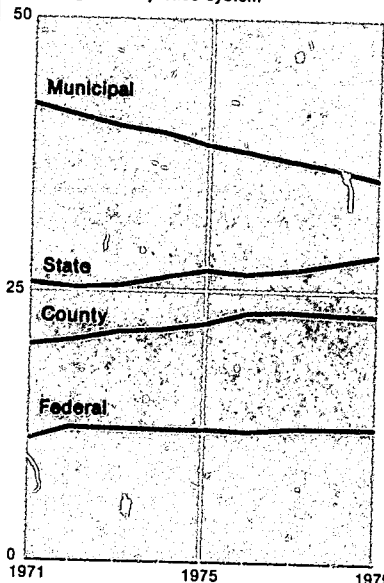
The share of total justice spending by local governments was between—

- 70% and 80% in 12 States
- 60% and 70% in 14 States
- 50% and 60% in 14 States.

The share fell below 40% in only three States (Alaska, Delaware, and Vermont).

### The dominance of municipal spending for the justice system has been diminishing

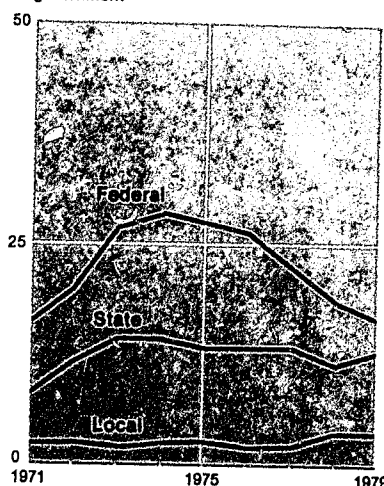
Percent of direct government spending for the justice system



Source: Justice expenditure and employment in the U.S., 1971-79.

### While the Federal Government transfers the highest proportion of its justice expenditures to other levels of government, the proportion transferred by States is increasing

Percent of justice spending transferred to other levels of government



Source: Justice expenditure and employment in the U.S., 1971-79.

### State and county shares of justice system costs are increasing

Between 1971 and 1979, the share of total government spending for criminal and civil justice by—

- States rose from 26% to 28%
- Counties rose from 20% to 23%
- Federal agencies rose from 12% to 13%
- Municipalities fell from 42% to 35%.

This change is due mainly to State and county governments taking responsibility for justice functions that previously had been carried by other levels of government. For example, during the 1970's, several States set up a system of State courts that replaced some county and municipal courts. The States' share of total government spending for courts rose from 23% in 1971 to 35% in 1979.

To a lesser extent, this change is due to increased use of "intergovernmental payments," by which governments transfer funds to one another. In 1971, States transferred 8.2% of their justice funds to local governments; by 1979, this had increased to 12.6%. The State payments included an unknown amount of Federal funds being passed through State governments to local governments.<sup>1</sup>

During the mid-1970's, Federal intergovernmental transfers peaked at close to 30% of Federal justice spending because of the Law Enforcement Assistance Administration (LEAA), which made grants to State and local governments. Without LEAA, the Federal Government spent less than 2% of its justice money for payments to State and local governments.

### Local governments dominate justice spending in four-fifths of the States

	Percent distribution of direct justice spending		
	County	Municipal	State
U.S. total	27	41	33
Alabama	21	37	42
Alaska	3	26	70
Arizona	31	38	30
Arkansas	28	31	41
California	45	32	23
Colorado	16	45	39
Connecticut	0	51	49
Delaware	13	18	69
Florida	33	29	38
Georgia	36	28	37
Hawaii	14	41	44
Idaho	29	26	45
Illinois	25	50	25
Indiana	23	41	36
Iowa	31	30	39
Kansas	27	33	40
Kentucky	18	25	56
Louisiana	29	33	38
Maine	14	34	52
Maryland	35	22	44
Massachusetts	16	58	27
Michigan	28	43	29
Minnesota	39	33	28
Mississippi	24	31	45
Missouri	22	49	29
Montana	36	24	41
Nebraska	25	33	43
Nevada	53	18	28
New Hampshire	16	47	37
New Jersey	26	49	25
New Mexico	14	33	53
New York	15	53	32
North Carolina	16	24	60
North Dakota	33	34	33
Ohio	29	47	24
Oklahoma	13	37	50
Oregon	39	25	36
Pennsylvania	19	53	28
Rhode Island	0	43	57
South Carolina	30	21	49
South Dakota	23	26	51
Tennessee	28	37	35
Texas	32	44	24
Utah	25	34	41
Vermont	2	22	75
Virginia	24	31	45
Washington	36	30	35
West Virginia	23	24	52
Wisconsin	32	37	31
Wyoming	24	28	47

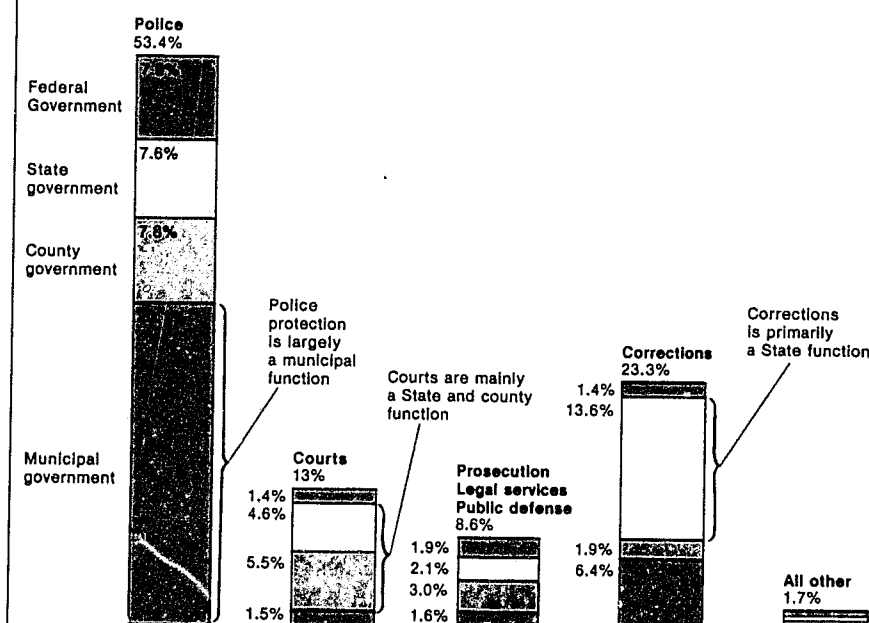
Source: Justice expenditure and employment in the U.S., 1979.

### Cities and towns spend most of their justice dollars for police protection

In 1979 cities spent—

- 84% for police
- 6% for corrections
- 5% for courts
- 4% for prosecution and legal services

### 53 cents of every justice dollar is spent for police protection



Source: Justice expenditure and employment in the U.S., 1979.

- 0.5% for public defense
- 0.7% for all other justice activities.

Towns and townships spent—

- 91.7% for police protection
- 4.4% for prosecution and legal services
- 3.6% for courts
- Less than 1% for all other justice functions.

### State governments spend nearly half of their justice dollars on corrections

In 1979, State governments spent—

- 48% for corrections
- 27% for police protection
- 16% for courts
- 6% for prosecution and legal services
- 1.6% for public defense.

State government spending for corrections included 74% for the construction, operation, and upkeep of correctional institutions, including 6% (\$248 million) for capital outlays; 12% for probation, parole, and pardon programs; and 14% for other correctional activities.

### Counties spent the most for court-related functions

Counties spent \$2.2 billion (39%) of the total of \$5.6 billion spent in 1979 by all levels of government for courts, prosecution, legal services, and public defense. State governments spent 31% of the total; the Federal Government, 16%; and municipalities, 14%. While county governments contribute the most to court-related functions, these functions do not dominate county justice spending to the extent that police protection dominates municipal spending or corrections dominates State spending.

In 1979, counties spent—

- 36% of all their justice dollars for judicial-related functions (23.6% for courts, 9.5% for prosecution and legal services, and 3.2% for public defense)
- 34% for police protection, usually county sheriffs or police.
- 27% for corrections, primarily jails.



**CONTINUED**

**1 OF 2**

Criminal justice services are financed in a variety of ways

Governments supplement their tax revenues with payments from other governments

The Bureau of the Census report *Government finances in 1978-79* shows that the total tax revenue in 1979 was raised as follows:

Personal income tax	48.6%
Sales and gross receipts tax	17.8
Corporate income tax	14.8
Property tax	12.4
Customs duties	1.5
All other sources	4.9
Total	100.0%

In addition to raising taxes from their citizens, governments receive significant amounts of money from other governments in the form of "intergovernmental payments." Such payments move in many directions. They may be payments from the Federal Government to a State or local government, between States, from one local government to another, or from a State or local government to the Federal Government.

In 1979, intergovernmental payments for all purposes from the—

- Federal Government totaled \$85 billion (16% of total Federal spending)
- State governments were close to \$76 billion (34% of total State spending)
- Local governments totaled \$1.6 billion (less than 1% of total spending by local governments).

Criminal justice services are funded predominantly by taxes raised in the jurisdiction where the services are performed

In 1979, 84% of the money spent by State and local governments for criminal and civil justice activities came from tax revenues raised by the governments that ultimately made the expenditure. The remaining 16%, or \$3.6 billion, was received from other governments by various means and for various purposes.

State and local governments used \$2.4 billion of Federal funds for justice activities in 1979

The Federal Government began providing direct financial assistance to support State and local criminal justice programs in 1968 with the creation of

the Law Enforcement Assistance Administration (LEAA). LEAA budgets peaked at \$895 million in 1975; they fell during the late 1970's until the grant program ended in 1980 with awards totaling \$297 million. In no year, however, did LEAA funding account for more than 5.3% of State and local spending for justice activities.

In 1979, a total of \$850 million was received by State and local governments from Federal programs such as LEAA, which required that the money be spent for justice activities. Other such programs include the Alcohol Safety Act Program and Federal reimbursements to State and local governments for services such as housing Federal prisoners in local jails and State prisons.

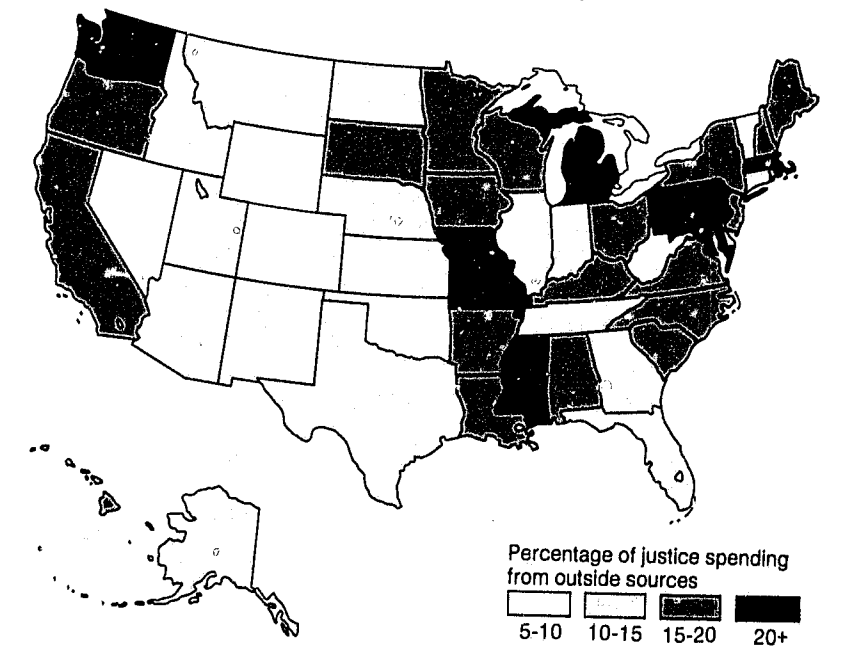
These "dedicated" Federal programs represent only a third of the Federal dollars used by State and local governments for justice activities. More than half of the Federal funds came from the General Revenue Sharing Program, which makes funds available to all State and local governments—funds that may be used for virtually any

purpose. In 1979, \$1.3 billion of General Revenue Sharing funds were used for justice purposes, representing 6% of the total that was spent by State and local governments for justice programs. The Comprehensive Employment and Training Act (CETA) program provided an additional \$303 million that was used for justice activities.

Intergovernmental revenue takes other forms as well

- Local governments received close to \$1 billion from their State governments; this included an unknown amount<sup>1</sup> of Federal funds (including Law Enforcement Assistance Administration grants) that were being "passed through" the State government.
- State governments received \$147 million from local governments in their States.
- Local governments received \$142 million from other local governments. These payments were mainly reimbursements for services such as those performed when the county or State provides police protection for a city.

The Rocky Mountain, Southwest, and Plains States regions make the least use of revenue from outside their taxing authority to fund justice activities



Source: Justice expenditure and employment in the U.S., 1979.

Use of outside revenue sources ranges from 5% of total justice spending in Wyoming to 28% in Massachusetts

Nationally, a sixth of the money spent on justice activities by State and local governments came from sources outside their own taxing authority. This varied from less than 10% of all justice spending in Oklahoma, Nevada, Colorado, Vermont, and Wyoming to more than 20% in Mississippi, Michigan, Missouri, Washington, Maryland, Pennsylvania, and Massachusetts.

The extent to which State and local governments used outside revenue to pay for justice programs was affected most strongly by the extent to which—

- Governments decided to use general-purpose Federal funds, such as General Revenue Sharing and CETA, on criminal

justice rather than on other functions, such as education or trash removal

- State governments provided funds to the local governments.

The amount of Federal grants received specifically for justice functions had minimal effect on the overall proportion of funds coming from outside revenue sources.

Other ways are used to obtain funds for criminal justice services

- Bond issues are a common way to raise large amounts of money for construction projects. Under these programs, the government sells bonds to individuals and corporations. The money is used to pay immediate costs and is paid back over time with interest, usually tax-free.

- *Sheriff's Roll Call* reports that a new law took effect in California on January 1, 1983, permitting California counties to charge certain jail inmates for room and board. The fees can be imposed by judicial order and only after legal fees and damages to victims have been paid. Inmates are charged based on their ability to pay.

- Citizens and civic groups in some jurisdictions have raised funds to provide special goods and services to local agencies. In Washington, D.C., and Chicago, Illinois, citizens groups, with extensive media support, raised money to buy bulletproof vests for the police. Neighborhood watch and patrol programs that supplement police patrols have formed throughout the country.

What percent of State and local justice spending comes from outside sources?

State	Percent of total justice spending from				State	Percent of total justice spending from			
	All outside sources	Federal general payments	Federal dedicated payments	State payments		All outside sources	Federal general payments	Federal dedicated payments	State payments
U.S. total	16.1	7.0	3.8	4.1	Montana	14.5	5.3	4.3	3.5
Alabama	19.9	10.7	5.6	2.5	Nebraska	10.9	4.6	2.6	2.6
Alaska	13.2	4.3	3.9	4.5	Nevada	9.0	1.1	3.6	2.7
Arizona	11.1	5.7	3.5	1.5	New Hampshire	15.4	4.1	9.5	1.0
Arkansas	19.5	9.1	7.0	2.5	New Jersey	16.5	9.8	3.2	3.5
California	15.4	5.1	3.6	5.0	New Mexico	12.1	5.6	3.7	1.1
Colorado	8.0	3.6	2.6	1.4	New York	16.6	8.6	2.5	2.3
Connecticut	12.3	3.5	7.0	1.4	North Carolina	15.9	9.2	4.0	2.2
Delaware	12.1	3.6	6.7	1.3	North Dakota	11.4	3.0	7.0	1.1
Florida	10.8	3.3	4.8	2.1	Ohio	19.1	8.7	5.2	3.7
Georgia	14.7	8.2	4.0	1.9	Oklahoma	9.2	2.1	3.7	1.4
Hawaii	18.0	11.3	4.1	2.5	Oregon	15.7	5.4	4.3	5.0
Idaho	13.9	4.5	5.7	1.8	Pennsylvania	23.1	10.2	3.9	7.7
Illinois	10.2	5.6	2.3	1.9	Rhode Island	16.9	11.7	4.4	.8
Indiana	14.3	6.8	4.8	1.8	South Carolina	18.6	10.5	6.0	.9
Iowa	15.4	3.7	5.9	3.0	South Dakota	15.8	3.3	9.3	1.9
Kansas	12.2	3.9	5.2	2.3	Tennessee	12.2	4.2	3.3	4.5
Kentucky	17.5	8.0	5.3	4.0	Texas	11.7	5.4	3.1	2.8
Louisiana	16.6	9.1	3.1	4.1	Utah	12.8	5.1	3.4	3.8
Maine	17.6	9.3	5.4	1.1	Vermont	5.9	3.8	0.0	1.2
Maryland	22.7	4.2	2.6	15.6	Virginia	18.1	3.3	4.2	8.9
Massachusetts	27.6	8.6	3.3	15.6	Washington	21.2	10.2	5.3	4.0
Michigan	20.2	9.7	4.1	4.9	West Virginia	12.6	5.8	5.4	1.2
Minnesota	15.2	6.8	1.2	4.9	Wisconsin	18.7	9.7	3.7	3.7
Mississippi	20.1	12.2	5.1	2.2	Wyoming	5.1	.7	2.8	1.0
Missouri	20.4	12.4	5.1	2.6					

Note: The percents for funds received from local governments are not displayed separately, but are included in the totals. These accounted for 1.3% of all State and local spending, ranging from 0% to 3.2% across the States.

Source: Justice expenditure and employment in the U.S., 1979 (unpublished data).

What do justice dollars buy?

The cost of bringing an offender to justice is highly variable and includes many "hidden costs"

The costs of convicting an offender are many and varied. They include paying for—

- Police to investigate criminal events, arrest offenders, and appear as witnesses in court (frequently on overtime pay)
- Public defenders and assigned counsel to represent indigent defendants
- Prosecutors to investigate, prepare, and present the case in court
- Judges and juries to hear the evidence and reach a verdict
- The probation department to prepare presentence investigation reports for the judge to use in sentencing
- State identification and information bureaus to check fingerprints and criminal histories of defendants
- Local jails to house defendants who are detained in pretrial custody.

Different criminal cases vary greatly in cost

The price of justice, a recent study of three "typical" New York City robbery cases, found that the cost of arresting, prosecuting, and trying the defendants ranged from \$851 to \$32,627, not including correctional costs after trial. In each of the cases, the defendants were arrested shortly after the crime, obviating the need for lengthy and costly police investigation.

In the first case, the defendants pleaded guilty to a reduced charge the day after their arrest. Beyond arrest and booking, the costs were minimal. Each defendant received a 6-month sentence.

The second case cost \$6,665. The defendants pleaded guilty after being indicted, but before trial. Seventy percent of the total cost was for pretrial detention; 68 days after arrest, the defendants received a sentence of 4 to 12 years of imprisonment for their plea of guilty to robbery.

In the third case, the defendant chose to go to a felony trial in which he was

Justice dollars are used to compensate victims, to investigate crimes, and to apprehend, try, and punish offenders\*

<b>Victim compensation</b>	
Average maximum award	\$18,000
Average award	\$3,000
<b>Investigative and court costs</b>	
Average cost to return fugitive interstate	\$600
Average cost for a State or Federal wiretap	\$22,000
Average annual cost to protect a Federal witness	\$37,000-\$56,000
Daily payment for juror	\$3-\$30
Average court cost per case-related minute:	
California Superior Court	\$5
Florida Circuit Court	\$4
Washington State Superior Court	\$4
U.S. District Courts	\$9
Cost to arrest, prosecute, and try a robbery case in New York City—	
with guilty plea and sentencing day after arrest	\$851
with guilty plea after indictment and sentencing 68 days after arrest	\$6,665
with trial disposition and sentencing 250 days after arrest	\$32,627
Most frequent assigned counsel hourly rate	\$20-\$30
<b>Corrections operations</b>	
Average annual cost for one adult offender—	
in a Federal prison	\$13,000
in a State prison	\$5,000-\$23,000
in a State "halfway house"	\$12,000
In a local community-based facility	\$8,000
in a local jail	\$8,000
on Federal probation or parole	\$1,300
on non-Federal probation or parole	\$220-\$1,700
Average daily cost to the Federal Government to house an unsentenced Federal prisoner in a local jail	\$27
Average daily cost to the Federal Government to house a sentenced prisoner in a State or local—	
halfway house	\$29
prison or jail	\$23
Average daily cost to a State government to house a State prisoner in a local jail	\$15
Average hourly wage for inmate in prison industry	\$0.21-\$1.03

\*For sources, see note 3 at end of this chapter.

found guilty of robbery and sentenced to 9 to 18 years; 250 days had elapsed between arrest and sentencing. The total cost was \$32,627, half of which was for pretrial detention.

Courts process many kinds of cases with widely varying costs

State courts handle about the same number of civil as criminal cases; in Federal courts, civil cases outnumber criminal cases by 6 to 1. In most instances, the same court handles both types of cases.

There is no agreed-upon method of dividing national court expenses between civil and criminal workloads to arrive at the total cost of criminal vs. civil cases. It is clear, however, that costs of processing different kinds of cases vary enormously. For example, the clerk of court may only have to file documents to probate an uncontested will, but months of effort are required to hear a jury trial in a complex personal injury suit or murder case.

Imprisonment is the most expensive sentencing option

Solid nationwide estimates of the cost of keeping a person in prison are difficult to obtain, although many figures are used.

The Federal prison system, which maintains extensive budget and workload data, reports an average annual cost per inmate of \$13,000.

George and Camille Camp found a wide range (\$5,121-\$22,748) in the operating cost per prisoner among the States. Factors affecting this range include—

- Regional variations in salaries that reflect differences in cost-of-living and union contracts
- Differences in utility costs and in the need for heating fuel
- Differences in types of institutions operated (for example, a State may have a higher-than-average percentage of prisoners in expensive maximum security)
- Differences in the extent to which the prison uses prisoners rather than hiring nonprisoners to perform maintenance services.

It is less costly to treat offenders in community-based facilities than in prisons

Singer and Wright found in 1974 that the annual per capita cost for halfway houses ranged between 63% and 85% of that for prisons, depending on the level of treatment and counseling services provided by the halfway house. Their study also found, however, that the cost of some services was paid by agencies outside the correctional system; among such services were education, vocational training, drug treatment, detoxification, and mental health. Such variables make direct comparisons difficult.

Justice dollars also are used for buildings and equipment\*

Average construction cost per bed in a—	
maximum security State prison	\$58,000
medium security State prison	\$46,000
minimum security State prison	\$26,000
"constitutional" jail	\$43,000
Typical new court house construction cost per square foot	\$54-\$65
Average purchase price for a police car	\$8,000
Average cost to equip a new police car with—	
police radio	\$2,000
siren and light bar	\$800
other	\$300
Annual cost to maintain and operate a police car (not including patrol salary)	\$6,000
Average resale value of a police car	\$1,000

\*For sources, see note 3 at end of this chapter; for ranges, see text.

Widely divergent estimates of the construction cost per prison bed are found in various studies, reports, and media accounts

Many such sources were examined and it was found that the average construction cost cited ranged from a low of \$34,000 per prison bed to a high of \$110,000, in 1982 dollars.

There are many reasons for the variation:

- Some sources include the purchase of the land, preparing the site, architects' fees, and long-term financing costs. Others do not.
- Figures for differing levels of security classification (for example, minimum security vs. maximum security) are used in different sources.
- Construction costs vary by region.
- Some prison construction cost is offset by using inexpensive prisoner labor.
- Some sources surveyed only "recently completed" construction. Others include the expected costs of future "approved" or "planned but not approved" construction.
- Prisons vary in the amount of space per prisoner and in space allowed for prisoner support programs such as medical and psychiatric treatment, athletics, and recreation.

- Some late 1970's estimates are based on data from early 1970 surveys that have been adjusted for inflation—adjustments using different methods with different results.

Maximum security prisons are clearly more expensive to build than medium security prisons, which in turn are more expensive than minimum security prisons. States reported to George and Camille Camp the following ranges of construction costs per prison bed for fiscal 1982—

Security type	Range	Average
Maximum	\$19,000 - \$100,000	\$58,000
Medium	\$12,000 - \$80,000	\$46,000
Minimum	\$5,000 - \$57,000	\$26,000

Jail and prison construction costs are about the same

The estimate of \$43,000 per jail bed, based on a survey of 34 "advanced practices" jails,<sup>4</sup> is somewhat lower than that for maximum and medium security prisons because jails usually do not have extensive architectural security features such as perimeter walls and usually are designed to provide less area for recreation and rehabilitation activities because their inmates are held for shorter periods.

#### How much does it cost to build a new courthouse?

In 1979, for judicial construction (mainly courthouses), a total of—

- \$53.5 million was spent by counties with populations of 100,000 or more.
- \$9.1 million was spent by cities with populations of 50,000 or more.
- \$6.5 million was spent by the State governments.

Available information does not allow the computation of the cost to build a new "average courtroom," as is frequently done for prison cells, because of wide variation in a number of factors. Walter H. Sobel, F.A.I.A. and Associates' 1982 survey of nine recently completed courthouse construction projects reflected the variation:

- In one courthouse, 29% of the square footage was for jail cells, which are more expensive to build than courtrooms.
- Another courthouse construction contract included the purchase of land, making it not comparable to the other contracts studied.
- Two additional construction projects included large underground parking garages, which are more expensive than outdoor parking lots.
- Some projects included "shelling in" space for courtrooms to be completed in the future.
- Different courthouses have different mixes of space allocated for courtrooms and judicial chambers (the most expensive type of nondetention construction) and administrative and support space (costing about the same as routine business offices).
- Regional factors in the construction industry also affect the cost of courthouses.

Overall, a total of \$96 million was spent under the nine contracts for new construction, additions, and renovations. This provided 77 completed courtrooms, 18 shelled-in courtrooms for future completion, and some unfinished space that will be completed in the future with an undetermined number of courtrooms.

The price per square foot of construction in three newly constructed courthouses that appeared to be the most comparable were \$54, \$61, and \$65. One other project involved completing

a shell that was previously constructed. The cost per square foot was \$54, higher than might be expected because the courthouse was limited to courtroom and judges' chambers. Two renovation efforts were reported, costing \$36 and \$67 per square foot, the range reflecting the extent of the renovation effort.

#### The purchase price for a police car ranged from \$6,700 to \$9,500 in 25 jurisdictions

The purchase price is only part of the cost of putting a patrol car on the streets. In a 1982 survey, the National Association of Criminal Justice Planners found that police radios ranged in cost from \$1,200 to \$4,300 in the nine jurisdictions providing this information; police sirens and light bars added another \$350 to \$1,300. Costs for other equipment were reported at \$10 to \$700; these include police department decals and shields for the patrol car, loudspeakers, security cages for prisoners, and shotguns and racks.

The annual operating cost for a police car, including gas, oil, maintenance, and repair, varied from \$3,000 to \$13,000. The factors affecting this range include the numbers of shifts the car is driven during the day, the type of driving involved (for example, city vs. suburban patrol), climate conditions, and the length of time the car is operated before being resold. This last factor is reflected in the range of resale value, reported at \$550 to \$4,500.

#### Some police investigations and court cases entail unusual costs

The police sometimes pay informants for investigative information. Undercover agents may use cash to buy drugs or other illegal goods and services in an attempt to obtain evidence of criminal behavior. Cash for drug purchases (sometimes called flash money because the undercover agent "flashes" it before the suspected drug dealer to demonstrate his ability to complete the deal) presents unique problems for the police. Agencies sometimes have to tie up large sums of appropriated funds to have the "flash money" for

drug investigations, rather than being able to use it for salaries or other actual expenditures.

Police officers often are required in court as witnesses, frequently on overtime pay. In a 1982 survey, the National Association of Criminal Justice Planners found that in five jurisdictions three-quarters of all court appearances involved police overtime. For nine jurisdictions able to report cost data, the average overtime pay per court appearance was \$41.

Courts pay private citizens for serving on jury duty. In 1980, the daily pay for jurors ranged from \$3 to \$30. Many court systems also reimburse jurors for their travel expenses.

Another unusual expense is the cost of protecting witnesses. State and local governments engage in such activities, but the Federal Witness Security Program of the U.S. Marshals Service is clearly the largest and most extensive witness security program in the Nation. This program provides—

- Protection and maintenance services for witnesses, potential witnesses, and dependents whose lives are in jeopardy as a result of testimony against organized crime figures.
- Around-the-clock protection to witnesses while they are in a "hostile environment" and when they return to an area of danger for court testimony.
- Geographic relocation for the witness and his or her dependents, housing, subsistence, new identification documents, and employment, medical, and other assistance to allow the witness to become self-sustaining.

In 1982, the U.S. Marshals Service provided protection or support for a total of 2,434 persons, including 1,047 principal witnesses and 1,397 family members. The average annual cost per witness ranged from \$36,507 for a person with no dependents in the program to \$55,826 for one with eight dependents, with an average annual cost per witness of \$49,000 for the salaries and expenses of marshals. There are now more than 10,000 participants in the Federal witness security program, although not all are under the active protection of the U.S. Marshals.

#### Four-fifths of State and local justice dollars go for payroll

Criminal and civil justice is a highly "personnel-intensive" activity. In 1979, the payroll for State and local justice employees ranged from a high of about 86% of all expenditures for prosecution and legal services and police to a low of 48% for public defense.<sup>5</sup>

The defender proportion was low because of the widespread use of "assigned counsel" defense systems in which the government pays private attorneys to represent indigent defendants. Lefstein found that the fees paid to the attorneys have been reported as low as \$10 and as high as \$65 an hour but in most places the fee is between \$20 and \$30 an hour. Very often the hourly rate is higher for in-court than for out-of-court representation, and it sometimes varies by the seriousness of the case and by whether it is at the trial or appeal stage. Some jurisdictions that do not use an hourly rate use minimum and maximum amounts of total compensation.

Salaries make up a relatively lower proportion of total spending for corrections (71%), primarily because of the costs of building and maintaining prisons, contracts for medical care and treatment programs, food, guard and prisoner uniforms, and boarding prisoners at other institutions.

Courts also have a relatively low proportion of total expenditure going for salaries (78%) because of payments for jury and witness fees, courthouse maintenance, and purchase of books for law libraries.

#### Salaries for correctional, probation, and parole officers are generally the lowest

Judges, because of their great authority and responsibility, have the highest salaries of criminal and civil justice employees at each level of government.

Public defender salaries are generally on a par with prosecutor salaries, although there may well be jurisdictions where this is not the case. The

#### Justice dollars also pay personnel costs\*

(Average annual salary)

##### Law enforcement officers

City police officer	\$16,000-\$20,000
County sheriff patrol officer (starting salary)	\$13,000
State trooper	\$13,000-\$20,000
U.S. Border Patrol Agent	\$22,000
U.S. Immigration Inspector	\$22,000
Deputy U.S. Marshal	\$23,000
U.S. Immigration agent	\$29,000
U.S. Secret Service agent	\$29,000
FBI agent	\$36,000
Federal drug agent	\$36,000

##### Prosecutors

Local assistant prosecutor	\$20,000
Local chief prosecutor	\$46,000
State assistant attorney general (entry level)	\$20,000
State assistant attorney general	\$32,000
State deputy attorney general	\$49,000
State attorney general	\$52,000
Federal prosecutor	\$40,000

##### Defenders

Staff State or local defender	\$24,000
Chief State or local defender	\$40,000
Federal defender	\$40,000

##### Court personnel

State supreme court clerk	\$39,000
State court administrator	\$47,000
State general jurisdiction trial court judge	\$48,000
State intermediate appellate court justice	\$54,000
State supreme court justice	\$55,000
U.S. Magistrate	\$63,600
U.S. Bankruptcy Court Judge	\$63,600
U.S. Court of Claims Judge	\$65,200
U.S. Court of International Trade Judge	\$73,100
U.S. district (trial) court judge	\$73,100
U.S. circuit (appellate) court judge	\$77,300
U.S. Supreme Court Associate Justice	\$96,700
U.S. Supreme Court Chief Justice	\$100,700

##### Correctional officers

County sheriff jail officer (starting salary)	\$11,000
State correctional officer	\$15,000-\$20,000
State correctional sergeant	\$17,000-\$22,000
State superintendent of correction	\$33,000-\$44,000
Federal correctional officer	\$21,000

##### Probation and parole officers

Local probation officer	Not available
State probation and parole officer	\$16,000-\$22,000
Senior state probation and parole officer	\$21,000-\$28,000
State director of probation and parole	\$32,000-\$42,000
Federal probation officer	\$16,559-\$38,185
Supervisory Federal probation officer	\$34,930-\$45,406
Deputy Chief of a Federal District Probation Office	\$41,277-\$53,661
Chief of a Federal District Probation Office	\$41,277-\$63,115
Federal parole case analyst	\$24,508-\$38,185
Federal parole hearing examiner	\$34,930-\$53,661
U.S. Parole Commissioner	\$63,800

\*For sources, see note 3 at end of this chapter.

salaries for these two types of public attorneys rank second to those of judges.

The salaries of State and local police officers are slightly higher than those of correctional personnel.



## What factors are related to per capita spending?

State and local governments spent an average of \$101 per capita for justice services in 1979

Per capita justice costs vary by State from less than \$60 to as much as \$275. In 1979, State and local governments in Arkansas, Maine, Mississippi, and West Virginia spent less than \$60 per capita for justice services; Alaska spent \$275; New York, \$175; and Nevada, \$150.

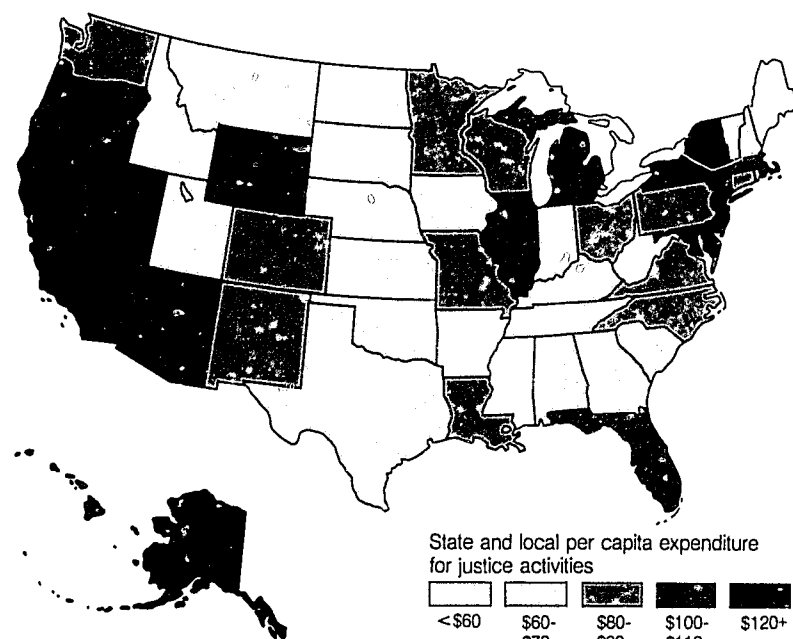
Regional variation is also evident. Per capita spending for justice was—

- \$159 in the Mideast region
- \$145 in the Far West
- \$91 in the Great Lakes region
- \$89 in the Southwest
- \$88 in the Rocky Mountain region
- \$84 in New England
- \$74 in the Plains States
- \$73 in the Southeast.

### How much a State spends per capita for justice depends on many factors

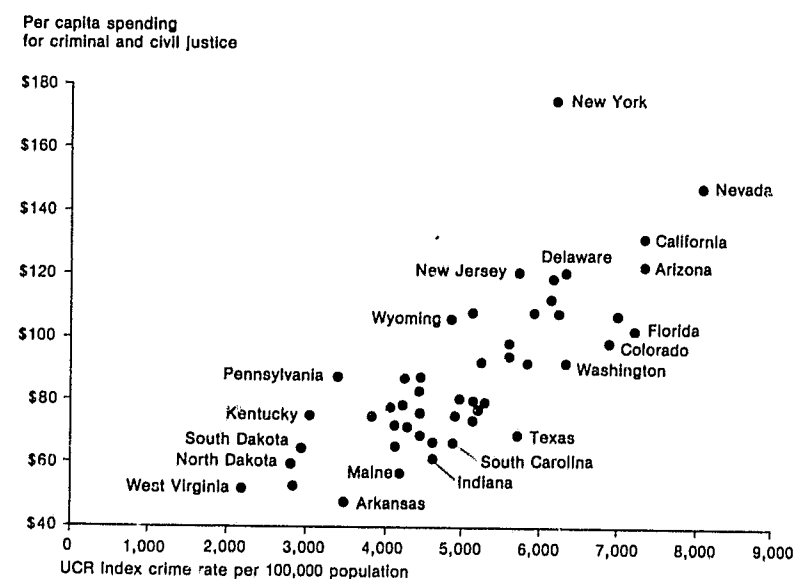
- Some States may need to spend more on justice activities because they have a more serious crime problem than others.
- The citizens of some States may express greater concern about crime than those in other States and convince their elected officials to assign higher priority to funding criminal justice than to other government activities such as education or transportation.
- Some States are "richer" than others, having a larger tax base from which to fund government activities.
- The citizens of some States may be more willing than those in other States to tax themselves to fund governmental programs in general.

The Mideast and Far West regions lead the Nation in justice costs per capita



Sources: Justice expenditure and employment in the U.S., 1979, table 6. Preliminary intercensal estimates of the population of States: 1970 to 1980, U.S. Bureau of the Census.

### States with high crime rates tend to have high expenditures for criminal and civil justice



Note: Alaska, with a per capita expenditure of \$275 and a crime rate of 6,265, is not displayed.

Sources: Justice expenditure and employment in the U.S., 1979, table 6. Preliminary intercensal estimates of the population of States: 1970 to 1980 (Washington: USGPO, 1982). Crime in the United States, 1979, table 3.

### A State's justice spending per capita is related to its—

... **crime rate.** The amount of money a State spends per capita to control and investigate crime and to prosecute and punish offenders is related to the amount of crime reported to the police.

The FBI's Uniform Crime Reporting Program provides State-by-State data for 1979 on seven UCR Index Crimes reported to the police (murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft). In 1979, the UCR Index Crime rate for the Nation was 5,412 offenses per 100,000 persons. It varied from less than 2,000 per 100,000 population in South Dakota and Mississippi to more than 8,000 in Nevada.

Regional variation in the crime rate (per 100,000 persons) ranges from 4,045 in the Plains States to 6,879 in the Far West. In the other regions, the crime rates are as follows: Southwest, 5,798; Mideast, 5,595; New England, 5,194; Rocky Mountain, 5,104; Great Lakes, 5,055; and Southeast, 4,209.

States that have a low crime rate tend to have low per capita expenditures; States that have a high crime rate tend to have high per capita expenditures. For example, West Virginia, which has a low per capita expenditure (\$53), has a relatively low crime rate. Nevada and Arizona have high crime rates and high per capita expenditures. Overall, States with higher-than-average crime rates spend an average of \$121 per capita compared with \$75 for States with lower crime rates.<sup>6</sup>

... **taxable wealth.** A State's relative wealth affects how much it can spend for justice activities. Poorer States may not be able to spend as much as they would like for some justice programs.

Different State and local governments tax different bases at different rates. One State may have relatively high property taxes but low income and sales taxes; another State may have low property taxes, high sales taxes, and no income tax.

To calculate the relative wealth of the States, it is necessary to take into account all of the tax bases available within each State. The Advisory Commission on Intergovernmental Relations recently developed a way to calculate the "tax capacity" (or taxable wealth, as it is called here) of the individual States. The Representative Tax System (RTS) measures how much revenue could be raised if 24 different taxes were levied at the national average. The taxes considered in this measure include levies on income, property, general sales, selected sales (for example, gasoline, alcohol, tobacco, utilities, amusements), licenses, corporate income, and estates.

The RTS tax capacity for a State is relative to the national average, which, in this index, is 100. A State that has a greater tax capacity (that is, one richer than other States), has an index higher than 100; a relatively poor State has an index lower than 100. The index indicates the percent of the national average tax capacity for the individual State. For example, 110 on the index means the State's tax capacity is 10% higher than the national average.

Regional tax capacity ratings are—

- Highest in the Far West (133), and the Rocky Mountain region (115)
- About average in the Southwest (105), the Plains States (103), the Great Lakes region (103), and the Mideast (98)
- Lowest in New England (91) and the Southeast (85).

States with higher-than-average taxable wealth spent \$105 per capita for justice activities, while their poorer counterparts spent an average of \$83.

... **tax burden.** Another factor that is related to how much a State spends per capita on justice is how willing the citizens and their elected officials are to tax themselves to fund government programs in general. This is measured by tax effort, which is the amount of money raised from 24 different tax bases compared to the amount that would be raised if national average tax rates were used.

Like taxable wealth, the tax effort measure is expressed as an index (with the national average = 100). According to the Advisory Commission on Intergovernmental Relations, tax effort ranges from 64 of the national average in Texas to 171 in New York.

Among the regions, the tax effort is—

- 120 in the Mideast
- 111 in New England
- 101 in the Far West
- 100 in the Great Lakes region
- 91 in the Plains States
- 91 in the Rocky Mountain region
- 87 in the Southeast
- 85 in the Southwest.

States that raised higher-than-average taxes spent \$115 per capita on justice activities compared with \$83 average per capita for the States with lower taxes.

... **degree of urbanization.** It has long been known that urban and suburban areas have higher crime rates than rural areas. States with a high proportion of their population living in such metropolitan areas spend more per capita for justice activities than their more rural counterparts. Not only do such States have more crime, they also have higher costs of living that result in higher salaries and other agency expenses. States with a greater-than-average percent of their population living in metropolitan areas spent an average \$109 per capita on justice, whereas the less urban States spent \$83.

According to the Bureau of the Census, 75% of the Nation's population lived in metropolitan areas in 1980, ranging from 44% in the Rocky Mountain States to 84% in the Northeast. The other regions and the percent of their population living in metropolitan areas are as follows:

- Plains, 45%
- Southeast, 55%
- New England, 62%
- South West, 64%
- Far West, 74%
- Great Lakes, 76%.

## How do the States rank on the factors that influence justice spending?

State	Per capita spending <sup>7</sup>		Crime rate <sup>8</sup>		Priority for justice spending <sup>9</sup>		Relative taxable wealth <sup>10</sup>		Relative tax effort <sup>11</sup>		Percent in metropolitan areas <sup>12</sup>	
	Dollars	Rank	Rate	Rank	Percent	Rank	Index	Rank	Index	Rank	Percent	Rank
U.S. total	101		5412		7.0		100		100		74.8	
Alabama	65	44	4134	40	5.5	38	76	49	86	36	62.0	29
Alaska	275	1	6265	9	5.9	27	217	1	129	3	43.2	38
Arizona	124	5	7295	2	8.8	3	91	37	115	9	75.0	19
Arkansas	40	50	3479	44	4.5	47	77	47	81	44	39.1	41
California	132	4	7289	3	8.3	5	116	5	95	24	94.9	1
Colorado	98	16	6861	6	6.7	13	110	8	96	21	80.9	13
Connecticut	93	21	5808	15	6.6	18	108	13	102	15	88.3	6
Delaware	121	7	6341	8	7.9	6	109	10	95	24	67.0	22
Florida	104	15	7192	4	8.6	4	100	25	78	46	87.9	7
Georgia	76	32	5143	23	6.1	24	81	45	96	21	60.0	30
Hawaii	108	14	6981	5	6.0	26	103	20	128	4	79.1	17
Idaho	73	37	4114	41	5.9	30	91	37	91	28	18.3	43
Illinois	109	12	5082	25	7.8	7	112	7	99	17	81.0	12
Indiana	62	45	4538	31	5.7	35	98	28	84	39	69.8	20
Iowa	72	38	4281	36	4.9	43	108	13	93	26	40.1	40
Kansas	75	36	4942	26	5.3	40	109	10	87	33	46.8	35
Kentucky	75	34	3082	46	5.9	31	85	41	87	33	44.5	36
Louisiana	93	19	5212	21	7.1	11	103	20	82	42	63.4	27
Maine	58	47	4200	39	4.6	46	80	46	110	11	33.0	44
Maryland	120	8	6184	12	7.3	9	99	27	109	13	88.8	5
Massachusetts	109	13	5942	14	6.5	19	93	33	144	2	85.3	8
Michigan	114	9	6120	13	6.9	12	104	17	113	10	82.7	9
Minnesota	85	25	4417	35	5.1	42	105	16	115	9	64.6	26
Mississippi	53	49	2840	48	4.4	48	70	50	97	19	27.1	45
Missouri	81	27	4919	27	7.2	10	97	29	82	42	65.3	24
Montana	76	31	4444	33	4.8	44	113	6	88	31	24.0	46
Nebraska	78	30	4019	42	5.5	37	100	25	98	18	44.2	37
Nevada	150	3	8104	1	9.3	1	154	3	65	49	82.0	10
New Hampshire	70	40	4453	32	5.9	29	96	30	78	46	50.7	34
New Jersey	122	6	5788	16	7.8	8	102	22	118	7	91.4	3
New Mexico	95	18	5608	18	6.3	23	103	20	85	37	42.4	39
New York	175	2	6210	11	9.0	2	89	38	171	1	90.1	4
North Carolina	80	28	4225	38	6.6	17	82	43	91	28	52.7	33
North Dakota	61	46	2777	49	3.8	50	109	10	78	46	35.9	43
Ohio	81	26	5098	24	6.3	22	101	23	86	36	80.3	15
Oklahoma	69	42	4580	30	5.6	36	108	13	74	48	58.5	32
Oregon	109	11	6247	10	6.5	20	106	15	93	26	64.9	25
Pennsylvania	89	22	3453	45	6.7	14	93	33	105	14	81.9	11
Rhode Island	98	17	5601	19	6.4	21	84	42	121	5	92.2	2
South Carolina	69	41	4812	28	6.0	25	76	49	91	28	59.7	31
South Dakota	66	43	2960	47	4.6	45	95	31	84	39	15.9	49
Tennessee	75	35	3878	43	6.7	15	81	45	87	33	62.8	28
Texas	70	39	5711	17	5.9	28	117	4	64	50	80.0	16
Utah	79	29	5302	20	5.8	33	87	39	99	17	79.0	18
Vermont	76	33	5163	22	5.1	41	85	41	109	13	22.3	47
Virginia	88	23	4256	37	6.7	16	93	33	88	31	69.6	21
Washington	93	20	6388	7	5.8	32	103	20	96	21	80.4	14
West Virginia	53	48	2252	50	3.9	49	92	35	82	42	37.1	42
Wisconsin	87	24	4439	34	5.3	39	99	27	118	7	66.8	23
Wyoming	112	10	4803	29	5.7	34	173	2	83	40	15.3	50

Per capita spending for justice activities and related data, 1979, by State.

Source: See notes 7 through 12 at end of this chapter.

### Some factors that affect justice spending cannot be measured

Factors other than the crime rate, the priority citizens assign to funding justice programs, and their ability and willingness to tax themselves are also related to how much the States spend, but we do not know to what degree be-

cause of insufficient data. These factors include—

- System efficiency—States with well-run, efficient criminal justice agencies would spend less per capita to obtain the same services as States with less efficient agencies.
- Unionization—The degree of unionization and the extent to which police and correctional guard unions are able

to negotiate contracts with higher-than-average salaries and benefits for their members.

- Citizen attitudes about crime and punishment, as reflected in State laws and sentencing and parole practices.
- Tourism—States with large influxes of nonresidents must provide more police services than they would if they were protecting only their own citizens.

## How much does government spend on criminal justice?

In 1981, slightly less than 3% of all government spending was for criminal and civil justice

Of this amount—

- 1.5% was for police protection
- 0.7% was for corrections
- 0.7% was for all other justice services, such as courts, prosecution, and public defense.<sup>13</sup>

Criminal justice is primarily a function of State and local governments—a responsibility reserved to them by the Constitution. In examining how much is spent to maintain criminal justice systems throughout the Nation, it is useful to compare those expenses with all government expenses—Federal, State, and local—to give an overall picture of how tax dollars are spent.

The estimated 3% of all spending for criminal and civil justice services by all levels of government in 1981 compares with about—

- 22% for social insurance payments
- 16% for national defense and international relations
- 14% for education
- 7% for public welfare
- 5% for housing and the environment
- 4% for transportation
- 3% for hospitals
- 1.8% for postal service
- 1.4% for health
- 0.5% for space research and technology.

### Police and corrections account for a small portion of government spending

Federal, State, and local direct expenditures for selected government functions, 1981\*

Purpose of expenditure	Billion dollars	
<b>Social insurance trust payments</b>	\$238.9	Mainly Federal: Federal \$202.3 State 32.2 Local 4.4
Social Security		
Unemployment compensation		
Workmen's compensation		
Public employee retirement		
Old age, survivors, disability, and health insurance		
Veterans life insurance		
<b>National defense and international relations</b>	174.6	100% Federal
<b>Education</b>	158.0	Mainly local: Federal \$12.2 State 39.7 Local 106.1
Local schools (\$100.5)		
Higher education (\$38.1)		
Other (\$19.4)		
<b>Public welfare</b>		
Old age assistance		
Aid to families with dependent children		
Aid to the blind		
Aid to the disabled		
General relief		
	74.6	Mainly State: Federal \$22.4 State 38.6 Local 13.7
<b>Environment and housing</b>	57.5	
<b>Transportation</b>	46.6	
<b>Hospitals</b>	32.1	Mainly State and local: Federal \$2.3 State 7.1 Local 15.3
<b>Police and corrections<sup>14</sup></b>	24.7	
<b>Postal service</b>	20.5	
<b>Health</b>	15.2	
<b>Space research and technology</b>	5.5	

\*Not included — governmental administration (\$22.5 billion), interest on general debt (\$97.6 billion), other and unallocable (\$93.4 billion), utility and liquor stores (\$43 billion), and social insurance administration (\$5.1 billion). "Social insurance trust payments" is "insurance trust expenditure" in source.

Source: Government finances in 1980-81, table 1, U.S. Bureau of the Census.

# What are the trends in justice spending?

**Governments adjust their spending patterns in response to the changing needs of society and shifts in the public's demand for services**

Education's share of all State and local government spending grew from 25% in 1902 to about 40% in the 1960's as the post-World War II babies moved through the public school system. But, by 1980, education's share had dropped to a 20-year low of 36%.

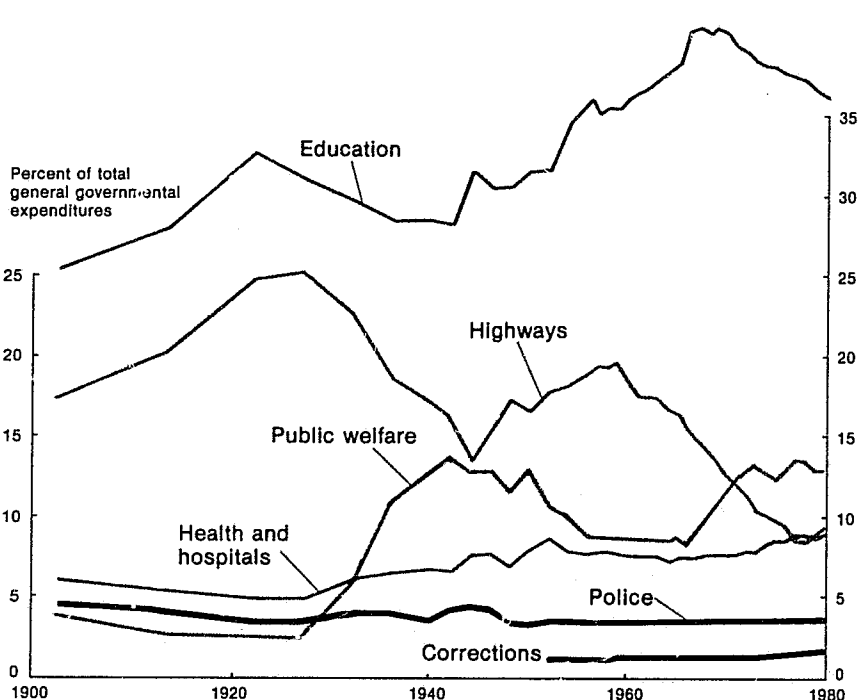
The impact of the Great Depression and resulting social insurance programs can be seen on spending for public welfare.<sup>15</sup> In 1927, 2% of all State and local government spending was for welfare. Five years later, it had nearly tripled; it peaked at 13% in 1950. During the 1950's and 1960's, it leveled off at 8-9% of government spending. These were years of relatively strong economic growth and low unemployment. By the 1970's, welfare began consuming a larger share of State and local spending as the economy worsened and increasing numbers of older Americans became eligible for Medicaid benefits.

Dramatic changes such as these are not seen in the spending for police protection and corrections. Police protection fluctuated between 3% and 5% of all State and local spending during 1902-80; State and local spending for corrections has remained at less than 2% of the total since 1952, when data first became available.

**During 1960-80, per capita spending grew faster for corrections than for police protection**

In constant dollars, State and local annual spending per capita for corrections grew during 1960-80 at the rate of 5.5% per year, while the annual growth rate for police protection was only 3.3%. The increase for police protection was close to the average 3.2% rate of growth in overall State and local government spending. Spending for public welfare increased at the rate of 10.0% per year, hospitals and health care, 5.2%, and education, 2.9%; highway spending decreased at an average annual rate of 1%.

**During this century, the police and corrections shares of State and local spending have not fluctuated as radically as the shares for some other government functions**



Source: Historical statistics of governmental finances and employment, 1977 census of governments, 1977, table 4, and Governmental finances in 1979-80, table 3, U.S. Bureau of the Census.

**State and local government per capita spending for police and corrections increased along with most other government functions during the past 20 years**

	Spending per capita in constant 1980 dollars*					% change
	1960	1965	1970	1975	1980	1960-80
Education	\$366	\$415	\$503	\$571	\$586	+ 60%
Public welfare	67	84	145	187	208	+ 210
Highways	186	203	193	159	147	- 21
Hospitals and health care	68	80	105	131	142	+ 109
Police protection	35	39	47	58	59	+ 69
Corrections	13	15	17	23	28	+ 115

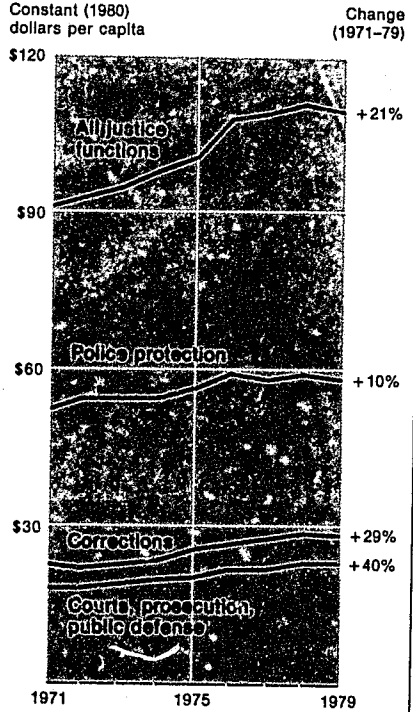
\*See technical appendix for details on inflation adjustment procedures.  
Source: Historical statistics of governmental finances and employment, 1977 census of governments, U.S. Bureau of the Census, 1979. Government finances 1979-80, U.S. Bureau of the Census, 1981.

Total State and local spending reached \$1,911 per capita in 1980. This included—

- \$586 for education
- \$208 for welfare
- \$147 for highways

- \$142 for hospitals and health care
- \$59 for police protection
- \$28 for corrections
- \$741 for all other functions such as sanitation, parks, recreation, housing, and fire protection.

**State and local spending for all justice functions increased from 1971 to 1979**



Source: Justice expenditure and employment in the U.S., 1979. See technical appendix for inflation adjustment procedures.

**The rate of growth for all criminal and civil justice functions rose steadily until 1976, when it began decreasing**

State and local justice spending rose in constant 1980 dollars per capita at an annual rate of 3.1% from 1971 to 1976; from 1976 to 1979 the rate of growth had slowed to one-half of 1% per year. From 1978 to 1979, justice expenditure decreased by 1.6% in constant per capita dollars. Police and courts exhibited similar patterns of steady growth until 1976, followed by decreases in 1977. Each of these sectors recovered somewhat in 1978, but recorded another decrease or leveling off in 1979. Corrections had relatively steady growth rates until 1978, when the annual percent increase fell to one-fifth and one-fourth, respectively, of their 1978 rate. Per capita expenditure for other criminal justice activities, such as planning, information or communication systems serving more than one criminal justice function, pretrial diversion programs, and general criminal justice training or education programs exhibited the highest rate of growth from 1971 to 1976 (39% per year) and the greatest decrease from 1976 to 1979 (6.7%).

**Per capita spending for court-related functions increased at a faster rate than for police and corrections**

Taken together, the judicial functions of courts, prosecution, and public defense grew in constant 1980 dollars at a rate of 4.4% per year, compared to 1.1% for police and 3.1% for corrections. The relatively rapid growth rate for courts is due to particularly high rates of growth in prosecution (8%) and public defense (18%) as the courts alone had a moderate growth rate of 2.5%. Per capita expenditure in the "other justice" category more than doubled from 1971 to 1979; it grew from \$.70 to \$1.72 in constant 1980 dollars.

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Walter H. Sobel F.A.I.A. and Associates, judicial/legal consultants, Chicago, Illinois, surveyed the following architectural firms *pro bono* for BJS in 1982:  
—Gelger, McElveen, Kennedy, Columbia, South Carolina  
—Rasmussen Hobbs, Tacoma, Washington

—Ayers/Saint, Baltimore, Maryland  
—Basco (formerly Buchart Architects), Lancaster, Pennsylvania  
—Prindle, Patrick, and Associates, Inc., Clearwater, Florida  
—Mark Beck Associates, Baltimore, Maryland  
—HOK, Washington, D.C.  
—Tucker, Sadler and Associates, San Diego, California  
—LBC & W, Falls Church, Virginia  
(See the technical appendix for the actual data received.)

Carter, Goble, Roberts, Inc., Columbia, South Carolina.

"Who's buried in Grant's tomb? Economics and corrections for the eighties and beyond," Gail S. Funke, Institute for Economic and Policy Studies, Inc., Alexandria, Va., (unpublished) 1982.

"Prison construction initiatives," U.S. Department of Justice, National Institute of Corrections, (unpublished) 1982.

National Association of Criminal Justice Planners, survey of selected jurisdictions, (unpublished) 1982.

## Notes

Unless otherwise specified in text or note, data in this chapter are from the annual 1971–79 surveys of justice expenditure and employment, sponsored by BJS and conducted by the U.S. Bureau of the Census. Survey results are published in *Justice expenditure and employment in the U.S. 1979, Expenditure and employment data for the justice system* (annual), and *Trends in expenditure and employment data for the justice system* (annual), (Washington: USGPO).

All totals for justice spending in this chapter include the money spent for civil as well as criminal justice services. This is because the sources used to compile the statistics do not consistently separate criminal from civil justice expenditure, and there is no sound basis by which to prorate them.

<sup>1</sup>Data were not collected in sufficient detail to break out Federal payments being passed through State governments.

<sup>2</sup>This does not include payments for loans used for long-term financing of construction projects because it is not possible to consistently separate such payments in the government records used to compile these data.

<sup>3</sup>Multiple sources supplied the data on this table; data prior to 1981 were adjusted for inflation. The specific source for each line is identified in the technical appendix, as is the inflation adjustment used. Ranges are presented when the source did not provide enough information to compute an average or when the average would mask a wide range. State and local salary range data are the average minimum and the average maximum across the States; there are States where the actual starting and maximum salaries are outside the range.

<sup>4</sup>Among several estimates of the cost of jail construction per bed or cell, the most recent is for the cost per bed in a "constitutional jail." This estimate of \$43,000 per bed was made to assist local officials in planning for the construction of jails that meet emerging national jail standards and thus would be less likely to encounter suits alleging violation of prisoners' constitutional rights. (*The costs of constitutional jails*, National Institute of Corrections, U.S. Department of Justice [Washington: USGPO, 1982].)

The estimate, which was based on a survey of 34 "advanced practices" jails, is close to the average cost of \$51,000 per bed (adjusted to 1982 dollars) for five jails covered in a 1974 survey. (*Cost analysis of correctional standards: Institutional-based programs and parole*, vol. II, Neil M. Singer and Virginia B. Wright, National Institute of Justice, U.S. Department of Justice [Washington: USGPO, 1976].)

<sup>5</sup>The payroll is the gross payroll before deductions and includes salaries, wages, fees, and commissions paid to employees during the month of October 1979 annualized by multiplying by 12. Fringe benefits are excluded because the source documents used to compile the data do not consistently include the necessary information.

<sup>6</sup>The relationship between crime rate and per capita expenditure may not be as straightforward as it seems here. The subject has been extensively studied and some researchers using different data bases and analytic techniques have concluded that no relationship exists in the cities and States they have examined. Loftin and McDowell present a review of recent research in this area.

<sup>7</sup>"Per capita spending" (per capita expenditure for criminal and civil justice, 1979), *Justice expenditure and employment in the U.S., 1979*, Bureau of Justice Statistics (Washington: USGPO, 1982), table 6; *Preliminary intercensal estimates of the population of States: 1970 to 1980*, U.S. Bureau of the Census.

<sup>8</sup>"Crime rate" (Index crime rate per 100,000 persons, 1979), in *Crime in the United States, 1979*, Federal Bureau of Investigation (Washington: USGPO, 1980) table 3; *Preliminary intercensal estimates of the population of States: 1970 to 1980*, U.S. Bureau of the Census.

<sup>9</sup>"Priority for justice spending" (Percent of total State and local expenditure for civil and criminal justice, 1979), *Governmental finances in 1978–79*, U.S. Bureau of the Census (Washington: USGPO, 1982), table 12; *Justice expenditure and employment in the U.S., 1979*, Bureau of Justice Statistics (Washington: USGPO, 1982), table 6; adjusted to include police expenditure of special districts (see technical appendix).

<sup>10</sup>"Relative taxable wealth" (Percent of national average tax capacity, 1979), *Tax capacity of the fifty States—supplement: 1980 estimates*, Advisory Commission on Intergovernmental Relations (Washington: USGPO, 1982).

<sup>11</sup>"Relative tax effort" (Percent of national average tax effort, 1979), *Tax capacity of the fifty States—supplement: 1980 estimates*, Advisory Commission on Intergovernmental Relations (Washington: USGPO, 1982).

<sup>12</sup>"Percent of population living in metropolitan areas, 1980," U.S. Bureau of the Census, *Standard metropolitan statistical areas, and standard consolidated statistical areas*, table 5 (Washington: USGPO, 1981).

<sup>13</sup>1981 data were not collected for justice activities other than police and corrections; 1981 expenditures for those other activities were estimated by adjusting data from 1979. See technical appendix for details.

<sup>14</sup>Source did not collect data for justice functions other than police and corrections. The other functions are estimated to add roughly \$7.5 billion to the total. See technical appendix for details.

<sup>15</sup>The State and local public welfare data here are illustrative of changes in government spending for social programs over time. The data do not include Federal programs that provide direct assistance to individuals, such as Social Security, but do include programs that pass Federal money through State and local governments, such as Medicaid.



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## How to find more information on crime and justice

This report was developed to provide statistical information in a format that would be easily understood by a non-technical audience. Therefore, the explanations of methodology are limited, and bibliographic references and footnotes are brief. An explanation of the statistical methods used, data sources, and plotting points for the graphics are in a separate technical appendix to the Report, which is available from the Bureau of Justice Statistics (BJS), 633 Indiana Avenue, NW, Washington, DC 20531 (202/724-7774). Specific questions about the content of the report should be referred to the chapter authors, who may be reached through BJS.

The basic bibliographic sources for each chapter provide the reader with a short, alphabetic list of references on the topics covered and are meant to be introductory rather than comprehensive. Material that references these basic sources is not footnoted. Most of these references, as well as additional material on the topics covered, are available from the National Criminal Justice Reference Service (NCJRS), Box 6000, Rockville, MD 20850 (301/251-5500).

Data of national scope were used wherever possible. If no national data existed, multijurisdictional data were used. Single-site data were used only when no multijurisdictional data were available. In most instances, documents explaining the collection methodology and use of these data are available from NCJRS. Public-use computer tapes of BJS data sets and other criminal justice data are available from the Criminal Justice Data Archive and Information Network, P.O. Box 1248, Ann Arbor, MI 48106 (313/764-5199).

**END**