105506

U.S. Department of Justice
Bureau of Justice Statistics

# Report to the Nation on Crime and Justice

## Second edition

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## How to find more information on crime and justice

This report aims to present statistical information in a format that can be readily understood by a nontechnical audience. For that reason, the explanations of methodology are limited, and bibliographic references and footnotes are brief. A separate technical appendix explains the statistical methods used, data sources, and plotting points for the graphics. The technical appendix is available from the National Criminal Justice Reference Service (NCJRS), Box 6000, Rockville, MD 20850 (toll free 800/732-3277; in the Washington, D.C., area 301/251-5500). Specific questions about the content of the report should be referred to the chapter authors, who may be reached through the Bureau of Justice Statistics (BJS), 633 Indiana Avenue, NW, Washington, DC 20531 (202/724-6100).

The basic sources, a short, alphabetic list of references on the topics covered, are introductory rather than comprehensive. Material that references these basic sources usually is not footnoted. Most of these references and much more material on the topics covered are available from the Justice Statistics Clearinghouse of NCJRS.

Data of national scope were used wherever possible. If no national data existed, multijurisdictional data were used. Single-site data were used only when no multijurisdictional data were available. In most instances, documents explaining the collection methodology and use of these data are available from NCJRS. Public-use computer tapes of BJS data sets and other criminal justice data are available from the Criminal Justice Data Archive and Information Network, P.O. Box 1248, Ann Arbor, MI 48106 (313/763-5010).

**U.S. Department of Justice**
Bureau of Justice Statistics

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# Contents

# Introduction

The Bureau of Justice Statistics presents this second comprehensive picture of crime and criminal justice in the United States. Relying heavily on graphics and a nontechnical format, it brings together a wide range 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 high schools and colleges.

This report presents national data on crime and the criminal justice system and it answers these and other questions: How much crime is there? Whom does it strike? When? Where? Who is the typical offender? What is the government's response to crime? How differently are juveniles handled from adults? What happens to convicted offenders? What are the costs of justice and who pays?

This edition contains additional material on such common law crimes as homicide, robbery, and burglary; drunk driving; white-collar crime; high technology crime; organized crime; State laws that govern citizen use of deadly force; private security; police deployment; sentencing practices; forfeiture; sentencing outcomes; time served in prison and jail; facilities crowding; recidivism; the cost of crime; and privatization of criminal justice functions.

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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The original idea for this report was developed by Benjamin H. Renshaw III, Deputy Director for Management and Intergovernmental Programs, Bureau of Justice Statistics.

To ensure the quality of the report, outside experts were involved in its development and review. These external reviewers were selected for their knowledge of the subject matter and their experience in presenting technical information to nontechnical audiences:

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The Assistant Attorney General, Office of Justice Programs, coordinates the criminal and juvenile justice activities of the following program offices and bureaus: the Bureau of Justice Statistics, National Institute of Justice, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

Chapter I

# The criminal event

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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? What do we know about common law crimes such as homicide, robbery, and burglary? How much is known about drunk driving, organized crime, white-collar crime, and crimes involving high technology?

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?

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

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?

Invaluable contributions to this chapter were made by many people within the Department of Justice, including Victoria Major and the User Services Staff of the FBI's Uniform Crime Reports Section, Cynthia J. Lent of the FBI's National Center for the Analysis of Violent Crime, David Margolis and Denise Smyler of the Organized Crime and Racketeering Section of the Criminal Division, and Anita D. Timrots of BJS. Material for the sections on drunk driving was supplied by the National Highway Traffic Safety Administration, particularly by Paul Levy, Chief of Program Evaluation, and Stephen L. Hatos of the Office of Alcohol and State Programs. Other contributors include Donn Parker, SRI International, and James Tien, Rensselaer Polytechnical Institute. Special assistance with many of the data sets was provided by Julio Borquez and Spencer Price Nash of the Interuniversity Consortium for Political and Social Research at the University of Michigan.

# What is crime?

### Crimes are defined by law

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

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

To provide additional perspectives on crime it is sometimes viewed in ways other than in the standard legal definitions. Such alternatives define crime in terms of the type of victim (child abuse), the type of offender (white-collar crime), the object of the crime (property crime), or the method of criminal activity (organized crime). Such definitions usually cover one or more of the standard legal definitions. For example, organized crime may include fraud, extortion, assault, or homicide.

### What is considered criminal by society changes over time

Some types of events such as murder, robbery, and burglary have been defined as crimes for centuries. Such crimes are part of the common law definition of crime. Other types of conduct traditionally have not been viewed as crimes. As social values and mores change, society has codified some conduct as criminal while decriminalizing other conduct. The recent movement toward increased "criminalization" of drunk driving is an example of such change.

New technology also results in new types of conduct not anticipated by the law. Changes in the law may be needed to define and sanction these types of conduct. For example, the introduction of computers has added to the criminal codes in many States so that acts such as the destruction of programs or data could be defined as crimes.

### What are the characteristics of some serious crimes?

| Crime | Definition | Facts |
|---|---|---|
| **Homicide** | Causing the death of another person without legal justification or excuse, including UCR crimes of murder and nonnegligent manslaughter and negligent manslaughter. | • Murder and nonnegligent manslaughter occur less often than other violent UCR Index crimes.<br>• 58% of the known murderers were relatives or acquaintances of the victim.<br>• 20% of all murders in 1985 occurred or were suspected to have occurred as the result of some felonious activity. |
| **Rape** | Unlawful sexual intercourse with a female, by force or without legal or factual consent. | • Most rapes involve a lone offender and a lone victim.<br>• About 32% of the rapes recorded by NCS in 1985 were committed in or near the victim's home.<br>• 73% of the rapes occurred at night, between 6 p.m. and 6 a.m.<br>• 58% of the victims of rape in 1985 were under 25 years old. |
| **Robbery** | The unlawful taking or attempted taking of property that is in the immediate possession of another, by force or threat of force. | • Robbery is the violent crime that most often involves more than one offender (in almost half of all cases in 1985).<br>• About half of all robberies reported by NCS in 1985 involved the use of a weapon. |
| **Assault** | Unlawful intentional inflicting, or attempted inflicting, of injury upon the person of another. Aggravated assault is the unlawful intentional inflicting of serious bodily injury or unlawful threat or attempt to inflict bodily injury or death by means of a deadly or dangerous weapon with or without actual infliction of injury. Simple assault is the unlawful intentional inflicting of less than serious bodily injury without a deadly or dangerous weapon or an attempt or threat to inflict bodily injury without a deadly or dangerous weapon. | • Simple assault occurs more frequently than aggravated assault.<br>• Most assaults involve one victim and one offender. |

### What are some other common crimes in the United States?

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

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

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

**Drunkenness**—Public intoxication, except "driving under the influence."

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

| Crime | Definition | Facts |
|---|---|---|
| **Burglary** | Unlawful entry of any fixed structure, vehicle, or vessel used for regular residence, industry, or business, with or without force, with the intent to commit a felony or larceny. | • Residential property was targeted in 2 out of every 3 reported burglaries; nonresidential property accounted for the remaining third.<br>• In 1985, 42% of all residential burglaries occurred without forced entry.<br>• About 37% of the no-force burglaries were known to have occurred during the day between 6 a.m. and 6 p.m. |
| **Larceny-theft** | Unlawful taking or attempted taking of property other than a motor vehicle from the possession of another, by stealth, without force and without deceit, with intent to permanently deprive the owner of the property. | • Less than 5% of all personal larcenies involve contact between the victim and offender.<br>• Pocket picking and purse snatching most frequently occur inside nonresidential buildings or on street locations.<br>• Unlike most other crimes, pocket picking and purse snatching affect the elderly about as much as other age groups. |
| **Motor vehicle theft** | Unlawful taking or attempted taking of a self-propelled road vehicle owned by another, with the intent of depriving him or her of it, permanently or temporarily. | • Motor vehicle theft is relatively well reported to the police. In 1985 89% of all completed thefts were reported.<br>• The stolen property is more likely to be recovered in this crime than in other property crimes. |
| **Arson** | The intentional damaging or destruction or attempted damaging or destruction by means of fire or explosion of property without the consent of the owner, or of one's own property or that of another by fire or explosives with or without the intent to defraud. | • Single-family residences were the most frequent targets of arson.<br>• 16% of all structures where arson occurred were not in use. |

Sources: BJS *Dictionary of criminal justice data terminology*, 2nd edition, 1981. BJS *Criminal victimization in the US, 1985*. FBI *Crime in the United States 1985*

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

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

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

**Kidnaping**—Transportation or confinement of a person without authority of law and without his or her consent, or without the consent of his or her guardian, if a minor.

**Vandalism**—Destroying or damaging, or attempting to destroy or damage, the property of another without his or her consent, or public property, except by burning, which is arson.

**Public order offenses**—Violations of the peace or order of the community or threats to the public health through unacceptable public conduct, interference with governmental authority, or violation of civil rights or liberties. Weapons offenses, bribery, escape, and tax law violations, for example, are included in this category.

### How do violent crimes differ from property crimes?

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

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

In the National Crime Survey a distinction is also made between crimes against persons (violent crimes and personal larceny) and crimes against households (property crimes, including household larceny).

### How do felonies differ from misdemeanors?

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

Felonies are not distinguished from misdemeanors in the same way in all jurisdictions, but most States define felonies as offenses punishable by a year or more in a State prison. The most serious crimes are never "misdemeanors" and the most minor offenses are never "felonies."

# Homicide, robbery, and burglary are examples of common law crimes

## Homicide

### What is homicide?

Criminal homicide is defined as all deaths where a perpetrator is found to have intentionally killed someone without legal justification or to have accidently killed someone as a consequence of reckless or grossly negligent conduct. The Uniform Crime Reports, in its Crime Index, uses the classification of murder/nonnegligent manslaughter, which is defined as intentionally causing the death of another person without extreme provocation or legal justification or causing the death of another while committing or attempting to commit another crime.

### Homicide often stems from other crimes

Block found that many homicides are precipitated by another crime such as assault, robbery, rape, or burglary. Occasionally, a murder may be committed that has no motive other than the murder itself, such as a contract killing. But such homicides are infrequent.

For homicides that result from other crimes such as robbery and assault, their characteristics including time and place of occurrence and victim-offender relationship are very similar to those of the originating crime. For example, the characteristics of homicides that result from robbery are very similar to the characteristics of robbery without homicide. In addition, the characteristics of such homicides are more similar to those of the originating crime than they are to the characteristics of homicides that result from other crimes or motives.

### Homicides may be instrumental or impulsive

An instrumental or premeditated homicide results from a well-planned action intended to acquire power or property. Robbery homicides tend to be instrumental because they result from robberies that are planned in advance with the goal of acquiring property.

In an impulsive homicide, the offender may intend to harm or kill the victim but without prior planning. Many assault homicides are impulsive. For example, a death may result from a fight or a brawl not planned by the offender.

### Murder most often results from arguments or the commission of another felony

| Murder was a result of— | Percent of all murders |
|---|---|
| Total | 100% |
| Arguments | 39% |
| Felony | 18 |
| Robbery | 9 |
| Narcotics | 3 |
| Sex offenses | 2 |
| Arson | 1 |
| Other | 3 |
| Suspected felony | 2% |
| Other motive | 18% |
| Unknown motive | 23% |

Source: FBI *Crime in the United States 1985*

### Multiple murders include serial, mass, and spree murders

• Serial murders involve the killing of several victims in three or more separate events. These may occur over several days, weeks, or years and reveal a pattern, such as where the murder occurred, the type of victim, or method of killing. John Wayne Gacy, a serial murderer, planned the separate killing of 33 boys and young men in Chicago over a span of 2 to 3 years in the late 1970s. The elapsed time between murders separates serial killers from other multiple killers. Other serial murderers include Albert De Salvo (the Boston Strangler), Theodore Robert Bundy, Juan Carona, David Berkowitz (son of Sam), and Wayne Williams.

• Mass murders involve the killing of four or more victims at one location, within one event. Richard Speck's murder of eight nursing students in Chicago on one July night in 1966 is an example of a mass murder. Other examples include Charles Whitman's killing of 16 people in a sniper firing from a tower at the University of Texas on August 1, 1966, and James Oliver Huberty's killing of 21 people at a San Diego McDonald's on July 18, 1984.

• Spree murders involve killings at two or more locations with almost no time break between murders and are a result of a single event. For example, in February 1985, Daniel Remeta aided by two others was responsible for robbing and killing the manager of a Stucky's restaurant in Grainfield, Kansas. One hour later, he shot a sheriff's deputy as he tried to flag down Remeta's car. Escaping to a nearby grain elevator, Remeta shot the manager and took two hostages whom he killed before his capture a few minutes later.

### The FBI assists local law enforcement agencies in solving violent crimes, particularly murder

Many local law enforcement agencies lack the special resources needed to solve rare crimes such as bizarre and vicious murders. Moreover, some violent criminals commit crimes in many different jurisdictions. Therefore, interagency coordination is essential in solving trans-jurisdictional crimes. The FBI's National Center for the Analysis of Violent Crime (NCAVC) has programs to provide special resources to local law enforcement agencies. NCAVC's Behavioral Science Unit provides training and research in criminal profiling, a process that aims to identify major personality and behavioral characteristics of the offender, based on analyses of the crime(s) committed. The NCAVC operates the Violent Criminal Apprehension Program (VCAP), a national clearinghouse for information on unsolved violent crimes, particularly murder. Local law enforcement agencies report data on unsolved violent crimes to the FBI, which analyzes the data, seeking to identify any similarities with other unsolved crimes. If similarities are noted the participating agencies are notified so they may coordinate their investigations.

## Robbery

### Robbery includes theft as well as physical threat or attack

In a robbery one or more offenders use force or threaten to do so to take a person's property. Whether it is called a stickup, holdup, mugging, or robbery, this crime is feared for both its actual and possible violence. Among commonly measured crimes only homicide and rape exceed it in severity. Unlike many other violent crimes, however, robbery is similar to property crimes because it involves an attempted or completed theft of personal property.

According to the National Crime Survey, 63% of the 14,681,000 robberies between 1973 and 1984 were completed and cost $4.4 billion in stolen cash and property. One in 3 victims were injured, 1 in 10 so seriously that they required treatment in an emergency room or hospital. Almost a quarter (23%) lost property *and* were injured.

### The average theft loss from robbery was $447

| Value of stolen property | Percent of completed robberies |
|---|---|
| Less than $10 | 18% |
| $10–49 | 26 |
| $50–249 | 32 |
| $250–999 | 13 |
| $1,000 or more | 6 |

Source: *Robbery victims*, BJS Special Report, April 1987

### Robbery sometimes occurs along with other crimes

From 1976 to 1984 between 9% and 11% of all murders reported to UCR were linked with robbery as a circumstance or motive. Between 1973 and 1984, during the same incident, robbery victims were also victims of rape (3%), burglary (8%), or motor vehicle theft (4%).

### Most robberies were committed by strangers—and half by more than one offender

According to NCS—
- Victims knew by sight or had never seen their assailants in 8 of 10 robberies committed by multiple offenders and in 7 of 10 by lone offenders.
- Victimizations involving black male offenders outnumbered those involving white males among multiple offenders and young single offenders.
- Most offenders robbed strangers, but single offenders were more likely to rob relatives and other persons they knew well than were multiple offenders, and they were also more likely to take property *and* to injure victims they knew well.

### Offenders displayed weapons in almost half of all robberies

- Guns were actually discharged in a fifth of all robberies.
- Offenders used guns and knives most often to threaten but used weapons other than guns or knives to attack.
- When either threatening or attacking, robbers were more likely to complete the theft when they used guns.
- Victims were more likely to be injured seriously when offenders attacked with weapons, but they were more likely to sustain minor injuries when offenders used objects other than guns or knives as weapons.

### Robbery differs significantly from other violent crimes

- Robbery victims were much more likely than rape or assault victims to face two or more offenders.
- Robbery victims generally did not know their assailants or knew them only by sight; victims of other violent crimes were less likely to be victimized by strangers.
- Robbery offenders were more likely than other violent offenders to use weapons.

### When do robberies occur?

- Robberies in which victims were injured took place more frequently in the dark.
- Robberies with uninjured victims happened equally in daylight and darkness.
- Robberies were most likely to occur in August and December and least likely to occur in February and April.

### Where do robberies occur?

- Robberies occurred most frequently on the street and next most frequently at or near the victim's home.
- A higher proportion of victims without than with injury were robbed in restaurants, commercial buildings, offices, or factories.
- Victims were more likely to lose property when the incident occurred at home, perhaps because there usually are fewer chances for interruptions at home than in more public places.

### Robbery rates declined between 1973 and 1984

According to NCS, robbery rates declined by 15% between 1973 and 1984, but they rose in 1981 and fell in 1983. The downward trend was due to a drop in the number of attempted robberies, both with and without injured victims. The rates for completed robberies at the beginning and end of the period remained the same.

### Slightly more than half of all robberies were reported to police

- 64% of all completed robberies but only 37% of attempted robberies were reported to police.
- Factors increasing the likelihood that a robbery was reported to police include: whether anything was stolen and, if stolen, the value of the property; whether the victim was injured and, if injured, the degree of injury; and the presence of a weapon.
- When a robbery was reported to police, reasons most often given for reporting it were "to keep it from happening again or to others" and "to punish the offender."
- When a robbery was not reported, respondents most frequently gave as their reason "lack of proof, no way to find/identify offender."

## Burglary

**Burglary is unlawful entry usually, but not necessarily, attended by theft**

Any fixed business or residential structure may be burglarized. In 1985 two of every three burglaries were residential. The entry may be by force, such as picking a lock, breaking a window, or slashing a screen; or it may be unforced, such as entry through an unlocked door or window. The National Crime Survey distinguishes among three types of household burglaries:

- **Forcible entry**—in which force is used to gain entry, for example, by breaking a window or slashing a screen
- **Attempted forcible entry**—in which force is used in an unsuccessful attempt to gain entry
- **Unlawful entry**—in which someone with no legal right to be on the premises gains entry even though force is not used.

Of the 73 million burglaries during 1973–82—

- 45% were unlawful entries
- 33% were forcible entries
- 22% were attempted forcible entries.

**Who commits household burglaries?**

Information on who commits burglaries is available only for residences where a household member was present (about 10% of all burglaries in NCS). In more than half of all such burglaries the offender was either a complete stranger or a person known by sight only. In about a fourth of the burglaries an acquaintance was the offender. Relatives, spouses, or ex-spouses were observed in 11% of the burglaries. Persons well known to the victim were more likely to be observed in unlawful entries than in burglaries involving force.

**Many of the violent crimes that occur in the home are committed during an illegal entry**

According to the National Crime Survey, persons who illegally enter homes commit—

- three-fifths of all rapes in the home
- three-fifths of all robberies in the home
- about a third of all aggravated and simple assaults in the home.

During the 10 years 1973–82, 2.8 million such violent crimes occurred during an illegal entry.

No one is at home during most burglaries. A household member was present during only 9% of all forcible entries, 14% of all unlawful entries, and 17% of all attempted forcible entries. However, in these cases a violent crime was committed during a third of the forcible entries, during almost two-fifths of the unlawful entries, and during a seventh of the attempted entries.

**Burglary results in losses from theft and property damage**

The vast majority of all forcible entries and unlawful entries involve actual or attempted theft of household property. Such is not the case, however, for attempted forcible entry. An attempted theft was reported in 14% of all such incidents and a completed theft in 3%. It is likely that many victims, having only evidence of an attempted entry, such as damaged locks or broken windows, declined to speculate on the intent of the persons who tried to gain entry to their home. Property damage is most likely to occur when force is involved.

**When does burglary occur?**

According to NCS, burglary occurs more often in the warmer months than in the colder ones, but this pattern is more pronounced for unlawful entry than for completed or attempted forcible entry. A possible explanation for the larger seasonal fluctuation in unlawful entry is the greater tendency to leave windows and doors open during the warm months, creating an opportunity for easy entry.

A greater proportion of victims of forcible entry than of victims of unlawful entry or attempted forcible entry could identify the time of day when the intrusion took place.

For each type of burglary the distribution of incidents in which the time of occurrence was known was about evenly divided between day and night. However, victims reported that a greater proportion of attempted forcible entries than of other types occurred between midnight and 6 a.m.

**What are the trends in burglary?**

Unlawful entry without force was the only type of burglary in NCS that showed any discernible trend during the 10 years 1973–82. Its rate per 1,000 households declined moderately from 47 in 1973 to 39 in 1982. This slowly declining trend in unlawful entry may be a sign that people are becoming more careful about locking doors and windows to prevent these crimes.

No evidence could be found in the data that the increasing use of burglar alarms, sophisticated locks, and other security devices has had any effect on the rate of forcible entry. The rates for attempted and completed forcible entry remained extremely stable between 1973 and 1982.

The lack of evidence that burglar alarms have affected the burglary rate should not be interpreted as proof that such devices are not effective. Burglars may be avoiding homes with alarms and protective devices in communities with active crime prevention programs in favor of less protected buildings and neighborhoods. If so, the precautions that some people have taken would result in a shift of the location of the offenses that would not be reflected in the crime statistics.

# Driving while intoxicated has been defined as a crime because of public concern over traffic safety

**Alcohol-related accidents pose a great threat to public safety**

An estimated 40% of the 43,800 traffic-related deaths in 1985 resulted from accidents that involved an alcohol level that exceeded the legal limit.[1] Another 10% of the deaths are estimated to have occurred in accidents that involved lower levels of alcohol. Both the absolute number and the proportion of alcohol-related fatal accidents are decreasing. Fewer drivers in fatal accidents are being measured at illegal alcohol levels and more of them are being measured to have no alcohol involvement.

**The crime of driving while intoxicated differs from most other crimes**

- Drunk driving lacks the usual criminal motives of gaining property, harming another person, or trafficking in contraband.
- Physical tests compared against a State standard are used to determine whether or not a crime has been committed.
- Drunk driving offenses are often handled administratively rather than criminally through driver's licensing regulation.

**The States use a variety of methods to prevent and deter drunk driving**

To prevent and deter drunk driving the States have used their authority to regulate alcohol and driving as well as to invoke criminal sanctions. Regulatory authority may be exercised through administrative channels. For example, a liquor store owner who sells alcohol to a minor could loose his license to sell liquor. Administrative remedies such as driver's license revocation are used for much illegal driving behavior including alcohol-related offenses.

**Physical tests determine whether drivers are intoxicated**

If a driver is suspected of being intoxicated, a law enforcement officer may require the driver to take a test (either a preliminary breath test or a blood test) to determine the alcohol level in his or her blood.

In most States drivers agree to take such tests when they receive their driver's license. Failure to take a test upon request is a violation of the licensing agreement and can result in automatic suspension or revocation of a driver's license. Thirty-eight States have sanctions against drivers who refuse to take the test on a first offense and 42 States have sanctions against drivers who refuse a second time in a separate incident.

**The level of alcohol as measured in the blood determines whether or not a driver is intoxicated**

In 39 States and the District of Columbia a driver who has a Blood Alcohol Concentration (BAC) of .10 is considered legally intoxicated. Illegal intoxication occurs at BAC levels of .08 in two States, at .12 in one State, and at .15 in one State.

The other seven States do not have an automatically illegal BAC level. Instead they use a presumptive level, where the court can assume intoxication but the defense can rebut this assumption. In all of these States the presumptive BAC level is .10. Some States have both illegal and presumptive levels that define intoxication. In these States the presumptive levels are either the same as or lower than the illegal levels.

According to the U.S. Department of Health and Human Services a person who weighs 150 lbs. and has had little or no food intake needs to consume about five ounces of 80-proof liquor in 1 hour to reach a BAC level of .10. Five ounces of alcohol is the equivalent of four 12-ounce cans of beer or four 4-ounce glasses of wine.

**Recent concern about drunk driving has resulted in many changes in State laws**

The public concern about drunk driving initiated by groups such as Mothers Against Drunk Driving (MADD) has inspired legislative changes. These changes have been targeted at all aspects of drunk driving from controlling alcohol consumption to criminal sanctions against drunk drivers.

**Many States have changed their laws that govern the determination of intoxication for driving offenses**

In 1982, 26 States set BAC levels that, if exceeded, automatically defined intoxication for driving offenses. Twenty-five States set levels that were presumptive in that a driver was assumed to be intoxicated but could rebut the assumption. By 1986, 19 States had changed their laws from presumptive levels to automatically illegal levels. Seven States continued to rely on the presumptive standard. However, the level of BAC that determined intoxication remained the same in most States from 1982–86.

**States have tried to prevent drunk driving through control of alcohol consumption**

- In 1982, 28 States set the age for legal purchase of some type of alcohol at 18 or 19, while in 17 States it was 21. By 1986, however, 29 States raised the drinking age, giving 44 States a legal age of 21. In 7 States the drinking age remains at 18 or 19.
- As of January 1987, 33 States had laws prohibiting consumption of alcohol in vehicles, but some apply only to drivers. Nineteen States prohibit open containers in the passenger compartment of vehicles.
- Recently, 12 States have enacted laws prohibiting "happy hours." These laws limit the sale of alcoholic beverages below the price per quantity normally charged for each beverage. Laws dealing directly with establishments that sell alcohol have also become stricter.

**The Federal Government has urged States to prevent drunk driving by raising the drinking age and by other measures**

Public Law 98-363 was enacted in response to the work of the President's Commission on Drunk Driving. It requires the withholding of a percentage of highway construction funds until the State raises its legal drinking age to 21. It also established a grant program for the States to encourage mandatory sentencing for Driving While Intoxicated (DWI) offenders and gives additional funds to States with computerized traffic records systems.

# Organized crime includes many traditional crimes as well as offenses such as racketeering

**What is organized crime?**

Although organized crime has been considered a problem throughout the century, no universally accepted definition of the term has been established. The President's Commission on Organized Crime, for example, defines the criminal group involved in organized crime as "a continuing, structured collectivity of persons who utilize criminality, violence, and a willingness to corrupt in order to gain and maintain power and profit."

Some characteristics of organized crime are generally cited:

- **Organizational continuity:** Organized crime groups ensure that they can survive the death or imprisonment of their leaders and can vary the nature of their activities to take advantage of changing criminal opportunities.
- **Hierarchical structure:** All organized crime groups are headed by a single leader and structured into a series of subordinate ranks, although they may vary in the rigidity of their hierarchy. Nationwide organizations may be composed of multiple separate chapters or "families," each unit generally headed by its own leader who is supported by the group's hierarchy of command. Intergroup disputes, joint ventures, and new membership are generally reviewed by a board composed of the leaders of the most powerful individual chapters. For example, La Cosa Nostra currently is estimated to include 24 individual "families" all under the general authority of a "National Commission" comprised of an estimated nine bosses.
- **Restricted membership:** Members must be formally accepted by the group after a demonstration of loyalty and a willingness to commit criminal acts. Membership may be limited by race or common background and generally involves a lifetime commitment to the group, which can be enforced through violent group actions.
- **Criminality/violence/power:** Power and control are key organized crime goals and may be obtained through criminal activity of one type or in multiple activities. Criminal activity may be designed directly to generate "income" or to support the group's power through bribery, violence, and intimidation. Violence is used to maintain group loyalty and to intimidate outsiders and is a threat underlying all group activity. Specific violent criminal acts include, for example, murder, kidnaping, arson, robbery, and bombings.
- **Legitimate business involvement:** Legitimate businesses are used to "launder" illegal funds or stolen merchandise. For example, illegal profits from drug sales can be claimed as legitimate profits of a noncriminal business whose accounting records have been appropriately adjusted. Legitimate business involvement also elevates the social status of organized crime figures.
- **Use of specialists:** Outside specialists, such as pilots, chemists, and arsonists, provide services under contract to organized crime groups on an intermittent or regular basis.

**Organized crime groups often are protected by corrupt officials in the government and private sector**

Such officials include inspectors who overlook violations, accountants who conceal assets, financial officers who fail to report major cash transactions, law enforcement officers who provide enforcement activity information to drug traffickers, and attorneys who have government witnesses intimidated to change their testimony. The public also supports organized crime by sometimes knowingly or unknowingly purchasing illegal goods and "hot" merchandise.

**Organized crime groups are involved in many different activities**

In addition to its well known involvement in illegal drugs, organized crime is also involved in prostitution, gambling, and loan sharking operations and has been shown to have infiltrated legitimate industries such as construction, waste removal, wholesale and retail distribution of goods, hotel and restaurant operations, liquor sales, motor vehicle repairs, real estate, and banking.

**How much does organized crime cost?**

A recent survey for the President's Commission on Organized Crime estimates that 1986 net income from organized crime activity ranged between $26.8 billion (a low estimate) and $67.7 billion (the high estimate).

The indirect costs of organized crime affect all consumers through increased consumer prices. Kickbacks, protection payments, increased labor and material costs, and lack of competition in industries controlled by organized crime all increase consumer costs. Unpaid taxes on illegal activities result in higher tax burdens for legal wage earners.

**Racketeer Influenced and Corrupt Organization (RICO) statutes are key tools in the fight against organized crime**

The Federal RICO statute was enacted in 1970 and was amended most recently in 1986. Unlike other existing statutes that address individual criminal acts such as murder or robbery, the RICO statute was specifically designed to target the overall and continuing operations of organized crime organizations. Specifically, the act prohibits the use of racketeering activities or profits to acquire, conduct, or maintain the business of an existing organization or "enterprise." Racketeering activities are defined to include any act or threat involving murder, kidnaping, gambling, arson, robbery, bribery, extortion, dealing in narcotic or dangerous drugs, fraud, and other crimes. The act also provides for forfeiture of illegally obtained gains and interests in enterprises.

Twenty-three States had enacted RICO statutes by 1986. Most of them are very similar to the Federal statute.

The government also has other tools to fight organized crime, including witness protection programs, electronic surveillance procedures, and immunity statutes.

# White-collar crime refers to a group of nonviolent crimes that generally involve deception or abuse of power

**There is much debate about how to define "white-collar" crime**

Reiss and Biderman define it as violations of law "that involve the use of a violator's position of significant power, influence or trust . . . for the purpose of illegal gain, or to commit an illegal act for personal or organizational gain." Another researcher, Sutherland, defines white-collar crime as "a crime committed by a person of respectability and high social status in the course of his occupation." Edelhertz defines it as "an illegal act or series of illegal acts committed by nonphysical means and by concealment or guile to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage."

Although specific definitions vary, the term is generally construed to include business-related crimes, abuse of political office, some (but not all) aspects of organized crime, and the newly emerging areas of high-technology crime. White-collar crimes often involve deception of a gullible victim and generally occur where an individual's job, power, or personal influence provide the access and opportunity to abuse lawful procedures for unlawful gain.

Specific white-collar crimes include embezzlement, bribery, fraud (including procurement fraud, stock fraud, fraud in government programs, and investment and other "schemes"), theft of services, theft of trade secrets, tax evasion, and obstruction of justice.

**Unlike violent crimes, white-collar crimes do not necessarily cause injury to identifiable persons**

White-collar crime instead can cause loss to society in general as in cases of tax evasion, for example. For this reason, white-collar crimes, unlike violent crimes, may not always be detected and are more difficult to investigate.

**Little data are available on the extent of white-collar crime**

Measuring white-collar crime presents special problems:

- **No uniform definitions** exist that define either the overall scope of white-collar crime or individual criminal acts.
- **Wide variations** in commercial recordkeeping procedures make it difficult to collect and classify data on the loss.
- **Uncertainty over the legal status** of financial and technical transactions complicates the classification of data.
- **Computer technology** can conceal losses resulting from computer crimes.
- **Crimes may not be reported** to protect consumer confidence.

**Almost three-fourths of the white-collar crimes prosecuted at the State level resulted in convictions**

A study of 8 States and the Virgin Islands found that 12% of the white-collar crime cases that originated with an arrest and for which dispositions were reported in 1983 were not prosecuted. The study defined white-collar crimes as forgery/counterfeiting, fraud, and embezzlement.

Prosecution rates for white-collar crimes were similar to those for violent crimes (murder, rape, robbery, kidnaping, and assault), property crimes (stolen vehicles, burglary, and arson), and public order crimes (drug and weapons offenses and commercial vice). Because the study focused on white-collar crime cases that were reported through the criminal justice system, the sample does not take into account the large number of white-collar crimes that were not discovered, not reported to authorities, or did not result in an arrest.

The study also found the conviction rate for cases prosecuted to be about 74%, slightly higher than for violent crimes (66%) and public order crimes (67%) and about the same as for property crimes (76%).

About 60% of the persons convicted for white-collar crime vs. about 67% of those convicted for violent crimes were sentenced to prison. Eighteen percent of white-collar offenders sentenced to prison were sentenced to more than 1 year (about the same as persons convicted of public order offense) vs. 39% of violent offenders.

# High technology has provided new opportunities for crime

### High-technology procedures are used in some types of crime

Over the past decade the use of computers and advanced communication techniques for business and industrial purposes has radically altered traditional means of doing business. These changes have created an environment in which white-collar abuse of fiscal trust and responsibility can result in unusually large losses. The centralized storage of individually identifiable information has also created new opportunities for white-collar crimes that involve unlawful acquisition and disclosure of data. Manipulation of computer programs can also conceal illegal transactions and prevent, or at least postpone, discovery of loss by a victim or financial institution.

### Prosecution of computer-related crimes presents special problems

- Traditional laws are not always applicable to violations that involve automated activity.
- Evidence of computer abuse (and computer-generated evidence of other abuses) may not always be admissible in court.
- Investigators, prosecutors, and judges do not have the training needed to become familiar with computer terminology and procedures.

So far, 47 States have enacted computer crime laws that, to some degree, define illegal activities involving computerized facilities, procedures, or information. Some of the laws also refer specifically to crimes that involve credit card transactions.

### Greater use of high technology has increased concern about computer crime

- In 1980 about 117 trillion dollars were transferred electronically among financial institutions in roughly 60 million wire transfer transactions; this was an increase of more than 170% over the value of transactions in 1976.
- In 1983 about 262 billion dollars were processed through automated teller machines in roughly 2.7 billion transactions. This was an increase of almost 650% over the value of funds and an increase of more than 170% over the number of automated teller machine transactions in 1982.
- White-collar crime losses to banks resulting from automated teller machine fraud during 1983 were estimated at between 70 and 100 million dollars.

### Automated teller machine fraud is of special concern to consumers

- In a sample study of 2,700 automated teller machine incidents that prompted a consumer complaint, about 45% were found to be fraud-related; of these, almost half resulted from unauthorized use of a lost or stolen automated teller machine card. Cards were lost or stolen in the home in 25% of these cases, and they were taken as part of a wallet or purse snatching in almost two-thirds of the cases.
- Average losses to accountholders were $255 per incident where loss was to the accountholder only. Where both the accountholder and the bank incurred losses,[2] average loss to the accountholder was $74 per incident and average loss to the bank was $365 per incident.

### Lost or stolen cards are used in 49% of all automatic teller machine frauds

| Type of automated machine fraud | Percent of fraudulent incidents |
|---|---|
| Withdrawal-related incidents | |
| Unauthorized withdrawals: | |
| Card lost or stolen | 49% |
| Card in possession of cardholder | 24 |
| Overdraft: Withdrawal against insufficient/bad deposit | 4 |
| Bank operations suspected to be off line or delayed | 14 |
| Deposit-related incidents | |
| Bad deposit: | |
| Stolen/fraudulent/ uncollectible check or empty envelope | 3 |
| Bad check deposited by person other than accountholder | 6 |
| Other | 1 |
| Total | 100% |

Source: *Electronic fund transfer fraud*, BJS Special Report, March 1985.

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

### National crime statistics focus on selected crimes

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

### The UCR Index shows trends in eight major crimes

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

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

### The NCS provides information about victims and crimes not reported to police

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

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

These are some of the more important differences in the programs, thought to account for much of the difference in resulting statistics:

**How do UCR and NCS compare?**

| | Uniform Crime Reports | National Crime Survey |
|---|---|---|
| *Offenses measured:* | Homicide<br>Rape<br>Robbery (personal and commercial)<br>Assault (aggravated)<br>Burglary (commercial and household)<br>Larceny (commercial and household)<br>Motor vehicle theft<br>Arson | Rape<br>Robbery (personal)<br>Assault (aggravated and simple)<br>Household burglary<br>Larceny (personal and household)<br>Motor vehicle theft |
| *Scope:* | Crimes reported to the police in most jurisdictions; considerable flexibility in developing small-area data | Crimes both reported and not reported to police; all data are available for a few large geographic areas |
| *Collection method:* | Police department reports to FBI or to centralized State agencies that then report to FBI | Survey interviews; periodically measures the total number of crimes committed by asking a national sample of 49,000 households encompassing 101,000 persons age 12 and over about their experiences as victims of crime during a specified period |
| *Kinds of information:* | In addition to offense counts, provides information on crime clearances, persons arrested, persons charged, law enforcement officers killed and assaulted, and characteristics of homicide victims | Provides details about victims (such as age, race, sex, education, income, and whether the victim and offender were related to each other) and about crimes (such as time and place of occurrence, whether or not reported to police, use of weapons, occurrence of injury, and economic consequences) |
| *Sponsor:* | Department of Justice<br>Federal Bureau of Investigation | Department of Justice<br>Bureau of Justice Statistics |

• The UCR counts only crimes coming to the attention of the police. The NCS obtains information on both reported and unreported crime, though not necessarily all unreported crime.

• The UCR counts crimes committed against all people and all businesses, organizations, government agencies, and other victims. NCS counts only crimes against persons age 12 or older and against their households.

• The two programs, because they serve different purposes, count crimes differently in some instances. For example, if a criminal robs a victim and steals someone else's car to escape, UCR counts only 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 a variety of limitations that affect its estimate of crime. For example, an increased willingness by victims to report crimes to police could produce an apparent increase in UCR estimates, even if the "true" amount of crime remained stable. Similarly, the NCS is known to undercount crimes committed by persons related to the victim, specifically domestic violence. The result of these limitations, some of which result in overcounting crime while others result in undercounting it, serve to create differences in the estimates that the two programs produce.

# How much crime is there?

### In 1985 violence or theft touched about a fourth of all households

According to the NCS more than 22 million households were victimized by at least one crime of violence or theft.
- Almost 16 million households, or 18% of those in the Nation, were victimized by at least one theft during the year.
- Almost 5 million, or 5%, were burglarized at least once.
- About 1% were victimized by the theft or attempted theft of a motor vehicle.
- 5% of all households had members who were victims of at least one violent crime of rape, robbery, or aggravated or simple assault.

### A violent crime by strangers and/or a burglary struck 8% of all households in 1985

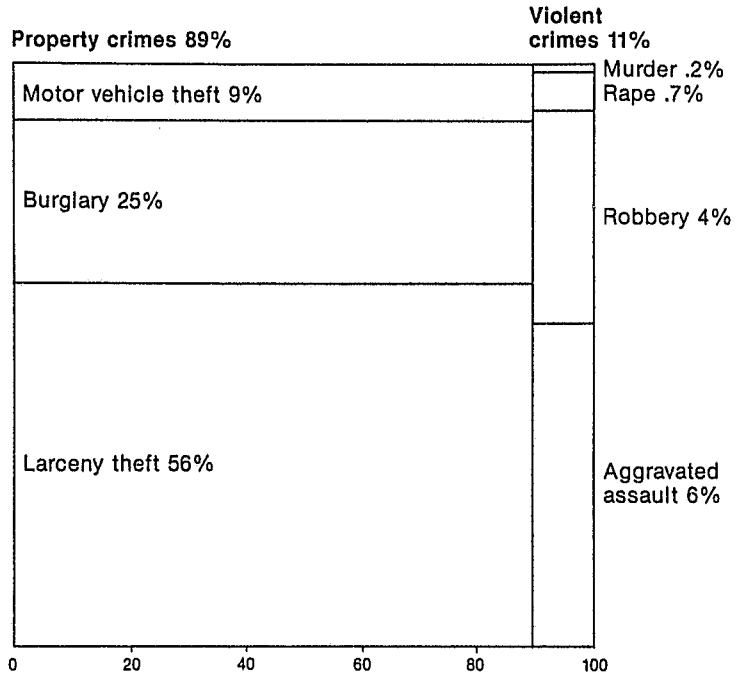
Public opinion polls show that burglaries and violent crime by strangers are high on the list of the greatest public concerns and fears. According to NCS, 7 million U.S. households were touched by one or more of these crimes in 1985—the household was burglarized and/or one or more of its members were raped, robbed, or assaulted by a stranger. These high-concern crimes affected 1 in 13 households in the Nation.

### 35 million victimizations occurred in 1985 according to NCS data

| | |
|---|---|
| **Personal crimes** | |
| Crimes of violence | |
| Rape | 138,000 |
| Robbery | 985,000 |
| Aggravated assault | 1,605,000 |
| Simple assault | 3,094,000 |
| Crimes of theft | |
| Larceny with contact | 523,000 |
| Larceny without contact | 12,951,000 |
| **Household crimes** | |
| Burglary | 5,594,000 |
| Larceny | 8,703,000 |
| Motor vehicle theft | 1,270,000 |
| Total | 34,864,000 |

Source: *Criminal victimization, 1985*, BJS Bulletin, October 1986.

### Property crimes outnumbered violent crimes by 9 to 1




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

Source: FBI *Crime in the United States 1985.*

### 12 million UCR Index Crimes were reported to police in 1985

| | |
|---|---|
| **Violent crimes** | 1,327,440 |
| Murder | 18,980 |
| Forcible rape | 87,340 |
| Robbery | 497,870 |
| Aggravated assault | 723,250 |
| **Property crimes** | 11,102,600 |
| Burglary | 3,073,300 |
| Larceny-theft | 6,926,400 |
| Motor vehicle theft | 1,102,900 |
| Total | 12,430,000 |

Note: Offenses may not add to totals because of rounding.

Source: FBI *Crime in the United States 1985.*

### Businesses reported almost 1 million burglaries and over 100,000 robberies in 1985

The UCR shows that more than half the 956,096 nonresidential burglaries reported to the police in 1984 occurred at night. Eighteen percent were known to have taken place during the day. (In 31% the time of day was not known.)

In 1985 more than 100,000 completed or attempted robberies were reported to the police by stores, gas stations, banks, and other commercial establishments. Convenience stores were subjected to 26,000 robberies—about 1.7 times the number of gas station robberies and 4 times the number of bank robberies.

# What are the trends in crime?

**The various sources of crime data examine different aspects of crime and crime trends**

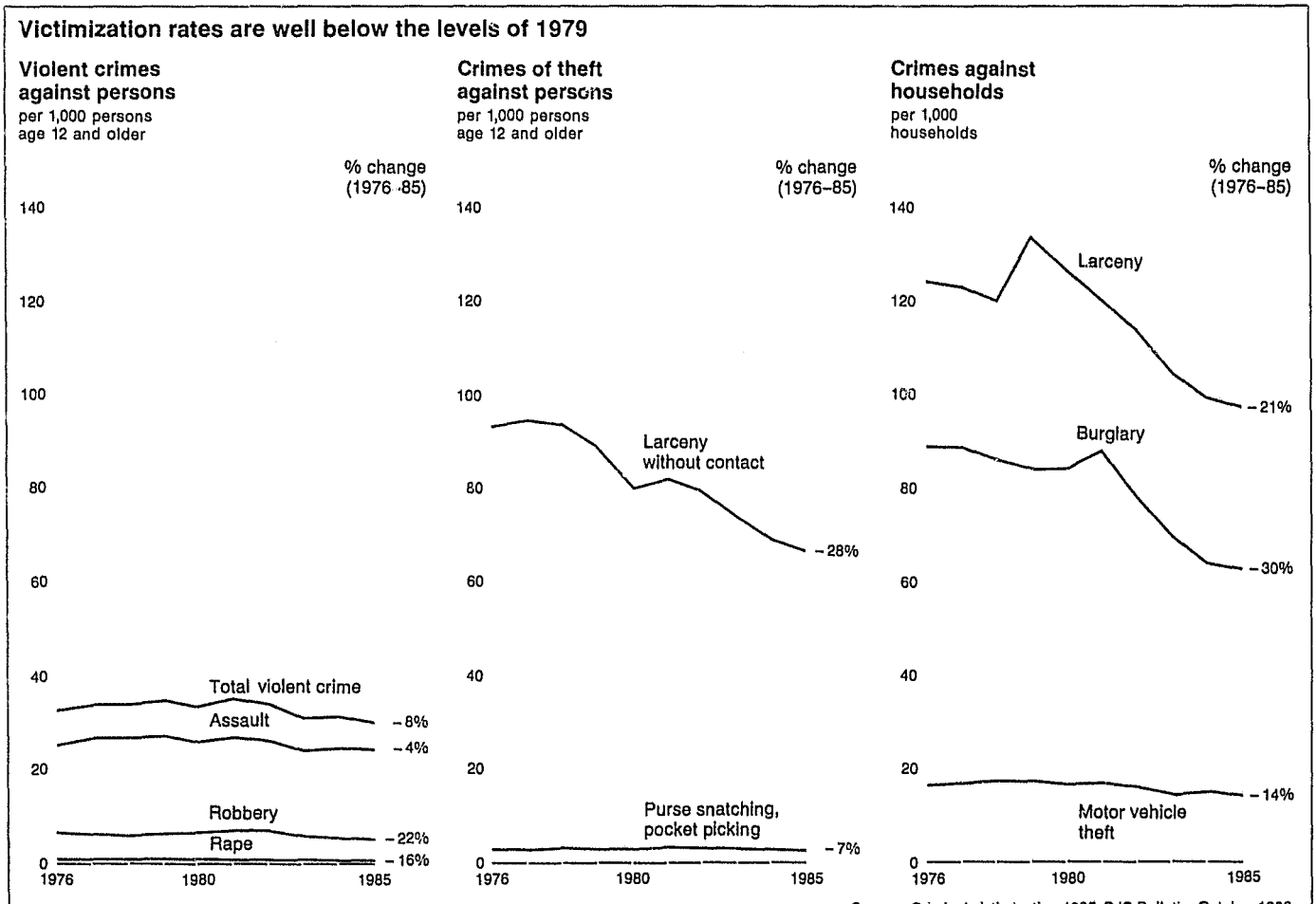
The analysis of crime trends here uses crime rates from several different sources: the National Crime Survey, which has been conducted since 1973; the Uniform Crime Reports, which was begun in 1930; and homicide statistics from coroners' reports to the National Center for Health Statistics (NCHS), which are available from 1900. As previously discussed, each of these sources measures only specific types of crime.

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

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

Homicide data from the NCHS provide another perspective on crime trends. UCR and NCHS data on homicide track closely, but differences in coverage and definition cause slight differences in rates. The existence of both sources and their close tracking confirms the general trends in homicide and provides a long-term perspective on violence in the United States.

**Victimization rates are well below the levels of 1979**




Source: *Criminal victimization 1985*, BJS Bulletin, October 1986.

**The percentage of households touched by crime has declined over the past 10 years**

In 1985, 25% of all U.S. households were touched by crime according to the NCS. 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.

The 1985 estimate continued a downward trend that has characterized the measure since its introduction in 1975 when 32% of all American households were touched by crime.

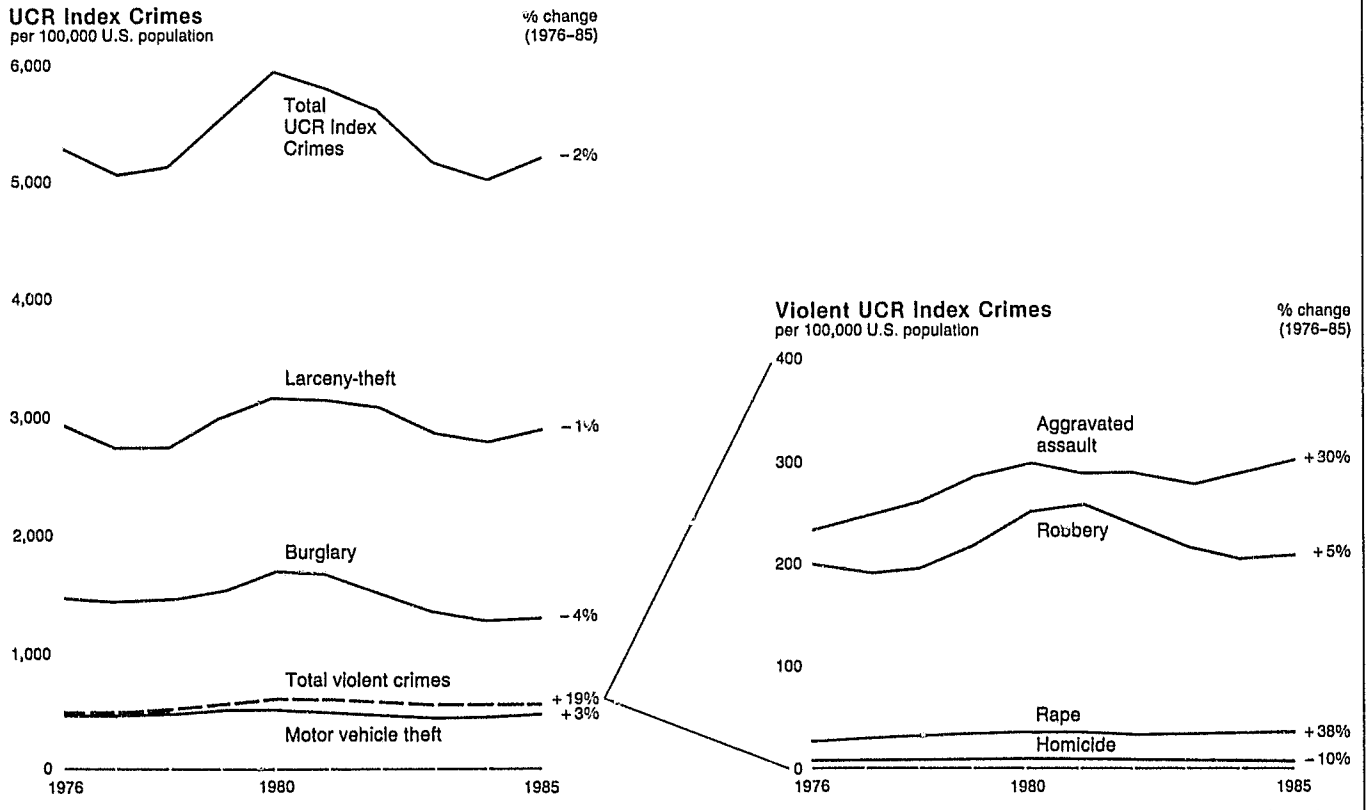
While the percentages have fallen for every type of crime measured, the declines have been the greatest for personal larceny without contact (from 16% to 12%) and burglary (from 8% to 5%).

**Several different theories explain recent declines in crime rates**

No one cause has been empirically found to explain the recent decline in crime. Criminologists have offered several possible explanations for the recent decline in crime, including—

- incapacitation of larger numbers of career criminals
- decreasing size of the teen and young adult population, the most crime-prone age group in society
- growth of citizen crime-prevention activities such as neighborhood watch programs.

**Most UCR Index Crimes reported to the police have declined from their peak rates of 1980**




Source: FBI *Crime in the United States 1985.*

**Homicide statistics provide insights into long-term crime trends**

To gain the best perspective, crime trends should be examined over the longest possible period. Short-term trends portray only a part of the trend picture. For example, the most recent decade of homicide data from the National Center for Health Statistics shows rates rising from 1976, peaking in 1980, and declining to levels below the 1976 rate. However, this is only part of a long-term trend apparent since 1900. Overall, 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. Many minor, short-term trends are also evident, such as the 1945–47 rise within a long-term falling trend. It is too early to tell whether the decline since 1980 is the start of a long-term declining trend or a temporary pause in the rising trend that began in 1961.

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


Source: *Vital statistics of the United States*, National Center for Health Statistics.

# How serious are various types of crimes?

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

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

Severity scores were developed from the responses to the survey. Mathematical techniques were used to enable comparisons between scores. For example, a severity score of 40 is twice as serious as a score of 20.

### 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.

However, some differences were noted among different groups of people:
- The severity scores assigned by blacks and members of other racial groups (Asians, Pacific Islanders, Native Americans, etc.) were generally lower than those assigned by whites.
- Older people found thefts with large losses to be slightly more severe than did people of other age groups.

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

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

### How do people rank the severity of crime?

| Severity score | Ten most serious offenses |
|---|---|
| 72.1 | Planting a bomb in a public building. The bomb explodes and 20 people are killed. |
| 52.8 | A man forcibly rapes a woman. As a result of physical injuries, she dies. |
| 43.2 | Robbing a victim at gunpoint. The victim struggles and is shot to death. |
| 39.2 | A man stabs his wife. As a result, she dies. |
| 35.7 | Stabbing a victim to death. |
| 35.6 | Intentionally injuring a victim. As a result, the victim dies. |
| 33.8 | Running a narcotics ring. |
| 27.9 | A woman stabs her husband. As a result, he dies. |
| 26.3 | An armed person skyjacks an airplane and demands to be flown to another country. |
| 25.8 | A man forcibly rapes a woman. No other physical injury occurs. |

| Severity score | Ten least serious offenses |
|---|---|
| 1.3 | Two persons willingly engage in a homosexual act. |
| 1.1 | Disturbing the neighborhood with loud, noisy behavior. |
| 1.1 | Taking bets on the numbers. |
| 1.1 | A group continues to hang around a corner after being told to break up by a police officer. |
| .9 | A youngster under 16 years old runs away from home. |
| .8 | Being drunk in public. |
| .7 | A youngster under 16 years old breaks a curfew law by being out on the street after the hour permitted by law. |
| .6 | Trespassing in the backyard of a private home. |
| .3 | A person is a vagrant. That is, he has no home and no visible means of support. |
| .2 | A youngster under 16 years old plays hooky from school. |

Source: *The severity of crime*, BJS Bulletin, January 1984

In deciding on severity people seem to take into account such factors as—
- The ability of the victim to protect him/herself. For example, when a parent beats a young child this offense is scored higher (22.9) than when a teenage boy beats his mother (15.9).
- Extent of injury and loss. For example, when death is involved scores are much higher (35.6) than when there is no hospitalization (8.5).
- For property crimes, the type of business or organization from which the property is stolen. For example, stealing a $1,000 painting from a museum is ranked higher (9.7) than stealing $1,000 in tools from a railroad yard (7.9).
- The relationship of the offender to the victim. For example, when a man beats his wife with his fists resulting in hospitalization the score is higher (18.3) than when the same situation occurs among three high school boys and a male classmate (11.3).
- The types of drugs used when drugs are involved. For example, selling heroin to others for resale is rated higher (20.6) than when the same offense involves marijuana (8.5); individual use of heroin is rated 6.5, marijuana 1.4.

### White-collar crimes are viewed as seriously as many conventional property and violent crimes

Such crimes include fraud against consumers, cheating on income taxes, pollution by factories, pricefixing, and acceptance of bribes. For example, the score for a doctor cheating on claims he or she makes to a Federal health insurance plan for patient services (14.1) is almost three times as high as the score for forcefully robbing a victim of $10 when no injury occurs (5.1).

# When does crime occur?

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

The impact of seasonality on crime rates varies from one type of crime to another, but NCS data indicate that most types of personal and household crimes are more likely to occur during the warmer months of the year. UCR data show that the number of rapes reported to the police also peaks during the summer months.

Among the possible explanations for this warm-weather trend, the most probable ones are that—
- people spend more time outdoors during these months, making them more vulnerable to some crimes
- individuals leave their homes more often during this time of year, or leave doors and windows open, making their homes more vulnerable to property crimes.

Exceptions to this trend include—
- robbery, which fluctuates across months, but displays no regular pattern of high and low months from one year to another
- personal larceny of less than $50, which shows a regular seasonal trend, but displays a drop during the summer months that is most likely from a decline in school-related thefts during the summer.

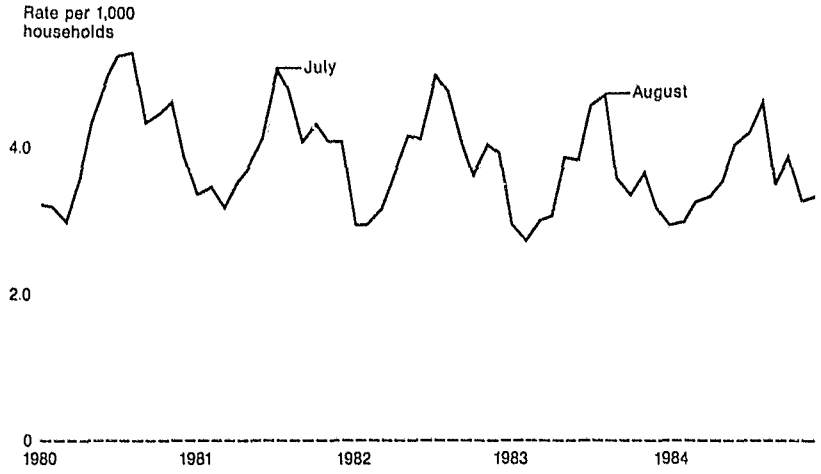
### Crime incidence varies with time of day

In 1985 among the crimes most likely to occur during evening or nighttime hours were motor vehicle theft (63%) and serious violent offenses such as robbery with injury (60%) and aggravated assault (58%), according to the NCS. Among the crimes least likely to happen at night were simple assault (45%), purse snatching and pocket picking (34%), and personal larceny without contact (35%).

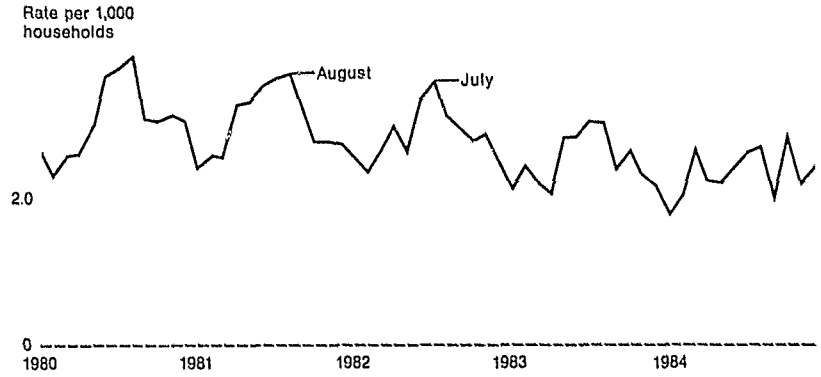
Many people do not know when some crimes took place. However, among victims who did know, burglaries were almost equally divided between daytime and nighttime, and household larcenies were more likely to happen at night.

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

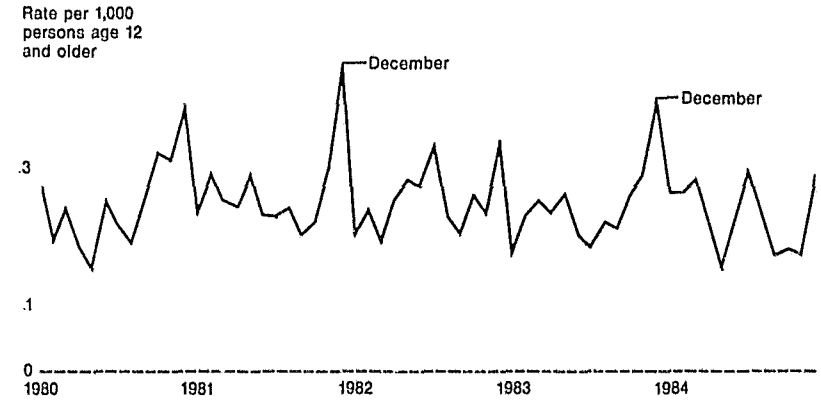
**Household larcenies of more than $50**




**Household burglaries: Unlawful entries**



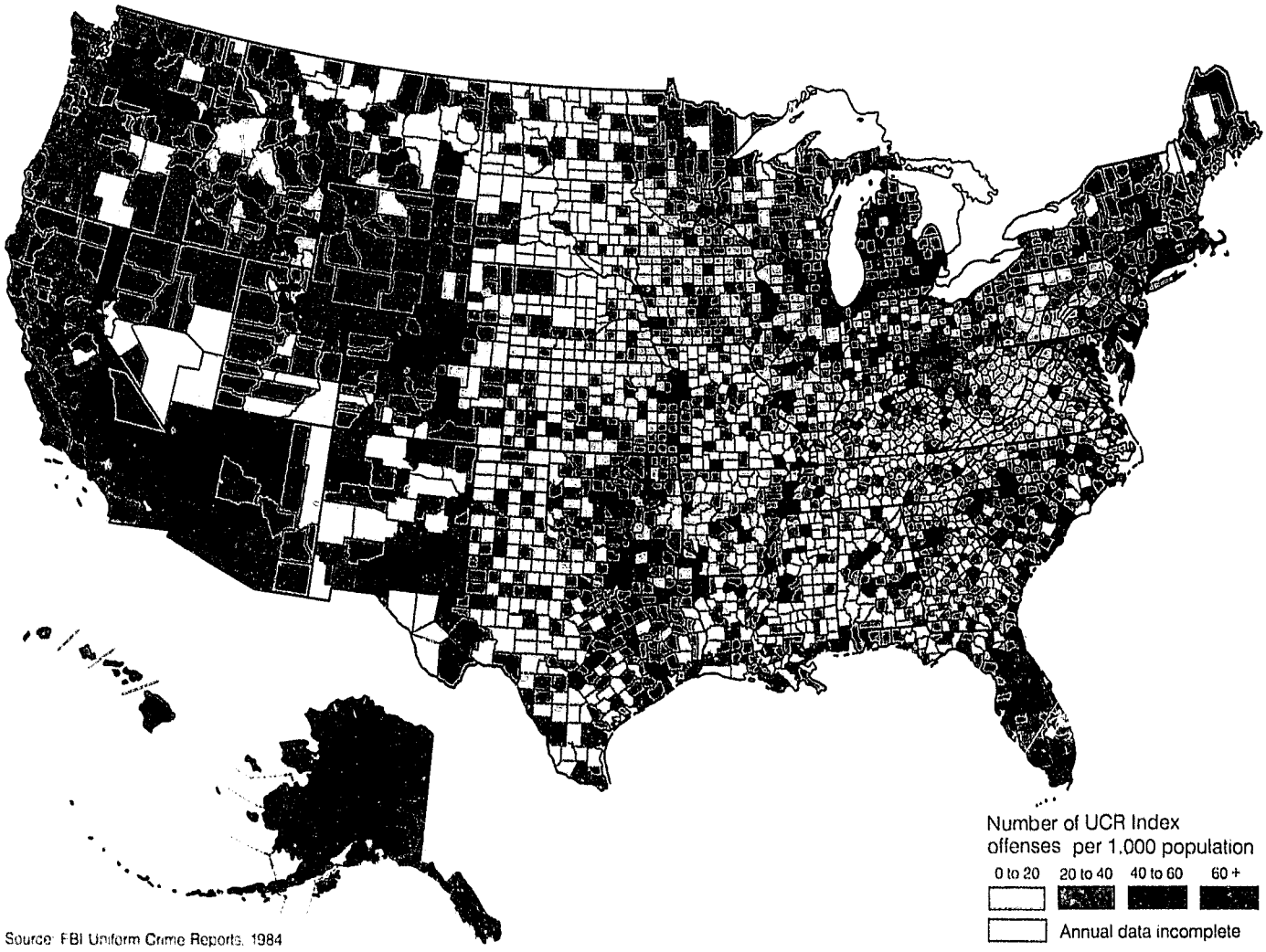

**Personal larcenies with contact**
(Purse snatchings and pocket pickings)




Source: BJS National Crime Survey, 1980-84.

# Where does most crime occur?

**In what counties is crime most likely to occur?**




Source: FBI Uniform Crime Reports, 1984

**Counties with the highest crime rates are diverse; those with the lowest rates tend to be rural**

Many factors can account for particularly high or low county crime.

• High crime rates were recorded in 1984 for a diverse set of counties. Some (such as Suffolk County, Massachusetts, and Multnomah County, Oregon) contain large urban centers. Others are resort areas (such as Alpine County, California, and Summit County, Colorado). Resort areas have a high number of transients who are not included in the resident populations that are used to compute these rates.

• Rural counties are heavily represented among counties with both very high and very low per capita crime rates. There are several possible explanations for these findings. First, the populations for these counties tend to be very small, so that any change in the absolute volume of crime will greatly affect per capita crime rates. Second, geographic dispersion of rural populations and crime reporting practices may affect the perception, detection, and reporting of crimes.

**In some ways, the incidence of crime differs by region**

In 1986 the NCS showed that—

• Households in the Northeast were least vulnerable to crime (19%), while those in the West were most vulnerable (30%). About 25% of the households in the Midwest and South were touched by crime.

• Households in all regions were about as likely to have a member suffer a robbery or have a motor vehicle stolen.

• Northeastern households were the least likely to be victims of a theft, burglary, or assault.

### Crime rates are highest in major metropolitan areas

| | Number of UCR Index crime rates per 100,000 population | |
|---|---|---|
| | Violent crimes | Property crimes |
| **Metropolitan statistical areas (MSAs)** Urbanized areas that include at least one city with 50,000 or more inhabitants, or a Census Bureau defined urbanized area of at least 50,000 inhabitants and a total MSA population of at least 100,000 | 658 | 5,262 |
| **Non-MSA cities** Cities that do not qualify as MSA central cities and are not otherwise included in an MSA | 319 | 4,262 |
| **Suburban areas** Suburban cities and counties within metropolitan areas | 341 | 3,883 |
| **Rural Areas** | 168 | 1,636 |

Source: FBI *Crime in the United States 1985*.

### What are the trends in urban, suburban, and rural crime?

According to the UCR from 1983–86—
- Increases in violent crime were greatest for suburban areas (20%) and MSAs (17%).
- Violent and property crime rates were consistently highest for MSAs, followed by the rates of suburbs and non-MSA cities, and consistently lowest for rural areas.
- Violent crime rates increased in all types of places, ranging from a rise of 9% in rural areas to an increase of 20% in suburban areas.
- Property crime rates showed less change. This rate dropped in rural areas (2%). Other types of places registered an increase of no more than 5% (MSAs and suburban areas).

### By far the largest number of crimes occurs in the general area where the victim lives

According to NCS—
- 88% of the violent victimizations of central city residents occurred in their central city; 73% of the violent victimizations of suburban residents occurred in their suburban area; and 77% of violent victimizations of nonmetropolitan residents occurred in the same county as their residence.
- Suburban dwellers are more likely to be victims of crime in their central city than are city dwellers to become victims in the suburb surrounding their cities. This may result from differences in commuting patterns.
- Robbery and personal larceny with contact (purse snatching and pocket picking) are especially likely to occur in cities.

### Persons who live in central cities are more likely than suburban or rural residents to be victimized

Victimization rates for persons age 12 and older

| Place of residence and population | Crimes of violence | Crimes of theft |
|---|---|---|
| **Total all areas** | 31 | 77 |
| **All central cities** | 43 | 92 |
| 50,000–249,999 | 38 | 90 |
| 250,00–499,999 | 39 | 85 |
| 500,000–999,999 | 48 | 105 |
| 1,000,000 or more | 48 | 90 |
| **All suburban areas** | 29 | 82 |
| 50,000–249,999 | 25 | 72 |
| 250,000–499,999 | 30 | 79 |
| 500,000–999,999 | 30 | 88 |
| 1,000,000 or more | 33 | 93 |
| **Nonmetropolitan areas** | 22 | 58 |

Note: Rates are per 1000 population age 12 and older. The population range categories shown under the "all central cities" and "all suburban areas" headings are based only on the size of the central city and do not include the population of the entire metropolitan area.

Source: *Locating city, suburban, and rural crime*, BJS Special Report, December 1985.

### 87% of violent crimes by strangers occurred away from the victim's home

National Crime Survey data for 1985 indicate that—
- 26% of the total number of violent crimes occurred in and around the victim's home, but 32% of all rapes occurred there.
- 40% of violent crimes by persons known to the victim occurred in or near the victim's home, but only 16% of those committed by strangers occurred there.
- 84% of all household larcenies occurred near rather than inside the victim's home, partly because thefts inside the home often involve illegal entries or breakins and thus would be classified as burglaries.
- Personal larcenies with contact (such as pocket picking) occurred in a number of different settings such as on the street (23%), in commercial buildings (22%), and on public transportation (15%).

| Place of occurrence | % crimes of violence (rape, robbery, assault) | % personal larceny with contact* |
|---|---|---|
| On street, in a parking lot | 36% | 28% |
| On public transportation | 1 | 15 |
| Inside commercial building | 7 | 22 |
| Inside restaurant | 6 | 12 |
| Inside own home | 13 | 3 |
| Near own home | 13 | 4 |
| Inside school | 9 | 4 |
| Friend's or neighbor's home | 8 | 3 |
| Elsewhere | 8 | 10 |
| Total | 100% | 100% |

*By definition, personal larceny without contact cannot occur in these locations. Thefts from home are household larcenies.

Source: BJS *Criminal victimization in the U.S., 1985*, May 1987.

# To what extent are weapons involved in crime?

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

| Weapon use | Homicide | Rape | Robbery | Assault |
|---|---|---|---|---|
| Weapon used | 93% | 25% | 49% | 34% |
| Firearm | 59 | 11 | 23 | 12 |
| Knife | 21 | 14 | 21 | 10 |
| Other | 13 | 5 | 13 | 15 |
| None used | 7% | 75% | 51% | 66% |

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

Sources: *The use of weapons in committing crimes*, BJS Special Report, January 1986, and FBI *Crime in the United States 1985*.

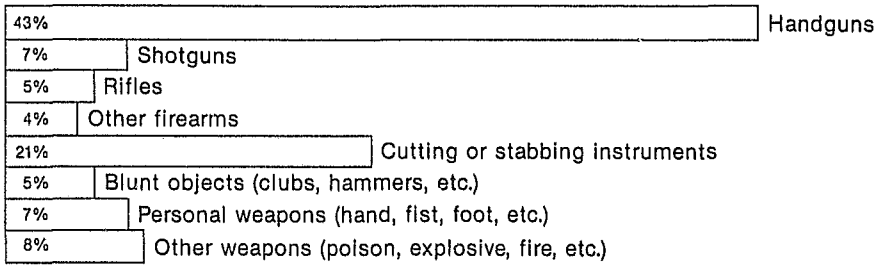
### Weapons are most often used to threaten

Violent offenders may use weapons to force the victim to submit to the offenders' demands without actually assaulting the victim and causing injury. Offenders armed only with a gun actually shot victims in somewhat less than 4% of all violent victimizations and attempted to shoot the victim in 21% of such incidents; offenders armed only with knives actually stabbed victims in 10% and tried to stab victims in another 12% of all victimizations. More than half of all victimizations by offenders armed only with guns (58%) and half of all victimizations by offenders armed only with knives involved only the threat posed by the weapon itself.

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

According to NCS, in about 93% of all victimizations between 1973 and 1982 in which offenders possessed weapons, the offenders had only one type of weapon (that is, only guns or only knives or only other objects used as weapons).

### Handguns were used in 43% of all homicides in 1985




Source: FBI *Crime in the United States 1985*.

### An offender's choice of weapons can affect crime completion

NCS data indicate that an offender with a gun rather than with a knife or other weapon has a greater ability to complete robberies or rapes. Offenders with guns or knives completed a higher proportion of rapes than did unarmed offenders and those armed with other weapons.

### The armed assailants that victims face are more likely to be strangers than nonstrangers

In 68% of the victimizations that involved a weapon, the victim and offender were strangers rather than acquaintances (26%) or relatives (6%). Strangers were the offenders in 71% of all victimizations involving guns, 68% of all involving knives, and 65% of all involving other weapons.

### Victims attacked by armed offenders were more likely than those attacked by unarmed offenders to be injured seriously

| Violent victimizations involving— | Percent of violent victimizations where the victim— Was attacked | Was attacked and injured | Was injured and needed medical help | Needed medical help in a hospital |
|---|---|---|---|---|
| Unarmed offenders | 52% | 30% | 10% | 6% |
| Armed offenders | 49% | 30% | 15% | 11% |
| Gun only | 37 | 14 | 8 | 6 |
| Knife only | 43 | 25 | 14 | 10 |
| Other only (rocks, bottles, sticks, etc.) | 63 | 45 | 22 | 15 |
| Combination of weapons | 58 | 38 | 21 | 15 |

Source: *The use of weapons in committing crimes*, BJS Special Report, January 1986.

### What is the relationship between injury and presence of a gun in victimization?

When guns are present victims are less likely to be injured than if the offender is armed with a knife or other weapon because guns are often used to coerce the victim into compliance, according to NCS. However, when the gun is fired injuries to the victim (if the victim survives) are often very serious. Offenders armed only with guns actually shot victims in somewhat less than 4% of all violent victimizations and attempted to shoot the victim in 21% of such incidents.

However, for victims who reported hospital stays of one night or longer, those who had been injured by guns reported an average hospital stay of 16.3 days compared to 7.2 days for incidents involving knives, 8.2 days for other weapons, and 6.6 days for injuries inflicted by an unarmed offender.

### Men were more likely than women and blacks were more likely than whites to be attacked by an armed offender

- About 41% of male but only 29% of female violent crime victims between 1973 and 1982 were attacked by offenders with weapons.
- More than half (51%) of all black but only 35% of white victims of violent crime between 1973 and 1982 faced offenders with weapons.
- Blacks were twice as likely as whites to be confronted by an offender armed with a gun.

### Law enforcement officers most often are assaulted by unarmed offenders

| Means of assault | % of all assaults | % resulting in personal injury |
|---|---|---|
| Firearm | 5% | 21% |
| Knife | 3 | 27 |
| Other weapon | 9 | 41 |
| Hands, fists, feet, etc. | 84 | 34 |
| Total | 100% | 100% |

Note. Totals add to more than 100% because of use of multiple weapons.

Source: FBI *Law enforcement officers killed and assaulted 1985.*

However, weapons were more likely to be involved in the injury or death of law enforcement officers. Of the 78 law enforcement officers feloniously killed in the line of duty in 1985, three-fourths (58) were killed by handguns. Three officers were killed by rifles and 9 by shotguns. Eight officers died from other than firearm wounds: 1 was stabbed, 5 were struck by a vehicle, and 3 were beaten with blunt objects.

In addition, 70 law enforcement officers were accidently killed in the line of duty in 1985. Of these, 33 died in motor vehicle accidents, 8 in aircraft accidents, and 7 officers were killed when struck by vehicles. In addition, 5 died in accidental shootings and 6 by other means such as falls or drowning.

### 847 bombing incidents occurred in the United States in 1985

Bombing incidents declined by 59% between 1975 and 1985, falling from 2,074 in 1975 to 847 in 1985.

- In 1985 actual bombings made up 68% of the total number of bombing incidents; 32% were attempts.
- The 847 bombing incidents in 1985 represented an increase from the 803 that occurred in the previous year.
- Personal injuries from bombings between 1975 and 1984 dropped from 326 to 144 and deaths from 69 to 28.
- In 1975 three major bombings resulted in a very high number of deaths and injuries for that year.

### What is the target of bombings?

| Target of bombing incidents | % of all incidents (actual and attempted) |
|---|---|
| Residences | 29% |
| Commercial establishments | 17 |
| Vehicles | 19 |
| Schools | 6 |
| Government property (including military and postal) | 5 |
| Persons | 7 |
| Police/fire department buildings/property | 2 |
| Miscellaneous | 17 |
| Total | 100% |

Source: FBI *Bomb summary, 1985.*

### What is the motive in bombing incidents?

Terrorist groups claimed responsibility for 5 of the 847 bombing incidents in 1985. All 5 of these incidents were actual explosions. The three most common motives attributed to nonterrorist bombings in 1985 were animosity, mischief, and revenge. More than half of all bombings were done for unknown motives.

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## Notes

[1]The estimate includes drunk passengers, bicyclists, and pedestrians, *not just drunk drivers.*

[2]Federal Regulation E provides that, in general, accountholders will be liable for only $50 loss where ATM cards are reported missing within 2 working days of discovery or $500 if card is reported missing after 2 days.

Chapter II

# The victim

Patsy A. Klaus
Carol G. Kaplan
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?

How does crime affect its victims?

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?

Who are the victims of homicide?

What is the likelihood of being victimized over an entire lifetime?

How do people protect themselves from crime?

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

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?

Patrick A. Langan of BJS prepared the data on risks of various life events and on the lifetime risk of homicide. Other valuable contributions to this chapter were made by Sara E. Smith, Anita D. Timrots, Herbert Koppel, and Catherine Whitaker of BJS and by the National Organization for Victim Assistance. Assistance in verifying the information on the use of deadly force was provided by numerous people in the various States, particularly the directors of the State Statistical Analysis Centers.

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

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

| Events | Rate per 1,000 adults per year* |
|---|---|
| Accidental injury, all circumstances | 242 |
| Accidental injury at home | 79 |
| Personal theft | 72 |
| Accidental injury at work | 58 |
| Violent victimization | 31 |
| Assault (aggravated and simple) | 24 |
| Injury in motor vehicle accident | 17 |
| Death, all causes | 11 |
| Victimization with injury | 10 |
| Serious (aggravated) assault | 9 |
| Robbery | 6 |
| Heart disease death | 4 |
| Cancer death | 2 |
| Rape (women only) | 2 |
| Accidental death, all circumstances | .5 |
| Pneumonia/influenza death | .3 |
| Motor vehicle accident death | .2 |
| Suicide | .2 |
| Injury from fire | .1 |
| Homicide/legal intervention death | .1 |
| Death from fire | .03 |

These rates approximate your chances of becoming a victim of these events. More precise estimates can be derived by taking account of such factors as your age, sex, race, place of residence, and lifestyle. Findings are based on 1982–84 data, but there is little variation in rates from year to year.

*These rates exclude children from the calculations (those under age 12–17, depending on the series). Fire injury/death data are based on the total population, because no age-specific data are available in this series.

Sources: *Current estimates from the National Health Interview Survey: United States, 1982*, National Center for Health Statistics. "Advance report of final mortality statistics, 1983," *Monthly Vital Statistics Report*, National Center for Health Statistics. *Estimates of the population of the United States, by age, sex, and race: 1980 to 1984*, U.S. Bureau of the Census. *The 1984 Fire Almanac*, National Fire Protection Association. *Criminal victimization 1984*, BJS Bulletin, October 1985.

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

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

**About a third of the people in the United States feel very safe in their neighborhoods**

The fear of crime cannot be measured precisely because the kinds of fears people express vary depending on the specific questions asked. Nevertheless, asking them about the likelihood of crime in their homes and neighborhoods yields a good assessment of how safe they feel in their own immediate environment.

In the Victimization Risk Survey, a 1984 supplement to the National Crime Survey, most people said that they felt at least fairly safe in their homes and neighborhoods. Yet, the people who said that they felt "fairly safe" may have been signaling some concern about crime. Based on a "very safe" response, a little more than 4 in 10 people felt entirely safe in their homes and about 1 in 3 felt totally safe in their neighborhoods—

- homeowners felt safer than renters
- people living in nonmetropolitan areas felt safer than those living in cities
- families with incomes of $50,000 or more were most likely to report their neighborhoods were very safe from crime.

The Victimization Risk Survey found that—

- 9 in 10 persons felt very or fairly safe in their places of work
- few persons—about 1 in 10—felt in danger of being a victim of a crime by a fellow employee, but persons working in places that employ more than 50 people were more likely to express fear of possible victimization.

**The groups at the highest risk of becoming victims are not the ones who express the greatest fear of crime**

Females and the elderly 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 are related to the content of information about crime. Such information tends to emphasize stories about elderly and female victims. These stories may influence women and the elderly in judging the seriousness of their own condition. Perhaps groups such as females and the elderly reduce their risk of victimization by constricting their activities to reduce their exposure to danger. This behavior would account, at least in part, for their high levels of fear and their low levels of victimization.

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

When one household in a neighborhood is affected by a crime, the entire neighborhood may feel more vulnerable. This suggests that people who have not been victimized personally may be strongly affected when they hear about how others have been victimized. The Reactions to Crime project found that indirect reaction to crime is often very strong.

# How does crime affect its victims?

### $13 billion was lost from personal and household crimes in 1985

The direct cash and property losses from personal robberies, personal and household larcenies, household burglaries, and privately owned motor vehicle theft in 1985 was slightly more than $13 billion. This NCS finding probably underestimates the amount covered by insurance because the claims of many respondents had not been settled at the time of the NCS interview.

UCR data show that in 1985 losses from reported robberies, burglaries, and larceny/theft surpassed $5.9 billion. Among the many economic consequences of crime are lost productivity from victims' absence from work, medical care, and the cost of security measures taken to deter crime.

Other costs of crime include the economic costs of the underground economy, lowered property values, and pain and suffering of victims, their families, friends, and neighbors. A fuller discussion of the cost of crime is in Chapter V.

### The economic impact of crime differs for different groups

The cost of crime is borne by all segments of society, but to different degrees. A study on the economic cost of crime using NCS data for 1981 shows that the dollar loss from crimes involving money, property loss, or destruction of property rises with income.

- Median losses were higher for households with incomes of $15,000 or more than for households with incomes of less than $7,500 from burglary ($200 vs. $100) and from motor vehicle theft ($2,000 vs. $700).
- Median losses from personal crimes were higher for blacks ($58) than for whites ($43).
- Median losses from household crimes were higher for blacks ($90) than for whites ($60).
- More than 93% of the total loss from crime was in crimes without victim-offender contact (such as burglary, theft without contact, and motor vehicle theft).

### Many victims or members of their families lose time from work

Along with injuries suffered, victims or other members of their household may have lost time from work because of a violent crime. Lost worktime was reported in 15% of rapes and 7% of assaults (11% of aggravated assaults, 6% of simple assaults).

### Violent crimes killed 19,000 and injured 1.7 million in 1985

NCS data for 1985 show that of all rape, robbery, and assault victims—
- 30% were injured
- 15% required some kind of medical attention
- 8% required hospital care.

The likelihood of injury was—
- greater for females than males even when rape was excluded from the analysis
- about the same for whites and blacks
- greater for persons from lower than from higher income households.

### Who is injured seriously enough to require medical attention?

An analysis of NCS data for 1973-82 found that—
- Female victims are more likely than male victims to be injured, but they have about the same likelihood of requiring medical attention (13% of female vs. 12% of male victims).
- Blacks are more likely than whites to require medical attention when injured in violent crimes; 16% of black violent crime victims and 16% of the victims of all other racial groups required medical attention, while 11% of white victims required such care.

**How seriously a victim is injured varies by type of crime**

| | Percent of all violent victimizations requiring: | | | Median stay for those hospitalized overnight |
|---|---|---|---|---|
| | Medical attention | Treatment in hospital emergency room | Overnight hospital stay | |
| Rape | 24% | 14% | 3% | 4 days |
| Robbery | 15 | 7 | 2 | 5 |
| Assault | 11 | 5 | 1 | 5 |
| Aggravated | 18 | 9 | 3 | 5 |
| Simple | 7 | 3 | — | 2 |

—less than .5%

Source: BJS National Crime Survey, 1973-82

# The risk of being victimized depends on a combination of factors

**Who are the victims of crime?**

- Victims of crime are more often men than women.
- Younger people are more likely than the elderly to be victims of crime.
- Blacks are more likely than whites or members of other racial groups to be victims of violent crime.
- The divorced or separated and the never married are more likely than the married or widowed to be victims of crime. These differences may result from age differences of people in various marital-status groups.
- Violent victimization rates are higher among persons in lower income families.
- Theft victimization rates do not differ significantly across racial categories.
- Violent victimization rates are higher among unemployed persons (whether male, female, white, or black) than among employed persons in their respective groups.
- Violent and theft victimization rates are higher among people who live in cities, lower among those who live in suburbs, and lowest among those who live in rural areas.
- Young males have the highest violent victimization rates; elderly females have the lowest.

**Victimization rates per 1,000 persons age 12 and older**

| | Personal crimes of... | |
|---|---|---|
| | violence | theft |
| **Total (U.S.)** | 30 | 69 |
| **Sex** | | |
| Male | 39 | 75 |
| Female | 22 | 65 |
| **Age** | | |
| 12-15 | 54 | 108 |
| 16-19 | 67 | 122 |
| 20-24 | 60 | 108 |
| 25-34 | 37 | 83 |
| 35-49 | 20 | 63 |
| 50-64 | 10 | 40 |
| 65 and older | 5 | 19 |
| **Race and origin** | | |
| White | 29 | 70 |
| Black | 38 | 63 |
| Other | 25 | 73 |
| Hispanic | 30 | 60 |
| Non-Hispanic | 30 | 70 |
| **Marital status by sex** | | |
| Males | | |
| Never married | 72 | 112 |
| Divorced/separated | 57 | 102 |
| Married | 19 | 52 |
| Widowed | 10 | 31 |
| Females | | |
| Never married | 38 | 102 |
| Divorced/separated | 51 | 84 |
| Married | 11 | 50 |
| Widowed | 7 | 21 |

| | Personal crimes of... | |
|---|---|---|
| | violence | theft |
| **Family income** | | |
| Less than $7,500 | 52 | 68 |
| $7,500-$9,999 | 34 | 63 |
| $10,000-$14,999 | 32 | 65 |
| $15,000-$24,999 | 28 | 68 |
| $25,000-$29,999 | 29 | 69 |
| $30,000-$49,999 | 22 | 76 |
| $50,000 or more | 25 | 90 |
| **Education** | | |
| 0-4 years | 13 | 23 |
| 5-7 years | 35 | 59 |
| 8 years | 34 | 57 |
| 9-11 years | 39 | 71 |
| High school graduate | 27 | 60 |
| 1-3 years college | 34 | 87 |
| College graduate | 22 | 89 |
| **Employment status** (1984) | | |
| Retired | 5 | 20 |
| Keeping house | 14 | 35 |
| Unable to work | 17 | 25 |
| Employed | 32 | 81 |
| In school | 45 | 110 |
| Unemployed | 76 | 90 |
| **Residence** (1984) | | |
| Central city | 43 | 85 |
| 1,000,000 or more | 45 | 80 |
| 500,000-999,999 | 45 | 92 |
| 250,000-499,999 | 37 | 88 |
| 50,000-249,999 | 44 | 81 |
| Suburban | 30 | 77 |
| Rural | 22 | 54 |

| | Personal crimes of... | |
|---|---|---|
| | violence | theft |
| **Race, sex, and age summary** | | |
| White males | | |
| 12-15 | 73 | 111 |
| 16-19 | 92 | 134 |
| 20-24 | 78 | 116 |
| 25-34 | 44 | 87 |
| 35-49 | 23 | 66 |
| 50-64 | 11 | 42 |
| 65 and older | 5 | 22 |
| White females | | |
| 12-15 | 39 | 116 |
| 16-19 | 47 | 129 |
| 20-24 | 42 | 103 |
| 25-34 | 28 | 78 |
| 35-49 | 15 | 62 |
| 50-64 | 8 | 39 |
| 65 and older | 3 | 17 |
| Black males | | |
| 12-15 | 68 | 81 |
| 16-19 | 69 | 74 |
| 20-24 | 67 | 103 |
| 25-34 | 60 | 113 |
| 35-49 | 31 | 60 |
| 50-64 | 27 | 48 |
| 65 and older | * | 21 |
| Black females | | |
| 12-15 | 19 | 74 |
| 16-19 | 46 | 54 |
| 20-24 | 58 | 70 |
| 25-34 | 48 | 68 |
| 35-49 | 20 | 54 |
| 50-64 | 10 | 33 |
| 65 and older | * | 12 |

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

*Too few cases to obtain statistically reliable data

Source: BJS *Criminal victimization in the US, 1984* and *1985*

### Who are the victims of violent crime?

Violent crime is more likely to strike—
- men than women except for rape
- the young than the elderly
- people with low than with high incomes
- blacks than whites or members of other minority groups
- the divorced or separated and the never married than the married or widowed.

| | Rates per 1,000 persons age 12 and older | | |
|---|---|---|---|
| | Robbery | Assault | Rape |
| **Sex** | | | |
| Male | 7 | 32 | * |
| Female | 3 | 17 | ** |
| **Age** | | | |
| 12–15 | 9 | 45 | * |
| 16–19 | 9 | 55 | 2 |
| 20–24 | 10 | 48 | 2 |
| 25–34 | 6 | 30 | 1 |
| 35–49 | 3 | 16 | * |
| 50–64 | 2 | 8 | * |
| 65 and older | 2 | 3 | * |
| **Race and origin** | | | |
| White | 4 | 24 | 1 |
| Black | 11 | 26 | 2 |
| Other | 7 | 17 | * |
| Hispanic | 8 | 22 | * |
| Non-Hispanic | 5 | 24 | 1 |
| **Marital status** | | | |
| Divorced/separated | 9 | 42 | 2 |
| Never married | 10 | 45 | 1 |
| Married | 2 | 13 | 0 |
| Widowed | 3 | 4 | * |
| **Income** | | | |
| Less than $7,500 | 9 | 41 | 2 |
| $7,500–$9,999 | 7 | 25 | 1 |
| $10,000–$14,999 | 5 | 26 | 1 |
| $15,000–$24,999 | 5 | 23 | * |
| $25,000–$29,999 | 5 | 24 | * |
| $30,000–$49,999 | 4 | 18 | 1 |
| $50,000 or more | 3 | 21 | * |
| **Employment status** (1984) | | | |
| Employed | 6 | 26 | 1 |
| In school | 9 | 33 | 3 |
| Keeping house | 3 | 10 | 1 |
| Retired | 2 | 3 | * |
| Unable to work | 5 | 11 | * |
| Unemployed | 17 | 56 | 3 |
| **Residence** (1984) | | | |
| Central city | 11 | 31 | 1 |
| Suburban | 5 | 24 | 1 |
| Rural | 3 | 19 | 1 |

*There were too few cases to obtain statistically reliable data
**This rate based on women only; the rate based on the total population is 1

Source: BJS *Criminal victimization in the US, 1984* and *1985*

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

Household crime rates are higher for households—
- headed by blacks than those headed by whites or members of other racial groups
- headed by younger people
- with six or more people
- headed by renters than those headed by home owners
- in the central cities than those in suburbs or rural areas.

| | Rates per 1,000 households | | |
|---|---|---|---|
| | Household burglary | Larceny | Motor vehicle theft |
| **Age of household head** | | | |
| 12–19 | 213 | 224 | 18 |
| 20–34 | 83 | 137 | 21 |
| 35–49 | 69 | 110 | 15 |
| 50–64 | 48 | 75 | 13 |
| 65 and older | 33 | 41 | 5 |
| **Race or origin of household head** | | | |
| White | 60 | 95 | 13 |
| Black | 83 | 120 | 22 |
| Other | 45 | 88 | 17 |
| Hispanic | 85 | 127 | 23 |
| Non-Hispanic | 62 | 96 | 14 |
| **Income** | | | |
| Less than $7,500 | 86 | 98 | 11 |
| $7,500–$9,999 | 60 | 101 | 15 |
| $10,000–14,999 | 67 | 101 | 14 |
| $15,000–$24,999 | 59 | 104 | 14 |
| $25,000–$29,999 | 54 | 95 | 13 |
| $30,000–$49,999 | 58 | 99 | 16 |
| $50,000 or more | 56 | 104 | 21 |
| **Number of persons in household** | | | |
| One | 53 | 62 | 10 |
| 2–3 | 61 | 92 | 14 |
| 4–5 | 75 | 136 | 18 |
| 6 or more | 78 | 173 | 17 |
| **Form of tenure** | | | |
| Home owned or being bought | 50 | 83 | 11 |
| Home rented | 84 | 123 | 19 |
| **Place of residence** (1984) | | | |
| Central city | 87 | 129 | 22 |
| 1,000,000 or more | 85 | 97 | 35 |
| 500,000–999,999 | 81 | 138 | 20 |
| 250,000–499,999 | 90 | 144 | 22 |
| 50,000–249,999 | 91 | 142 | 13 |
| Outside central city (suburban) | 56 | 97 | 16 |
| Nonmetropolitan (rural) | 53 | 76 | 8 |

Source: BJS *Criminal victimization in the U.S., 1984* and *1985*

# Who are the victims of homicide?

## What are the characteristics of homicide victims?

- Homicide victims are more often men than women.
- Persons aged 25–34 are the most likely to be homicide victims.
- Blacks are five times more likely than whites to be homicide victims.

| Victim characteristics | Homicides in 1985 | Number per 100,000 inhabitants |
|---|---|---|
| **Total** including unknown characteristics | 17,545 | 7 |
| **Sex** | | |
| Male | 13,015 | 11 |
| Female | 4,511 | 4 |
| **Age** | | |
| Under 1 year | 190 | 5 |
| 1–14 | 690 | 1 |
| 15–24 | 4,081 | 10 |
| 25–34 | 5,370 | 13 |
| 35–44 | 3,087 | 10 |
| 45–54 | 1,576 | 7 |
| 55–64 | 1,120 | 5 |
| 65 and older | 1,048 | 4 |
| Unknown age | 383 | |
| **Race** | | |
| White | 9,789 | 5 |
| Black | 7,294 | 24 |
| Other | 369 | 5 |

Sources: FBI *Crime in the United States 1985*, *Estimates of the population of the United States by age, sex, and race, 1980–85*, U.S. Bureau of the Census

## What is your lifetime risk of being a homicide victim?

Lifetime risk of homicide

1 out of:

| | |
|---|---|
| 179 | White males |
| 30 | Black males |
| 495 | White females |
| 132 | Black females |

Source: Updated data based on similar material from *The risk of violent crime*, BJS Special Report, May 1985

## Homicide is one of the 15 most frequent causes of death

Percent of deaths by age at death

| All ages | | 1–14 | | 15–24 | | 25–34 | |
|---|---|---|---|---|---|---|---|
| 39.1% | Heart disease | 45.2% | Accidents | 53.5% | Accidents | 34.2% | Accidents |
| 21.4 | Malignant neoplasms | 11.0 | Malignant neoplasms | 13.6 | **Homicide** | 14.5 | **Homicide** |
| 8.7 | Cerebrovascular disease | 8.4 | Congenital anomalies | 10.7 | Suicide | 11.8 | Suicide |
| 5.4 | Accidents | 3.9 | **Homicide** | 5.5 | Malignant neoplasms | 10.1 | Malignant neoplasms |
| 2.9 | Bronchitis, asthma, and emphysema | 3.5 | Heart disease | 2.5 | Heart disease | 6.1 | Heart disease |
| 2.8 | Pneumonia and influenza | 2.4 | Pneumonia and influenza | 1.2 | Congenital anomalies | 2.5 | Liver disease and cirrhosis |
| 1.8 | Diabetes | 1.5 | Meningitis | .9 | Cerebrovascular disease | 1.9 | Cerebrovascular disease |
| 1.6 | Liver disease and cirrhosis | .8 | Cerebrovascular diseases | .7 | Pneumonia and influenza | 1.1 | Diabetes |
| 1.5 | Atherosclerosis | .8 | Meningococcal infection | .3 | Bronchitis, asthma, and emphysema | 1.1 | Pneumonia and influenza |
| 1.4 | Suicide | .8 | Suicide | .3 | Anemias | 1.0 | Congenital anomalies |
| 1.2 | **Homicide** | .8 | Anemias | .3 | Benign neoplasms | .5 | Nephritis and and nephrosis |
| .9 | Nephritis and nephrosis | .8 | Benign neoplasms | .3 | Diabetes | .4 | Bronchitis, asthma, and emphysema |
| .5 | Septicemia | .7 | Bronchitis, asthma, and emphysema | .2 | Liver disease and cirrhosis | .4 | Benign neoplasms |
| .4 | Hypertension | .6 | Septicemia | .2 | Complications of pregnancy | .3 | Complications of pregnancy |
| .3 | Benign neoplasms | .5 | Perinatal conditions | .2 | Nephritis and nephrosis | .3 | Anemias |
| Total deaths | 1,943,747 | | 18,876 | | 49,027 | | 50,240 |

| 35–44 | | 45–54 | | 55–64 | | 65 and over | |
|---|---|---|---|---|---|---|---|
| 21.3% | Malignant neoplasms | 30.8% | Heart disease | 36.7% | Heart disease | 44.4% | Heart disease |
| 19.6 | Heart disease | 30.8 | Malignant neoplasms | 32.4 | Malignant neoplasms | 19.3 | Malignant neoplasms |
| 16.4 | Accidents | 6.7 | Accidents | 4.8 | Cerebrovascular disease | 10.9 | Cerebrovascular disease |
| 6.7 | Suicide | 5.3 | Liver disease and cirrhosis | 3.2 | Bronchitis, asthma, and emphysema | 3.4 | Pneumonia and influenza |
| 6.6 | **Homicide** | 4.3 | Cerebrovascular disease | 3.2 | Accidents | 3.2 | Bronchitis asthma, and emphysema |
| 6.0 | Liver disease and cirrhosis | 2.7 | Suicide | 3.1 | Liver disease and cirrhosis | 2.1 | Atherosclerosis |
| 3.7 | Cerebrovascular disease | 1.9 | **Homicide** | 2.0 | Diabetes | 1.9 | Diabetes |
| 1.5 | Pneumonia and influenza | 1.7 | Bronchitis, asthma, and emphysema | 1.4 | Pneumonia and influenza | 1.9 | Accidents |
| 1.5 | Diabetes | 1.6 | Diabetes | 1.2 | Suicide | 1.0 | Nephritis and nephrosis |
| .7 | Bronchitis, asthma, and emphysema | 1.3 | Pneumonia and influenza | .7 | Nephritis and nephrosis | .7 | Liver disease and cirrhosis |
| .6 | Nephritis and nephrosis | .6 | Nephritis and nephrosis | .5 | **Homicide** | .5 | Septicemia |
| .6 | Congenital anomalies | .4 | Benign neoplasms | .4 | Septicemia | .5 | Hypertension |
| .5 | Benign neoplasms | .4 | Septicemia | .4 | Benign neoplasms | .3 | Stomach ulcers |
| .4 | Septicemia | .3 | Hypertension | .4 | Atherosclerosis | .3 | Suicide |
| .3 | Hypertension | .3 | Congenital anomalies | .3 | Hypertension | .3 | Hernias |
| Total deaths | 58,418 | | 133,157 | | 292,181 | | 1,341,848 |

Source: Fifteen leading causes of death, by age group, 1983 Center for Disease Control, *Homicide surveillance*, U.S. Department of Health and Human Services, November 1986

# What is the likelihood of victimization over an entire lifetime?

### At current crime rates, almost everyone will be a victim of crime during his or her lifetime

• An estimated five-sixths of us will be victims of attempted or completed violent crimes during our lives. The risk is greater for males than females and for blacks than whites.

• Many of us will be victimized more than once. Most of us will be victims of personal larceny three or more times.

Percent of persons who will be victimized by crime starting at age 12

| | Total | Number of victimizations | | |
|---|---|---|---|---|
| | One or more victimizations | One | Two | Three or more |
| **Violent crimes, total*** | | | | |
| Total population | 83% | 30% | 27% | 25% |
| Male | 89 | 24 | 27 | 38 |
| Female | 73 | 35 | 23 | 14 |
| White | 82 | 31 | 26 | 24 |
| Male | 88 | 25 | 27 | 37 |
| Female | 71 | 36 | 22 | 13 |
| Black | 87 | 26 | 27 | 34 |
| Male | 92 | 21 | 26 | 45 |
| Female | 81 | 31 | 26 | 24 |
| **Violent crimes, completed*** | | | | |
| Total population | 42% | 32% | 9% | 2% |
| Male | 48 | 34 | 11 | 3 |
| Female | 36 | 28 | 6 | 1 |
| White | 41 | 31 | 8 | 2 |
| Black | 53 | 35 | 13 | 4 |
| **Rape** | | | | |
| Total female | 8% | 8% | — | — |
| White | 8 | 7 | — | — |
| Black | 11 | 10 | 1 | — |
| **Robbery** | | | | |
| Total population | 30% | 25% | 5% | 1% |
| Male | 37 | 29 | 7 | 1 |
| Female | 22 | 19 | 2 | — |
| White | 27 | 23 | 4 | — |
| Black | 51 | 35 | 12 | 4 |
| **Assault** | | | | |
| Total population | 74% | 35% | 24% | 15% |
| Male | 82 | 31 | 26 | 25 |
| Female | 62 | 37 | 18 | 7 |
| White | 74 | 35 | 24 | 16 |
| Black | 73 | 35 | 25 | 12 |
| **Robbery or assault resulting in injury** | | | | |
| Total population | 40% | 30% | 7% | 2% |
| **Personal theft** | | | | |
| Total population | 99% | 4% | 8% | 87% |
| Male | 99 | 3 | 8 | 88 |
| Female | 99 | 4 | 10 | 84 |
| White | 99 | 4 | 9 | 87 |
| Male | 99 | 3 | 8 | 88 |
| Female | 99 | 4 | 10 | 86 |
| Black | 99 | 5 | 12 | 81 |
| Male | 99 | 5 | 10 | 84 |
| Female | 98 | 7 | 15 | 76 |

Note: Except where noted, includes attempts
— Less than .5%
* Includes rape, robbery, and assault

Source: *Lifetime likelihood of victimization*, BJS Technical Report, March 1987

### With advancing age, the chance of becoming a victim of a violent crime declines more rapidly than life expectancy

For example, at age 60 average life expectancy is nearly half as long as at 30, but a person of 60 is only about a fourth as likely as a 30-year-old to become a victim of violent crime during the rest of his or her life. Similarly, people of age 30 are five times likelier than people of age 60 to be injured in a robbery or assault over the remaining course of their lives. Personal theft differs from violent crime in that the chances of being victimized are about proportional to remaining life expectancy.

### Over a span of 20 years, most households will be victimized by burglary or larceny

Percent of households that will be victimized in a 20-year period

| | Burglary | Larceny | Motor vehicle theft |
|---|---|---|---|
| All households | 72% | 89% | 19% |
| Urban | 80 | 93 | 27 |
| Suburban | 70 | 90 | 20 |
| Rural | 64 | 82 | 11 |

Source: *Lifetime likelihood of victimization*, BJS Technical Report, March 1987

### Many households will be victimized more than once in 20 years

• More than a third of all households and almost half of all urban households will be victims of two or more burglaries.

• Almost two-thirds of all households will be victims of two or more household larcenies.

• 2% of all households will incur more than one motor vehicle theft.

# How do people protect themselves from crime?

### About a third of all households have taken at least one measure to prevent crime

The Victimization Risk Survey in 1984 inquired in households about what measures had been taken to prevent crime. Of the households that responded—

- 25% had engraved valuables to facilitate identification
- 7% had participated in a neighborhood watch program
- 7% had installed a burglar alarm.

Households in which occupants felt unsafe or only fairly safe were more likely to have taken at least one measure to prevent crime than those that felt their neighborhood was very safe from crime.

High-income households were more likely than low-income households to take such measures. About half of the households with yearly incomes of $50,000 or more and 22% of those with incomes of less than $7,500 had taken at least one preventive measure.

### Many businesses employ security measures

Two-thirds of employed respondents to the Victimization Risk Survey reported at least one security measure in their place of work. The security measures cited most often were—

- a receptionist to screen persons entering the work place (42%)
- a burglar alarm system (33%)
- guards or police (30%).

Businesses with 50 or more employees are more likely than smaller ones to use security measures. Workers in manufacturing are most likely to have security measures at the workplace; those in agriculture, forestry, fisheries, mining, or construction were the least likely to have them.

### One family in five lives in an area with a neighborhood watch program

Overall, 38% of the households in areas with neighborhood watch take part in the program. Families with yearly incomes of $25,000 or more were more likely than those with incomes of less than $10,000 to participate. Nearly twice as many homeowners as renters participate. About 44% of single-family homes but only 16% of the 10-or-more-household buildings participate.

One in four central city families but only one in five suburban families and one in eight nonmetropolitan families live in a neighborhood with a crime watch program. However, nonmetropolitan families are somewhat more likely than central city families to take part in the watch programs that exist in their neighborhoods.

### How do victims of violent crime protect themselves?

| Victim response* | Percent of victims who used self-protection by type of crime* | | |
|---|---|---|---|
| | Rape | Robbery | Assault |
| **Weapons use** Used or brandished gun or knife | 3% | 4% | 4% |
| **Physical force** Used or tried physical force | 29 | 22 | 23 |
| **Verbal response** Threatened, argued, reasoned, etc., with offender | 19 | 10 | 16 |
| **Attracting attention** Tried to get help, attract attention, scare offender away | 18 | 13 | 10 |
| **Nonviolent evasion** Resisted without force, used evasive action | 13 | 14 | 23 |
| **Other** | 1 | 2 | 3 |
| **No self-protective actions** | 18 | 37 | 22 |
| **Total** | 100% | 100% | 100% |
| Number of victimizations | 1,206,755 | 8,484,516 | 36,269,845 |

*Victim self-protective responses are listed in the table in order of assertiveness. If victims indicated that they took more than one type of action, only the most assertive action was used in the analysis. Percentages may not sum to 100% because of rounding.

Source: BJS National Crime Survey, 1979-85

- Rape victims are more likely than victims of other violent crimes to use force, try a verbal response, or attract attention, and they are less likely than the others to use a gun or knife, use nonviolent evasion, or do nothing to protect themselves.
- Robbery victims are the least likely to try to talk themselves out of being victimized and the most likely to do nothing.
- Assault victims are the least likely to attract attention and the most likely to attempt some form of nonviolent evasion.
- Compared with simple assault victims, aggravated assault victims are more likely to use a weapon, less likely to use other means of force, less likely to try to talk themselves out of the incident, and less likely to do nothing to defend themselves. The fact that weapons are used more frequently by victims of aggravated assault than by victims of any other violent crime leads to the suspicion that some of these victims may have played a part in causing the incident.

### In all States, citizens may use deadly force if they reasonably believe their life is in danger

However, the danger must be imminent and immediate. For example, if an intruder in a dwelling pulls a gun, a confronted person has reason to assume he or she is in imminent and immediate danger of losing his or her life. If the same person encounters the intruder peacefully, several hours after leaving home, no imminent and immediate danger would exist, so deadly force at that time would not be justified. In most States, if the assailant is provoked, the use of deadly force is not justified.

### In some circumstances, citizens may use force or deadly force to protect their surroundings, their belongings, or a third party

Whether or not a citizen is legally entitled to use deadly force to protect his or her dwelling varies from State to State. In some States, forced entry is enough to indicate that an inhabitant is in imminent and immediate danger that justifies deadly force. In other States, the intruder would have to attack directly or threaten an inhabitant before deadly force would be justified. Generally, a trespasser is not considered to pose a direct threat to life. Therefore, deadly force against a trespasser is not usually justified.

If an assailant is attacking a third party, a citizen may be justified in using deadly force if the third party is in imminent and immediate danger of losing his or her life, provided the third party did not provoke the attack.

In most States, a citizen is *not* justified in using deadly force to protect property. However, some States do allow the use of some type of physical force to protect property.

Each State distinguishes when a citizen may use deadly force as compared to physical force. Deadly force usually refers to any force that is intended to cause death or serious physical injury. Physical force refers to all force directed to another person including confinement but is not intended to be lethal.

### State laws define the circumstances in which citizens may be justified in using deadly force

| State | Even if life is not threatened, deadly force may be justified to protect: Dwelling | Property | Specific crime against which deadly force may be justified |
|---|---|---|---|
| Alabama | Yes | No | Arson, burglary, rape, kidnaping, or robbery in "any degree" |
| Alaska | Yes | No | Actual commission of felony |
| Arizona | Yes | No | Arson, burglary, kidnaping, aggravated assaults |
| Arkansas | Yes | No | Felonies as defined by statute |
| California | Yes | No | Unlawful or forcible entry |
| Colorado | Yes | No | Felonies, including assault, robbery, rape, arson, kidnaping |
| Connecticut | Yes | No | Any violent crime |
| Delaware | Yes | No | Felonious activity |
| D.C. | Yes | No | Felony |
| Florida | Yes | No | Forcible felony |
| Georgia | Yes | Yes | Actual commission of a forcible felony |
| Hawaii | Yes | Yes | Felonious property damage, burglary, robbery, etc. |
| Idaho | Yes | Yes | Felonious breaking and entering |
| Illinois | Yes | Yes | Forcible felony |
| Indiana | Yes | No | Unlawful entry |
| Iowa | Yes | Yes | Breaking and entering |
| Kansas | Yes | No | Breaking and entering including attempts |
| Kentucky | No | No | — |
| Louisiana | Yes | No | Unlawful entry including attempts |
| Maine | Yes | No | Criminal trespass, kidnaping, rape, arson |
| Maryland | No | No | — |
| Massachusetts | No | No | — |
| Michigan | Yes | No | Circumstances on a case by case basis |
| Minnesota | Yes | No | Felony |
| Mississippi | Yes | — | Felony including attempts |
| Missouri | No | No | — |
| Montana | Yes | Yes | Any forcible felony |
| Nebraska | Yes | No | Unlawful entry, kidnaping, and rape |
| Nevada | Yes | — | Actual commission of felony |
| New Hampshire | Yes | — | Felony |
| New Jersey | Yes | No | Burglary, arson, and robbery |
| New Mexico | Yes | Yes | Any felony |
| New York | Yes | No | Burglary, arson, kidnaping, and robbery including attempts |
| North Carolina | Yes | No | Intending to commit a felony |
| North Dakota | Yes | No | Any violent felony |
| Ohio | — | — | |
| Oklahoma | Yes | No | Felony within a dwelling |
| Oregon | Yes | — | Burglary in a dwelling including attempts |
| Pennsylvania | Yes | — | Burglary or criminal trespass |
| Rhode Island | Yes | — | Breaking or entering |
| South Carolina | No | No | — |
| South Dakota | Yes | — | Burglary including attempts |
| Tennessee | Yes | No | Felony |
| Texas | Yes | No | Burglary, robbery, or theft during the night |
| Utah | Yes | — | Felony |
| Vermont | Yes | — | Forcible felony |
| Virginia | No | No | — |
| Washington | No | No | — |
| West Virginia | Yes | No | Any felony |
| Wisconsin | No | No | — |
| Wyoming | No | No | — |

Note: This table provides a summary of State statutes and should not be used by citizens in planning their protection. Legal advice that considers the specific situation and the State statute is advised.

Source: BJS update as of December 1986 based on data from Ronald Cruit, ed., [illegible] (New York: Stein and Day, 1983).

— No specific reference indicated in the statute.

# What is the relationship between victim and offender?

### The victim-offender relationship is not known for most crimes

Victim observations about the offender can be obtained only from confrontational crimes such as rape, robbery, and assault. The victim is usually absent during such crimes as burglary, motor vehicle theft, and some forms of larceny. The NCS reports victim observations for violent crimes. In 1985 the relationship between victim and offender was known in about 17% of the victimizations.

Police investigations also identify many offenders. However, in UCR the victim-offender relationship is recorded only for homicide and agencies are able to report only on offenders who have been identified.

### People are particularly fearful of being victimized by strangers, but assailants are often well known to their victims

Victims and their assailants may—
- be strangers to one another
- know one another by sight only
- be friends or acquaintances
- be related.

The NCS defines—
- crime by strangers as any crime by persons identified by the victim as "strangers" or by those identified as "known by sight only"
- nonstranger crimes as those committed by acquaintances, friends, family members, or other relatives.

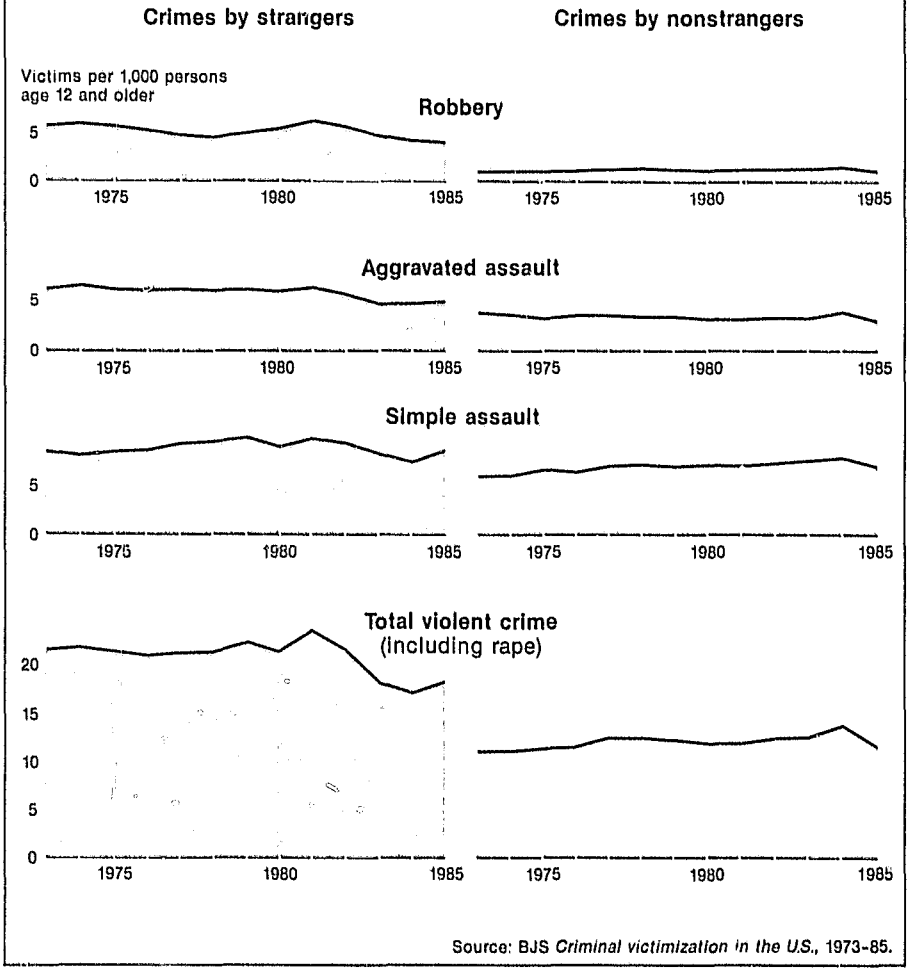
In 1985 NCS estimated that—
- more than 3.5 million violent crimes were committed by strangers
- 2.3 million were committed by nonstrangers.

### The victim-offender relationship is not the same for all crimes

- Persons known to their victims commit more than half of all homicides.
- Strangers commit three-quarters of all robberies and half of all assaults.

| Victim-offender relationship | Homicide | Robbery | Assault |
|---|---|---|---|
| Stranger | 18% | 75% | 51% |
| Acquaintance | 39 | 17 | 35 |
| Relative | 18 | 4 | 10 |
| Unknown | 26 | 4 | 4 |

**Strangers commit most violent crimes, especially robbery**




Source: BJS *Criminal victimization in the U.S.*, 1973-85.

### Males and the elderly face the greatest risk of being victimized by a stranger

Of the violent crimes by strangers—
- 70% were against males
- 30% were against females.

Women were more vulnerable than men to assaults by relatives. Of assaults by relatives—
- 72% were against females
- 23% were against males.

The elderly were more likely than younger persons to have been victimized by strangers. For example, strangers committed—
- two-thirds of the violent crimes against persons age 65 or older
- less than half the crimes against persons under age 20.

### Characteristics of crimes by strangers tend to differ from those by nonstrangers

- Crimes by strangers more often involved two or more offenders.

- Most crimes by relatives and acquaintances occurred in or near the victim's home, but most crimes by strangers occurred on the street.

- Crimes by strangers more often involved a weapon but less often resulted in an attack. Crimes by relatives more often involved an attack and injury than crimes by strangers or acquaintances.

• Victims of violent crime by a relative were more likely to try to get help or frighten the offender but were less likely to use physical force than were victims of strangers or acquaintances.

• Of those injured, victims of crimes by strangers or acquaintances were more likely to require medical attention than victims of crimes by relatives.

### Some family crimes are difficult to measure

Some crimes, such as spouse and child abuse, are difficult to measure. Attempts have been made to measure these crimes, but the estimates often vary greatly from study-to-study, depending on how violence is defined, the study's sample size, and the methodology used to collect the data.

Almost 500,000 cases of family violence are reported to the National Crime Survey each year. The NCS underestimates the prevalence of crime by nonstrangers—especially crime by family members—because some victims cannot or will not tell the survey interviewer about the crime.

• Victims may be unwilling to discuss an incident if the offender is present during the interview.
• Many victims of family violence do not view their victimizations as crimes.
• Victims may feel ashamed or embarrassed to talk about a violent crime involving another family member or a friend.
• Some victims regard victimizations by nonstrangers as a private or a personal matter.

Other studies estimate the level of family violence to be much higher than that reported by the NCS.

• Straus, Gelles, and Steinmetz estimated that between 1.8 and 5.7 million couples experienced violence annually.[1]
• The American Humane Society found that 1,713,000 cases of child abuse were reported to authorities in 1984.[2]

### Which family members commit the most violent crimes?

| Relationship | Percent of family violence victimizations |
|---|---|
| Total by all relatives | 100% |
| Spouses or ex-spouses | 57 |
| Parents | 6 |
| Children | 4 |
| Brothers or sisters | 9 |
| Other relatives | 24 |

Source: *Family violence*, BJS Special Report, April 1984

### Divorced or separated women are more likely than married women to report being victims of violent crime by a nonstranger

A study of family violence using the National Crime Survey shows that in almost three-fourths of spouse-on-spouse assaults the victim was divorced or separated at the time of the incident. Assaults against married females are more likely to be underreported than those against other women.

About 90% of all violent crimes against a spouse or ex-spouse were committed by men.

About a fourth of the persons attacked by a spouse or ex-spouse said they had been the victim of at least three similar crimes in the previous 6 months.

### What is the racial composition of victim-offender relationships?

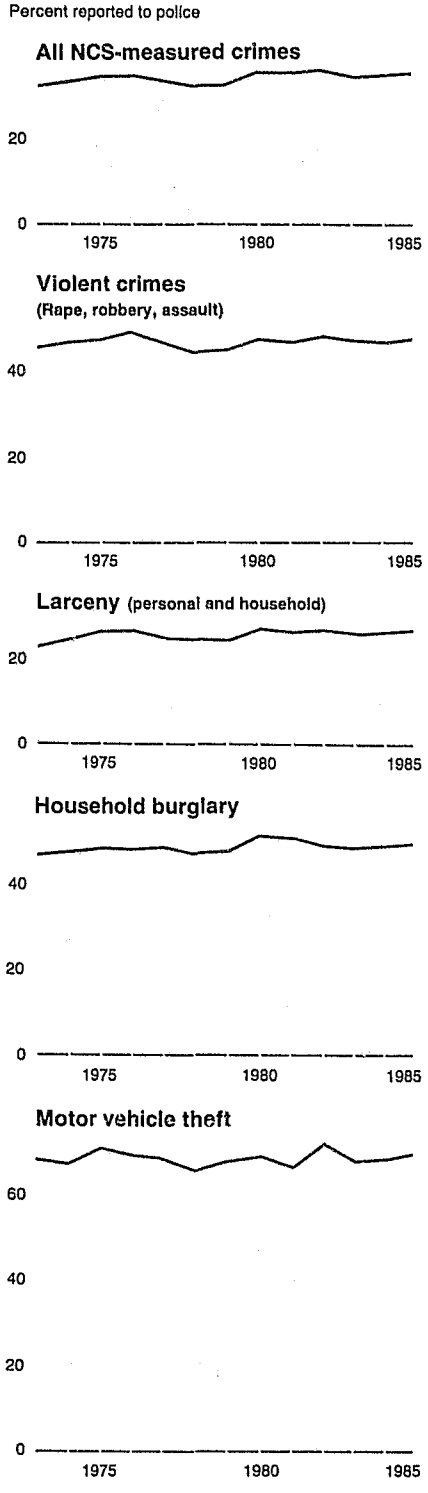
| | Number of single offender violent victimizations |
|---|---|
| White victim | |
| White offender | 2,737,770 |
| Black offender | 568,120 |
| Black victim | |
| Black offender | 502,400 |
| White offender | 60,770 |

• Violent crimes by strangers were more interracial than crimes by acquaintances or relatives.

• Blacks and whites report violent crimes by spouses or ex-spouses at about the same rate, but blacks are more likely than whites to report violent crimes by other relatives.

# Most crimes are not reported to the police

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




Source: BJS *Criminal victimization in the United States*, 1973-85.

### The extent to which crime is reported to police has only become known in the past decade

It has long been known that many crimes escape the attention of the police, but it was only with victimization surveys that systematic data were collected on crimes that are not reported—the so-called "dark figure" of crime.

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.

### The decision to report a crime is often based on its seriousness

In 1983 the rate of reporting to the police was higher for—
- violent crimes than for personal crimes of theft (48% vs. 26%)
- female than for male victims of violent crimes (53% vs. 45%)
- older than for younger victims (38% of those 65 or older vs. 22% of those 12–19).

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

In 1983 the rates of reporting to the police were—
- 69% for motor vehicle theft
- 49% for household burglary
- 25% for household larceny.

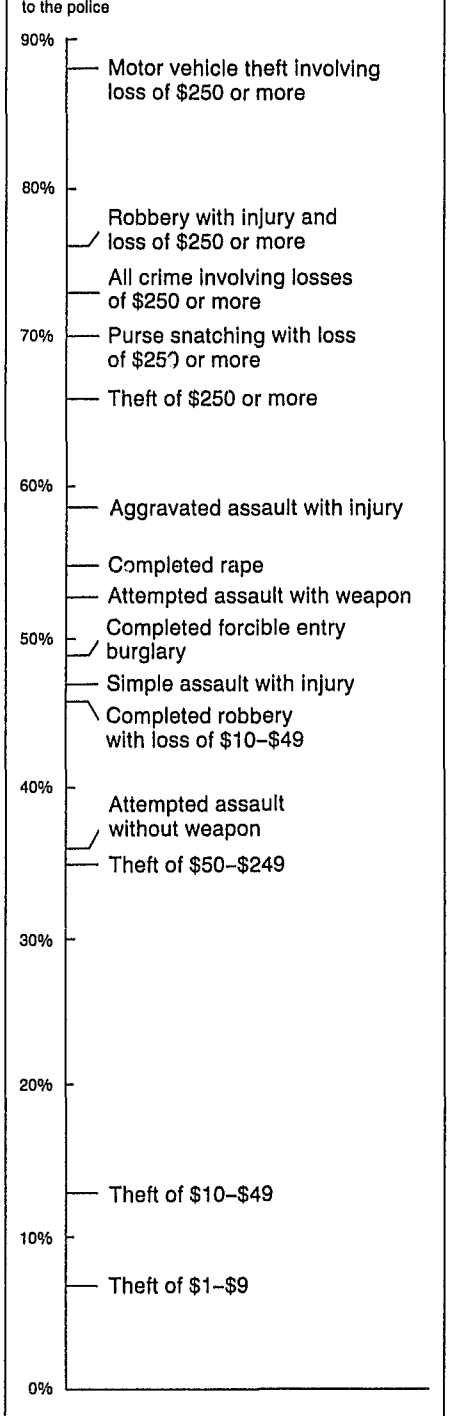
Only minor differences occurred in the rates at which whites and blacks reported these three household crimes.

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

| | Under $10,000 | $30,000 and over |
|---|---|---|
| Household burglary | 41% | 57% |
| Household larceny | 20 | 29 |
| Motor vehicle theft | 62 | 68 |

Source: *Reporting crimes to the police*, BJS Special Report, December 1985.

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




Source: *Reporting crimes to the police*, BJS Special Report, December 1985.

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

| | Owners | Renters |
|---|---|---|
| Household burglary | 54% | 46% |
| Household larceny | 29 | 24 |
| Motor vehicle theft | 72 | 69 |

Source: BJS *Criminal victimization in the United States 1985.*

### Someone other than the victim may report a crime to police

- Of reported crimes, about 60% of the personal crimes of rape, robbery, assault, and theft are reported by the victims themselves.
- Other household members report 13%, and someone else (for example, a neighbor, bystander, doctor, school principal) reports 22%.
- Police are the first to discover the crime in 2.5% of all reported crimes.

### Less than half of all violent crimes were reported to police during the years 1982–84

Reporting rates for violent crimes were—
- 47% if committed by strangers
- 53% if by relatives
- 40% if by acquaintances.

The higher police reporting rate for violent crimes by relatives should be interpreted with caution. The true proportion of crimes by relatives that are reported to the police is probably lower than the survey estimate. Victims of crimes by relatives who were willing to discuss their victimization experiences possibly make up a special group of domestic assault victims. They may be more willing to discuss their experiences with an interviewer because they have already reported the crimes to the police and discussed them with others or have left the domicile where the assault occurred. Those who have not done so may be more reluctant to report them in a survey interview.

### Many violent crimes are reported to prevent the crimes from happening again; many crimes of theft are reported because of a desire to recover property

Percent of victimizations reported to the police by most important reason for reporting the crime

| | | Economic | | Obligation | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | All responses | To collect insurance | To recover property | Because it was a crime | Because it was your duty | To keep it from happening again | Stop/prevent this incident from happening | To punish offender | Other |
| All crimes | 100% | 8% | 32% | 8% | 7% | 20% | 9% | 7% | 10% |
| Crimes of violence* | 100% | — | 6% | 7% | 8% | 31% | 18% | 14% | 17% |
| Robbery | 100 | — | 21 | 9 | 7 | 22 | 15 | 11 | 10 |
| Aggravated assault | 100 | — | — | 4 | 11 | 33 | 17 | 16 | 11 |
| Simple assault | 100 | — | — | 7 | 8 | 35 | 19 | 12 | 18 |
| Crimes of theft | 100% | 12% | 43% | 8% | 7% | 14% | 4% | 4% | 9% |
| Household crimes | 100% | 7% | 35% | 9% | 7% | 19% | 9% | 7% | 7% |
| Burglary | 100 | 6 | 26 | 12 | 7 | 23 | 12 | 8 | 7 |
| Household larceny | 100 | 9 | 37 | 7 | 7 | 19 | 8 | 6 | 8 |
| Motor vehicle theft | 100 | 9 | 63 | 6 | 4 | 7 | 4 | 5 | — |

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

Percent of victimizations not reported to the police by the most important reason for not reporting crime

| Type of crime | All responses | Not serious | Nothing could be done | Police wouldn't do anything | Personal disadvantage | Personal/private | Reported to someone else | Other |
|---|---|---|---|---|---|---|---|---|
| All crimes | 100% | 35% | 27% | 11% | 3% | 9% | 11% | 7% |
| Crimes of violence* | 100% | 27% | 9% | 10% | 6% | 28% | 11% | 11% |
| Robbery | 100 | 29 | 16 | 14 | 5 | 13 | 8 | 11 |
| Aggravated assault | 100 | 24 | 9 | 9 | 7 | 33 | 9 | 9 |
| Simple assault | 100 | 29 | 5 | 8 | 5 | 30 | 13 | 10 |
| Crimes of theft | 100% | 34% | 29% | 8% | 2% | 4% | 18% | 6% |
| Household crimes | 100% | 37% | 29% | 13% | 2% | 8% | 4% | 7% |
| Burglary | 100 | 29 | 31 | 13 | 3 | 8 | 7 | 9 |
| Household larceny | 100 | 41 | 30 | 12 | 2 | 7 | 2 | 6 |
| Motor vehicle theft | 100 | 35 | 27 | 16 | — | 10 | — | 6 |

Note: Figures may not add to total because of rounding.

—Too few cases to obtain statistically reliable data.

*Includes crime of rape, which is not displayed separately because of the small number in the sample.

Source: *Reporting crime to the police,* BJS Special Report, December 1985.

# Compensation for crime victims is becoming more available

### Victim compensation programs are still relatively new

Programs to assist crime victims and witnesses have been established in almost all States over the past 5 years. In general, the programs—
- provide financial assistance to victims and witnesses
- protect the rights of victims and witnesses
- complement existing efforts to aid special categories of victims, such as rape victims and victims of family abuse.

Victim/witness services may also be provided by noncriminal justice agencies (for example, State or local departments of health or human resources). Many private organizations have also developed programs such as rape crisis centers to assist victims and witnesses.

### Most State victim compensation programs help to recover medical costs and lost earnings

Forty-four States, the District of Columbia, and the Virgin Islands provide compensation for medical bills and lost wages for victims. In general, awards may be made to persons injured as a direct result of the crime.

If the victim dies, payments to cover burial and related expenses are generally available to dependent survivors. In many cases, "good samaritans"—persons injured while trying to prevent a crime or apprehend an offender—are also eligible for payment.

Most States establish upper limits on payments and do not provide compensation for property losses. In general, payment can be made whether or not the offender has been apprehended or convicted, but most States require that the crime be reported to proper authorities.

State compensation programs are funded with State-administered funds. The 1984 Federal Victims of Crime Act also provides for Federal grants to assist States that have established qualifying victim compensation programs.

### In 1985, $80.8 million was paid to victims of crime by State compensation programs

| State | 1985 payments |
|---|---|
| Alabama | $226,638 |
| Alaska | 703,232 |
| California | 18,510,913 |
| Colorado | 2,008,767 |
| Connecticut | 1,365,879 |
| Delaware | 491,687 |
| District of Columbia | 320,635 |
| Florida | 5,348,203 |
| Hawaii | 472,479 |
| Illinois | 2,630,554 |
| Indiana | 420,549 |
| Iowa | 302,731 |
| Kansas | 373,488 |
| Kentucky | 605,259 |
| Louisiana | 326,796 |
| Maryland | 2,243,613 |
| Massachusetts | 917,543 |
| Michigan | 1,961,173 |
| Minnesota | 812,124 |
| Missouri | 1,013,482 |
| Montana | 387,428 |
| Nebraska | 107,098 |
| Nevada | 264,526 |
| New Jersey | 5,457,576 |
| New Mexico | 236,178 |
| New York | 7,418,675 |
| North Dakota | 75,908 |
| Ohio | 5,874,254 |
| Oklahoma | 688,099 |
| Oregon | 812,876 |
| Pennsylvania | 2,218,443 |
| Rhode Island | 659,715 |
| South Carolina | 669,483 |
| Tennessee | 3,651,965 |
| Texas | 6,351,834 |
| Virginia | 799,255 |
| Washington | 3,166,307 |
| West Virginia | 182,657 |
| Wisconsin | 1,052,438 |
| Virgin Islands | 75,133 |
| Total | $80,845,593 |

Note: Arizona, Idaho, North Carolina, and Utah had programs but did not expend money in 1985. Arkansas, Georgia, Maine, Mississippi, New Hampshire, South Dakota, Vermont, and Wyoming did not have programs.

Source: Office for Victims of Crime

### Restitution programs may pay victims for other losses, such as property damage

Many States also permit victims to recover crime-related losses (including property damages) where a court requires restitution by the offender as a condition of sentencing. Unlike compensation, however, such payments are only available if the offender is convicted and financially solvent.

### Many States restrict offenders from profiting from their crimes

Several States require that profits earned by an offender in publicizing details of a crime be put into an escrow account and, if the offender is convicted, used to cover crime-related costs incurred by the victim (including, in some cases, legal fees).

Funds not needed to cover victim expenses may be returned to the offender or transferred to a general victim compensation fund. The 1984 Federal Victims of Crime Act also requires that profits earned by Federal offenders be forfeited and used to support Federal grants to assist States with victim compensation and assistance programs.

### Legislation strengthens the rights of victims and witnesses

*Victims and witnesses may not be intimidated*—State laws and the 1984 Federal Victim and Witness Protection Act protect crime victims and witnesses against physical and verbal intimidation where such intimidation is designed to discourage reporting of crimes and participation in criminal trials. Laws generally protect all subpoened witnesses but may also protect persons whom the offender "believes" will be called to testify or who may have knowledge of the crime. Some laws also permit courts to forbid defendants from communicating with or coming near victims and witnesses.

*Victims must be notified of case progress*—A large number of States require that—
- victims be notified at key decision points in the trial and sentencing of the offender
- victims be notified upon release or escape of an offender
- victims and witnesses be advised of scheduling changes and of available funds to cover court appearances, victim compensation, etc.

*Victims may participate in sentencing, parole, or other custody decisions*—"Victim Impact Statements," which describe the financial and emotional impact of the crime on the victim (and may also include victim comments on proposed sentences) are now required in many Federal and State cases to be submitted to the court at time of sentencing, parole, or other custody decisions. Victim impact statements are generally included as part of the presentence investigation report.

### A comprehensive Victims' Bill of Rights is included in some State laws

Comprehensive Victims' Bill of Rights laws—
- protect victims against intimidation
- ensure that victims receive notice and are allowed to participate in various stages in the case against the accused offender.

Such laws may also—
- ensure the victims right to continued employment
- provide medical or social support services
- require the appointment of an "ombudsman" to protect the rights of the victim during the trial period.

### 44 States, the District of Columbia, and the Virgin Islands have compensation programs to help victims of violent crime

| State | Victim compensation board location[a] | Financial award | To qualify, victim must— show financial need | report to police within: | file claim within: |
|---|---|---|---|---|---|
| Alabama | Alabama Crime Victim Compensation Commission | $0-10,000 | No | 3 days | 12 mos. |
| Alaska | Department of Public Safety | $0-40,000 | Yes | 5 | 24 |
| Arizona | Arizona Criminal Justice Commission | ** | Yes | 3 | ** |
| California | State Board of Control | $100-46,000 | Yes | * | 12 |
| Colorado | Judicial district boards | $25-10,000 | No | 3 | 6 |
| Connecticut | Criminal Injuries Compensation Board | $100-10,000 | No | 5 | 24 |
| Delaware | Violent Crimes Board | $25-20,000 | No | * | 12 |
| D.C. | Office of Crime Victim Compensation | $100-25,000 | Yes | 7 | 6 |
| Florida | Department of Labor and Employment Security, Workmen's Compensation Division | $0-10,000 | Yes | 3 | 12 |
| Hawaii | Department of Corrections | $0-10,000 | No | * | 18 |
| Idaho | Industrial Commission | $0-25,000 | No | 3 | 12 |
| Illinois | Court of Claims | $0-25,000 | No | 3 | 12 |
| Indiana | Industrial Board | $100-10,000 | No | 2 | 24 |
| Iowa | Department of Public Safety | $0-20,000 | No | 1 | 6 |
| Kansas | Executive Department | $100-10,000 | Yes | 3 | 12 |
| Kentucky | Victim Compensation Board | $0-25,000 | Yes | 2 | 12 |
| Louisiana | Commission on Law Enforcement | $100-10,000 | No | 3 | 12 |
| Maryland | Criminal Injuries Compensation Board | $0-45,000 | Yes | 2 | 6 |
| Massachusetts | District court system | $0-25,000 | No | 2 | 12 |
| Michigan | Department of Management and Budget | $200-15,000 | Yes | 2 | 12 |
| Minnesota | Crime Victims Reparation Board | $100-50,000 | No | 5 | 12 |
| Missouri | Division of Workmen's Compensation | $200-10,000 | No | 2 | 12 |
| Montana | Crime Control Division | $0-25,000 | No | 3 | 12 |
| Nebraska | Commission on Law Enforcement and Criminal Justice | $0-10,000 | Yes | 3 | 24 |
| Nevada | Board of Examiners and Department of Administration | $0-15,000 | Yes | 5 | 12 |
| New Jersey | Executive Branch | $0-25,000 | No | 90 | 24 |
| New Mexico | Executive Branch | $0-12,500 | No | 30 | 12 |
| New York | Executive Department | $0-30,000+ | Yes | 7 | 12 |
| North Carolina[b] | Department of Crime Control and Public Safety | $100-20,000 | | 3 | 24 |
| North Dakota | Workmen's Compensation Bureau | $0-25,000 | No | 3 | 12 |
| Ohio | Court of Claims Commissioners | $0-25,000 | No | 3 | 12 |
| Oklahoma | Crime Victims Board | $0-10,000 | No | 3 | 12 |
| Oregon | Department of Justice/Workmen's Compensation Board | $250-23,000 | No | 3 | 6 |
| Pennsylvania | Crime Victims Board | $0-35,000 | No | 3 | 12 |
| Rhode Island | Superior court system | $0-25,000 | No | 10 | 24 |
| South Carolina | Crime Victims Advisory Board | $100-3,000 | No | 2 | 6 |
| Tennessee | Court of Claims Commission | $0-5,000 | No | 2 | 12 |
| Texas | Industrial Accident Board | $0-25,000 | No | 3 | 6 |
| Utah | Department of Administrative Services | $0-25,000 | ** | 7 | 12 |
| Virgin Islands | Department of Social Welfare | Up to $25,000 | No | 1 | 24 |
| Virginia | Industrial Commission | $0-15,000 | No | 5 | 24 |
| Washington | Department of Labor and Industries | $0-15,000+ | No | 3 | 12 |
| West Virginia | Court of Claims Commissioner | $0-35,000 | No | 3 | 24 |
| Wisconsin | Department of Justice | $0-40,000 | No | 5 | 12 |

[a]If location of the board is not indicated in the State statute, the board itself is noted.
[b]North Carolina's program is administratively established but not funded.
*Must report but no time limit specified.
**No reference in statute
+Plus unlimited medical expenses

Source: BJS 1987 update of *Victim/witness legislation: An overview*, BJS, July 1984 with assistance from National Organization for Victim Assistance.

## Basic sources

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## Notes

[1]Straus, Gelles, and Steinmetz, *Behind closed doors: Violence in the American family* (New York: Anchor Press/Doubleday, 1980).

[2]News release, American Association for Protecting Children, a division of the American Humane Society, Denver, November 6, 1985.

Chapter III

# The offender

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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 is the relationship between age and crime?

What are the characteristics of repeat offenders? How much crime do they account for?

Are women becoming more involved in crime?

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

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

Is there a link between drug and alcohol use and crime? How does drug and alcohol use by offenders differ from that of the general population?

Invaluable contributions to this chapter were made by Victoria Major, Sharon Profeter, and the User Services Staff of the FBI Uniform Crime Reports Section and by James Stephan, Sophie Bowen, and Sara E. Smith of BJS.

# Who commits crime?

### How do we know who commits crime?

Three major sources provide information about the kinds of persons who commit crime:

- **Official records** compiled by police, courts, jails, and prisons have the advantage that they offer information on the more serious crimes and criminals. However, these records are limited to only the crimes and criminals that come to the attention of law enforcement officials.
- **Self-report surveys**, in which people are asked whether they had committed crimes, can provide more complete information than official records about crimes and criminals whether or not they were detected or apprehended. But there is the danger that people will exaggerate, conceal, or forget offenses. Many self-report surveys are limited to people who are in correctional custody.
- **Victim surveys**, such as the National Crime Survey, obtain information from crime victims including their observations of the age, race, and sex of their assailants. Victim surveys give information not only about crimes reported to the police but also about unreported crimes. A disadvantage is that in crimes of stealth (such as burglary and auto theft) victims seldom ever see who committed the crime. Also, many victims of crimes fail to tell interviewers about being victimized by relatives and other nonstrangers.

### How many criminals do we know about?

By the most conservative estimates, 36 to 40 million persons (16–18% of the U.S. population) have arrest records for nontraffic offenses. In 1983 official records covered more than 11.7 million arrests for all offenses, 224,000 jail inmates, more than 1.5 million probationers, 439,000 prison inmates, and 250,000 parolees.

### Which criminals do we know the most about?

The major sources do not give uniformly complete information about every kind of offender. In particular they tell us much more about common criminals than they do about white-collar criminals.

Much of what we know about offenders and their traits is limited to the common criminals who commit the offenses of greatest concern to the public: predatory crimes such as robbery and burglary.

| Offenses | Arrestees include many later released—most arrests are for less serious offenses | Jail inmates include those awaiting trial or sentencing and those serving short sentences for less serious crimes | Prison inmates are those sentenced to more than 1 year—generally for serious crimes |
|---|---|---|---|
| Murder/manslaughter | .15% | 6% | 18% |
| Sexual assault | .30 | 3 | 6 |
| Robbery | 1 | 11 | 25 |
| Assault | 8 | 8 | 6 |
| Other violent crimes | . . . | 2 | 3 |
| Burglary | 4 | 14 | 18 |
| Larceny-theft | 11 | 11 | 5 |
| Forgery/fraud/embezzlement | 4 | 5 | 4 |
| Auto theft | 1 | 2 | 2 |
| Other property | 3 | 5 | 2 |
| Drugs | 7 | 10 | 7 |
| Public order | 25 | 12 | 3 |
| Driving while intoxicated | 15 | 7 | 1 |
| Number | 11,945,200 | 223,552 | 274,564 |

. . . Not available

Sources: FBI *Crime in the United States 1985*. *Jail inmates, 1983*, BJS Bulletin, November 1985. BJS Survey of Inmates of State Correctional Facilities, 1979, unpublished data.

### What do the major sources tell us about who commits crime?

The major sources tell us which traits are more (or less) common among criminals than noncriminals. These traits hold clues for explaining why some people are more likely than others to commit crime. No single trait distinguishes all criminals.

Official records report traits of *apprehended* criminals, which may or may not be the same as those of all persons. Some observers say these traits are not similar, claiming that persons with certain characteristics (for example, blacks or males) are overarrested and overimprisoned compared with others (for example, whites or females). However, victim surveys, which provide information about more victimizations than those known to the police, find the traits of observed criminals to be generally the same as those in the official records. For example, the racial makeup of arrested persons and imprisoned persons is very similar to the racial makeup of all criminals who were seen by their victims.[1]

### Who is the "typical" offender?

Most crimes are committed by males, especially by those under age 20. About 42% of all persons arrested for UCR Index crimes in 1985 were under age 20 and almost four-fifths were males. The 1985 National Crime Survey shows that most violent offenders are perceived to be white males, but black males are perceived to be violent offenders in numbers disproportionate to their share of the population. This does not mean that persons commit crime because they are male or black.

Offenders and victims share many traits. Like victims of crime, the offenders described in arrest, jail, and prison data are predominantly male and disproportionately young and black.

### What are the characteristics of arrestees and offenders in jails and prisons?

| | | 1983 | | | | | |
|---|---|---|---|---|---|---|---|
| | | Index crime arrestees | | Jail inmates | | | |
| | U.S. population 1980 | Violent | Property | Unconvicted | Convicted | State prison inmates | Federal prison inmates |
| | 226,545,805 | 443,686 | 1,707,434 | 88,120 | 132,620 | 405,312 | 31,926 |
| **Sex** | | | | | | | |
| Male | 49% | 89% | 78% | 93% | 93% | 96% | 95% |
| Female | 51 | 11 | 23 | 7 | 7 | 4 | 5 |
| **Race** | | | | | | | |
| White | 86 | 51 | 66 | 54 | 61 | 51 | 65 |
| Black | 12 | 48 | 33 | 44 | 36 | 47 | 33 |
| Other | 2 | 1 | 2 | 2 | 3 | 3 | 3 |
| **Ethnic origin** | | | | | | | |
| Hispanic | 6 | 12 | 11 | 15 | 14 | 8 | 23 |
| Non-Hispanic | 94 | 88 | 89 | 85 | 86 | 57 | 77 |
| Unknown | 0 | 0 | 0 | 0 | 0 | 35 | 0 |
| **Age** | | | | | | | |
| Under 15 | 23 | 5 | 14 | * | * | 0 | 0 |
| 15-19 | 9 | 23 | 32 | 14 | 11 | 7 | 0 |
| 20-29 | 18 | 43 | 32 | 53 | 54 | 56 | 34 |
| 30-39 | 14 | 19 | 13 | 23 | 24 | 25 | 40 |
| 40-49 | 10 | 7 | 5 | 6 | 7 | 8 | 17 |
| 50-59 | 10 | 3 | 2 | 3 | 3 | 3 | 7 |
| 60+ | 16 | 1 | 2 | 1 | 1 | 1 | 2 |

*Less than .5%
Note: Percentages may not add to total because of rounding.

Sources: *Statistical abstract of the United States 1981*
FBI *Crime in the United States 1983*
*Jail inmates, 1983*, BJS Bulletin, November 1985.
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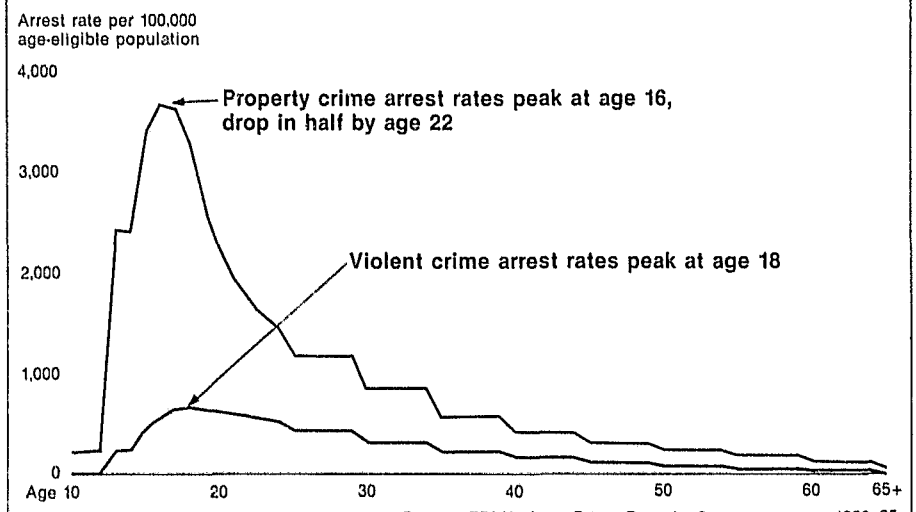
BJS Prisoners in State and Federal Institutions yearend 1983, unpublished data.

# What is the relationship between age and crime?

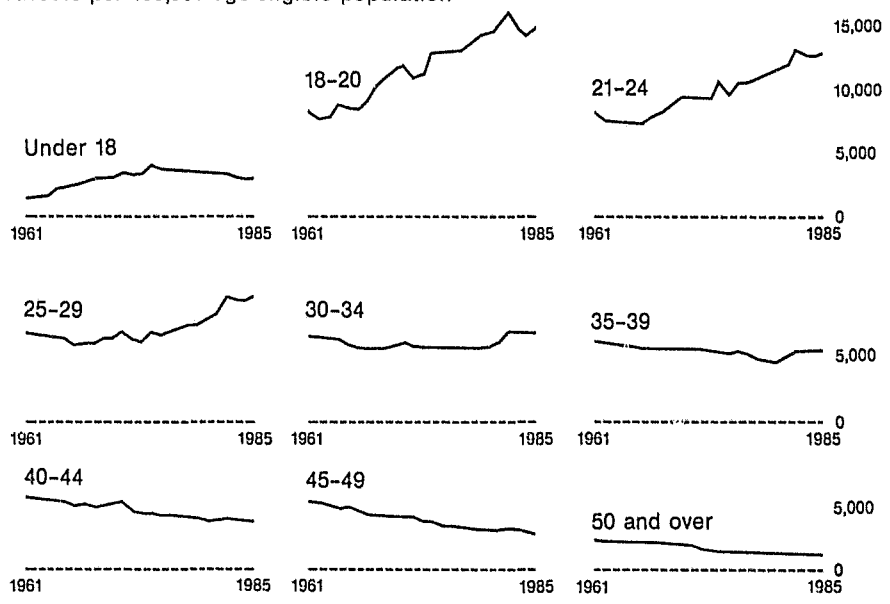
**Serious crime arrest rates are highest in young age groups**




Source: FBI Uniform Crime Reports, 3-year averages, 1983-85.

**Arrest rate trends vary by age group**

Between 1961 and 1981—
- The most dramatic increases in arrest rates were for persons age 18 to 20.
- Smaller increases in arrest rates occurred for persons age 21 to 24 and age 25 to 29.
- For persons age 35 and older, arrest rates declined.
- Persons age 18 to 20 had the highest arrest rates followed by those age 21 to 24.
- Persons age 50 or older had the lowest arrest rates.




Source: FBI Uniform Crime Reports, 1961-85, unpublished data.

**Young people make up the largest proportion of offenders entering the criminal justice system**

In 1985—
- Two-thirds of all arrests and three-quarters of all UCR Index arrests were of persons under age 30.
- Arrests of youths under age 21 made up half of all UCR Index property crime arrests and almost a third of all violent crime arrests.
- Arrests of juveniles (persons under age 18) made up 17% of all arrests and 31% of all UCR Index arrests.
- During 1976–85, the number of arrests of juveniles (persons under age 18) fell by 18%, reflecting the decline in the size of that age group and a 15% drop in their arrest rate.

**Participation in crime declines with age**

Arrest data show that the intensity of criminal behavior slackens after the teens, and it continues to decline with age. Arrests, however, are only a general indicator of criminal activity. The greater likelihood of arrests for young people may result partly from their lack of experience in offending and also from their involvement in the types of crimes for which apprehension is more likely (for example, purse snatching vs. fraud). Moreover, because youths often commit crime in groups, the resolution of a single crime may lead to several arrests.

The decline in crime participation with age may also result from the incapacitation of many offenders. When repeat offenders are apprehended, they serve increasingly longer sentences, thus incapacitating them for long periods as they grow older. Moreover, a RAND Corporation study of habitual offenders 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. Recidivism data also show that the rates of returning to prison tend to be lower for older than for younger prisoners. Older prisoners who do return do so after a longer period of freedom than do younger prisoners.

**Different age groups are arrested and incarcerated for different types of crimes**

• Juveniles under age 18 have a higher likelihood of being arrested for robbery and UCR Index property crimes than any other age group.

• Persons between ages 18 and 34 are the most likely to be arrested for violent crimes.

• The proportion of each group arrested for public order crimes increases with age.

• Among jail and prison inmates, property crimes, particularly burglary and public order crimes, are more common among younger inmates.

• Violent crimes were more prevalent among older inmates admitted to prison in 1982 but showed little variation among jail inmates of different ages.

• Drug crimes were more prevalent among inmates age 25 to 44 in both prisons and jails.

**Many older prison inmates had never been to prison before**

Of all persons admitted to prison after age 40, nearly half were in prison for the first time.

Inmates whose most recent admission to prison was at or after age 40 were more likely to be serving time for a violent crime than inmates who had the longest, most continuous criminal careers. The seriousness of their offenses alone probably explains why so many inmates were incarcerated for the first time at or after age 40.

Persons who were returning to prison at or after age 40 generally had prior criminal records rather than a current violent conviction. Given their records, these returnees did not have to commit a violent crime to bring them back to prison.

**Average age at arrest varies by type of crime**

| Most serious charge | Average age at arrest in 1985 |
|---|---|
| Gambling | 37 years |
| Murder | 30 |
| Sex offenses | 30 |
| Fraud | 30 |
| Embezzlement | 29 |
| Aggravated assault | 29 |
| Forcible rape | 28 |
| Weapons | 28 |
| Forgery and counterfeiting | 27 |
| Drug abuse violations | 26 |
| Stolen property | 25 |
| Larceny/theft | 25 |
| Arson | 24 |
| Robbery | 24 |
| Burglary | 22 |
| Motor vehicle theft | 22 |

Source: *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965-85*, FBI Uniform Crime Reporting Program, December 1986

**The average age of arrestees for most crimes remained fairly constant from 1965 to 1985**

Some exceptions are that the average age of persons arrested for—
• murder declined
• forcible rape increased
• fraud declined
• embezzlement declined
• larceny/theft increased
• motor vehicle theft increased.

The greatest increase in average age was for persons arrested for arson.

**Historically, studies have shown property crimes to be more typical of youths than of older offenders**

In a historical assessment of offending patterns, Cline reviewed several studies. These studies indicated a change from property to violent crimes as adolescents moved into adulthood.

**Adults commit more serious crimes than juveniles**

In a study of delinquency over time in England, Langan and Farrington examined the relationship between age of offenders and the value of the property they stole. The study found that crimes committed by adults were much more serious when measured in terms of value of stolen property than those committed by juveniles. Findings showed that the average amount stolen increased with age.

# Repeat offenders are responsible for much of the Nation's crime

**Who are career criminals?**

The term "career criminal" has been used to describe offenders who—
- have an extensive record of arrests and convictions
- commit crimes over a long period of time
- commit crimes at a very high rate
- commit relatively serious crimes
- use crimes as their principal source of income
- specialize (or are especially expert) in a certain type of crime
- have some combination of these characteristics.

Such criminals are often described as chronic, habitual, repeat, serious, high-rate, or professional offenders.

Some criminals exhibit all of the above characteristics, but most do not. Some high-rate offenders are arrested frequently and others rarely. In fact, some low-rate offenders are arrested more often than some high-rate ones. The frequency with which an offender commits crimes varies over time. Thus, an offender could be high-rate one month and low-rate the next. Similarly, the offender who commits a serious crime may or may not be committing serious or other crimes at a high rate. And some high-rate and/or serious offenders have no or almost no official prior record of involvement in crime.

**A few criminals commit many crimes**

Most offenders commit crimes at low rates, but a few do so at very high rates.

Studies in Philadelphia, Pennsylvania; Racine, Wisconsin; and Columbus, Ohio, show that 23 to 34% of the juveniles involved in crime are responsible for 61 to 68% of all the crimes committed by juveniles. In a national sample of U.S. youths age 11–17, the 7% who were the most active offenders committed about 125 crimes per year each, whereas the 55% who were the least active committed an average of fewer than 8 per year.

The same disproportionate pattern occurs with adults. The Chaikens' study of nearly 2,200 offenders coming into California, Michigan, and Texas jails and prisons found that 50% of the robbers committed an average of fewer than 5 robberies per year, but a robber in the most active 10% committed more than 85 per year. And, while 50% of the burglars averaged fewer than 6 burglaries per year, the most active 10% averaged more than 232 per year.

A Washington, D.C., study reported that 24% of all the adult arrests were attributable to just 7% of the adults arrested. Similarly, a 22-State study by BJS of young parolees revealed that about 10% of this group accounted for 40% of their later arrest offenses.

**High-rate offenders seldom specialize in one type of crime**

Instead, they tend to commit a variety of misdemeanors and felonies as well as both violent and property crimes. They also often engage in related crimes, such as property and drug offenses.

**Few repeat offenders are full-time criminals**

Most chronic offenders have irregular sources of income. And they usually commit crimes during the periods they are not employed. However, some prefer a "criminal career" to conventional employment.

**Juvenile delinquency often foreshadows adult criminal activity**

Most juvenile delinquents do not go on to become adult criminals, but many do continue to commit crimes.

- In Marion County, Oregon, 30% of the juvenile boys convicted of serious crime were later convicted of serious crimes as adults.

- In Chicago, 34% of the boys appearing in juvenile court later went to jail or prison as adults.

- The criminal records of 210 serious California juvenile offenders were examined to find out how many crimes they committed from age 18 to 26. Of this group, 173 (86%) were arrested for 1,507 crimes, including:

| | |
|---|---|
| 5 | homicides |
| 12 | rapes |
| 20 | other sex offenses |
| 40 | weapon offenses |
| 88 | robberies |
| 131 | assaults |
| 166 | drug offenses |
| 211 | burglaries. |

**The more serious the juvenile career, the greater the chances of adult criminality**

In New York City, 48% of the juveniles who had only 1 year of juvenile activity had one or more adult arrests and 15% were serious adult offenders. In contrast, 78% of those with lengthy juvenile careers were arrested as adults and 37% were serious adult offenders.

**Long-term studies show that the more often a person is arrested, the greater the chances of being arrested again**

For example, a study of Philadelphia males born in 1945 found that—
- 35% were arrested at least once
- 54% of those with one arrest had a second arrest
- 65% of those with two arrests had a third arrest
- 72% of those with three arrests had a fourth arrest.

A study of 539 former Illinois prison inmates showed that 53% of those with one incarceration were arrested within 29 months of their release date compared to a 76% recidivism rate among those with 3 or more incarcerations.

**The more often an offender is arrested before going to prison, the more likely and the sooner that person will be arrested after his or her release**

A BJS study of young parolees found that 69% were rearrested within 6 years of their release from prison. However, the rearrest rate was 93% among those with 6 or more prior arrests compared to 59% for those with one prior arrest. The median time between release from prison and the first subsequent arrest was 7 months for those with 6 or more prior arrests versus 17 months for those with one prior arrest. Similarly, the more often an offender was arrested before going to prison, the more likely and the sooner he or she was reconvicted and reincarcerated after being paroled.

**Criminal history, age, and drug use are among the best correlates of future criminality**

The combination of prior adult and juvenile record, age, and drug use provides a better than chance prediction of subsequent criminal activity. Hoffman found that when Federal inmates were placed into risk groups based on these factors, 94% of the persons predicted to be of least risk to society had a favorable 2-year parole outcome vs. 41% of those predicted to be among the worst risks.

The same variables also predict recidivism among State prisoners. For example, Klein and Caggiano found that 21% of a group of inmates in California who were forecast to have a relatively low likelihood of committing future crimes were back in jail or prison within 2 years of their release date vs. a 52% reincarceration rate in the predicted high-risk group.

**After their release from custody, offenders continue to commit crimes and often serious crimes**

Studies show that 10% to 20% of defendants on pretrial release are arrested while awaiting trial. A study of California offenders by Petersilia et al. found that more than 45% of the persons convicted of crimes such as robbery, burglary, assault, and theft were already on adult or juvenile probation or parole at the time of their conviction.

This study also found that 63% of those given felony probation were rearrested within 2 years of their release date. The recidivism rate was 72% among similar defendants who went to prison. In both groups more than 25% of the new filed charges were for violent crimes (homicide, rape, assault, and robbery).

Nationally, about half the inmates released from State prison will return to prison. And most of those who return will do so within 3 years of their release date. In 1979, 61% of the 153,465 males admitted to State prison had at least one prior incarceration.

**The older the offender at the time of arrest, the longer he is likely to continue his criminal career**

One study shows that an 18-year old who commits an Index crime usually stops committing crimes within 5 years of the arrest date but a 35-year old who has been committing crimes since age 18 usually goes on committing crimes for another 10 years. However, 18-year olds who commit murder or aggravated assault tend to have criminal careers of about 10 years duration.

**Despite repeated convictions and incarcerations, many offenders continue to believe they can get away with committing crimes**

The Chaikens asked inmates in three States, "Do you think you could do the same crime again without getting caught?" The answer "yes" was given by—
- 50% of the California inmates
- 34% of the Michigan inmates
- 23% of the Texas inmates.

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

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

# How do the offense characteristics of men and women differ?

### Relatively few offenders are female

| | Females in group |
|---|---|
| All arrests (adults and juveniles) | 17% |
| Index crime arrests | 21 |
| Violent crime arrests | 11 |
| Property crime arrests | 24 |
| Larceny | 31 |
| Nonlarceny | 8 |
| Under correctional supervision | |
| Juveniles | 20 |
| Jail inmates | 7 |
| Prison inmates | 5 |

Sources: FBI *Crime in the United States 1985*. BJS *Children in custody: 1982/83 Census of Juvenile Detention and Correctional Facilities, September 1986*. *Jail inmates, 1984*, BJS Bulletin, May 1986. *Prisoners in 1984*, BJS Bulletin, April 1985.

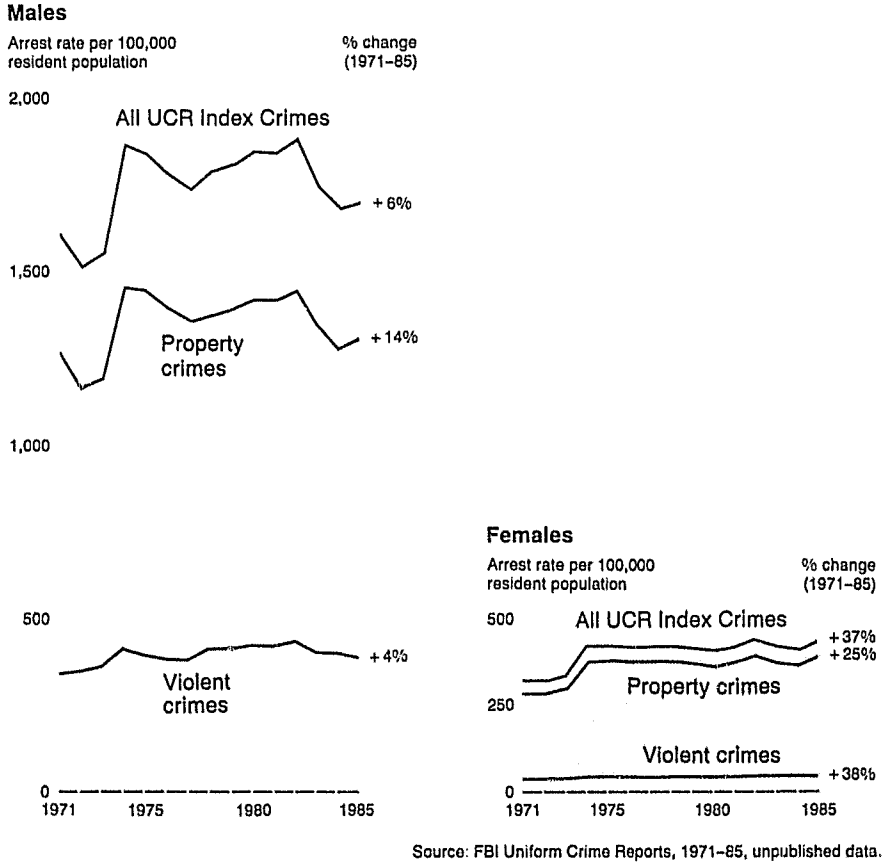
### Offense patterns differ for males and females

| | Percent of all arrests | |
|---|---|---|
| UCR Index Crimes | Males | Females |
| Murder and non-negligent/ manslaughter | 88% | 12% |
| Rape | 99 | 1 |
| Robbery | 92 | 8 |
| Aggravated assault | 87 | 14 |
| Burglary | 93 | 7 |
| Larceny-theft | 69 | 31 |
| Motor vehicle theft | 91 | 9 |
| Arson | 87 | 13 |

Source: FBI *Crime in the United States 1985*.

- Men are more likely than women to be arrested for the more serious crimes, such as murder, rape, robbery, or burglary.
- Arrest, jail, and prison data all suggest that a higher proportion of women than of men who commit crimes are involved in property crimes, such as larceny, forgery, fraud, and embezzlement, and in drug offenses.

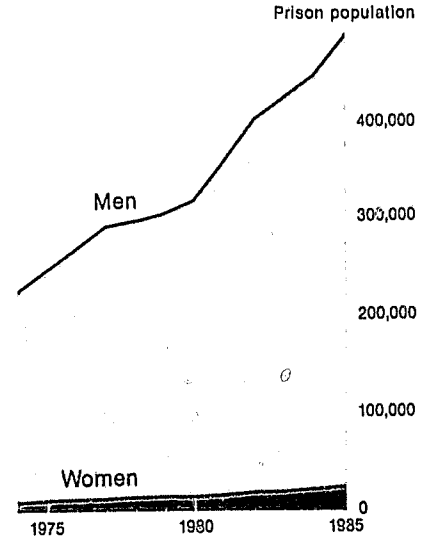
### For UCR Index Crimes, the rate of arrest of females is much lower than that of males, but it has risen faster




Source: FBI Uniform Crime Reports, 1971–85, unpublished data.

### While all prison populations have been growing dramatically, the women's share has risen from 4% to 5% in the past decade

Over the past 10 years, the number of women in prison rose by 107% (from 11,170 in 1976 to 23,091 in 1985), while the number of men rose by 80% (from 266,830 in 1976 to 480,510 in 1985).




Sources: BJS *Prisoners in State and Federal institutions on December 31, 1982. Prisoners in 1984*, BJS Bulletin, April 1985. *Prisoners at midyear 1984*, BJS press release, August 27, 1984. BJS National Prisoner Statistics, unpublished data on prisoners in 1983 and 1985.

# A relatively large proportion of offenders come from minority groups

### The number of black criminals is disproportionately high

Blacks, who made up 12% of the U.S. population in 1980, accounted for—
- 27% of all arrests in 1985
- 34% of all UCR Index Crime arrests
- 47% of all arrests for violent crimes
- 40% of local jail inmates in 1984
- 46% of State prison inmates in 1984.

According to many researchers, the disproportionality of blacks in the prison population is mostly attributable to age, seriousness of crime, prior criminal record, and other legally relevant factors. This finding neither rules out nor confirms the possibility of some discrimination in the criminal justice system.

### Victim reports confirm the pattern of arrests by race

The pattern of racial involvement in arrests shown in police records closely parallels that reported by victims of crime in the National Crime Survey.

| | Percent of offenders who were black: | |
|---|---|---|
| | Robbery | Burglary |
| NCS victim observation | 63% | 34% |
| UCR arrests | 59 | 35 |

Note: Data exclude offenders under age 18 and of races other than black and white. NCS victims observed the offender in 92% of the robberies and 5% of the burglaries.

### The lifetime chance of incarceration is six times higher for blacks than for whites

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 been confined four times by age 64.

### The proportion of black State prisoners in the South is more consistent with their share of the population than in other regions

| | Blacks as a percent of prison population | Blacks as a percent of U.S. population | Ratio of prison proportion to U.S. proportion |
|---|---|---|---|
| United States | 46% | 12% | 4 to 1 |
| Northeast | 51 | 10 | 5 to 1 |
| Midwest | 45 | 9 | 5 to 1 |
| South | 54 | 19 | 3 to 1 |
| West | 26 | 5 | 5 to 1 |

Sources: *Statistical abstract of the United States 1984* BJS National Prisoner Statistics, 1984, unpublished data.

### Blacks were more likely than whites to be violent offenders

Among UCR Index Crimes, the arrest rate of blacks was higher for violent than for property crimes:

| | Whites | Blacks |
|---|---|---|
| **All arrests** | 72% | 27% |
| **All Index Crimes** | 65% | 34% |
| **Violent crimes** | 52% | 47% |
| Murder | 50 | 48 |
| Rape | 52 | 47 |
| Robbery | 37 | 62 |
| Aggravated assault | 58 | 40 |
| **Property crimes** | 68% | 30% |
| Burglary | 70 | 29 |
| Larceny-theft | 67 | 31 |
| Motor vehicle theft | 66 | 32 |
| Arson | 76 | 23 |

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

In 1983 blacks accounted for 45% of all prison admissions and about 47% of all admissions for violent crimes. Of all blacks admitted to prison in 1983, 38% were admitted for violent crimes as compared to 31% of all whites. Eighteen percent of all blacks were admitted for robbery as compared to 11% of all whites.

### 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 15% of all arrests for violent crimes and 11% of all arrests for property crimes in 1985
- made up 13% (27,423) of the male jail population and 11% (1,929) of the female jail population in 1984
- made up 10% (46,125) of the male prison population and 9% (1,781) of the female prison population
- were more likely than non-Hispanics to be in jail or prison for drug offenses in 1983 and 1984.

# What are the social and economic characteristics of offenders?

### The relationship of an offender's social and economic background to crime has been hotly debated

There is no agreement over the relationship between crime and various social and economic factors. Some researchers believe that crime results from deprived backgrounds, while others see criminal behavior as another symptom of maladjustment. Whatever the relationship might be, we can measure certain characteristics of offenders and compare them to the population as a whole to give a profile of the offending population. This profile does not indicate which came first, the social and economic characteristic or the criminal behavior. It also does not explain why some people with similar characteristics do commit crimes and others do not.

### A high proportion of offenders grew up in homes with one parent

About 48% of jail and prison inmates grew up primarily with one parent or other relatives. In 1980, 20% of the children under age 18 in the United States were living with one parent. Moreover, about 15% of the jail inmates and 16% of the prison inmates grew up with neither parent, whereas 4% of all children under age 18 in the United States in 1980 were living with neither parent. Some studies suggest that the relationship between family background and delinquency is particularly strong for females.[2]

### Many offenders have been victims of childhood abuse

A study of inmates at the California Institution for Men at San Quentin found that many inmates had been abused extensively as children. Although data are limited, some studies suggest that adolescents subjected to extreme abuse and violence at home may develop psychotic symptoms, neurological abnormalities, and violent behavior.

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

About 40% of the prison inmates in 1979 and 34% of the jail inmates in 1983 had an immediate family member (father, mother, brother, sister, spouse, or child) who had been incarcerated in the past. Baunach found that 53% of the 180 inmates who were mothers had other family members with criminal records. These family members were primarily siblings (59%) and husbands, ex-husbands, or lovers (28%).

### Most offenders were not married

Among jail and prison inmates—
- About half had never been married and another 24% were divorced or separated (vs. 54% unmarried and 4% divorced or separated among U.S. males age 20–29).
- 22% of the prison and 21% of the jail population were married (vs. 47% of the comparable U.S. population).

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

### Most inmates have dependent children

Women offenders are more likely than men to have dependent children. In 1979, 74% of women prison inmates and 54% of the men had dependent children. In jails in 1983, 71% of the women and 54% of the men had dependent children. Of those inmates who had children, about 67% of those in jail and 71% of those in prison had 1 or 2 children.

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

- About 40% of all jail and 28% of all prison inmates had completed high school as compared to 85% of males age 20–29 in the U.S. population.
- About 45% of all prison and 41% of all jail inmates as compared with 11% of the U.S. population of males age 20–29 began but did not complete high school.
- As compared with the U.S. population of males age 20–29, there were few college graduates in jail or prison.

### Educational level was associated with type of offense

| Offense | Percent of inmates who completed high school: Jail | Prison |
|---|---|---|
| Drug offenses | 34% | 29% |
| Violent offenses | 27 | 21 |
| Property offenses | 27 | 19 |
| Public order offenses | 31 | 18 |

Sources: BJS Survey of Inmates of State Correctional Facilities, 1979, unpublished data. BJS Survey of Inmates of Local Jails, 1983, unpublished data.

### Many offenders were unemployed

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

| | Number of inmates per 100,000 U.S. population | |
|---|---|---|
| | Jail | Prison |
| In labor force | 330 | 396 |
| Employed | 220 | 356 |
| Unemployed | 1,792 | 933 |
| Not in labor force | 323 | 442 |
| Total | 329 | 405 |

About 45% of all males in jail in 1983 were unemployed at the time they entered jail. Among the 55% who were working, 22% were working only part-time. In the U.S. male population age 16–64, 84% are employed and of these 3% work part-time.

### A high proportion of adult felons lacked steady employment

Adult felons were more likely than the general population never to have worked at all or to have held a wide variety of short-term jobs.[3] Of the prisoners in a RAND Corporation study, 20% had never worked and another 20% held a variety of short-term jobs. On average, felons in these groups committed more crimes, particularly more property crimes, than the 60% who had had a more stable employment history.

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

| Occupation | Prison population | U.S. population age 16–64 |
|---|---|---|
| White-collar | 15% | 51% |
| Blue-collar | 68 | 33 |
| Farm | 2 | 3 |
| Service | 14 | 13 |

Sources: BJS Survey of Inmates of State Correctional Facilities, 1979, unpublished data. *The current population survey 1972–81: A data book*, volume I, Bureau of Labor Statistics Bulletin, September 1982.

### Few inmates had been working in their customary occupation

Before their arrest, 30% of all jail inmates in 1983 who were working were employed outside what they considered to be their customary occupation. Earlier surveys of prison inmates had similar findings. In addition to an inability to find work in their chosen field, this suggests some degree of underemployment.

### The average inmate was at the poverty level before entering jail

In 1983 about half the males in jail who had been out of jail or prison for at least a year had annual incomes under $5,600, a median income of about half that of men in the general population ($11,848) in 1981. Female jail inmates reported a median income of about $4,000 during the year before arrest, slightly more than half of that for women in the general population ($7,370). The median income for both male and female jail inmates in 1983 did not exceed the poverty level as defined by the U.S. Government.

### Many inmates had income from nontraditional sources before entering jail

Among jail inmates—
- 22% depended on welfare, Social Security, or unemployment benefits
- 7% said that their main source of income was illegal
- 60% said that their main source of income had been a wage or a salary.

A larger proportion of female than male inmates—
- depended on welfare, unemployment benefits, or Social Security (38% vs. 22%)
- depended on family or friends for their subsistence (31% vs. 23%)
- admitted that their main income was from illegal activities (11% vs. 7%).

# Drug and alcohol use is common among offenders

### The drug use-crime link is complex

There is evidence of a relationship between drug use, including alcohol use, and crime. How strong it is and how it operates is not clear. Obviously, some drug use is illegal in and of itself. But its impact on other crimes is uncertain. As with other characteristics, drug use may be another symptom of maladjustment. The general pattern of usage by offenders as compared to nonoffenders provides a profile of drug and alcohol use.

Some ways in which drug and alcohol use could contribute to crime include—
- stimulating aggressiveness or weakening inhibitions of offenders
- motivating offenders to commit crimes to get money to buy drugs.

Different drugs supposedly have different links to crime. For example, some hypothesize that alcohol's reduction of inhibitions leads to crime, particularly aggressive acts. On the other hand, heroin's addictive nature motivates some addicts to commit crimes to get money to buy drugs. Looking at when the drugs or alcohol were consumed in relationship to the time of the offense helps to clarify if and how drugs and alcohol are involved in crime.

### Drug use is far greater among offenders than among nonoffenders

| | Percent who had ever used drug: | | |
|---|---|---|---|
| | Jail inmates | Prison inmates | General population |
| Any drug | 75% | 78% | 37% |
| Marijuana | 72 | 75 | 33 |
| Cocaine | 38 | 37 | 25 |
| Amphetamines | 32 | 37 | 9 |
| Barbiturates | 27 | 35 | 6 |
| Heroin | 22 | 30 | 2 |

Sources: *Prisoners and drugs*, BJS Bulletin, March 1983. BJS Survey of Inmates of Local Jails, 1983, unpublished data. *Jail inmates, 1983*, BJS Bulletin, November 1985. *Highlights from the National Survey on Drug Abuse: 1982*, National Institute on Drug Abuse. BJS Survey of Inmates of State Correctional Facilities, 1979, unpublished data. *Highlights of the 1985 National Household Survey on Drug Abuse*, National Institute on Drug Abuse.

### Prison inmates used alcohol more than their counterparts in the general population

- Almost half the inmates—but only a tenth of all persons age 18 and older in the general population—drank an average of an ounce or more daily.
- Males, both in prison and in the general population, were much more likely than females to drink an ounce or more.
- Men in prison were roughly three times as likely as men in general to consume an ounce or more daily. Women in prison were over five times more likely than women in general to consume that much.
- A sixth of the inmates and a third of the general population abstained from all alcohol.
- More than a third of all inmates drank alcoholic beverages daily during the year before the crime. Two-thirds of these inmates drank very 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.

### Which comes first—drug use or crime?

There is some indication that involvement in crime may precede drug use. Greene found that most arrested addicts began their criminal behavior before they began using drugs regularly. Similarly, the 1979 Prison Inmate Survey showed that for more than half the inmates, involvement in crime preceded their drug use. Other research shows that most heroin-addicted criminals were involved in crime before they became addicted and that traditional income sources, rather than street crimes, are the major source of support for the drug habit.

### What is the relationship between increased drug use and crime?

Studies in Baltimore, California, and Harlem show increased criminal involvement with more drug usage. Ball, Shaffer, and Nurco found that over a 9-year period, the crime rate of 354 black and white heroin addicts dropped with less narcotics use and rose 4 to 6 times with active narcotics use. Similarly, Anglin and Speckart compared criminal involvement of 753 white and Hispanic addicts before and after addiction. Results showed that 21–30% more persons were involved in crimes the year after addiction began, arrests increased substantially, and the number of days addicts were involved in crimes increased 3 to 5 times their number prior to the first addiction.

In a study of behaviors and economic impacts of 201 street heroin users in Harlem between 1980 and 1982, Johnson et al. revealed that daily heroin users reported the highest crime rates, 209 nondrug crimes per year compared with 162 among regular users, and 116 among irregular users. Daily heroin users committed about twice the number of robberies and burglaries as regular users and about 5 times as many as irregular users.

### Drug users are more involved in money-producing crimes

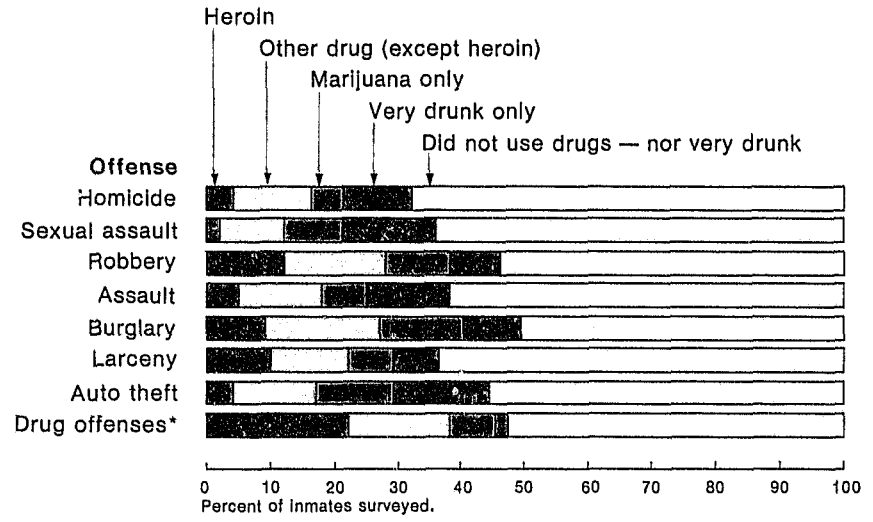
The RAND career criminal study found that, among felons, drug users committed more burglaries, con-type crimes, and drug sales than burglars, con-men, and drug dealers who did not use drugs. For other crimes there were no appreciable differences between drug users and nondrug users in either the number of prisoners involved or in the number of crimes they committed. Ball's study of Baltimore addicts showed that drug users committed an enormous number of crimes, mainly theft and drug dealing, and that, on average, the typical addict committed a crime every other day.

### How does drug and alcohol use vary by crime?

Among prison inmates in 1979 about 35% of the property offenders, primarily burglars, and 38% of the robbers had been under the influence of drugs, mainly marijuana, at the time of the crime. By contrast, smaller proportions of murderers (21%) and rapists (22%) had been under the influence of drugs at the time of the crime for which they were incarcerated.

Similarly, among jail inmates in 1983 almost 1 in 3 convicted property offenders as compared with 1 in 4 violent offenders said they had been under the influence of drugs at the time of the current offense. Among property offenders the highest proportion using drugs at the time of the crime were those convicted of burglary (39%), auto theft (33%), or larceny (30%). Among violent offenders, robbers (31%) were the highest proportion who reported being under the influence of drugs at the time of the current crime.

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




*Includes trafficking and possession.

Source: BJS Survey of State Prison Inmates, 1979.

Nearly half the incarcerated offenders had been drinking just prior to the current crime.

- About half the convicted offenders incarcerated for a violent crime had used alcohol before the crime. Alcohol use was particularly pervasive among persons convicted of assault (about 60%).
- Among property offenders, more than 4 in 10 convicted inmates had used alcohol just before the current crime.
- Nearly 3 in 10 convicted drug offenders had used alcohol before the current crime.

### How do inmates vary in their drug use?

- Many inmates were under the influence of marijuana but usually in combination with other more serious drugs such as heroin.
- At the time of their offense, fewer jail inmates were under the influence of heroin (9% prison inmates, 5% jail inmates).
- 5% of the prison inmates were under the influence of cocaine at the time of their offense.
- Among prison inmates, women were more likely than men to have been under the influence of heroin (14% vs. 8%).
- White prison inmates were more likely than black inmates to have been drinking heavily (39% vs. 18%).

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Chapter IV

# The response to crime

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

Entry into the system
Prosecution and pretrial services
Adjudication
Sentencing and sanctions
Corrections

The data presented answer such questions as—

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

How much crime does the criminal justice system deal with?

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

What is the role of private security in crime control?

How many people were arrested in a typical year? For what offenses are they arrested? What percentage of crimes result in an arrest?

What is the role of the prosecutor?

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

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

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

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

How are the Federal and State courts organized?

What are the main differences between adult and juvenile courts?

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

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

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

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

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

What are the various sentencing alternatives?

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

What drunk driving sanctions are available?

What is forfeiture? When is it used?

When is the death penalty used?

What sanctions are available for juvenile offenders?

How do sentence lengths differ from actual time served?

How many people are under some form of correctional supervision? Are correctional populations increasing? How many prisoners are confined in State and Federal institutions?

In what types of facilities are prisoners held? How densely populated are our prisons?

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

Assistance on this chapter was provided by Paul White, Susan Kline, and Sara E. Smith of BJS; John Wilson of the Office of Justice Programs; Bernard Auchter of the National Institute of Justice, and Barbara Allen-Hagen of the Office of Juvenile Justice and Delinquency Prevention. Assistance with the material on forfeiture was provided by M. Miles Matthews, Deputy Associate Attorney General, and Joseph A. Florio, Asset Forfeiture Section, Criminal Division. Invaluable contributions were also made by Julio Borquez and Spencer Price Nash of the Inter-university Consortium on Political and Social Research; Patricia Smith of the Spangenberg Group; Barbara Boland of Abt Associates; Joseph P. Briggs of the U.S. Marshals Service; Linda Szymanski and Hunter Hurst of the National Center for Juvenile Justice; Janet Munsterman (Center for Jury Studies) and Ingo Keilitz (Institute on Mental Disability and the Law) of the National Center for State Courts; Mary Toborg of Toborg Associates; D. Alan Henry of the Pretrial Resources Center; John A. Carver of the National Association of Pretrial Services Agencies; and Phillip J. Renninger and Richard S. Morelli of the Pennsylvania Commission on Crime and Delinquency.

# The response to crime is a complex process that involves citizens as well as many agencies, levels, and branches of government

### The private sector initiates the response to crime

This first response may come from any part of the private sector: individuals, families, neighborhood associations, business, industry, agriculture, educational institutions, the news media, or any other private service to the public.

It involves crime prevention as well as participation in the criminal justice process once a crime has been committed. Private crime prevention is more than providing private security or burglar alarms or participating in neighborhood watch. It also includes a commitment to stop criminal behavior by not engaging in it or condoning it when it is committed by others.

Citizens take part directly in the criminal justice process by reporting crime to the police, by being a reliable participant (for example, witness, juror) in a criminal proceeding, and by accepting the disposition of the system as just or reasonable. As voters and taxpayers, citizens also participate in criminal justice through the policymaking process that affects how the criminal justice process operates, the resources available to it, and its goals and objectives. At every stage of the process, from the original formulation of objectives to the decision about where to locate jails and prisons and to the reintegration of inmates into society, the private sector has a role to play. Without such involvement, the criminal justice process cannot serve the citizens it is intended to protect.

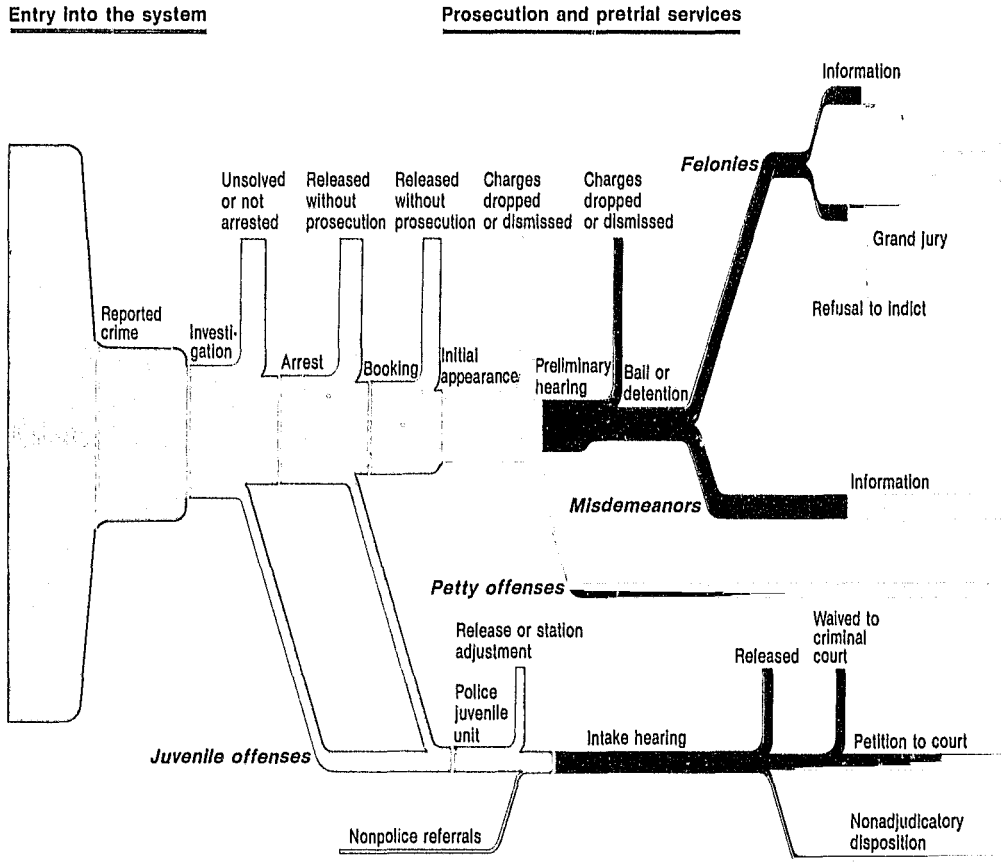
### The government responds to crime through the criminal justice system

We apprehend, try, and punish offenders by means of a loose confederation of agencies at all levels of government. 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. We have many systems that are similar, but individually unique.

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

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

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




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

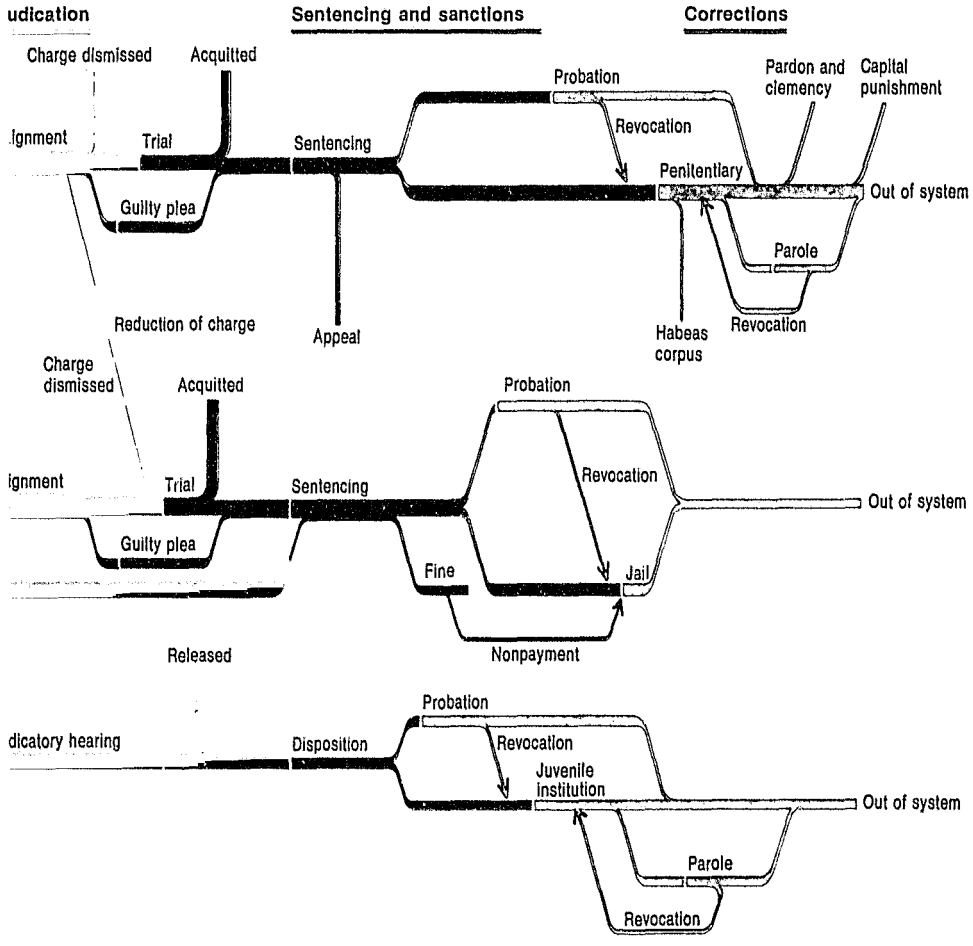
### Entry into the system

The justice system does not respond to most crime because so much crime is not discovered or reported to the police (see chapter II). Law enforcement agencies learn about crime from the reports of citizens, from discovery by a police officer in the field, or from investigative and intelligence work.

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

### Prosecution and pretrial services

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




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

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

A suspect charged with a crime must be taken before a judge or magistrate without unnecessary delay. At the initial appearance, the judge or magistrate informs the accused of the charges and decides whether there is probable cause to detain the accused person. Often, the defense counsel is also assigned at the initial appearance. If the offense is not very serious, the determination of guilt and assessment of a penalty may also occur at this stage.

In some jurisdictions, a pretrial-release decision is made at the initial appearance, but this decision may occur at other hearings or may be changed at another time during the process. Pretrial release and bail were traditionally intended to ensure appearance at trial. However, many jurisdictions permit pretrial detention of defendants accused of serious offenses and deemed to be dangerous to prevent them from committing crimes in the pretrial period. The court may decide to release the accused on his/her own recognizance, into the custody of a third party, on the promise of satisfying certain conditions, or after the posting of a financial bond.

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

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

Misdemeanor cases and some felony cases proceed by the issuance of an *information* (a formal, written accusation submitted to the court by a prosecutor). *In some jurisdictions*, indictments *may be* 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. Sometimes, a plea of guilty is the result of negotiations between the prosecutor and the defendant, with the defendant entering a guilty plea in expectation of reduced charges or a lenient sentence.

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

If the accused pleads not guilty or not guilty by reason of insanity, a date is set for the trial. A person accused of a serious crime is guaranteed a trial by jury. However, the accused may ask for a bench trial where the judge, rather than a jury, serves as the finder of fact. In both instances the prosecution 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 of a conviction are a matter of right; all States with the death penalty provide for automatic appeal of cases involving 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 on acceptance of a defendant's petition for a *writ of certiorari*. Prisoners may also appeal their sentences through civil rights petitions and writs of habeas corpus where they claim unlawful detention.

**Sentencing and sanctions**

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

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

The sentencing choices that may be available to judges and juries include one or more of the following:
- the death penalty
- incarceration in a prison, jail, or other confinement facility
- probation—allowing the convicted person to remain at liberty but subject to certain conditions and restrictions
- fines—primarily applied as penalties in minor offenses
- restitution—which requires the offender to provide financial compensation to the victim.

In many States, State law mandates that persons convicted of certain types of offenses serve a prison term.

Most States permit the judge to set the sentence length within certain limits, but some States have determinate sentencing laws that stipulate a specific sentence length, which must be served and cannot be altered by a parole board.

**Corrections**

Offenders sentenced to incarceration usually serve time in a local jail or a State prison. Offenders sentenced to less than 1 year generally go to jail; those sentenced to more than 1 year go to prison. Persons admitted to a State prison system may be held in prisons with varying levels of custody or in a community correctional facility.

A prisoner may become eligible for parole after serving a specific part of his or her sentence. Parole is the conditional release of a prisoner before the prisoner's full sentence has been served. The decision to grant parole is made by an authority such as a parole board, which has power to grant or revoke parole or to discharge a parolee altogether. The way parole decisions are made varies widely among jurisdictions.

Offenders may also be required to serve out their full sentences prior to release (expiration of term). Those sentenced under determinate sentencing laws can be released only after they have served their full sentence (mandatory release) less any "goodtime" received while in prison. Inmates get such credits against their sentences automatically or by earning it through participation in programs.

If an offender has an outstanding charge or sentence in another State, a detainer is used to ensure that when released from prison he or she will be transferred to the other State.

If released by a parole board decision or by mandatory release, the releasee will be under the supervision of a parole officer in the community for the balance of his or her unexpired sentence. This supervision is governed by specific conditions of release, and the releasee may be returned to prison for violations of such conditions.

**The juvenile justice system**

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

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

The court with jurisdiction over juvenile matters may reject the petition or the juveniles may be diverted to other agencies or programs in lieu of further court processing. Examples of diversion programs include individual or group counseling or referral to educational and recreational programs.

If a petition for an adjudicatory hearing is accepted, the juvenile may be brought before a court quite unlike the court with jurisdiction over adult offenders. In disposing of cases juvenile courts usually have far more discretion than adult courts. In addition to such options as probation, commitment to correctional institutions, restitution, or fines, State laws grant juvenile courts the power to order removal of children from their homes to foster homes or treatment facilities. Juvenile courts also may order participation in special programs aimed at shoplifting prevention, drug counseling, or driver education. They also may order referral to criminal court for trial as adults.

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

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

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

State constitutions and laws define the criminal justice system within each State and delegate the authority and responsibility for criminal justice to various jurisdictions, officials, and institutions. State laws also define criminal behavior and groups of children or acts under jurisdiction of the juvenile courts.

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

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

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

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

| | Percent of criminal justice employment by level of government | | |
|---|---|---|---|
| | Local | State | Federal |
| Police | 77% | 15% | 8% |
| Judicial (courts only) | 60 | 32 | 8 |
| Prosecution and legal services | 58 | 26 | 17 |
| Public defense | 47 | 50 | 3 |
| Corrections | 35 | 61 | 4 |
| Total | 62% | 31% | 8% |

Source: *Justice expenditure and employment, 1985*, BJS Bulletin, March 1987.

### Discretion is exercised throughout the criminal justice system

Discretion is "an authority conferred by law to act in certain conditions or situations in accordance with an official's or an official agency's own considered judgment and conscience."[1] Discretion is exercised throughout the government. It is a part of decisionmaking in all government systems from mental health to education, as well as criminal justice.

Concerning crime and justice, legislative bodies have recognized that they cannot anticipate the range of circumstances surrounding each crime, anticipate local mores, and enact laws that clearly encompass all conduct that is criminal and all that is not.[2] Therefore, persons charged with the day-to-day response to crime are expected to exercise their own judgment within *limits* set by law. Basically, they must decide—

- whether to take action
- where the situation fits in the scheme of law, rules, and precedent
- which official response is appropriate.

To ensure that discretion is exercised responsibly, government authority is often delegated to professionals. Professionalism requires a minimum level of training and orientation, which guides officials in making decisions. The professionalism of policing discussed later in this chapter is due largely to the desire to ensure the proper exercise of police discretion.

The limits of discretion vary from State to State and locality to locality. For example, some State judges have wide discretion in the type of sentence they may impose. In recent years other States have sought to limit the judges' discretion in sentencing by passing mandatory sentencing laws that require prison sentences for certain offenses.

### Who exercises discretion?

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

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

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

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

Congress has provided for Federal jurisdiction over crimes that—
- materially affect interstate commerce
- occur on Federal land
- involve large and probably interstate criminal organizations or conspiracies
- are offenses of national importance, such as the assassination of the President.[3]

Bank robbery and many drug offenses are examples of crimes for which the States and the Federal Government both have jurisdiction. In cases of dual jurisdiction, an investigation and a prosecution may be undertaken by all authorized agencies, but only one level of government usually pursues a case. For example, a study of FBI bank robbery investigations during 1978 and 1979 found that of those cases cleared—
- 36% were solved by the FBI alone
- 25% were solved by a joint effort of the FBI and State and local police
- 40% were solved by the State and local police acting alone.

In response to dual jurisdiction and to promote more effective coordination, Law Enforcement Coordinating Committees have been established throughout the country and include all relevant Federal and local agencies.

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

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

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

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

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

The outcomes of arrests for serious cases vary among the States as shown by Offender-based Transaction Statistics from nine States:

| | % of arrests for serious crimes that result in . . . | | |
|---|---|---|---|
| | Prosecution | Conviction | Incarceration |
| Virginia | 100% | 61% | 55% |
| Nebraska | 99 | 68 | 39 |
| New York | 97 | 67 | 31 |
| Utah | 97 | 79 | 9 |
| Virgin Islands | 95 | 55 | 35 |
| Minnesota | 89 | 69 | 48 |
| Pennsylvania | 85 | 56 | 24 |
| California | 78 | 61 | 45 |
| Ohio | 77 | 50 | 21 |

Source: Disaggregated data used in *Tracking offenders: White-collar crime*, BJS Special Report, November 1986

Some of this variation can be explained by differences among States. For example, the degree of discretion in deciding whether to prosecute differs from State to State; some States do not allow any police or prosecutor discretion; others allow police discretion but not prosecutor discretion and vice versa.

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## Notes

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

[2]Wayne R. LaFave, *Arrest: The decision to take a suspect into custody* (Boston: Little, Brown & Co., 1964), pp. 63–184.

[3]*Attorney General's Task Force on Violent Crime—Final report*, U.S. Department of Justice, August 17, 1981, p. 2.

# The system responds directly to a fraction of crime

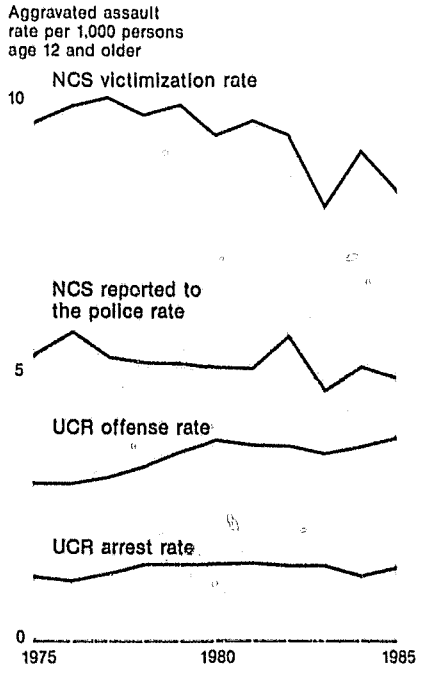
### Most crime is not reported to police

As noted in chapter II, only about a third of all crimes are reported to police. The crimes most likely to be reported are those most serious in terms of injury and economic loss.

The criminal justice system responds to crimes brought to its attention by reports from citizens or through direct observation by law enforcement officers. Crimes are reported most often by the victim or a member of the victimized household. Police discover 3% of reported personal crimes and 2% of reported household crimes.

Most reported crimes are not solved by arrest. For that reason the proportion of crimes handled directly by the criminal justice system through the processing of suspects is relatively small. Indirectly, the criminal justice system may be dealing with more crime than appears from arrest data because the offenders who are processed may have committed much more crime than that for which they are arrested (see chapter III).

Fallout for the crime of aggravated assault is shown in this chart:




### The first contact with the criminal justice system for most citizens is the police dispatcher

In many cities citizens can report crimes through a universal number, such as 911. In other cities the citizen must call the police directly. The dispatcher will ask for facts about the crime, such as what happened, where, when, whether or not it involved injury or loss. This information helps the police to select the most appropriate response.

### Law enforcement is one of several police roles

The roles of police officers are—
- **Law enforcement**—applying legal sanctions (usually arrest) to behavior that violates a legal standard.
- **Order maintenance**—taking steps to control events and circumstances that disturb or threaten to disturb the peace. For example, a police officer may be called on to mediate a family dispute, to disperse an unruly crowd, or to quiet an overly boisterous party.
- **Information gathering**—asking routine questions at a crime scene, inspecting victimized premises, and filling out forms needed to register criminal complaints.
- **Service-related duties**—a broad range of activities, such as assisting injured persons, animal control, or fire calls.

Wilson's analysis of citizen complaints radioed to police on patrol showed that—
- 10% required enforcement of the law
- more than 30% of the calls were appeals to maintain order
- 22% were for information gathering
- 38% were service-related duties.

### Most crime is not susceptible to a rapid police response

A study by the Police Executive Research Forum suggests that police response time is important in securing arrests only when they are called while the crime is in progress or within a few seconds after the crime was committed. Otherwise, the offender has plenty of time to escape.

In a study of response time in Kansas City, only about 6% of the callers reported crimes in progress. Where discovery crimes are involved (those noticed after the crime has been completed), 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 arrest may crucially affect the government's ability to prosecute the suspect successfully because of the availability of evidence and witnesses.

### Today, police officers do not always respond to calls for service

Based on research and the desire for improved efficiency, many police departments now use a number of response alternatives to calls for service. The type of alternative depends on a number of factors such as whether the incident is in progress, has just occurred, or occurred some time ago and whether anyone is or could be injured. Police officers may be sent, but the call for service may also be responded to by—
- **Telephone report units** who take the crime report over the telephone. In some departments, more than a third of the calls are initially handled in this way.
- **Delayed response** if officers are not needed at once and can respond when they are available. Most departments state a maximum delay time, such as 30 to 45 minutes, after which the closest unit is assigned to respond.
- **Civilian personnel** trained to take reports; they may be evidence technicians, community service specialists, animal control officers, or parking enforcement officers.
- **Referral to other noncriminal justice agencies** such as the fire department, housing department, or social service agencies.
- **A request for a walk-in report** where the citizen comes to the police department and fills out a report.

# A variety of public agencies provide protection from crime

### Law enforcement evolved throughout U.S. history

In colonial times law was enforced by constables and a night watch made up of citizens who took turns watching for fires and unruly persons. By the beginning of the 19th century, most citizens who could afford it paid for someone else to take their watch.

The first publicly supported, centralized, consolidated police organization in the United States was established in New York in 1844. It was modeled after the London Metropolitan Police created in 1829 by Sir Robert Peel. Other major American cities adopted the same system soon after. Today, more than 90% of all municipalities with a population of 2,500 or more have their own police forces.

### Rural policing in the United States developed from the functions of sheriffs

The office of sheriff, a direct import from 17th century England, was used primarily in the rural colonies of the South. As elected county officials, sheriffs had detention and political functions along with law enforcement responsibilities.

Originally responsible for large, sparsely populated areas, many sheriffs were faced with big city law enforcement problems because of urban growth after World War II. In some counties the sheriff's office has retained its detention functions, but law enforcement functions are handled by county police departments. In other counties the sheriff's office resembles many big city police departments. There are more than 3,000 sheriff's departments in the United States today.

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

- In 1986 there were 11,743 municipal, 79 county, and 1,819 township general-purpose police agencies in the United States. Together, they employ 533,247 full-time equivalent employees.
- Other State and local law enforcement groups include State agencies such as the 51 State police and highway patrols and some 965 special police agencies including park rangers, harbor police, transit police, and campus security forces. Along with their independent responsibilities, these agencies often support local law enforcement on technical matters such as forensics and identification.
- The Federal Government employs 8% of all law enforcement personnel. Among the more than 50 Federal law enforcement agencies are the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the Bureau of Alcohol, Tobacco, and Firearms (BATF), the Secret Service, and the Postal Inspection Service.

### Urbanization and social change have had great impact on policing

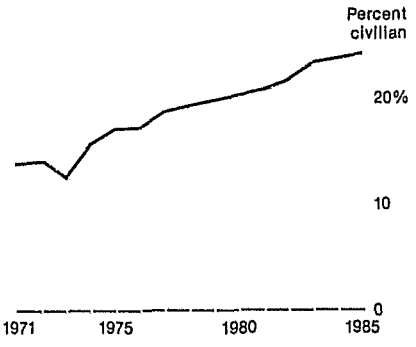
- The dramatic shift in population to urban areas since World War II has had great impact on the demand for police service. The percentage of police officers employed in urban areas rose from 68% in 1977 to 82% in 1982.
- During the recent period of increasing concern about employment discrimination against women and minorities, mostly white, male police departments have added women and minorities to their ranks. The proportion of sworn officers who were women went from 2% in 1971 to almost 7% in 1985. The proportion of police officers and detectives who were black went from 9% in 1983 to 12% in 1985.

### Professionalism and advanced technology have also transformed policing in the past half century

- In 1982, 79% of police officers in a sample survey conducted by the FBI reported that they had done some college work. 23% of the respondents had received baccalaureate degrees.[1] Basic and in-service training is now regarded as indispensable. More than 670 training academies now exist in the United States.[2]
- In 1964 only one major police department was using automated data processing.[3] More recent surveys suggest that virtually all jurisdictions of 50,000 or more population were using computers by 1981.[4]
- In 1922 less than 1,000 patrol cars were in use in the entire country.[5] At that time, only one city had radio-equipped cars. Today, the patrol car has almost replaced the "beat cop" and police communications enable the patrol officer to have access to citizen calls for service as well as data banks on a variety of critical information, including outstanding warrants and stolen property.

**Increased civilian employment has also changed police agencies**

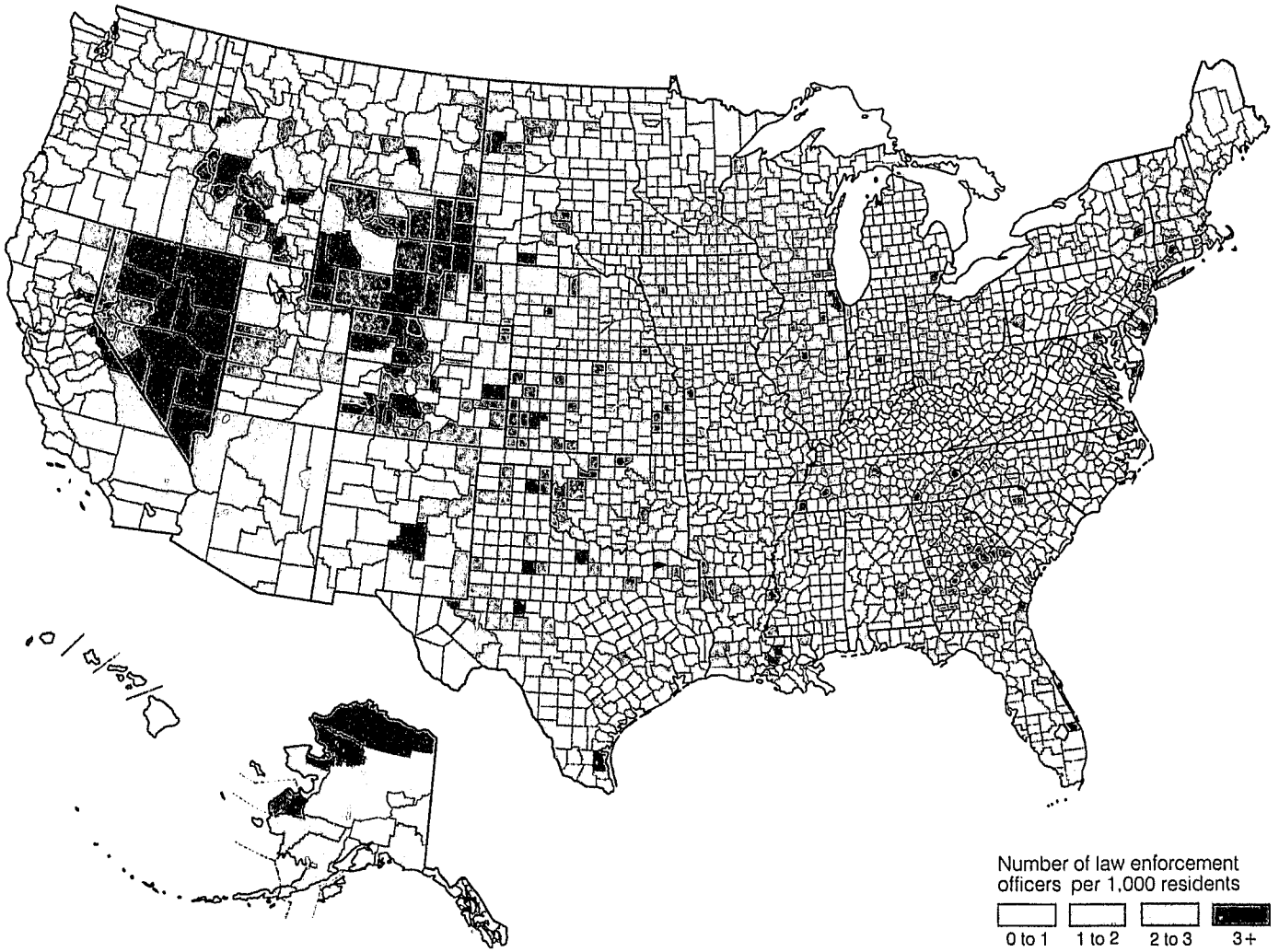
The increase results from the—
- desire to free up sworn officers for patrol duties
- need for technical expertise, such as data processing.




Source: FBI Uniform Crime Reports, 1971-85.

# The demand for law enforcement service varies among jurisdictions

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




Source: *Compendium of public employment*, Census of Governments, U.S. Bureau of the Census, 1982.

### There is no standard level of police protection

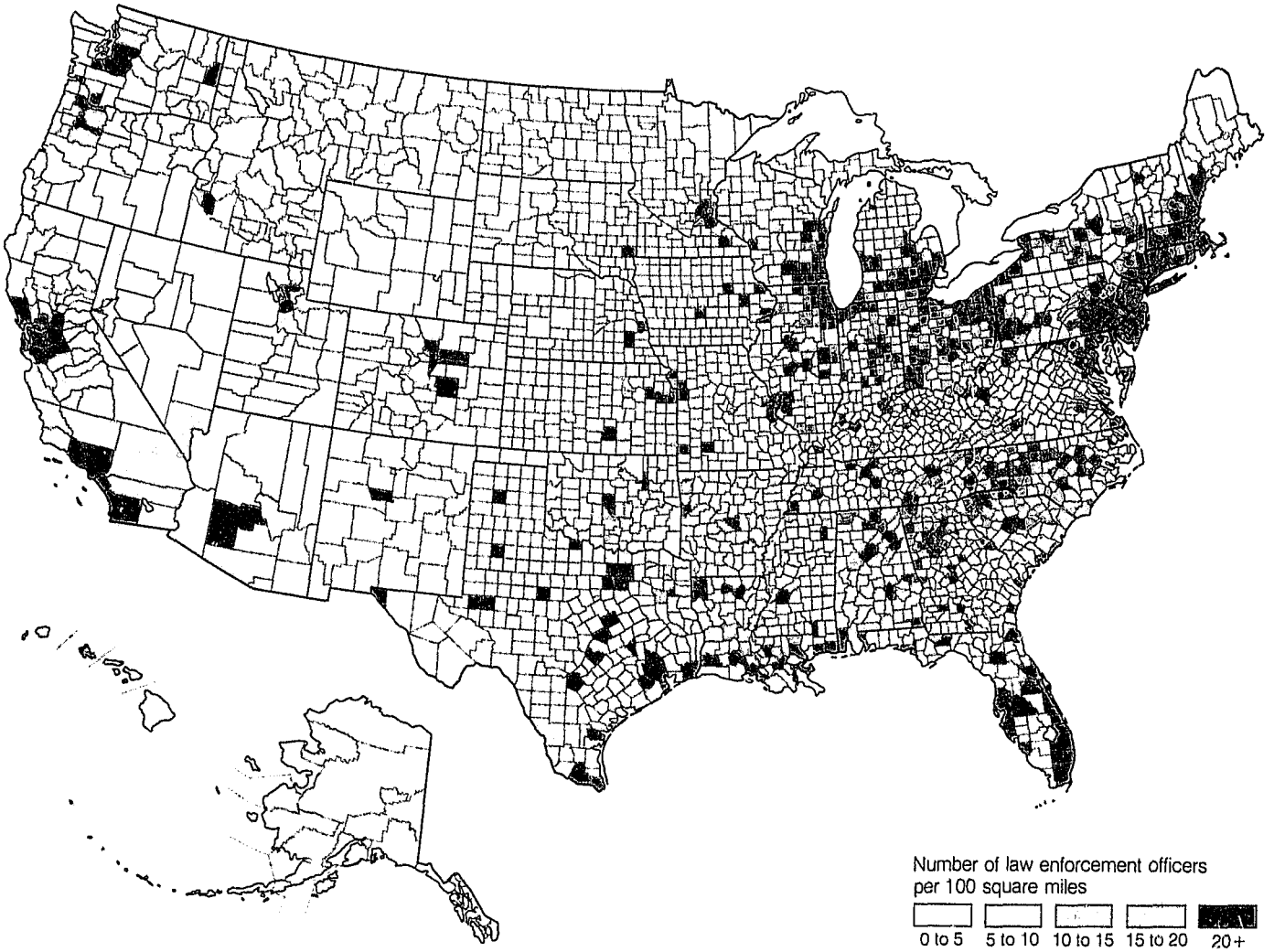
Police employment in the United States ranges from 0 to 55 police per 1,000 residents; however, three-quarters of all counties have between 1 and 3 officers per 1,000 residents. The number of officers per 100 square miles ranges from 0 in some places in Alaska, where State police and Federal authorities enforce the law, to 8,667 in the boroughs of New York City. Yet, some counties that greatly differ in population and land area have similar levels of police protection. For example, San Diego county, with a population of more than 1.8 million in 1980 and Knox County, Tennessee (containing the city of Knoxville), with a population of over 300,000, 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. Yet, researchers disagree about whether there is a 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. Some contend that 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.[6]
- 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 com-

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




Source *Compendium of public employment*, Census of Governments, U.S. Bureau of the Census, 1982

muters or tourists than by the size of the resident population.

- The area of a county also shows little or no relationship to either police employment levels or the number of police per square mile (see map above). Some studies have shown that the strength of the police force is lessened as the enforcement area in square miles goes up.[7]
- One factor that appears to contribute to police strength is density. As the number of residents per square mile increases, there is likely to be an increase in the number of police per capita.

**State and local police employment per capita rose by 63% in 25 years**

Between 1957 and 1982 the number of police officers per 1,000 residents of the United States increased from 1.6 to 2.6. Around the same time, the reported crime rate rose 436% (from 1.1 UCR Index Crimes per 1,000 population in 1960 to 5.9 in 1980).

Between 1957 and 1982 growth in the number of police officers per capita—

- occurred in all regions of the country
- was highest (79%) in the North Central region
- was lowest (43%) in the Northeast, which in 1982 had the most police officers per capita.

The greatest growth occurred between 1962 and 1972 (35%). More recently (1972–82) police employment continued to grow, but at a much slower rate. A recent study found that after rapid growth in the late 1960s and early 1970s, the number of police employees in 88 cities of at least 100,000 inhabitants has leveled off since 1972.

# Private security plays an important role in crime control

### Private security continues to grow

After public police agencies were formed in the mid-1800s, organized private law enforcement developed in response to—
- the lack of public police protection in the expanding West
- problems with interstate jurisdiction
- development of the railroad
- increased industrialization.

The first private security officer, Allan Pinkerton, had a tremendous impact on private security through his work with the railroads and through his establishment of the first private security firm. Owing to the lack of a Federal law enforcement agency, Pinkerton's security agency was hired by the Federal Government in 1861. More recently there has been increased need for private security, particularly to protect defense secrets and defense supplies provided by the private sector. More recent growth in private security is in response to growth of crime and security needs in businesses.

### The private security industry protects private concerns against losses from accidents, natural disasters, or crime

This for-profit industry provides—
- personnel, such as guards, investigators, couriers, bodyguards
- equipment, including safes, locks, lighting, fencing, alarm systems, closed circuit television, smoke detectors, fire extinguishers, and automatic sprinkler systems
- services, including alarm monitoring; employee background checks and drug testing; evacuation planning; computer security planning; and polygraph testing.

Private security is provided either by direct hiring (proprietary security) or by hiring specific services or equipment (contract security).

### 1.1 million people are estimated to be employed in private security

| | |
|---|---|
| **Proprietary security** | **448,979** |
| Guards | 346,326 |
| Store detectives | 20,106 |
| Investigators | 10,000 |
| Other workers | 12,215 |
| Manager and staff | 60,332 |
| **Contract security** | **640,640** |
| Guards and investigators | 541,600 |
| Central alarm station | 24,000 |
| Local alarm | 25,740 |
| Armored car/courier | 26,300 |
| Security equipment | 15,000 |
| Specialized services | 5,000 |
| Security consultants | 3,000 |
| Total | 1,100,000 |

Source: Cunningham and Taylor, *Private security and police in America: The Hallcrest report* (Portland, Oreg : Chaneller Press, 1985).

### The authority of private security personnel varies among States and localities

Many States give private security personnel authority to make felony arrests when there is "reasonable cause" to believe a crime has been committed. Unlike sworn police officers, private personnel are not obligated to tell arrestees of their rights. Private security usually cannot detain suspects or conduct searches without the suspect's consent. In some States laws give private security authority to act as "special police" within a specific jurisdiction such as a plant, a store, or university campus.

### Many private security firms are licensed or regulated

In some jurisdictions both State and local requirements must be met to obtain a license to provide private security.

At the State level—
- 35 States license guard and patrol firms.
- 22 States and the District of Columbia require the registration of guards.
- 37 States license private investigators.
- Alarm companies must obtain a license in 25 States and are regulated in 10 States.
- 8 States license armored car companies and 6 States license couriers.
- In fewer than 12 States, the same agency or board regulates alarm companies and armored car firms, as well as guard, patrol, and investigative firms.
- 3 States have independent regulatory boards; 6 States have such boards in State agencies.
- Private security is regulated by the department of public safety or State police in 15 States, the department of commerce or occupational licensing agency in 7 States, and the department of state in 5 States.

### Public police are often employed by private security firms

Some police officers "moonlight" as private security officers in their off-duty hours. According to the Hallcrest survey, 81% of the surveyed police departments permit moonlighting, but most estimated that 20% or less of their officers are working as private security personnel. Acting like a contract security firm, some police departments provide personnel to private concerns and use the revenue for the department.

### Private security has continued to outnumber public police since the 1950s

Public police protection grew most rapidly in the late 1960s and early 1970s in response to increasing urbanization and crime rates. Public police protection has stabilized in the 1980s, but private security has continued to grow. Further growth of the private security industry is expected, particularly in relation to products using high technology, such as electronic access control and data encryption units for computer security systems.

# Most criminal cases are initiated by arrest

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

Sometimes a suspect is apprehended at the scene; however, extensive investigations may be required to identify a suspect, and, in many cases, no one is identified or apprehended. Law enforcement agencies have wide discretion in determining when to make an arrest, but to arrest a suspect properly they must obtain an arrest warrant from the court prior to arrest or they must be able to show that at the time of arrest they had probable cause to believe that the suspect committed the crime. 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 arrest, but some enter in other ways

A person may be issued a citation by a police officer requiring a court appearance to answer a criminal charge. Generally, a citation creates an 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 case of a minor traffic violation. Alternatively, a person may be issued a summons (a written order by a judicial officer requiring an appearance in court to answer specific charges). A third way of entering the criminal justice system is through indictment by a grand jury. Such indictments usually follow the referral of allegations and evidence by the prosecutor. Occasionally, a grand jury will issue an indictment pursuant to a criminal investigation initiated by the prosecutor. Such an indictment is commonly known as a "grand jury original."

### 11.9 million arrests were reported by law enforcement agencies in 1985

| Rank | Offense | Estimated number of arrests |
|---|---|---|
| 1 | All other offenses (except traffic) | 2,489,200 |
| 2 | Driving under the influence | 1,788,400 |
| *3 | Larceny-theft | 1,348,400 |
| 4 | Drunkenness | 964,800 |
| 5 | Drug abuse violations | 811,400 |
| 6 | Disorderly conduct | 671,700 |
| 7 | Simple assaults | 637,600 |
| 8 | Liquor law violations | 548,600 |
| *9 | Burglary | 443,300 |
| 10 | Fraud | 342,600 |
| *11 | Aggravated assault | 305,390 |
| 12 | Vandalism | 259,600 |
| 13 | Weapons: carrying, possessing, etc. | 180,900 |
| 14 | Runaway | 161,200 |
| *15 | Robbery | 136,870 |
| *16 | Motor vehicle theft | 133,900 |
| 17 | Stolen property: buying, receiving, possessing | 127,100 |
| 18 | Prostitution and commercial vice | 113,800 |
| 19 | Sex offenses (except forcible rape) | 100,600 |
| 20 | Forgery and counterfeiting | 87,600 |
| 21 | Curfew and loitering law violations | 81,500 |
| 22 | Offenses against family and children | 58,800 |
| *23 | Forcible rape | 36,970 |
| 24 | Vagrancy | 33,800 |
| 25 | Gambling | 32,100 |
| *26 | Arson | 19,500 |
| *27 | Murder and nonnegligent manslaughter | 18,330 |
| 28 | Suspicion | 12,900 |
| 29 | Embezzlement | 11,400 |

*UCR Index Crimes.

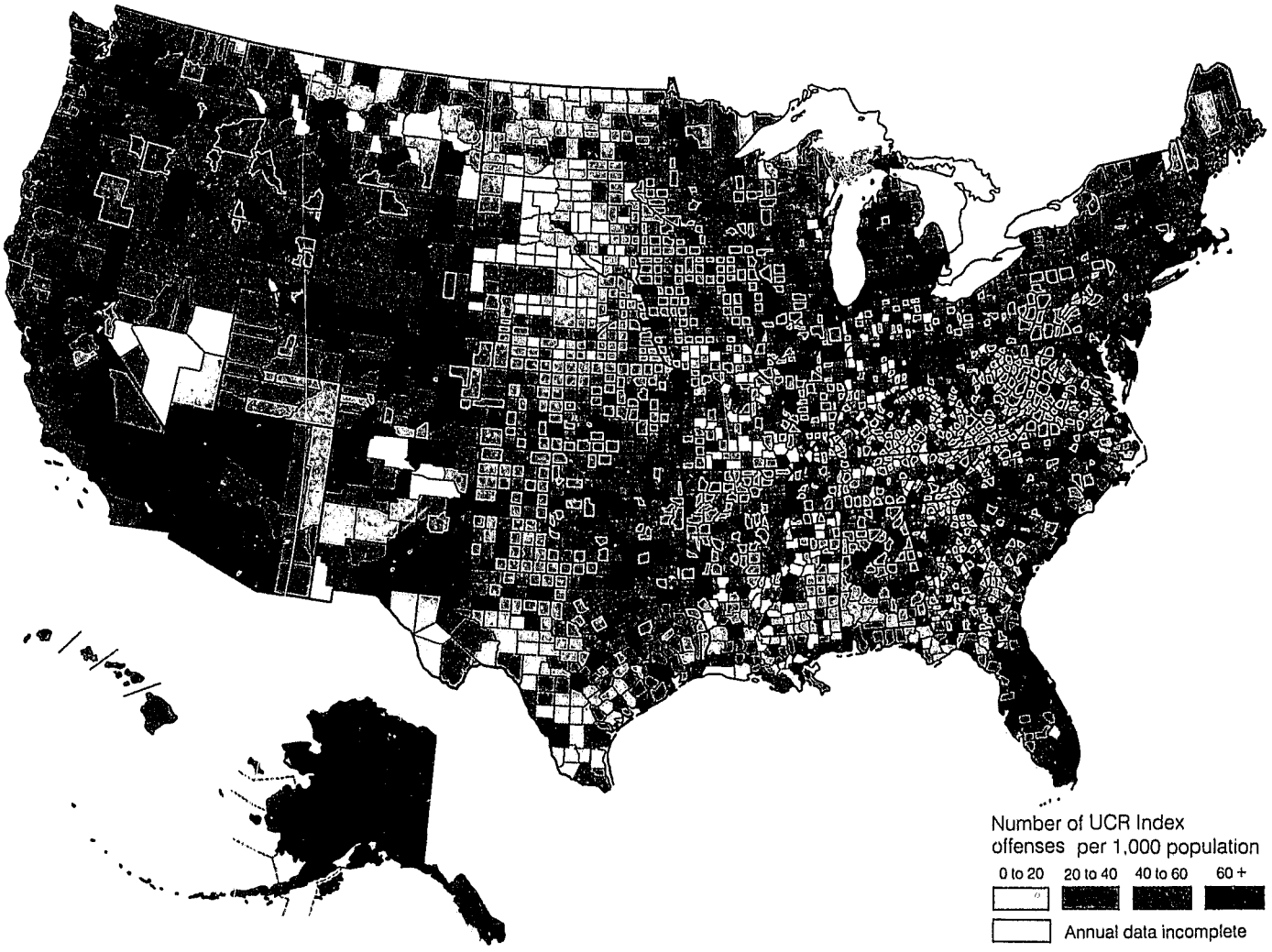
Source: FBI *Crime in the United States, 1985.*

### Only one of every five arrests is for a UCR Index offense

- 21% of all arrests involved UCR Index crimes
- 28% of all arrests are directly related to drinking (driving under the influence, drunkenness, and liquor law violations)
- 7% of all arrests are drug abuse violations including sale, manufacture and/or possession of cocaine, heroin, marijuana, or synthetic and other manufactured drugs.

# For most crimes, no one is apprehended

**For every five offenses reported to police...**




Source: FBI Uniform Crime Reports, 1984

### 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 the death of the suspect or the refusal of the victim to prosecute.

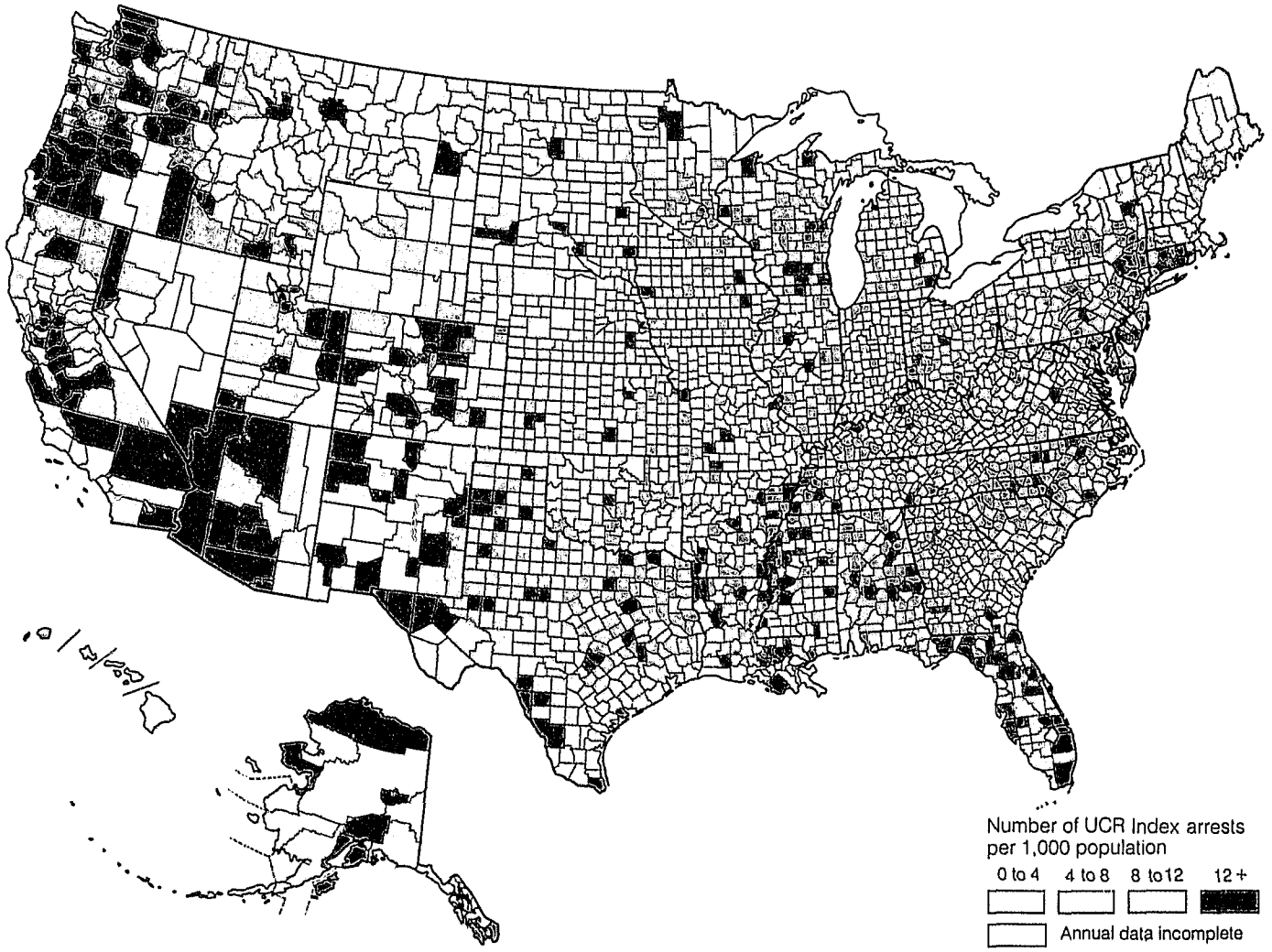
The interpretation of clearance statistics must be approached with caution. For example, a number of criminal offenses may be designated as cleared when a single offender has been apprehended for their commission. However, because the crimes may have involved the participation of multiple suspects, the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

### Most crimes are not cleared by arrest

| | Reported crimes cleared by arrest |
|---|---|
| Murder | 72% |
| Aggravated assault | 62 |
| Forcible rape | 54 |
| Robbery | 25 |
| Larceny-theft | 20 |
| Motor vehicle theft | 15 |
| Burglary | 14 |
| All UCR Index Crimes | 21% |

Source: FBI *Crime in the United States, 1985*

**. . .there is approximately one arrest**




Source: FBI Uniform Crime Reports, 1984

**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 48% vs. the 18% clearance rate for property crimes (burglary, larceny, motor vehicle theft). This wide variation is largely because—

- victims often confront perpetrators in violent crimes
- witnesses are more frequently available in connection with violent crimes than with property crimes
- intensive investigative efforts are used 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 in urban or resort areas, which also have high crime rates. Counties with low arrest rates do not display a consistent pattern, which is probably due in part to arrest reporting practices.

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# The prosecutor provides the link between the law enforcement and adjudicatory processes

### The American prosecutor is unique in the world

First, the American prosecutor is a public prosecutor representing the people in matters of criminal law. Historically, 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 to the voters.

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

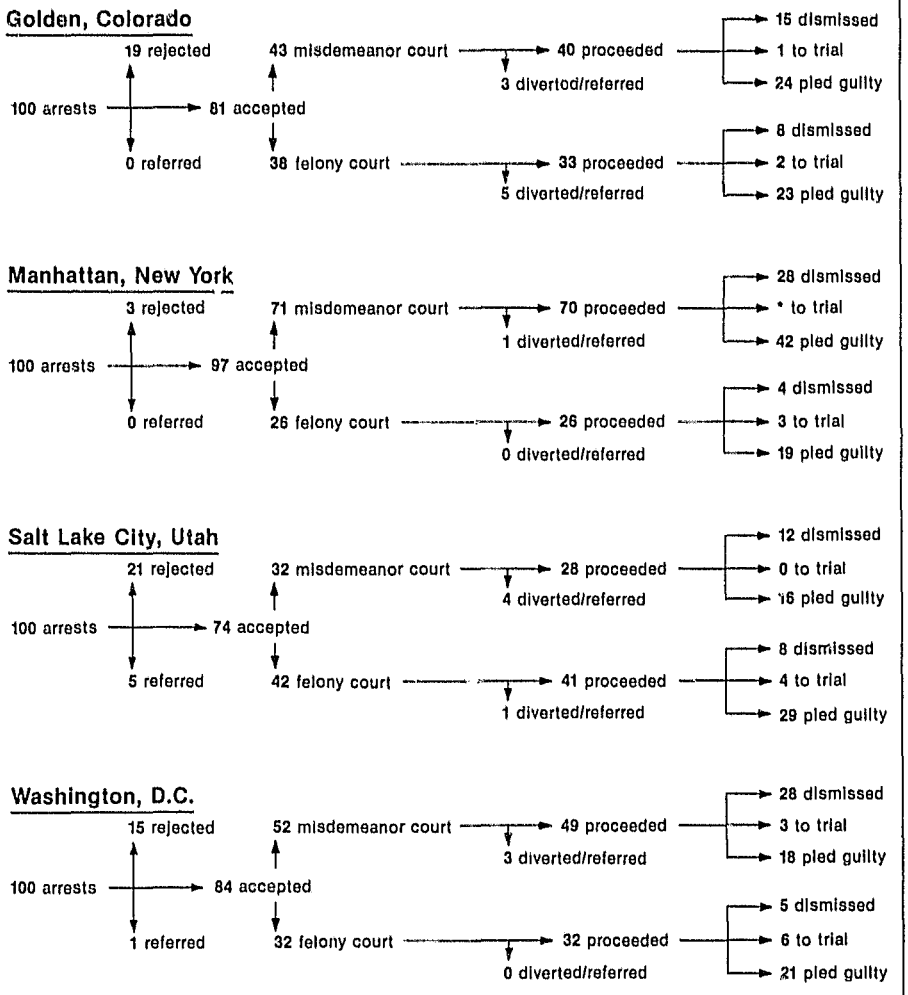
After the police arrest a suspect, the prosecutor coordinates the government's response to crime—from the initial screening, when the prosecutor decides whether or not to press charges, through trial. In some instances, it continues through sentencing with the presentation of sentencing recommendations.

Prosecutors have been accorded much discretion in carrying out their responsibilities. They make many of the decisions that determine whether a case will proceed through the criminal justice process.

### Prosecution is predominantly a State and local function

Prosecuting officials include State, district, county, prosecuting, and commonwealth attorneys; corporation counsels; circuit solicitors; attorneys general; and U.S. attorneys. Prosecution is carried out by more than 8,000 State, county, municipal, and township prosecution agencies.[1] 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. In some areas police share the charging responsibility of local prosecutors. Prosecutors in urban jurisdictions often have offices staffed by many full-time assistants. Each State has an office of the attorney general, which has jurisdiction over all matters involving State law but generally, unless specifically requested, is not involved in local prosecution. Federal prosecution is the responsibility of 93 U.S. attorneys who are appointed by the President subject to confirmation by the Senate.

### Differences in how prosecutors handle felony cases can be seen in 4 jurisdictions




*Less than .5%.

Source: Barbara Boland with Ronald Sones, INSLAW, Inc., *The prosecution of felony arrests, 1981*, BJS, 1986.

### The decision to charge is generally a function of the prosecutor

Results of a 1981 survey of police and prosecution agencies in localities of over 100,000 indicate that police file initial charges in half the jurisdictions surveyed. This arrangement, sometimes referred to as the police court, is not commonly found in the larger urban areas that account for most of the UCR Index crime. Usually, once an arrest is made and the case is referred to the prosecutor, most prosecutors screen cases to see if they merit prosecution. The prosecutor can refuse to prosecute, for example, because of insufficient evidence. The decision to charge is not usually reviewable by any other branch of government.

### Some prosecutors accept almost all cases for prosecution; others screen out many cases

Some prosecutors have screening units designed to reject cases at the earliest possible point. Others tend to accept most arrests, more of which are dismissed by judges later in the adjudication process. Most prosecutor offices fall somewhere between these two extremes.

Arrest disposition patterns in 16 jurisdictions range from 0 to 47% of arrests rejected for prosecution. Jurisdictions with high rejection rates generally were found to have lower rates of dismissal at later stages of the criminal process. Conversely, jurisdictions that accepted most or all arrests usually had high dismissal rates.

### Prosecutorial screening practices are of several distinct types

Several studies conclude that screening decisions consider—
- evidentiary factors
- the views of the prosecutor on key criminal justice issues
- the political and social environment in which the prosecutor functions
- the resource constraints and organization of prosecutorial operations.

Jacoby's study confirmed the presence of at least three policies that affect the screening decision:
- Legal sufficiency—an arrest is accepted for prosecution if, on routine review of the arrest, the minimum legal elements of a case are present.
- System efficiency—arrests are disposed as quickly as possible by the fastest means possible, which are rejections, dismissals, and pleas.
- Trial sufficiency—the prosecutor accepts only those arrests for which, in his or her view, there is sufficient evidence to convict in court.

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

According to Jacoby, the accusatory process usually follows one of four paths:
- arrest to preliminary hearing for bindover to grand jury for indictment
- arrest to grand jury for indictment
- arrest to preliminary hearing to a bill of information
- a combination of the above at the prosecutor's discretion.

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

### The preliminary hearing is used in some jurisdictions to determine probable cause

The purpose of the hearing is to see if there is probable cause to believe a crime has been committed and that the defendant committed it. Evidence may be presented by both the prosecution and the defense. On a finding of probable cause the defendant is held to answer in the next stage of a felony proceeding.

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

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

### Some States do not require a grand jury indictment to initiate prosecutions

| Grand jury indictment required | Grand jury indictment optional |
|---|---|
| **All crimes** | Arizona |
| New Jersey | Arkansas |
| South Carolina | California |
| Tennessee | Colorado |
| Virginia | Idaho |
| | Illinois |
| **All felonies** | Indiana |
| Alabama | Iowa |
| Alaska | Kansas |
| Delaware | Maryland |
| District of Columbia | Michigan |
| Georgia | Missouri |
| Hawaii | Montana |
| Kentucky | Nebraska |
| Maine | Nevada |
| Mississippi | New Mexico |
| New Hampshire | North Dakota |
| New York | Oklahoma |
| North Carolina | Oregon |
| Ohio | South Dakota |
| Texas | Utah |
| West Virginia | Vermont |
| | Washington |
| **Capital crimes only** | Wisconsin |
| Connecticut | Wyoming |
| Florida | |
| Louisiana | **Grand jury lacks authority to indict** |
| Massachusetts | |
| Minnesota | |
| Rhode Island | Pennsylvania |

Note. With the exception of capital cases a defendant can always waive the right to an indictment. Thus, the requirement for an indictment to initiate prosecution exists only in the absence of a waiver.

Source: Deborah Day Emerson, *Grand jury reform: A review of key issues*, National Institute of Justice, U.S. Department of Justice, January 1983.

### The secrecy of the grand jury is a matter of controversy

Critics of the grand jury process suggest it denies due process and equal protection under the law and exists only to serve the prosecutor. Recent criticisms have fostered a number of reforms requiring due process protections for persons under investigation and for witnesses; requiring improvements in the quality and quantity of evidence presented; and opening the proceeding to outside review. While there is much variation in the nature and implementation of reforms, 15 States have enacted laws affording the right to counsel, and 10 States require evidentiary standards approaching the requirements imposed at trial.

# Why are some cases rejected or dismissed?

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

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

### What are the most common reasons for rejection or dismissal?

Many criminal cases are rejected or dismissed because of—

- **insufficient evidence** that results from a failure to find sufficient physical evidence that links the defendant to the offense
- **witness problems** that arise, for example, when a witness fails to appear, gives unclear or inconsistent statements, is reluctant to testify, is unsure of the identity of the offender or where a prior relationship may exist between the victim/witness and offender
- **the interests of justice,** wherein the prosecutor decides not to prosecute certain types of offenses, particularly those that violate the letter but not the spirit of the law (for example, offenses involving insignificant amounts of property damage)
- **due process problems** that involve violations of the Constitutional requirements for seizing evidence and for questioning the accused
- **a plea on another case,** for example, when the accused is charged in several cases and the prosecutor agrees to drop one or more of the cases in exchange for a plea of guilty on another case
- **pretrial diversion** that occurs when the prosecutor and the court agree to drop charges when the accused successfully meets the conditions for diversion, such as completion of a treatment program
- **referral for other prosecution,** such as when there are other offenses, perhaps of a more serious nature, in a different jurisdiction, or deferral to Federal prosecution.

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

| Jurisdiction | Declined cases* | Percent of felony arrests declined for prosecution because of — Insufficient evidence | Witness problems | Due process problems | Interest of justice | Plea on another case | Referral to diversion | Referral for other prosecution | Other |
|---|---|---|---|---|---|---|---|---|---|
| Golden, Colo. | 41 | 59% | 27% | 2% | 5% | 2% | 2% | 2% | 0% |
| Greeley, Colo. | 235 | 52 | 7 | 0 | 38 | 0 | 1 | 2 | 0 |
| Manhattan, N.Y. | 995 | 61 | 23 | 5 | 4 | 0 | -- | 3 | 4 |
| New Orleans, La. | 4,114 | 38 | 30 | 12 | 8 | 0 | 7 | 4 | -- |
| Salt Lake City, Utah | 973 | 58 | 12 | 1 | 8 | 1 | 2 | 19 | -- |
| San Diego, Calif. | 4,940 | 54 | 15 | 6 | 9 | 1 | 0 | 9 | 7 |
| Washington, D.C. | 1,535 | 30 | 24 | -- | 13 | 0 | -- | 3 | 29 |

*Excludes cases for which reasons are unknown
-- Insufficient data to calculate

Source: Barbara Boland with Ronald Sones, INSLAW, Inc., *Prosecution of felony arrests, 1981*, BJS, 1986

### Guilty pleas on other charges are a major cause of dismissals

| Jurisdiction | Dismissed cases* | Percent of cases dismissed because of -- Insufficient evidence | Witness problems | Due process problems | Interest of justice | Plea on another case | Referral to diversion | Referral for other prosecution | Other |
|---|---|---|---|---|---|---|---|---|---|
| Brighton, Colo. | 443 | 16% | 7% | 1% | 10% | 43% | 21% | 2% | 0% |
| Colorado Springs, Colo. | 675 | 13 | 11 | 2 | 3 | 40 | 16 | 14 | 0 |
| Fort Collins, Colo. | 257 | 4 | 5 | 1 | 5 | 41 | 27 | 15 | 0 |
| Golden, Colo. | 709 | 14 | 14 | 1 | 7 | 38 | 17 | 9 | 0 |
| Greeley, Colo. | 207 | 12 | 25 | 1 | 4 | 18 | 20 | 20 | 0 |
| Indianapolis, Ind. | 639 | 27 | 15 | 1 | 33 | 21 | -- | 1 | 1 |
| Los Angeles, Calif. | 8,351 | 29 | 16 | 2 | 17 | 2 | 10 | 10 | 14 |
| Louisville, Ky. | 272 | 11 | 10 | 3 | 28 | 5 | 15 | 3 | 24 |
| Manhattan, N.Y. | 10,233 | 26 | 24 | 1 | 17 | 4 | 0 | 1 | 26 |
| New Orleans, La. | 429 | 22 | 16 | 20 | 15 | 6 | 7 | 1 | 14 |
| Portland, Ore. | 906 | 15 | 22 | -- | 6 | 23 | 7 | 13 | 13 |
| Pueblo, Colo. | 146 | 16 | 11 | 2 | 7 | 43 | 14 | 6 | 0 |
| St. Louis, Mo. | 1,097 | 22 | 20 | 9 | 4 | 10 | -- | 1 | 32 |
| Salt Lake City, Utah | 917 | 16 | 17 | 1 | 2 | 27 | 9 | 9 | 19 |
| San Diego, Calif. | 2,630 | 25 | 11 | 3 | 7 | 18 | 10 | 6 | 20 |
| Washington, D.C. | 3,656 | 21 | 16 | 1 | 4 | 9 | 7 | 1 | 41 |

Note: Dismissed cases in this table include diversions
*Excludes cases for which reasons are unknown
--Insufficient data to calculate

Source: Barbara Boland with Ronald Sones, INSLAW, Inc., *Prosecution of felony arrests, 1981*, BJS, 1986

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

Williams found that problems with the complaining witness accounted for 61% of the refusals to prosecute violent crimes by nonstrangers and 54% of the dismissals.[2] Conviction rates are commensurately lower in such cases involving family acquaintances; Forst showed that in New Orleans the conviction rate for crimes by strangers was 48%, but only 30% for crimes by friends or acquaintances and 19% for crimes by family members.[3]

### 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. Both the police and prosecutors drop cases based on what they find is improperly obtained evidence.

In five jurisdictions studied, Boland found that drug cases were more likely than other felonies to be rejected by prosecutors because of due process problems.

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

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

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

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

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

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

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

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

**Assigned counsel systems continue to dominate defender systems**

About 60% of U.S. counties used assigned counsel in 1983 (down from 72% in 1973); 34%, public defenders; and 6%, contract attorneys.

**Who defends indigents?**

| | |
|---|---|
| • **Public defender programs** are public or private nonprofit organizations with full- or part-time salaried staff. Within the public defender classification, there are two categories—statewide and local. Under statewide systems, one person, designated by statutes of the State as the public defender, is charged with developing and maintaining a system of representation for each county in the State. Often a governing board shares responsibility for program operation. By contrast, most local public defenders operate autonomously and do not have a central administrator. | Local public defenders operate autonomously in 32 States and the District of Columbia, and 15 States have a State-administered system. Public defender systems are the dominant form in 43 of the 50 largest counties and, overall, serve 68% of the Nation's population. |
| • **Assigned counsel systems** involve the appointment by the courts of private attorneys as needed from a list of available attorneys. There are two main types of assigned counsel systems: *Ad hoc assigned counsel systems* in which individual private attorneys are appointed by individual judges and provide representation on a case-by-case basis. *Coordinated systems* have an administrator who oversees the appointment of counsel and develops a set of standards and guidelines for program administration; coordinated systems are sometimes indistinguishable from public defender programs. | Ad hoc systems represent about 75% of all assigned counsel programs. The others are part of a coordinated system of indigent defense. Though such counsel systems operate in almost two-thirds of the counties, they predominate in small counties with fewer than 50,000 residents. |
| • **Contract systems** involve government contracting with individual attorneys, bar associations, or private law firms to provide services for a specified dollar amount. County agencies are usually responsible for the award of defender services contracts, and they are now frequently awarded to individual practitioners as opposed to law firms or other organized groups. | Contract systems are a relatively new way to provide defense services. They are found in small counties (less than 50,000) and very large ones. They vary considerably in organization, funding, and size. In about a fourth of the counties reporting them, they serve as an overflow for public defender offices and also represent codefendants in cases of conflict of interest. |

Source. Robert L. Spangenberg et al. of Abt Associates, Inc., BJS *National criminal defense systems study*, October 1986

**Each State adopts its own approach to providing counsel for indigents**

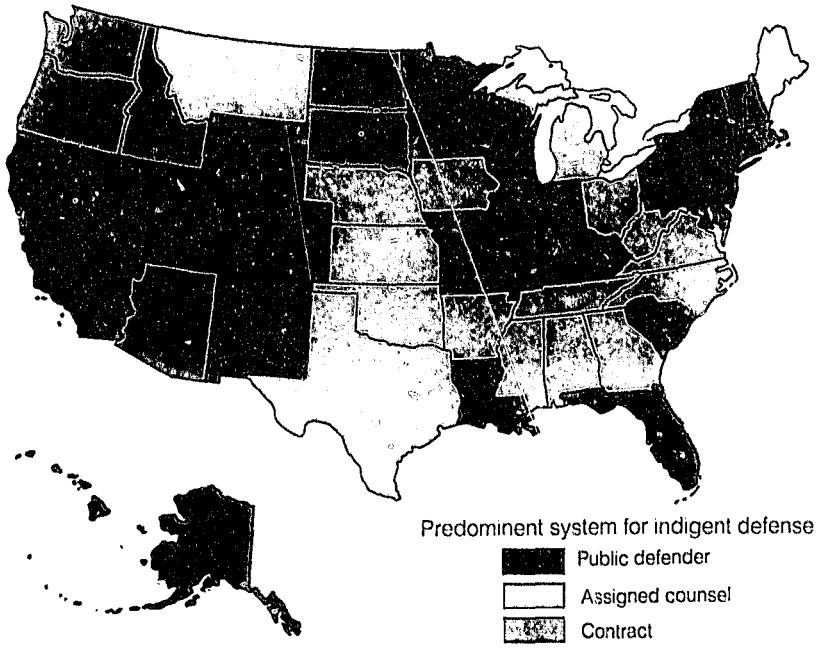
Among the States—
- Some provide counsel to all indigents charged with a misdemeanor; other States provide counsel only to those for whom a jail or prison term is possible.
- Some assess the cost of an attorney against the defendant and collect for it in installments after the trial; others provide counsel completely free of charge.

These options are often used in combination.

**Standards and procedures vary for determining indigency**

Estimates of indigency rates from the national Indigent Defense Survey indicate that more than 40% of all defendants charged with felonies are classified as indigent even though the States use different levels of income to determine indigency. Indigency rates for defendants charged with a misdemeanor are much lower because the eligibility criteria for misdemeanants are more restrictive in many States.

**What type of indigent defense delivery system is used by the majority of counties in each State?**




Source: Robert L. Spangenberg et al. of Abt Associates, Inc., BJS *National criminal defense systems study*, October 1986, updated by the Spangenberg Group, March 1987

**Organization and funding of indigent defense programs also vary among the States**

Indigent defense—
- is completely funded in 18 States and the District of Columbia
- partially funded in 22 States
- funded by the county, sometimes assisted by municipalities, the Federal Government, and private grants in 11 States.

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 rely on judicial districts.

**Case assignments to attorneys representing indigents usually are made within 48 hours of arrest**

Traditionally, in many jurisdictions attorneys who provide indigent defense services were not appointed until formal arraignment. The time between arrest and arraignment may exceed 30 days in some counties. A third of all counties surveyed in the last national survey of public defense services reported that counsel was appointed within 1 day of arrest. More than half of all sample counties (58%) reported appointment within 48 hours of arrest.

Early representation is most likely to occur in counties serviced by public defenders; 39% of all public defender counties reported that representation was provided within 24 hours; 33% of counties served by assigned counsel and 12% of counties served by contract systems reported similar representation.

# Most defendants are eligible for release pending trial

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

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

### The modern bail reform movement resulted in new release options

The movement was based on the belief that detaining the poor because they could not afford bail violated their right against excessive bail. In the early 1960s, seeking alternatives to the commercial bail bondsman, the Vera Institute created the Manhattan bail project, which showed that defendants with community ties could be released without bail and still return for trial at the same or better rates as those on money bail.

More than 300 pretrial service programs now operate throughout the Nation.[4] These programs are responsible for defining and screening a target population of offenders who can be released before trial as a means of preventing unnecessary detention of persons unlikely to flee before trial and/or to commit other crimes while on release.

After the Federal Bail Reform Act of 1966 many States passed laws that limited the role of bondsmen. Five States (Kentucky, Oregon, Wisconsin, Nebraska, and Illinois) have eliminated bail bonding for profit. Kentucky dealt with both bondsmen and release programs in 1976 when it banned bondsmen and set up a statewide system of pretrial services agencies.

### Both financial bonds and alternative release options are used today

*Financial bond*

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

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

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

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

*Alternative release options*

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

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

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

**Citation release**—Arrestees are released pending their first court appearance on a written order issued by law enforcement personnel.

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

A 1976 study in 20 cities found that the release rate had risen from 48% in 1962 to 67% in 1971.[5] More recently, Toborg found that 85% of the defendants in her eight-site sample were released prior to trial.

### Most unconvicted jail inmates have had bail set

Of 88,120 unconvicted jail inmates surveyed in 1983, 87% had bail set and 13% had not had bail set.

Of jail inmates for whom bail had been set, 94% could not afford the bond that had been set. They were mainly probationers or parolees whose release had been revoked or persons charged with offenses for which bail is not permitted.

### Most defendants are not detained prior to trial

In Toborg's study, 85% of defendants in her eight-site sample were released before trial. Some jurisdictions are much less likely than others to release defendants on nonfinancial 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 Brosi, the detention rate in Salt Lake City dropped from 41% at arraignment to between 10% and 12% before trial.

Data from the Federal system show similar results in that less than 18% of all defendants charged are detained prior to trial.

### How many released defendants fail to appear in court?

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

### How many of those released are rearrested prior to trial?

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

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

A study of pretrial misconduct in the Federal system indicates a relationship between the length of time on bail and the likelihood of a rearrest, a failure to appear for a court date, and/or a violation of release conditions. The probability of misconduct was 10% for defendants who were on bail for 90 days, 14% for defendants on bail for 180 days, and 17% for defendants who were free for 270 days.

### 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. In 1982 voters in five States (Arizona, California, Colorado, Florida, and Illinois) approved constitutional amendments limiting the right to bail to assure community safety in pretrial release. Iowa passed a public danger law in 1983 and in 1984 the Federal Bail Reform Act was passed. As of 1984, 32 States, the District of Columbia, and the Federal Government permitted judges to consider danger to the community when setting bail or other pretrial release conditions. The use of these provisions varies widely from State to State.

### The enactment of State public danger laws does not guarantee their implementation

A recent study of pretrial crime in four jurisdictions shows that pretrial hearings for defendants charged with rape, robbery, or another felony while on bail resulted more often in the setting of money bail than the use of any other danger law provisions. Pretrial rearrest rates for these defendants ranged from 9% to 41%.

Danger laws in the Federal justice system appear to be invoked more readily than in the States. Of the close to 1,500 detention hearings held in the first 12 months after passage of bail reform laws in the Crime Control Act of 1984, 82% resulted in preventive detention.

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

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

Source: Elizabeth Gaynes, *Typology of State laws which permit consideration of danger in the pretrial release decision* (Washington: Pretrial Services Resource Center, 1982) and updated from *Public danger as a factor in pretrial release: A comparative analysis of State laws*, Barbara Gottlieb, National Institute of Justice, July 1985.

# Cases involving juveniles are handled much differently than adult cases

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

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

While the juvenile courts and the handling of juveniles remain separated from criminal processing, the concepts on which they are based have changed. Today, juvenile courts usually consider an element of personal responsibility when making decisions about juvenile offenders.

Juvenile courts may retain jurisdiction until a juvenile becomes legally an adult (at age 21 or less in most States). This limit sets a cap on the length of time juveniles may be institutionalized that is often much less than that for adults who commit similar offenses. Some jurisdictions transfer the cases of juveniles accused of serious offenses or with long criminal histories to criminal court so that the length of the sanction cannot be abridged.

### Juvenile courts are very different from criminal courts

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

- accept "petitions" of "delinquency" rather than criminal complaints
- conduct "hearings," not trials
- "adjudicate" juveniles to be "delinquent" rather than find them guilty of a crime
- order one of a number of available "dispositions" rather than sentences.

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

### Most referrals to juvenile court are for property crimes, but 17% are for status offenses

Reasons for referrals to juvenile courts

| | | |
|---|---|---|
| 11% | **Crimes against persons** | |
| | Criminal homicide | 1% |
| | Forcible rape | 2 |
| | Robbery | 17 |
| | Aggravated assault | 20 |
| | Simple assault | 59 |
| | | 100% |
| 46% | **Crimes against property** | |
| | Burglary | 25% |
| | Larceny | 47 |
| | Motor vehicle theft | 5 |
| | Arson | 1 |
| | Vandalism and trespassing | 19 |
| | Stolen property offenses | 3 |
| | | 100% |
| 5% | **Drug offenses** | 100% |
| 21% | **Offenses against public order** | |
| | Weapons offenses | 6% |
| | Sex offenses | 6 |
| | Drunkenness and disorderly conduct | 23 |
| | Contempt, probation, and parole violations | 21 |
| | Other | 44 |
| | | 100% |
| 17% | **Status offenses** | |
| | Running away | 28% |
| | Truancy and curfew violations | 21 |
| | Ungovernability | 28 |
| | Liquor violations | 23 |
| | | 100% |
| 100% | Total all offenses | |

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

Source: *Delinquency in the United States 1983*. National Center for Juvenile Justice, July 1986.

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

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

Law enforcement agencies refer three-quarters of the juvenile cases, and they are most likely to be the referral source in cases involving curfew violations, drug offenses, and property crimes. Other referral sources are most likely in cases involving status offenses (truancy, ungovernability, and running away).

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

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

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

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

### Initial juvenile detention decisions are usually made by the intake staff

Prior to holding an adjudicatory hearing, juveniles may be released in the custody of their parents, put in protective custody (usually in foster homes or runaway shelters), or admitted to detention facilities. In most States juveniles are not eligible for bail, unlike adults.

### Relatively few juveniles are detained prior to court appearance

One juvenile case in five involved secure detention prior to adjudication in 1983. Status offenders were least likely to be detained. The proportion of status offenders detained has declined from 40% in 1975 to 11% in 1983.

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

### Age at which criminal courts gain jurisdiction of young offenders ranges from 16 to 19

| Age of offender when under criminal court jurisdiction | States |
|---|---|
| 16 years | Connecticut, New York, North Carolina |
| 17 | Georgia, Illinois, Louisiana, Massachusetts, Missouri, South Carolina, Texas |
| 18 | Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Federal districts |
| 19 | Wyoming |

Source: "Upper age of juvenile court jurisdiction statutes analysis," Linda A. Szymanski, National Center for Juvenile Justice, March 1987.

### All States allow juveniles to be tried as adults in criminal courts

Juveniles are referred to criminal courts in one of three ways—

- **Concurrent jurisdiction**—the prosecutor has the discretion of filing charges for certain offenses in either juvenile or criminal courts
- **Excluded offenses**—the legislature excludes from juvenile court jurisdiction certain offenses usually either very minor, such as traffic or fishing violations, or very serious, such as murder or rape
- **Judicial waiver**—the juvenile court waives its jurisdiction and transfers the case to criminal court (the procedure is also known as "binding over" or "certifying" juvenile cases to criminal courts).

### 12 States authorize prosecutors to file cases in 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. Four States provide concurrent jurisdiction over juveniles charged with traffic violations. Georgia, Nebraska, and Wyoming have concurrent criminal jurisdiction statutes.

### As of 1987, 36 States excluded certain offenses from juvenile court jurisdictions

Eighteen States excluded only traffic, watercraft, fish, or game violations. Another 13 States excluded serious offenses; the other 5 excluded serious offenses and some minor offenses. The serious offenses most often excluded are capital crimes such as murder, but several States exclude juveniles previously convicted in criminal courts.

### 48 States, the District of Columbia, and the Federal Government have judicial waiver provisions

| Youngest age at which juvenile may be transferred to criminal court by judicial waiver | States |
|---|---|
| No specific age | Alaska, Arizona, Arkansas, Delaware, Florida, Indiana, Kentucky, Maine, Maryland, New Hampshire, New Jersey, Oklahoma, South Dakota, West Virginia, Wyoming, Federal districts |
| 10 years | Vermont |
| 12 | Montana |
| 13 | Georgia, Illinois, Mississippi |
| 14 | Alabama, Colorado, Connecticut, Idaho, Iowa, Massachusetts, Minnesota, Missouri, North Carolina, North Dakota, Pennsylvania, South Carolina, Tennessee, Utah |
| 15 | District of Columbia, Louisiana, Michigan, New Mexico, Ohio, Oregon, Texas, Virginia |
| 16 | California, Hawaii, Kansas, Nevada, Rhode Island, Washington, Wisconsin |

Note: Many judicial waiver statutes also specify offenses that are waivable. This chart lists the States by the youngest age for which judicial waiver may be sought without regard to offense.

Source: "Waiver/transfer/certification of juveniles to criminal court. Age restrictions: Crime restrictions," Linda A. Szymanski, National Center for Juvenile Justice, February 1987.

### A small proportion of juvenile cases are referred to criminal court

Recent studies found that most juveniles referred to criminal court were age 17 and were charged with property offenses. However, juveniles charged with violent offenses or with serious prior offense histories were more likely to be adjudicated in criminal court. Waiver of juveniles to criminal court is less likely where court jurisdiction extends for several years beyond the juvenile's 18th birthday.

### Juveniles tried as adults have a very high conviction rate, but most receive sentences of probation or fines

More than 90% of the judicial waiver or concurrent jurisdiction cases in Hamparian's study resulted in guilty verdicts, and more than half the convictions led to fines or probation. Sentences to probation often occur because the criminal courts view juveniles as first offenders regardless of their prior juvenile record. However, serious violent juvenile offenders are more likely to be institutionalized. In a study of 12 jurisdictions with Habitual Serious or Violent Juvenile Offender Programs, 63% of those convicted were sentenced to prison and 14% to jail. The average prison sentence was 6.8 years.

### Correctional activities for juveniles tried as adults in most States occur within the criminal justice system

In 1978, in more than half the States, youths convicted as adults and given an incarcerative sentence could only be placed in adult corrections facilities. In 18 jurisdictions, youths convicted as adults could be placed in either adult or juvenile corrections facilities, but sometimes this discretion was limited by special circumstances. Only 6 jurisdictions restricted placements of juveniles convicted as adults to State juvenile corrections institutions. Generally, youths sentenced in this manner will be transferred to adult facilities to serve the remainder of their sentence on reaching majority.

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# The courts participate in and supervise the judicial process

### The courts have several functions in addition to deciding whether laws have been violated

The courts—
- settle disputes between legal entities (persons, corporations, etc.)
- invoke sanctions against law violations
- decide whether acts of the legislative and executive branches are constitutional.

In deciding about violations of the law the courts must apply the law to the facts of each case. The courts affect policy in deciding individual cases by handing down decisions about how the laws should be interpreted and carried out. Decisions of the appellate courts are the ones most likely to have policy impact.

### Using an arm of the State to settle disputes is a relatively new concept

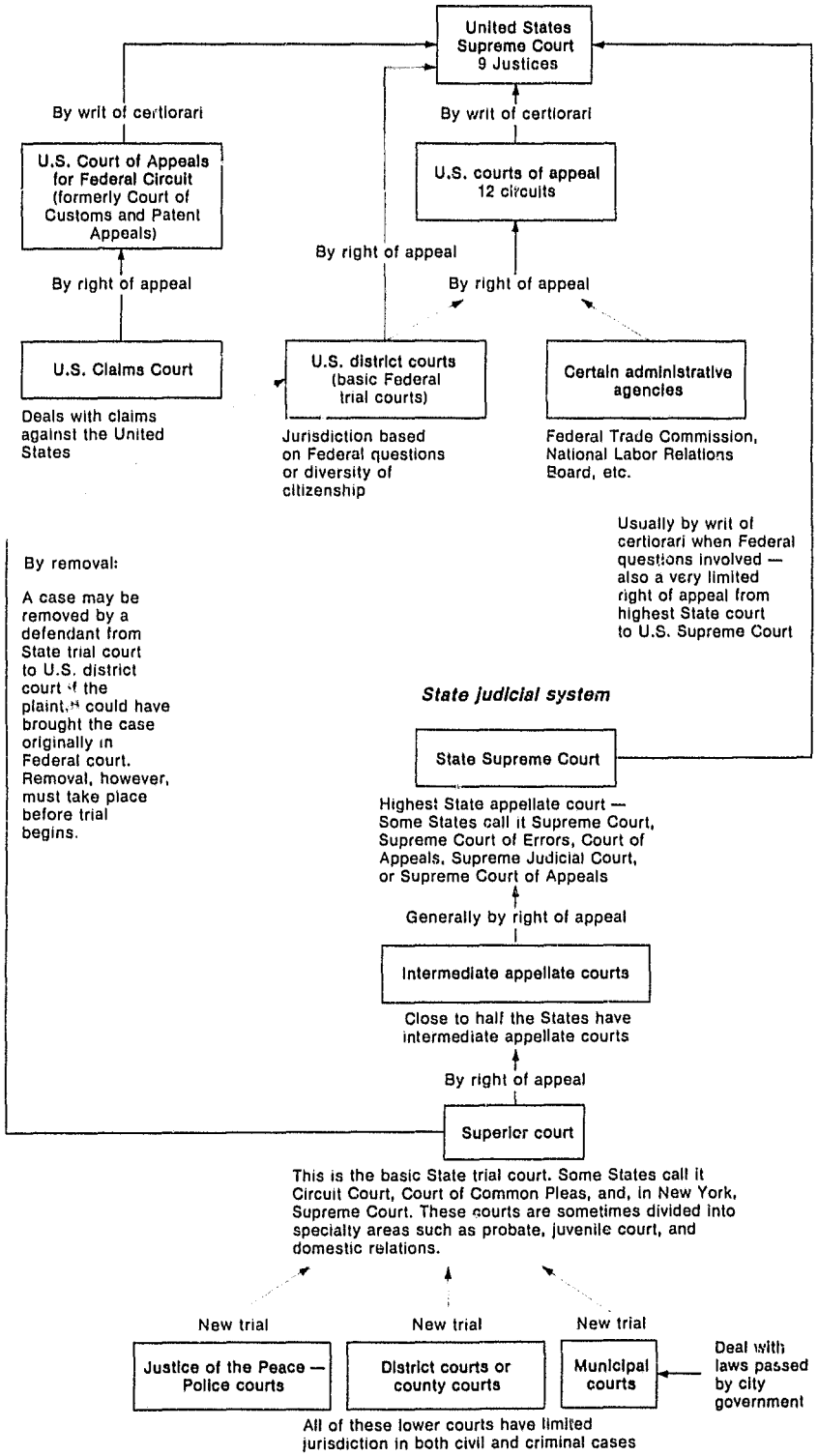
Until the Middle Ages disputes between individuals, clans, and families, including those involving criminal acts, were handled privately. Over time, acts such as murder, rape, robbery, larceny, and fraud came to be regarded as crimes against the entire community, and the State intervened on its behalf. Today in the United States the courts handle both civil actions (disputes between individuals or 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 co-equal to the executive and the legislative branches. Insulation of the courts from political pressure is attempted through—
- the separation of powers doctrine
- established tenure for judges
- legislative safeguards
- the canons of legal ethics.

Courts are without the power of enforcement. The executive branch must enforce their decisions. Furthermore, the courts must request that the legislature provide them with the resources needed to conduct their business.

### Courts at various levels of government interact in many ways



**Each State has a system of trial and appeals courts**

Generally, State court systems are organized according to three basic levels of jurisdiction:

• **Courts of limited and special jurisdiction** are authorized to hear only less serious cases (misdemeanors and/or civil suits that involve small amounts of money) or to hear special types of cases such as divorce or probate suits. Such courts include traffic courts, municipal courts, family courts, small claims courts, magistrate courts, and probate courts.

• **Courts of general jurisdiction**, also called major trial courts, are unlimited in the civil or criminal cases they are authorized to hear. Almost all cases originate in the courts of limited or special jurisdiction or in courts of general jurisdiction. Most serious criminal cases are handled by courts of general jurisdiction.

• **Appellate courts** are divided into two groups, intermediate appeals courts, which hear some or all appeals that are subject to review by the court of last resort, and courts of last resort, which have jurisdiction over final appeals from courts of original jurisdiction, intermediate appeals courts, or administrative agencies. As of 1985, 36 States had intermediate appellate courts, but all States had courts of last resort.

**The U.S. Constitution created the U.S. Supreme Court and authorized the Congress to establish lower courts as needed**

The Federal court system now consists of various special courts, U.S. district courts (general jurisdiction courts), U.S. courts of appeals (intermediate appellate courts that receive appeals from the district courts and Federal administrative agencies), and the U.S. Supreme Court (the court of last resort). Organized on a regional basis are U.S. courts of appeals for each of 11 circuits and the District of Columbia. In Federal trial courts (the 94 U.S. district courts) more than 300,000 cases were filed in 1985; there was one criminal case for every seven civil cases. In 1985 more than half the criminal cases in district courts were for embezzlement, fraud, forgery and counterfeiting, traffic, or drug offenses.

**Court organization varies greatly among the States**

State courts of general jurisdiction are organized by districts, counties, dual districts, or a combination of counties and districts. In some States the courts established by the State are funded and controlled locally. In others the court of last resort may have some budgetary or administrative oversight over the entire State court system. Even within States there is considerable lack of uniformity in the roles, organization, and procedures of the courts. This has led to significant momentum among States to form "unified" court systems to provide in varying degrees, for uniform administration of the courts, and, in many cases, for the consolidation of diverse courts of limited and special jurisdiction.

**Most felony cases are brought in State and local courts**

The traditional criminal offenses under the English common law have been adopted, in one form or another, in the criminal laws of each of the States. Most cases involving "common law" crimes are brought to trial in State or local courts. Persons charged with misdemeanors are usually tried in courts of limited jurisdiction. Those charged with felonies (more serious crimes) are tried in courts of general jurisdiction.

In all States criminal defendants may appeal most decisions of criminal courts of limited jurisdiction; the avenue of appeal usually ends with the State supreme court. However, the U.S. Supreme Court may elect to hear the case if the appeal is based on an alleged violation of the Constitutional rights of the defendant.

**State courts process a large volume of cases, many of them minor**

In 1983, 46 States and the District of Columbia reported more than 80 million cases filed in State and local courts. About 70% were traffic-related cases, 16% were civil cases (torts, contracts, small claims, etc.), 13% were criminal cases, and 1% were juvenile cases.

Civil and criminal cases both appear to be increasing. Of 39 States that reported civil filings for 1978 and 1983, 32 had increases. Of the 36 States that reported criminal filings for both years, 33 showed an increase in the volume of criminal filings.

In the 24 States that could report, felony filings comprised from 5% to 32% of total criminal filings with a median of 9%.

**Victims and witnesses are taking a more significant part in the prosecution of felons**

Recent attention to crime victims has spurred the development of legislation and services that are more responsive to victims.

• Some States have raised witness fees from $5–10 per day in trial to $20–30 per day, established procedures for victim and witness notification of court proceedings, and guaranteed the right to speedy disposition of cases
• 9 States and the Federal Government have comprehensive bills of rights for victims
• 39 States and the Federal Government have laws or guidelines requiring that victims and witnesses be notified of the scheduling and cancellation of criminal proceedings
• 33 States and the Federal Government allow victims to participate in criminal proceedings via oral or written testimony.

**The separate system of justice for juveniles often operates within the existing court organization**

Jurisdiction over juvenile delinquency, dependent or neglected children, and related matters is vested in various types of courts. In many States the juvenile court is a division of the court of general jurisdiction. A few States have statewide systems of juvenile or family courts. Juvenile jurisdiction is vested in the courts of general jurisdiction in some counties and in separate juvenile courts or courts of limited jurisdiction in others.

# Most cases that are prosecuted result in convictions

### Most cases brought by a prosecutor result in a plea of guilty

| Jurisdiction | % of cases resulting in a plea of guilty | Number of cases filed |
|---|---|---|
| Los Angeles, Calif. | 82% | 49,483 |
| San Diego, Calif. | 73 | 11,534 |
| New Orleans, La. | 73 | 3,659 |
| Dallas, Tex. | 72 | 14,784 |
| Miami, Fla. | 70 | 21,413 |
| Seattle, Wash. | 68 | 3,126 |
| Lansing, Mich. | 68 | 1,358 |
| Denver, Colo. | 68 | 3,772 |
| Greeley, Colo. | 66 | 630 |
| Minneapolis, Minn. | 66 | 2,364 |
| Des Moines, Iowa | 64 | 1,401 |
| Manhattan, N.Y. | 63 | 30,810 |
| St. Louis, Mo. | 63 | 3,649 |
| Fort Collins, Colo. | 63 | 776 |
| Portland, Ore. | 62 | 3,892 |
| Salt Lake City, Utah | 61 | 2,745 |
| Davenport, Iowa | 60 | 1,312 |
| Golden, Colo. | 58 | 1,838 |
| Geneva, Ill. | 58 | 1,263 |
| Brighton, Colo. | 57 | 1,142 |
| Pueblo, Colo. | 56 | 339 |
| Rhode Island | 55 | 5,485 |
| Colorado Springs, Colo. | 50 | 1,484 |
| Tallahassee, Fla. | 50 | 2,879 |
| Washington, D.C. | 47 | 8,442 |
| Chicago, Ill | 41 | 35,528 |
| Cobb County, Ga. | 38 | 4,427 |
| Philadelphia, Pa. | 26 | 13,796 |

Note: Lower plea rates may reflect more reliance on other disposition options such as diversion programs, bench (court) trials, and jury trials.

Source: Barbara Boland with Ronald Sones, INSLAW, Inc., *Prosecution of felony arrests, 1981*, BJS, September 1986

### Guilty pleas are the most common disposition of a felony case

McDonald says that a negotiated plea occurs when a defendant pleads guilty with a reasonable expectation that the State will give some consideration, such as reduction in the number or severity of the charges and/or a more lenient sentence, in exchange for the plea.

Sometimes guilty pleas are traded explicitly for a less severe charge or sentence, but they also result from a defendant's straightforward admission of guilt. This may stem from a hope or impression that such a plea will be rewarded by a lighter sentence or from a concern that a trial will reveal damaging evidence.

The predominance of guilty pleas is not new in the criminal justice system. A study in Connecticut covering 75 years (1880 to 1954) concludes that between 1880 and 1910 10% of all convictions were obtained by trial.[1] Boland's recent study of prosecution data from 37 jurisdictions shows the proportion of guilty pleas ranging from 26% to 82% of all arrests filed.

### Many guilty pleas in felony court are to the highest charge filed

| Jurisdiction | Percent pled to top charge |
|---|---|
| Indianapolis, Ind. | 87% |
| Des Moines, Iowa | 84 |
| Kalamazoo, Mich. | 84 |
| New Orleans, La. | 83 |
| Rhode Island | 79 |
| St. Louis, Mo. | 79 |
| Kansas City, Kans. | 76 |
| Louisville, Ky. | 76 |
| Portland, Oreg. | 75 |
| Los Angeles, Calif. | 71 |
| Washington, D.C. | 58 |
| Salt Lake City, Utah | 44 |
| Lansing, Mich. | 38 |
| Manhattan, N.Y. | 38 |
| Detroit, Mich. | 36 |
| Golden, Colo. | 26 |

Source: Barbara Boland with Ronald Sones, INSLAW, Inc., *Prosecution of felony arrests, 1981*, BJS, 1986

### A major reform has been to increase the responsibility of judges for ensuring fairness in plea negotiations

When someone pleads guilty, the judge does not examine the strength of the case against the defendant but does try to determine if unfair coercion was used to induce a plea.

The right to trial by jury is the right most often explained in open court to a defendant pleading guilty. McDonald reports that about 32% of the time the defendant was asked if promises other than the plea agreement had been made; 55% of the time defendants were asked if any threats or pressures had caused them to plead guilty. Judges rejected 2% of the guilty pleas they considered.

### Some jurisdictions have adopted an anti-plea-bargaining policy

Prohibitions against plea bargaining have been adopted in Alaska; New Orleans, Louisiana; El Paso, Texas; Blackhawk County, Iowa; Maricopa County, Arizona; Oakland County, Michigan; and Multnomah County, Oregon. These prohibitions range in coverage from all felonies to only those that involve individuals charged under habitual offender laws or with high-impact crimes. Many other jurisdictions have plea negotiation guidelines for prosecutors. Evaluations of Alaska's policy have shown that explicit plea bargaining has gradually disappeared. McDonald found that by eliminating or severely restricting plea bargaining, prosecutors had influenced judges toward greater leniency at sentencing.

### Jury trials are a small percentage of cases filed

| Jurisdiction | % of cases filed resulting in jury trial | Number of cases filed |
|---|---|---|
| Seattle, Wash. | 15% | 3,126 |
| New Orleans, La. | 10 | 3,659 |
| Washington, D.C. | 9 | 8,442 |
| Des Moines, Iowa | 8 | 1,401 |
| Lansing, Mich. | 7 | 1,358 |
| Portland, Oreg. | 7 | 3,892 |
| Denver, Colo. | 6 | 3,772 |
| Minneapolis, Minn. | 6 | 2,364 |
| St. Louis, Mo. | 6 | 3,649 |
| Dallas, Tex. | 5 | 14,784 |
| Salt Lake City, Utah | 5 | 2,745 |
| Brighton, Colo. | 4 | 1,142 |
| Colorado Springs, Colo. | 4 | 1,484 |
| Philadelphia, Pa. | 4 | 13,796 |
| Tallahassee, Fla. | 4 | 2,879 |
| Davenport, Iowa | 3 | 1,312 |
| Fort Collins, Colo. | 3 | 776 |
| Geneva, Ill. | 3 | 1,263 |
| Manhattan, N.Y. | 3 | 30,810 |
| Rhode Island | 3 | 5,485 |
| San Diego, Calif. | 3 | 11,534 |
| Chicago, Ill. | 2 | 35,528 |
| Cobb County, Ga. | 2 | 4,427 |
| Golden, Colo. | 2 | 1,838 |
| Greeley, Colo. | 2 | 630 |
| Miami, Fla. | 2 | 21,413 |
| Pueblo, Colo. | 1 | 339 |
| Jurisdiction median | 5% | |

Source: Barbara Boland with Ronald Sones, INSLAW, Inc., *Prosecution of felony arrests, 1981*, BJS, 1986.

### Most felony cases that reach trial are tried before a jury

A person accused of a crime is guaranteed a trial by jury. However, the accused may waive the right to trial by jury and be tried by a judge who serves as finder of fact and determines issues of law. Such trials are called bench trials. Brosi showed that in four of five jurisdictions studied, bench trials made up a third to almost half of the trials.

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

Currently, 45 States require unanimity in criminal verdicts, but 29 of these States do not require unanimity in civil verdicts. Five States (Louisiana, Montana, Oklahoma, Oregon, and Texas) do not require unanimous verdicts in criminal or civil trials.

The proportion of jury votes needed to convict varies among jurisdictions that do not require unanimity, ranging from two-thirds in Montana to five-sixths in Oregon.

All States require unanimity in capital cases, and the U.S. Supreme Court does not permit a criminal finding of guilt by less than a six-person majority. Thus, a six-person jury must always be unanimous in a criminal finding of guilty.

### Most cases that go to trial in the felony court result in conviction

The conviction rate at trial varies by jurisdiction because of—
- differences in screening policy
- pleas in strong cases resulting in a relatively weaker mix of cases going to trial.

| Jurisdiction | Percent of jury trials resulting in conviction | Cases tried |
|---|---|---|
| Dallas, Tex. | 88% | 732 |
| Portland, Oreg. | 85 | 262 |
| San Diego, Calif. | 85 | 286 |
| Chicago, Ill. | 82 | 623 |
| Dedham, Mass. | 82 | 17 |
| Cobb County, Ga. | 81 | 69 |
| Golden, Colo. | 79 | 42 |
| Montgomery Co., Md. | 79 | 163 |
| Washington, D.C. | 78 | 591 |
| Los Angeles, Calif. | 77 | 1,177 |
| Manhattan, N.Y. | 77 | 834 |
| Salt Lake City, Utah | 76 | 134 |
| Tallahassee, Fla. | 76 | 119 |
| St. Louis, Mo. | 75 | 204 |
| Seattle, Wash. | 75 | 478 |
| Louisville, Ky. | 71 | 249 |
| Philadelphia, Pa. | 70 | 554 |
| Buffalo, N.Y. | 69 | 138 |
| Kansas City, Mo. | 68 | 165 |
| Boston, Mass. | 67 | 250 |
| Indianapolis, Ind. | 64 | 96 |
| Lansing, Mich. | 64 | 64 |
| Kalamazoo, Mich. | 61 | 62 |
| New Orleans, La. | 61 | 353 |
| Detroit, Mich. | 55 | 669 |
| Rhode Island | 52 | 166 |
| Jurisdiction median | 73% | |

Source: Barbara Boland with Ronald Sones, INSLAW, Inc., *Prosecution of felony arrests, 1981*, BJS, 1986.

### The more serious the charge the greater the likelihood of trial

| | Percent of indicted cases that went to trial | | | | | |
|---|---|---|---|---|---|---|
| | Violent offenses | | | Property offenses | | |
| Jurisdiction | Homicide | Sexual assault | Robbery | Burglary | Larceny | Drug offenses |
| Indianapolis, Ind. | 38% | 18% | 21% | 14% | 12% | 9% |
| Los Angeles, Calif. | 29 | 20 | 12 | 7 | 5 | 7 |
| Louisville, Ky. | 57 | 27 | 18 | 13 | 10 | 11 |
| Manhattan, N.Y. | 25 | 12 | 11 | 9 | 8 | 8 |
| New Orleans, La. | 22 | 18 | 16 | 5 | 7 | 7 |
| Rhode Island | 44 | 22 | 10 | 1 | 3 | 2 |
| St. Louis, Mo. | 36 | 23 | 15 | 4 | 6 | 6 |
| Salt Lake City, Utah | 64 | 18 | 19 | 7 | 6 | 4 |
| San Diego, Calif. | 37 | 2 | 12 | 6 | 5 | 3 |
| Washington, D.C. | 43 | 32 | 22 | 16 | 12 | 10 |

Source: Barbara Boland with Ronald Sones, INSLAW, Inc., *Prosecution of felony arrests, 1981*, BJS, 1986.

# The Sixth Amendment guarantees the right of a defendant to a speedy trial

### Concern about court delay is not new

As early as 1818 the Massachusetts legislature adopted a system to ease court congestion and delay.[2] Yet, what constitutes unreasonable delay in criminal proceedings has been difficult to define. In *Baker* v. *Wingo* (1972), the U.S. Supreme Court set down four factors to be weighed in determining whether a defendant had been denied the right to a speedy trial:
- length of the delay
- reason for the delay
- whether the defendant was responsible for the delay
- whether delay prejudiced the case of the defendant.

### Most criminal cases are disposed of in 6 months or less, except in chronically delayed State courts

| | Total court disposition time in criminal cases | |
|---|---|---|
| | Time to process 50% of cases | Percent of cases requiring more than 180 days |
| Portland, Oreg. | 62 days | 3% |
| Phoenix, Ariz. | 64 | 11 |
| Detroit Rec. Ct., Mich | 69 | 17 |
| New Orleans, La. | 73 | 16 |
| Oakland, Calif. | 81 | 29 |
| Minneapolis, Minn. | 84 | 13 |
| Dayton, Ohio | 88 | 17 |
| San Diego, Calif. | 89 | 12 |
| Wayne County, Mich. | 96 | 22 |
| Miami, Fla. | 108 | 27 |
| Wichita, Kans. | 116 | 17 |
| Cleveland, Ohio | 123 | 29 |
| Pittsburgh, Pa. | 135 | 27 |
| Providence, R.I. | 197 | 54 |
| Jersey City, N.J. | 213 | 53 |
| Bronx, N.Y. | 218 | 56 |
| Newark, N.J. | 253 | 65 |

Source: B. Mahoney et al., *Implementing delay reduction and delay prevention. Programs in urban trial courts*, National Center for State Courts, 1985

### Cases resulting in trials generally take longer than ones that end in dismissals or guilty pleas

In 12 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 7 months.

### National standards recommend speedy hearings in juvenile courts

National standard-setting organizations generally agree on the need for speedy hearings in juvenile courts, particularly for alleged delinquents being held in detention.

It is widely recommended that—
- detention hearings take place within 24 to 48 hours of arrest, with periodic reviews every 7 to 10 days
- the same time restrictions be placed on intake departments to finish their investigations and to make their recommendations for juveniles held in detention.

For nondetained juveniles—
- intake officials are to make recommendations within 30 days
- initial hearings should be held within 3 to 5 days of filing the petition.

### State and Federal laws safeguard the defendant's right to a speedy trial

"Speedy trial laws" attempt to give precision to the guarantee of a speedy trial by introducing quantitative measures of unacceptable delay.

The Federal Speedy Trial Act of 1974, amended in 1979, specifies time standards for each stage in the Federal court process. Thirty days are allowed from arrest to filing of an indictment or an information; 70 days are allowed between information or indictment and trial. Certain time periods, such as defense-requested continuances, are not counted. If case-processing time exceeds the limit, the case may be dismissed.

Some States have laws modeled on the Federal law and the speedy trial standards of the American Bar Association. These laws differ somewhat on such matters as the kinds of events that do not count as elapsed time, but the major difference among them is in the amount of time they allow between arrest and trial. Many speedy trial provisions set shorter time limits for the disposition of cases if the defendant is being detained.

### Most States have speedy trial restrictions for defendants not in custody

| States that restrict time from arrest to trial | Time limit |
|---|---|
| California | 75 days |
| Nevada | 75 |
| Alaska | 120 |
| North Carolina | 120 |
| Texas | 120 |
| Iowa | 135 |
| Arizona | 150 |
| Illinois | 160 |
| Florida | 180 |
| Hawaii | 180 |
| New Mexico | 180 |
| New York | 180 |
| Pennsylvania | 180 |
| Ohio | 270 |
| Idaho | 360 |
| Louisiana | 360 |
| Indiana | 365 |
| Massachusetts | 365 |
| Arkansas | 3 terms of court |
| Oklahoma | 4 |
| Utah | 4 |
| **States that restrict time from indictment to trial** | |
| Minnesota | 60 days |
| Wisconsin | 90 |
| Washington | 104 |
| Wyoming | 120 |
| Colorado | 180 |
| Maryland | 180 |
| Montana | 180 |
| Nebraska | 180 |
| Kansas | 190 |
| Missouri | 190 |
| Mississippi | 270 |
| Virginia | 270 |
| Georgia | 2 terms of court |
| West Virginia | 3 |

States that restrict "unreasonable delay"

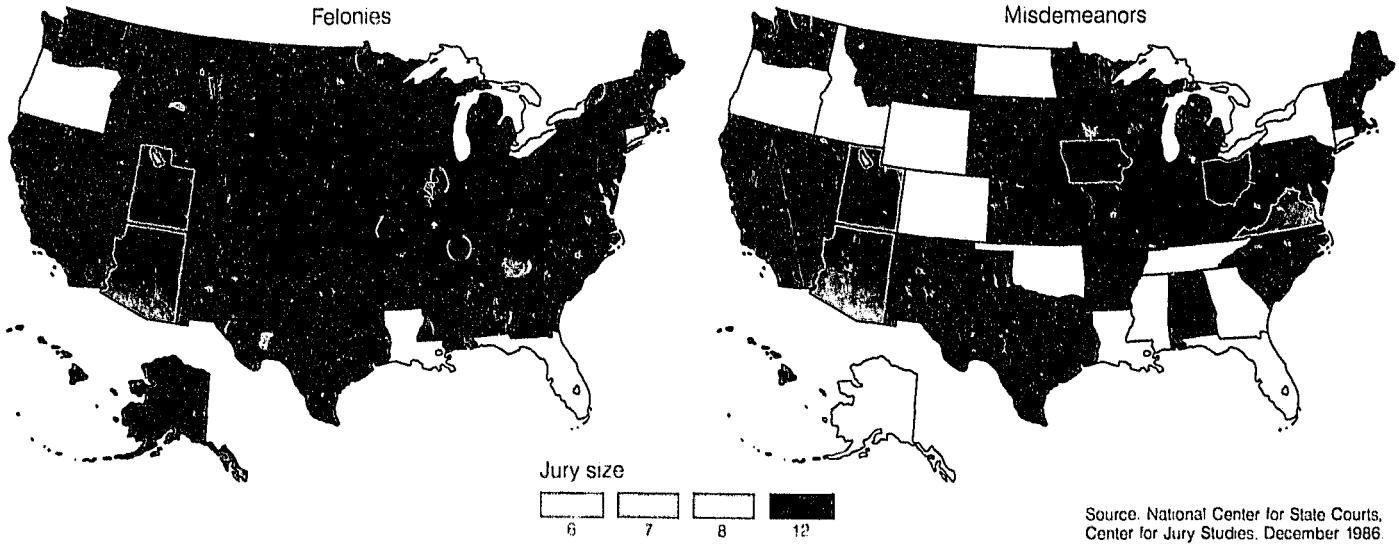
| | |
|---|---|
| Delaware | Oregon |
| District of Columbia | Rhode Island |
| Kentucky | South Dakota |
| Maine | Tennessee |
| New Jersey | Vermont |
| North Dakota | |

Note: States without restrictions include Alabama, Connecticut, Michigan, New Hampshire, and South Carolina.

Source: Barbara Boland with Ronald Sones, INSLAW, Inc., *The prosecution of felony arrests, 1981*, BJS, 1986

# Defendants are entitled to trial by a jury of their peers

**All States require 12-member juries in capital cases; 6 States permit less than 12-member juries in felony trials**




Source. National Center for State Courts, Center for Jury Studies. December 1986.

### Names of prospective jurors are selected from lists intended to make jury pools representative of the community

In 16 States the voter registration list is the sole source of names for jury service. Maine; Las Vegas, Nevada; and 62 of Alabama's 67 counties use the driver's license list as the sole source of jury coverage. The use of merged voter and driver's license lists is either permitted or required by 25 States and the District of Columbia.

### Most States have statutory exemptions from 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, dentists, clergy, elected officials, police officers, firemen, teachers, and sole proprietors of businesses. Twenty-seven States now have limited or no class exemptions from jury service.

### An estimated 15% of American adults have ever been called for jury duty

According to the Center for Jury Studies, the limited number of adults who have served as jurors results from such factors as—

- the age limits on prospective jurors set by many States
- the use of voter registration lists that represent only a portion of eligible voters (67% at the 1980 Presidential election)
- replacement of names of jurors into the jury pool at too frequent intervals
- the number of exemptions to service permitted by law or granted by the court.

### The maximum period of service required of a juror varies by State

- 6 States (Alabama, Florida, Louisiana, Mississippi, North Carolina, and South Carolina) have terms of service of 1 week.
- 14 States limit terms to 2 weeks.
- 8 States do not specify terms.
- Vermont has the longest statutory limit with a 2-year term.

### Innovations have eased the burden of being a juror

- 27 States have at least one jurisdiction where a juror is called on for only 1 day to be available to sit in a single trial. The District of Columbia has this same system. Only if selected for a trial would a juror serve more than 1 day, until again randomly selected for jury service. It has been estimated that 11% of the U.S. population resides in one day/one-trial jurisdictions.

- Courts in 50 States (including all courts in 2 States) use a juror call-in system. In these States jurors can dial a number to learn whether their attendance is needed on a particular day during their term of service.

### All States and the Federal Government pay trial jurors

Payments to jurors range from $3 per day in Colorado to $30 per day in New Hampshire, Vermont, the District of Columbia, and the Federal courts. Thirty-eight States pay for travel ranging from 2¢ per mile in New Jersey to 20¢ per mile in Hawaii. Some jurisdictions also require employers to pay the salaries of employees while serving on jury duty.

# How does the criminal justice system deal with the mental health of defendants?

**In all State and 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 assist properly in their own defense. Such findings usually follow a court-ordered mental evaluation of the defendant.

According to Roesch and Golding, most defendants referred for competency evaluations are found competent. If found incompetent a defendant may be committed for treatment until competent to stand trial.

In 1977 the Supreme Court held in *Jackson* v. *Indiana* that defendants found incompetent to stand trial could not be held indefinitely as a result of incompetency and that any such commitments must be justified by treatment progress. Some States have responded to this decision by setting treatment time limits after which defendants must be released. In all States such defendants may be recommitted under civil commitment laws.

**A defense of insanity is recognized by all but three States**

Three States—Montana, Idaho, and Utah—have passed laws that abolish the insanity defense. However, psychiatric evidence is allowed on the issue of whether there is an intent to commit a crime.

In most States a formal notice of an intent to rely on the insanity defense must be filed by defendants who wish to claim insanity as a defense. Such defendants enter a plea of not guilty at the time of trial.

**One of two definitions governs the insanity defense in most jurisdictions**

According to the American Bar Association—
- 24 States use the definition adopted by the American Law Institute (ALI) in 1962 as part of the ALI Model Penal Code. It states that "A person is not responsible for criminal conduct if at the time of such conduct and as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law."
- 16 jurisdictions use the McNaughton 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 party 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 understand the act, he did not know that it was wrong. Lawyers call this the cognitive test because the language hinges on "knowing."
- Some jurisdictions modify the McNaughton rule by reference to "irresistible impulse."
- New Hampshire uses a rule devised by its Supreme Court in 1871 that a person is absolved of responsibility if the act committed is the offspring or product of mental disease.

**Recently, the Federal Government and Indiana adopted a new test of criminal responsibility**

Endorsed by the American Bar Association in 1983, the Appreciation Test resembles the McNaughton test in its reliance on cognitive incapacity. It differs from the ALI test in that there is no requirement for the defendant to establish a lack of control over his or her behavior. The Appreciation Test became the law in all Federal courts in October 1984 with passage of the Comprehensive Crime Control Act. The Indiana General Assembly also changed from the ALI standard to the Appreciation Test in 1984.

**A plea of insanity entered by the attempted assassin of President Reagan spurred the first comprehensive reform of Federal law governing the insanity defense**

The new Federal law changes previous standards in the Federal courts by shifting the burden of proof to the defense, limiting the scope of expert testimony, eliminating the defense of diminished capacity, creating a verdict of "not guilty only by reason of insanity," which requires a civil commitment proceeding, and by providing for Federal commitment of persons found insane after conviction or incarceration.

**Competency to stand trial and the insanity defense are often confused**

The issue of insanity refers to the defendant's mental state at the time of the crime; the issue of competency concerns the defendant's ability to understand the trial proceedings and to assist in preparing his or her defense. For example, a defendant may be found competent to stand trial but be found not guilty by reason of insanity.

**States vary in many specific ways in their handling of an insanity defense**

Variations relate to the—
- definition of insanity
- availability of an alternate verdict of guilty but mentally ill
- burden of proof.

The Federal Insanity Defense Reform Act of 1984 shifted the burden of proof from the prosecution to the defense. In all Federal jurisdictions the defendant has the burden of proving the defense of insanity by clear and convincing evidence. According to the American Bar Association, 26 States applied this standard prior to the change in Federal law.

**Twelve States provide for a verdict of guilty but mentally ill**

According to the Institute on Mental Disability at the National Center for State Courts, since 1975 the 12 States that have adopted this verdict are (in chronological order): Michigan, Indiana, Illinois, Georgia, Kentucky, New Mexico, Delaware, Alaska, Pennsylvania, South Dakota, Utah, and South Carolina.

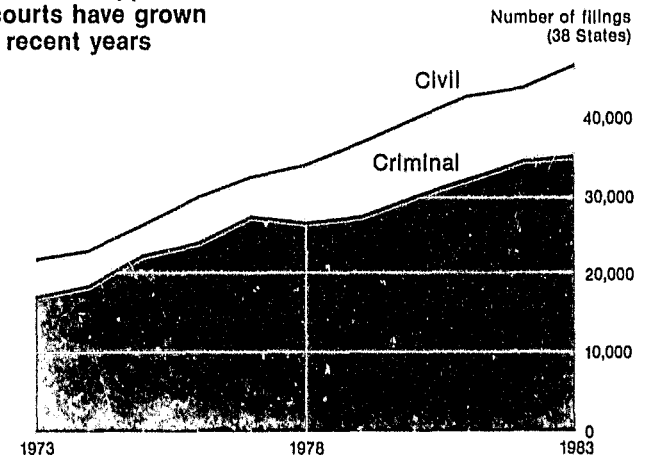
In States where this verdict is available it is an alternative to, but does not preclude, a verdict of not guilty by reason of insanity.

# Criminal case appeals make up close to half the State appellate caseload

### Both convictions and sentences may be appealed

Defendants have as many as three possible avenues of appeal: the direct appeal, postconviction remedy, and Federal habeas corpus. Defendants appeal their convictions alleging that their rights were violated during the criminal justice process. Reversal of a conviction on appeal sets aside only the prior conviction. Defendants may be retried. In many States criminal appeals are a matter of right and most States provide for an automatic appeal of death sentences. A sentence may be appealed on grounds it violates the Constitutional prohibition against cruel and unusual punishment.

**Civil and criminal appeals in State courts have grown rapidly in recent years**




Source: *The growth in appeals: 1973-83 trends*, BJS Bulletin, February 1985.

### Most criminal case appeals are decided in State courts

Cases originating in State courts are usually appealed through the State's appellate court system. State cases that involve a Constitutional question may be appealed to the U.S. Supreme Court.

Almost four-fifths of all appeals, including writs, are decided by State courts. The U.S. Supreme Court decides 150 cases per year with full opinion. For State appellate courts the number of appellate decisions ranges from 200 to 300 cases in smaller States with supreme courts and no intermediate appellate courts to more than 9,000 in Florida and New York, which have intermediate appellate courts as well as a supreme court.

### Appellate filings have increased in almost every State

State appellate judges have had an increasing number of cases to handle; most States had a yearly increase of 9% or more in the 1970s. The number of judges in State appellate courts grew at only a sixth the rate of the appellate caseload in the 1970s. The number of State court appeals more than doubled during 1973-83 in 43 jurisdictions able to measure the growth. Overall growth in total appeals filed ranged from 38% in Mississippi and 53% in Maryland to 305% in Alaska. Criminal cases accounted for 43% to 46% of total appellate volume in State courts. Intermediate appellate courts have been a principal means of meeting the increased caseload.

### In 1985, 33,360 appeals were filed in the U.S. Courts of Appeals

In 1985, 4,989 or 15% of the appeals filed were criminal cases. The proportion of criminal appeals to other appeals was greatest during the 1970s when it reached an alltime high of 28.5% in 1973. The proportion of criminal appeals filed has declined in every year since 1980 except 1981. In 1985 the 18,660 civil appeals filed in U.S. Courts of Appeals represented the largest group of appeals.

The rate of appeal of Federal criminal convictions is very high. In some circuits appeal is virtually automatic in criminal cases.[3] The rate of reversal is fairly low.

### Petitions to the Federal courts by State prisoners claiming they are unlawfully detained are rarely successful

These petitions, known as writs of habeas corpus, are the primary means by which State prisoners have their convictions reviewed in Federal courts. Such a petition can be heard by a U.S. district court after a prisoner has exhausted all State remedies. Few habeas corpus petitions are successful. One study revealed that 3% of the State petitions in Federal court resulted in relief.[4]

### The number of actions filed in Federal courts by State prisoners has more than doubled since 1970

Of all appeals filed in Federal courts, prisoner petitions (which include habeas corpus and civil rights petitions) made up—

- 14.7% in 1980
- 19.6% in 1985.

Prisoner petitions coupled with criminal appeals make up 34.5% of the total caseload in Federal appellate courts.

### Few juvenile cases are appealed

Since 1967 juveniles have had the legal right to appeal juvenile court adjudications (in re *Gault*). Over the past 15 years, State codes have been amended to acknowledge this right. In States that grant concurrent jurisdiction to juvenile and criminal courts the prosecutor's decision to file criminal (instead of delinquency) charges is not subject to appeal. In most States that permit transfers of juveniles to criminal courts through judicial waivers, the waiver decision is appealable, but only after conviction in criminal court.

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# Through sentencing, society attempts to express its goals for the correctional process

### The sentencing of criminals often reflects conflicting social goals

These objectives are—
- **Retribution**—giving offenders their "just deserts" and expressing society's disapproval of criminal behavior
- **Incapacitation**—separating offenders from the community to reduce the opportunity for further crime while they are incarcerated
- **Deterrence**—demonstrating the certainty and severity of punishment to discourage future crime by the offender (specific deterrence) and by others (general deterrence)
- **Rehabilitation**—providing psychological or educational assistance or job training to offenders to make them less likely to engage in future criminality
- **Restitution**—having the offender repay the victim or the community in money or services.

### Attitudes about sentencing reflect multiple goals and other factors

Research on judicial attitudes and practices in sentencing revealed that judges vary greatly in their commitment to various goals when imposing sentences. Public opinion also has shown much diversity about the goals of sentencing, and public attitudes have changed over the years. In fashioning criminal penalties, legislators have tended to reflect this lack of public consensus.

Sentencing laws are further complicated by concerns for—
- **Proportionality**—severity of punishment should be commensurate with the seriousness of the crime
- **Equity**—similar crimes and similar criminals should be treated alike
- **Social debt**—the severity of punishment should take into account the offender's prior criminal behavior.

### Judges usually have a great deal of discretion in sentencing offenders

The different sentencing laws give various amounts of discretion to the judge in setting the length of a prison or jail term. In a more fundamental respect, however, the judge often has a high degree of discretion in deciding whether or not to incarcerate the offender at all. Alternatives to imprisonment include—
- probation
- fines
- forfeiture of the proceeds of criminal activity
- restitution to victims
- community service
- split sentences, consisting of a short period of incarceration followed by probation in the community.

Often, before a sentence is imposed a presentence investigation is conducted to provide the judge with information about the offender's characteristics and prior criminal record.

### Disparity and uncertainty arose from a lack of consensus over sentencing goals

By the early 1970s researchers and critics of the justice system had begun to note that trying to achieve the mixed goals of the justice system without new limits on the discretionary options given to judges had—
- reduced the *certainty* of sanctions, presumably eroding the deterrent effect of corrections
- resulted in *disparity* in the severity of punishment, with differences in the sentences imposed for similar cases and offenders
- failed to validate the effectiveness of various rehabilitation programs in changing offender behavior or predicting future criminality.

### Recent sentencing reforms reflect more severe attitudes and seek to reduce disparity and uncertainty

Reforms in recent years have used statutory and administrative changes to—
- clarify the aims of sentencing
- reduce disparity by limiting judicial and parole discretion
- provide a system of penalties that is more consistent and predictable
- provide sanctions consistent with the concept of "just deserts."

The changes have included—
- making prison mandatory for certain crimes and for recidivists
- specifying presumptive sentence lengths
- requiring sentence enhancements for offenders with prior felony convictions
- introducing sentencing guidelines
- limiting parole discretion through the use of parole guidelines
- total elimination of discretionary parole release (determinate sentencing).

### States use a variety of strategies for sentencing

Sentencing is perhaps the most diversified part of the Nation's criminal justice process. Each State has a unique set of sentencing laws, and frequent and substantial changes have been made in recent years. This diversity complicates the classification of sentencing systems. For nearly any criterion that may be considered, there will be some States with hybrid systems that straddle the boundary between categories.

**The basic difference in sentencing systems is the apportioning of discretion between the judge and parole authorities**

**Indeterminate sentencing**—the judge specifies minimum and maximum sentence lengths. These set upper and lower bounds on the time to be served. The actual release date (and therefore the time actually served) is determined later by parole authorities within those limits.

**Partially indeterminate sentencing**—a variation of indeterminate sentencing in which the judge specifies only the maximum sentence length. An associated minimum automatically is implied, but is not within the judge's discretion. The implied minimum may be a fixed time (such as 1 year) for all sentences or a fixed proportion of the maximum. In some States the implied minimum is zero; thus the parole board is empowered to release the prisoner at any time.

**Determinate sentencing**—the judge specifies a fixed term of incarceration, which must be served in full (less any "goodtime" earned in prison). There is no discretionary parole release.

**Since 1975 many States have adopted determinate sentencing, but most still use indeterminate sentencing**

In 1976 Maine was the first State to adopt determinate sentencing. The sentencing system is entirely or predominantly determinate in these 10 States:

| | |
|---|---|
| California | Maine |
| Connecticut | Minnesota |
| Florida | New Mexico |
| Illinois | North Carolina |
| Indiana | Washington |

The other States and the District of Columbia use indeterminate sentencing in its various forms. One State, Colorado, after changing to determinate sentencing in 1979, went back to indeterminate sentencing in 1985. The Federal justice system has adopted determinate sentencing through a system of sentencing guidelines.

**States employ other sentencing features in conjunction with their basic strategies**

| | |
|---|---|
| **Mandatory sentencing**—Law requires the judge to impose a sentence of incarceration, often of specified length, for certain crimes or certain categories of offenders. There is no option of probation or a suspended sentence. | Mandatory sentencing laws are in force in 46 States (all except Maine, Minnesota, Nebraska, and Rhode Island) and the District of Columbia. In 25 States imprisonment is mandatory for certain repeat felony offenders. In 30 States imprisonment is mandatory if a firearm was involved in the commission of a crime. In 45 States conviction for certain offenses or classes of offenses leads to mandatory imprisonment; most such offenses are serious, violent crimes, and drug trafficking is included in 18 of the States. Many States have recently made drunk driving an offense for which incarceration is mandated (usually for relatively short periods in a local jail rather than a State prison). |
| **Presumptive sentencing**—The discretion of a judge who imposes a prison sentence is constrained by a specific sentence length set by law for each offense or class of offense. That sentence must be imposed in all unexceptional cases. In response to mitigating or aggravating circumstances, the judge may shorten or lengthen the sentence within specified boundaries, usually with written justification being required. | Presumptive sentencing is used, at least to some degree, in about 12 States. |
| **Sentencing guidelines**—Explicit policies and procedures are specified for deciding on individual sentences. The decision is usually based on the nature of the offense and the offender's criminal record. For example, the prescribed sentence for a certain offense might be probation if the offender has no previous felony convictions, a short term of incarceration if the offender has one prior conviction, and progressively longer prison terms if the offender's criminal history is more extensive. | Sentencing guidelines came into use in the late 1970s. They are—<br>• used in 13 States and the Federal criminal justice system<br>• written into statute in the Federal system and in Florida, Louisiana, Maryland, Minnesota, New Jersey, Ohio, Pennsylvania, and Tennessee<br>• used systemwide, but not mandated by law, in Utah<br>• applied selectively in Massachusetts, Michigan, Rhode Island, and Wisconsin<br>• being considered for adoption in other States and the District of Columbia. |
| **Sentence enhancements**—In nearly all States, the judge may lengthen the prison term for an offender with prior felony convictions. The lengths of such enhancements and the criteria for imposing them vary among the States. | In some States that group felonies according to their seriousness, the repeat offender may be given a sentence ordinarily imposed for a higher seriousness category. Some States prescribe lengthening the sentences of habitual offenders by specified amounts or imposing a mandatory minimum term that must be served before parole can be considered. In other States the guidelines provide for sentences that reflect the offender's criminal history as well as the seriousness of the offense. Many States prescribe conditions under which parole eligibility is limited or eliminated. For example, a person with three or more prior felony convictions, if convicted of a serious violent offense, might be sentenced to life imprisonment without parole. |

Sources: Surveys conducted for the Bureau of Justice Statistics by the U.S. Bureau of the Census in 1985 and by the Pennsylvania Commission on Crime and Delinquency in 1986.

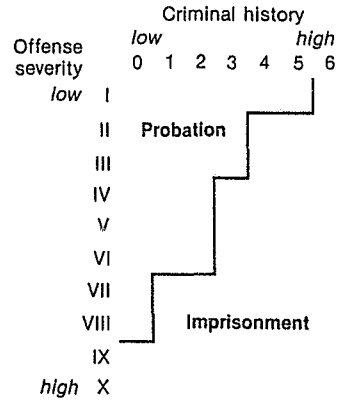
**Sentencing guidelines usually are developed by a separate sentencing commission**

Such a commission may be appointed by the legislative, executive, or judicial branch of State government. This is a departure from traditional practice in that sentences are prescribed through an administrative procedure rather than by explicit legislation.

In some States the guidelines are prescriptive in that they specify whether or not the judge must impose a prison sentence and the presumptive sentence length. In other States the guidelines are advisory in that they provide information to the judge but do not mandate sentencing decisions.

To determine whether a prison sentence should be imposed, the guidelines usually consider offense severity and the offender's prior criminal record. A matrix that relates these two factors may be used.

**Sentencing matrix**




Adapted from *Preliminary report on the development and impact of the Minnesota sentencing guidelines*, Minnesota Sentencing Guidelines Commission, July 1982.

Sentencing guidelines used in the Federal justice system were developed by the United States Sentencing Commission. The guidelines provide for determinate sentencing and the abolition of parole. Ranges of sentence length are specified for various offense classifications and offender characteristics. The judge must provide written justification for any sentence that deviates from the guideline range; sentences that are less severe can be appealed by the prosecution, and sentences that are more severe can be appealed by the defense.

**Changes in sentencing have brought changes in correctional practices**

Many sentencing reforms have led to changes in the way correctional systems operate:

The proliferation of determinate and mandatory sentences during the past decade, together with dissatisfaction about the uncertainties of indeterminate sentencing (especially the linking of release decisions to rehabilitative progress or predictions of future behavior), have led to modifications in parole decisionmaking. Many States now use parole guidelines, and many have modified their use of "goodtime" and other incentives for controlling inmate behavior and determining release dates.

New administrative requirements, such as collection of victim restitution funds, operation of community service programs, and levying fees for probation supervision, room and board, and other services, have been added to traditional correctional practices.

Changes in sentencing laws and practices may be affecting the size of the correctional clientele. Such changes include—

- using determinate and mandatory sentencing
- limiting or abolishing parole discretion
- lowering the age at which youthful offenders become subject to the adult criminal justice system
- enacting in a few jurisdictions laws providing for life imprisonment without the possibility of parole.

# Forfeiture is a relatively new sanction

**What is forfeiture?**

Forfeiture is government seizure of property derived from or used in criminal activity. Its use as a sanction aims to strip racketeers and drug traffickers of their economic power because the traditional sanctions of imprisonment and fines have been found inadequate to deter or punish enormously profitable crimes. Seizure of assets aims not only to reduce the profitability of illegal activity but to curtail the financial ability of criminal organizations to continue illegal operations.

**There are two types of forfeiture: civil and criminal**

• **Civil forfeiture**—a proceeding against property used in criminal activity. Property subject to civil forfeiture often includes vehicles used to transport contraband, equipment used to manufacture illegal drugs, cash used in illegal transactions, and property purchased with the proceeds of the crime. No finding of criminal guilt is required in such proceedings. The government is required to post notice of the proceedings so that any party who has an interest in the property may contest the forfeiture.

• **Criminal forfeiture**—a part of the criminal action taken against a defendant accused of racketeering or drug trafficking. The forfeiture is a sanction imposed on conviction that requires the defendant to forfeit various property rights and interests related to the violation. In 1970 Congress revived this sanction that had been dormant in American law since the Revolution.

**The use of forfeiture varies greatly among jurisdictions**

The Federal Government originally provided for criminal forfeiture in the Racketeer Influenced and Corrupt Organization (RICO) statute and the Comprehensive Drug Prevention and Control Act, both enacted in 1970. Before that time civil forfeiture had been provided in Federal laws on some narcotics, customs, and revenue infractions. More recently, language on forfeiture has been included in the Comprehensive Crime Control Act of 1984, the Money Laundering Act of 1986, and the Anti-drug Abuse Act of 1986.

Most State forfeiture procedures appear in controlled substances or RICO laws. A few States provide for forfeiture of property connected with the commission of any felony. Most State forfeiture provisions allow for civil rather than criminal forfeiture. A recent survey responded to by 44 States and territories found that under the controlled substances laws most States provide only for civil forfeiture. Eight States (Arizona, Kentucky, Nevada, New Mexico, North Carolina, Utah, Vermont, and West Virginia), however, have criminal forfeiture provisions.[1] Of the 19 States with RICO statutes, all but 8 include the criminal forfeiture sanction.[2]

**What is forfeitable?**

Originally most forfeiture provisions aimed to cover the seizure of contraband or modes of transporting or facilitating distribution of such materials. The types of property that may be forfeited have been expanded since the 1970s to include assets, cash, securities, negotiable instruments, real property including houses or other real estate, and proceeds traceable directly or indirectly to violations of certain laws. Common provisions permit seizure of conveyances such as airplanes, boats, or cars; raw materials, products, and equipment used in manufacturing, trafficking, or cultivation of illegal drugs; and drug paraphernalia.

**How long does it take to determine if property can be forfeited?**

In most cases some time is provided before the actual forfeiture to allow persons with an interest in seized property to make a claim. Seized property is normally kept for 6 months to 1 year before being declared forfeit and disposed of. Contraband or materials that are illegal *per se*, such as drugs, are disposed of relatively quickly. Cars, airplanes, boats, and other forms of transportation are usually kept for about 6 months before disposal. Real property is often kept for longer periods. Administrative forfeitures usually take less time than ones that require judicial determination.

Because of the depreciation in value of many assets over time and the cost of storing or caring for such assets, forfeiture may result in a cost rather than revenue to the prosecuting jurisdiction.

**What happens to forfeited property?**

The disposition of forfeited property is controlled by statute or in some States by their constitutions. In many cases, the seizing agency is permitted to place an asset in official use once it has been declared forfeit by a court. Such assets are usually cars, trucks, boats, or planes used during the crime or proceeds of the crime.

For assets that are sold, the proceeds are usually used first to pay any outstanding liens. The costs of storing, maintaining, and selling the property are reimbursed next. Some States require that, after administrative costs are reimbursed, the costs of law enforcement and prosecution must be paid. More than half the States provide that any outstanding balance go to the State or local treasury, or a part to both. In eight States law enforcement agencies can keep all property, cash, or sales proceeds. If the State constitution governs distribution, the receiving agency is usually the State or local school system. Some States have specified the recipients to be special programs for drug abuse prevention and rehabilitation.

In 1984 the Federal Government established the Department of Justice Assets Forfeiture Fund to collect proceeds from forfeitures and defray the costs of forfeitures under the Comprehensive Drug Abuse Prevention and Control Act and the Customs Forfeiture Fund for forfeitures under customs laws. These acts also require that the property and proceeds of forfeiture be shared equitably with State and local law enforcement commensurate with their participation in the investigations leading to forfeiture.

# Sanctions for alcohol-related driving offenses are becoming more severe

### Alcohol-related driving offenses carry both criminal and administrative sanctions

Because States license drivers, sanctions against persons convicted of driving while intoxicated and driving under the influence of alcohol include revocation or suspension of driver's licenses. In some States the administrative sanction may be imposed for a short period prior to conviction if there is sufficient evidence to believe the defendant was operating a motor vehicle while under the influence of alcohol. In 1986 the minimum period for license suspension or revocation for a first offense ranged from 21 days in one State to 36 months in another.

Criminal sanctions may involve incarceration, fines, community service, restitution, or alcohol treatment and education programs. In some States, criminal driving offenses are classified as felonies; in other States, they are misdemeanors. The term of incarceration permitted by statute for a first offense ranges from a minimum of 1 day up to 2 years. First offense fines range from $100 to $5,000.

In almost all States both administrative and criminal sanctions may be imposed for a conviction of driving while intoxicated. The criminal court imposes criminal sanctions while the licensing agency imposes the administrative sanctions on notification of conviction by the court.

### In most States possible sanctions for repeat alcohol-related driving offenders are progressively severe

In 1986 more than half the States had license suspension or revocation minimums of a few months for first offenders and 12 months for second offenders. In 43 States the fines that may be imposed also increased with the number of prior convictions. For example, Arizona law permits fines of up to $1,000 for first offenses but up to $150,000 for third offenses. In 23 States repeat offenders may be subject to habitual offender laws resulting in enhancement of the term to incarceration.

### Many States have resorted to mandatory sanctions

| Type of sanction and prior history | Number of States imposing mandatory sanctions | |
|---|---|---|
| | 1982 | 1986 |
| Imprisonment | | |
| 1st offense | 12 | 16 |
| 2nd | 22 | 42 |
| 3rd | 19 | 40 |
| Fines | | |
| 1st offense | 9 | 15 |
| 2nd | 10 | 13 |
| 3rd | 9 | 12 |
| License suspension or revocation | | |
| 1st offense | 31 | 25 |
| 2nd | 39 | 44 |
| 3rd | 38 | 44 |

Source: *A digest of State alcohol-highway safety related legislation*, first edition and fifth edition, National Highway Traffic Safety Administration, U.S. Department of Transportation

### Many States have increased the severity of their mandatory sanctions against alcohol-related driving offenses

Between 1982 and 1986—
- 4 States increased their mandatory fines for at least one offense
- 8 States increased the length of mandatory imprisonment for at least one offense
- 11 States increased the term for license suspension or revocation

A few years after imposing severe mandatory sanctions, many States reduced the severity of their sanctions, particularly for first offenses.

### In 42 States imprisonment is mandatory for driving while intoxicated

| State | Is imprisonment mandatory? | After which offense does imprisonment become mandatory? | Length of imprisonment |
|---|---|---|---|
| Alabama | Yes | 2nd offense | 2 days |
| Alaska | Yes | 1st | 3 |
| Arizona | Yes | 1st | 1 |
| Arkansas | No | | |
| California | Yes | 2nd | 2 |
| Colorado | Yes | 2nd | 7 |
| Connecticut | Yes | 1st | 2 |
| Delaware | Yes | 2nd | 60 |
| D.C. | No | | |
| Florida | Yes | 2nd | 10 |
| Georgia | Yes | 2nd | 2 |
| Hawaii | Yes | 1st | 2 |
| Idaho | Yes | 2nd | 10 |
| Illinois | Yes | 2nd | 2 |
| Indiana | Yes | 2nd | 5 |
| Iowa | Yes | 2nd | 7 |
| Kansas | Yes | 1st | 2 |
| Kentucky | Yes | 2nd | 7 |
| Louisiana | Yes | 1st | 2 |
| Maine | Yes | 1st | 2 |
| Maryland | Yes | 2nd | 2 |
| Massachusetts | Yes | 2nd | 14 |
| Michigan | No | | |
| Minnesota | No | | |
| Mississippi | No | | |
| Missouri | Yes | 2nd | 2 |
| Montana | Yes | 1st | 1 |
| Nebraska | Yes | 2nd | 2 |
| Nevada | Yes | 1st | 2 |
| New Hampshire | Yes | 2nd | 7 |
| New Jersey | Yes | 2nd | 2 |
| New Mexico | Yes | 2nd | 2 |
| New York | No | | |
| North Carolina | Yes | 2nd | 7 |
| North Dakota | Yes | 2nd | 4 |
| Ohio | Yes | 1st | 3 |
| Oklahoma | No | | |
| Oregon | Yes | 1st | 2 |
| Pennsylvania | Yes | 2nd | 30 |
| Rhode Island | Yes | 2nd | 2 |
| South Carolina | Yes | 1st | 2 |
| South Dakota | No | | |
| Tennessee | Yes | 1st | 2 |
| Texas | Yes | 2nd | 3 |
| Utah | Yes | 1st | 2 |
| Vermont | Yes | 2nd | 2 |
| Virginia | Yes | 2nd | 2 |
| Washington | Yes | 1st | 1 |
| West Virginia | Yes | 1st | 1 |
| Wisconsin | No | | |
| Wyoming | Yes | 2nd | 7 |

Source: *A digest of State alcohol-highway safety related legislation*, fifth edition, National Highway Traffic Safety Administration, U.S. Department of Transportation

# Juveniles receive dispositions rather than sentences

### Juvenile court dispositions tend to be indeterminate

The dispositions of juveniles adjudicated to be delinquent extend until the juvenile legally becomes an adult (21 years of age in most States) or until the offending behavior has been corrected, whichever is sooner.

Of the 45 States and the District of Columbia that authorize indeterminate periods of confinement—
- 32 grant releasing authority to the State juvenile corrections agency
- 6 delegate it to juvenile paroling agencies
- 5 place such authority with the committing judges
- 3 have dual or overlapping jurisdiction.

### Most juvenile cases are disposed of informally

In 1982 about 54% of all cases referred to juvenile courts by the police and other agencies were handled informally without the filing of a petition. About 20% of all cases involved some detention prior to disposition.

Of about 600,000 cases in which petitions were filed, 64% resulted in formal adjudication. Of these, 61% resulted in some form of probation, and 29% resulted in an out-of-home placement.

### The juvenile justice system is also undergoing changes in the degree of discretion permitted in confinement decisions

Determinate dispositions are now used in six States, but they do not apply to all offenses or offenders. In most cases they apply only to specified felony cases or to the juveniles with prior adjudications for serious delinquencies.

California imposes determinate periods of confinement for delinquents committed to State agencies based on the standards and guidelines of its paroling agency. Four States have similar procedures, administered by the State agencies responsible for operating their juvenile corrections facilities.

As of 1981 eight States had serious-delinquent statutes requiring that juveniles who are either serious, violent, repeat, or habitual offenders be adjudicated and committed in a manner that differs from the adjudication of other delinquents. Such laws require minimum lengths of commitment, prescribe a fixed range of time for commitment, or mandate a minimum length of stay in a type of placement, such as a secure institution.

### Dispositions for serious juvenile offenders tend to look like those for adults

Aggregate statistics on juvenile court dispositions do not provide an accurate picture of what happens to the more serious offenders because many of the cases coming before juvenile courts involve minor criminal or status offenses. These minor cases are more likely to be handled informally by the juvenile court.

An analysis of California cases involving older juveniles and young adults charged by the police with robbery or burglary revealed more similarities in their disposition patterns than the aggregate juvenile court statistics would suggest. For both types of offenses, juvenile petitions were filed and settled formally in court about as often as were complaints filed and convictions obtained in the cases against adults. The juveniles charged with the more serious offenses and those with the more extensive prior records were the most likely to have their cases reach adjudication. At the upper limits of offense and prior record severity, juveniles were committed to secure institutions about as frequently as were young adults with comparable records.

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

For example, juvenile courts cannot order the death penalty, life terms, or terms that could exceed the maximum jurisdiction of the court itself. In Arizona the State Supreme Court held that, despite statutory jurisdiction of the juvenile courts to age 21, delinquents could not be held in State juvenile corrections facilities beyond age 18.[3]

Yet, juvenile courts may go further than criminal courts in regulating the lifestyles of juvenile offenders placed in the community under probation supervision. For example, the court may order them to—
- live in certain locations
- attend school
- participate in programs intended to improve their behavior.

The National Center for Juvenile Justice estimates that almost 70% of the juveniles whose cases are not waived or dismissed are put on probation; about 10% are committed to an institution.

### Most juveniles committed to juvenile facilities are delinquents

| | Percent of juveniles |
|---|---|
| Total | 100% |
| Delinquents | 74 |
| Nondelinquents | |
| Status offenders | 12 |
| Nonoffenders (dependency, neglect, abuse, etc.) | 14 |

Source: BJS Children in Custody, 1985, unpublished data.

# Current sentencing alternatives reflect multiple objectives

### What types of sentences usually are given to offenders?

**Death penalty**—In most States for the most serious crimes such as murder, the courts may sentence an offender to death by lethal injection, electrocution, exposure to lethal gas, hanging, or other method specified by State law.

- As of 1985, 37 States had laws providing for the death penalty.
- Virtually all death penalty sentences are for murder.
- As of yearend 1985, 50 persons had been executed since 1976, and 1,591 inmates in 32 States were under a sentence of death.

**Incarceration**—The confinement of a convicted criminal in a Federal or State prison or a local jail to serve a court-imposed sentence. Confinement is usually in a jail, administered locally, or a prison, operated by the State or Federal Government. In many States offenders sentenced to 1 year or less are held in a jail; those sentenced to longer terms are committed to a State prison.

- More than 4,200 correctional facilities are maintained by Federal, State, and local governments. They include 47 Federal facilities, 922 State-operated adult confinement and community-based correctional facilities, and 3,300 local jails, which usually are county-operated.
- On any given day in 1985 about 503,000 persons were confined in State and Federal prisons. About 254,000 were confined in local jails on June 30, 1985.

**Probation**—The sentencing of an offender to community supervision by a probation agency, often as a result of suspending a sentence to confinement. Such supervision normally entails specific rules of conduct while in the community. If the rules are violated a sentence to confinement may be imposed. Probation is the most widely used correctional disposition in the United States.

- State or local governments operate more than 2,000 probation agencies.
- At yearend 1985, nearly 1.9 million adults were on probation, or about 1 of every 95 adults in the Nation.

**Split sentences, shock probation, and intermittent confinement**—A penalty that explicitly requires the convicted person to serve a brief 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. Some sentences are periodic rather than continuous; for example, an offender may be required to spend a certain number of weekends in jail.

- In 1984 nearly a third of those receiving probation sentences in Idaho, New Jersey, Tennessee, Utah, and Vermont also were sentenced to brief periods of confinement.

**Restitution and victim compensation**—The offender is required to provide financial repayment or, in some jurisdictions, services in lieu of monetary restitution, for the losses incurred by the victim.

- Nearly all States have statutory provisions for the collection and disbursement of restitution funds. A restitution law was enacted at the Federal level in 1982.

**Community service**—The offender is required to perform a specified amount of public service work, such as collecting trash in parks or other public facilities.

- Many States authorize community service work orders. Community service often is imposed as a specific condition of probation.

**Fines**—An economic penalty that requires the offender to pay a specified sum of money within limits set by law. Fines often are imposed in addition to probation or as alternatives to incarceration.

- The Victims of Crime Act of 1984 authorizes the distribution of fines and forfeited criminal profits to support State victim-assistance programs, with priority given to programs that aid victims of sexual assault, spousal abuse, and child abuse. These programs, in turn, provide assistance and compensation to crime victims.
- Many laws that govern the imposition of fines are being revised. The revisions often provide for more flexible means of ensuring equity in the imposition of fines, flexible fine schedules, "day fines" geared to the offender's daily wage, installment payment of fines, and the imposition of confinement only when there is an intentional refusal to pay.
- A 1984 study estimated that more than three-fourths of criminal courts use fines extensively and that fines levied each year exceed one billion dollars.

# In most cases, a felony conviction results in a sentence that includes incarceration

### Incarceration is most likely for serious crimes of violence

Sentences imposed in nine jurisdictions in 1981[a]

| | Percent of convictions resulting in incarceration in prison or jail | |
|---|---|---|
| | Any | More than 1 year |
| All felonies[b] | 71% | 37% |
| Homicide and manslaughter | 86 | 70 |
| Sexual assault | 79 | 52 |
| Robbery | 83 | 58 |
| Assault | 64 | 24 |
| Burglary | 76 | 39 |
| Larceny and auto theft | 62 | 24 |
| Stolen property | 66 | 26 |
| Fraud | 60 | 23 |
| Drugs | 62 | 21 |
| Weapons | 60 | 26 |
| Other[c] | 63 | 21 |

[a]Indianapolis, Indiana; Los Angeles, California; Louisville, Kentucky; Borough of Manhattan, New York; New Orleans, Louisiana; State of Rhode Island; St. Louis, Missouri; Salt Lake City, Utah; San Diego, California.
[b]Indicted cases that resulted in conviction in felony court; a few of the convictions were for misdemeanors.
[c]Includes kidnaping, morals offenses, arson, unknown, and miscellaneous other felonies.

Source: Barbara Boland with Ronald Sones, INSLAW, Inc., *The prosecution of felony arrests, 1981*, BJS, 1986.

### Confinement may be in State prisons or local jails

In most jurisdictions local jails are used to incarcerate persons with short sentences (generally less than 1 year), while longer sentences are served in State prisons. However, some jurisdictions use jail instead of prison more often as the sanction against convicted felons serving longer terms. For example, in both Baltimore City, Maryland, and Philadelphia, Pennsylvania, in 1983 two-thirds of convicted felons were sentenced to incarceration. In Baltimore, virtually all such persons went to State prisons, while Philadelphia sent half to State prisons and half to county institutions.

### Many felons are sentenced to probation

A 1985 study of felony sentencing in 18 local jurisdictions revealed that more than a fourth of felony sentences were for probation alone. Almost another fifth of convicted felons were sentenced to a time in jail followed by probation (split sentence).

### Sentences are more severe for offenders convicted of multiple charges than for those convicted of single charges

According to the 18-jurisdiction study—
- More than a fourth of the persons convicted of felonies were convicted of more than one charge.
- Persons convicted of multiple felony charges were more likely to go to prison and received longer sentences. Of those convicted of a single charge, 40% were sentenced to prison vs. 56% of those convicted of two charges and 69% of those convicted of four or more charges.
- About 11% of those convicted of multiple charges and sentenced to prison were given consecutive sentences; the individual sentences must be served in sequence. The rest were given concurrent sentences, allowing several sentences to be served at the same time.

### Prison sentences are longer for multiple-charge convictions

| Conviction offense | Average sentence length for offenders convicted of-- One charge | Two charges | Three charges | Four or more charges |
|---|---|---|---|---|
| Violent offenses | | | | |
| Homicide | 11.2 yrs. | 18.1 yrs. | 23.0 yrs. | 34.5 yrs. |
| Rape | 8.8 | 14.7 | 18.8 | 23.2 |
| Robbery | 6.4 | 10.5 | 11.4 | 17.6 |
| Aggravated assault | 5.9 | 7.3 | 8.6 | 9.3 |
| Property offenses | | | | |
| Burglary | 3.8 | 5.8 | 7.3 | 6.1 |
| Larceny | 2.8 | 4.4 | 4.4 | 4.0 |
| Drug trafficking | 3.4 | 5.3 | 6.0 | 7.5 |

Note: Sentences were classified according to the most serious conviction offense. Offenses are listed in order of seriousness. In addition to the most serious conviction charge, multiple conviction charges may include lesser offenses including misdemeanors.

Source: *Felony sentencing in 18 local jurisdictions*, BJS Special Report, June 1985.

# The death penalty is reserved for the most serious offenses and offenders

### The death penalty was reaffirmed by the Supreme Court in 1976

In the 1972 decision *Furman* v. *Georgia*, the Supreme Court struck down on Eighth Amendment grounds (forbidding cruel and unusual punishment) State and Federal capital punishment laws that permitted wide discretion in the application of the death penalty. In response, many States revised their statutes to conform to the guidelines in *Furman*.

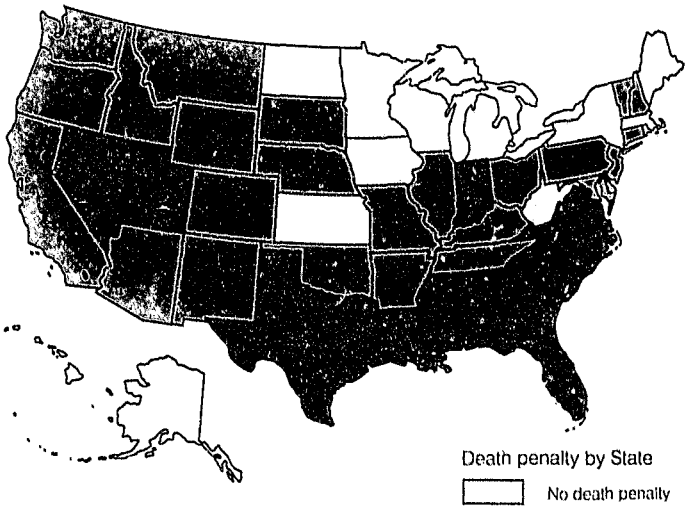
The High Court clarified these guidelines in a series of five decisions announced on July 2, 1976. In *Woodson* v. *North Carolina* and *Roberts* v. *Louisiana*, the Court struck down State statutes that required mandatory imposition of the death penalty for specified crimes. As a direct consequence, mandatory death penalty provisions in 21 States were invalidated either through later court action or repeal by State legislatures. This resulted in the modification to life imprisonment of death sentences imposed on hundreds of offenders in these States.

In three other major cases, however, the Supreme Court upheld State death penalty laws that afforded sentencing authorities discretion to impose death sentences for specified crimes (*Gregg* v. *Georgia, Jurek* v. *Texas,* and *Proffit* v. *Florida*). The Court validated statutes that permitted the imposition of the death penalty after consideration of aggravating and mitigating circumstances.

### A total of 3,909 people have been executed since 1930, including 50 since 1977

In 1977 the first execution in a decade was carried out in Utah. Two more executions followed in 1979 (Florida and Nevada), 1 in 1981 (Indiana), 2 in 1982 (Virginia and Texas), 5 in 1983 (2 in Florida and 1 each in Alabama, Mississippi, and Louisiana), 21 in 1984 (8 in Florida, 5 in Louisiana, 3 in Texas, 2 each in Georgia and North Carolina, and 1 in Virginia), and 18 during 1985 (6 in Texas, 3 each in Florida and Georgia, 2 in Virginia, and 1 each in Indiana, Louisiana, South Carolina, and Nevada).

### At the end of 1985, 37 States had death penalty laws in effect




Source: *Capital punishment, 1985*, BJS Bulletin, November 1986

### The number of persons on death row reached an alltime high in 1985


Source: *Capital punishment, 1985*, BJS Bulletin, November 1986.

## What types of murder are most often cited in State capital punishment laws?

| Type of murder for which death penalty is authorized | Number of States |
|---|---|
| **Murder during another crime** | |
| Sexual offense (such as rape) | 35 |
| Kidnaping | 34 |
| Robbery | 33 |
| Burglary | 32 |
| Arson | 29 |
| **Murder of a certain type of victim** | |
| Police or other law enforcement officer | 34 |
| Corrections employee | 26 |
| Firefighter | 22 |
| **Murder by a person with a criminal history or criminal justice status** | |
| Defendant was in custody | 27 |
| Defendant was previously convicted of murder | 20 |
| **Murder carried out in a particular way** | |
| Defendant created a grave risk of death to others | 26 |
| Murder was especially heinous, atrocious, cruel, vile, etc. | 23 |
| **Murder carried out for a particular purpose** | |
| For pecuniary gain (contract murder, murder for hire) | 35 |
| To effect an escape | 26 |
| To avoid or prevent an arrest | 20 |
| **Other** | |
| Multiple murders | 22 |
| Hiring another to kill | 21 |

Source: BJS analysis of State capital punishment laws, 1986.

## Who is on death row?

Of the 1,591 inmates on death row in 1985—

- All had been convicted of murder, 2 out of 3 had at least one prior felony conviction, 1 out of 11 had a prior murder conviction, and 2 out of 5 had a legal status (on bail, probation, or parole) at the time of the capital murder.
- 1,574 were male and 17 were female.
- 903 were white, 672 were black, 11 were American Indian, 5 were Asian, and 99 were of Hispanic origin.
- The median elapsed time since death sentence was imposed was 36 months.

## What methods of execution are used by the various States?

| Lethal injection | Electrocution | Lethal gas | Hanging | Firing squad |
|---|---|---|---|---|
| Arkansas[a] | Alabama | Arizona | Delaware | Idaho[a] |
| Idaho[a] | Arkansas[a] | California | Montana[a] | Utah[a] |
| Illinois | Connecticut | Colorado | New Hampshire | |
| Mississippi[a,b] | Florida | Maryland | Washington[a] | |
| Montana[a] | Georgia | Mississippi[a,b] | | |
| Nevada | Indiana | Missouri | | |
| New Jersey | Kentucky | North Carolina[a] | | |
| New Mexico | Louisiana | Wyoming[a] | | |
| North Carolina[a] | Nebraska | | | |
| Oklahoma[c] | Ohio | | | |
| Oregon | Pennsylvania | | | |
| South Dakota | South Carolina | | | |
| Texas | Tennessee | | | |
| Utah[a] | Vermont | | | |
| Washington[a] | Virginia | | | |
| Wyoming[a] | | | | |

[a]Authorizes two methods of execution.
[b]Mississippi authorizes lethal injection for persons convicted after 7/1/84; executions of persons convicted before that date are to be carried out with lethal gas.
[c]Should lethal injection be found to be unconstitutional, Oklahoma authorizes use of electrocution or firing squad.

Source: *Capital punishment, 1985*, BJS Bulletin, November 1986.

## What is minimum age authorized for capital punishment?

Minimum age authorized for capital punishment

| 10 years | 13 years | 14 years | 15 years | 16 years | 17 years | 18 years |
|---|---|---|---|---|---|---|
| Indiana | Georgia | Missouri | Arkansas | Connecticut | New Hampshire | California |
| Vermont | Mississippi | North Carolina | Louisiana | Montana | Texas | Colorado |
| | | | Virginia | Nevada | | Illinois |
| | | | | | | Nebraska |
| | | | | | | New Jersey |
| | | | | | | New Mexico |
| | | | | | | Ohio |
| | | | | | | Oregon |
| | | | | | | Washington |

No minimum age specified

| | |
|---|---|
| Federal | Oklahoma |
| Alabama | Pennsylvania |
| Arizona | South Carolina |
| Delaware | South Dakota |
| Florida | Tennessee |
| Idaho | Utah |
| Kentucky | Wyoming |
| Maryland | |

Source: *Capital punishment, 1985*, BJS Bulletin, November 1986.

# For most inmates, prison sentences are much longer than the actual time they will serve

### Sentences to prison vary widely between minimum and maximum terms and are longer for violent crimes

| Admission offense | Percent of admissions | Average sentence of those admitted to prison | |
|---|---|---|---|
| | | Minimum* | Maximum |
| All crimes | 100% | 40 mos. | 72 mos. |
| Violent offenses | 39% | 62 | 100 |
| Murder | 4 | 177 | 281 |
| Rape | 3 | 82 | 117 |
| Robbery | 16 | 55 | 91 |
| Assault | 7 | 45 | 72 |
| Property offenses | 46% | 27 | 58 |
| Burglary | 26 | 29 | 61 |
| Auto theft | 2 | 20 | 41 |
| Forgery/fraud | 5 | 26 | 53 |
| Larceny | 10 | 23 | 55 |
| Drug offenses | 8% | 27 | 53 |
| Public order offenses | 5% | 22 | 45 |
| Other crimes | 2% | 27 | 27 |

*Defined as the estimated minimum time to be served prior to eligibility for release

Source: *Prison admissions and releases, 1983*, BJS Special Report, March 1986

### Most prisoners are released before serving their maximum sentence

Release from prison generally occurs as the result of a decision of a paroling authority, mandatory release, or expiration of sentence. In 1984 half of all releases from prison were by a parole board decision.

• **Parole** is the release of a prisoner by the decision of a paroling authority. The offender is placed under the supervision of a parole officer who monitors the offender's compliance with rules of conduct imposed by the paroling authority. Violations of these rules may result in reimprisonment for the balance of the unexpired sentence.

• **Mandatory release** is based on earned "goodtime" (days earned for good behavior) or other statutory sentence-reduction measures and, though supervision is required after release, does not usually depend on the discretionary decision of a parole board. Supervision rules of conduct, if violated, may result in a return to prison for the time remaining on the sentence.

• **Expiration of sentence** occurs when the maximum term imposed by the court is served and the offender must be released without further conditions or supervision.

### The release-from-prison process varies among jurisdictions

How long a prisoner will serve for a given offense usually depends on a long chain of decisionmaking processes that begin with the—

• types of sentencing standards set by State law

• degree of discretion allowed to a sentencing judge

• laws that govern goodtime earnings and eligibility for parole.

### Goodtime is offered in nearly all jurisdictions as an incentive for good behavior while confined

In most jurisdictions inmates may earn credits against their sentences in two ways—automatic or earned goodtime. Automatic goodtime refers to credits defined by law or regulation based on the length of the sentence imposed, the length of time served, or the seriousness of the offense. For example, Colorado and Louisiana may credit up to 15 days per month while Minnesota and Oregon may credit 1 day for every 2 served. In the Federal system, automatic goodtime varies with the duration of the sentence:

| Sentence length | Days credited per month |
|---|---|
| 0-6 months | 0 days |
| 6 months to 1 year & 1 day | 5 |
| 1 year & 1 day to 3 years | 6 |
| 3 to 5 years | 7 |
| 5 to 10 years | 8 |
| 10 years or more | 10 |

Earned goodtime, by contrast, is often given for participation in programs, such as education or vocational training, prison industry, or institutional work, and for exceptional conduct such as fighting forest fires and blood donations. Twenty States also have various kinds of early-release programs that may be invoked when institutions become crowded.

### In 1983, more than half the persons released from State prisons served 19 months or less

| Conviction offense | Percent of releases | Time served by releasees | |
|---|---|---|---|
| | | Average | Median |
| All offenses | 100% | 26 mos. | 19 mos. |
| Violent offenses | 34% | 38 | 30 |
| Murder | 2 | 90 | 79 |
| Manslaughter | 3 | 36 | 32 |
| Rape | 2 | 54 | 47 |
| Other sexual assault | 2 | 34 | 29 |
| Robbery | 14 | 36 | 30 |
| Assault | 8 | 29 | 24 |
| Kidnaping | 1 | 41 | 33 |
| Other violent offenses | 1 | 19 | 14 |
| Property offenses | 47% | 19 | 15 |
| Burglary | 24 | 21 | 17 |
| Arson | 1 | 25 | 21 |
| Auto theft | 2 | 17 | 15 |
| Forgery/fraud | 6 | 19 | 15 |
| Larceny | 12 | 16 | 12 |
| Stolen property | 2 | 18 | 13 |
| Other property | 2 | 16 | 12 |
| Drug offenses | 9% | 19 | 15 |
| Public order offenses | 9% | 13 | 10 |
| Other crimes | 1% | 18 | 16 |

Note: Time served includes jail credits

Source: *Prison admissions and releases, 1983*, BJS Special Report, March 1986

### The percentage of persons released from prison by parole-board decision has been declining

In 1977 nearly 72% of all prison releases were by a parole-board decision. By 1984 parole decisions accounted for 46% of all releases. This change illustrates the impact of the movement away from discretionary decisionmaking toward more fixed penalty systems both at the sentencing and release points in the justice system. Mandatory release has increased in significance, giving new importance to the role of goodtime provisions in determining the amount of time to be served.

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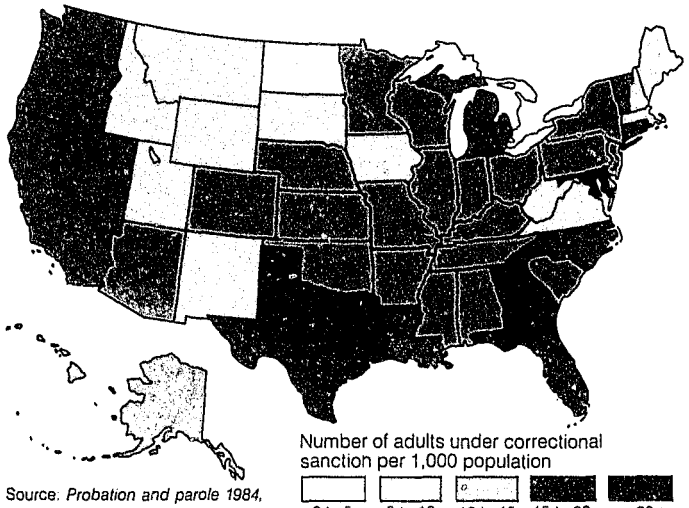
[2]*A comprehensive perspective on civil and criminal RICO legislation and litigation,* American Bar Association, Criminal Justice Section, April 1985, Appendix C.

[3]*In the matter of appeal in Maricopa County,* Case No. J-86509, Supreme Court, 604 PAC 2nd 641, December 14, 1979.

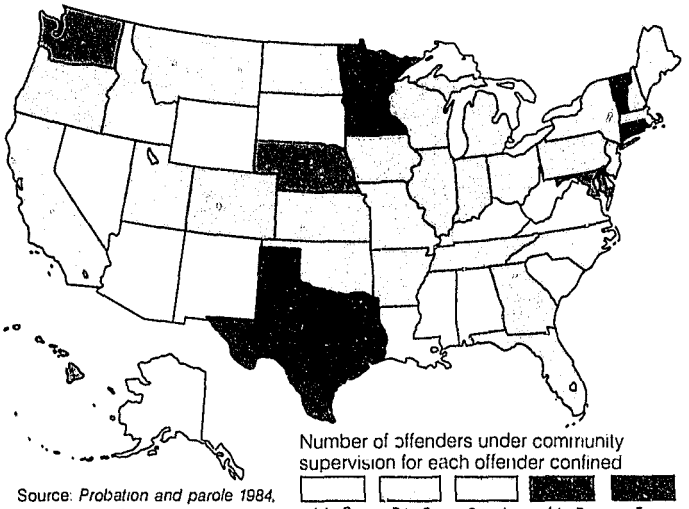
# How many people are under some form of correctional supervision?

**More than 1 1/2% of the adult U.S. population is under some form of correctional sanction**




Source: *Probation and parole 1984*, BJS Bulletin, February 1986.

**Three out of four adults under correctional care or custody are not incarcerated**




Source: *Probation and parole 1984*, BJS Bulletin, February 1986.

**More than 2.6 million adults are under some form of correctional care, custody, or supervision**

| Regions and States | Number of adults | | | |
|---|---|---|---|---|
| | On probation | In jail | In prison | On parole |
| United States, total | 1,870,132 | 218,995 | 503,315 | 277,438 |
| Federal | 55,217 | * | 40,223 | 16,860 |
| State | 1,814,915 | 218,995 | 463,092 | 260,578 |
| Northeast | | | | |
| Connecticut | 36,805 | * | 6,149 | 597 |
| Maine | 4,451 | 542 | 1,226 | 68 |
| Massachusetts | 24,637 | 3,304 | 5,390 | 4,496 |
| New Hampshire | 3,096 | 469 | 683 | 453 |
| New Jersey | 48,466 | 5,956 | 11,335 | 13,385 |
| New York | 100,816 | 15,877 | 34,712 | 25,279 |
| Pennsylvania | 65,286 | 10,167 | 14,227 | 12,200 |
| Rhode Island | 7,536 | * | 1,307 | 402 |
| Vermont | 5,298 | * | 677 | 236 |
| Midwest | | | | |
| Illinois | 74,156 | 8,819 | 18,634 | 11,421 |
| Indiana | 39,121 | 3,466 | 9,904 | 2,797 |
| Iowa | 12,063 | 828 | 2,832 | 1,971 |
| Kansas | 15,473 | 1,305 | 4,732 | 2,282 |
| Michigan | 75,162 | 7,627 | 17,799 | 6,639 |
| Minnesota | 32,986 | 1,941 | 2,343 | 1,364 |
| Missouri | 26,760 | 3,761 | 9,915 | 4,534 |
| Nebraska | 10,720 | 817 | 1,814 | 364 |
| North Dakota | 1,569 | 236 | 422 | 166 |
| Ohio | 61,465 | 7,087 | 20,664 | 6,509 |
| South Dakota | 2,249 | 310 | 1,047 | 415 |
| Wisconsin | 24,288 | 3,003 | 5,442 | 3,850 |

| Regions and States | Number of adults | | | |
|---|---|---|---|---|
| | On probation | In jail | In prison | On parole |
| South | | | | |
| Alabama | 16,520 | 4,452 | 11,015 | 2,425 |
| Arkansas | 9,268 | 1,540 | 4,611 | 3,830 |
| Delaware | 7,103 | * | 2,553 | 864 |
| District of Columbia | 11,777 | * | 6,404 | 2,340 |
| Florida | 130,767 | 14,313 | 28,600 | 4,214 |
| Georgia | 94,461 | 10,213 | 16,014 | 8,538 |
| Kentucky | 14,887 | 3,652 | 5,801 | 3,471 |
| Louisiana | 26,638 | 8,501 | 13,890 | 3,718 |
| Maryland | 67,138 | 4,572 | 13,005 | 7,308 |
| Mississippi | 6,636 | 2,482 | 6,392 | 3,392 |
| North Carolina | 56,207 | 3,474 | 17,344 | 3,184 |
| Oklahoma | 20,310 | 2,164 | 8,330 | 1,625 |
| South Carolina | 17,964 | 2,674 | 10,510 | 3,261 |
| Tennessee | 24,648 | 5,975 | 7,127 | 7,499 |
| Texas | 269,909 | 15,176 | 37,532 | 47,471 |
| Virginia | 17,236 | 5,616 | 12,073 | 5,641 |
| West Virginia | 3,905 | 1,015 | 1,725 | 638 |
| West | | | | |
| Alaska | 2,606 | 34 | 2,329 | 155 |
| Arizona | 18,176 | 2,906 | 8,531 | 1,717 |
| California | 210,449 | 41,656 | 50,111 | 33,983 |
| Colorado | 17,612 | 2,739 | 3,369 | 2,003 |
| Hawaii | 7,986 | * | 8,111 | 716 |
| Idaho | 3,414 | 566 | 1,294 | 483 |
| Montana | 2,712 | 394 | 1,129 | 694 |
| Nevada | 5,365 | 928 | 3,771 | 1,313 |
| New Mexico | 4,185 | 1,324 | 1,324 | 1,115 |
| Oregon | 22,377 | 2,304 | 4,454 | 2,010 |
| Utah | 6,330 | 906 | 1,633 | 1,174 |
| Washington | 44,248 | 3,595 | 6,909 | 6,039 |
| Wyoming | 1,678 | 309 | 758 | 329 |

Note: Jail data are for June 30, 1983. All other are for December 31, 1985.
*Jail populations in States with consolidated jail/prison systems are included in prison population counts.

Source: *Probation and parole 1985*, BJS Bulletin, January 1987.

### An estimated 95% of State prison inmates are either convicted violent offenders or have a history of prior sentences to probation, jail, or prison

Major factors in the decision to impose a prison sentence are the gravity of the current conviction offense and the seriousness and extent of the prior criminal history of the offender.

In 1979—
- For an estimated 58% of State prison inmates, conviction for committing a violent crime led to their current incarceration.
- About a third of these violent offenders had previous convictions for a violent offense and 3 of 4 had at least one prior sentence to probation, jail, or prison.
- Nearly 9 of 10 of the prisoners convicted of a nonviolent offense had at least one prior sentence to probation, jail, or prison.

Overall, about 5% of State prison inmates had a current conviction for a nonviolent crime and had no previous sentences to probation, jail, or prison. Nearly half of these first-time, nonviolent offenders were in State prison for conviction offenses of burglary or drug trafficking and about a third had two or more current conviction offenses.

### How does the imprisonment rate in the United States compare to that of other countries?

Comparisons between the United States and other countries should be made with caution because of differences in criminal justice systems, crime classifications, and data collection.

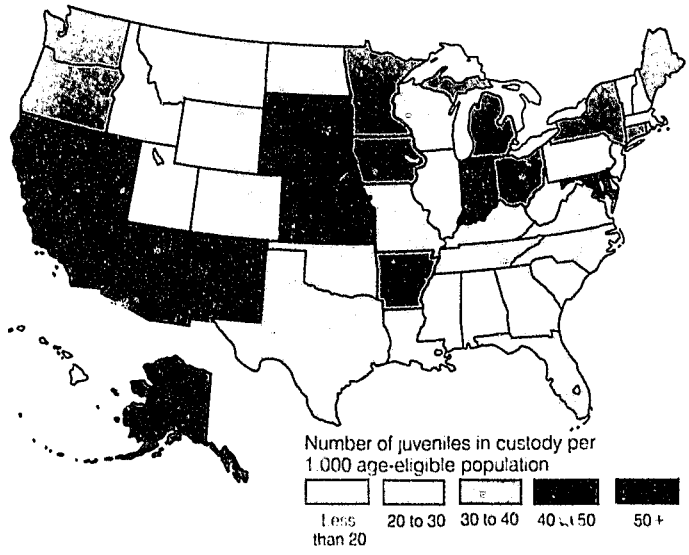
For example, no event in the Federal Republic of Germany corresponds specifically to arrest. Their data include persons suspected of crimes (less serious than arrest) and persons formally charged with crimes (more serious than arrest).

| | Estimated percent of arrested adults who are convicted and incarcerated for — | | |
|---|---|---|---|
| | Robbery | Burglary | Theft* |
| United States | 49% | 35% | 18% |
| Canada | 52 | 23 | 14 |
| England and Wales | 48 | 30 | 14 |
| Federal Republic of Germany | 23-58** | . . | 4-9 |

. . . Not available.
*Includes burglary and auto theft.
**Because no event like arrest exists here, this range represents the percent of those suspected of crime and the percent of those formally charged with crimes.

Source: *Imprisonment in four countries*, BJS Special Report, February 1987.

### About 3% of the juvenile population was in custody in 1985




Sources: *Children in custody. Public juvenile facilities 1985*, BJS Bulletin, October 1986, and Children in Custody 1985, unpublished data

### More than 83,000 persons were in juvenile facilities in 1985

| | Number of juveniles in public and private facilities |
|---|---|
| United States, total | 83,402 |
| Northeast | |
| Connecticut | 997 |
| Maine | 467 |
| Massachusetts | 1,064 |
| New Hampshire | 235 |
| New Jersey | 1,814 |
| New York | 5,396 |
| Pennsylvania | 3,283 |
| Rhode Island | 316 |
| Vermont | 137 |
| Midwest | |
| Illinois | 2,066 |
| Indiana | 2,886 |
| Iowa | 1,090 |
| Kansas | 1,363 |
| Michigan | 3,369 |
| Minnesota | 1,912 |
| Missouri | 1,415 |
| Nebraska | 834 |
| North Dakota | 207 |
| Ohio | 4,860 |
| South Dakota | 439 |
| Wisconsin | 1,775 |
| South | |
| Alabama | 974 |
| Arkansas | 922 |
| Delaware | 190 |
| District of Columbia | 417 |
| Florida | 3,335 |
| Georgia | 1,300 |
| Kentucky | 1,047 |
| Louisiana | 1,530 |
| Maryland | 2,154 |
| North Carolina | 1,344 |
| Oklahoma | 835 |
| South Carolina | 762 |
| Tennessee | 1,530 |
| Texas | 4,122 |
| Virginia | 1,724 |
| West Virginia | 265 |
| West | |
| Alaska | 361 |
| Arizona | 1,799 |
| California | 15,812 |
| Colorado | 1,096 |
| Hawaii | 210 |
| Idaho | 261 |
| Montana | 247 |
| Nevada | 542 |
| New Mexico | 804 |
| Oregon | 1,179 |
| Utah | 281 |
| Washington | 1,748 |

Note: Data on juveniles are for February 1, 1985. An additional 2,112 adults were held in juvenile facilities. Data from Mississippi and Wyoming are not shown to preserve confidentiality.

Source: *Children in custody: Public juvenile facilities 1985*, BJS Bulletin, October 1986, and Children in Custody, 1985, unpublished data.

# What are the trends in correctional populations?

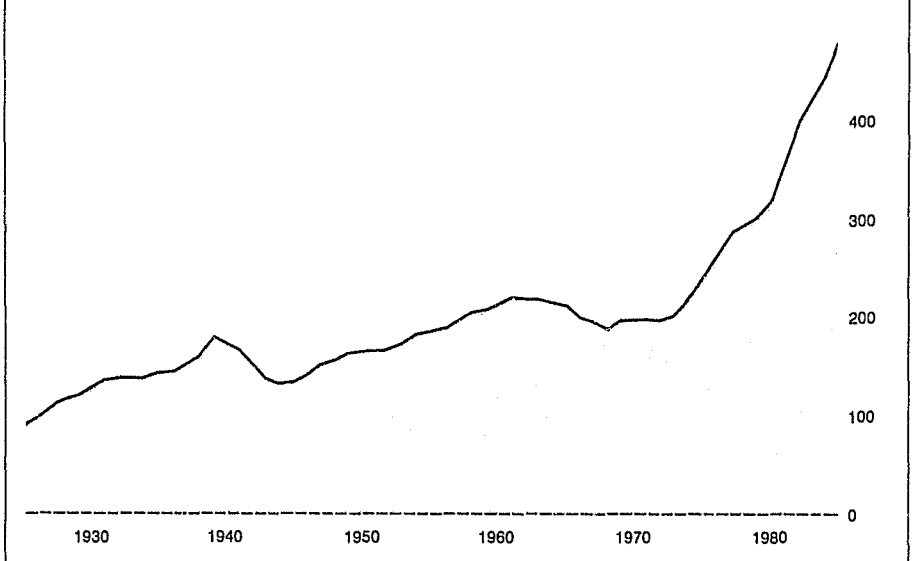
### All correctional populations are growing

| Correctional population | 1983 Number | 1983 Percent of adult population | 1984 Number | 1984 Percent of adult population | 1985 Number | 1985 Percent of adult population | Percent change in correctional populations 1983–85 |
|---|---|---|---|---|---|---|---|
| Total | 2,488,450 | 1.45% | 2,705,525 | 1.56% | 2,904,979 | 1.65% | 16.7% |
| Probation | 1,582,947 | .92 | 1,740,948 | 1.00 | 1,870,132 | 1.06 | 18.1 |
| Jail | 221,815 | .13 | 233,018 | .13 | 254,094 | .14 | 14.6 |
| Prison | 437,248 | .26 | 464,567 | .27 | 503,315 | .29 | 15.1 |
| Parole | 246,440 | .14 | 266,992 | .15 | 277,438 | .16 | 12.6 |

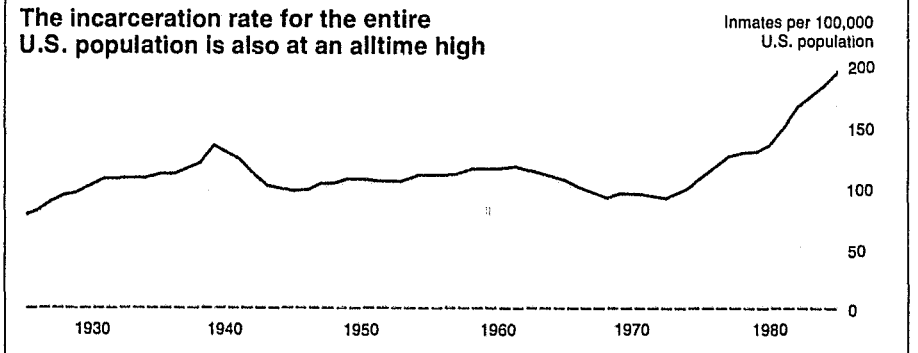
Note: The following are estimates of the resident population age 18 and older on July 1: 1983—171,332,000; 1984—173,469,000; 1985—175,727,000. Population counts for probation, parole, and prison are for December 31, and jail counts are for June 30.

Source: *Probation and parole 1985*, BJS Bulletin, January 1987.

**The prison population is at an alltime high**




**The incarceration rate for the entire U.S. population is also at an alltime high**




Source: *State and Federal prisoners, 1925–1985*, BJS Bulletin, October 1986.

### Probation populations are growing at a faster rate than other correctional populations

Over the past several years, probation populations have increased by more than 18% vs. about 15% in jail and prison populations and nearly 13% in the number of parolees. Nearly two-thirds of the total correctional population was under probation supervision in the community at yearend 1985.

| | Probationers were one of every: |
|---|---|
| 1983 | 109 adults |
| 1984 | 100 |
| 1985 | 94 |

### Since 1970 the number of local jails has declined by 17% and the number of inmates present on a single day has risen by nearly 40%

The reduction in the number of local jails reflects increasing consolidation of small jails into larger institutions, often serving more than one jurisdiction. In 1972 there were 113 jails designed to house 250 inmates or more; by 1983 there were 201 facilities of this size.

The number of jail inmates grew from 160,863 in 1970 to 223,551 in 1983. The 1972 Jail Census found the number of jail inmates declined to 141,588. By the 1978 Jail Census, the jail population had begun to rise again to 158,394. This increase continued with the 1983 jail population reaching a peak since data collection began in 1970.

Perhaps the single most important feature of local jails is the rapidity of population movements. In 1978 about 6.1 million were admitted to local jails vs. about 8.1 million in 1983.

**Why are prison populations growing?**

State departments of corrections attribute the increase in prison population to changes in sentencing laws and practices that reflect greater interest in deterrence, incapacitation, and just deserts considerations; stricter law enforcement; growth in the number of persons in the high-risk age group (males ages 20–29); and, in some cases, economic conditions.

**The number of admissions to prison annually has increased relative to both the number of serious crimes reported to the police and the number of adult arrests**

Between 1980 and 1984, for example, prison population increased by 41%, commitments per 100 serious crimes increased by 50%, commitments per 100 adult arrests for serious crimes increased 25% and the number of commitments increased 19%. Over the same period, the number of adults in the resident population increased by 9%.

**Since 1977 prison populations have grown by more than two-thirds**

By yearend 1985 the Nation's prison population exceeded 500,000 and was growing by 750 new prisoners a week. During the preceding 5 years, Western States led the Nation, increasing their sentenced prison population by nearly 90%. In Southern States, many under Federal or State court orders to limit growth and control crowding, inmate growth was 37%. The prison populations growing most rapidly were in Alaska (160%), Hawaii (129%), Nevada (113%), New Hampshire (110%), California (108%), and New Jersey (104%).

**Total admissions to prison reached an alltime high in 1984**

Growth in admissions is due partly to the increase in conditional release violators returned to prison (mostly probation and parole violators). Among admissions to prison, conditional release violators made up 5% in 1930, 19% in 1970, and 23% in 1984.

Court commitment rates have not been shrinking. The highest rate of court commitments (101 per 100,000 adults in the population) was reached in 1983. In 1930 it was 70; in 1970 it was 50.

**Between 1979 and 1984 the number of inmates in State-operated, community-based halfway houses grew half as fast as the number of inmates in State prisons**

Many States operate halfway houses in local communities. They do so to ease the transition for State-sentenced prisoners from their confinement to their impending release. Between 1979 and 1984 the number of residents of such halfway houses grew by 2,300, even though, during the same period, the nationwide percentage of State-sentenced prisoners residing in such halfway houses declined from 4% to 3%.

In both 1979 and 1984 Southern States accounted for about half of the State-operated, community-based halfway houses and for more than 60% of the residents of such houses.

Between 1979 and 1984, while State prison populations grew by nearly 45%, the number of residents of halfway houses grew by about 21%.

**The use of parole is declining**

The methods by which persons are discharged from prison have changed dramatically in recent years. The percentage of release decisions made by parole boards declined from 72% in 1977 to 43% in 1985.

**What are the trends in juvenile correctional populations?**

The total number of residents in juvenile facilities has grown. Between 1974 and 1985 the 1-day count of juveniles in custody grew by 9%, and the average daily population grew by 6%.

Most of the recent increase in population (1979–85) is accounted for by growth in the number of delinquents from about 49,000 in 1979 to about 58,000 in 1985. The number of status offenders has remained at 9,000 since 1979, but the number of nonoffenders (dependent, neglected, or voluntary admissions) housed in these facilities has grown by about 21%.

From 1974 to 1984 admissions and discharges to juvenile facilities both declined by 10%. Most of this decline resulted from declines in public facility admissions (18%) and discharges (19%). In privately operated facilities during this time, admissions increased by 88% and discharges increased by 102%.

# 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 generally 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, 1983, 223,551 persons were held in 3,338 local jails. The Federal Bureau of Prisons operates Metropolitan Correctional Centers and Detention Centers that essentially function as Federal jails.
• **Prisons** are operated by States and the Federal Government to hold persons sentenced to confinement for generally more than 1 year; 4% of the Nation's prison inmates are serving sentences of less than 1 year or are unsentenced; nearly 63% of such inmates are housed in Federal institutions or the 7 jurisdictions with consolidated prison and jail systems. On June 30, 1984, 381,955 persons were confined in 694 State prisons.
• **Community-based facilities** are operated publicly or privately (under contract) to hold persons for less than 24 hours a day to permit the offender limited opportunities for work, school, or other community contacts. Such facilities are used for a variety of purposes including specialized interventions or assistance (for example, drug or alcohol treatment), graduated release from prison—usually prior to parole—or as a sanction in lieu of prison or jail confinement. On June 30, 1984, 13,354 offenders were residing in 209 State-operated facilities and about 7,000 more beds were in use in privately operated facilities.

### Most jails are quite small and hold small numbers of persons in custody

Two out of three local jails were built to hold fewer than 50 inmates, but only 1 of 8 jail inmates reside in such facilities. More than half of all jail inmates are in facilities built to house 250 or more inmates, but such places account for about 6% of all local jails.

### Large jails are the most densely populated

The number of jail inmates often varies between weekends and weekdays and increases sharply after arrest sweeps by police. As a result, jail populations fluctuate more than those of prisons, so that jails typically need more reserve capacity than prisons. Nevertheless, unused bed space shrank between 1978 and 1983 as occupancy rose from 64% to 81%. Moreover, among large jails, where most inmates were housed, occupancy rose from 77% in 1978 to 96% in 1983. Among regions in 1983, occupancy in large jails peaked at 102% of capacity in the West, 97% in the Northeast, 96% in the Midwest, and 90% in the South.

### Jails house diverse populations

Nationally, jails hold a mix of persons at various stages of criminal justice processing.

Among jail inmates are persons—
• awaiting arraignment or trial (the unconvicted)
• convicted but awaiting sentence
• sentenced to prison but awaiting transport
• held in jail because of prison crowding (there were more than 11,500 such persons in 1984)
• convicted of probation or parole violations.

It is estimated that in 1984 49% of all jail inmates were convicted; the other 51% had not been convicted.

### Annual jail admissions are nearly 36 times the average daily population

Perhaps the most important feature of local jails is the high volume of inmate turnover. In the year ending June 30, 1983, the 3,338 local jails reported a total of more than 16 million admissions and releases. In the Nation, nearly 44,000 jail transactions occur each day.

### What are the staffing patterns of local jails

| Occupational categories | Full-time employees in local jails: Number | Inmate/staff ratio |
|---|---|---|
| Total | 58,763 | 3.8 |
| Administrative | 5,220 | 42.8 |
| Custodial | 41,876 | 5.3 |
| Service | 3,958 | 56.5 |
| Other | 7,709 | 29.0 |

Note: Data are as of June 30, 1983.

Source: *The 1983 jail census*, BJS Bulletin, November 1984.

### More than half the Nation's inmates live in large prisons

On June 30, 1984, the 694 State-operated prisons held 381,955 inmates. Southern States operated nearly 48% of these institutions, which held about 44% of all State inmates. Large prisons, housing more than 1,000 inmates, made up 15% of all prisons but held more than half the Nation's prisoners.

### Prisons are often classified by the level of security

• **Maximum- or close-custody prisons** are typically surrounded by a double fence or wall (usually 18 to 25 feet high) with armed guards in observation towers. Such facilities usually have large interior cell blocks for inmate housing areas. In 1984, according to self-reports of superintendents, about 1 in 4 State prisons was classified as maximum security, and about 44% of the Nation's inmates were held in these facilities.

• **Medium-custody prisons** are typically enclosed by double fences topped with barbed wire. Housing architecture is varied, consisting of outside cell blocks in units of 150 cells or less, dormitories, and cubicles. In 1984, according to self-reports of superintendents, 40% of all prisons were medium security and 44% of the Nation's inmates were held in such facilities.

• **Minimum-custody prisons** typically do not have armed posts and may use fences or electronic surveillance devices to secure the perimeter of the facility. More than a third of the Nation's prisons are graded by superintendents as minimum-security facilities, but they house only about 1 of 8 inmates. This is indicative of their generally small size.

### What are the characteristics of State prisons?

| Characteristics | Percent of prisons | Percent of inmates |
|---|---|---|
| Total | 100% | 100% |
| **Region** | | |
| Northeast | 15 | 17 |
| Midwest | 20 | 20 |
| South | 48 | 44 |
| West | 17 | 19 |
| **Size** | | |
| Less than 500 inmates | 65 | 22 |
| 500–1,000 | 20 | 27 |
| More than 1,000 | 15 | 51 |
| **Custody level** | | |
| Maximum security | 25 | 44 |
| Medium security | 39 | 44 |
| Minimum security | 35 | 12 |
| **Sex of inmates housed** | | |
| All male | 88 | 91 |
| All female | 7 | 3 |
| Co-ed | 5 | 5 |
| **Age of facility** | | |
| Over 100 years | 5 | 12 |
| 50–99 years | 16 | 23 |
| 25–49 years | 22 | 18 |
| 15–24 years | 14 | 13 |
| 5–14 years | 23 | 20 |
| 5 years or less | 20 | 15 |
| Not known | — | — |

Note: Totals may not add to 100% because of rounding.
— Less than 5%.

Sources: *Population density in State prisons*, BJS Special Report, December 1986. BJS *1984 Census of State Adult Correctional Facilities*, NCJ-105585, August 1987.

### One in three prisons is at least 50 years old and 43% of all inmates live in such prisons

About one in five prisons is 5 years old or less. This is indicative of the rapid construction of new prisons in recent years. More than half of all prisoners are confined in prisons at least 25 years old; about 1 in 8 lives in a prison that is more than 100 years old.

### Prisons employ about 1 staff member for every 3 inmates

In 1984 more than 135,000 persons were employed full-time in the Nation's State prisons. Custodial staff made up about two-thirds of all prison employees, with about four inmates per custodial officer. Prisons in Maine, New Mexico, Rhode Island, and Vermont reported the fewest inmates per staff member; prisons in Alabama, Arkansas, Nevada, and Ohio had the highest ratios of inmates to staff.

Since 1979 the number of full-time prison staff grew by nearly 45%. Custodial staff accounted for about 82% of the increase among all categories of employees. During the same period, prison population increased at about the same proportion as all staff.

### About 3% of State inmates live in State-operated, community-based facilities

On June 30, 1984, 13,354 offenders residing in State correctional facilities were living in facilities that provided regular access to the community for selected offenders. These facilities, often referred to as halfway houses or prerelease centers, generally are used during the last 3–6 months of a State sentence to provide for gradual reentry to the community from prison. Female offenders make up about 4% of those in prisons and about 8% of those in community-based facilities.

The 209 community-based facilities are generally small—about half hold fewer than 50 inmates. About 1 in 7 of such facilities is designed to hold both male and female inmates.

# Prison crowding is a major issue in nearly every State

### Recent growth in State and Federal prison populations has been substantial

Between 1980 and 1985, sentenced prison populations grew by 52%, adding more than 150,000 inmates over the period. The sentenced population of 34 States and the Federal prison system grew by 50% or more. Among the States with the fastest growth in prisoner populations were Alaska (160%), Hawaii (129%), Nevada (113%), New Hampshire (110%), and California (108%).

Growth of this magnitude has been difficult for many jurisdictions to accommodate. Planning, funding, siting, and building a facility and acquiring trained staff may require 5–7 years before the opening of a new facility. Between 1979 and 1984, 5.4 million square feet of housing space was built, an increase of 29% over the 1979 level. However, most States and the Federal Government continue to operate in excess of their capacities.

### Various measures are used to assess crowding

Some of the most commonly used measures of crowding are—
- whether inmates are in single or multiple occupancy units
- the amount of space available per inmate (usually expressed in square feet)
- how long prisoners are confined in the housing unit and how long they spend, for example, in recreational or work areas
- the type of housing in which inmates are confined (general housing or special segregated housing that may be used for disciplinary confinement or protective custody).

The American Correctional Association's accreditation standards specify that inmates held in single occupancy cells should have at least 60 square feet in the cell and should not spend more than 10 hours per day in the cell. For inmates housed in multiple occupancy cells, the standards recommend 50 square feet per inmate and confinement for no more than 10 hours per day in a housing unit.

Other factors are often cited as being involved in crowding, such as the amount of privacy and security provided inmates and the ability of the facility to provide adequate food, basic health care, recreational opportunities, and other types of programs.

### In what kind of space are prison inmates confined?

| | Percent of inmates in general housing units with — | | |
|---|---|---|---|
| | Less than 60 square feet | 60 or more square feet | Total |
| **Single occupancy** | 12% | 18% | 30% |
| Hours confined per day: | | | |
| Less than 10 hours | 8 | 12 | 20 |
| 10 or more hours | 5 | 5 | 10 |
| **Multiple occupancy** | 49 | 21 | 70 |
| Hours confined per day: | | | |
| Less than 10 hours | 32 | 15 | 47 |
| 10 or more hours | 17 | 6 | 23 |
| Total | 62% | 38% | 100% |

Note: Special housing is excluded because, by definition, inmates in such housing generally are kept in their housing units and are not eligible to participate in regular prison programs.

Source: *Population density in State prisons*, BJS Special Report, December 1986.

### States vary widely in the amount of housing space available to State prison inmates

| | Average square feet per inmate | | | | |
|---|---|---|---|---|---|
| | Less than 50 | 50–59 | 60–69 | 70–79 | 80–89 |
| Northeast | Maine 49.9<br>N. Hampshire 42.1 | Massachusetts 59.5<br>Pennsylvania 51.6<br>Connecticut 50.2 | New York 66.2<br>New Jersey 64.7<br>Rhode Island 64.3<br>Vermont 60.1 | | |
| Midwest | S. Dakota 49.7<br>Missouri 48.6<br>Kansas 40.6 | Illinois 57.2<br>Ohio 53.7<br>Indiana 52.3 | N. Dakota 69.1<br>Minnesota 66.5<br>Michigan 66.2<br>Nebraska 61.7<br>Iowa 61.2 | Wisconsin 70.4 | |
| South | Maryland 48.7<br>S. Carolina 46.3<br>Texas 39.9 | Alabama 59.5<br>Tennessee 55.9<br>Florida 55.4<br>N. Carolina 55.3<br>Mississippi 50.0 | Virginia 66.9<br>Oklahoma 66.7 | Arkansas 75.7<br>W. Virginia 73.1<br>Louisiana 72.5<br>Kentucky 71.5 | Delaware 87.8<br>DC 84.4<br>Georgia 81.0 |
| West | California 48.0<br>Washington 47.6<br>Oregon 46.5<br>Idaho 46.3<br>Hawaii 37.6 | Montana 56.3<br>Nevada 54.4 | Utah 64.8 | Arizona 75.6<br>N. Mexico 75.5<br>Alaska 71.0 | Wyoming 89.2<br>Colorado 80.2 |
| Regionally | | Northeast 55.4<br>South 55.5<br>Midwest 56.9<br>West 54.1<br><br>U.S. 57.3 | | | |

Note: Table is based on 367,953 inmates in general and special housing on June 30, 1984. It excludes infirmary space and inmates housed in infirmaries.

Source: Data derived from *Population density in State prisons*, BJS Special Report, December 1986.

### Prison space varies by housing type

Units with the least amount of space per inmate tend to be —
- occupied by two persons
- protective custody or disciplinary segregation units
- maximum security units
- in facilities built in 1885 or earlier
- in facilities that house 1,000 or more inmates
- in facilities that house all males or both males and females.

| | Percent of all inmates | Average square feet per inmate | Percent of inmates in multiple occupancy | Average number of hours per day confined to unit |
|---|---|---|---|---|
| All prisons | 100% | 57.3 sq. ft. | 67% | 11.3 hours |
| Number of persons per unit | | | | |
| One inmate | 34 | 68.2 | 0 | 12.3 |
| 2 | 24 | 34.4 | 100 | 11.0 |
| 3-5 | 3 | 45.8 | 100 | 11.3 |
| 6-49 | 16 | 63.9 | 100 | 10.7 |
| 50 or more | 24 | 61.8 | 100 | 10.5 |
| Housing unit use | | | | |
| General housing | 88 | 57.3 | 70 | 10.4 |
| Special purpose | 9 | 57.1 | 30 | 19.9 |
| Other | 4 | 128.2 | 65 | 15.0 |
| Security designation | | | | |
| Maximum security | 33 | 52.8 | 49 | 13.1 |
| Medium | 45 | 57.1 | 72 | 10.8 |
| Minimum | 22 | 64.3 | 82 | 9.5 |
| Age of facility | | | | |
| Over 100 years | 12 | 49.2 | 43 | 13.5 |
| 50-99 | 23 | 58.9 | 59 | 11.5 |
| 25-49 | 18 | 53.0 | 78 | 10.7 |
| 15-24 | 13 | 53.8 | 75 | 11.2 |
| 5-14 | 20 | 60.6 | 73 | 10.8 |
| 5 or less | 15 | 64.9 | 68 | 10.6 |
| Size of facility | | | | |
| 1-499 inmates | 22 | 66.6 | 74 | 10.3 |
| 500-1,000 | 27 | 58.1 | 68 | 11.1 |
| More than 1,000 | 51 | 52.7 | 63 | 11.8 |
| Facility houses | | | | |
| All males | 91 | 57.0 | 66 | 11.4 |
| All females | 3 | 64.7 | 68 | 9.9 |
| Both | 5 | 57.0 | 59 | 10.4 |

Note: Data refer to inmates in general and special housing except under "Housing unit use" where "Other" is shown for comparison.

Percentage may not total to 100 because of rounding.

Source: *Population density in State prisons*, BJS Special Report, December 1986.

### Prisons with the highest densities hold about a quarter of prison inmates

A prison is said to have the highest population density when more than 40% of its inmates in regular housing reside in less than 60 square feet for more than 10 hours per day. More than half of all prisons have no inmates in these conditions.

Population densities were highest in prisons in—
- the Southern and Western States
- larger institutions (more than 1,000 inmates)
- maximum security institutions
- male-only prisons
- the oldest prisons (more than 100 years old).

### Many States hold prisoners in local jails because of prison crowding

At yearend 1985, 19 States reported more than 10,000 State-sentenced inmates in local jails because of prison crowding. Nationally, locally retained State prisoners accounted for about 2% of the total prison population. States with the largest percentage of prison inmates held in local jails were Louisiana (21%), Mississippi (15%), Kentucky (14%), and New Jersey (12%). Together, these States account for 62% of the prisoners backed up in local jails.

### A number of States may release inmates earlier than usual to control prison populations

Generally, the three types of early release programs are—
- **Emergency release**—This permits jurisdictions to release inmates who are approaching the end of their sentences. Alaska, for example, allows early release of nonviolent offenders within 4 months of release. Wisconsin inmates may be discharged early if they are within 135 days of release.
- **Sentence rollback**—Nine States use sentence reductions to achieve population control. Generally, this approach requires a formal declaration that the prison system is above its authorized capacity and sentences of selected inmates (such as first offenders or nonviolent offenders) may be reduced by up to 90 days. Some States permit reductions to be applied to the same offender more than once during a term of imprisonment.
- **Early parole**—Eight States allow parole release dates to be advanced for certain categories of offenders when the prison system is crowded.

Such programs may also entail a period of more stringent supervision by a parole officer or participation in special community-based programs.

During 1985, 19 States reported nearly 19,000 early releases under one or more of these approaches.

# Juvenile offenders are housed in many kinds of facilities

### More than 83,000 juveniles were in custody during 1984

They were held in 3,036 public and private juvenile custody facilities that were in operation in 1984. Such facilities include detention centers, training schools, reception or diagnostic centers, shelters, ranches, forestry camps or farms, halfway houses, and group homes.

The range of facilities and programs; the housing of delinquents, status offenders, voluntary admissions, and dependent and neglected children in the same facilities; and the participation of both the public and private sectors clearly distinguishes juvenile corrections from adult corrections.

### Most juveniles in custody were being detained or were committed for a criminal offense

Of the 83,402 juveniles held in public and private facilities—
- 11% were being held for a violent offense of murder, forcible rape, robbery, or aggravated assault
- 23% were being held for the property crimes of burglary, arson, larceny-theft, or motor vehicle theft
- 4% were being held for alcohol or drug offenses.

Of the 25,451 nondelinquents held in juvenile facilities—
- 35% were status offenders
- 36% were being held for other reasons such as dependency, neglect, and abuse
- 28% were admitted voluntarily.

### Public and private facilities generally hold different types of juveniles

Almost all (93%) of the juveniles in public facilities either are—
- detained pending adjudication
- have been committed after a finding of delinquency for a criminal offense (about a third of the juveniles in private facilities are in this classification).

### Juvenile facilities are classified by the term of stay and type of environment

#### Term of stay

- **Short-term**—facilities that hold juveniles awaiting adjudication or other disposition.

- **Long-term**—facilities that hold juveniles already adjudicated and committed to custody.

In 1985, 46% of public facilities and 9% of private facilities were short-term; 54% of public facilities and 91% of private facilities were long-term.

#### Type of environment

- **Institutional**—environments impose greater restraints on residents' movements and limit access to the community. Most detention or diagnostic centers, training schools, and ranches are classified as having institutional environments.

- **Open**—environments allow greater movement of residents within the facilities and more access to the community. Facilities with open environments mainly include shelters, halfway houses, group homes, and ranches, forestry camps, or farms.

Most public facilities (65%) have institutional environments, but most private facilities (86%) have open environments.

### Most juvenile facilities are private, but about three-fifths of the juveniles are held in public facilities

Private facilities usually have open environments and are used for long-term custody. About 30% of all juveniles in custody are held in such facilities. Public facilities generally have institutional environments and are used for both short- and long-term custody. About 30% of all juveniles held are in long-term institutional public facilities; another 18% are in short-term institutional public facilities.

### Most juvenile facilities are small; 80% are designed to house 40 residents or less

| Design capacity* | Number of facilities: Public and private combined | Public | Private |
|---|---|---|---|
| Total | 3,036 | 1,040 | 1,996 |
| Less than 10 residents | 1,053 | 141 | 912 |
| 10–20 | 913 | 326 | 638 |
| 21–40 | 464 | 226 | 207 |
| 41–99 | 387 | 174 | 193 |
| 100–199 | 146 | 114 | 32 |
| 200 and over | 73 | 59 | 14 |

*The number of residents a facility is constructed to hold without double bunking in single rooms or using areas not designed as sleeping quarters to house residents.

Source: *Children in custody: Public juvenile facilities, 1985*, BJS Bulletin, October 1986, and Children in Custody, 1985, unpublished data.

### What is the staffing ratio of juvenile facilities?

| | Number of residents per 10 staff members: Public | Private |
|---|---|---|
| All staff | 9 | 8 |
| Part-time | 38 | 30 |
| Full-time | 11 | 12 |
| Staff function | | |
| Treatment/ education | 49 | 40 |
| Youth supervision | 22 | 24 |
| Other | 43 | 41 |

Source: BJS *Children in custody: 1982/83 Census of Juvenile Detention and Correctional Facilities*, September 1986.

# How many offenders return to criminal activity after they are released?

### Assessing postcorrectional performance depends on long-term followup of prison releases

Some indicator of a return to criminal activity is typically used to evaluate postcorrectional performance. Rearrest, reindictment, reconviction, and reimprisonment measured over some period of time after release from prison are generally used to gauge the extent of success and failure (recidivism) associated with correctional programs.

The unit of time selected and the level of criminal justice system penetration (that is, more persons are likely to be rearrested than reimprisoned) will substantially affect judgments about the proportion of releasees failing or succeeding after a correctional experience.

Moreover, conditionally released populations (parolees) are subjected to supervision requirements that, if violated, may result in a return to prison for noncriminal conduct (such as curfew violation or failure to report to a parole officer).

### Most prison inmates have prior convictions

| Inmate criminal history | Percent of 1979 admissions to prison |
|---|---|
| Total | 100% |
| Prior convictions | 84% |
| 1 | 19 |
| 2 | 17 |
| 3 | 11 |
| 4 | 9 |
| 5 | 6 |
| 6-10 | 15 |
| 11 or more | 7 |
| No prior convictions | 16% |

Source: *Examining recidivism*, BJS Special Report, February 1985

### Measures of recidivism vary; more offenders are rearrested than reconvicted and more are reconvicted than reincarcerated

| | Percent of young parolees who within 6 years of release from prison were — | | |
|---|---|---|---|
| | Re-arrested | Recon-victed | Reincar-cerated |
| **All parolees** | 69% | 53% | 49% |
| **Sex** | | | |
| Men | 70% | 54% | 50% |
| Women | 52 | 40 | 36 |
| **Race/ Ethnicity** | | | |
| White | 64% | 49% | 45% |
| Black | 76 | 60 | 56 |
| Hispanic | 71 | 50 | 44 |
| Other | 75 | 65 | 63 |
| **Education** | | | |
| Less than 12 years | 71% | 55% | 51% |
| High school graduate | 61 | 46 | 43 |
| Some college | 48 | 44 | 31 |
| **Paroling offense** | | | |
| Violent offenses | 64% | 43% | 39% |
| Murder | 70 | 25 | 22 |
| Robbery | 64 | 45 | 40 |
| Assault | 72 | 51 | 47 |
| Property offenses | 73% | 60% | 56% |
| Burglary | 73 | 60 | 56 |
| Forgery/ fraud | 74 | 59 | 56 |
| Larceny | 71 | 61 | 55 |
| Drug offenses | 49% | 30% | 25% |

Source: *Recidivism of young parolees*, BJS Special Report, May 1987

### Over a 20-year period, an estimated half of all releasees will return to prison, most in the first 3 years after release

A study based on prisoner self-reports of how long it took them to return to prison found that 49% of all males released from prison could be expected to return within 20 years. 60% of those returning reentered prison within the first 3 years after release. The highest risk of returning to prison was in the first year after release.

### The number of prior arrests is strongly related to the probability of rearrest and reincarceration after release from prison

| Number of arrests prior to prison release | Percent of young parolees who within 6 years of release were — | |
|---|---|---|
| | Re-arrested | Reincar-cerated |
| 1 arrest | 59% | 42% |
| 2 | 64 | 45 |
| 3 | 70 | 49 |
| 4 | 77 | 57 |
| 5 | 82 | 52 |
| 6 or more | 93 | 72 |
| Total | 69% | 49% |

Source: *Recidivism of young parolees*, BJS Special Report, May 1987.

### Younger releasees have higher rates of returning to prisons

| Age at time of prison release | Cumulative rates of return to prison by years after release from prison | | | | | | |
|---|---|---|---|---|---|---|---|
| | 1 year | 2 years | 3 years | 4 years | 5 years | 6 years | 7 years |
| 18-24 years old | 21% | 34% | 41% | 45% | 48% | 49% | 50% |
| 25-34 | 12 | 21 | 28 | 33 | 37 | 41 | 43 |
| 35-44 | 7 | 14 | 18 | 22 | 26 | 30 | 34 |
| 45+ | 2 | 4 | 6 | 8 | 10 | 11 | 12 |
| All ages | 14 | 23 | 29 | 34 | 37 | 40 | 42 |
| Median age of those returning | 23.5 yrs. | 25.5 yrs. | 26.3 yrs. | 27.2 yrs. | 27.8 yrs. | 28.6 yrs. | 32.4 yrs. |

Source: *Examining recidivism*, BJS Special Report, February 1985

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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—

How much does crime cost?

What portion of total government spending goes for criminal justice?

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?

How much does each State spend per capita for its justice system?

What is the impact of private sector involvement in the criminal justice system?

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?

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?

Invaluable contributions to this chapter were made by Diana M. Cull, Alan R. Jones, and John Curry of the Governments Division of the Bureau of the Census; Hendrick J. Harwood of the Research Triangle Institute; David Levin of the Bureau of Economic Analysis; Colin Loftin, Ruth Triplett, and Brian Wiersema of the Institute of Criminal Justice and Criminology at the University of Maryland; Joseph J. Bobek, Administrative Office of the U.S. Courts; Mary E. Orem of the National Center for State Courts; Howard Safir of the U.S. Marshals Service; and the Public Information Office of the Bureau of Prisons. Overall guidance was provided by the members of the Methodological Review Panel of the Committee on Law and Justice Statistics of the American Statistical Association (Alan Gelfand, University of Connecticut; S. James Press, University of California at Riverside; Peter Reuter and John Rolph, The RAND Corporation; Jack Triplett, Bureau of Labor Statistics; and George Woodworth, University of Iowa).

# How much does crime cost?

**The total cost of crime to society has been estimated, but the actual figure is unknown**

There will never be a simple, single answer to the seemingly simple question, "What is the total cost of crime to society?" Some estimates have been made. For example, Wharton Econometric Forecasting Associates, Inc., recently estimated the total gross receipts from criminal activity to be between $26.9 billion and $136.9 billion in 1986 dollars.[1] Where the actual total lies within this $110 billion range is unknown because many of the component costs cannot be measured directly.

Although fairly accurate figures exist for some of the component costs of crime, many of the components cannot easily be measured.

- Some costs are difficult to measure, such as the higher costs for consumers from organized crime involvement in legitimate industries.
- Other costs of crime are difficult to quantify, like the pain and suffering of crime victims, their families and friends.
- Many crimes are undetected, such as successful fraud, embezzlement, and arson-for-profit.
- Some crimes go unreported because victims are afraid to report (blackmail), are embarrassed (con games), or are involved in the illegal activity (gambling).

**What would be included in the total cost of crime to society?**

Some of the direct costs of crime include—

- medical costs because of injuries suffered in victimization
- lost productivity because of death and medical or mental disabilities resulting from crime
- time lost from work by victims of crime
- damage to property
- lower property values because of crime in the neighborhood
- the cost of operating the criminal justice system
- the costs of private security services and devices, such as locks and burglar alarms.

In addition to direct costs, "involuntary transfers" occur when resources are taken from one person or organization and acquired by another, but they remain within society. For example—

- The dollar value of cash and property lost through robberies, burglaries, theft, embezzlement, and fraud is "transferred" to the offender.
- Additional costs of goods and services to consumers are charged by manufacturers and retailers to cover their losses from crime.
- Income tax evasion victimizes the government and other taxpayers who must pay higher taxes as a result.

A third type of economic cost of crime to society occurs in what is often called the "underground economy." This consists of consensual crimes where both parties agree to participate in the illegal activity. Examples of the underground economy are illegal gambling, prostitution, drug purchases, knowingly buying stolen property, and so on.

**Some costs of crime have been measured**

Most estimates of the *total* cost of crime to society are made by summing estimates of its individual components. Some of these recent estimates are—

- **Personal crimes of violence and theft** and the **household crimes** of burglary, larceny, and motor vehicle theft cost their victims $13 billion in 1985.
  —In 1981 most losses were from theft of property or cash (92%); 6% were from property damage and 2% from medical expenses.[2]
  —$3.9 billion (36% of all losses) were recovered or reimbursed within 6 months after the offense.

- **Net losses from robbery, burglary, and larceny** of banks was estimated at $37 million in 1982 by Abt Associates, Inc., using FBI data.[3] The losses from commercial robberies and burglaries can be estimated using FBI data at $1.1 billion in 1982.

- **Drug abuse** costs to American society were estimated by Research Triangle Institute to be $59.7 billion in 1983:[4]
  —Half the cost is in lost productivity by drug users.
  —A third is crime-related (the cost to the criminal justice system and the private security industry attributable to drug-related crimes, property damage by drug users, and lost employment of crime victims).
  —Social welfare expenditure such as disability payments, unemployment compensation, workers compensation, public assistance, and food stamps resulting from drug abuse were estimated at another $115 million.
  —Health care services related to drug abuse and drug abuse treatment programs cost an additional $2 billion, and medicare reimbursements resulting from drug abuse were $100 million.

- **Credit and charge card fraud** may cost as much as $500 million according to Federal Trade Commission 1984 estimates.[5]

- **Automated teller machine fraud** in 1983 lost banks between $70 million and $100 million, a BJS study estimated.[6]

- **Counterfeit notes and currency** valued at a total of $71.8 million by the U.S. Secret Service either were passed to the public or were seized before they could be passed.[7] Of this, close to $64 million were seized before they could be circulated, but $7.8 million found their way into general circulation.

- **Drunk driving** caused motor vehicle crashes costing $13.2 billion in 1983 according to Research Triangle Institute estimates.[8]

- **Federal income tax evasion** was estimated by the Internal Revenue Service at $81.5 billion in 1981, including failure to report income and overstatement of deductions.[9]

- **Private security costs** for 1980 were estimated to be $21.7 billion by *Security World* magazine.[10]

- The **criminal justice system** cost the Federal, State, and local governments $45.6 billion in 1985, according to BJS.[11]

# How much does government spend for justice?

**In 1985 less than 3% of all government spending was for criminal and civil justice**

Of this amount—
- 1.4% was for police protection
- .8% was for corrections
- .6% was for judicial services, such as courts, prosecution, and public defense.

By long tradition in this country, criminal justice is primarily a function of State and local governments. In examining how much is spent to maintain criminal justice systems throughout the Nation, it is useful to compare criminal justice expenses with all government expenses—Federal, State, and local—to give an overall picture of how tax dollars are spent.

The estimated 2.9% of all spending for criminal and civil justice services by all levels of government in 1985 compares with about—
- 21% for social insurance payments
- 18% for national defense and international relations
- 13% for education
- 11% for interest on the debt
- 7% for housing and the environment
- 6% for public welfare
- 4% for hospitals and health care
- 3.6% for transportation
- 0.5% for space research and technology.

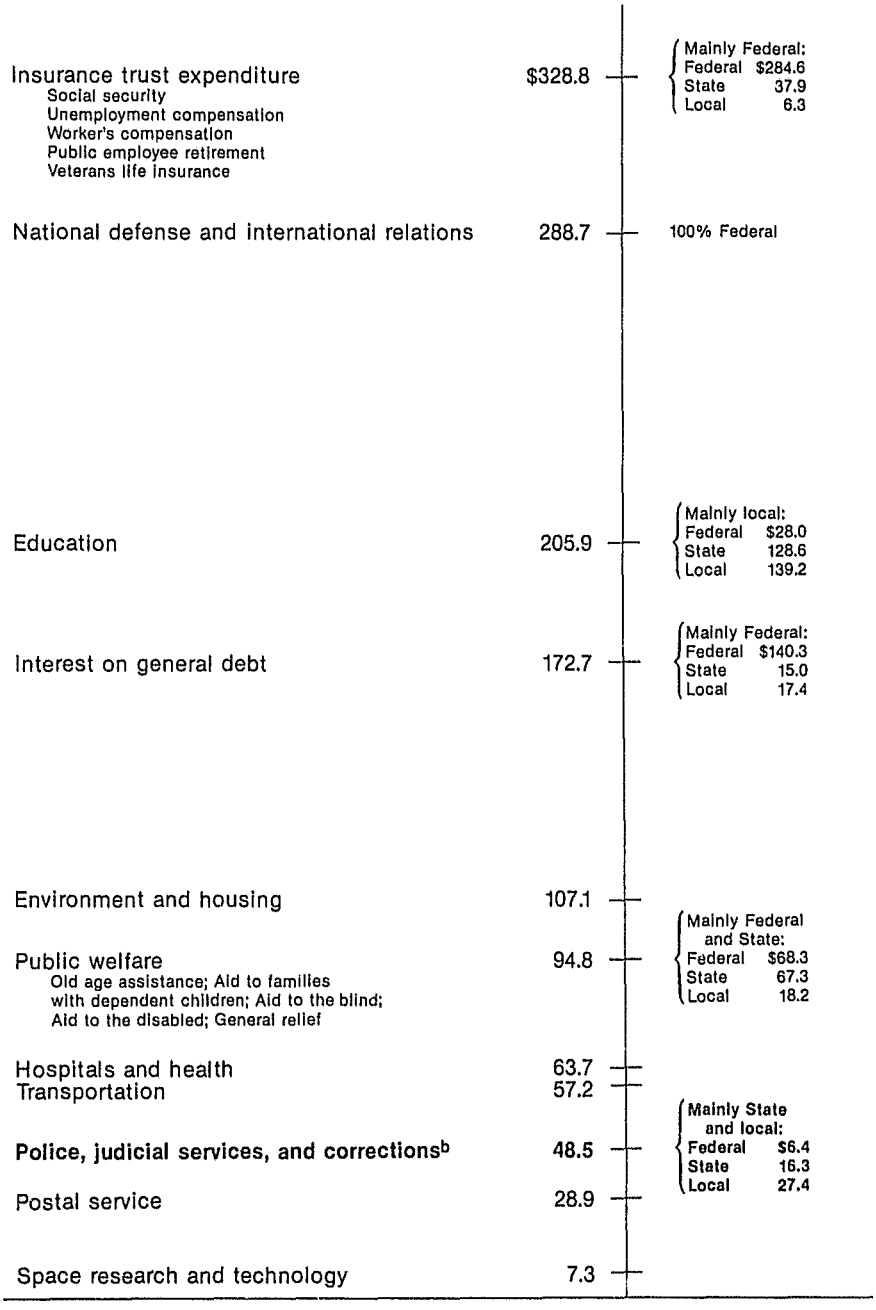
**State and local governments spend a larger share of their total budgets for criminal justice than the Federal Government**

In 1985 less than 1% of Federal spending was for justice activities, compared with 5% of State spending, 13% of county spending, and 10% of municipal spending

The Federal Government proportion is lower than that of other governments because—
- it has jurisdiction over only a small portion of civil and criminal cases
- it has sole responsibility for national defense and international relations, which consumed 28% of its expenditures in 1985
- it is almost solely responsible for Social Security and other social insurance payments, which accounted for an additional 28% of its 1985 expenditure.

**Police and corrections account for a small portion of government spending**

Federal, State, and local spending for selected government functions, 1985




[a]Does not include $187.8 billion in seven additional categories—see source for itemization. Detail by level of government does not equal totals because duplicative intergovernmental amounts are excluded from totals.

[b]This is the amount reported in source; it differs from the amount in the primary source used in the rest of this chapter.

Source: *Governmental finances in 1984-85*, U.S. Bureau of the Census.

# Patterns of justice financing and spending highlight the different responsibilities at each level of government

### State and local governments pay 88% of all government costs for criminal and civil justice

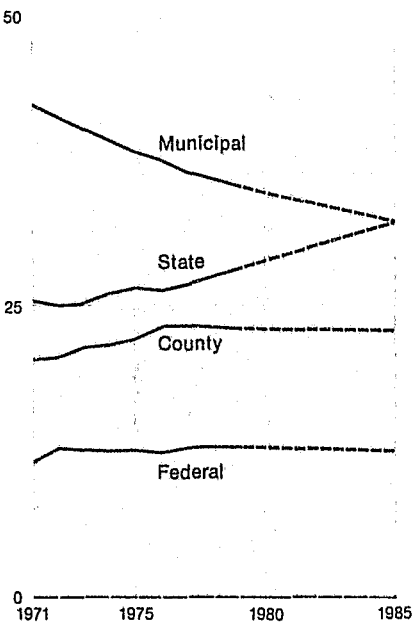
| Level of government | 1985 justice expenditure (billions) |
|---|---|
| Local | $25.3 |
| State | 14.7 |
| Federal | 5.7 |
| Total* | $45.6 |

*Does not add to total because of rounding.

The dominance of State and local governments in justice spending shows clearly that they, not the Federal Government, have primary responsibility for criminal justice in this country.

Spending by local governments exceeds that of State governments because municipalities have the main responsibility for police protection, which accounts for 48% of all justice spending. In fact, municipal spending for police alone amounts to 27% of all justice spending in the country.

### The dominance of municipal spending for the justice system is diminishing




Data for 1980-84 are estimates as no data were collected in those years.

Source: BJS *Justice expenditure and employment in the U.S.*, 1971-79 and 1985.

### State and county shares of justice system costs are increasing

Between 1971 and 1985 the share of total government spending for criminal and civil justice by—
- States rose from 26% to 32%
- Counties rose from 20% to 23%
- Federal agencies rose from 12% to 13%
- Municipalities fell from 42% to 32%.

This change is due mainly to State and county governments taking responsibility for justice functions that had been carried by other levels of government. For example, several States have 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 37% in 1985. The increased shares for States and counties also reflect large increases in correctional costs borne by those levels of government.

### Cities and towns spend most of their justice dollars for police protection

In 1985 cities, towns, and townships spent—
- 83% for police
- 7% for corrections
- 4% for courts
- 4% for prosecution and legal services
- .6% for public defense
- .2% for all other justice activities.

### Per capita costs for police protection are higher for large than for smaller cities

The per capita spending for police protection varies by city size:

| 1980 city size | 1985 per capita spending for police |
|---|---|
| 50,000 to 74,999 | $ 75.51 |
| 75,000 to 99,999 | 81.29 |
| 100,000 to 249,999 | 88.88 |
| 250,000 to 499,999 | 107.72 |
| 500,000 and more | 134.45 |

### State governments spend more than half their justice dollars on corrections

In 1985 State governments spent—
- 55% for corrections
- 22% for police protection
- 15% for courts
- 5% for prosecution and legal services
- 2% for public defense.

Of State government spending for corrections, 84% was for the construction, operation, and upkeep of correctional institutions (including 13% for capital outlays);[12] 10% for probation, parole, and pardon programs; and 7% for other correctional activities.

### Corrections spending accounted for 3% of all State government spending in 1985

In 35 States, between 2% and 4% of all State spending was for corrections costs, such as the operation, maintenance, and construction of prisons and halfway houses and running probation and parole programs.

Of State government spending—
- 33% was for education
- 17% for public welfare
- 10% for transportation and highways
- 8% for health and hospitals
- 5% for justice
- 4% for interest on debt
- 3% for the environment and housing.

### Counties spend the most for court-related functions

Counties spent $3.5 billion (35%) of the total of $10.1 billion spent in 1985 by all levels of government for courts, prosecution, legal services, and public defense. State governments spent 32% of the total; the Federal Government, 20%; and municipalities, 14%. While county governments contribute the most to court-related functions, these functions do not dominate county justice spending to the extent that police protection dominates municipal spending or corrections dominates State spending.

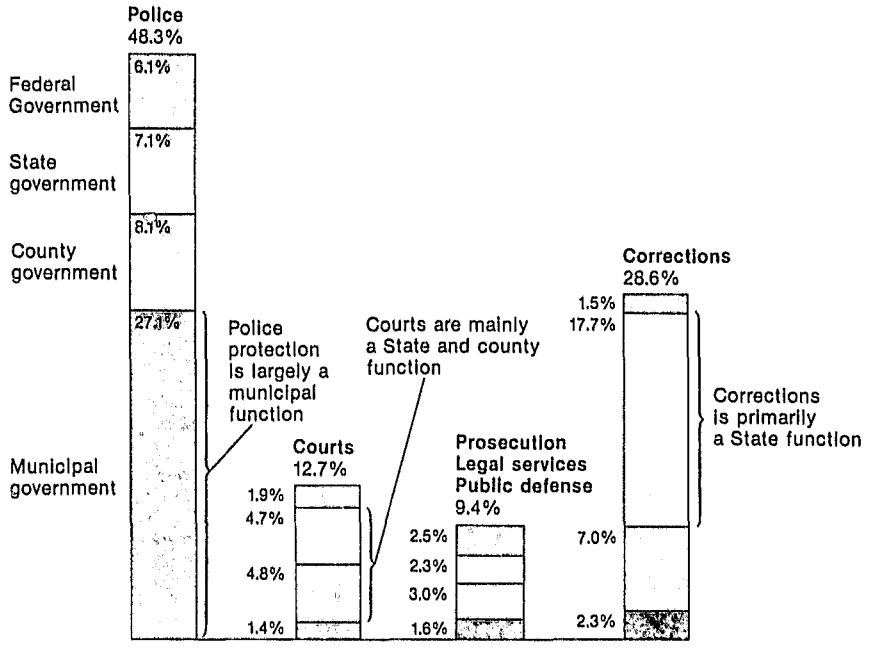
In 1985 counties spent—
- 34% of all their justice dollars for court-related functions (20.8% for courts, 9.6% for prosecution and legal services, and 3.3% for public defense)
- 35% for police protection, usually county sheriffs or police
- 31% for corrections, primarily jails.

## In most States, local spending for justice exceeds State government spending

| | Percent distribution of direct justice spending | | |
|---|---|---|---|
| | Local | | |
| | County | Municipal | State |
| U.S. total | 26% | 37% | 37% |
| Alabama | 21 | 29 | 49 |
| Alaska | 2 | 17 | 81 |
| Arizona | 31 | 35 | 34 |
| Arkansas | 24 | 32 | 45 |
| California | 42 | 31 | 27 |
| Colorado | 22 | 44 | 35 |
| Connecticut | 0 | 45 | 55 |
| Delaware | 13 | 15 | 72 |
| Florida | 37 | 26 | 37 |
| Georgia | 36 | 24 | 41 |
| Hawaii | 14 | 36 | 49 |
| Idaho | 34 | 27 | 39 |
| Illinois | 21 | 46 | 33 |
| Indiana | 23 | 37 | 41 |
| Iowa | 30 | 32 | 38 |
| Kansas | 23 | 34 | 44 |
| Kentucky | 18 | 24 | 58 |
| Louisiana | 25 | 35 | 40 |
| Maine | 13 | 35 | 53 |
| Maryland | 31 | 20 | 49 |
| Massachusetts | 5 | 45 | 51 |
| Michigan | 27 | 36 | 37 |
| Minnesota | 40 | 31 | 29 |
| Mississippi | 24 | 31 | 45 |
| Missouri | 20 | 45 | 35 |
| Montana | 37 | 20 | 44 |
| Nebraska | 25 | 34 | 41 |
| Nevada | 55 | 17 | 27 |
| New Hampshire | 10 | 42 | 48 |
| New Jersey | 23 | 42 | 35 |
| New Mexico | 14 | 29 | 57 |
| New York | 15 | 49 | 36 |
| North Carolina | 16 | 27 | 57 |
| North Dakota | 34 | 31 | 35 |
| Ohio | 31 | 42 | 27 |
| Oklahoma | 12 | 36 | 53 |
| Oregon | 27 | 26 | 46 |
| Pennsylvania | 22 | 49 | 29 |
| Rhode Island | 0 | 48 | 52 |
| South Carolina | 25 | 19 | 56 |
| South Dakota | 25 | 24 | 52 |
| Tennessee | 25 | 38 | 37 |
| Texas | 33 | 39 | 28 |
| Utah | 26 | 28 | 46 |
| Vermont | 2 | 23 | 76 |
| Virginia | 24 | 31 | 45 |
| Washington | 37 | 27 | 36 |
| West Virginia | 27 | 23 | 50 |
| Wisconsin | 30 | 37 | 34 |
| Wyoming | 29 | 29 | 42 |

Source: BJS *Justice expenditure and employment in the U.S., 1985*, forthcoming

### 48 cents of every justice dollar is spent for police protection




Note: An additional 1% of expenditure was for other functions.

Source: BJS *Justice expenditure and employment in the U.S.*, 1985.

### Criminal justice services are funded predominantly by taxes raised in the jurisdiction where the services are performed

In addition to taxes, other sources of revenue are also used for justice services. These include bond proceeds, fees and fines, forfeiture of assets in criminal cases, and unrestricted State aid such as sales tax distributions.

Governments also receive "intergovernmental payments" from other governments. Such payments move in many directions. They may be payments from the Federal Government to a State or local government, from a State government to a county or city, from one local government to another, or, more rarely, from a State or local government to the Federal Government.

- State and local governments used close to $1 billion from the Federal Government for criminal and civil justice in 1985.
- Local governments received close to $1.4 billion from their State governments; this included an unknown amount of Federal funds that were being "passed through" the State government.[13]
- State governments received $113 million from local governments in their States.
- Local governments received $255 million from other local governments. These payments were mainly reimbursements for services such as those performed when a county provides police protection for a city.

# Private sector involvement in the criminal justice system is growing

### Governments are making greater use of the private sector to perform criminal justice services

Using the private sector to perform functions once performed by the public sector is known as "privatization," a word not well known outside of government, where it has been used for several years. In 1983 it was added to *Webster's ninth new collegiate dictionary* as a derivative noun of "privatize," defined as "to make private, esp. to change (as a business or industry) from public to private control or ownership."

Historically, many criminal justice functions, including law enforcement and prosecution, were performed by the private sector. With the advent of public policing and prisons in the 19th century, many criminal justice functions became responsibilities of government. However, governments have long used the private sector to perform certain functions, and this practice has been increasing in recent years. A 1985 survey of State general services officials by the Council of State Governments showed that most States contract with private firms for legal, medical, engineering, and technical professional services. Such State and local government spending for private sector services grew from $27.4 billion in 1975 to $66.8 billion in 1980 and to $81 billion in 1982.

### Private firms and individuals perform services in all criminal justice sectors

- Criminal justice agencies often contract with private firms to provide janitorial, food service, medical, training, computer support, and similar services.
- Corporations, retail establishments, and governments hire private police to provide security in the workplace, at residences, and in shopping areas. (See chapter IV for a detailed discussion of private security.)
- Arrested persons often use private bail bondsmen to obtain money to gain release from detention pending trial.
- Prosecutors and defense attorneys hire private expert witnesses to assess and develop evidence and testify in court.
- Courts and other justice agencies hire private attorneys to represent indigent defendants.
- Private process servers deliver subpoenas and other court documents.
- Courts use private firms to provide stenographic and transcription services for trials.
- Courts place persons who appear in proceedings before them in private treatment programs, sometimes as a condition of probation and sometimes as a final disposition. Juveniles in particular are likely to be placed in private facilities.

### Privatization in criminal justice often refers to private sector involvement in corrections

#### Type

**Contracting for services**—A government agency enters into a contract with a private firm to provide a service. Contracts are used for food, laundry, or medical services for a correctional institution; education or vocational training for inmates; and staff training.

**Prison industries**—A government agency enters into an agreement with a private firm to operate an industry or business within the prison using inmates as employees. As of January 1985, Sexton et al. identified 26 projects with private sector involvement in State-level prison industries, including:
- Hotel and motel telephone reservation systems located inside of prisons, through which inmates answer the phones and make reservations for customers who do not know they are talking to a prisoner.
- Factories installed in the prison and managed by private sector employees who supervise the prison inmate 'factory workers." These factories manufacture various items, including office furniture and computer equipment.

#### Historical background

Contracts for correctional services and programs have been used for many years and are quite common. George and Camille Camp found that such contracts were used more by juvenile than by adult facilities. They also found that most adult and juvenile correctional facilities plan to expand their use of private contracts for specific services.

In the early 19th century the private sector was the most frequent employer of convict labor. Opposition from rival manufacturers grew until the Great Depression, when, coupled with concern about the treatment of prisoners, Congress and many State legislatures passed laws that resulted in a decrease in this practice. By the 1970s, prison industries came to be viewed as State-supported vocational training programs to rehabilitate inmates while, at the same time, providing some revenue for the State. Currently, the role of the private sector in prison industries is being reexamined and expanded.

### Private prisons have become one of the most hotly debated issues in criminal justice today

Supporters of private prisons point to other areas that have been "privatized" as models, including hospitals, health care, and nursing homes. These proponents argue that—
- The private sector can more quickly and cheaply build prisons and ease overcrowding by avoiding bureaucratic red tape and the need for voter approval for financing prison construction.
- The private sector can more quickly implement new ideas and programs to better perform correctional functions.

**Type**

**Private sector financing of prison construction**—A private firm provides the funds needed to build a correctional institution and signs a long-term agreement to lease the institution to the government. Mullen found that these financial arrangements were being seriously considered in a number of States in 1984 and had been used for a $30.2 million jail and sheriff's facility in Colorado, a $50 million jail in Philadelphia, a $5 million jail in Tennessee, and a jail and criminal justice training center in Los Angeles.

**Private facility ownership and operation**—A private firm locates a site, builds a prison (or remodels an existing structure), and runs the prison on a day-to-day basis under contract with the government. The government pays the firm for all expenses under a contract, in many cases being charged a daily fee for each inmate. This type of arrangement has been used by the Federal Government to house illegal aliens and youthful offenders, by a few local governments for jails, and by State and local governments for juveniles, halfway houses, and small minimum-security facilities. Despite the willingness of private corrections firms to operate large, maximum-security prisons, State governments have moved slowly in this area.

**Historical background**

A more recently developed form of privatization of corrections is private sector financing of prison and jail construction. Traditionally, prison and jail construction has been financed with a government's current operating funds and general obligation bonds. The use of current funds avoids having to pay interest, but it can become problematic if cost overruns exceed available cash. General obligation bonds require the payment of interest and the approval of the voters, who may balk at the prospect of the high costs of prison construction. Private sector investment avoids some of these difficulties. By signing a long-term lease/purchase agreement with the private investors, the government needs only to pay the "rent" for the institution. As attractive as this concept may seem, issues have been raised about it because it circumvents the public approval process.

Private prisons, or "prisons for profit" as they are called by some, are another recent concept in private sector involvement in corrections. Like private sector financing of prison construction, it avoids some of the problems corrections officials have encountered in locating prison sites and gaining voter approval for construction of correctional institutions. Again, like private sector financing, issues have been raised about this particular form of private involvement in corrections.

- The private sector can perform correctional functions more efficiently and less expensively than the public sector.

These arguments are appealing to government officials faced with increasing prison populations and limited resources for corrections, but there are a number of legal and ethical issues that are causing them to proceed cautiously:

- Can the government delegate its powers to incarcerate persons to a private firm?
- Can a private firm deprive persons of their liberty and exercise coercive authority, perhaps through use of deadly force?
- Who would be legally liable in the event of law suits?
- Who would be responsible for maintaining the prison if the private employees go on strike?
- Would a private company have the right to refuse to accept certain types of inmates, for example, those with AIDS?
- If a private firm went bankrupt, who would be responsible for the inmates and the facility?
- Could a private company reduce staff salaries or hire nonunion members as a way of reducing costs?
- Would the "profit motive" operate to the detriment of the government or the inmates, either by keeping inmates in prison who should be released or by reducing services to a point at which inmates, guards, and the public were endangered?
- What options would a government with no facility of its own have if it became dissatisfied with the performance of the private firm?
- Is it appropriate for the government to circumvent the public's right to vote to increase debt ceilings?

So far, not enough private facilities have been in existence long enough to complete the evaluations needed to answer the questions that have been raised. It is clear, however, that the issues will continue to be debated and that more and perhaps other types of private facilities will open in the future.

### Many States are pondering private sector options in corrections, but few have opened private facilities

The issues that have come up about privatization of corrections are being debated in correctional departments, governors' offices, and State legislatures. A survey of State legislative staff to identify the issues that would take precedence during their 1986 legislative sessions found that 18 of the 29 States responding reported that one or more aspects of privatization of corrections will be a major issue for legislative attention during 1986.[14]

| Privatization aspect | Number of States |
|---|---|
| Contracts for services | 11 |
| Private financing | 10 |
| Operation/management of— | |
| adult facilities | 9 |
| juvenile facilities | 7 |
| Prison industries | 6 |
| Number of States responding | 29 |

Between 1980 and January 1, 1986, 13 private jails and prisons opened in 9 States. Seven of these were under contract to the U.S. Immigration and Naturalization Service. The total capacity of these institutions (1,910 beds) represents about a quarter of 1% of the total incarcerated adult population.

# What are the trends in justice spending?

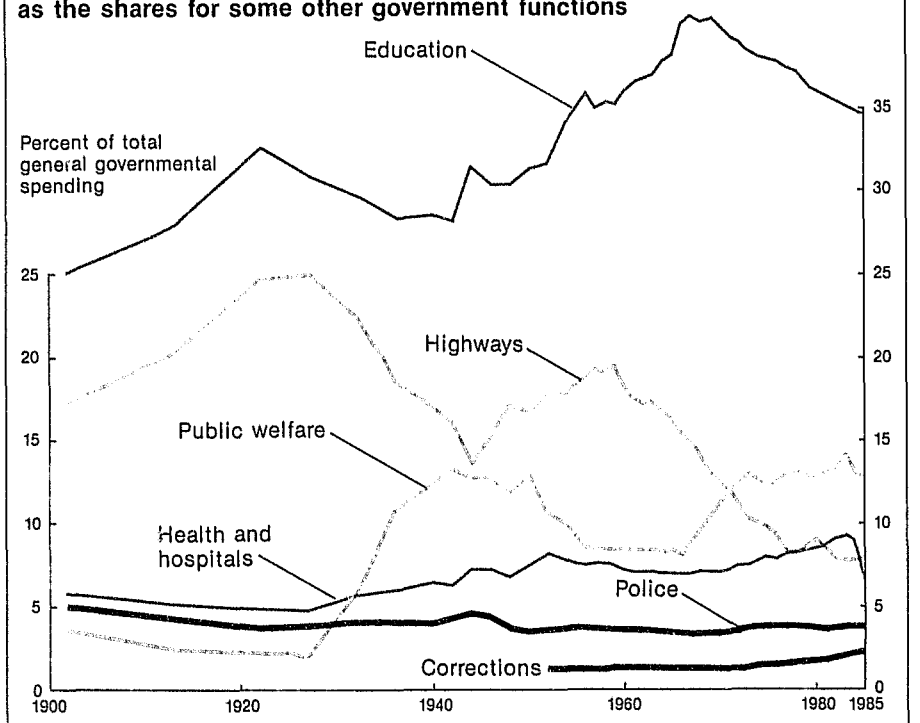
**Governments adjust spending patterns in response to changing needs of society and shifts in the public's demand for services**

Correction's share of State and local spending has increased by more than 75%, from 1.3% to 2.3%, since 1952, when data first became available. In the first half of the current decade alone, this share has grown by a third, from 1.7% in 1980. Such dramatic changes are not seen in spending for police protection, which fluctuated between 3% and 5% of all State and local general spending during 1902–85. Police protection, however, is primarily the function of municipal governments. Cities of more than 50,000 population devoted 15% of their total spending for police in 1985, after gradually increasing their spending from 12% in the 1950s.

Education's share of total general spending by State and local governments grew from 25% in 1902 to about 40% in the 1960s as the post-World War II babies moved through the public school system. But by 1985, education's share had dropped to a 25-year low of 35%.

The impact of the Great Depression and resulting social insurance programs can be seen on spending for public welfare.[15] In 1927, 2% of all general spending by State and local governments was for welfare. Five years later it had nearly tripled; it peaked at close to 13% in 1950. During the 1950s and 1960s, it leveled off at 8–9% 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. This percentage has remained relatively steady since 1980, ranging from 12.8% to 13.3%.

**During this century, the police and corrections shares of State and local spending have not fluctuated as radically as the shares for some other government functions**




Sources: *Historical statistics of governmental finances and employment: Census of governments, 1977* and *1982. Governmental finances in 1979–80* and *1984–85*, U.S. Bureau of the Census.

**Per capita spending by State and local governments for police and corrections increased more rapidly than for some other government functions during the past quarter century**

| | Per capita spending in constant 1985 dollars* | | | | | | |
|---|---|---|---|---|---|---|---|
| | 1960 | 1965 | 1970 | 1975 | 1980 | 1985 | % change 1960–85 |
| Education | $517 | $588 | $710 | $807 | $824 | $807 | +56% |
| Public welfare | 95 | 120 | 209 | 268 | 292 | 300 | +216 |
| Hospitals and health care | 95 | 113 | 148 | 182 | 193 | 208 | +119 |
| Highways | 239 | 260 | 247 | 204 | 189 | 189 | −21 |
| Police protection | 51 | 58 | 70 | 83 | 82 | 88 | +73 |
| Corrections | 17 | 21 | 25 | 32 | 38 | 54 | +218 |

*See technical appendix for details on methodology used to produce constant dollars.

Sources: *Historical statistics of governmental finances and employment: Census of Governments, 1977* and *1982. Governmental finances in 1979–80* and *1984–85*, U.S. Bureau of the Census.

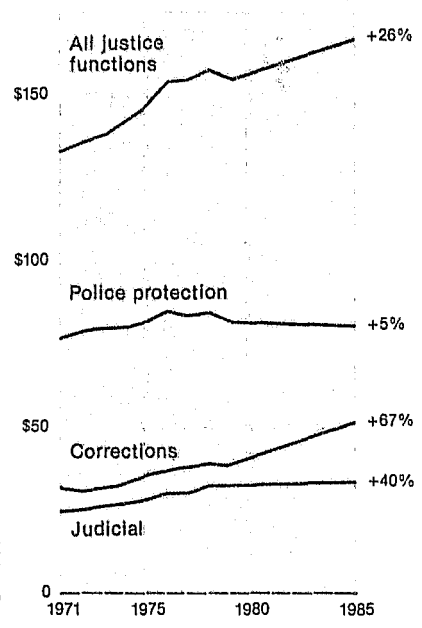
**During 1960–85, per capita spending grew faster for corrections than for police protection**

In constant dollars, State and local spending per capita for corrections grew during 1960–85 by 218% while the growth rate for police protection was only a third of this, or 73%. Since 1980, spending for corrections has grown by 42%, compared with 7% for police protection. Since 1960, spending for public welfare grew by 216%; hospitals and health care, by 119%; and education, by 56%; highway spending declined by 21%.[16]

State and local general spending, $2,321 per capita in 1985, included—

- $807 for education
- $300 for welfare
- $208 for hospitals and health care
- $189 for highways
- $88 for police protection
- $54 for corrections
- $675 for all other functions.

### State and local spending for all justice functions increased from 1971 to 1985




See technical appendix for inflation adjustment factors. Source: *Expenditure and employment data for the criminal justice system, 1969-70*; BJS *Justice expenditure and employment in the U.S., 1979* and *1985*.

**All spending for criminal and civil justice rose steadily until 1976, then leveled off, resuming growth in the early 1980s**

In constant 1985 dollars State and local per capita spending for justice grew at an annual average of 3% between 1971 and 1976. Between 1976 and 1979 it grew by less than .25% a year. Between 1978 and 1979 it fell by 1.8%. Since 1979 its rate of growth has been about 1.3% per year on average. By 1985 per capita spending was $167.

Per capita spending for—

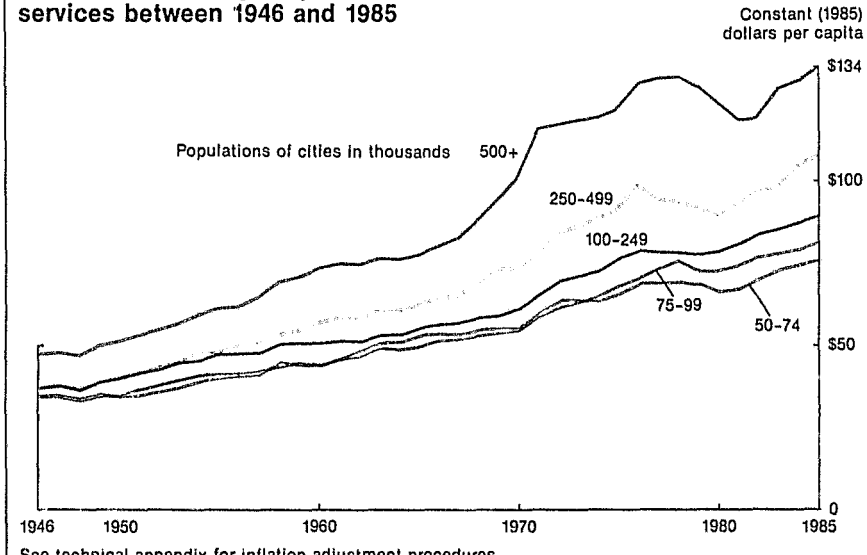
- **Police** grew steadily until 1976, fell in 1977, rose slightly in 1978, and fell again in 1979. By 1985 police per capita spending was at $80.62, an 11-year low.
- All **court-related functions** grew steadily until 1976; but court spending leveled off in 1977, and then again grew slightly until reaching $33.81 per capita in 1985.
- **Corrections** grew steadily until 1978, slowed in 1979, then rose by 34% between 1979 and 1985, when it reached $51.64 per capita.
- **Other criminal justice functions** like planning, information, and communication systems that serve more than one criminal justice function and general criminal justice training programs tripled between 1971 and 1976, before leveling off in 1977, and falling close to the 1971 level in 1985. This pattern reflects the impact of the rapidly increasing Law Enforcement Assistance Administration block grant program in the early 1970s and its demise in 1979-80.

**Since 1979, spending rose faster for corrections than for any other justice function, while spending for police fell**

Between 1979 and 1985 per capita spending in 1985 constant dollars for—

- corrections grew by 34.1%
- public defense grew by 24.7%
- prosecution grew by 6.8%
- courts grew by 0.2%
- police protection *fell* by 1.5% overall, but it grew for cities with populations of more than 50,000
- other justice functions *fell* by 40.2%.

### Cities over 50,000 population increased spending for police services between 1946 and 1985




See technical appendix for inflation adjustment procedures.
Source: "City police expenditure data: 1946-1985," compiled from U.S. Bureau of the Census surveys of government finance, 1946-85.

In cities with populations of more than 50,000, per capita spending for police grew rapidly in the 30 years between 1946 and 1976, then growth leveled off, and, in some cases, declined. Beginning in the early 1980s, however, growth in city spending for police resumed, reaching levels close to those prevailing in the mid-1970s. Over the period, police spending grew faster in larger than in smaller cities of this group.

| 1980 city size | Percent change 1946-85 |
|---|---|
| 500,000 or more | 186.8% |
| 250,000-499,999 | 193.1 |
| 100,000-249,999 | 145.1 |
| 75,000-99,999 | 136.8 |
| 50,000-74,999 | 124.3 |

# What factors are related to per capita spending?

### Many factors are believed to affect how much a State spends for criminal justice

Some States may need to spend more on justice activities because they have a more serious crime problem than others. The citizens of some States may express greater concern about crime than those in other States and convince their elected officials to assign higher priority to funding criminal justice than to other government activities such as education or transportation. Some States are "richer" than others, having a larger tax base from which to fund government activities. The citizens of some States may be more willing than those in other States to tax themselves to fund governmental programs in general.

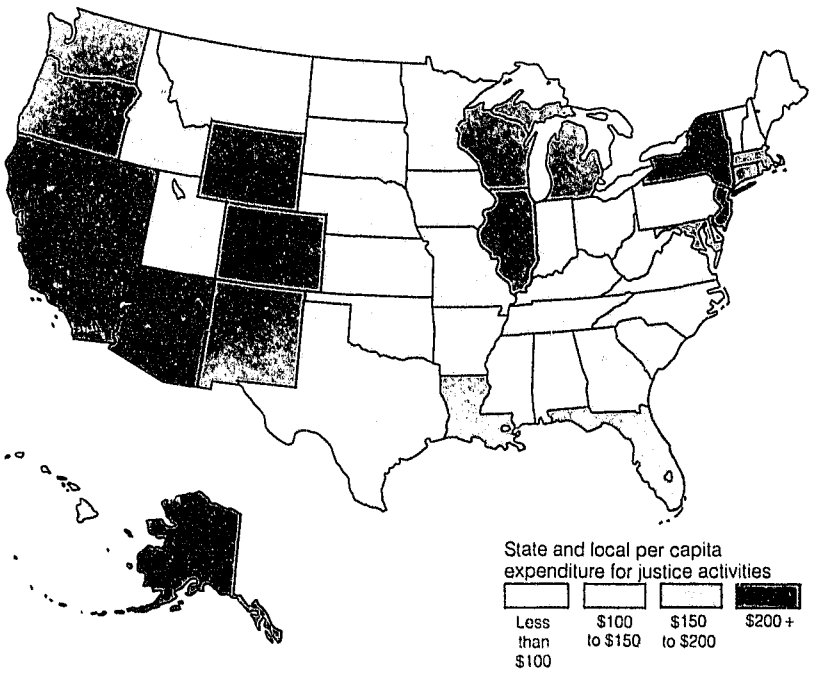
### Per capita justice costs vary by State from less than $100 to as much as $592

State and local governments spent an average of $167 per capita for justice services in 1985.

In 1985 State and local governments in Arkansas, Maine, Mississippi, North Dakota, and West Virginia spent less than $100 per capita for justice services; Alaska spent $592; New York, $293; and Nevada, $244.

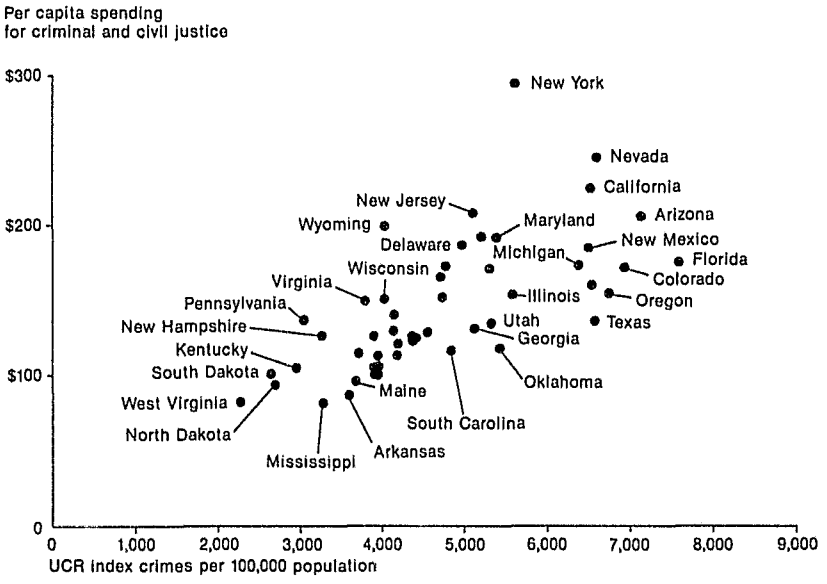
Regional variation is also evident. Per capita spending for justice was—
- $208 in the Northeast
- $205 in the West
- $140 in the South
- $140 in the Midwest.

### The Northeast and West lead the Nation in justice costs per capita




Source: *Justice expenditure and employment, 1985*, BJS Bulletin, March 1987.

### States with high crime rates tend to have high expenditures for criminal and civil justice




Sources: *Justice expenditure and employment in the U.S., 1985*, BJS Bulletin, March 1987. FBI *Crime in the United States, 1985.*

# What do justice dollars buy?

### The cost of bringing an offender to justice is highly variable and includes many "hidden costs"

The costs of convicting an offender are many and varied. They include paying for—

- Police to investigate criminal events, arrest offenders, and appear as witnesses in court (often on overtime)
- Public defenders and assigned counsel to represent indigent defendants
- Prosecutors to investigate, prepare, and present the case in court
- Judges and juries to hear the evidence and reach a verdict
- The probation department to prepare presentence investigation reports for the judge to use in sentencing
- State identification and information bureaus to check fingerprints and criminal histories of defendants
- Local jails to house defendants who are detained in pretrial custody.

### Different criminal cases vary greatly in cost

*The price of justice*, a 1981 study of three "typical" New York City robbery cases, found that the cost of arresting, prosecuting, and trying the defendants ranged from $851 to $32,627, not including correctional costs after trial. In each of the cases, the defendants were arrested shortly after the crime, eliminating the need for long and costly police investigation.

In the first case, the defendants pleaded guilty to a reduced charge the day after their arrest. Beyond arrest and booking, the costs were minimal. Each defendant received a 6-month sentence.

The second case cost $6,665. The defendant pleaded guilty after being indicted, but before trial. Seventy percent of the total cost was for pretrial detention; 68 days after arrest, the defendant received a sentence of 4 to 12 years of imprisonment for the plea of guilty to robbery.

In the third case, the defendant chose to go to a felony trial in which he was found guilty of robbery and sentenced to 9 to 18 years; 250 days had elapsed between arrest and sentencing. The total cost was $32,627, half of which was for pretrial detention.

### Justice dollars are used to compensate victims, to investigate crimes, and to apprehend, try, and punish offenders

| | | |
|---|---|---|
| Victim compensation (1980 and 1981) | | |
| Average maximum award | $18,000 | per award |
| Average award | $3,000 | per award |
| Investigative and court costs | | |
| A State or Federal wiretap (1986) | $35,508 | per wiretap |
| To protect a Federal witness (1986) | $118,200 | per year |
| Juror payment (1986)— | | |
| State | $10 | per day |
| Federal | $30 | per day |
| Court case (1982)— | | |
| California Superior Court | $5 | per minute |
| Florida Circuit Court | $4 | per minute |
| Washington State Superior Court | $4 | per minute |
| U.S. District Courts | $9 | per minute |
| To arrest, prosecute, and try a robbery case in New York City (1981)— | | |
| with guilty plea and sentencing day after arrest | $851 | per case |
| with guilty plea after indictment and sentencing 68 days after arrest | $6,665 | per case |
| with trial disposition and sentencing 250 days after arrest | $32,627 | per case |
| Most frequent assigned counsel hourly rate (1982)— | | |
| Out-of-court | $20–30 | per hour |
| In court | $30–50 | per hour |
| Average indigent defense case (1982) | $196 | per case |
| Corrections operations costs | | |
| For one adult offender— | | |
| in a Federal prison (1986) | $13,162 | per year |
| in a State prison (1984) | $11,302 | per year |
| in a State-operated, community-based facility (1984) | $7,951 | per year |
| in a local jail (1983) | $9,360 | per year |
| on Federal probation or parole (1986) | $1,316 | per year |
| on State probation (1985) | $584 | per year |
| on State parole (1985) | $702 | per year |
| For housing— | | |
| an unsentenced Federal prisoner in a local jail (1986) | $36 | per day |
| a sentenced Federal prisoner | | |
| in a local community treatment center (1986) | $30 | per day |
| in a jail (1986) | $33 | per day |
| For housing— | | |
| one resident in a public juvenile facility (1985) | $25,200 | per year |
| Prison industry wage (1985) | $0.24–1.02 | per hour |

Note: Multiple sources supplied the data in this table. Ranges are presented when the source did not provide enough information to compute an average. The list of sources for this table is available from BJS either in the technical appendix or separately upon request.

### Courts process many kinds of cases with widely varying costs

State courts handle about the same number of civil as criminal cases; in Federal courts civil cases outnumber criminal cases by 6 to 1. In most instances the same court handles both types of cases.

There is no agreed-upon method of dividing national court expenses between civil and criminal workloads to arrive at the total cost of criminal vs. civil cases. It is clear, however, that costs of processing different kinds of cases vary enormously. For example, the clerk of court may only have to file documents to probate an uncontested will, but months of effort are required to provide for a jury trial in a complex personal injury suit or murder case.

### What are the operating costs of correctional sanctions?

The 1984 Census of State Adult Correctional Facilities found a wide range ($5,797–$23,233) in the operating cost per prisoner among the States. Factors affecting this range include—

- regional variations in salaries that reflect differences in cost-of-living and union contracts
- differences in utility costs and in the need for heating fuel

• differences in types of institutions operated (for example, a State may have a higher-than-average percentage of prisoners in less expensive minimum security)
• differences in the extent to which the prison uses prisoners rather than hiring nonprisoners to perform maintenance services.

The Census found that there is not much difference in the cost per inmate per year between maximum and medium security facilities ($11,336 vs. $11,652). Minimum security facilities are somewhat less expensive, as are State-operated, community-based facilities, such as halfway houses. In those community facilities, the cost per inmate was $7,951, ranging from $4,767 to $27,400. The wide range is due to differences in the types and intensity of treatment used; for example, a program with highly trained therapists is more expensive than one that is almost solely custodial.

The *Corrections yearbook* found that across 46 State parole agencies, the average annual cost of maintaining a person on parole was $702. The annual average cost for a person on probation across 44 State agencies was $584.

### Savings from housing offenders in the community rather than in confinement can be misleading

A study on the cost of prosecuting repeat felony offenders in Salt Lake County, Utah, found that probationers who commit crime while on probation and are prosecuted for it very quickly cost victims and the criminal justice system the amount of money "saved" by not incarcerating them for their earlier crime. Repeat offenders (some of whom commit hundreds of crimes a year) can cost society many times over the cost of incarceration if they recidivate while in a community-based facility or on probation or parole.

### Widely divergent estimates of the construction cost per prison bed are found in various studies, reports, and media accounts

There are many reasons for the variation:

**Justice dollars also are used for buildings and equipment**

| | |
|---|---|
| New correctional facility costs: Construction cost per bed in a— | |
| maximum security State prison (1985) | $70,768 per bed |
| medium security State prison (1985) | $53,360 per bed |
| minimum security State prison (1985) | $29,599 per bed |
| "constitutional" jail (1982) | $43,000 per bed |
| juvenile facility (1985) | $26,470 per bed |
| Average remodeling for additions to prisons (1985) | $19,944 per bed |
| New courthouse construction costs (1982) | $54–$65 per sq. ft. |
| Police car costs: | |
| Average purchase price (1981) | $8,000 per car |
| To equip a new police car with— | |
| police radio (1981) | $2,000 per car |
| siren and light bar (1981) | $800 per car |
| other (1981) | $300 per car |
| To maintain and operate (not including patrol salary) (1981) | $6,000 per year |
| Resale value (1981) | $1,000 per car |

Note: Multiple sources supplied the data in this table. Ranges are presented when the source did not provide enough information to compute an average. The list of sources for this table is available from BJS either in the technical appendix or separately upon request.

• Some sources include the purchase of the land, preparing the site, architects' fees, and long-term financing costs such as interest paid on bonds. Others do not.
• Figures for differing levels of security classification (for example, minimum security vs. maximum security) are used in different sources.
• Construction costs vary by region.
• Some prison construction cost is offset by using inexpensive prisoner labor.
• Some sources surveyed only "recently completed" construction. Others include the expected costs of future "approved" or "planned but not approved" construction.
• Prisons vary in the amount of space per prisoner and in space allowed for prisoner support programs such as medical and psychiatric treatment, athletics, and recreation.
• Some late 1970s estimates are based on data from early 1970 surveys that have been adjusted for inflation—adjustments using different methods with different results.

Maximum security prisons are clearly more expensive to build than medium security prisons, which in turn are more expensive than minimum security prisons. States reported to the *Corrections yearbook*, 1986, the following ranges of construction costs per prison bed for fiscal 1985—

| Security type | Range | Average |
|---|---|---|
| Maximum | $21,525–$155,300 | $70,768 |
| Medium | $16,000–$125,000 | $53,360 |
| Minimum | $7,000–$112,842 | $29,599 |

### What are the costs of jail construction?

The estimate of $43,000 per jail bed, based on a 1982 survey of 34 "advanced practices" jails, is somewhat lower than that for maximum and medium security prisons because jails usually do not have extensive architectural security features such as perimeter walls and usually are designed to provide less area for recreation and rehabilitation activities because their inmates are held for shorter periods.[17]

### Corrections officials are exploring ways to cut the high cost of prison and jail construction

The State of Virginia recently built two prisons, one using conventional construction management and the traditional poured concrete, concrete block, and brick. The other used factory prefabricated concrete panels. The second prison not only cost about a third less than it would have using conventional methods, it was completed in less than half the time.[18]

Other States have had similar success in reducing the cost of prison construction by using prefabricated building parts and innovative construction management techniques. Florida was able to open a 336-bed expansion unit at an existing prison complex at a cost of about $16,000 per cell. California was able to reduce the cost per cell from $90,000 to $50,000.[19]

**How much does it cost to build a new courthouse?**

Available information does not allow computation of the cost of building a new "average courtroom," as is often done for prison cells. Walter H. Sobel, F.A.I.A. and Associates' 1982 survey of nine recently built courthouse projects found these variations:

- In one courthouse, 29% of the square footage was for jail cells, which cost more to build than courtrooms.
- Two projects included large underground parking garages, which cost more than outdoor parking lots.
- Some projects included "shelling in" space for courtrooms to be completed in the future.
- Different courthouses have different mixes of space allocated for courtrooms and judicial chambers (the most expensive type of nondetention construction) and administrative and support space (costing about the same as routine business offices).
- Regional factors in the construction industry also affect the cost of courthouses.

The price per square foot of construction in three newly built courthouses that appeared to be the most comparable were $54, $61, and $65. One other project involved completing a shell that had been built earlier. The cost per square foot was $54, higher than might be expected because the courthouse was limited to courtrooms and judges' chambers. Two renovation efforts were reported, costing $36 and $67 per square foot, the range reflecting the extent of the renovation effort.

**The purchase price for a police car ranged from $6,700 to $9,500 in 25 jurisdictions**

The purchase price is only part of the cost of putting a patrol car on the streets. In a 1982 survey the National Association of Criminal Justice Planners found that police radios ranged in cost from $1,200 to $4,300 in the nine jurisdictions providing this information; police sirens and light bars added another $350 to $1,300. Costs for other equipment were reported at $10 to $700; these include police department decals and shields for the patrol car, loudspeakers, security cages for prisoners, and shotguns and racks.

The annual operating cost for a police car, including gas, oil, maintenance, and repair, varied from $3,000 to $13,000. The factors affecting this range include the number of shifts the car is driven during the day, the type of driving involved (for example, city vs. suburban patrol), climate conditions, and the length of time the car is operated before being resold. This last factor is reflected in the range of resale value, reported at $550 to $4,500.

**Some police investigation and court costs are not well known**

The police sometimes pay informants for investigative information. Undercover agents may use cash to buy drugs or other illegal goods and services in an attempt to obtain evidence of criminal behavior. Police officers often are required in court as witnesses, frequently on overtime pay. In a 1982 survey, the National Association of Criminal Justice Planners found that in five jurisdictions three-quarters of all court appearances involved police overtime. For nine jurisdictions able to report cost data, the average overtime pay per court appearance was $41.

Courts pay private citizens for serving on jury duty. In 1986 the daily pay for jurors averaged about $10 per day. In some States a lower fee (or no fee) is paid for the first few days. Some States pay for half days and some pay on an hourly basis. In the Federal system in 1986, daily pay for jurors was $30. Most court systems also reimburse jurors for their travel expenses and pay living expenses for those serving on sequestered juries.

Another less well known expense is the cost of protecting witnesses. State and local governments engage in such activities, but the Federal Witness Security Program of the U.S. Marshals Service is clearly the largest and most extensive witness security program in the Nation. This program provides—

- protection and maintenance services for witnesses, potential witnesses, and dependents whose lives are in jeopardy as a result of testimony against organized crime figures.
- around-the-clock protection to witnesses while they are in a "hostile environment" and when they return to an area of danger for court testimony.
- geographic relocation for the witness and his or her dependents; housing; subsistence; new identification documents; and employment, medical, and other assistance to allow the witness to become self-sustaining.

In 1986 the U.S. Marshals Service provided protection or support for 1,714 persons, including 933 principal witnesses and 781 family members. The average annual cost per witness ranged from $47,500 for a person with no dependents in the program to $84,000 for one with eight dependents, with an average annual cost per witness of $56,000 for the salaries and expenses of marshals. There are now more than 12,500 participants in the Federal Witness Security Program, although not all are under the active protection of the U.S. Marshals.

### Close to three-fourths of State and local justice dollars go for payroll

Criminal and civil justice is a highly "personnel-intensive" activity. In 1985 the payroll for State and local justice employees ranged from a high of 79% of all expenditures for police protection to a low of about 40% for public defense and "other justice" activities, such as planning commissions.[20]

The defender proportion of spending for salaries was low because of widespread use of "assigned counsel" defense systems in which the government pays private attorneys to represent indigent defendants. The National Criminal Defense Systems Study found that the fees paid to the attorneys have been reported to be as low as $10 and as high as $65 an hour but in most places the fee is between $20 and $30 an hour for out-of-court work and between $30 and $50 an hour for in-court work. Sometimes the hourly fee varies by the seriousness of the case and by whether it is at the trial or appeal stage. Some jurisdictions that do not use an hourly rate use minimum and maximum amounts of total compensation.

The payroll proportion of spending for "other justice" activities is low because this category contains many intergovernmental payments that do not require a large amount of staff support to oversee.

Salaries make up a relatively lower proportion of total spending for corrections (59%), primarily because of the costs of building and maintaining prisons, contracts for medical care and treatment programs, food, guard and prisoner uniforms, and boarding prisoners at other institutions.

Courts also have a relatively low proportion of total spending for salaries (71%) because of payments for jury and witness fees, courthouse maintenance, and purchase of books for law libraries.

### Salaries for police and correctional officers are generally the lowest

Judges, because of their great responsibility, have the highest salaries of criminal and civil justice employees at each level of government. Current State and local prosecutor and public defender salaries are not available. The National Criminal Defense Systems Study found that in 1982 State and local full-time chief public defender salaries ranged from $6,000 to $66,000 (with most falling between $20,000 and $30,000) and that chief prosecutors for the most part had higher salaries. The salaries of State and local police officers are about the same as those of correctional personnel.

### Justice dollars pay personnel costs

(Average annual salary. There are jurisdictions where the salaries are higher or lower than these averages.)

| | |
|---|---|
| Law enforcement officers (1985 and 1986) | |
| City police officer (entry level) | $18,913 |
| City police officer (maximum) | $24,243 |
| City police chief | $33,158 |
| County sheriff patrol officer | Not available |
| State trooper (entry level) | $18,170 |
| State trooper (maximum) | $28,033 |
| Deputy U.S. marshal | $19,585 |
| U.S. border patrol agent | $23,058 |
| U.S. immigration inspector | $24,719 |
| U.S. immigration agent | $34,259 |
| Federal drug agent | $36,973 |
| FBI agent | $40,321 |
| Prosecutors (1986) | |
| State and local prosecution personnel | Not available |
| Federal prosecutor | $53,027 |
| Defenders (1986) | |
| State and local defense personnel | Not available |
| Federal defender | $43,582 |
| Court personnel (1986 and 1987) | |
| State court administrator | $59,257 |
| State general jurisdiction trial court judge | $60,697 |
| State intermediate appellate court justice | $67,172 |
| State associate supreme court justice | $67,434 |
| State supreme court justice | $70,161 |
| U.S. Magistrate | $72,500 |
| U.S. Bankruptcy Court Judge | $72,500 |
| U.S. Court of Claims Judge | $82,500 |
| U.S. Court of International Trade Judge | $89,500 |
| U.S. District (trial) Court Judge | $89,500 |
| U.S. Circuit (appellate) Court Judge | $95,000 |
| U.S. Supreme Court Associate Justice | $110,000 |
| U.S. Supreme Court Chief Justice | $115,000 |
| Correctional officers (adult facilities, 1986) | |
| Local jail officer (entry level) | $16,939 |
| State correctional officer (entry level) | $14,985 |
| State correctional officer (maximum) | $16,427 |
| State director of corrections | $59,947 |
| Federal correctional officer | $22,857 |
| Probation and parole officers (adult clientele, 1986 and 1987) | |
| Local probation officer | Not available |
| State probation officer (entry level) | $19,402 |
| State parole officer (entry level) | $19,986 |
| State chief probation officer | $28,600 |
| State chief parole officer | $31,233 |
| State parole board member | $43,429 |
| State parole board chairman | $46,100 |
| Federal probation officer (entry level) | $22,458 |
| Federal parole case analyst | $22,458-42,341 |
| Federal parole hearing examiner | $38,727-59,488 |
| Federal regional probation/parole administrator | $53,830-69,976 |
| U.S. Parole Commissioner | $72,500 |

Note: Multiple sources supplied the data in this table. Ranges are presented when the source did not provide enough information to compute an average. The list of sources for this table is available from BJS either in the technical appendix or separately upon request.

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[12]This does not include interest payments for loans used for long-term financing of construction projects because it is not possible to separate consistently such payments in the government records used to compile these data.

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[14]Mary Fairchild, "Criminal justice and the States: A preview of legislative issues," National Conference of State Legislatures, Denver, unpublished.

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[16]Long-term trends (1902-85, 1946-85, and 1960-85) for police and corrections are based on U.S. Census Bureau data; trends for 1971-85 are based on BJS data. Figures from the two sources for overlapping years vary somewhat. Because expenditure data from BJS are not available for employer contributions to fringe benefits, the rate of growth for 1971-85 is slightly understated. See technical appendix.

[17]This estimate was made to assist local officials in planning to build jails that meet emerging national standards and thus would be less likely to encounter suits alleging violation of prisoners' constitutional rights. (*The costs of constitutional jails,* National Institute of Corrections, U.S. Department of Justice, 1982.)

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[20]See technical appendix for discussion of methodology for estimating payroll data.

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**Call toll-free 800-732-3277** (local 301-251-5500) to order BJS reports, to be added to one of the BJS mailing lists, or to speak to a reference specialist in statistics at the Justice Statistics Clearinghouse, National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850. Single copies of reports are free; use NCJ number to order. Postage and handling are charged for bulk orders of single reports. For single copies of multiple titles, up to 10 titles are free; 11-40 titles $10; more than 40, $20; libraries call for special rates.

Public-use tapes of BJS data sets and other criminal justice data are available from the Criminal Justice Archive and Information Network, P.O. Box 1248, Ann Arbor, MI 48106 (313-763-5010).

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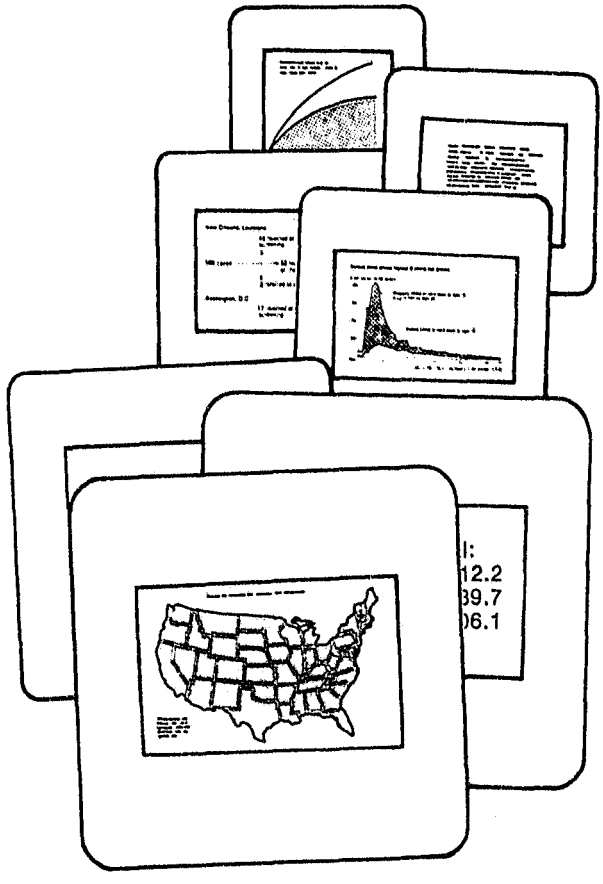

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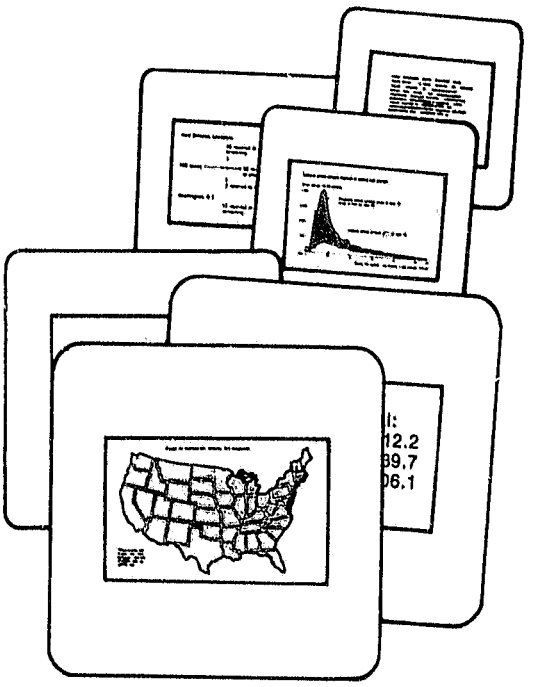

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