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National Institute of Justice
United States Department of Justice
Washington, D.C. 20531
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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? 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 justice 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 It presents previously unpublished findings on such topics as crime severity and incorporates new analyses of publicly available data, including the first historical cost analysis of the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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Director
Bureau of Justice Statistics
Acknowledgments:
This report is the result of a 2-year effort by many individuals in addition to the authors and contributors listed for each chapter.
The original idea for this report was developed by Benjamin H. Renshaw III, Deputy Director for Management and Intergovernmental Programs, Bureau of Justice Statistics.

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Marlene 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?
What is crime?

In this report, we define crime as all behaviors and acts for which a social institution provides formally sanctioned punishment. 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 disagree about the great deal of attention to defining crime in both general and specific terms. This written law, primarily in the jurisdictions, recognizes two classes of crimes: felonies and misdemeanors. What are some other common definitions of crime?

Felony in one jurisdiction and as a misdemeanor in another. With the most minor offenses are never "misdemeanors" and the most serious offenses are never "felonies". This criminal / justice data terminology, 1981.

Characteristics of the most common serious crimes?

I. Crimes

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Characteristics of the most common serious 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 interviewed 204 legal events—events from being thrown out of school to planting a bomb in a public building. The survey's nationwide sample of people is the largest ever made of the particular offenses where 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 all items—the scale had no upper limits. Mathe­matical techniques were used to take everyone's answers and convert them to rating 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.

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 victimizations violate basic law. These differences are great 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, and property crimes, the type of business or organization from which the property is stolen.

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4 Report to the Nation on Crime and Justice
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.

UCR
The UCR, published by the Federal Bureau of Investigation, is a national voluntary reporting system in which law enforcement agencies, principally police, submit reports to the FBI.

NCS
The NCS, conducted by the Bureau of Justice Statistics, is based on surveys of the U.S. population.

How do UCR and NCS compare?

<table>
<thead>
<tr>
<th>National Crime Survey</th>
<th>Uniform Crime Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offenses measured</td>
<td>Robbery</td>
</tr>
<tr>
<td></td>
<td>Assault</td>
</tr>
<tr>
<td></td>
<td>Motor vehicle theft</td>
</tr>
<tr>
<td></td>
<td>Arson</td>
</tr>
<tr>
<td>Scope</td>
<td>Crimes reported to the police in most jurisdictions; considerable facility in developing small-area data</td>
</tr>
<tr>
<td>Collection method</td>
<td>Police department reports to FBI</td>
</tr>
</tbody>
</table>

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.
- Less than 2% were victimized by the 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.

Violent crimes
- Murder: 13,210,000
- Forcible rape: 81,040
- Robbery: 514,120
- Aggravated assault: 643,720

Property crimes
- Burglary: 11,965,400
- Larceny-theft: 7,154,600
- Motor vehicle theft: 1,074,000

Total: 13,290,320

Columns 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 nonresidential burglaries reported to the police in 1981 occurred at night. Only 17% were known to have taken place during the day. (In 26%, the time of day was not known.)

In 1981, more than 145,000 completed or attempted robberies were reported to the police by stores, gas stations, banks, and other commercial establishments. Convenience store robberies were more than 5 times the number of gas station robberies, and 5 times the number of bank robberies.

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 be a good deal of the difference 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 between 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 difference in the counts produced by the two programs. For example, it is widely believed that analysts that the ratio in the number of crimes reported to police stems largely from the special programs established by many police departments to treat victims of rape more sympathetically.

The NCS adds information about victims and events not reported to police
In 1973, to learn more about crimes and the victims of crime, the National Crime Survey was begun to measure crimes not reported to police as well as those that are reported. Except for homicides (which is well reported in police statistics) and arson (which is difficult to measure except by burglary), the NCS measures the same crimes as the UCR. Both the UCR and NCS count attempted as well as completed crimes.

6 Report to the Nation on Crime and Justice
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 1972; 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 1960. As previously discussed, all of these sources measure only specific types of crime.

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 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, count crimes differently, in some instances. The two series compute rates using 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 reported to the attention of the police. NCS obtains information on both reported and unreported crimes.
• 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 report crimes 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 increased by 34%. A large portion of this difference appears to be caused by:

• Differences in the base 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 1970s so the NCS rate for the later 1970s 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 United States since 1934 and 1958, it derives homicide data from death certificates for the entire United States. Homicide data provide added perspective to crime trends and therefore do differ slightly.

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 combined 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 generation reached the victimization-prone ages, the homicide rate would be expected to increase.

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

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

When does crime occur?

The hotter months of the year are the peak season for many types of crime. The impact of seasonality on crime rates can range from essentially no effect for robberies to fluctuations of roughly 65% for household larceny of less than $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 people arrested for violent offenses in police also peaks during the summer months.

During the school year, crime is more likely to occur. The most likely crimes are:

1. People spend more time outdoors during these months, making them more vulnerable to some crimes.
2. 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.
3. A notable exception to this trend is personal larceny of less than $50, which drops during the warmer months. 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 (66%) and serious violent offenses such as personal robbery (66%) and aggravated assault (55%).

Among the crimes least likely to happen at night were simple assault (46%), purse snatching and pocket picking (36%), 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 (76%)—which do not involve either illegal entries or break-ins—happen more often at night.

Report to the Nation on Crime and Justice
Where does most crime occur?

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

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, Middle Atlantic, and Pacific regions were due largely to very high rates in New York (1,070), Nevada (906), California (831), 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 properly crimes, but the share of violent crimes was larger in Standard Metropolitan Statistical Areas (SMSAs) (more than 10%) than in other types of places (less than 7%).
- Violent and property crime rates were consistently higher for SMSAs, roughly comparable for suburbs and non-SMSAs cities, and consistently lower for rural areas.
- Increases in violent crime were greatest for non-SMSAs cities and for rural areas.
- Disproportionate increases were noted in rates for violent crime in suburban and rural areas.

Counts 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 it is also clear 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 Summitt, Colorado. Because crime rates are computed on the resident population, these findings for resort areas are not surprising.

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.

7% 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 the 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—perhaps because the victim was in the home often involve illegal entries or break-ins and thus were 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.

Metropolitan areas have the highest rates of reported crime.

<table>
<thead>
<tr>
<th>Place of occurrence</th>
<th>% of crimes</th>
<th>% of larceny without contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>On street, park, school grounds, or parking lot</td>
<td>41%</td>
<td>44%</td>
</tr>
<tr>
<td>Inside residential building</td>
<td>15</td>
<td>21</td>
</tr>
<tr>
<td>Inside the victim’s home</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Near the victim’s home</td>
<td>11</td>
<td>5</td>
</tr>
<tr>
<td>Inside school</td>
<td>5</td>
<td>19</td>
</tr>
<tr>
<td>Elsewhere</td>
<td>15</td>
<td>19</td>
</tr>
</tbody>
</table>

Total 100% 100%

*For purposes, nonviolent property crimes without contact occur in five locations.

### What is the involvement of weapons in crime?

**Armed offenders seldom had more than one type of weapon.**

In about 95% of all victimizations between 1975 and 1979 in which offenders possessed weapons, the offenders had only one type of weapon (that is, only guns or only knives or only 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 injury.**

Means of % of all assault % resulting in personal injury

<table>
<thead>
<tr>
<th>Weapon</th>
<th>65%</th>
<th>15%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shotgun</td>
<td>3</td>
<td>34</td>
</tr>
<tr>
<td>Other weapon</td>
<td>8</td>
<td>41</td>
</tr>
<tr>
<td>Hands, fists, etc.</td>
<td>83</td>
<td>36</td>
</tr>
</tbody>
</table>

**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 328 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.

**Target of bombing incidents: % of all incidents (actual and attempted)**

<table>
<thead>
<tr>
<th>Residence</th>
<th>23%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial establishments</td>
<td>12%</td>
</tr>
<tr>
<td>Vehicles</td>
<td>10</td>
</tr>
<tr>
<td>Schools</td>
<td>5</td>
</tr>
<tr>
<td>Government property</td>
<td>1</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>15</td>
</tr>
</tbody>
</table>

**Known persons killed in bombings:**

- 1,249 people were killed from 1975 to 1981.
- 49% of the victims were reported as personal.
- 44% of the victims were reported as targets.
- 7% of the victims were reported as others.
- 2% were unreported.

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

**Half of all homicides are committed with handguns.**

- 50% of all homicides are committed with handguns.
- 90% of the victims of such crimes were personal.
- 85% of the victims were reported as personal.

<table>
<thead>
<tr>
<th>Weapon</th>
<th>65%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shotgun</td>
<td>3</td>
</tr>
<tr>
<td>Other weapon</td>
<td>8</td>
</tr>
<tr>
<td>Hands, fists, etc.</td>
<td>83</td>
</tr>
</tbody>
</table>

**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—

- 53% if the robber displays a stick, bottle, or other such weapon
- 47% if the robber is armed with a gun
- 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.**

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**Report to the Nation on Crime and Justice**

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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 Shetrite L. Kelly and by Sandra Brill Stolker of the National Organization for Victim Assistance.

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Notes


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

The extent to which fear impedes 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 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 life 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 data on crime victims 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.

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 openness of their own condition.

The risk of victimization depends on a combination of factors.

Victimization rates per 1,000 persons age 12 and over

<table>
<thead>
<tr>
<th>Personal crimes of...</th>
<th>violence$^*$</th>
<th>theft$^*$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total (U.S.)</td>
<td>35</td>
<td>68</td>
</tr>
</tbody>
</table>

### Personal crimes of...  

<table>
<thead>
<tr>
<th>Personal crimes of...</th>
<th>violence$^*$</th>
<th>theft$^*$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race and origin</td>
<td></td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>38</td>
<td>69</td>
</tr>
<tr>
<td>Black</td>
<td>33</td>
<td>85</td>
</tr>
<tr>
<td>Hispanic</td>
<td>38</td>
<td>81</td>
</tr>
<tr>
<td>Non-Hispanic</td>
<td>35</td>
<td>85</td>
</tr>
</tbody>
</table>

### Risk of victimization

- **Who are the victims of crime?**
  - Victims of crime are more often men than women.
  - Young 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).**

### Sources


### Table of Personal Crimes

<table>
<thead>
<tr>
<th>Personal crimes of...</th>
<th>violence$^*$</th>
<th>theft$^*$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total (U.S.)</td>
<td>35</td>
<td>68</td>
</tr>
</tbody>
</table>

### Race, sex, and age summary

- **Race, sex, and age summary**
  - White males
    - 12-15: 13 89
    - 16-19: 19 103
    - 20-24: 37 97
    - 25-34: 57 124
    - 35-44: 65 138
    - 45-54: 70 146
    - 55-64: 75 149
    - 65 and over: 81 150
  - Black males
    - 12-15: 13 89
    - 16-19: 19 103
    - 20-24: 37 97
    - 25-34: 57 124
    - 35-44: 65 138
    - 45-54: 70 146
    - 55-64: 75 149
    - 65 and over: 81 150

### Education

- **Education**
  - 4-5 years: 10 28
  - 6-10 years: 13 37
  - 11-12 years: 16 42
  - 13-15 years: 24 69
  - 16+ years: 35 99

### Occupation

- **Occupation**
  - Housewife: 10 27
  - Householder: 18 41
  - Unable to work: 24 67
  - Employed: 103 264

### Money

- **Money**
  - Less than $3,000: 67 106
  - $3,000-$4,999: 45 66
  - $5,000-$9,999: 43 71
  - $10,000-$14,999: 40 62
  - $15,000-$19,999: 31 84
  - $20,000 or more: 28 104

### Marital status

- **Marital status**
  - Married: 26 63
  - Widowed: 11 34

### Occupation

- **Occupation**
  - Retired: 10 27
  - Householder: 18 41
  - Unable to work: 24 67
  - Employed: 103 264

### Residence

- **Residence**
  - City: 52 101
  - Suburban: 133 279
  - Rural: 24 60

### Table of Personal Crimes

<table>
<thead>
<tr>
<th>Personal crimes of...</th>
<th>violence$^*$</th>
<th>theft$^*$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total (U.S.)</td>
<td>35</td>
<td>68</td>
</tr>
</tbody>
</table>
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.
- Households 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

<table>
<thead>
<tr>
<th>Crime Type</th>
<th>Sex</th>
<th>Age</th>
<th>Income</th>
<th>Employment status</th>
<th>Residence</th>
<th>Employment status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robbery</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assualt</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rape</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Age of household head</th>
<th>Burglary</th>
<th>Household larceny</th>
<th>Motor vehicle theft</th>
</tr>
</thead>
<tbody>
<tr>
<td>12-19</td>
<td>218</td>
<td>184</td>
<td>29</td>
</tr>
<tr>
<td>20-24</td>
<td>115</td>
<td>156</td>
<td>23</td>
</tr>
<tr>
<td>25-34</td>
<td>95</td>
<td>136</td>
<td>20</td>
</tr>
<tr>
<td>35-49</td>
<td>76</td>
<td>104</td>
<td>12</td>
</tr>
<tr>
<td>50-64</td>
<td>54</td>
<td>65</td>
<td>7</td>
</tr>
<tr>
<td>65 and over</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Race and origin</th>
<th>White</th>
<th>Black</th>
<th>Hispanic</th>
<th>Other</th>
<th>Non-Hispanic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>82</td>
<td>112</td>
<td>15</td>
<td>98</td>
<td>146</td>
</tr>
<tr>
<td>Income</td>
<td>6</td>
<td>5</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Marital status</th>
<th>Divorced/separated</th>
<th>Married</th>
<th>Widowed</th>
<th>Never married</th>
<th>Widowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>132</td>
<td>99</td>
<td>89</td>
<td>123</td>
<td>20</td>
</tr>
<tr>
<td>Income</td>
<td>128</td>
<td>120</td>
<td>121</td>
<td>123</td>
<td>20</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number of persons</th>
<th>In household</th>
<th>1-2</th>
<th>3-5</th>
<th>6 or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>84</td>
<td>77</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>Income</td>
<td>93</td>
<td>165</td>
<td>19</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Place of residence</th>
<th>Central city</th>
<th>1,000,000 or more</th>
<th>500,000-999,999</th>
<th>250,000-499,999</th>
<th>50,000-249,999</th>
<th>Outside central city (suburban)</th>
<th>Nonmetropolitan (rural)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>120</td>
<td>149</td>
<td>26</td>
<td></td>
<td></td>
<td>114</td>
<td>68</td>
</tr>
<tr>
<td>Income</td>
<td>115</td>
<td>116</td>
<td>33</td>
<td></td>
<td></td>
<td>153</td>
<td>98</td>
</tr>
</tbody>
</table>


### What is the relationship between victim and offender?

#### Men, women, 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 (26 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 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.

#### More violent crime by strangers

Blacks were more often victims of violent crimes by strangers than nonwhites to be robbed of $1,000.

Almost 80% of all violent crimes against blacks were committed by nonstrangers.

#### Women are more vulnerable to assault by acquaintances and relatives

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

NCS data show that during 1973-77 96% 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.

Spouses or former spouses committed 5% of the assaults by lone offenders. NCS data show that during 1973-77 96% 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.

Young offenders did not appear to be singing 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?

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 showed that 2,041,000 injuries resulted from violent crimes other than homicide.

Homicides and nonnegligent manslaughter, the crimes that have the highest death rates, account for 1.5% of the violent crimes committed in the United States.

Together, these two types of violent crime account for 30% of all violent crimes reported to the NCS.

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

The average loss from such a crime was about $100.

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

Victims were more likely to report injury requiring medical attention if the offender was a stranger, was a relative, or was a friend. There was also some indication that victims of violent crimes are more likely to be injured seriously if the assailant was a relative than if the assailant was a stranger.

Victim protective responses such as trying to talk themselves out of being killed, passing out information, attracting attention, and trying to talk the assault to an end are less likely to result in serious injury. Yet, if the victim is being attacked by a stranger or a relative, the victim is more likely to react with violence.

Victim protective responses such as passing out information, attracting attention, and trying to talk the assault to an end were less likely to result in serious injury if the victim was being attacked by a stranger or a relative. There was also some indication that those who tried to talk themselves out of being killed, passing out information, attracting attention, and trying to talk the assault to an end were less likely to use physical force to repel rapists.

The likelihood of victim protective responses varied with the type of violent crime and the likehood of injury was consistently less likely to be associated with each of the self-protective responses of physical force, attracting attention, and trying to talk themselves out of being killed.
Most crimes are not reported to the police

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

<table>
<thead>
<tr>
<th>Crime Type</th>
<th>Percent Reported to the Police</th>
</tr>
</thead>
<tbody>
<tr>
<td>Theft of $1,000 or more</td>
<td>80%</td>
</tr>
<tr>
<td>Robbery with injury</td>
<td>70%</td>
</tr>
<tr>
<td>Attempted assault with weapon</td>
<td>70%</td>
</tr>
<tr>
<td>Theft of $250-$999</td>
<td>60%</td>
</tr>
<tr>
<td>Aggravated assault with injury</td>
<td>60%</td>
</tr>
<tr>
<td>Attempted assault without weapon</td>
<td>60%</td>
</tr>
<tr>
<td>Theft of $50-$99</td>
<td>50%</td>
</tr>
<tr>
<td>Theft of $10-$49</td>
<td>40%</td>
</tr>
<tr>
<td>Theft of $1-$9</td>
<td>30%</td>
</tr>
<tr>
<td>Theft of $5-$9</td>
<td>10%</td>
</tr>
<tr>
<td>Theft of $1-$9</td>
<td>1%</td>
</tr>
</tbody>
</table>

Most crimes are not reported to the police.

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 crimes. 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%)
- Females than for male victims of violent crimes (26% vs. 44%)
- Older than for younger victims.

Whites, blacks, Hispanics, and non-Hispanics reported both violent crimes and personal crimes of theft at more of 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.

The highest income group was more likely to report household crimes to the police than any other group.

<table>
<thead>
<tr>
<th>Income Group</th>
<th>Percent Reported to the Police</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper $1,000</td>
<td>85%</td>
</tr>
<tr>
<td>$3,000 or less</td>
<td>80%</td>
</tr>
<tr>
<td>Lower $1,000</td>
<td>75%</td>
</tr>
</tbody>
</table>

Homeowners were more likely than renters to report household crimes.

<table>
<thead>
<tr>
<th>Type of Crime</th>
<th>Percent Reported to the Police</th>
</tr>
</thead>
<tbody>
<tr>
<td>Household burglary</td>
<td>60%</td>
</tr>
<tr>
<td>Household larceny</td>
<td>56%</td>
</tr>
<tr>
<td>Motor vehicle theft</td>
<td>50%</td>
</tr>
</tbody>
</table>

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 relatives and acquaintances. It may be that victims are more willing to report crimes by relatives or acquaintances if the crimes were reported to police.
Compensation for crime victims has become more available, particularly in the past 10 years.

Victim compensation programs are a relatively new phenomenon. In 1980, 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. 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 prosecutorial 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 reimburses 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.

<table>
<thead>
<tr>
<th>State</th>
<th>Financial award</th>
<th>Show victims financial need</th>
<th>Report to victim of crime</th>
<th>Financial award (in millions)</th>
<th>Financial award (in millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>$500,000</td>
<td>Yes</td>
<td>3 days</td>
<td>25 days</td>
<td>6 months</td>
</tr>
<tr>
<td>California</td>
<td>$250,000</td>
<td>Yes</td>
<td>5 days</td>
<td>24 months</td>
<td></td>
</tr>
<tr>
<td>Colorado</td>
<td>$250,000</td>
<td>Yes</td>
<td>3 days</td>
<td>12 months</td>
<td></td>
</tr>
<tr>
<td>Connecticut</td>
<td>$250,000</td>
<td>Yes</td>
<td>5 days</td>
<td>24 months</td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td>$25,000</td>
<td>No</td>
<td>5 days</td>
<td>12 months</td>
<td></td>
</tr>
<tr>
<td>D.C.</td>
<td>$25,000</td>
<td>Yes</td>
<td>7 days</td>
<td>12 months</td>
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</tr>
<tr>
<td>Florida</td>
<td>$25,000</td>
<td>Yes</td>
<td>3 days</td>
<td>12 months</td>
<td></td>
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<tr>
<td>Hawaii</td>
<td>$25,000</td>
<td>Yes</td>
<td>3 days</td>
<td>12 months</td>
<td></td>
</tr>
<tr>
<td>Illinois</td>
<td>$250,000</td>
<td>Yes</td>
<td>3 days</td>
<td>12 months</td>
<td></td>
</tr>
<tr>
<td>Indiana</td>
<td>$250,000</td>
<td>Yes</td>
<td>2 days</td>
<td>12 months</td>
<td></td>
</tr>
<tr>
<td>Iowa</td>
<td>$250,000</td>
<td>Yes</td>
<td>1 day</td>
<td>6 months</td>
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</tr>
<tr>
<td>Kansas</td>
<td>$250,000</td>
<td>Yes</td>
<td>3 days</td>
<td>12 months</td>
<td></td>
</tr>
<tr>
<td>Kentucky</td>
<td>$250,000</td>
<td>Yes</td>
<td>2 days</td>
<td>12 months</td>
<td></td>
</tr>
<tr>
<td>Louisiana</td>
<td>$250,000</td>
<td>No</td>
<td>3 days</td>
<td>12 months</td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td>$250,000</td>
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<td>5 days</td>
<td>12 months</td>
<td></td>
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<tr>
<td>Massachusetts</td>
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<td>No</td>
<td>2 days</td>
<td>12 months</td>
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</tr>
<tr>
<td>Michigan</td>
<td>$250,000</td>
<td>Yes</td>
<td>2 days</td>
<td>12 months</td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>$250,000</td>
<td>No</td>
<td>5 days</td>
<td>6 months</td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>$250,000</td>
<td>No</td>
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<td>South Carolina</td>
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<td>Texas</td>
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<td>Virginia</td>
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<td>Washington</td>
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<tr>
<td>Wisconsin</td>
<td>$20,000</td>
<td>Yes</td>
<td>3 days</td>
<td>24 months</td>
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</tr>
</tbody>
</table>

(Includes state and federal programs. This table excludes most limited medical expenses.)
Chapter III

The offender

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. Rossam 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 and poor, that they are economically and educationally disadvantaged, proportionately black as to the proportion of blacks in the population, and frequently products of unstable homes. Many people think that such characteristics are rightfully be described as a cause 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 proposed. 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 exist but can be grouped into three general explanations:

1. The sociological—focuses on the environment's effect on the individual and places responsibility for crime on society. It identifies as the causes of crime those factors as poverty, ignorance, high unemployment, inadequate housing, and poor health. To these factors, are added personal characteristics such as poverty, age, sex, and race of their assailants.

2. The psychological—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, en-docrine abnormalities, neurological dysfunction produced prenatally and postnatally, and chromosomal abnormalities (the XYY chromosomal pattern).

3. 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 prenatally and postnatally, and chromosomal abnormalities (the XYY chromosomal pattern).

How do we know who commits crime?

Three major sources provide information about offenders:

1. Studies of groups of persons in the general population
2. Interviews with victims
3. 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). In order to find the cause of crime, we must look at all factors that influence an individual's propensity to commit crime. The factors that influence an individual's propensity to commit crime are 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 knowledge of risk and willingness to inflict injury on others. In- ducement 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 prenatally and postnatally, and chromosomal abnormalities (the XYY chromosomal pattern).

What do we know about criminals who commit crimes?

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 compiled by the United States, and these data are more representative of offenders that emerges is largely that of the repeat and serious offenders.

How many offenders are there?

The FBI reports an annual estimate of 226,545,805 persons, 6% of whom were arrested for nontraffic offenses. The proportion of persons arrested for nontraffic offenses is estimated to be 10% of the general population.

Who is the "typical" offender?

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

<table>
<thead>
<tr>
<th></th>
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<tbody>
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<tr>
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Most crimes are committed by men, especially by men under age 20.

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</thead>
<tbody>
<tr>
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<td>0%</td>
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<td>0%</td>
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<td>Sexual assault</td>
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<td>0%</td>
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<td>Other violent offenses</td>
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<td>0%</td>
<td>0%</td>
<td>0%</td>
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<td>0%</td>
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<tr>
<td>Black</td>
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<td>0%</td>
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<td>0%</td>
<td>0%</td>
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</tbody>
</table>

Most crimes are committed by men, especially by men under age 20.
Serious crime arrests highest in young age groups

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.

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.

Violent juvenile offenders and adult felons have very similar characteristics

Several comprehensive studies, including Hamparian'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 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 single-parent families or lives 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 youths 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.

NCJ 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 26% during the 1970's, while the number of boys in custody increased 11%. Girls, by the nature of their offenses, were more affected by the trend toward deinstitutionalization of the status offender.

Gang-related offenses are more likely than those of lone juveniles

A large number of juvenile offenders, however, are also involved in illegal activities. They are likely to be committed to crime in groups and are often involved in drug dealing, weapon offenses, and other illegal activities.

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, 10% of the inmate population was female, compared to 3.4% of the U.S. population. However, a large number of female status offenders are involved in illegal activities.

Report to the Nation on Crime and Justice

Report to the Nation on Crime and Justice
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 1961, 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 16. This relatively small proportion contrasts with the followings proportions of males and females in the study who had no arrests or fewer than five arrests:

<table>
<thead>
<tr>
<th>Group</th>
<th>Males</th>
<th>Females</th>
</tr>
</thead>
<tbody>
<tr>
<td>Never arrested</td>
<td>67%</td>
<td>86%</td>
</tr>
<tr>
<td>Arrested only once</td>
<td>14%</td>
<td>8%</td>
</tr>
<tr>
<td>Arrested 2-4 times</td>
<td>11%</td>
<td>5%</td>
</tr>
<tr>
<td>Arrested 5 or more times</td>
<td>7%</td>
<td>1%</td>
</tr>
</tbody>
</table>

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 re-arrest for young chronic offenders: if one arrest, 33% of the entire group had one arrest, if five arrests, 39% 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 juvenile recidivist beyond the third crime, the likelihood of further criminality remained at about 71%. 

Chronic violent offenders start out and remain violent.

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 study group, chronic offenders committed:

- 61% of all homicides
- 76% of all rape
- 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 1974 made up 24% of all the arrests during this period.

Repeat criminality is not limited to urban settings.

Policys 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 18.5

Few repeat arrests 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.6

Relatively few offenders specialize.

Most criminals engage in several types of crime:

- Repeat offenders tend to switch between different types of crimes, within and between violent and property offenses, often engaging in related types of crime such as property and drug offenses.7
- 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.

<table>
<thead>
<tr>
<th>Crime Category</th>
<th>Females (in group)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All arrests (adults and juveniles)</td>
<td>16%</td>
</tr>
<tr>
<td>Violent crime arrests</td>
<td>19%</td>
</tr>
<tr>
<td>Property crime arrests</td>
<td>20%</td>
</tr>
<tr>
<td>Under correctional supervision</td>
<td>4%</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Crime Category</th>
<th>Males</th>
<th>Females</th>
</tr>
</thead>
<tbody>
<tr>
<td>All larceny-theft arrests</td>
<td>22%</td>
<td>39%</td>
</tr>
<tr>
<td>Violent property arrests</td>
<td>23%</td>
<td>29%</td>
</tr>
</tbody>
</table>

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 all-time record increases set in 1975. The 1981 increase for females exceeded that of males, and between 1970 and 1981 the proportion of females rose by more than 150% while that of males increased by 76%. 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.

Males 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 in men than 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 14% of the men, but only 5% of the women. These proportions were rationalized 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.

Report to the Nation on Crime and Justice

34
A relatively large proportion of offenders come from minority groups

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

<table>
<thead>
<tr>
<th>United States</th>
<th>Blacks as a percent of the population of U.S.</th>
<th>Ratio of proportion of black prisoner population to U.S. proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Blacks</td>
<td>47%</td>
</tr>
<tr>
<td>Northeast</td>
<td>50</td>
<td>10</td>
</tr>
<tr>
<td>North Central</td>
<td>47</td>
<td>8</td>
</tr>
<tr>
<td>South</td>
<td>63</td>
<td>19</td>
</tr>
<tr>
<td>West</td>
<td>28</td>
<td></td>
</tr>
</tbody>
</table>

Source: Prisoners in State and Prudial 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% involved members of other races). Among UCR Index Crimes, the arrest rate of blacks was higher for violent than for property crimes.

<table>
<thead>
<tr>
<th>Crime</th>
<th>White arrests</th>
<th>Black arrests</th>
<th>Ratio of Black to White arrests</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violent crimes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Murder</td>
<td>50</td>
<td>50</td>
<td>1 to 1</td>
</tr>
<tr>
<td>Rape</td>
<td>50</td>
<td>50</td>
<td>1 to 1</td>
</tr>
<tr>
<td>Robbery</td>
<td>39</td>
<td>60</td>
<td>1.5 to 1</td>
</tr>
<tr>
<td>Property crimes</td>
<td>67</td>
<td>31</td>
<td>2.1 to 1</td>
</tr>
<tr>
<td>Burglary</td>
<td>68</td>
<td>20</td>
<td>3.4 to 1</td>
</tr>
<tr>
<td>Larceny-theft</td>
<td>66</td>
<td>32</td>
<td>2.1 to 1</td>
</tr>
<tr>
<td>Motor vehicle</td>
<td>70</td>
<td>70</td>
<td>1 to 1</td>
</tr>
<tr>
<td>Theft</td>
<td>78</td>
<td>78</td>
<td>1 to 1</td>
</tr>
</tbody>
</table>

### 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% (2,005,000) of the male prison population in 1979 and 11% (1,607,000) of the jail population in 1978.
- Made up 7% (815,000) of the female prison population in 1979 and 7% (488,000) 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.

### A high number of offenders came 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

Studies have shown that the criminal careers of most persons began before age 15. The proportion of delinquents who were still involved in crime at age 29 is greater than that of high school dropouts, but it is highly unlikely that the proportion is as high.

### Many offenders had dependent children

Despite the high proportion of unmarried inmates, more than half of all inmates had been married at some point, some even more than once.

### 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-olds 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.
- College graduates had an extremely low incarceration rate.

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

While tburdened 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 theorists have felt 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.

### Most offenders were not married

Among jail and prison inmates—

- About half had never been married and almost 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.

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### Educationally was closely related to type of offense

- For white, 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.
- Confiscation for public order crimes such as 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 or some postsecondary education 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.

### Lifetime probability of incarceration in 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. 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.

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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:

- In the labor force: 596
- Employed: 356
- Unemployed: 813
- Not in labor force: 443
- Total: 465

Source: Prisons and prisoners, January 1983.

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 the Rand Corporation study were evenly divided between these two extremes. On the average, these felons committed more crimes, particularly more property crime, 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 link. 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 condition/market conditions. As with other characteristics, most unemployed people do not become criminals.

**Motivations for crime range in thieft-seeking to need for money**

Juveniles who went on to have adult criminal careers have stated that their main motives for crime were thieft-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 for money for drugs and alcohol.

Average inmate was at the poverty level before entering jail

Almost half of all male inmates in jail in 1979 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 discontinuities to be better off than other adolescents in their immediate area. 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 or decrease as they experience prosperity.

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

Prison

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Population age 16-54</th>
</tr>
</thead>
<tbody>
<tr>
<td>White-collar</td>
<td>15%</td>
</tr>
<tr>
<td>Blue-collar</td>
<td>40%</td>
</tr>
<tr>
<td>Farm</td>
<td>67</td>
</tr>
<tr>
<td>Service</td>
<td>10</td>
</tr>
<tr>
<td>Total</td>
<td>85</td>
</tr>
</tbody>
</table>

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


Few prison inmates had been working in their customary occupation before their arrest. Of all prison inmates, 40% of all prisoners who were working 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 underemployment.

Many inmates had income from nontraditional sources before entering jail

- 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 (50% vs. 11%); many received Aid for Families with Dependent Children.
  - Depended on family, friends, or loans from third parties for their subsistence (25% vs. 14%).

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

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 drug dealers, 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 (30%) 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, a typical addict committed a crime every other day. However, both studies show that most heroin-addicted criminals were involved in crime before they became addicted and that their drug sources, rather than street crimes, are the major source of support for the drug habit.

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

According to findings from a 1979 survey of jail 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 juveniles age 16-25, was used by 28% of all inmates, most of whom used it at least once a week before they entered prison.
- Cocaine, used by 41% of the prisoners, was also widely used by 18-25-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 66% 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.
- Amphetamine 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 80-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

- More than a third of prisoners 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 heavily prior to their current offense.

- Nation offenders drank more frequently, consumed more at one session, and were more likely to get drunk than one-time offenders.

Report to the Nation on Crime and Justice
The response to crime

Marianne W. Zawitz
Thini R. Mina
C. Mae Kuykendall
Lawrence A. Greenfield
Joseph L. White

This chapter gives an overview of criminal justice at all levels of government—national, State, and local. It also examines the philosophical base and legal mandates of our system of justice, including the philosophical base and legal mandates of our system of juvenile justice. It includes data and research findings that describe and explain the operations of key stages in the criminal justice process: Entry into the system, the justice system, and the justice system. The data presented answer such questions as—

How does the criminal justice process work? What is its purpose, 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?

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

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 case load 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 does sentence length differ from actual time served?

Are correctional populations increasing? How many prison sentences are commuted in State and Federal institutions? How many are on death row?

In what type of facilities are prisoners held?

What States have prisons that are organized? To what extent do the various courts interact?

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The response to crime is a complex process that involves many agencies, levels, and branches of government. 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. Clinical 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 3). 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 may be identified and apprehended for the case to proceed through the justice system. In many jurisdictions, the entry into the system is followed by a preliminary hearing to determine 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 sufficient evidence, it submits to the court an indictment (a written statement of the essential facts of the offense charged against the accused). The grand jury may also investigate criminal activity generally and issue indictment called grand jury originals that initiate criminal cases. Some felony cases and misdemeanor cases proceed by the issuance of an information (a formal, written accusation 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 no contest (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 conviction and after guilty plea, sentencing 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, the sentencing judge may be advised as to which evidence of aggravating or mitigating circumstances will be considered. In determining the circumstances surrounding a convicted person's criminal behavior, courts often rely on presentence investigations performed by probation agencies or other designated authorities.
Discretion is exercised throughout the criminal justice system

Discretion is exercised by an authority conferred by law to act in certain conditions or to follow certain standards, but discretion thereby conferred is not to be exercised in the manner of judicial discretion. Discretion cannot be exercised by any body which is not vested with judicial authority.

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 raising mandatory and determinate sentencing laws.

Who exercises discretion?

These criminal justice officials... must often decide whether or not to bring charges.

Police

- Enforce specific laws
- Investigate specific crimes
- Issue arrest warrants
- Arrest persons

Prosecutors

- File charges or petitions for adjudication
- Seek adjudicatory hearings
- Drop cases
- Acquise charges

Judges or magistrates

- Set bail or conditions for pretrial release

Correctional officials

- Assess type of institutional facility
- Decide who qualifies
- Determine programs

Paving authority

- Determine the state or local conditions of parole

For more information, see the Report to the Nation on Crime and Justice.
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 arrests, the proportion of all crimes handled directly by the criminal justice system through the processing of a suspect is relatively small. In directly, 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 II).

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

<table>
<thead>
<tr>
<th>Year</th>
<th>per 100,000 persons</th>
<th>NCV victimization rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1979</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1980</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 disrupt 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 directed to police on patrol showed that—

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

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 suspects.

- 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 that 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." 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 within local communities.
- In 1977, there were 11,475 municipal, 61 county, and 1,856 township general-purpose police agencies in the United States employing 486,802 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 1,132 special police agencies including park rangers, airport 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 information.

There are more than 50 law enforcement agencies at the Federal level:

- The Federal agencies that have the largest law enforcement workloads are:
  - 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

Report to the Nation on Crime and Justice 47
What is the relationship between police strength and crime?

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

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, 85% 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 per capita. 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.  
- The rate of law enforcement officers per capita shows little relationship to 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 a 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.  
- 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.  
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Most counties have fewer than 5 police officers per 100 square miles

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 11.1 UCR Index Crimes per 1,000 population in 1960 to 5.9 in 1980). Between 1967 and 1977, growth in the number of police officers per capita—
- Occurred in all regions of the country.
- Was highest (78%) in the South.
- Was lowest (43%) in the Northeast which in 1977 had the highest number of police officers per capita.
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 whether 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 court or welfare agency) that establishes criminal proceedings in court for a specific act. As an example, the District of Columbia study cited above, conviction rates for robbery, larceny, and burglary declined significantly as time between offenses and arrest increased.

The probability of an arrest declines sharply if the incident is not reported to the police within seconds after a confrontational crime. Several factors affect the ability of police to make arrests which result in conviction.

If report of a confrontational crime may be made immediately, the 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 ability of the police to follow 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 locating the crime scene, dealing with a telephone to reach an officer, or the need to take 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.

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 offenses and arrest increased.

<table>
<thead>
<tr>
<th>Rank</th>
<th>Offense</th>
<th>Number of arrests</th>
<th>Percentage of arrests</th>
<th>Conviction rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>All other offenses (except traffic)</td>
<td>1,908,700</td>
<td>35%</td>
<td>47%</td>
</tr>
<tr>
<td>2</td>
<td>Driving under the influence</td>
<td>1,531,400</td>
<td>28%</td>
<td>39%</td>
</tr>
<tr>
<td>3</td>
<td>Burglary</td>
<td>1,281,600</td>
<td>23%</td>
<td>30%</td>
</tr>
<tr>
<td>4</td>
<td>Drunkenness</td>
<td>1,155,400</td>
<td>20%</td>
<td>25%</td>
</tr>
<tr>
<td>5</td>
<td>Disorderly conduct</td>
<td>787,100</td>
<td>14%</td>
<td>22%</td>
</tr>
<tr>
<td>6</td>
<td>Rape</td>
<td>513,900</td>
<td>9%</td>
<td>18%</td>
</tr>
<tr>
<td>7</td>
<td>Simple assaults</td>
<td>494,200</td>
<td>8%</td>
<td>16%</td>
</tr>
<tr>
<td>8</td>
<td>Liquor law violations</td>
<td>452,300</td>
<td>8%</td>
<td>14%</td>
</tr>
<tr>
<td>9</td>
<td>Marijuana violations</td>
<td>307,400</td>
<td>5%</td>
<td>12%</td>
</tr>
<tr>
<td>10</td>
<td>Vandalism</td>
<td>292,700</td>
<td>5%</td>
<td>12%</td>
</tr>
<tr>
<td>11</td>
<td>Weapons carrying, possessing, etc.</td>
<td>179,700</td>
<td>3%</td>
<td>10%</td>
</tr>
<tr>
<td>12</td>
<td>Robbery</td>
<td>153,300</td>
<td>3%</td>
<td>10%</td>
</tr>
<tr>
<td>13</td>
<td>Runaway</td>
<td>135,800</td>
<td>3%</td>
<td>10%</td>
</tr>
<tr>
<td>14</td>
<td>Stolen property: buying, receiving, possessing</td>
<td>129,200</td>
<td>2%</td>
<td>9%</td>
</tr>
<tr>
<td>15</td>
<td>Motor vehicle theft</td>
<td>129,200</td>
<td>2%</td>
<td>9%</td>
</tr>
<tr>
<td>16</td>
<td>Prostitution and commercial vice</td>
<td>106,900</td>
<td>2%</td>
<td>9%</td>
</tr>
<tr>
<td>17</td>
<td>Curfew and loitering law violation</td>
<td>94,500</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>18</td>
<td>Forgery and counterfeiting</td>
<td>86,600</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>19</td>
<td>Opium or cocaine and their derivatives</td>
<td>72,100</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>20</td>
<td>Sex offenses (except forcible rape)</td>
<td>72,200</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>21</td>
<td>Other dangerous drug violations</td>
<td>67,700</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>22</td>
<td>Offenses against family and children</td>
<td>56,500</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>23</td>
<td>Gambling</td>
<td>40,700</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>24</td>
<td>Vagrancy</td>
<td>33,000</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>25</td>
<td>Forcible rape</td>
<td>31,710</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>26</td>
<td>Murder and nonnegligent manslaughter</td>
<td>21,500</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>27</td>
<td>Arson</td>
<td>20,600</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>28</td>
<td>Synthetic or manufactured drug violations</td>
<td>20,500</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>29</td>
<td>Suspiration</td>
<td>16,200</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>30</td>
<td>Embezzlement</td>
<td>7,700</td>
<td>1%</td>
<td>8%</td>
</tr>
</tbody>
</table>

*U.S. Crime Index Categories.

**Source:** FBI Uniform Crime Reports, 1981.

<table>
<thead>
<tr>
<th>Offense</th>
<th>Estimated number of arrests</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arson</td>
<td>20,600</td>
</tr>
<tr>
<td>Counterfeiting</td>
<td>86,600</td>
</tr>
<tr>
<td>Drunkenness</td>
<td>1,155,400</td>
</tr>
<tr>
<td>Driving under the influence</td>
<td>1,531,400</td>
</tr>
<tr>
<td>Drug law violations</td>
<td>452,300</td>
</tr>
<tr>
<td>Forcible rape</td>
<td>31,710</td>
</tr>
<tr>
<td>Forgery</td>
<td>86,600</td>
</tr>
<tr>
<td>Forcible rape</td>
<td>31,710</td>
</tr>
<tr>
<td>Gambling</td>
<td>40,700</td>
</tr>
<tr>
<td>Marijuana violations</td>
<td>307,400</td>
</tr>
<tr>
<td>Motor vehicle theft</td>
<td>129,200</td>
</tr>
<tr>
<td>Murder and nonnegligent manslaughter</td>
<td>21,500</td>
</tr>
<tr>
<td>Negligent manslaughter</td>
<td>21,500</td>
</tr>
<tr>
<td>Parenthood offenses</td>
<td>10,500</td>
</tr>
<tr>
<td>Rape</td>
<td>513,900</td>
</tr>
<tr>
<td>Robbery</td>
<td>153,300</td>
</tr>
<tr>
<td>Sex offenses (except forcible rape)</td>
<td>72,200</td>
</tr>
<tr>
<td>Stolen property: buying, receiving, possessing</td>
<td>129,200</td>
</tr>
<tr>
<td>Stolen property: receiving</td>
<td>129,200</td>
</tr>
<tr>
<td>Stolen property: theft</td>
<td>129,200</td>
</tr>
<tr>
<td>Suicide</td>
<td>10,500</td>
</tr>
<tr>
<td>Traffic offenses</td>
<td>1,908,700</td>
</tr>
<tr>
<td>Vagrancy</td>
<td>33,000</td>
</tr>
<tr>
<td>Vandalism</td>
<td>292,700</td>
</tr>
<tr>
<td>Weapons carrying, possessing, etc.</td>
<td>179,700</td>
</tr>
<tr>
<td>White-collar offenses</td>
<td>36,300</td>
</tr>
</tbody>
</table>

| Source: FBI Uniform Crime Reports, 1981. |
For most crimes, no one is apprehended

For every five offenses reported to police...

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 exonerated of wrongdoing.

<table>
<thead>
<tr>
<th>Most crimes are not cleared by arrest</th>
<th>Reported crimes cleared by arrest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder</td>
<td>72%</td>
</tr>
<tr>
<td>Aggravated assault</td>
<td>58%</td>
</tr>
<tr>
<td>Forcible rape</td>
<td>48%</td>
</tr>
<tr>
<td>Robbery</td>
<td>24%</td>
</tr>
<tr>
<td>Larceny-theft</td>
<td>19%</td>
</tr>
<tr>
<td>Burglary</td>
<td>14%</td>
</tr>
<tr>
<td>Motor vehicle theft</td>
<td>14%</td>
</tr>
<tr>
<td>All UCR Index Crimes</td>
<td>19%</td>
</tr>
</tbody>
</table>

Source: FBI Uniform Crime Reports, 1981.

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

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

<table>
<thead>
<tr>
<th>New Orleans, Louisiana</th>
<th>Washington, D.C.</th>
<th>Manhattan, Borough, New York</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrest to grand jury for indictment</td>
<td>45 withheld at pretrial</td>
<td>37 referred after filing</td>
</tr>
<tr>
<td>100 cases</td>
<td>49 prosecutors</td>
<td>100 cases</td>
</tr>
<tr>
<td>$3,536 range of charges</td>
<td>83 guilty pleas</td>
<td>83 guilty pleas</td>
</tr>
<tr>
<td>2 guilty pleas</td>
<td>3 guilty pleas</td>
<td>4 guilty pleas</td>
</tr>
<tr>
<td>106 cases</td>
<td>7 trials</td>
<td>5 guilty pleas</td>
</tr>
<tr>
<td>55 guilty pleas</td>
<td>0 referred to another prosecutor</td>
<td>43 guilty pleas</td>
</tr>
<tr>
<td>83 filings</td>
<td>11000</td>
<td>14 referrals to another prosecutor</td>
</tr>
<tr>
<td>83 filings</td>
<td>4 referrals to another prosecutor</td>
<td>100 cases</td>
</tr>
<tr>
<td>14 referrals to another prosecutor</td>
<td>12 referrals to another prosecutor</td>
<td>83 filings</td>
</tr>
</tbody>
</table>

Source: B. Boland, Institute for Law and Social Research, under grant from the National Institute of Justice, Univ. of Michigan, 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 insufficiency of 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 for a bill of information
- A combination of the above at the prosecutor's discretion

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

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

Today, the grand jury is a group of ordinary citizens, usually no more than 73, 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.
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 prosecutor may also recommend dismissal, or the judge may take the initiative in dismissing a case. A dismissal is an official action of the court.

Why are some cases rejected or dismissed?

The function of the defense attorney is to protect the defendant's legal rights and to be the defendant's advocate to 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 similarly skilled attorneys handle other types of legal matters that may take occasional criminal cases. The right to the assistance of counsel is more than the right to a lawyer. Supreme Court decisions in Degan v. Washington (1963) and Agerstrøm v. Hamlin (1975) 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 importance to the Constitutional mandate is still evolving as States experiment with various ways to provide legal counsel for indigent defendants.

Evidence problems are the most common reason for prosecutors to reject cases. The function of the defense attorney is to protect the defendant's legal rights and to be the defendant's advocate to 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 similarly skilled attorneys handle other types of legal matters that may take occasional criminal cases. The right to the assistance of counsel is more than the right to a lawyer. Supreme Court decisions in Degan v. Washington (1963) and Agerstrøm v. Hamlin (1975) 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 importance to the Constitutional mandate is still evolving as States experiment with various ways to provide legal counsel for indigent defendants.

Evidence and witness problems are also key reasons for case dismissals.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Number of cases dismissed</th>
<th>Percent of cases dismissed due to evidence problem</th>
<th>Percent of cases dismissed due to witness problem</th>
</tr>
</thead>
<tbody>
<tr>
<td>Golden, Colo.</td>
<td>74%</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>Indianapolis, Ind.</td>
<td>53%</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>Los Angeles, Cali.</td>
<td>52%</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>New York, N.Y.</td>
<td>51%</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>Salt Lake City, Ut.</td>
<td>38%</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>Washington, D.C.</td>
<td>20%</td>
<td>20%</td>
<td>20%</td>
</tr>
</tbody>
</table>

Note: Percent may not add to 100% because of rounding.

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

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

Primary source of indigent defense

- Volunteer public defender
- Retained public defender
- Assigned counsel
- Ad hoc


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

Standards and procedures for determining indigency vary among the States.

Thirty-three States provide complete or partial funding of indigent defense. In the other 17 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.

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

Williams found that cases with the complaining witness accounted for 61% of the refusals to prosecute violent crimes by nonstrangers and 54% of the dismissals. Conviction rates are commensurately lower in cases involving family acquaintances. Boland showed that, in New Orleans, the conviction rate for crimes by strangers was 46%, but only 30% for crimes by friends or acquaintances and 15% 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.

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 cases rejected in California were drug cases. In two local prosecutors' offices in California, 30% of all felony arrests for drug offenses were rejected because of search and seizure problems.

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.
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 held 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 did not 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 1960s, seeing 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 full amount of bail 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 defendant pays the bondsman to post collateral in addition to the fee.

Percentage bail—The court allows the defendant to deposit a percentage (usually 10%) of the bail with the court. The full amount of the bail is required if the defendant fails to appear. The percentage bail is returned after disposal of the case although it often returns 1% for administrative costs.

Unsecured bail—The defendant pays no money to the court but cable 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 all 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 to the custody of a third party who promises to assure his appearance in court. The monetary restrictions are involved in this type of release.

Toborg found that 85% of the defendants in her eight-site sample were released prior to trial. Most uncomplicated jail inmates have bail set

Of 65,836 uncomplicated jail inmates surveyed in 1979—

• 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 delinquency or war-related offenses.

All of these defendants are not detained prior to trial

In Toborg’s study, 66% 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 defendants released fail to appear in court?

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 re-arrested more than once

How many of those released are re-arrested prior to trial?

In Pryor and Smith’s analysis of release research that found rearrest rates between 10% and 20% with about half of those re-arrested being 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 re-arrested 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 trial 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

Colombia, District of Columbia, Florida, Georgia, Michigan, Nebraska, Nevada, South Carolina, South Dakota, Texas, Virginia, Wisconsin

Exclusion of certain crimes from automatic bail eligibility

Alaska, Arizona, California, Delaware, District of Columbia, Florida, Hawaii, Minnesota, Nevada, Ohio, South Dakota, Utah, Virginia

Definition of the purpose of bail to ensure appearance and safety

Alaska, Arizona, California, Delaware, District of Columbia, Florida, Hawaii, Michigan, Mississippi, Minnesota, Nevada, Ohio, Vermont, Washington, Wisconsin

Inclusion of crime control factors in the release decision

Alaska, Arizona, California, Delaware, District of Columbia, Florida, Hawaii, Michigan, Minnesota, Nevada, Ohio, Vermont, Washington, Wisconsin

Inclusion of release conditions related to crime control

Inclusion of release conditions related to crime control

Limitations on the right to bail for those previously convicted

Reevaluation of pretrial release when there is evidence that the accused committed a new crime

Reevaluation of pretrial release when there is evidence that the accused committed a new crime

Additional release options

Reevaluation of pretrial release when there is evidence that the accused committed a new crime

Reevaluation of pretrial release when there is evidence that the accused committed a new crime

Sources: Updated as of December 1982 from a typology of State laws which permit consideration of danger. Also from general release decisions by Elizabeth Gaynns at the Pretrial Services Resource Center, Washington, D.C., 1982.

58 Report to the Nation on Crime and Justice
**Cases involving juveniles are handled much differently than cases involving adults**

The juvenile court and a separate process for handling youths 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 separate being who needed treatment rather than punishment and that the court was to protect the child from the aims of criminal proceedings. Delinquency and other situations such as neglect and truancy 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.

During 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, jury trials are permitted in juvenile cases.

**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.

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**Under certain circumstances, juveniles may be tried in criminal courts**

All States allow juveniles to be tried as adults in criminal courts. Juveniles are referred to adult courts in one of three ways:

- **Judicial waiver**—the juvenile court waives its jurisdiction and transfers the case to criminal court (the court may also be known as "binding over" or "certifying" juvenile cases to criminal court).
- **Concurrent jurisdiction**—the prosecutor has the discretion of filing charges for certain offenses in either juvenile or criminal courts.
- **Excluded offenses**—the legislature excludes juveniles from juvenile court jurisdiction.

The intake unit must file a petition with the court. Competency decisions at later stages of the processing of juveniles may be released in the custody of their parents, put in protective custody in foster homes or runaway shelters, or allowed to continue to detention facilities. Separate juvenile detention facilities are usually provided, but in some jurisdictions juveniles are held in adult jails.

The decision certain offenses, usually either 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 jurisdictional options in the trial of youth for serious crimes.

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**Note:** Juvenile court cases also have specific offenses that are excluded. This chart uses the offenses by the youngest age for which juvenile cases may be brought without regard to offenses. Source: Youth in adult courts, Hamparian, et al., 1992.
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:

- Setting 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 by the separation of powers doctrine, established tenures 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.

Basic sources


Notes:

4 Wayne Thomas, Bail reform in America (Berkeley: University of California Press, 1976).
Most cases that are prosecuted result in convictions

The conviction rate at trial varies by jurisdiction because of:
- Differences in screening policy
- Plea bargaining, resulting in a relatively weaker mix of cases going to trial.

<table>
<thead>
<tr>
<th>State</th>
<th>Felony cases tried (1987)</th>
<th>Rejected in court</th>
<th>Resulted in conviction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Georgia</td>
<td>96%</td>
<td>43%</td>
<td>90%</td>
</tr>
<tr>
<td>Florida</td>
<td>83%</td>
<td>24%</td>
<td>69%</td>
</tr>
<tr>
<td>Texas</td>
<td>95%</td>
<td>25%</td>
<td>90%</td>
</tr>
<tr>
<td>Washington, DC</td>
<td>82%</td>
<td>23%</td>
<td>90%</td>
</tr>
<tr>
<td>California</td>
<td>83%</td>
<td>23%</td>
<td>90%</td>
</tr>
<tr>
<td>Nevada</td>
<td>75%</td>
<td>25%</td>
<td>90%</td>
</tr>
<tr>
<td>Colorado</td>
<td>87%</td>
<td>22%</td>
<td>90%</td>
</tr>
</tbody>
</table>

18 States and the District of Columbia require a unanimous verdict in all trials

Currently, 45 States require unanimity in criminal verdicts, but 2 of these States do not require unanimity in civil verdicts. Five States (Louisiana, Montana, Oklahoma, and Texas) do not require unanimous verdicts in criminal or civil trials.

The proportion of jury verdicts on criminal cases received is approximately 80% from the jurisdictions that use unanimity in both criminal and civil cases.

All States require unanimity in capital cases, and the U.S. Supreme Court has not committed a criminal finding of guilt by less than a six-person majority.

*Numbers are averages. Research, 1979)
The Sixth Amendment provides the right of a defendant to a speedy trial

Concern about court delay is not new

As early as 1816, the legislature in Massachusetts adopted the auditors system to ease court congestion and delay. However, what constitutes unreasonable delay in criminal proceedings has been difficult to define. In United States v. Arście (1970), the Supreme Court set down four factors to be weighed in determining when a defendant has been denied his right to a speedy trial:

- Length of the delay
- Reason 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 law" 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 information or indictment and trial. Certain time periods, such as detention 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 limit in which they allow between arrest to trial. In New York State, the time limit is 180 days; in Louisiana, the limit is 60 days (2 years for noncapital offenses and 1,060 days [5 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

<table>
<thead>
<tr>
<th>Court disposition level</th>
<th>Days</th>
<th>Cases requiring process 95% more than limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wayne County, Mich.</td>
<td>64</td>
<td>109%</td>
</tr>
<tr>
<td>Portland, Ore.</td>
<td>67</td>
<td>3</td>
</tr>
<tr>
<td>New Orleans, La.</td>
<td>67</td>
<td>16</td>
</tr>
<tr>
<td>Seattle, Wash.</td>
<td>78</td>
<td>6</td>
</tr>
<tr>
<td>St. Paul, Minn.</td>
<td>74</td>
<td>4</td>
</tr>
<tr>
<td>Atlantic, Ga.</td>
<td>77</td>
<td>15</td>
</tr>
<tr>
<td>Seattle, Wash.</td>
<td>80</td>
<td>12</td>
</tr>
<tr>
<td>Cleveland, Ohio</td>
<td>103</td>
<td>24</td>
</tr>
<tr>
<td>Ft. Lauderdale, Fla.</td>
<td>105</td>
<td>16</td>
</tr>
<tr>
<td>Miami, Fl.</td>
<td>106</td>
<td>22</td>
</tr>
<tr>
<td>Phoenix, Ariz.</td>
<td>114</td>
<td>14</td>
</tr>
<tr>
<td>Dallas, Tex.</td>
<td>115</td>
<td>28</td>
</tr>
<tr>
<td>Dayton, Ohio</td>
<td>118</td>
<td>25</td>
</tr>
<tr>
<td>Portland, Mich.</td>
<td>122</td>
<td>33</td>
</tr>
<tr>
<td>Philadelphia, Pa.</td>
<td>138</td>
<td>33</td>
</tr>
<tr>
<td>Houston, Tex.</td>
<td>181</td>
<td>52</td>
</tr>
<tr>
<td>Newark, N.J.</td>
<td>208</td>
<td>57</td>
</tr>
<tr>
<td>Bronx County, N.Y.</td>
<td>343</td>
<td>75</td>
</tr>
</tbody>
</table>


Cases resulting in trials generally take longer than those that end in dismissal 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

<table>
<thead>
<tr>
<th>Arrest to filing of charges</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atlanta, Ga.</td>
<td>33</td>
</tr>
<tr>
<td>Bronx County, N.Y.</td>
<td>24</td>
</tr>
<tr>
<td>Cleveland, Ohio</td>
<td>29</td>
</tr>
<tr>
<td>Detroit, Mich.</td>
<td>21</td>
</tr>
<tr>
<td>New Orleans, La.</td>
<td>12</td>
</tr>
<tr>
<td>Newark, N.J.</td>
<td>79</td>
</tr>
<tr>
<td>Oakland, Calif.</td>
<td>56</td>
</tr>
<tr>
<td>Portland, Me.</td>
<td>34</td>
</tr>
<tr>
<td>San Diego, Calif.</td>
<td>22</td>
</tr>
</tbody>
</table>


In some courts, long delays occur between conviction and sentencing. In 1979, 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 pretrial investigation do not do little to reduce delays in this aspect of the case. The Sixth Amendment provides

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 expedites 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, firefighters, teachers, and sole proprietors of businesses. In Justice delayed: The plea of prisoners in other States, deliberation and delay: National Center for State Courts, 1978. a. 10.

Innovations have eased the burden of a busy juror

• 39 courts in 18 States have juridictions 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.
• The case was recently estimated that 11% of the U.S. population resides in one-day-trial jurisdictions.
• Courts in New York State (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 $1 a day in Colorado to $30 a day in New Hampshire, Vermont, and the District of Columbia. Some States pay jurors only 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 25 to 60 cents a mile in New Jersey to 25 cents a mile in Hawaii.

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. 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.


All States require 12-member juries in capital cases; 5 States permit less than 12-member juries in felony trials

Fairbanks

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 are generally the result of 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 such continuances 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 law in all but two States. Two States—Montana and Idaho—have statutory laws that establish 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 enter such a defense. Such filings place 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, which 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 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 “uncontrollable impulses.” New Hampshire uses a rule devised by its Supreme Court in 1971, that a person is not responsible for criminal conduct if at the time of the offense he suffers from a 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 not guilty by reason of 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. These States are: Minnesota, Missouri, Nevada, New Mexico, Delaware, and Arizona. Other States are considering adding such a verdict to those permitted by law.

The largest group of convicted or accused persons referred to mental health facilities are drawn from the prison population. As shown below, in 1979 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 stays in prison. If a case returns to court for trial or consideration for civil commitment.

In 1982 more appeals were filed in Federal courts than at any time in their history. In 1982, 4,767 of 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 all-time high of 38.5% in 1973. In 1982, 13,267 private civil appeals were filed. The 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.4 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 9% or greater in the 1970's.5 The number of judges in State appellate courts grew at only one-sixth the rate of the appellate caseload in the 1970's.6 Intermediate appellate courts were a principal means of meeting the increased caseload.

Almost four-fifths of all appeals, including those dismissed 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 1979 26 States, 24 States, and 24 States adopted the verdict of guilty but mentally ill. The number of appeals in Federal criminal cases increased greatly in the early 1970's but has remained relatively constant since 1975.

Criminal case appeals make up a small portion of the appellate caseload.

<table>
<thead>
<tr>
<th>Year</th>
<th>Appeals Filed</th>
<th>Feeless Appeals</th>
</tr>
</thead>
<tbody>
<tr>
<td>1965</td>
<td>6,420</td>
<td>22</td>
</tr>
<tr>
<td>1970</td>
<td>3,400</td>
<td>24</td>
</tr>
</tbody>
</table>

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. Defendants appeal their sentences. Appeals of sentences 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.

Few juvenile cases are appealed since 1967, juveniles have had the legal right to appeal juvenile court adjudications in re delinquency. At that time, State laws were not uniform. Over the past 15 years, State codes have either 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 of juveniles of specified ages. Once exercised, the prosecutor's decision to file criminal charges (or 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.

The number of appeals in Federal criminal cases increased greatly in the early 1970's but has remained relatively constant since 1975.
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 proximate causes of crime by providing economic, psychological, or socialization assistance to offenders to reduce the likelihood of recidivism in the correctional system.
- **Deterrence**—sanctioning convicted offenders to prevent new offenses, reduce the public and the offender aware of the certainty of mandatory punishment for criminal behavior.
- **Incapacitation**—separating offenders from the community to reduce the opportunity for further commission of crime.
- **Restitution**—punishing offenders to express societal disapproval of criminal behavior without specific regard to prevention of crime by the offender or among the general public.

Allegitudes 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 considerations for—

- **Fairness**—the severity of the punishment should be commensurate with the crime.
- **Equity**—like crimes should be treated alike.
- **Social interest**—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.
- 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 voluntary guidelines for the kind and duration of punishment to be imposed on offenders for each type of crime and to regulate 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 creating 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 1980—

- 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 30 States enacted laws that require minimum sentences for specific crimes.
- Many States began to experiment with a variety of sentencing guidelines designed by the judiciary or by appointed sentencing commissions.

Basic sources


Decker, M., & Gauker, J., "The politics of the correctional process: An analysis of recent changes in the administration of justice" (Greenbelt, Md: U.S. Department of Justice, May 1982).

Most States have some mandatory sentencing provisions

<table>
<thead>
<tr>
<th>State</th>
<th>Type of sentencing</th>
<th>Mandatory sentencing</th>
<th>Mandatory otherwise</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>Determinate</td>
<td>Yes</td>
<td>False</td>
</tr>
<tr>
<td>Alaska</td>
<td>Determinate, presumptive</td>
<td>Yes</td>
<td>Murder, kidnapping, firearms, sexual assault</td>
</tr>
<tr>
<td>Arizona</td>
<td>Determinate, presumptive</td>
<td>Yes</td>
<td>Convictions, prior felony convictions, habitual criminal, violence, others</td>
</tr>
<tr>
<td>Arkansas</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>California</td>
<td>Determinate, presumptive</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Colorado</td>
<td>Determinate, presumptive</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Connecticut</td>
<td>Determinate</td>
<td>Yes</td>
<td>See below with firearms, burglary, repeat violent, armed robbery</td>
</tr>
<tr>
<td>Delaware</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Florida</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Georgia</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Hawaii</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Idaho</td>
<td>Determinate</td>
<td>Yes</td>
<td>Property, repeat offenses, victim age or with prior violent crimes</td>
</tr>
<tr>
<td>Illinois</td>
<td>Determinate, presumptive</td>
<td>Yes</td>
<td>More than 10 years</td>
</tr>
<tr>
<td>Indiana</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Iowa</td>
<td>Determinate</td>
<td>Yes</td>
<td>Repeat violent offenses, repeat violent offenses, repeat violent offenses, armed robbery</td>
</tr>
<tr>
<td>Kansas</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Louisiana</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Maine</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Maryland</td>
<td>Determinate, presumptive</td>
<td>Yes</td>
<td>Repeat violent offenses, repeat violent offenses, repeat violent offenses, armed robbery</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>Determinate</td>
<td>Yes</td>
<td>Repeat violent offenses, repeat violent offenses, armed robbery</td>
</tr>
<tr>
<td>Michigan</td>
<td>Determinate</td>
<td>Yes</td>
<td>Repeat violent offenses, repeat violent offenses, armed robbery</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Mississippi</td>
<td>Determinate</td>
<td>Yes</td>
<td>Repeat violent offenses, repeat violent offenses, armed robbery</td>
</tr>
<tr>
<td>Missouri</td>
<td>Determinate</td>
<td>Yes</td>
<td>Repeat violent offenses, repeat violent offenses, armed robbery</td>
</tr>
<tr>
<td>Montana</td>
<td>Determinate</td>
<td>Yes</td>
<td>Repeat violent offenses, repeat violent offenses, armed robbery</td>
</tr>
<tr>
<td>Nebraska</td>
<td>Indeterminate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Nevada</td>
<td>Determinate</td>
<td>Yes</td>
<td>Repeat violent offenses, armed robbery</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>Indeterminate</td>
<td>Yes</td>
<td>Repeat violent offenses, armed robbery</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Indeterminate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>New Mexico</td>
<td>Determinate, presumptive</td>
<td>Yes</td>
<td>Repeat violent offenses, armed robbery, burglary</td>
</tr>
<tr>
<td>New York</td>
<td>Determinate</td>
<td>Yes</td>
<td>Repeat violent offenses, armed robbery, escape, arson</td>
</tr>
<tr>
<td>North Carolina</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>North Dakota</td>
<td>Determinate</td>
<td>Yes</td>
<td>Repeat violent offenses, armed robbery</td>
</tr>
<tr>
<td>Ohio</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
<tr>
<td>Oregon</td>
<td>Determinate, presumptive</td>
<td>Yes</td>
<td>Armed robbery, armed robbery</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>Determinate, presumptive</td>
<td>Yes</td>
<td>Armed robbery, armed robbery, escape</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Determinate</td>
<td>No</td>
<td>False</td>
</tr>
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<tr>
<td>Vermont</td>
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<td>False</td>
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<tr>
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<td>Armed robbery, armed robbery, escape</td>
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<tr>
<td>Wyoming</td>
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<td>False</td>
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</tbody>
</table>

Source: Overview of mandatory sentencing in the U.S. (1990), Bureau of Justice Statistics, U.S. Department of Justice,刑罚的分类和处罚系统

Current sentencing alternatives reflect multiple objectives

What type of sentences are usually given to offenders?

Death penalty—In some States for certain crimes such as murder, the court may sentence an offender to death by electrocution, poison, to lethal gas, hanging, lethal injection, or a method specified by State law.

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, concentration (a term), or prison, operated by the State or the Federal government. Many States set minimum and maximum sentences that define the type of sentences are usually given to offenders.

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 commonly entails the provision of special 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 system in the United States.

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.

Restitution—The requirement that the offender provide financial reparation (except for the losses incurred by the victim, civil damages, and other costs). Community service—The requirement that the offender perform a specified number of hours of public service work, such as cleaning trash in parks or other public facilities.

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.

Changes in sentencing have resulted in changes in correctional practices

The growth of determinate and mandatory sentences has led to changes in the way correctional systems operate.

1. The growth of determinate and mandatory sentences has led to changes in the way correctional systems operate.
2. 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.

3. On a given day in 1982, approximately 412,000 people were confined in State and Federal prisons and approximately 290,000 were confined in local jails.

4. State or local governments operate more than 2,000 probation agencies. These agencies supervise nearly 1.5 million adults and juveniles on probation.

5. 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.

6. By 1978, nearly all States authorized community service work orders. Community service is often imposed as a specific condition of probation.

7. Many laws that govern the imposition of fines are undergoing revision. These revisions have provided specific limits on the imposition of fines, flexible fine schedules, "day fines," general exceptions to the collection of fines, 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.

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8. 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, reducing the number of sentences for guilt by mental illness 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.

- 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) 137,000
Prison 339,000
Parole/other 158,000
Probation 1,291,000

Juveniles (total) 452,000
Detention* 74,000
Parole/probation 53,000

* in public and private facilities.

More than 2.4 million persons are estimated to be under some form of correctional care, custody or supervision.

Three out of four persons under correctional sanction are being supervised in the community.

In all States, a majority of offenders are under community supervision rather than confinement.

The following table shows the number of offenders under community supervision or confinement, by States, for 1981 (Washington: Preliminary). (The offenses are murder, rape, robbery, forcible sodomy, burglary, assault, larceny, theft, motor vehicle theft, and drug offenses.)

<table>
<thead>
<tr>
<th>State</th>
<th>Confined Adults</th>
<th>Confined Juveniles</th>
<th>Under supervision Adults</th>
<th>Under supervision Juveniles</th>
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<td>775</td>
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<td>Alaska</td>
<td>7,062</td>
<td>375</td>
<td>19,422</td>
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<td>7,695</td>
<td>517</td>
<td>13,558</td>
<td>3,846</td>
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<td>5,900</td>
<td>8,011</td>
<td>6,718</td>
<td>4,546</td>
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<tr>
<td>California</td>
<td>57,452</td>
<td>14,869</td>
<td>68,677</td>
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<tr>
<td>Colorado</td>
<td>4,431</td>
<td>1,181</td>
<td>13,871</td>
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<td>4,647</td>
<td>516</td>
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<tr>
<td>Delaware</td>
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<td>Florida</td>
<td>35,367</td>
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<td>10,891</td>
<td>1,815</td>
<td>12,042</td>
<td>6,195</td>
</tr>
</tbody>
</table>

Number of offenders under community supervision for each offender confined.

- 1 to 2
- 2 to 3
- 3 to 4
- 4 to 5
- 5+
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 parole authority.

- Nearly 2 out of every 3 parolees were committed to prison for a violent 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 immediate imprisonment.
- Parolees are also slightly younger than prison inmates, half of the parolees were younger than age 26.5 versus age 37.3 for inmates.

The release from prison process varies among jurisdictions.

- In some states, such as Georgia, Illinois, and New York, new laws that mandate minimum periods of confinement when juveniles are adjudicated delinquent for committing delinquent offenses.
- In Alabama, the degree of discretion allowed to sentencing judge, and factors intrinsic to the particular prison system and parole authority.
- In California, determinate sentencing is mandated by the state law. The parole officer reviews the file of the convicted juvenile, including the information about the offense and the offender, and recommends a parole date. The court can either accept the recommendation or set a different date.
- In some states, parole is automatic after a certain period of incarceration, such as New York, where parole is not granted for the first 18 months of incarceration.

The outcomes of juvenile and adult proceedings are similar, but some options are not available in juvenile court.

- Juvenile offenders are housed in various facilities, ranging from secure to nonsecure, depending on the severity of the offense.
- Juvenile court proceedings are usually held in a courtroom, with a judge presiding over the proceedings.
- Juvenile court proceedings are similar to those in adult court, but some options are not available in juvenile court, such as the death penalty.
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. As of March 1982, about 4% of the population under the jurisdiction of prison systems was held in State or Federal prisons.
- Jails house diverse populations.

Jails house diverse populations

Nationally, the jail population is composed of a diverse group in various stages of criminal justice processing. Among the jail inmates are persons who—
- Are awaiting arraignment or trial (the uncomplicated)
- 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 parole or probation
- Are held for immigration authorities

It is estimated that in 1982, 57% of all jail inmates were uncomplicated; 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 84% of such inmates were in Southern States; the largest number (1,879) was in Florida.
- Nearly half of the inmates 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 four such facilities reported that their inmate population exceeded capacity for extended periods.
- Only about 16% of community-based facilities were designed for one person; 43% 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 parole/parolee treatment officer for every 18 inmates, and one professional/technical employee for every 17 inmates.

Prisons are often classified by the level of security

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 inmates were confined in maximum security institutions. In these States, about one in five inmates resided in maximum security facilities that housed more than 1,000 inmates and that were built before 1982.

The proportion of inmates held in medium security facilities ranged from 0% in Texas to more than 50% in New Hampshire and North Carolina. In 14 States, more than half of all persons confined in medium security institutions were held in facilities that housed more than 1,000 inmates and that were built before 1982.

The proportion of inmates held in minimum security facilities ranged from 0% in Texas to more than 50% in New Hampshire and North Carolina. In 14 States, more than half of all persons confined in minimum security institutions were held in facilities that housed more than 1,000 inmates and that were built before 1982.

What are the characteristics of jails?

What are the characteristics of prisons?

Number of prisoners

<table>
<thead>
<tr>
<th>State</th>
<th>Federal</th>
</tr>
</thead>
<tbody>
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<td>270,937</td>
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</table>

<table>
<thead>
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<th>Number of prisoners</th>
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</thead>
<tbody>
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<td>Security level</td>
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<tr>
<td>Medium</td>
<td>13</td>
</tr>
<tr>
<td>Minimum</td>
<td>4</td>
</tr>
</tbody>
</table>

Crowding and conditions of confinement pose difficult problems in most States.

During the 1970s, State and Federal courts began to examine closely the operations of correctional facilities to ensure compliance with Eighth Amendment protections against cruel and unusual punishments.

As of February 1983—

- The courts had declared unconstitutional the entire prison systems of Alabama, Florida, Missouri, 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 conditions of confinement.
- Seven States were involved in litigation relating to crowding and/or the conditions of release.

In eight States, courts had appointed receivers or masters to operate the correctional systems or facilities, had ordered emergency releases of inmates as a result of crowding, or had ordered the closing of specific institutions.

Many States hold prisoners in local jails because of overcrowding 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 1,700 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 enlisting 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 an average of 92,000 beds under construction and nearly 10,000 beds authorized for 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 populations. 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 all-time high.

The total population of State and Federal prisons increased by an average of more than 6,000 per year between 1977 and 1981.

In 1981 alone, the net annual gain (37,200 inmates) was nearly 90% of the total gain from 1977 to 1980.

The recent increases in prison population, while striking, are not unprecedented.

From 1927 to 1931, for example, court adoptions 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 147%, from 58,013 to 169,826. During the same period, the number of males age 20-29 in the general population increased by 105%, from an annual gain of fewer than 20,000 to an annual gain of 41,321. The prison population to growth in the number of males in the prison-age group.

The 1980 court admission rate of 697 per 100,000 males age 20-29 is more than 20 times the admission 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-age group.

The 1980 court admission rate to prison of 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; 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 4.3 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 come considerably more strict.

In 1930, jail populations were approximately 210,863. In 1970, 1981, and 1982, jail populations were 110,424, 124,000, and 106,863, respectively. The 1974-79 period was also marked by a dramatic increase in the number of public and private facilities available to house children. In 1974, there were 2,156 public and private facilities; by 1979, there were more than 2,200 facilities, an increase of nearly 18%.

Annual admissions to juvenile facilities have been declining since 1974.

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
- 50% took place in the South
- 71% occurred before 1950
- More than 53% of those executed were black
- Less than 1% of those executed were female.

The number of persons on death row reached an all-time high in 1982.

Trends in jail populations are not as dramatic as those of prison populations.

In 1930, the decay rate of jail inmates declined from 190,863 to 209,052, a growth of 30%. Over the same period, the rate of confinement (the number of inmates per 100,000 general population) increased from 60 to 60 or by about 12.5%. However, if the rate is calculated on the number of male age 20-29 in the population, a decline of nearly 12% in the rate of jail confinement from 1.106 in 1970 to 0.976 in 1980 would be observed. Jail populations in 1970 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; this is indeed the case, then small variations in 5-day counts probably understated 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.

The number of executonoe on execution ensued due to moratoriums and remand challenges of death penalty laws. At year-end 1982, the largest numbers were under sentence of death in Florida (3,342), Texas (1,183), California (122), and Georgia (10). During 1982, 26 of the 37 States with death penalty laws imposed a capital sentence on 254 persons.
Postcorrectional performance is difficult to assess

Within 3 years after release on parole, 34% of 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 will return to prison within 3 years of release do so in the first year. More than half (50%) of the returns to prison within 3 years are for technical violations of supervision requirements; the remainder are for new, major convictions.

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 involvements for all persons released from prison. However, it is possible to assess the extent to which those parolees serving their entire sentences have returned to prison within 3 years are for technical violations. The proportion returned to prison (24%) is double the 1-year performance; this indicates that half of all parolees will return to prison within 3 years of release do so in the first year. More than half (50%) of the returns to prison within 3 years are for technical violations of supervision requirements; the remainder are for new, major convictions.

About 25% are successfully discharged within 1 year.

Nearly two out of three parolees are continued on parole after completing the first year successfully.

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 identifiable criminal activity is occurring among repeat offenders as they enter middle age (age 40 or older).

The reasons why repeat offenders and 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, “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 as persistent as age-related— that is, as persistent offenders, age 40 or older, the costs of crime become greater, discouraging many from continuing their criminal careers.

Some indicator of a return to criminal activity is typically used to evaluate postcorrectional performance. Rearrest, reincarceration, and imprisonment measured over some period of time after release from prison are generally used to gauge the extent of success and failure (reid- vention) associated with correctional programs. The type of time selected and the level of criminal justice system penetration (the specific offense, the period of time after a parole or probation violation) or for a minor conviction; the period after a correctional experience.

This research is conducted to assess the extent to which one discharged from supervision is not followed up further by State or local agencies. That is, as persistent offenders, age 40 or older, the costs of crime become greater, discouraging many from continuing their criminal careers.

Within the first year of release from prison, 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 identifiable criminal activity is occurring among repeat offenders as they enter middle age (age 40 or older). The reasons why repeat offenders and 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, “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 as persistent as age-related— that is, as persistent offenders, age 40 or older, the costs of crime become greater, discouraging many from continuing their criminal careers.

Basic sources


Chapter V

The cost of justice

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 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?

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

<table>
<thead>
<tr>
<th>Level of Government</th>
<th>1971 Justice Expenditure (in Millions)</th>
<th>Percent of Total Justice Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>State</td>
<td>$10.3</td>
<td>66%</td>
</tr>
<tr>
<td>Federal</td>
<td>3.4</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td>$13.7</td>
<td>100%</td>
</tr>
</tbody>
</table>

*Does not add to total due to rounding.

The dominance of State and local governments in justice spending is clear. While Federal governments spend only 15% of the total justice expenditure, States and local governments spend the remaining 85%. States dominate justice spending, with local governments spending twice as much as the Federal Government in 1979.

Spending by local governments exceeds that of State governments because municipalities have the main responsibility for police protection, which accounts for 83% 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 variations due to redistribution of functional responsibility. For example, Alaska, a State where the State police performs functions normally handled by local forces in other States, it spends twice as much as the local forces in other States.

The share of total justice spending by local governments was between 40% and 50% in 12 States, 60% and 70% in 14 States, and 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

While the Federal Government transfers the highest proportion of its justice expenditures to other levels of government, the proportion transferred by States is increasing.

<table>
<thead>
<tr>
<th>Year</th>
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<td>1971</td>
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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.

State and county shares of justice system spending has been increasing

Between 1971 and 1979, the share of total government spending for criminal and civil justice by States rose from 26% to 39%, Counties rose from 20% to 23%, and Federal agencies rose from 12% to 13%.

This pattern of local dominance is due to Federal governments' lack of involvement in justice spending. In 1970, Federal governments spent less than 2% of their justice expenditures to the States, which made grants to local governments.

While the Federal Government transferred the highest proportion of its justice expenditures to local governments, the transfers were from 23% in 1971 to 35% in 1979. This change is due mainly to State and county governments taking responsibility for justice functions that previously had been carried out 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 the Federal Government transfers funds to another level of government. In 1971, States transferred 8.2% of their justice funds to local governments; by 1979, this had increased to 12.8%. The State payments included an unknown amount of Federal funds being passed through to local governments.

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Local governments dominate justice spending in four-fifths of the States

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Local governments spend nearly half of their justice dollars on corrections

In 1979, State governments spent—

- 48% for police
- 6% for corrections
- 5% for courts
- 4% for prosecution and legal services
- 0.5% for public defense
- 0.7% for all other justice activities
- 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 more than half of their justice dollars on corrections.

In 1979, State governments spent—

- 74% for the construction, operation, and upkeep of correctional facilities
- 12% for parole, probation, and pardons programs
- 16% for corrections
- 0.5% for public defense
- 0.7% for all other justice activities
- 91.7% for police protection
- 4.4% for prosecution and legal services
- 3.6% for courts
- Less than 1% for all other justice functions.

Counties spend their justice dollars on public defense, police protection, and corrections.

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.
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 Finance in 1979 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: 14.6%
- Property tax: 12.4%
- Custom duties: 3.5%
- All other sources: 4.2%

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 $16.6 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 that ultimately made the expenditure. The remaining 16%, or $5.3 billion, was received from other governments 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 $985 million in 1979; they fell during the late 1970s until the grant program ended in 1980 with awards totaling $207 million. In no year, however, did LEAA funding account for more than 5% 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 and Beverage Tax 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, $13.2 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 comes in other forms as well:

- Local governments received close to $1 billion from their State governments; this included an unknown amount of Federal funds (including Law Enforcement Assistance Administration grants) that were being "passed through" by 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 police provide police protection for a city.

The Rocky Mountains, South West, and Plains States regions make the least use of revenue from outside their tax authority to fund justice activities.

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 50% in Mississippi, Michigan, Missouri, Massachusetts, Maryland, and Iowa.

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.

What percent of State and local justice spending comes from outside sources?

<table>
<thead>
<tr>
<th>State</th>
<th>All outside sources</th>
<th>Federal general payments</th>
<th>Federal dedicated payments</th>
<th>State payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montana</td>
<td>19.2</td>
<td>14.0</td>
<td>14.3</td>
<td>1.8</td>
</tr>
<tr>
<td>Montana</td>
<td>20.1</td>
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<td>12.7</td>
<td>2.4</td>
</tr>
<tr>
<td>Montana</td>
<td>17.8</td>
<td>12.8</td>
<td>11.9</td>
<td>2.0</td>
</tr>
<tr>
<td>Montana</td>
<td>15.9</td>
<td>10.1</td>
<td>8.7</td>
<td>2.1</td>
</tr>
<tr>
<td>Montana</td>
<td>13.8</td>
<td>9.4</td>
<td>7.4</td>
<td>2.0</td>
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<tr>
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<td>7.3</td>
<td>5.6</td>
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<tr>
<td>Montana</td>
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<td>5.1</td>
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<td>1.2</td>
</tr>
<tr>
<td>Montana</td>
<td>9.4</td>
<td>4.9</td>
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<td>Montana</td>
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Note: The percentages for funds received from local governments are not observed because local governments are not included in the total. These expenditures for all of State and local spending, ranging from 5% to 52% across the States.

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-

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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 $3,057, not including correctional costs after trial. In each of the cases, the defendants were arrested shortly after the crime, avoiding the need for lengthy and costly police investigation. In the first case, the defendant pleaded guilty to a reduced charge, but nonetheless received a sentence of 6 months for armed robbery before being sentenced to 3 years for murder. He was later found guilty of robbery and sentenced to 9 to 16 years; 250 days had elapsed between arrest and sentencing, but most defendants received a sentence of 1 to 6 years for pretrial detention. 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 expenditures 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 spend 20 hours preparing a court file for a civil case or 4 to 12 years of imprisonment for their plea of guilty to robbery. In the third case, the defendant pleaded guilty to a reduced charge, but nonetheless received a sentence of 6 months for armed robbery before being sentenced to 3 years for murder. He was later found guilty of robbery and sentenced to 9 to 16 years; 250 days had elapsed between arrest and sentencing, but most defendants received a sentence of 1 to 6 years for pretrial detention. The total cost was $32,627, half of which was for pretrial detention.

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How much does it cost to build a jail? 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, and $6.5 million was spent by the State.

Available information does not allow the computation of the cost to build a "new average courtroom," as is so frequently done for prison cells, because of variations in the amount and types of factors. Walter H. Sobel, P.A.A.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 than other contracts studied.

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 located in the future.

Different courthouses have different mixes of space allocated for courtrooms and judicial chambers (the most expensive type of nonadministration and administrative and support space, according to the study). Therefore, the costs in the construction industry also affect the cost of courtrooms.

In 1979, 1,241 court buildings were completed in the future with an undetermined number of courtrooms. The 1982 high was 1,906 square feet, the 1981 low was 475 square feet.

The average annual cost per square foot was $3,000.

The highest cost was $6.5 million for a total of $96 million spent by counties in the purchase of a courthouse.

Some construction contractors reported at $10,000 to $30,000 for their travel expenses.

The salaries reported at $4,300 to $3,000 for a piece of equipment were reported at $10.

The factors affecting this figure are not fully known, but the figures are reported at $4,300 to $7,300 for their travel expenses.

Salaries also vary widely from one jurisdiction to another. The Federal Witness Protection Program of the U.S. Marshals Service is the largest and has the most extensive witness security program in the nation. This program provides protection and maintenance services for witnesses, potential witnesses, and persons deemed to be in jeopardy as a result of testimony against organized crime figures. This last factor is reflected in the range of payable costs, reported at $550 to $5,700.

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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, $176, and Nevada, $150.

Regional variation is also evident. Per capita spending for justice was—

- $159 in the Midwest region
- $145 in the Far West
- $91 in the Great Lakes region
- $89 in the Southwest
- $86 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 programs.

• The citizens of some States may be willing to spend more on justice programs than others to fund governmental programs in general.

What factors are related to per capita spending?

The Mideast and Far West regions lead the Nation in justice costs per capita, spending an average of $140 per capita. States with the highest rates are—

- Pennsylvania
- New York
- New Jersey
- New Mexico
- Washington
- Pennsylvania
- North Carolina
- North Dakota
- South Dakota
- California
- Texas.

Some States have high crime rates and high per capita expenditures. For example, West Virginia, which has a low per capita income ($6,500), 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 $127 per capita as compared with $75 for States with lower crime rates.

• taxable wealth. A State's relative wealth affects how much it can spend for justice programs. Poorer States may not be able to spend as much as "richer" States for like justice programs.

Different State and local governments have 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 other than States), has an index higher than 100, whereas a relatively poor State has an index lower than 100. The index indicates the percentage of the tax capacity or the individual State's per capita expenditures.

Regional tax capacity ratings are—

• Highest in the Far West (133), and the Rocky Mountain region (115)
• About average in the Southwest (108), the Plains States (105), the Great Lakes region (102), and the Midwest (98)
• Lowest in New England (91) and the Southeast (85).

States with higher-than-average taxable wealth spend $105 per capita for justice activities, while their poorer counterparts spend 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 effect, 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 ranged from 64 of the national average in Texas to 171 in New York.

Among the regions, the tax effort is—

• 101 in the Mideast
• 111 in New England
• 101 in the Far West
• 100 in the Great Lakes region
• 91 in the Plains States
• 81 in the Rocky Mountain region
• 85 in the Southeast.

States that raised higher-than-average taxes spent $115 per capita on justice activities compared with $82 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 metropolitan areas spend more per capita for justice activities than those that have a relatively smaller urban population. 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 percentage of their population living in metropolitan areas spent an average $109 per capita on justice, whereas States with a smaller proportion spent $83.

According to the Bureau of the Census, 75% of the Nation's population lived in metropolitan areas in 1980, an increase from 64% in the Rocky Mountain States to 84% in the Northeast. The justice activities and the percent of their population living in metropolitan areas are as follows:

- Plains, 45%
- Southeast, 56%
- New England, 62%
- South West, 84%
- Far West, 74%
- Great Lakes, 76%.
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Local,..
..governmental

Federal 1
Mainly local, but we do not know to what degree

Some factors that affect Justice 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 combines 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 inflows of nonresidents must provide more police services than they would if they were protecting only their own citizens.

In 1981, slightly less than 3% of all government spending was for criminal and civil justice. Of this amount—

0.15% was for police protection
0.15% was for corrections
0.15% was for all other justice services, such as courts, prosecution, and public defense.

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 expenditures—Federal, State, and local—to give an overall picture of how tax dollars are spent. The estimated 3% of all expenditures for criminal and civil justice services by all levels of government in 1981 compares with about—

20% 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
4% for hospitals
2% for highways
1% for postal service
1% for health
0.5% for space research and technology.

Some factors that affect Justice spending cannot be measured.

Factors other than the crime rate, the prior citizen’s 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.

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<th>State</th>
<th>Per capita spending</th>
<th>Crime rate</th>
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<th>Relative murder rate</th>
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<th>Percent in metropolitan areas</th>
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| Source: See notes through 12 at end of this chapter.
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 20% in 1900 to about 40% in the 1960s as the post-World War II baby boom 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. In 1927, 2% of all State and local government spending was for welfare; five years later, it had nearly tripled, peaked at 12% in 1930. During the 1930s and 1940s, it levelled off at 6-8% of government spending; these were years of relatively strong economic growth and low unemployment. By the 1970s, 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 and corrections. Police protection fluctuated between 3% and 5% of all State and local spending during 1900-80; State and local spending for corrections has remained at less than 2% of the local share in 1980, when data first became available.

During 1960-80, police 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 3.6% 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, 2.5%; highway spending decreased at an annual average rate of 1%.

The rate of growth for all criminal and civil justice functions rose steadily until 1976, when it began decreasing.

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 litigation, prosecution (6%) 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 $7.0 to $17.2 in constant 1980 dollars.


Governmental finances in various years: Supplement—survey of statistical programs over the years; National Institute of Justice, U.S. Department of Justice (Washington: USGPO, 1980).

Inflation data are the sources used in most years. These years were 1979, 1980, and 1981. A discussion of these years is provided in: U.S. Bureau of the Census, Statistical abstract of the United States: 1982 (Washington: U.S. Government Printing Office, 1982).


The price of justice: The cost of arresting and processing three robbery cases in Maryland, Criminal Intelligence Council, City of New York, 1981.


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