

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8905 SENATE JUDICIARY

SB 263 is also ambiguous and overbroad with respect to the copyrighted material it attempts to reach. Wholly unanswered is what kinds of copyrighted works are similar to nondramatic musical works and thus covered by its proscriptions. This bill may apply to music contained in dramatic works, dramatic works with accompanying music, musical works generally, motion picture soundtracks, motion picture soundtracks containing nondramatic works, phonorecords of motion picture soundtracks, music videos, television programming containing music as well as a host of other audiovisual works containing music.

MPAA is particularly concerned that SB 263 may be read by litigants or the courts as applying to most forms of entertainment which may be publicly performed. After musical works, motion pictures, television programming and sports events are the works most commonly performed publicly. Proprietors of bars and other retail establishments receive this programming over electronic media and rebroadcast these works of entertainment "for the enjoyment of the members of the public assembled on the premises[.]" Litigants, focusing on the similarity in the public performance and rebroadcast of musical works and these other forms of entertainment, are expected to argue that these copyrighted works are "similar works" covered by SB 263.

BILL WOULD HARM LEGITIMATE INVESTIGATIONS

Unlicensed public performances of motion pictures and television programming in bars, taverns, inns, and other retail establishments are investigated by representatives of the MPAA. These investigators usually do not identify themselves as MPAA representatives or as agents of copyright owners when attending the performances. Moreover, no evidence exists that such investigations have been conducted in an arbitrary or capricious manner. MPAA is aware of no example where such an investigation has even led to a complaint to law enforcement or to MPAA.

Such investigations are designed to detect the deliberate and systematic misappropriation of the creative work of thousands of persons employed in the motion picture and television industries. To

detect systematic piracy of such programming and distinguish it from incidental or unintentional misappropriation, MPAA investigators attend multiple performances. If required to identify themselves and their purpose, they would be denied admission by those engaging in regular and deliberate piracy. By definition, these performances are open to the public. Other patrons are not required to state their purpose or identify themselves. Inasmuch as MPAA investigators have conducted such investigations in an exemplary manner without complaint even from proprietors habitually engaging in unlicensed public performances, the proposed legislation appears to arbitrarily restrict these legitimate investigations.

SB 263 IS PRE-EMPTED BY FEDERAL LAW

As we indicated previously, the State of Alaska is pre-empted from enacting their own copyright law and would be subject to immediate litigation if such a measure was enacted. In 1976, Congress passed the Copyright Revision Act (17 U.S.C. § 101, *et seq.*). Section 301 of that Act¹ was enacted for the purpose of ending the then existing dual system of statutory copyright protection. (H.Rep. No. 94-1476, reprinted in 1976 U.S.C.A. at 17 U.S.C. § 301, pp. 271-72). The Notes of the Committee on the Judiciary stated ". . . [t]he intention of section 301 . . . is to preempt and abolish any rights under the common law or statutes of a State that are the equivalent to copyright and that extend to works coming within the scope of federal copyright law. The declaration of this principle in section 301 . . . is intended to be stated in the clearest and most unequivocal language possible, so as to foreclose any conceivable misinterpretation of its unqualified intention that Congress shall act preemptively, and to avoid the development of any vague borderline areas between State and Federal protection." *Id.*

¹ 17 U.S.C. §301(a) reads: "On and after January 1, 1978, all legal or equitable rights that are the equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to any such right or equivalent right in any such work under the common law or statute of any State."

MPAA is convinced that SB 263 invades this borderline area and is preempted by Section 301 and The Supremacy clause of the United States Constitution (Art. VI, cl. 2).

#

We urge the Alaska Legislature to defeat SB 263.

February 1996

SB

264

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 264

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act limiting the authority of courts to suspend BRU: Criminal Division
the imposition of sentence in criminal cases." Component: Criminal Division
 Sponsor: Senator Halford
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill further restricts the authority of the court to suspend the imposition of sentence (SIS) in certain felony cases (AS 12.55.085) and in certain misdemeanor cases (AS 12.55.135). Although some defendants may decide to go to trial, because the possibility of SIS will not be available, the number of new cases will not be sufficient to warrant fiscal note costs for the Department of Law.

Prepared by: Richard I. Peques, Director Phone: 465-3677
 Division: Administrative Services Division Date: 4/12/96
 Approved by Commissioner: Bruce M. Batello, Attorney General Date: 4/12/96
 Agency: Department of Law

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LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 4, 1996

SUBJECT: Sectional Summary of SB 264. (Work Order No. 9LS-1597\A)

TO: Senator Rick Halford
Attn: Kelly Huber

FROM: Gerald P. Luckhaupt *JGL*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill adds to the list of offenses a person cannot receive a suspended imposition of sentence for having committed. The additions are convictions for a crime against a person (AS 11.41), arson in the first degree, or any felony when the offender has a previous felony conviction.

Section 2 of the bill provides a technical amendment to AS 12.55.135(e) occasioned by sec. 1, as AS 12.55.135(c) and (d) are crimes against persons and suspended imposition of sentence is no longer available for those offenses under sec. 1.

Section 3 of the bill provides an applicability section.

GPL:pl
96-064.plm

CS FOR SENATE BILL NO. 264(JUD)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
 Referred:

Sponsor(s): SENATORS HALFORD, Taylor, Green, Donley

A BILL

FOR AN ACT ENTITLED

1 "An Act limiting the authority of courts to suspend the imposition of sentence
 2 in criminal cases."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 12.55.085(f) is amended to read:

5 (f) The court may not suspend the imposition of sentence of a person who

6 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260 -
 7 11.41.320, 11.41.410 - 11.41.530, or AS 11.46.400 [AS 11.41.410 - 11.41.455];

8 (2) uses a firearm in the commission of the offense for which the
 9 person is convicted; or

10 (3) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony
 11 [AS 11.41.210 - 11.41.270 OR 11.41.510 - 11.41.530,] and the person has [, WITHIN
 12 THE 10 YEARS PRECEDING THE COMMISSION OF THE OFFENSE FOR
 13 WHICH THE PERSON HAS BEEN CONVICTED,] one or more prior convictions for
 14 a misdemeanor violation of AS 11.41 or for a felony [AS 11.41] or for a violation

1 of a law in this or another jurisdiction having substantially similar elements to an
2 offense defined as a misdemeanor in AS 11.41 or as a felony in this state [IN
3 AS 11.41]; for the purposes of this paragraph, a person shall be considered to have a
4 prior conviction even if that conviction has been set aside under (e) of this section or
5 under the equivalent provision of the laws of another jurisdiction.

6 * Sec. 2. APPLICABILITY. This Act applies to offenses committed on or after the
7 effective date of this Act. References to prior convictions refer to convictions occurring
8 before, on, or after the effective date of this Act.

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR ADAMS

TO: SB 264

1 Page 1, lines 6 - 7:

2 Delete "crime against a person or arson in the first degree [VIOLATION OF"

3 Insert "violation of AS 11.41.100 - 11.41.220, 11.41.260 - 11.41.320, 11.41.410 -
4 11.41.530, or AS 11.46.400 ["

5 Page 1, line 10:

6 Delete "felony [VIOLATION OF"

7 Insert "violation of AS 11.41.230 - 11.41.250 or a felony ["

8 Page 1, lines 13 - 14:

9 Delete "felony [VIOLATION OF"

10 Insert "misdemeanor violation of AS 11.41 or for a felony ["

11 Page 2, line 1, following "defined":

12 Insert "as a misdemeanor in AS 11.41 or"

13 Page 2, lines 5 - 25:

14 Delete all material.

15 Renumber the following bill section accordingly.

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/7/96

FURTHER: Finance

Date of 5-Day Notice: 4/3/96
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4/15/96

The Judiciary Committee considered SB 264

Relating to limiting the authority of courts to suspend the imposition of sentence in criminal cases.

and recommends:

- be replaced with CS SB 264 (JUD)
- adopt previous CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Linda Green</i>	<input checked="" type="checkbox"/>	<i>see below</i>	<input checked="" type="checkbox"/>		
<i>Dick Miller</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>John Taylor</i>	<input checked="" type="checkbox"/>	CHAIR: _____			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i> </i>			
<i> </i>			
<i> </i>			
<i> </i>			
<i> </i>			

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>Court System</i>	<i>4/2</i>	<input checked="" type="checkbox"/>	
<i> </i>			
<i> </i>			
<i> </i>			
<i> </i>			

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

SB

267

**Municipality
of
Anchorage**



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4433

Rick Mystrom, Mayor

OFFICE OF THE MUNICIPAL MANAGER

February 9, 1996

Senator Drue Pearce
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Re: S. B. 267

Dear Senator Pearce:

Thank you for sponsoring S. B. 267, regarding court hearings involving minors.

This bill offers an important reform to the way in which juvenile criminal activity is addressed.

Attached is an issue summary supporting the need for the proposed change.

Thank you again for sponsoring this legislation. If we can offer further information, please let me know.

Sincerely,

Tim Rogers
Legislative Program Coordinator

Letter from MOA

**MUNICIPALITY OF ANCHORAGE
PUBLIC SAFETY PARTNERSHIP PROGRAM
LEGISLATIVE ISSUE**

Provide that hearings dealing with juvenile criminal offenders are generally open to the public but subject to closure, sealing and expungement after rehabilitation.

The Municipality of Anchorage seeks to change the presumption on which the keeping of juvenile criminal records and conduct of hearings rests.

Currently, the system works on a presumption that these records and hearings should be kept confidential and closed. Confidential records and closure of hearings is disfavored as public access will further the important goals of the system accountability; the insurance of truthful testimony; public education and awareness, particularly among the young whose belief in their invincibility is fostered by ignorance of the consequences to others; protection of victim's rights; and subsequent accountability for repeat offenders.

Those goals can be better fostered by a system that begins with the presumption that open record keeping and hearings should be the norm rather than the exception. Individuals who simply commit foolish mistakes or who are rehabilitated will be suitably protected by allowing after the fact sealing of the records.

Sponsor Statement

FISCAL NOTE

BILL NO. SB267

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Relating to Court Hearings Involving BRU: Family and Youth Services
 Minors _____ Component: Southeastern Region
 Sponsor: Senator Pearce COMPONENT SERIAL NO. 358
 Requestor: Senate (JUD) See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	286.0	286.0	286.0	286.0	286.0	286.0
1003 GF Match						
1004 GF	286.0	286.0	286.0	286.0	286.0	286.0
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: 80.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.070 opening all juvenile delinquency hearings to the public would place the state out of compliance with federal regulations concerning Title IVB and Title IVE of the Social Security Act (42 U.S.C 671 (a) (8)). The state would lose \$286.0 in Title IVE federal funds for Foster Care and Subsidized Adoption & Guardianship in the Southeast Region. The total cost to the Division of Family & Youth Services if this bill were to pass is \$7,625.9.

Prepared by: L. Diane Worley, Director Phone: 465-3191
 Division: Family & Youth Services Date: 03/08/96

Approved by Commissioner: Karen Perdue, Commissioner Date: _____
 Agency: Department of Health & Social Services

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 For the Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB267

Revision Date: _____
 Title: Relating to Court Hearings Involving
Minors
 Sponsor: Senator Pearce
 Requestor: Senate (JUD)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Northern Region
 COMPONENT SERIAL NO. 255
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts	(507.4)	(507.4)	(507.4)	(507.4)	(507.4)	(507.4)
1003 GF Match						
1004 GF	507.4	507.4	507.4	507.4	507.4	507.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: 30.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.070 opening all juvenile delinquency hearings to the public would place the state out of compliance with federal regulations concerning Title IVB and Title IVE of the Social Security Act (42 U.S.C 671 (a) (8)). The state would lose \$507.4 in Title IVE federal funds for Foster Care and Subsidized Adoption & Guardianship in the Northern Region. The total cost to the Division of Family & Youth Services if this bill were to pass is \$7,625.9.

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services

Phone: 465-3191
 Date: 03/08/96

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: _____

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB267

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Relating to Court Hearings Involving BRU: Family and Youth Services
 Minors: _____ Component: DFYS Central Office
 Sponsor: Senator Pearce COMPONENT SERIAL NO. 259
 Requestor: Senate (JUD) See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(1,393.2)	(1,393.2)	(1,393.2)	(1,393.2)	(1,393.2)	(1,393.2)
1003 GF Match						
1004 GF	1,393.2	1,393.2	1,393.2	1,393.2	1,393.2	1,393.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: 0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.070 opening all juvenile delinquency hearings to the public would place the state out of compliance with federal regulations concerning Title IVB and Title IVE of the Social Security Act (42 U.S.C 671 (a) (8)). The state would lose \$1393.2 in Title IVE federal funds for Foster Care and Subsidized Adoption & Guardianship in the Central Office. The total cost to the Division of Family & Youth Services if this bill were to pass is \$7,625.9.

Prepared by: L. Diane Worley, Director Phone: 465-3191
 Division: Family & Youth Services Date: 03/06/96

Approved by Commissioner: Karen Prdue, Commissioner Date: _____
 Agency: Department of Health & Social Services

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB267

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Relating to Court Hearings Involving BRU: Purchased Services
 Minors: _____ Component: Family Preservation
 Sponsor: Senator Pearce COMPONENT SERIAL NO. 162M
 Requestor: Senate (JUD) See also (SNM): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(1,022.9)	(1,022.9)	(1,022.9)	(1,022.9)	(1,022.9)	(1,022.9)
1003 GF Match						
1004 GF	1,022.9	1,022.9	1,022.9	1,022.9	1,022.9	1,022.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: 0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.070 opening all juvenile delinquency hearings to the public would place the state out of compliance with federal regulations concerning Title IVB and Title IVE of the Social Security Act (42 U.S.C 671 (a) (8)). The state would lose \$1022.9 in Title IVE federal funds for Family Preservation. The total cost to the Division of Family & Youth Services if this bill were to pass is \$7,625.9.

Prepared by: L. Diane Warley, Director Phone: 465-3191
 Division: Family & Youth Services Date: 03/08/96
 Approved by Commissioner: Karen Perdue, Commissioner Date: _____
 Agency: Department of Health & Social Services

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB267

Revision Date: _____
 Title: Relating to Court Hearings Involving
 Minors _____
 Sponsor: Senator Pearce
 Requestor: Senate (JUD)

Dept. Affected: Health and Social Services
 BRU: Purchased Services
 Component: Residential Child Care
 COMPONENT SERIAL NO. 253
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts	(568.0)	(568.0)	(568.0)	(568.0)	(568.0)	(568.0)
1003 GF Match						
1004 GF	568.0	568.0	568.0	568.0	568.0	568.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.070 opening all juvenile delinquency hearings to the public would place the state out of compliance with federal regulations concerning Title IVB and Title IVE of the Social Security Act (42 U.S.C 671 (a) (8)). The state would lose \$568.0. in Title IVE federal funds for Residential Child Care. The total cost to the Division of Family & Youth Services if this bill were to pass is \$7,625.9.

Prepared by: L. Diane Worley, Director Phone: 465-3191
 Division: Family & Youth Services Date: 03/08/96

Approved by Commissioner: Karen Perdue, Commissioner Date: _____
 Agency: Department of Health & Social Services

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB267

Revision Date: _____
 Title: Relating to Court Hearings Involving
 Minors
 Sponsor: Senator Pearce
 Requestor: Senate (JUD)

Dept. Affected: Health and Social Services
 BRU: Purchased Services
 Component: Foster Care
 COMPONENT SERIAL NO. 252
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts	(1,330.0)	(1,330.0)	(1,330.0)	(1,330.0)	(1,330.0)	(1,330.0)
1003 GF Match						
1004 GF	1,330.0	1,330.0	1,330.0	1,330.0	1,330.0	1,330.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: 90.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.070 opening all juvenile delinquency hearings to the public would place the state out of compliance with federal regulations concerning Title IVB and Title IVE of the Social Security Act (42 U.S.C 671 (a) (8)). The state would lose \$1330. in Title IVE federal funds for Foster Care. The total cost to the Division of Family & Youth Services if this bill were to pass is \$7,625.9.

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services

Phone: 465-3191
 Date: 03/08/96

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: _____

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB267

Revision Date: _____
 Title: Relating to Court Hearings Involving
 Minors
 Sponsor: Senator Pearce
 Requestor: Senate (JUD)

Dept. Affected: Health and Social Services
 B&U: Purchased Services
 Component: Sub Adoption & Guardianship
 COMPONENT SERIAL NO. 1962
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(1,364.6)	(1,364.6)	(1,364.6)	(1,364.6)	(1,364.6)	(1,364.6)
1003 GF Match						
1004 GF	1,364.6	1,364.6	1,364.6	1,364.6	1,364.6	1,364.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: 30.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.070 opening all juvenile delinquency hearings to the public would place the state out of compliance with federal regulations concerning Title IVB and Title IVE of the Social Security Act (42 U.S.C 671 (a) (8)). The state would lose \$1364.6 in Title IVE federal funds for Subsidized Adoption & Guardianship. The total cost to the Division of Family & Youth Services if this bill were to pass is \$7,625.9.

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services

Phone: 465-3191
 Date: 03/08/96

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: _____

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MAR 11 1996

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 267

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to court hearings involving minors; and amending Rule 3(c), Alaska Delinquency Rules." BRU: Criminal Division/Civil Division
 Sponsor: Senator Pearce Component: Criminal Division/General Legal Services
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2085/2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 47.10.070 to establish a presumption that court hearings on delinquency proceedings will be open to the public except when ordered closed by the court. The bill specifically provides that on a petition to adjudicate a minor as a delinquent based on a criminal offense that the minor is alleged to have committed the public may attend the hearing. However, the bill provides that the court may, on application by a party, exclude the public from the hearing or a portion of it. The bill further provides that the court may order a closure or partial closure to exclude the public from the hearing under the following circumstances: (1) if the court determines that a closure or partial closure is necessary to protect the minor or the victim of the offense from physical harm or from severe emotional harm; (2) to maintain order in the courtroom; (3) to ensure truthful testimony; or (4) to meet any other interest of a party or of the court that the court finds to be compelling.

The bill will probably not have a fiscal impact for the Department of Law, because it is concerned with who may view a delinquency proceeding. However, we hasten to point out that public disclosure of delinquency

Prepared by: Richard L. Peques, Director Phone: 465-3872
 Division: Administrative Services Division Date: 3/8/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 3/8/96
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 267

ANALYSIS CONTINUATION:

proceedings will cause the state to lose about \$7.6 million annually in federal welfare monies from Title IVB and Title IVE grants under the Social Security Act. †

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: SB 267 MAR 11 1996

Revision Date: _____ Dept. Affected: Public Safety
 Title: Minor Delinquency Hearings Public BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Senator Pearce
 Requestor: S. Judiciary COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 98) impact: \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

This bill does not affect the Division of Alaska State Troopers.

Prepared By: Lt. Dan Lowden Phone: 465-5505
 Division: Alaska State Troopers Date: March 8, 1996
 Approved by Commissioner: *Ronald L. Otte* Date: 3/8/96
 Agency: Ronald L. Otte, Department of Public Safety

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Bills Previously Heard

~~HB 370 Legal Services Provided at Public Expense~~

Rescheduled form Wednesday

SB 268 Pretrial Release of Drug Offenders

Current Agenda

~~SB 188 Videotape Interviews with Abused Minors~~

~~SB 257 Taking of Fish and Game for Public Safety~~

~~SB 261 Unemployment Compensation~~

State of California

Board of Prison Terms
420 I Street, 6th Floor
Sacramento, CA 95833



John W. Gillis
Commissioner

Message Center
(916) 323-1600
Ext. 111-585

THE COUNCIL ON CRIME IN AMERICA

1150 17TH ST., NW, SUITE 510
WASHINGTON, DC 20036

PHONE: (202) 822-8333
FAX: (202) 822-8325

February 20, 1996

Senator Robin Taylor
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

CO-CHAIRS:

GRIFFIN B. BELL

WILLIAM J. BENNETT

Dear Senator Taylor:

Enclosed is a copy of the first report on violent crime in America prepared by the *Council on Crime in America*.

COUNCIL MEMBERS:

LYNNE M. ABRAHAM

WILLIAM P. BARR

ROBERT A. BUTTERWORTH

JOHN F. DIPILO, JR.

JOHN W. GILLIS

STEPHEN GOLDSMITH

GALE A. NORTON

The *Council* expects to release approximately two more reports after holding public hearings in several states. The specific locations of the hearings will be determined at a later date.

I have also enclosed a copy of the *Council's* January 5 press release and an article from the Philadelphia Inquirer that was reprinted in the Editorial Section of the Sacramento Bee. I hope you find the report and enclosures informative. I would definitely appreciate any feedback, or recommendations, you may have for the *Council*. You can reach me at:

EXECUTIVE DIRECTOR:

JOHN P. WALTERS

P. O. Box 1745
Sacramento, CA 95812
(916) 354-1781

Sincerely,


John W. Gillis

Enclosures

Hope to see you at the AACC meeting next month.

A PROGRAM OF:

**the New
Citizenship Project**

THE COUNCIL ON CRIME IN AMERICA

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EMBARGOED FOR RELEASE FRIDAY, JANUARY 5, 1996, 10:00AM
Contact: Jessica Gavora
202/822-8333 Fax: 202/822-8325

400,000 MURDERS SINCE 1977 MAY BE TIP OF ICEBERG, BIPARTISAN TASKFORCE WARNS

CO-CHAIRS:

GRIFFIN B. BELL

WILLIAM J. BENNETT

COUNCIL MEMBERS:

LYNNE M. ABRAHAM

WILLIAM P. BARR

ROBERT A. BUTTERWORTH

JOHN J. DILULIO, JR.

JOHN W. GILLIS

STEPHEN GOLDSMITH

GALE A. NORTON

EXECUTIVE DIRECTOR:

JOHN P. WALTERS

WASHINGTON— The first report of a bipartisan commission on violent crime revealed today that, despite a welcome decline in crime rates in certain U.S. cities, the likelihood that Americans will be victims of violent crime remains at an historic high.

The report also offers a disturbing portrait of a "revolving door" American criminal justice system in which one in three criminals are under the "supervision" of the justice system at the very time that they murder, rape and attack.

The report, entitled *The State of Violent Crime In America*, was issued by the Council on Crime in America, which is co-chaired by former U.S. Attorney General Griffin B. Bell and former Drug Czar William J. Bennett.

Other Council members are Philadelphia District Attorney Lynne M. Abraham, former U.S. Attorney General William P. Barr, Florida Attorney General Robert A. Butterworth, Princeton University Professor of Politics and Public Affairs John J. Dilulio, Jr., California Board of Prison Terms Commissioner and victims rights advocate John W. Gillis, Indianapolis Mayor Stephen Goldsmith and Colorado Attorney General Gale A. Norton.

According to the report, the risk of becoming a victim of violent crime today exceeds many significant life risks, including injury in a motor vehicle accident and death from heart disease. Much violent crime, moreover, goes unreported. The actual number of violent crimes in 1993 (10.8 million) was 5.6 times higher than the number of violent crimes reported to the police (1.9 million).

The report reveals that over 400,000 Americans have been murdered since 1977 – almost seven times the number of Americans killed in the Vietnam War. Overall, according to the report, violent crime accounted for one-fourth of the 43.6 criminal victimizations in America in 1993, costing the nation about \$426 billion.

"This study paints a realistic and sobering picture of violent crime in America," said Bennett, "but it is not without its rays of hope. If the success that cities such as New York and Houston have had in reducing crime rates teaches us anything, it is that the common sense of the American people is right when it comes to crime: tough law enforcement is part of the solution, not the problem."

The report also warns of a coming storm of juvenile crime that will be

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Citizenship Project

more violent and more random than anything Americans have experienced to date. Between now and the year 2005, the number of males aged 14-to-17 will increase by 23 percent. These juveniles will be more crime prone than their predecessors; they will commit more crimes with guns; and they will commit more crimes against strangers.

"The difference between the juvenile criminals of the 1950s and those of the 1970s and early 1980s was the difference between the Sharks and Jets of 'West Side Story' and the Bloods and the Crips," said Council member John J. DiIulio, Jr., Professor of Politics and Public Affairs at Princeton University. "It's not inconceivable that the demographic surge of the next ten years will bring with it young criminals who make the Bloods and the Crips look tame."

Council on Crime in America members said the report would correct much of the misinformation in the popular press about violent crime and law enforcement. Some of the examples they cited were:

Myth: America incarcerates too many people.

Fact: The American justice system imprisons barely one criminal for every 100 violent crimes. Over half of convicted violent felons are not even sentenced to prison. On any given day, seven offenders are on the street for every three who are behind bars.

Myth: "Three strikes" laws and other tough sentencing measures are filling our prisons with nonviolent offenders.

Fact: Since 1974 over 90 percent of all state prisoners have been violent offenders or recidivists.

Myth: The cost of prisons vastly outweighs their benefits to society.

Fact: State prisoners commit a median of 12 felonies in the year prior to their imprisonment – excluding drug crimes. A single rape costs its victim and society an average of \$87,000 – many times greater than the cost of keeping a rapist in prison for a year.

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For copies of the report, please contact Lara Stead by fax at 202-822-8328.

Friday January 12, 1990 17

Crime study says prisons work better than parole

David Boldt is a columnist for the Philadelphia Inquirer.

By David R. Boldt

IF INCARCERATION is not the answer, then what exactly is the question? That is the conundrum put forward in a report on "The State of Violent Crime in America." In it, a star-studded, bipartisan commission of criminal-justice authorities attacks the widely held belief there are too many criminals behind bars.

The report says the amazing thing is not that there are so many people in prison in the United States. The amazing thing is that there are so few. Moreover, it argues, with logic and statistics, an explosion in violent crime is on the way that will make things infinitely worse.

Americans are going to have to do a lot of things to protect themselves, the report says, including developing new ways to prevent "at risk" youngsters from becoming violent criminals. But it concludes that there is no getting around the fact that to preserve a civil society, we will have to put a greater number of violent criminals in jail for longer periods.

The information gathered by the Council on Crime in America is not new, but gives a more coherent picture of the crisis ahead than had been available. In addition, the information carries added weight because it has been validated by a panel that was co-chaired by Griffin Bell, who was attorney general under President Carter, and William Bennett, President Reagan's drug czar.

Philadelphia District Attorney Lynne Abraham, who underscores the report's conclusion that most Americans correctly see the criminal-justice system as a "joke." "It doesn't work," she says. "We are just struggling to keep our heads above high water."

The report starts by saying the recent apparent declines in violent crime are small, and reflect mainly new, aggressive policing tactics in a few big cities, notably New York and Houston. At best, the declines show a lull before a coming storm.

Next, it points out that surprisingly few criminals actually go to jail. Many, to begin with, are never caught. Out of every 100 violent crimes committed, only one will result in the perpetrator's being arrested, tried and convicted.

Among those violent felony defendants who do get arrested, nearly two-thirds will be released prior to trial, and many of them will get no prison time even if convicted. Even among criminals who have been convicted of three or more felonies, nearly a quarter get no prison time.

Those state defendants who do get sent to prison serve, on average, about half the sentence imposed and are then paroled. On any given day in 1991, a leading criminologist calculated, there were more violent criminals on parole or probation than there were in prison. And many of them were continuing to commit crimes. One-third of the violent crime committed in the United States is attributable to people on probation, parole or pretrial release, the report says.

The report says the recent apparent declines in violent crime are small, and reflect mainly new policing tactics in a few big cities. Surprisingly few criminals actually go to jail. Out of every 100 violent crimes committed, only one will result in the perpetrator's being arrested, tried and convicted.

PRISONS, MOREOVER, are not jammed with nonviolent, first-time offenders, as is often asserted. More than 90 percent of prison inmates are either violent criminals or repeat offenders, the report says.

Even those few inmates who are ostensibly in prison for nonviolent crimes and have no prior convictions usually turn out, on closer inspection, to have long histories of criminal involvement, it says.

What's more, prisons work. That is, very few inmates commit crimes against the general public. And the costs of incarceration are a small fraction of the costs to society of the crimes the inmates would typically commit if they were on the loose.

The prediction of an explosion in violent crime is based on the fact that over the next 15 years, there will be a huge increase of adolescent males who will have grown up without a father in inner-city environments where they were exposed to violence, drugs and alcohol at an early age. From this group, at present, comes a disproportionate number of violent criminals.

Abraham says that in Philadelphia, the explosion has already begun. "We are seeing rising levels of unspeakable violence," she says, "carried out by children at incredibly young ages."

Knight-Ridder Newspapers

Society wins 4 ways when convicts are behind bars

John J. Dilulio Jr. is professor of politics and public affairs at Princeton University.

By John J. Dilulio Jr.

PRINCETON, N.J. — All 30 Republican governors elected or re-elected in 1994 promised to get tough on crime.

Most, such as George Pataki of New York, are keeping their word. But several, such as Tommy Thompson of Wisconsin, who has said he would build no more prisons, are quietly promoting plans to put more convicted criminals back on the streets.

Most experts applaud Thompson's new-found "wisdom" and lament Pataki's "hard-line" approach. As these experts love to repeat, "incarceration is not the answer."

If incarceration is not the answer, what, precisely, is the question? If the question is how to prevent at-risk youths from becoming stone-cold predators in the first place, then, of course, incarceration is no solution.

But if the question is how to restrain known convicted criminals from murdering, raping, robbing, assaulting and stealing, then incarceration is a solution, and a highly cost-effective one.

On average, it costs about \$25,000 a year to keep a convicted criminal in prison. For that money, society gets four benefits:

- Imprisonment punishes offenders and expresses society's moral disapproval.
- It teaches felons and would-be felons a lesson: Do crime, do time.
- Prisoners get drug treatment and education.
- And, as the columnist Ben Wattenberg has noted, "A thug in prison can't shoot your sister."

All four benefits count. Increased incarceration explains part of the drop in crime in New York and other cities. As some recent studies show, prisons pay big dividends even if all they deliver is relief from the murder and mayhem that incarcerated felons would be committing if free.

IN TWO Brookings Institution studies, in 1991 and 1995, the Harvard economist Anne Piehl and I found that prisoners in New Jersey and Wisconsin committed an average of 12 crimes a year when free, excluding all drug crimes.

In other studies, the economist Steven D. Levitt of the National Bureau of Economic Research estimated that "incarcerating one additional prisoner reduces the number of crimes by approximately 13 per year."

Economists Thomas Marvell and Carlisle Moody of the College of William and Mary found that "a better estimate may be 21 crimes averted per additional prisoner."

Patrick A. Langan, senior statistician at the Justice Department's Bureau of Justice Statistics, calculated that tripling the prison population from 1975 to 1989 may have reduced "violent crime by 10 to 15 percent below what it would have been," thereby preventing a "conservatively estimated 390,000 murders, rapes, robberies and aggravated assaults in 1989 alone."

Studies by the Bureau of Justice Statistics found that 94 percent of state prisoners in 1991 had committed a violent crime or been incarcerated or on probation before. Forty-five percent of them had committed their latest crimes while free on probation or parole.

When "supervised" on the streets, they inflicted at least 218,000 violent crimes, including 13,200 murders and 11,600 rapes — more than half of the rapes against children.

Most Americans are more likely to be a victim of violent crime than to suffer injury in a car accident. As estimated in a forthcoming National Institute of Justice study, the violent crimes committed each year will cost victims and society more than \$400 billion in medical bills, lost days from work, lost quality of life — and lost life.

Here's the revolving-door rub: Known felons whom the system has put back on the streets are responsible for about one in three violent crimes, and barely one violent crime in a hundred results in imprisonment.

On any given day in 1994, about 690,000 people were on parole and 2.96 million were on probation. About 1.5 times as many convicted violent felons were on probation or parole as were in prison.

ALL TOLD, research shows it costs society at least twice as much to let a prisoner loose than to lock him up. Compared with the human and financial toll of revolving-door justice, prisons are a real bargain.

Prison definitely pays, but there's one class of criminal that is an arguable exception: low-level, first-time drug offenders. Most drug felons in state prisons do not fit that description. Instead, they have long adult and juvenile records involving plenty of serious non-drug crimes. And most federal drug traffickers are not black kids caught with a little crack cocaine or white executives arrested for a small stash of powder cocaine.

The average amount of drugs involved in federal cocaine-trafficking cases is 183 pounds, and the average amount involved in federal marijuana trafficking cases is 3.5 tons.

Still, though the numbers of petty drug offenders may prove small, it makes no sense to lock away even one drug offender whose case could be adjudicated in special drug courts and handled less expensively through intensively supervised probation featuring no-nonsense drug treatment and community service.

Thus, Pataki needs to repeal indiscriminating Rockefeller-era drug laws as part of his campaign to keep violent and repeat criminals where they can't harm the rest of us.

Meanwhile, Thompson should pursue whatever "alternative to incarceration" policies he fancies subject to one condition: He should agree to make public in a timely fashion the complete histories of all criminals released from custody because of his "reforms."

All elected leaders should reckon that those who break their promises to protect society from career criminals can count on voters to shorten their political careers.

New York Times

THE STATE OF VIOLENT CRIME IN AMERICA

January 1996

First Report of

THE COUNCIL ON CRIME IN AMERICA

CO-CHAIRS

GREGG B. BELL
WILLIAM J. BENNETT

COUNCIL MEMBERS

LYNSE M. ABRAHAM
WILLIAM P. BARR
ROBERT A. BUTTERWORTH
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JOHN W. GILLIS
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EXECUTIVE DIRECTOR

JOHN P. WATERS

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Citizenship Project

The Council on Crime in America was established in November 1995 to examine violent crime, crime prevention and law enforcement. It seeks to provide rigorous, factual information on the scope of violent crime to individuals, citizen-based groups, and officials who wish to develop effective, community-based anti-crime strategies. The bipartisan Council is comprised of leading experts on fighting crime at the federal, state and local levels. The views expressed in the Council's publications do not necessarily reflect the official views of the members of the Council.

The Council on Crime in America

Co-Chairs:

Griffin B. Bell, Senior Partner, King & Spalding; former Attorney General of the United States; former Judge, U.S. Court of Appeals for the Fifth Circuit
William J. Bennett, Co-Director, Empower America; John M. Olin Distinguished Fellow, The Heritage Foundation; former Director, Office of National Drug Control Policy; former Secretary, U. S. Department of Education

Council Members:

Lynne M. Abraham, District Attorney of Philadelphia
William P. Barr, Senior Vice President and General Counsel, GTE Corporation; former Attorney General of the United States
Robert A. Butterworth, Attorney General, State of Florida
John J. DiIulio, Jr., Professor of Politics and Public Affairs at Princeton University
John W. Gillis, Commissioner, Board of Prison Terms, State of California
Stephen Goldsmith, Mayor, City of Indianapolis
Gale A. Norton, Attorney General, State of Colorado

Executive Director:

John P. Walters, President, The New Citizenship Project; former Deputy Director for Supply Reduction, Office of National Drug Control Policy

The Council on Crime in America is a program of the New Citizenship Project (NCP), a Washington-based public policy organization. The NCP was founded in June 1994 to help forge a cohesive agenda for reinvigorating citizenship in an era marked by growing skepticism toward big government. For further information on the Council on Crime in America or on the NCP, please contact:

The New Citizenship Project
1150 Seventeenth Street, N.W., Suite 510
Washington, DC 20036
Phone: (202) 822-8333 Fax: (202) 822-8325

TEN HIGHLIGHTS

The American people are basically right about violent crime. The facts and figures support the public's principle fears of crime: **Revolving-door justice is a reality.** About one-third of all persons arrested for a violent crime (murder, rape, robbery, assault) are on probation, parole, or pretrial release; the vast majority of convicted criminals are *not* incarcerated; barely one criminal goes to prison for every 100 violent victimizations; and most violent prisoners serve less than half their time behind bars before being released. **Most prisoners are violent or repeat criminals.** Since 1974 over 90 percent of state prisoners have committed a violent crime or been sentenced to incarceration or probation one or more times in the past; even most "nonviolent" prisoners have long adult and juvenile criminal histories; and many state prisoners are probation or parole violators whose latest convictions were for violent crimes including murder and rape. **Prisons do cut crime.** Millions of violent and property crimes are averted each year by keeping plea-bargained convicted criminals behind bars; tens of thousands of Americans have been killed or maimed by prisoners who were released early; and, as both empirical studies and common sense clearly suggest, if we freed any significant number of imprisoned felons tonight, we would have more murder and mayhem on the streets tomorrow.

Americans must search for better, more cost-effective ways of **preventing** violent crime and **protecting** themselves and their loved ones from violent and repeat criminals, adult and juvenile. But our first order of business must be **restraining** known, convicted, violent and repeat criminals. **Restraining violent criminals** is a necessary but insufficient condition for meeting America's crime challenges, reforming the justice system, and **restoring public trust** in the system and in representative democracy itself.

We hope that people will take the time to read this report from cover to cover. The national media have generally ignored the truth about the extent and dire consequences of revolving-door justice and the social benefits of incarceration. But in deference to convention and the needs of busy readers, we offer the following ten highlights from the pages ahead:

1. Despite recent reports of a decline in crime, crime rates remain at historic highs. America is a ticking violent crime bomb. In 1993 the actual number of completed violent crimes (10.8 million) was 5.6 times higher than the number of violent crimes reported to the police (1.9 million). In particular, rates of violent juvenile crime and weapons offenses have been increasing dramatically and by the year 2000 could spiral out of control.
2. There were 43.6 million criminal victimizations in America in 1993. One out of four criminal victimizations in America today is violent. Violent crimes committed in a single year will cost Americans about \$426 billion. The risk of being victimized by violent crime exceeds many other significant life risks. Violent crime in America is increasingly concentrated by race, place, and age.
3. Public understanding of violent crime is far greater than is often supposed. Those citizens who are objectively most likely to be victimized are most worried about being victimized.
4. Americans are plagued by revolving-door justice. The justice system imprisons barely one criminal for every 100 violent crimes. Over half of convicted violent felons are not even sentenced to prison. About one in three violent crimes are committed by persons "under supervision" in the community at the time that they murder, rape, or attack.

5. On any given day, seven offenders are on the street for every three who are behind bars. During 1994 about 4.2 million cases were handled on probation and 1.1 million were processed on parole. On any given day, there are about 1.5 times more convicted violent offenders out on the streets on probation or parole than behind bars.

6. Since 1977 over 400,000 Americans have been murdered. Recent evidence shows that community-based offenders on probation, parole, pretrial release, or other types of "supervision" have been responsible for a third of all violent crimes including murders. Adding bureaucratic insult to human tragedy, the federal government and most state corrections agencies keep plenty of data such as the kind and amount of "treatment" received by imprisoned rapists, but do not compile or retain comprehensive data on such questions as the ages of rape victims or how many convicted murderers were on probation, parole, or some other form of "supervision" at the very moment they killed.

7. In 1991, 45 percent of state prisoners were persons who, at the very time they committed their latest crimes, were on probation or parole. While free in the community, they committed at least 218,000 violent crimes including 13,200 murders and 11,600 rapes (over half of the rapes against children).

8. Since 1974 over 90 percent of all state prisoners have been violent offenders or recidivists. Between 1980 and 1993, the number of persons in state prisons for violent crimes grew by 221,000, 1.3 times the growth in imprisoned "drug offenders." Over 80 percent of imprisoned state and federal drug offenders are drug traffickers with multiple-offense histories. The average quantity of drugs involved in federal cocaine trafficking cases is 183 pounds. In the year prior to their imprisonment, half or more of all prisoners commit at least a dozen serious crimes, excluding all drug crimes. Even if measured only in terms of enhanced public safety, the cost to society of letting most violent or repeat prisoners out early is at least twice as much as keeping them in prison for all or most of their terms.

9. Most violent prisoners serve less than half their time in prison before being released. Most prisons are neither severely "overcrowded" nor without substantial programs for inmates. On average, murderers released from state prisons in 1992 served only 5.9 years. Despite the enactment of mandatory minimum laws, between 1985 and 1992 the average maximum sentences of prisoners declined about 15 percent from 78 months to 67 months. In 1992 the actual time served by violent felons (both jail credits and prison) was 43 months. Since it has been in effect, slightly over 1,000 three-convicted felons have been sentenced under California's "three strikes" law, not all of them for life. The full facts of their cases--including the much-publicized case of the "pizza thief"--do far more to underline than to undercut the case for imprisoning violent and repeat felons.

10. The juvenile justice system operates as the first revolving door. In 1991 about 51,000 male juveniles were in custody, a third of them for violent offenses. In 1992 alone, there were over 110,000 juvenile arrests for violent crimes and over 1.6 million juvenile arrests for other crimes. Stronger law enforcement and incarceration can work to restrain violent juvenile and adult criminals, enhance public safety, and restore public trust in the justice system--and in representative government itself.

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THE STATE OF VIOLENT CRIME IN AMERICA

I. America's Three Crime Challenges

Americans face at least three distinct but related crime challenges. First is the challenge of *preventing* at-risk children from becoming juveniles or adults who criminally violate the life, liberty and property of others by murdering, assaulting, raping, robbing, burglarizing, or dealing deadly drugs. Second is the challenge of *protecting* ourselves from victimization at the hands of juvenile and adult criminals. Third is the challenge of *restraining* convicted but community-based juvenile and adult criminals so that they cannot commit additional crimes against persons or property.

Facing up to the first challenge--preventing at-risk children from becoming criminals--means focusing our attention on the earliest stages of youth development. As every study shows, after all is said and done, the most serious criminals are males who begin committing crimes at a very early age. Many crime-prone boys, including the most violent ones, embark on their criminal careers well before they reach puberty; few wait until they are old enough to vote or legally take a drink before committing their first serious crimes. In thinking about the root causes of crime, conservatives stress such factors as fatherlessness and extreme moral poverty, while liberals stress such factors as hopelessness and extreme economic poverty. But nearly everyone now agrees that society's best anti-crime insurance policy would be to produce children who are born to loving, responsible parents or guardians, and raised in homes, schools, and neighborhoods where their life prospects--becoming literate, graduating from high school, escaping abuse and neglect, avoiding serious criminal victimization, landing a decent job--increase rather than diminish from birth into their 20's.

Facing up to the second challenge--protecting ourselves from juvenile and adult street criminals--means acknowledging that our vulnerability to criminal victimization varies according to a mix of at least three sets of factors: the quantity and quality of government law enforcement resources; the extent and efficacy of community-based anti-crime initiatives; and the size and scope of individual efforts to make the localities where we live, work, worship, recreate, attend school, shop, or do business relatively impervious to crime. At the extremes, and other things being equal, the residents of a well-policed neighborhood with an active town-watch association and many people or businesses who invest in security hardware or services will be much better protected from crime than the residents of an under-policed community where neighbors remain strangers and few people or businesses are able or willing to make such private investments.

Facing up to the third challenge--restraining convicted criminals from committing more crimes--means recognizing that a large fraction of all serious crime, including a large fraction of all violent crime, is committed by repeat criminals who have had numerous contacts with the justice system. In effect, much of crime in America is a self-inflicted wound. Each year a significant number of murders, rapes, robberies, assaults, burglaries, and drug crimes are committed by criminals whom the system has repeatedly had in hand but repeatedly let go, offenders who are serially placed in custody and released back to the streets under-supervised, ill-supervised, or not supervised at all.

As this great nation nears the 21st century, Americans can and should seek to achieve all three goals--prevention, protection, and restraint. As is perfectly obvious, progress on any one of these goals may well constitute progress on either or both of the other two goals as well. For example, fewer at-risk children who become criminals translates directly into fewer at-large criminals against whom we need to protect ourselves and fewer convicted criminals who need to be restrained. Likewise, better

community-based anti-crime efforts or more rigorous restraints on convicted predators spells fewer deviant, delinquent, or criminal influences on the lives of severely at-risk children.

But it is a mistake--in some cases, as we shall document below, quite literally a fatal mistake--to suppose that substantial progress on any one of these goals is necessary to making substantial progress on either or both of the other two.

For example, in debates over crime policy, one often hears it said that "Incarceration is not the answer." But if incarceration is not the answer, then what, precisely, is the question? If the question is how Americans can achieve substantially higher levels of crime prevention, then incarcerating convicted violent or repeat criminals who have been committing murder or wreaking mayhem on the streets for years is hardly the answer. But if the question is how Americans can achieve substantially greater levels of restraint against such offenders, then incarceration is most definitely a large part (though by no means the sum total) of the answer.

Likewise, one often sees crime experts quoted approvingly by journalists and pundits to the effect that "More incarceration does not cut crime." But as these self-same experts like to stress, crime rates are a function of complex linkages among demographic trends, socio-economic variables, and public policies. Given the multi-variate character of crime, it would be bizarre if crime rates did move in lockstep with incarceration rates. At the same time, it would be doubly curious if incarcerating violent or repeat criminals, most of whom commit many more serious crimes than they are ever prosecuted or punished for committing, did not cut crime. While imprisoned, a high-rate violent or repeat criminal cannot commit new crimes against anyone except other prisoners, staff, or visitors. In fact, as we shall document in detail below, incarceration does have a significant marginal reduction-effect on crime, and is well worth the cost in the vast majority (though not all) cases.

By the same token, some much-cited commentators and tough-on-crime lawmakers reflexively disparage community-based substance abuse treatment programs, gang-violence prevention networks, teen-pregnancy counseling centers, church-run "safe havens," and diversionary recreational programs for youth offenders (for example, the much-maligned "midnight basketball"). Such "touchy-feely" programs, they insist, do more to coddle or coax delinquents and criminals than to cut crime. Yet many of these same voices will acknowledge that most serious crime is indeed committed by very bad boys from very bad neighborhoods. To be worthwhile, such community-based programs (precious few of which are funded by Washington or receive other public funds, and most of which operate on shoestring budgets) need not decimate juvenile crime rates; they need only to divert a small number of youth who would otherwise be headed for a gang, a gun, a prison, or a premature death.

Indeed, it is a grave conceptual error--and an even worse practical mistake--to conclude that because few such programs have withstood the tests of scientific scrutiny, because they are so very hard to replicate widely, or because they do not ultimately take every bad guy off the streets, all we can and should do is wait to arrest and incarcerate.

To offer just one illustration, almost everyone reveres the 91-year-old voluntary Big Brothers/Big Sisters (BB/BS) program. In 1995, BB/BS maintained 75,000 active matches between an adult volunteer and a child. A recent scientific study tracked 959 10- to 16-year-olds who applied to BB/BS in 1992 and 1993. Over 60 percent of the youth were boys and more than half were minority group members (70 percent African-American).

Almost all lived with a single parent, 80 percent were from low-income households, and 30 percent had witnessed or experienced domestic violence. Half of the applicants got into the program; the other half were placed on a waiting list. On average, the adult-youth pairs met for three to four hours three times a month for at least a year. Each group was tracked for eighteen months. The study found that the simple addition of a Big Brother or Big Sister to a youngster's life cut first-time drug use by 46 percent (and reduced alcohol use as well), lowered school absenteeism by 52 percent (and improved school performance), and, perhaps best of all, reduced violent behavior (assaults) by 33 percent.¹

Does anyone truly doubt that in at least some cases such prevention programs might succeed in diverting at least some youth away from crime, or that additional human and financial resources devoted to BB/BS or kindred programs would constitute a wise anti-crime investment? And does anyone truly doubt that in too many cases, and despite every social program intervention, a number of at-risk boys will go on to terrorize their families, neighbors, and total strangers and will need to be incarcerated, both for the sake of public safety and because they deserve punishment? We doubt neither set of propositions.

1. Prevention, Protection, Restraint

Above all else, Americans and their leaders must be totally honest and realistic about the state of our applied policy knowledge with respect to crime, and, in turn, about government's capacities as an agent of crime prevention, protection, and restraint.

On prevention, we all know that at-risk youth of whatever race, region, religion, demographic description, or socio-economic status who are born healthy to good families and are fortunate to have good teachers, coaches, clergy, and other caring adults in their lives are much less likely than otherwise comparable children to become either crime victims or victimizers. And we all know that not all children are born so lucky.

The hard social fact is that America is now home to nearly 70 million children age 18 or younger, one of the largest youth cohorts in decades. As many as 15 million of these youngsters are growing up in relative poverty, many in places where the institutions of civil society--families, schools, churches, voluntary associations--are proving too weak to keep them on the straight and narrow.

The tragic and frightening numbers on juvenile crime contained in this report counsel that neither more spending by Washington, the states, or the cities, nor the mere withdrawal of government, can prevent today's at-risk four- to seven-year-old boys from becoming the next decade's 14- to 17-year-old predatory street felons or the next century's first big class of adult career criminals.

On protection, we are convinced that the drops in serious crime that occurred in the first half of the 1990's in New York City, Houston, and several other cities were due in no small measure to innovative community-based policing strategies, concomitant community-based citizen anti-crime initiatives, and continued target-hardening by private individuals and businesses. In this report, we conclude by briefly summarizing some of the best and latest empirical evidence on the efficacy of policing, and draw some preliminary but highly positive crime-protection lessons from recent success stories.

¹Joseph P. Tierney and Jean Baldwin Grossman with Nancy L. Resch, *Making A Difference: An Impact Study of Big Brothers/Big Sisters* (Philadelphia: Public/Private Ventures, November 1995).

Through the Council's forthcoming hearings in several cities, we look forward to learning more about such successes, and how, if at all, they can be replicated and sustained.

But make no mistake: Recent drops in serious crime are but the lull before the coming crime storm. As this report forecasts, this storm is gathering in the form of a demographic bulge of young, highly crime-prone males. Between now and the year 2005, enormous upward pressure will be exerted on crime rates. Redoubling crime protection efforts will not keep the storm off shore. But it can help to keep its human and financial damage to a minimum.

On restraint, the facts, figures, and findings detailed in this report amply justify the frustrations and fears of crime-weary Americans, most especially their profound displeasure with a justice system that is not doing nearly enough to restrain convicted violent and repeat criminals from committing more crimes, including crimes committed while on probation, parole, or pretrial release. As things now stand, each and every day, and in far too many ways, the justice system institutionalizes crime without punishment, and invites convicted offenders, adult and juvenile, to return to crime without restraint.

2. Revolving-Door Justice Versus Representative Democracy

As some of the best empirical political science research of the last thirty years plainly suggests, "Voters are not fools."² On crime and most other issues, the American people are far more capable than not of relating their beliefs and interests to electoral and policy choices, far more rational than reactionary, far more informed than ignorant, and far more savvy than simple-minded about the relative social costs and benefits of competing policy options.

Most average Americans understand perfectly well that government cannot "solve" the nation's crime problem. They understand that government's capacity to prevent crime and protect them from criminals is limited, not limitless. They stand ready to spend more on prisons and other means of restraint, and are aware of the opportunity costs of doing so. They even accept, albeit begrudgingly, that some arrested criminals are bound to escape justice on legal technicalities, and that every so many felons out on pretrial release, probation, or parole are bound to elude supervision and commit new crimes.

But what the American people do not accept, and ought not to have to accept, is government's prolonged and persistent failure to restrain convicted violent and repeat criminals. Nothing could be more fundamental to the government's holding up its end of the social contract. A government incapable of restraining known criminals in its custody cannot be trusted to do any number of inherently more complicated and costly public chores, domestic or international. A government that passes wave after wave of "get-tough" anti-crime laws but often proves toothless in the execution of those laws is a

²V. O. Key, *The Responsible Electorate* (Harvard University Press, 1966). Also see Benjamin I. Page and Robert Y. Shapiro, *The Rational Public: Fifty Years of Trends in Americans' Policy Preferences* (University of Chicago Press, 1992); John Zaller, *The Nature and Origins of Mass Opinion* (Cambridge University Press, 1992); William G. Mayer, *The Changing American Mind* (University of Michigan Press, 1992); and Morris Fiorina, *Retrospective Voting in American National Elections* (Yale University Press, 1981). Milton Lodge et al., "The Responsive Voter: Campaign Information and the Dynamics of Candidate Evaluation," *American Political Science Review*, June 1995, pp. 309-326; and Donald E. Stokes and John J. DiIulio, Jr., "The Setting: Valence Politics in Modern Presidential Elections," in Michael J. Nelson, ed., *The 1992 Elections* (Congressional Quarterly Press, 1993), chapter 1.

government well on its way to destroying public confidence in the integrity of lawmakers, in the prudence of judges, and in the competence of public administrators.

In 1993 and again in 1994, there was but one public institution in which the people had less confidence than they did in the U.S. Congress, namely, the criminal justice system.¹ Such poll results merely serve to reinforce our keen collective sense, bred by our combined years of public service, personal and professional experience, and intensive study, that government's failure to restrain convicted violent or repeat criminals has done as much as any other policy failure of the last thirty years to bring about the loss of public trust and confidence in our political institutions.

3. About This Report

In this, our first report, we begin with the challenge of restraining convicted criminals. We do so for at least four reasons. First, of the three crime challenges facing America, restraint is the most urgent, immediate, and tractable within the solitary compass of public policy and governmental authority. Second, we find overwhelming evidence that great gains to public safety can be realized by keeping violent or repeat criminals behind bars longer, by tightening enforcement of the terms of their community-based supervision, or (as we prefer) by doing both. Third, we feel that it is morally wrong to continue administering justice in ways that radically discount both how dangerous many community-based felons truly are, and how much punishment they truly deserve when measured by the full weight of their criminal acts, adult and juvenile, against life, liberty, and property.

But the fourth and overarching reason we begin with restraint is because no representative democracy, not even America's, can long survive the sort of deep and disheartening lack of public trust that swirls about the bleak reality of revolving-door justice. It is long past time to speak the truth, the whole truth, and nothing but the truth to the American people about revolving-door justice, especially as it relates to violent criminals.

Thus, in the remainder of this report we offer a detailed overview of the following: recent criminal victimization trends, with a special focus on violent juvenile crime today and tomorrow; the present extent and heavy toll of revolving-door justice; recent evidence on the efficacy of incarceration as a crime-restraint tool; and recent evidence on the efficacy of policing as a crime-protection tool.

We intend for this report to inform the American public, elected leaders, justice system professionals, judges, journalists, and others who are engaged in the civic discourse on crime policy. We hope that it will help to shape future deliberations on the challenges of crime prevention, protection, and restraint, and echo as a bipartisan moral call to arms.

¹The Gallup Poll News Service, April 25, 1994. According to the Gallup data, in both 1993 and 1994, 18 percent of poll respondents expressed a "great deal" or "quite a lot" of confidence in the U.S. Congress, versus 17 percent in 1993 and 15 percent in 1994 for the criminal justice system. But the police were an exception, enjoying over 50 percent public confidence in both years, on a par with organized religion and a distant third to the military.

II. America's Ticking Crime Bomb

The title of a recent story in the *New York Times* almost got it right: "Crime Continues to Decline, but Experts Warn of Coming 'Storm' of Juvenile Violence."⁴ We say "almost" right rather than exactly right for at least four reasons.

First, national crime rates have been dropping in the 1990's, but that decrease has been heavily concentrated in a handful of high-crime big cities like New York City and Houston. Second, even if the large drops in crime in New York City and elsewhere continued for the next five years (and, as we shall see, they most definitely will not), the people of New York City and the rest of the nation would still face levels of homicide and other serious crime that are many times higher than pre-1970 norms. Third, not only is the storm of juvenile violence coming, it has already touched down in some places. And, fourth, like most popular accounts of crime and punishment in America, the *Times* story focused on crime data gathered by the Federal Bureau of Investigation (FBI), which counts only certain crimes reported to the police, and significantly underestimates the fraction of all crime that is violent crime.

Still, the story captured the big point. As all the best and most recent data make plain, America is a ticking violent crime bomb, and there is little time remaining to prepare for the blast.

1. Violent Crime By The Numbers: UCR and NCVS

There are two main sources of information about crime in America. The oldest and still the one cited most widely is the FBI's annual Uniform Crime Reports (UCR). Begun in 1929, the UCR tallies crimes reported to state and local law enforcement agencies. The UCR counts seven reported "index crimes," which, in turn, are often divided into "violent" crimes and "property crimes." The violent crimes in the UCR include murders and non-negligent manslaughters, forcible rapes, robberies, and aggravated assaults, while the property crimes are burglaries, larceny, thefts, and motor vehicle thefts. The overall crime rate rose steadily from 1960 to 1980, by each of these measures. Since 1980, the property crime rate has stabilized somewhat, while the rate of violent crime continued to increase during the 1980s but may have leveled off in the early 1990s.

But there are at least three limits to the FBI's crime data. First, remember that the UCR is based only on crimes reported to the police. Second, local police departments determine how to compile their statistics, which has given rise to informed suspicions of systematic undercounting in given periods by some big-city departments intent on reporting a reduction in crime. Third, the FBI uses a method of "hierarchical" counting in which only the "most serious" act in any one incident is recorded. If a woman is raped and her wallet is stolen, for example, the FBI records the rape but not the theft.

Although efforts to enrich the FBI's crime data are underway, it is not clear how successful they will be. For example, a number of states and localities are now experimenting with the FBI's National Incident-Based Crime Reporting System, or NIBRS. Under NIBRS, data are collected on 46 specific crimes. For each incident, there are a half-dozen categories of reporting, including details about the crime, the victim, and the offender. NIBRS includes a multiple-offense option in order to avoid the problem

⁴Fox Butterfield, "Crime Continues to Decline, but Experts Warn of Coming 'Storm' of Juvenile Violence," *New York Times*, November 19, 1995, p. A18.

mentioned a moment ago. But the software problems with NIBRS have yet to be cracked, and the day when this complex database will be operational in 16,000 separate law enforcement agencies remains a long way off.

The other main source of crime data is the National Crime Victimization Survey (NCVS) of the U.S. Bureau of Justice Statistics (BJS). About 50,000 households and over 100,000 individuals have participated in the NCVS each year since 1973, making it the second largest household survey conducted by the federal government. The NCVS counts violent crimes (rapes, sexual assaults, robberies, aggravated assaults, simple assaults) and property crimes (burglaries, motor vehicle thefts, and thefts of other property). The survey reports that the overall level of crime has decreased since its peak in 1981. But rates for most types of crime have tended to fluctuate from year to year.

Generally speaking, the NCVS is a more reliable measure of crime than the UCR. And in recent years, the NCVS and the UCR trend lines have become more parallel (which tells us, in effect, that the UCR has been getting better). But the NCVS has been far from perfect. For example, the NCVS has undercounted the actual incidence of and increase in several types of violent crime. After consultations over the last decade with a consortium of experts in criminology, survey design, and statistics, the BJS has recently redesigned its survey to address this problem. It has also greatly improved the NCVS in other ways, including computer-assisted telephone interviewing and "short cues"--examples of specific people, places, objects, or actions which may have been associated with a victimization--used to jog respondents' memories of events.

The first survey to make use of this redesign was the BJS report on criminal victimization in 1993, released in May 1995. It is only a slight exaggeration to say that this BJS report is the first reliable tally of crime in America committed in a single calendar year.

Table 1 summarizes the NCVS crime data for 1993. It shows that in 1993, U.S. residents age 12 or older experienced a total of 43.6 million crimes, including nearly 11 million violent crimes (25 percent), and over 32 million property crimes (75 percent). That year there were 51.5 violent victimizations per 1,000 persons and 322 property crimes per 1,000 persons.

Table 1. Criminal victimizations and victimization rates, 1993: Estimates from the redesigned National Crime Victimization Survey

Type of crime	Number of victimizations (1,000's)	Victimization rates (per 1,000 persons age 12 or older)
<i>All crimes</i>	43,622	...
<i>Personal crimes*</i>	11,409	53.9
Crimes of violence	10,896	51.5
Completed violence	3,226	15.3
Attempted/threatened violence	7,670	36.3
Rape/Sexual assault	485	2.3
Rape/attempted rape	313	1.5
Rape	160	.8
Attempted rape	152	.7
Sexual assault	173	.8
Robbery	1,307	6.2
Completed property taken	826	3.9
With injury	276	1.3
Without injury	549	2.6
Attempted to take property	481	2.3
With injury	100	.5
Without injur	381	1.8
Assault	9,104	43.0
Aggravated	2,578	12.2
With injury	713	3.4
Threatened with weapon	1,865	8.8
Simple	6,525	30.8
With minor injury	1,358	6.4
Without injury	5,167	24.4
<i>Property crimes</i>	32,213	322.4
Household burglary	5,995	60.0
Completed	4,835	48.4
Forcible entry	1,858	18.6
Unlawful entry without force	2,977	29.8
Attempted forcible entry	1,160	11.6
Motor vehicle theft	1,967	19.7
Completed	1,297	13.0
Attempted	670	6.7
Theft	24,250	242.7
Completed [†]	23,033	230.5
Less than \$50	9,642	96.5
\$50-\$249	7,688	76.9
\$250 or more	4,264	42.7
Attempted	1,217	12.2

Note: These data are preliminary and may vary slightly from the final estimates. Completed violent crimes include completed rape, sexual assault, completed robbery with and without injury, aggravated assault with injury, and simple assault with minor injury. The total population age 12 or older was 209,352,860 in 1992; in 1993 it was 211,524,770. The total number of households in 1992 was 99,046,200, in 1993 it was 99,926,400.

... Not applicable

*The victimization survey cannot measure murder because of the inability to question the victim. Personal crimes include purse snatching and pocket picking, not shown separately.

[†]Includes thefts in which the amount taken was not ascertained.

Source: *Criminal Victimization 1993* (Bureau of Justice Statistics, May 1995), p. 2.

Table 2 summarizes the UCR crime data for 1993. It shows that the total number of reported crimes in 1993 recorded by the FBI was 14.1 million, including 1.9 million violent crimes (13 percent) and 12.2 million property crimes (87 percent). In 1993, there were 7.46 reported violent crimes per 1,000 persons and 47.3 reported property crimes per 1,000 persons.

Table 2. Reported crimes and reported crime rates, 1993: Data from the Uniform Crime Reports

Type of reported crimes	Number of reported crimes (1,000's)	Reported crime rates per 1,000 persons
All index crimes	14,141	54.82
Violent crimes	1,924	7.46
Murder	24.5	.095
Rape	104	.406
Robbery	659	25.5
Assault	1,135	4.40
Property crimes	12,216	47.36
Burglary	2,384	10.99
Larceny	7,820	30.32
Motor theft	1,561	6.05

Note: Offense totals are rounded. Rates calculated based on Bureau of Census estimate for total national population in 1990: 257,908,000. Complete data for 1993 were not available for the states of Illinois and Kansas; their crime counts were estimated.

Source: *Crime in the United States, 1993* (Federal Bureau of Investigation, 1994), p. 58.

Comparing the NCVS and UCR data on violent crimes in 1993 yields at least four important insights. First, in 1993 there were at least 5.7 times more violent crime victimizations than were reported to the police and recorded by the FBI. Second, contrary to the much-repeated notion that "fewer than 1 in 10 crimes is a violent crime," the NCVS suggests that 1 in 4 criminal victimizations are violent, while the UCR indicates that 1.3 in 10 reported crimes are violent. Third, by both measures, and despite recent drops in reported crimes, Americans suffer from a great deal of violent and other serious crime, both in absolute terms and relative to the best estimates of crime rates before 1970.

Fourth and finally, as table 3 indicates, the rate of violent criminal victimization for Americans age 12 and older (51.5 per 1,000) is substantially higher than the rate of many other serious life risks, including injury from a car accident and death from heart disease. Violent crime is now at least as much of a real danger to Americans as many other widely recognized threats to our individual and societal health and safety. Indeed, as a forthcoming National Institute of Justice study has found, the cost of crime to

victims is about \$450 billion annually, \$426 billion of which is due to violent crime. As the study reports:

- * Violent crime causes 3 percent of U.S. medical spending.
- * Violent crime results in wage losses equal to 1 percent of American earnings.
- * A single rape costs its victim and society an average of \$87,000--many times greater than the cost of keeping a rapist in prison for a year.⁵

Table 3. Rates of violent criminal victimization compared to rates of other life risks

Risks	Rates per 1,000 adults per year
Accidental injury, all causes	220
Accidental injury at home	66
Violent Victimization	51.5
Injury in vehicle accident	22
Heart disease death	5
Injury in aggravated assault	3.4
Cancer death	3
Rape	.8
Accidental death, all causes	.4
Pneumonia/influenza death	.4
Vehicle accident death	.4
HIV infection death	.1
Murder	.095

Sources: *Highlights from 20 Years of Surveying Crime Victims* (Bureau of Justice Statistics, October 1993), p. 6; *Criminal Victimization 1993* (Bureau of Justice Statistics, May 1995), p. 2; and *Crime in the United States* (Federal Bureau of Investigation, 1994), p. 58.

2. Violent Crime: Concentrated By Race, Place, and Age

The costs of violent crime fall disproportionately on certain citizens. Violent crime in America is concentrated by race, place, and age. As early as 1969, the report of the National Commission on the Causes and Prevention of Violence explained that crime is "chiefly a problem of the cities of the nation, and there violent crimes are committed mainly by the young, poor, male inhabitants of the ghetto slum . . . increasingly powerful social forces are generating rising levels of violent crime which, unless checked, threaten to turn our cities into defensive, fearful societies."⁶ As much of the data reported below make all too clear, over the last three decades this nightmarish prediction has largely come true.

But we do not wish to be misunderstood. For, while violent crime in America is heavily concentrated in the nation's inner-cities, it is hardly confined to the nation's inner-cities. The NCVS data indicate that while the violent crime victimization rate per 1,000 is a whopping 73.8 in urban America, it is a significant 47.8 in suburban America

⁵Ted R. Miller et al., *Crime in the United States: Victim Costs and Consequences*, Final Report to the National Institute of Justice, May 1995, p.1.

⁶National Commission on the Causes and Prevention of Violence, *Violent Crime: The Challenge to Our Cities* (George Brziller, 1969), p. 82.

and 43.4 in rural America.⁷ It is not unreasonable to be concerned that, over time, the inner-city violent crime problem could spill over more and more into gentrified central city districts, inner-ring suburbs, edge cities, and even the rural heartlands. It is already disturbingly apparent that more and more violent crime involves strangers and teenage "wolf packs." As the International Association of Chiefs of Police has concluded, whereas most murders were once committed among persons who knew each other, today most murders in America are between strangers (53 percent of the 23,760 murders committed in 1992), while juvenile gang killings are the fastest growing type of murder (increasing 371 percent from 1980 to 1992).⁸ Indeed, juveniles now commit about a third of all homicides against strangers, often murdering their victims in groups of two or more.⁹

By the same token, while it remains true that violent crime in America is predominantly *intra*-racial, not inter-racial, black-on-white violent crime has reached significant levels, most especially with respect to multiple-offender violent victimizations. Table 4 summarizes 1993 NCVS data on victim-offender relationships by type of crime and the perceived race of the offender. From these data, it would appear that in 1993 over 1.54 million violent crimes committed against whites (about 18 percent of all violent victimizations committed against whites) were committed by blacks, while in the same year over 1.29 million violent crimes committed against blacks (about 80 percent of all violent crimes committed against blacks) were committed by blacks. The black-on-white crime problem is more acute with respect to violent crimes committed by juveniles. For example, in 1991, 95 percent of all violent crimes committed by white juveniles were committed against whites, while 57 percent of all violent crimes committed by black juveniles were committed against whites.¹⁰

Nonetheless, it remains true that at this moment in time, America's violent crime problem, especially the rage of homicidal and near-homicidal violence, is extremely concentrated among young urban minority males who figure disproportionately as both violent crime victims and violent crime victimizers.

⁷*Criminal Victimization 1993* (Bureau of Justice Statistics, May 1995), p. 3.

⁸*Murder in America* (International Association of Chiefs of Police, May 1995), p. 6.

⁹James Alan Fox, "Teenage Males are Committing Murder at an Increasing Rate," a report prepared for the National Center for Juvenile Justice, Pittsburgh, PA, April 1993.

¹⁰*Juvenile Offenders and Victims* (Office of Juvenile Justice and Delinquency Prevention, August 1995), p. 47.

Table 4. Estimated numbers and percentages of violent victimizations by race of victims and perceived race of offenders, 1993

	Numbers	Percentages
<i>Single-offender against whites</i>		
Single-offender by blacks against whites	1,071,867	15.8
Single-offender by whites against whites	5,006,596	73.8
Single-offender by other against whites	583,421	8.6
Single-offender by unknown against whites	122,111	1.8
Total single-offender against whites	6.783 million	100
<i>Multiple-offender against whites</i>		
Multiple-offender by all blacks against whites	472,536	24.6
Multiple-offender by all whites against whites	918,180	47.8
Multiple-offender by all other against whites	474,457	24.7
Multiple-offender by unknown against whites	55,705	2.9
Total multiple-offender against whites	1.920 million	100
<i>Single-offender against blacks</i>		
Single-offender by whites against blacks	161,813	13.3
Single-offender by blacks against blacks	986,695	81.1
Single-offender by all other against blacks	42,582	3.5
Single-offender by unknown against blacks	25,599	2.1
Total single-offender against blacks	1.216 million	100
<i>Multiple-offender against blacks</i>		
Multiple-offender by all whites against blacks	24,527	6.0
Multiple-offender by all blacks against blacks	308,636	75.5
Multiple-offender by all other against blacks	66,632	16.3
Multiple-offender by unknown against blacks	8,993	2.2
Total multiple-offender against blacks	408,788	100
<i>Violent crimes against whites</i>		
Total black against white	1.54 million	18
Total white against white	5.92 million	68
Grand total all against white	8.70 million	100
<i>Violent crimes against blacks</i>		
Total white against black	186,000	11
Total black against black	1.29 million	80
Grand total all against black	1.62 million	100

Note: Multiple-offender calculations for category "all other" adds categories "all other" and "mixed races" from original survey.
 Source: Calculated from *Criminal Victimization in the United States, 1993* (Bureau of Justice Statistics, forthcoming), tables 42 and 48.

For example, a BJS study of murders committed in 1988 in the nation's 75 most populous counties found that blacks were 52 percent of all murder victims and 62 percent of all murder defendants, but they were only 20 percent of the general population in these metropolitan jurisdictions. By comparison, whites were 44 percent of all murder victims and 36 percent of all defendants, but they were over 77 percent of the general population in these urban areas. About 93 percent of all black murder victims and 83 percent of all white victims were killed by someone of the same race.¹¹

Likewise, between 1985 and 1992 the rate at which males ages 14 through 17 committed murder increased by about 50 percent for whites and over 300 percent for blacks.¹² Between 1973 and 1992, the rate of violent victimizations of black males ages 12 to 24 increased about 25 percent; for example, black males ages 16 to 19 sustained one violent crime for 11 persons in 1973 versus one for every six in 1992.¹³ In 1992, black males between the ages of 16 and 24 were one percent of the population age 12 or over and experienced five percent of all violent victimizations. By comparison, white males in this age group were six percent of the population and were victims in 17 percent of violent crimes. Moreover, the "violent crimes" experienced by young black males tended to be far more serious than those experienced by young white males; for example, aggravated assaults rather than simple assaults, and violence involving gunfire rather than weaponless attacks.¹⁴

Indeed, 23 percent of those arrested for weapons offenses during 1993 were younger than 18 years old, and overall weapons arrest rates were five times greater for blacks than for whites.¹⁵ As summarized in table 5, from 1987 to 1992 the average annual rate of handgun victimization per 1,000 young black males was three to four times higher than for young white males. Likewise, between 1987 and 1991 the annual arrest rate per 100,000 for murder among white males ages 14 to 17 rose from 7.6 to 13.6, but for black males of the same ages it more than doubled from 50.4 to 111.8.¹⁶

¹¹*Sourcebook of Criminal Justice Statistics, 1994* (Bureau of Justice Statistics 1995), p. 343 (only single offender, single victim incidents); and *Murder in Large Urban Counties* (Bureau of Justice Statistics, May 1993).

¹²Alfred Blumstein, "Prisons," in James Q. Wilson and Joan R. Petersilia, eds., *Crime* (Institute for Contemporary Studies, 1995), pp. 397-419.

¹³*Young Black Male Victims* (Bureau of Justice Statistics, December 1994).

¹⁴*Ibid.*

¹⁵*Weapons Offenses and Offenders* (Bureau of Justice Statistics, November 1995).

¹⁶Alfred Blumstein, "Violence By Young People: Why the Deadly Nexus?," *National Institute of Justice Journal*, August 1995.

Table 5. Average annual rate of crime, 1987 to 1992, committed with handguns per 1,000 males, by age and race of victims

Age of victim	Race of victim	
	White	Black
12-15	3.1	14.1
16-19	9.5	39.5
20-24	9.2	29.4
25-34	4.9	12.3

Note: Rates do not include murder or non-negligent manslaughter committed with handguns.
Source: *Young Black Male Victims* (Bureau of Justice Statistics, December 1994).

As suggestive as they are, such national data on the concentration of violent crime by race, place, and age need to be brought down to the street-level in order to be understood. Consider the case of Philadelphia. For many years, crime rates in Philadelphia have been lower than in the rest of the nation's ten largest cities. Still, as measured by the UCR, in 1990 Philadelphia's total crime rate was about twice that of the four surrounding suburban Pennsylvania counties, and its violent crime rate was over three times that of those counties. Forty-two percent of all violent crimes committed in Pennsylvania occurred in Philadelphia, which contained only 14 percent of the state's total population.¹⁷

In 1994, 433 people were murdered in the City of Brotherly Love, 340 of them black. Blacks were 39 percent of the city's population but 78.5 percent of its murder victims. More than half of the victims were males between the ages of 16 and 31. All but five of the 89 victims under 20 were non-white. Citywide, the number of murders per 100,000 residents was 23 (the national average since 1990 has hovered around 9.5). But in the predominantly white, working-class Greater Northeast region of the city, the murder rate was about two per 100,000; in predominantly poor, black North Philadelphia, the rate was 66; and in the heart of North Philadelphia, in an area known to residents and police as "the Badlands," the rate was over 100.¹⁸ The picture on the next page is probably worth 1,000 words.

Like other big cities, Philadelphia's concentrated violent crime problem is exacerbated by street-gang activity. But compared to the gang problems of Los Angeles County and some other cities, Philadelphia should count its blessings. L.A. has some 400 street gangs organized mainly along racial and ethnic lines: 200 Latino, 150 black, the

¹⁷ *Uniform Crime Report, Commonwealth of Pennsylvania, Annual Report, 1990* (Pennsylvania State Police, 1991), pp. A2-A4.

¹⁸ Don Russell and Bob Warner, "Fairhill, City's Deadliest Turf in '94," *The Philadelphia Daily News*, January 9, 1995, pp. 4-5. Also see Craig R. McCoy et al., "Crime in the City," *The Philadelphia Inquirer*, September 25, 1995, pp. A6-A7.

rest white or Asian. Together these gangs claim over 50,000 members. In 1994 their known members committed 370 murders and over 3,300 felony assaults.¹⁹

3. Violent Crime Demographics

Demographic trends make it virtually certain that these gangs in L.A. and other cities will have plenty of potential recruits between now and the year 2005. As table 6 indicates, in 1990 the country had about 64 million children age 17 or younger. By the year 2010 that number will increase by 15 percent, eight percent for whites, 26 percent for blacks, and 71 percent for Latinos.

Table 6. U.S. Juvenile Population, 1990 and projected 2010

	Population		Increase	
	1990	2010	Number	Percent
<i>All juveniles</i>	64,185,000	73,617,000	9,432,000	15%
Ages 0-4	18,874,000	20,017,000	1,143,000	6%
Ages 5-9	18,064,000	19,722,000	1,658,000	9%
Ages 10-14	17,191,000	20,724,000	3,533,000	21%
Ages 15-17	10,056,000	13,154,000	3,098,000	31%
<i>White</i>	51,336,000	55,280,000	3,944,000	8%
<i>Black</i>	9,896,000	12,475,000	2,579,000	26%
<i>Latino</i>	7,886,000	13,543,000	5,657,000	71%

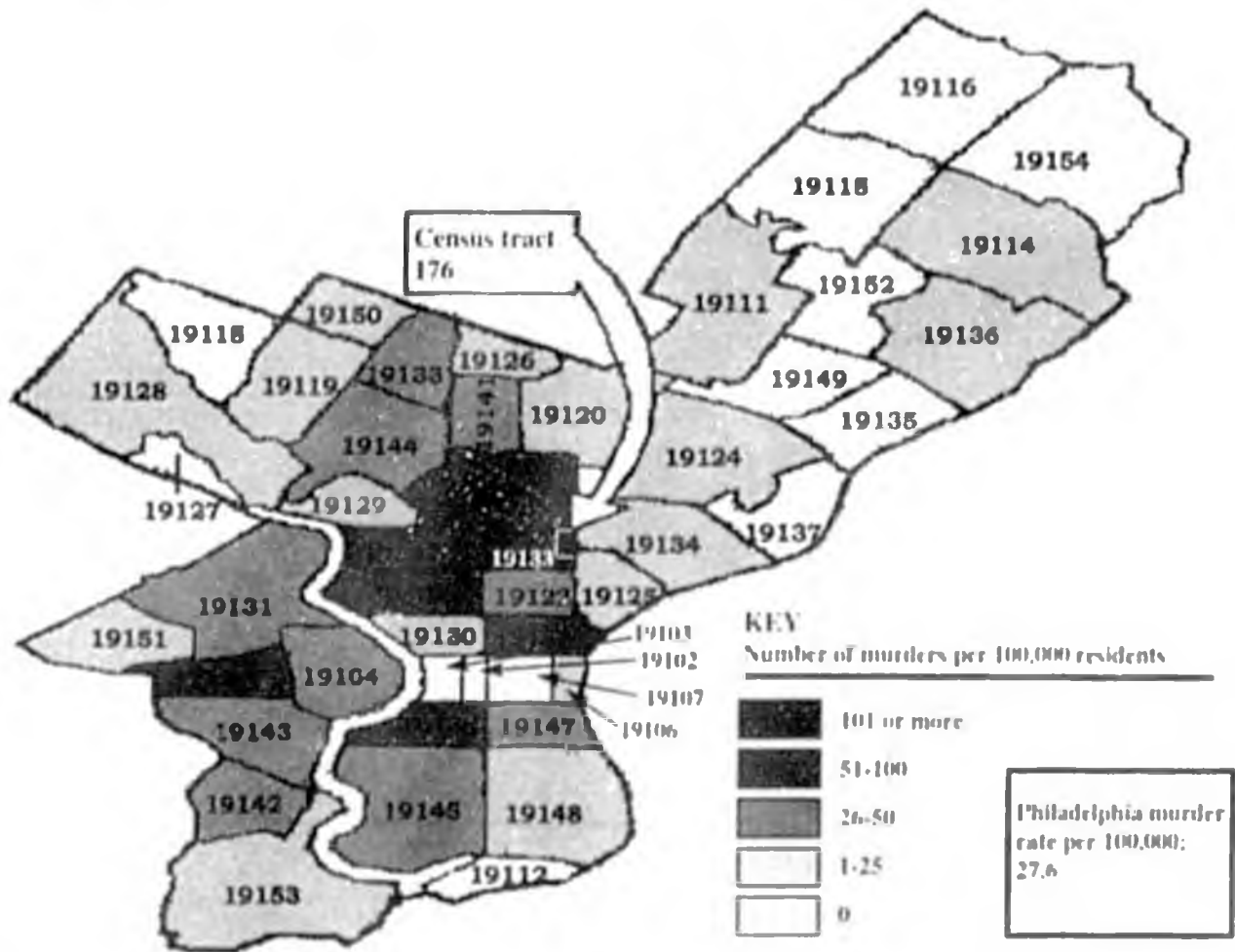
Source: Bureau of the Census, 1993, Office of Juvenile Justice and Delinquency Prevention, 1995.

Today America is home to about 7.5 million males between the ages of 14 to 17. That crime-significant cohort will increase by roughly 500,000 between now and the year 2000. Between now and the year 2005, the number of 14-to-17-year-old males will increase by 23 percent, with increases of 28 percent and 50 percent for blacks and Latinos, respectively.²⁰

¹⁹Pehr Luedtke, *Gang Politics in Los Angeles County* (Senior Thesis, Woodrow Wilson School, Princeton University, 1995).

²⁰James Alan Fox, "Homicide Offending Patterns: A Grim Look Ahead," paper presented at the American Academy for the Advancement of Science Annual Meeting, Atlanta, Georgia, February 16-21, 1995.

Figure 1. Murder in Philadelphia, according to ZIP code



Sources: Philadelphia Police Department, 1990 U.S. census, Philadelphia Daily News analysis.

Justice system officials are generally aware of these demographic shifts. For example, the New York City police department forecasts that between now and the year 2000, the number of males in the city between the ages of five and 14 will rise by over 50,000.²¹ Likewise, California officials project that the state's number of juveniles ages 11 through 17 (the ages responsible for 99 percent of juvenile arrests) will increase 33 percent in the next decade.²²

Still, it is worth stressing that this increase in young males may not simply be a matter of rising numbers in terms of violent crime rates in the years ahead; instead, it is likely that, on average, tomorrow's new young felons will commit more serious crimes than today's juvenile offenders do.

For starters, consider the results of a famous study of all 10,000 males born in 1945 who lived in Philadelphia between their tenth and eighteenth birthdays.²³ Over one-third had at least one recorded arrest by the time they were eighteen. Most of the arrests occurred when the boys were fifteen, sixteen, or seventeen. Half of the boys were arrested more than once; once a boy had been arrested three times, the chances that he would be arrested again were over 70 percent. But perhaps the most significant finding of the study was that six percent of the boys committed five or more crimes before they were eighteen, accounting for over half of all the crimes, and about two-thirds of all the violent crimes, committed by the entire cohort. This "six percent do 50 percent" statistic has been replicated in a series of subsequent longitudinal studies on Philadelphia and other cities.

But even more important, this same literature indicates that each generation of crime-prone boys is several times more dangerous than the one before it, and that over 80 percent of the most serious and frequent offenders escape detection and arrest. For example, crime-prone boys born in 1958 who resided in Philadelphia between their tenth and eighteenth birthdays did about three times as much crime as their older cousins in the class of '45. But about 60 percent of the most serious offenders in the former cohort were never known to the police, and it is probable that an even larger fraction of the serious offenders in the latter cohort had no official record.

Taken as a whole, the data suggest that the difference between the juvenile criminals of the 1950s and those of the 1970s and early '80s was about the difference between the Sharks and Jets of "West Side Story" and the Bloods and Crips of L.A. County fame. It is not inconceivable that the demographic surge of the next ten years will bring with it young male criminals who make the "O.G.s" (original gangsters) of the Bloods and Crips look tame by comparison. And it is all too likely that most of the worst of the worst offenders will escape detection, arrest, and punishment—clearance rates for murder dropped to a record low of 65 percent in 1992, and in a few cities where juvenile crime is already spiraling, half of all murders go unsolved for a year or more.²⁴

²¹Data supplied by Office of the Commissioner, New York City Police Department, September 26, 1995.

²²Elizabeth G. Hill, *Juvenile Crime Outlook for California* (Legislative Analyst's Office, State of California, May 1995), p. 22.

²³Marvin E. Wolfgang et al., *Delinquency in a Birth Cohort* (University of Chicago Press, 1972).

²⁴Murder in America (International Association of Chiefs of Police, May 1995), p. 6; Monica Rhor et al., "Hall of Camden's '94 Homicides Unsolved," *The Philadelphia Inquirer*, March 12, 1995, pp. A1, A22-A23; Marvin Wolfgang et al., *From Boy to Man: From Delinquency to Crime* (University of Chicago Press, 1987).

4. Violent Crime Dynamics

No one fully understands the causal dynamics behind crime demographics. In the aggregate, it is easy to explain and predict differences in predatory criminal propensities between, say, well-off boys from intact families residing in good neighborhoods, and impoverished boys from single-parent families living in drug- and crime-infested places. But under what conditions do otherwise comparable young males vary in their propensities to commit violent crimes (remember, not every "bad home" produces a "bad boy" or a career street predator)? And why has each recent cohort of serious young male offenders been, on average, more prone to homicidal and violent crime than the one before it?

Many researchers in criminology, the social sciences, and even the bio-medical sciences are doing studies that may (or may not) yield definitive policy-relevant answers to such questions. For example, a number of analysts have been at work on the "project on human development in Chicago neighborhoods," described in a recent National Institute of Justice report as "an unprecedented, long-range program of research designed to study a broad range of factors at the level of the community, the family, and the individual believed to be important in explaining early aggression and delinquency, substance abuse, and criminal behavior, including violence."²⁵ Table 7 lists the thirty different "contexts" and "factors" being investigated in the Chicago project.

Marvin Wolfgang et al., *Delinquency Careers in Two Birth Cohorts* (Plenum, 1980), D.S. Elliott et al., "Self-reported Violent Offending," *Journal of Interpersonal Violence* (1986), pp. 472-514; D.S. Elliott, "Serious Violent Offenders," *Criminology*, 1992, pp. 1-21; Alfred Blumstein et al., *Criminal Careers and Career Criminals* (National Academy Press, 1985); James Q. Wilson et al., *Understanding and Controlling Crime* (Springer-Verlag, 1986)

²⁵Christy A. Visser, "Understanding the Roots of Crime: The Project on Human Development in Chicago Neighborhoods," *National Institute of Justice Journal*, November 1994, p. 9

Table 7. Thirty contexts and factors being studied as part of the Project on Human Development

1. Social, economic, and demographic structure.
2. Organizational/political structure.
3. Community standards and norms.
4. Informal social control.
5. Crime, victimization, and arrests.
6. Social cohesion.
7. Residential turnover.
8. Level of involvement in drug and gang networks.
9. Academic achievement expectations.
10. School policies regarding social control.
11. School conflict.
12. Teacher-student relationships.
13. Strengths and weaknesses of the school environment.
14. Composition and size of social network.
15. Substance abuse and delinquency by peers.
16. Deviant and prosocial attitudes of peers.
17. Location of peer networks (school or community).
18. Changes in peer relationships over time.
19. Family structure.
20. Parent-child relationships.
21. Parental disciplinary practices.
22. Parent characteristics.
23. Family mental health.
24. Family history of criminal behavior and substance abuse.
25. Physical and mental health status.
26. Impulse control and sensation-seeking traits.
27. Cognitive and language development.
28. Ethnic identity and acculturation.
29. Leisure-time activities.
30. Self-perception, attitudes, and values.

Source: Christy A. Visher, "Understanding the Roots of Crime," *National Institute of Justice Journal*, November 1994, p. 14.

We have no doubt that this research will add something of intellectual interest to the already voluminous academic literature on understanding and reducing violence.²⁶ Likewise, we agree wholeheartedly that uncovering "the subtle interaction between individual characteristics and social circumstances requires policy-related research of a sort and on a scale that has not been attempted before."²⁷ And, as we stated in the first part of this report, Americans should strive to prevent crime by reducing the chances that given at-risk children will become delinquent or criminal in the first place.

²⁶For a sample of the recent literature, see *1993 Report of the Harry Frank Guggenheim Foundation: Research for Understanding and Reducing Violence, Aggression and Dominance* (The Harry Frank Guggenheim Foundation, 1993).

²⁷James Q. Wilson, *On Character* (American Enterprise Institute, 1991), p. 179.

But we would be as surprised, as we suspect most Americans would be, if these studies uncovered something fundamental about the dynamics of predatory street crime that we did not already know, or that strongly contradicted the common sense of the subject. For example, as every study shows--and as every family court judge knows--large fractions of highly violent juvenile offenders have suffered serious abuse or neglect by a family member, or have witnessed extreme violence, or both. Likewise, it has long been known that over half of state prisoners come from single-parent households, over one-quarter have parents who abused drugs or alcohol, and nearly a third have a brother with a prison or jail record.

Moreover, the human drama behind the statistics has been captured in numerous ethnographic accounts. One of the most recent of these accounts is Mark S. Fleisher's book on the lives of 194 West Coast urban street criminals, including several dozen who were juveniles at the time he did his primary field research (1988 to 1990). Almost without exception, the boys' families "were a social fabric of fragile and undependable social ties that weakly bound children to their parents and other socializers." Nearly all parents abused alcohol or drugs or both. Most had no father in the home; many had fathers who were criminals. Parents "beat their sons and daughters--whipped them with belts, punched them with fists, slapped them, and kicked them."²⁴

Likewise, in a recent book on race and class in America, Jennifer L. Hochschild acknowledges that "some lawbreakers hold different values than most other Americans," and are quite distant from "mainstream norms":

Asked for an alternative to killing another drug dealer, young murderers in Washington, D.C. speculate only that they could have shot their rival once rather than six times, or could have stabbed instead of shot at him. Their sole regret is that incarceration "took a lot of my life"; one went to his victims' funerals to assure himself that they were indeed dead. Most chillingly, some seem incapable of seeing the future as potentially different from the past; when asked, "what are your thoughts about the future?" several youth asked for an explanation of the question.²⁵

Does anyone actually doubt that poor, fatherless young males who are abused or neglected at home, vegetate or make trouble at school, hang out with deviant, delinquent, or criminal peers and live among people who abuse alcohol or drugs in neighborhoods dotted by malt-liquor outlets are substantially more likely to get into trouble with the law and commit violent crimes than otherwise comparable children who are less exposed to some or all of these criminogenic influences? Who among us still questions the increased criminal potential of children who are exposed to open-air drug markets; who lack attachment to religious, civic, or other communal associations; or who are simply never habituated by parents, guardians, relatives, friends, teachers, coaches, or clergy to control their aggressive impulses, defer immediate gratifications for the sake of future rewards, or respect the feelings, persons, and property of others?

Intellectually, it is worthwhile to strive for ever more analytically refined understandings of the conditions that spawn violent crime by spawning violent criminals.

²⁴Mark S. Fleisher, *Beggars and Thieves: Lives of Urban Street Criminals* (University of Wisconsin Press, 1995).

²⁵Jennifer L. Hochschild, *Facing Up to the American Dream* (Princeton University Press, 1995), p. 205.

But we already know where violent crime is most heavily concentrated, and which children are most at risk: namely, poor minority children growing up in drug- and crime-infested inner-city neighborhoods. In our forthcoming hearings and in other ways, we hope to identify meaningful, real-world examples of community-based programs intended to prevent at-risk kids from becoming violent criminals. For beyond academic theory and expert-derived, one-size-fits-all public policy approaches, Americans most desperately need civic rescue missions to save particular at-risk children when and where it really counts.

5. Violent Crime: Voters are Not Fools

Most Americans already possess the common sense and the compassion necessary to meet the challenges of violent crime prevention, protection, and restraint. Moreover, most Americans are keenly aware of the relative violent crime risks which they face, and are by no means as prone to exaggerate those risks—as many critics of the public's understanding of crime and punishment have asserted.

Of course, we do not mean to suggest that most citizens have on the tips of their tongues the crime statistics cited in the foregoing sections of this report. Nor do we mean to deny that, under some conditions, public fear of violent crime (and of other types of crime as well) can be heightened beyond reason by news events, television viewing habits, or other factors. But we do mean to stress the often-overlooked fact that the relative intensity of citizens' personal concerns about violent crime is more a mirror than a mirage of their relative objective risks of being victimized by violent crime.

For example, in just about every major public opinion survey since January 1994, crime has been ranked ahead of unemployment, the deficit, pollution, and other issues as the main problem facing the country today. But while nearly all Americans now feel more threatened by crime than they did in the past, urban Americans feel more threatened than suburban or rural Americans, and urban blacks feel more threatened than other urban residents. For example, in 1991 about 7.4 percent of all households, 16.5 percent of black households, and 22.7 percent of central city black households identified crime as a major neighborhood problem. Between 1985 and 1991, the fraction of rural households that identified crime as a major neighborhood problem remained fairly stable, rising from 1.4 percent to 1.9 percent. But the fraction of black central-city households that did so nearly doubled from 11.8 percent to 22.7 percent.³⁰

Likewise, a number of recent surveys, including one conducted by the Black Community Crusade for Children, have found that black urban children, who are far more likely than black urban adults to be murdered or victimized by many types of violent crime, ranked their top five present life concerns as follows: kids carrying guns (70 percent); violence in school (68 percent); living in a dangerous neighborhood (64 percent); involvement with gangs (63 percent); and involvement with people who cause trouble (63 percent).³¹ And as table 8 indicates, black teenagers, who are more likely than white teenagers to be murdered or victimized by many types of violent crime, feel more threatened.

³⁰*Crime and Neighborhoods* (Bureau of Justice Statistics, June 1994).

³¹Black Community Crusade for Children, *Overwhelming Majority of Black Adults Fear For Children's Safety and Future* (Children's Defense Fund, May 26, 1994).

More broadly, consider the implications of the fact that many anti-crime activities in this country are private, not governmental. They consist of the countless financial, locational, and organizational decisions made each day by families, businesses, and neighborhood groups in an effort to render the environments in which law-abiding people live, work, shop, attend school, and play relatively impervious to crime. We lock our doors and install burglar alarms. We counsel our teenagers to be careful and to avoid driving through "bad neighborhoods." We relocate our families and our businesses. We make crime-sensitive investment decisions. We watch the neighbors' homes when they are on vacation. We hire private security guards. We form neighborhood watch groups. Were it not for these private anti-crime efforts, America's violent crime problem would be far worse. Undoubtedly, part of the reason for such high rates of criminal victimization among inner-city blacks is that the law-abiding people of these communities experience a relative lack of the financial and political resources needed to protect their homes, stores, parks, and schools.

To our knowledge, no one has attempted to measure or monetize what Americans spend privately on crime protection. Loose estimates have been made that twice as much is now spent on private security services as on public police, but no rigorous work on the costs of "rent-a-cops," let alone of the entire range of private anti-crime activities, is presently available.

Table 8. Teenagers and the threat of violent crime

	White Teenagers	Black Teenagers
<i>How much of the time do you worry about being the victim of a crime?</i>		
A lot or some of the time	36%	54%
Hardly ever or never	64%	46%
<i>What kind of crime do you think is likely to happen to you?</i>		
Robbery/mugging	13%	10%
Shooting	5%	27%
Assault	6%	7%
Rape	7%	2%
Other	2%	3%
<i>Who do you think is more likely to commit that crime against you?</i>		
Teenager you know	7%	11%
Teenager you don't know	18%	37%
An adult	9%	4%
<i>Do you know someone who has been shot in the past five years?</i>		
Yes	31%	70%
<i>What is the biggest problem where you go to school?</i>		
Violence	19%	37%
Gangs	5%	8%
Drugs	14%	8%
Racism	8%	6%
All other	40%	23%
<i>Are organized gangs a problem in your school?</i>		
Yes	18%	33%

Source: *New York Times*, July 10, 1994, p. 16, based on New York Times CBS News Poll.

But we would not be surprised to learn that Americans are investing more of their own money, time, and effort in crime protection today than they did five, ten, or fifteen years ago. If that is so, then the public's crime fears are more understandable. For what average Americans seem to sense is that, for all of the private, corporate, and community-based anti-crime initiatives, for all of the disposable income spent on security devices, for all of the costly behavioral changes, and for all of the neighborhood rallies, they have to date gained only marginal and temporary relief from murder and mayhem on the streets.

III. The Reality of Revolving-Door Justice

A majority of Americans of every demographic description are convinced that existing government policies do not do nearly enough to complement private anti-crime efforts and protect law-abiding citizens from violent and repeat criminals. In stark contrast, many experts and criminals' rights advocates remain sanguine about how the system operates. In their view, the real problem is not revolving-door justice but its opposite--public policies that incarcerate too many convicted criminals for too long. The national media routinely side with the experts. A typical example is the 1994 *Time* magazine cover story which declared in bold letters that "outraged Americans" who favor "lock'em up" policies fail to see that "prisons have failed" and that "imposing longer sentences may only increase the crime rate."³²

There is plenty of reliable data that can be used to referee this dispute between the people and the experts. Almost all of it supports the views held by average Americans.

As table 9 indicates, there is quite a gap between how much time average citizens think convicted criminals should serve in prison and how much time the criminals actually serve. For over a decade, the justice system has been overloading the streets at least as fast as it has been filling up the prisons. As table 10 indicates, more than seven out of 10 of the 5.1 million people under correctional supervision on any given day in 1994 were *not* incarcerated. Nationally, about three million persons were on probation, one million were in prison, 690,000 were on parole, and 484,000 were in jail. Between 1980 and 1994, the parole population and the prison population both grew by 213 percent.

Indeed, in 1992, over 10.3 million *violent* crimes were committed, but just 3.3 million were reported to the police. About 641,000 led to arrests, barely 165,000 to convictions, and only 100,000 or so to state prison sentences, which on average ended before the convict had served even half his time behind bars.³³

How is it that the justice system imprisons barely one criminal for every 100 violent crimes? How is it that millions of convicted criminals with a history of violence end up on probation or parole rather than behind bars? Who really goes to prison, for how long, and under what conditions? What really happens on probation and parole? And how much violent crime is actually done by repeat violent criminals, including those who are legally "under supervision" at the very moment they find their latest victims?

³²Richard Lacayo, "Lock 'Em Up," *Time*, February 7, 1994, pp. 51, 55.

³³*Criminal Victimization 1993* (Bureau of Justice Statistics, May 1995), p. 2; *Sourcebook of Criminal Justice Statistics 1993* (Bureau of Justice Statistics, 1994), tables 4.9 and 5.73; *Felony Sentences in State Courts, 1992* (Bureau of Justice Statistics, January 1995), tables 1, 2, and 4.

Table 9. Actual vs. Recommended Sentences

<i>Offense</i>	<i>Actual average time served, released in 1992</i>	<i>Average recommended time in prison, 1987</i>
Rape	4 years, 11 months	
with no other injury		15 years, 5 months
with forced oral sex, no other injury		16 years, 10 months
Robbery	3 years, 3 months	
no weapon, threat of force, no injury, \$10		3 years, 8 months
threat of force with weapon, no injury, \$10		5 years, 8 months
shot victim with gun, hospitalization, \$1,000		10 years, 3 months
Assault	2 years	
intentional injury, treatment by doctor, no hospitalization		5 years, 7 months
intentional injury, treatment by doctor and hospitalization		7 years, 9 months
Burglary	1 year, 10 months	
burglary of a home with loss of \$1,000		4 years, 5 months
Drug trafficking	1 year, 6 months	
cocaine sold to others for resale		10 years, 6 months

Note: This table compares the actual time served for selected serious offenses by those released from prison in 1992 with the prison sentences recommended by a representative sample of Americans in 1987.

Source: Joseph M. Bessette, "Crime Justice, and Punishment," *Jobs and Capital*, Winter 1995, p. 22.

Table 10. Number of adults on probation, in jail or prison, or on parole, 1980-94

Year	Total estimated correctional population	Probation	Jail ^a	Prison	Parole
1980 ^b	1,840,400	1,118,097	182,288	319,598	220,438
1985	3,011,500	1,968,712	254,986	487,583	300,203
1990	4,348,000	2,670,234	403,019	743,382	531,407
1991	4,536,200	2,729,322	424,129	792,535	590,198
1992	4,763,200	2,811,611	441,781	851,205	658,601
1993	4,943,900	2,903,160	455,500	909,186	678,100
1994	5,135,900	2,962,166	483,717	999,808	690,159
Percent change,					
1993-94	4%	2%	6%	10%	2%
1980-94	179%	165%	165%	213%	213%

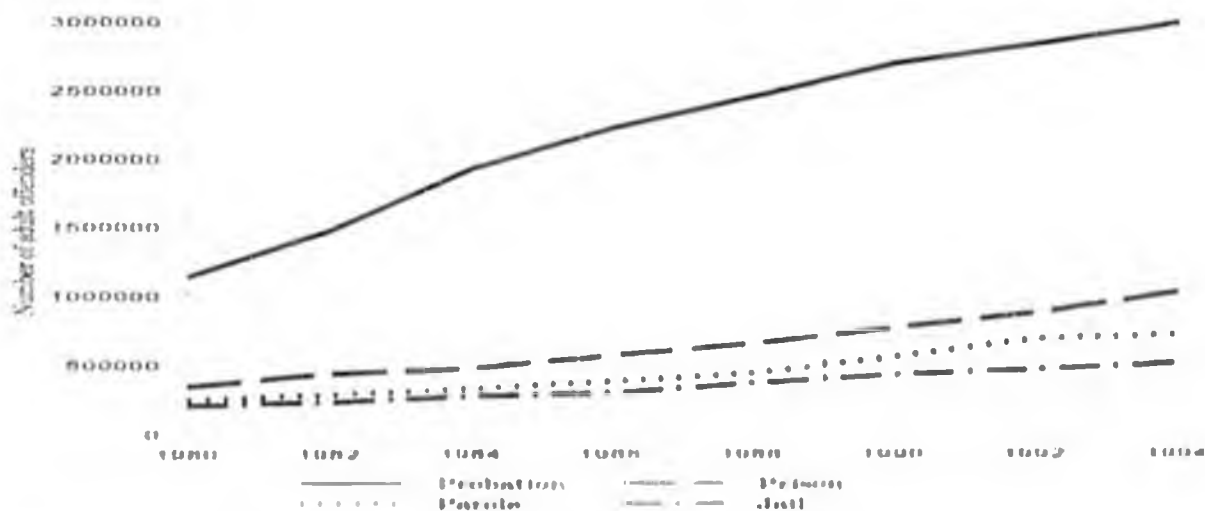
Note: Every year some states update their counts. Counts for probation, prisons, and parole population are for December 31 each year. Jail population counts are for June 30 each year. Prisoner counts are for those in custody only. Because some persons may have multiple statuses, the sum of the number of persons incarcerated or under community supervision overestimates the total correctional population.

^aIncludes convicted and unconvicted adult inmates.

^bJail count is based on estimates.

Source: Bureau of Justice Statistics, 1995.

Figure 2. Adults in jail, on probation, in prison, or on parole in the United States, 1980-93



Source: *Correctional Populations in the United States, 1993* (Bureau of Justice Statistics, October 1995); *Sourcebook of Criminal Justice Statistics, 1994* (Bureau of Justice Statistics, 1995).

1. Who Really Goes to Prison?

The revolving door is greased when 65 percent of all felony defendants, and 63 percent of all violent felony defendants, are released prior to the disposition of their case. As table 11 indicates, in 1990 in the nation's seventy-five largest counties, 44 percent of all released defendants, and 11 percent of all released violent felony defendants, had a history of prior convictions, including 31 percent of the former who had 1 or more prior convictions, and 5 percent who had 10 or more prior convictions. About 19 percent of released violent felony defendants simply fail to appear in court. About 16 percent of released violent felony defendants are rearrested again within the year, a quarter of them for another violent crime.³⁴ And in 1992, 71 percent of the defendants charged with felony weapons offenses were released prior to trial.³⁵

Table 11. Number of prior convictions of felony defendants, by whether released or detained and the most serious current arrest charge, 1990

Detention/release outcome and the most serious current arrest charge	Number of defendants	Percent of felony defendants in the 75 largest counties						
		Total with			Number of prior convictions			
		Total	No prior convictions	Prior convictions	10 or more	5-9	2-4	1
<i>Released defendants</i>								
All offenses	33,085	100%	56%	44%	5%	9%	17%	13%
Violent offenses	8,452	26	15	11	1	2	4	4
Property offenses	11,481	35	26	15	2	3	5	4
Drug offenses	10,474	32	17	15	1	3	6	5
Public-order offenses	2,678	8	4	4	--	1	2	1
<i>Detained defendants</i>								
All offenses	18,348	100%	29%	71%	11%	20%	27%	13%
Violent offenses	4,933	27	9	18	2	5	7	4
Property offenses	6,143	33	10	24	4	7	8	4
Drug offenses	6,027	33	9	24	4	6	10	4
Public-order offenses	1,245	7	1	6	1	2	2	1

Source: *Pretrial Release of Felony Defendants, 1990* (Bureau of Justice Statistics, November 1992).

But it is at the point of sentencing that the revolving door for violent felons really begins to swing. As table 12 shows, in 1992 fully 47 percent of state felons convicted of one violent crime were not sentenced to prison, and nearly a quarter of those convicted of

³⁴*Pretrial Release of Felony Defendants, 1990* (Bureau of Justice Statistics, November 1992), tables 12 and 13.

³⁵*Weapons Offenses and Offenders* (Bureau of Justice Statistics, November 1995), p. 4.

three or more felony crimes, one or more of which was a violent crime, were not sentenced to prison.

Table 12. Convicted violent felons not sentenced to prison, by number of conviction offenses, 1992

Most serious conviction offense	Percent of convicted felons <i>not</i> sentenced to prison for 1, 2, or 3 or more felony conviction offenses		
	One	Two	Three or more
All violent offenses	47%	31%	23%
Murder	9%	5%	3%
Rape	39%	23%	20%
Robbery	30%	21%	14%
Aggravated assault	61%	45%	38%
Other violent*	65%	51%	36%

Note: This chart reflects prison non-sentencing rates for felons based on their most serious offenses. For example, if a felon is convicted for murder, larceny and drug possession, and not sentenced to prison, he would be represented in this chart under murder (the most serious offense) with three or more offenses.

*Includes offenses such as negligent manslaughter, sexual assault and kidnapping.

Source: Bureau of Justice Statistics, *Felony Sentences in State Courts*, January 1995, p. 6.

Given these facts, it is not surprising that virtually all convicted criminals who do go to prison are violent offenders, repeat offenders, or violent repeat offenders. Table 13 summarizes the number of prisoners in state prisons in 1991 by the most serious offenses (not the only offenses) for which they were convicted. Some 46.5 percent of the prisoners were in prison for violent offenses.

Table 13 Number of state prisoners in 1991, by most serious offense

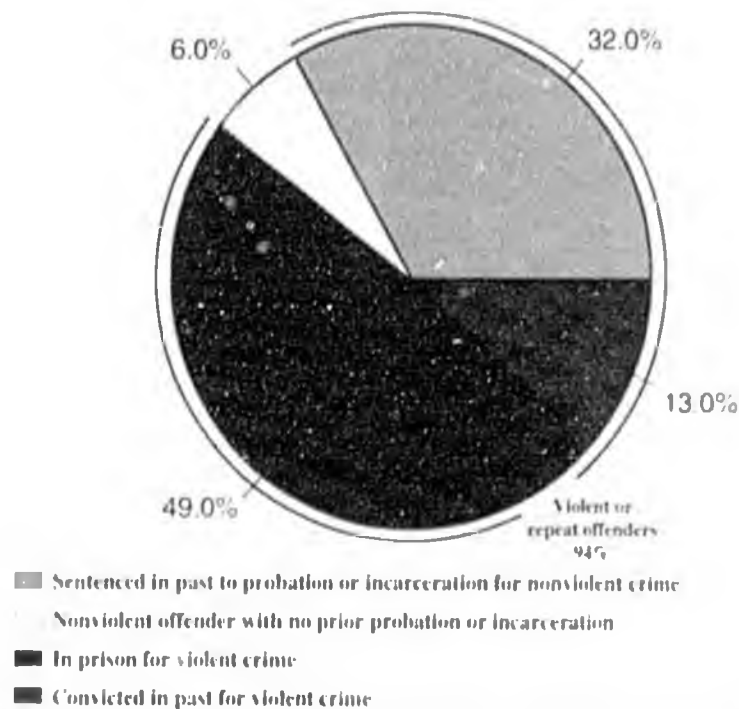
<i>All offenses</i>	728,605
<i>Violent offenses</i>	339,500
Murder	77,200
Manslaughter	13,100
Rape	25,500
Other sexual assault	43,000
Robbery	107,800
Assault	59,000
Other violent	13,100
<i>Property offenses</i>	180,700
Burglary	90,300
Larceny/theft	35,700
Motor vehicle theft	16,000
Fraud	20,400
Other property	18,200
<i>Drug offenses</i>	155,200
<i>Public-order offenses</i>	49,500
<i>Other/unspecified offenses</i>	2,900

Source: *Prisoners in 1994* (Bureau of Justice Statistics, August 1995).

It is a gross but common error to conclude from such data that half of all prisoners are "non-violent." In fact, as depicted in figure 3, based on a scientific survey representing 711,000 state prisoners in 1991, former BJS Acting Director Lawrence A. Greenfeld found that fully 62 percent of the prison population had a history of violence, and that 94 percent of state prisoners had committed one or more violent crimes or served a previous sentence to incarceration or probation.³⁶ In effect, this 94 percent statistic is a measure of the prison population's criminal "grade point average," accounting for the totality of prisoners' known adult and juvenile criminal acts against life, liberty, and property. Performing the same analysis on other large state prisoner data sets yields virtually the same results: since 1974 over 90 percent of all state prisoners have been violent offenders or recidivists.

³⁶*Survey of State Prison Inmates, 1991* (Bureau of Justice Statistics, March 1993), p. 11.

Figure 3. Profile of Prison Inmates, 1991



Source: *Survey of State Prison Inmates, 1991* (Bureau of Justice Statistics, 1992). Statistics based on a sample representing 711,000 adults in state prisons.

Indeed, between 1980 and 1993 the growth in state inmates was greatest among offenders whose most recent and serious conviction offense was violent. During that period, the number of violent offenders behind bars grew by 221,000, representing 1.3 times the growth in the number of offenders whose most recent and serious conviction offense was for a drug law violation, and 42 percent of the total growth in state prison populations.³⁷

In short, the closer one looks into the criminal and conviction histories of prisoners, the clearer it becomes that there are precious few petty, non-violent, or first-time felons behind bars who pose no real threat to public safety and who simply do not deserve to be incarcerated.

For example, in 1994 California's prison population rose to over 125,000 inmates. Since the mid-1980's, numerous experts and journalists have insisted that the state's prisons were overflowing with first-time offenders and harmless parole violators. And as California voters marched to the polls and overwhelmingly approved a three-strikes law, many analysts and commentators confidently warned that, within a year, the state's prisons would be bulging with petty criminals sentenced automatically to life without parole for any third felony conviction.

³⁷ *Prisoners in 1994* (Bureau of Justice Statistics, August 1995), p. 11

Table 14 summarizes the results of a California Department of Corrections analysis of the criminal histories of 16,520 randomly selected felony offenders admitted to the state's prisons in 1992 and classified as "nonviolent." The analysis reveals that 88.5 percent of these offenders had one or more prior adult convictions. The average number of prior convictions was 4.7. A fifth of these "nonviolent" felons had been committed to prison once or twice before.

Table 14. Felony offenders admitted to California prisons in 1992 and classified as nonviolent, by criminal histories

<i>Prior convictions</i>	
Juvenile (one or more)	18.2%
Adult (one or more)	88.5%
Adult - Average number	4.7
Adult - Violent (PC 667.5(c)) (one or more)	1.4%
<i>Prior probations</i>	
Prior Probation (one or more)	82.0%
Current Probation resulting in:	
Probation revocation with additional convictions(s)	24.2%
Probation revocation without additional conviction(s)	21.7%
<i>Prior juvenile hall incarcerations (one or more)</i>	5.8%
<i>Prior jail - adult incarcerations</i>	
One or more	65.9%
Three or more	32.8%
<i>Prior California youth authority commitments</i>	10.5%
<i>Prior prison commitments</i>	
One or more	20.6%
Three or more	1.8%

Source: Department of Corrections, State of California, March 1, 1994. Based on an analysis of 16,520 admissions.

Table 15 offers a detailed portrait of the 84,197 adults who were admitted to California prisons in 1991. It is based on a recent analysis by a former president of the American Society of Criminology, Joan R. Petersilia. It shows that only 3,116 of the prisoners (under 4 percent of total admissions) were, in fact, mere technical parole violators (the category "Administrative, non-criminal"). As Petersilia has concluded, these data disprove the notion that hordes of "parole violators are being returned for strictly technical violations. . . . The bottom line is that true technical violators do not currently represent a large portion of incoming inmates, nor do they serve very long prison terms."

More precisely, table 15 shows that about 45 percent of the prisoners were "Felons, New Court Admissions," meaning that they were sentenced by the courts for new crimes ranging from murders to drug deals. The rest were "Parole Violators," meaning that they were sentenced by the courts to additional terms ("Parole Violators With a New Term," 19 percent), or returned to prison by the Board of Prison Terms (the parole board) for having violated one or more conditions of their parole ("Parole Violators Returned to Prison," 36 percent). As the table's compilation of their offense records makes quite plain, the vast majority of both all new court admissions and all parole violators--in short, the vast majority of all persons admitted to California's prisons--were violent or repeat criminals, together responsible for literally tens of thousands of serious crimes including over 2,000 murder convictions.

**Table 15. Persons admitted to California prisons, 1991
By commitment offense and average prison term served**

	Number of Persons	% of Total Admissions	Median Months Served
Felons, New Court Admissions	38,240	45.41%	
Violent Offenses	10,616	12.61%	19.0
Homicide	1,840	2.19%	33.2
Robbery	3,701	4.40%	17.7
Assault	2,881	3.42%	16.2
Sex Crimes	1,936	2.30%	33.2
Kidnapping	258	0.31%	34.6
Property Offenses	10,537	12.51%	11.0
Burglary 1st	2,547	3.02%	20.5
Burglary 2nd	2,154	2.56%	9.9
Grand Theft	1,174	1.39%	10.0
Petty Theft with Pri.	1,520	1.81%	8.8
Rec. Stolen Property	1,003	1.19%	8.9
Auto Theft	1,384	1.64%	11.5
Forgery/Fraud	755	0.90%	9.9
Drug Offenses	12,459	14.80%	11.8
Possession	3,943	4.68%	7.7
Possession for Sale	4,173	4.96%	12.9
Drug Sale	3,052	3.62%	17.4
Drug Manufacture	376	0.45%	21.5
Marijuana	915	1.09%	10.4
Other Offenses	4,628	5.50%	8.9
Driving Under the Influence	2,911	3.46%	8.3
Weapons Possession	604	0.72%	10.6
Escape	68	0.08%	8.4
Arson	138	0.16%	13.6
Miscellaneous	907	1.08%	9.1
Parole Violators with New Term (PV-WNT)	16,010	19.01%	
Violent Offenses	2,705	3.21%	
Homicide	136	0.16%	33.2
Robbery	1,553	1.84%	17.7
Assault	751	0.89%	16.2
Sex Crimes	233	0.28%	33.2
Kidnapping	32	0.04%	34.6

Property Offenses	7,156	8.50%	11.0
Burglary 1st	1,106	1.31%	20.5
Burglary 2nd	1,776	2.11%	9.9
Grand Theft	516	0.61%	10.0
Petty Theft with Pri.	1,905	2.26%	8.8
Rec. Stolen Property	701	0.83%	8.9
Auto Theft	853	1.01%	11.5
Forgery, Fraud	299	0.36%	9.9
Drug Offenses	4,627	5.49%	11.8
Possession	2,205	2.62%	7.7
Possession for Sale	1,036	1.23%	12.9
Sale	890	1.06%	17.4
Manufacture	172	0.20%	21.5
Marijuana	324	0.38%	10.4
Other Offenses	1,522	1.81%	8.9
Driving Under the Influence	479	0.57%	8.3
Weapons	672	0.80%	10.6
Escape	34	0.04%	8.4
Arson	19	0.02%	13.6
Other	318	0.38%	9.1

Parole Violators Returned to Prison (PV-RTP)	29,944	35.56%	
Administrative, non-criminal (technical violations)	3,116	3.70%	4.0
Administrative, criminal	26,828	31.86%	7.0
Type 1	8,382	9.95%	4.0
Drug Use	3,035	3.60%	4.0
Drug Possession	2,427	2.88%	5.0
Misc., Minor	2,920	3.47%	5.0
Type 2	12,010	14.26%	8.0
Sex Offenses	535	0.64%	6.0
Assault	1,431	1.70%	8.0
Burglary	880	1.05%	9.0
Theft	3,714	4.41%	8.0
Drug Sales	1,449	1.72%	10.0
Weapons	386	0.45%	8.0
Driving Violation	1,334	1.58%	8.0
Misc. nonviolent	2,287	2.72%	6.0
Type 3	6,436	7.65%	12.0
Homicide	119	0.14%	12.0
Robbery	1,168	1.39%	12.0
Rape/Assault	353	0.42%	12.0
Battery	2,394	2.84%	12.0
Burglary	704	0.84%	10.0
Drug - Major	253	0.30%	10.0
Weapons	1,093	1.30%	12.0
Driving Violation	171	0.21%	10.0
Miscellaneous	181	0.21%	12.0
Total Admissions	84,197	100%	11.63

Note: Persons who were revoked by the Parole Board in 1991 but "continued on parole" (8700 persons) were not included in this table nor were those with missing offense data (2690 persons)

Source: Joan R. Petersilia, "Diverting Non-Violent Prisoners to Intermediate Sanctions," paper prepared for the California Policy Seminar, Berkeley, California, 1995, pp. 9-11.

From the day it took effect through November of 1995, some 1,020 repeat felons were sentenced under California's three strikes law. About 969 of them were sentenced during the law's first year; the remaining 61 were sentenced over the ensuing eight months.²⁸ Clearly, the state's prosecutors are exercising their discretion to use the law against repeat offenders who for the sake of either public safety, just deserts, or both,

²⁸Data provided by the California Department of Corrections, November 28, 1995.

need to be incarcerated. And, contrary to popular perceptions, not everyone sentenced under the law must serve life without the possibility of parole.

Consider the much-publicized case of the "pizza thief," the 29-year-old California man who was sentenced under the law for stealing a slice of pizza from children in a shopping mall.¹⁰ Although much of the national press spun this story as a self-evident example of the folly of three-strikes (and other "get-tough" legislation), the facts paint a different picture. The offender's adult criminal history dated back to 1985. He was convicted of five serious felonies inside of a decade. He was granted probation five times in five years for convictions on two misdemeanor charges and three felony charges. Between 1985 and 1990, he had five suspended sentences. At one point he moved to Washington State -and was arrested there on additional charges. During his criminal career, he used eight aliases, three different dates of birth, four different Social Security numbers, and marijuana, cocaine, alcohol, and PCP. Standing 6 foot 4 inches, his "third strike" occurred when he and another man frightened and intimidated four children (ages 7, 10, 12, and 14), stole their pizza, and then walked away laughing. He was not sentenced to life; he could be eligible for parole in the year 2014. As one California official quipped, this repeat felon was already "doing life on the installment plan. Three strikes simply reduced the number of future installments and the number of future victims."

2. How Much Hard Time Do Violent Prisoners Really Serve?

The unvarnished truth, therefore, is that America's prisons hold few petty, first-time, non-violent criminals. Moreover, even violent prisoners spend relatively little time behind bars before being released, and do so under conditions of confinement that are far more generous than cruel.

As table 16 indicates, violent offenders released from prison in 1992 served an average of 48 percent of their time behind bars (both jail credit and prison time)--43 months on sentences of 89 months. Between 1988 and 1992 the percent of time served in prisons by released violent offenders rose from 43 percent to 48 percent. But over the same period the average sentence dropped from 95 months to 89 months, meaning that the actual average time served increased only from 41 months to 43 months. Overall, therefore, between 1988 and 1992, there was little change in the amount of time or in the percentage of sentence served for different types of violent crimes.¹¹ Among those violent offenders released in 1992, even murderers served only 5.9 years of 12.4 year terms.

¹⁰Facts of the case supplied by the California Department of Corrections, May 26, 1995.

¹¹*Prison Sentences and Time Served for Violence* (Bureau of Justice Statistics, April 1995), p. 2.

Table 16. Time served on confinement by violent offenders released in 1992

Type of offense	Average sentence (months)	Average time served* (months)	Percent of sentence served
All violent	89	43	48%
Homicide	149	71	48%
Rape	117	65	56%
Kidnapping	104	52	50%
Robbery	95	44	46%
Sexual assault	72	35	49%
Assault	61	29	48%
Other	60	28	47%

*Includes jail credit and prison time.

Source: Bureau of Justice Statistics, *Prison Sentences and Time Served for Violence* (Bureau of Justice Statistics, April 1995), p. 1.

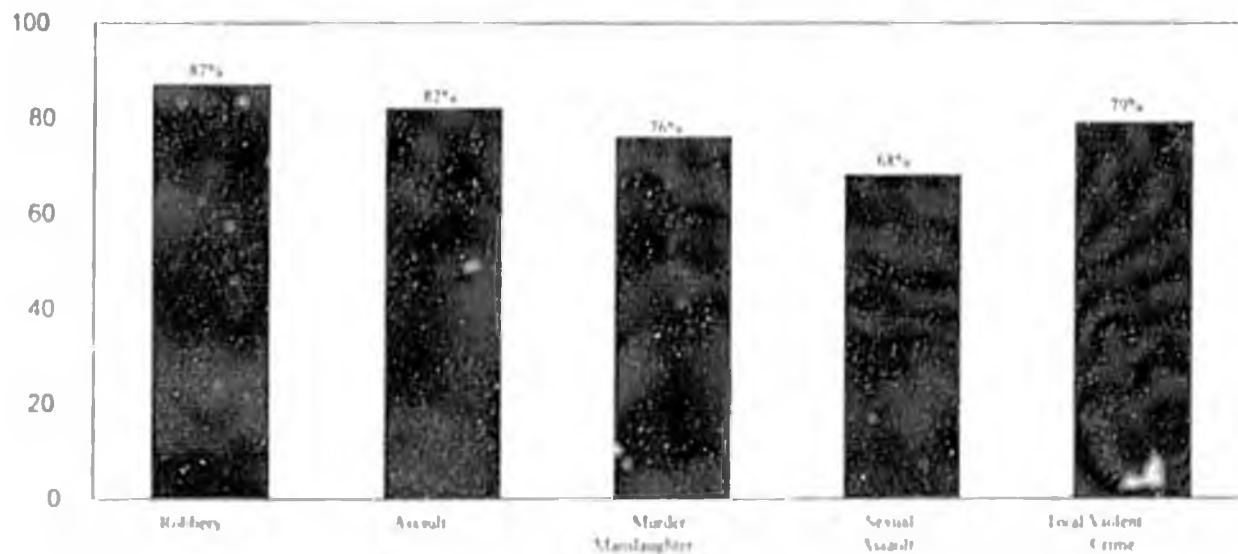
Much the same picture holds when the data on how much time violent felons actually serve in prison is broken down on a state-by-state basis. For example, figure 4 displays the percent of various categories of convicted violent felons in Virginia in 1992 who had at least one prior conviction. More than three-quarters of all violent criminals in Virginia prisons in 1992-93 had prior convictions. Figure 5 displays the average time served by Virginia felons released in 1993. Together, these two sets of data confirm that even most violent recidivists imprisoned for murder, rape, and robbery serve less than half of their sentenced time in confinement.⁴¹

It is possible, however, that truth-in-sentencing and related laws will succeed in increasing the amount of prison time actually served by violent offenders in Virginia and the rest of the nation. For example, the BJS estimates that state prisoners admitted in 1992 could serve an average of 62 months (versus 43 months for violent offenders released in 1992) and 60 percent of their sentences (versus 48 percent).⁴²

⁴¹George Allen, "The Courage of Our Convictions," *Policy Review*, Spring 1995, pp 4-7. Also see *Governor's Commission on Parole Abolition and Sentencing Reform: Final Report* (State of Virginia, August 1994).

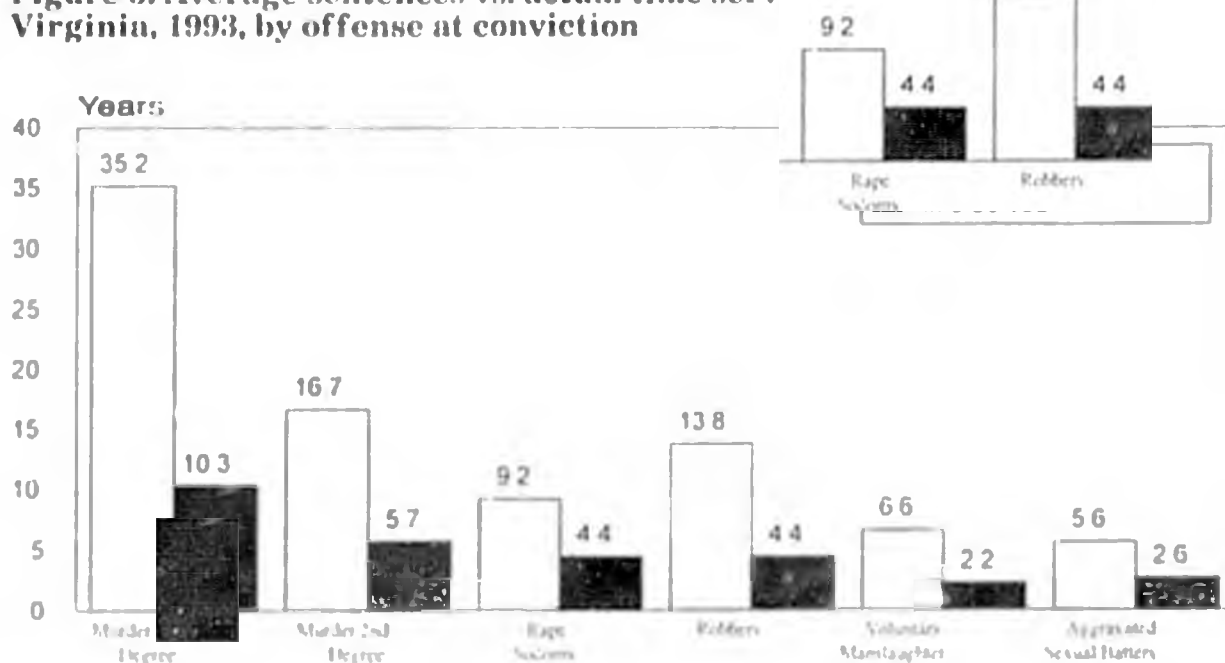
⁴²*Prison Sentences and Time Served for Violence* (Bureau of Justice Statistics, April 1995), p. 2.

Figure 4. Percent of convicted violent felons in Virginia with prior convictions, 1992



Source: George Allen, "The Courage of Our Convictions," *Policy Review*, Spring 1995, p. 5

Figure 5. Average sentences vs. actual time served by violent felons in Virginia, 1993, by offense at conviction



Source: George Allen, "The Courage of Our Convictions," *Policy Review*, Spring 1995, p. 6

While such increases in the amount of time actually served by violent felons would constitute welcome steps in the right sentencing policy direction, there is reason to be

cautious. For one thing, sentencing laws can change, and many states have yet to tighten their grip on convicted violent felons. Despite the universal use of mandatory sentencing laws for murder and many other crimes, state sentencing regimes vary widely. Relatively few states have enacted and implemented strict truth-in-sentencing laws or related measures that keep violent felons behind bars for all or most of their terms.

Also, even with tougher laws on the books, not much may change. Public policies are enunciated in rhetoric, but they are realized (or not) in action. What gets done in "get-tough" crime legislation can be undone or watered down in the administrative process (for example, an escalation in the use of generous automatic "good time" credits), or as the result of judicial intervention (for example, the imposition of prison or jail caps by court orders or via consent decrees).

This is one bitter lesson of the experience with mandatory sentencing laws enacted in the 1970's and 1980's. Sentence lengths did not expand between 1973 and 1986 even though mandatory sentencing laws authorized or required longer sentences. For example, in 1986 the median sentence for a felony conviction was 48 months, compared with 60 months for most of the period between 1960 and 1980. In 1986 the median time served in confinement was 15 months, the same as it was in 1976. And between 1985 and 1992, the mean maximum sentence of prisoners actually declined about 15 percent from 78 months to 67 months.⁴¹

One reason for this failure to increase the amount of time actually served in prison by violent and other serious offenders was judicial intervention into prisons and jails. In 1990, scores of prisons and jails were operating under judicially-imposed caps on their populations, not to mention orders governing staffing, food services, recreation, counseling programs, and other matters.⁴² Federal district court judges have often done whatever they felt was necessary to protect and expand prisoners' rights, including "ordering inmates released or facilities closed."⁴³

To cite just one recent example, in the space of a single year a federal judge forced the City of Philadelphia to release defendants in 15,000 cases rather than violate the population limit she had established for the city's jails. "Thanks to the court order, the city now has 50,000 fugitives from justice—defendants who have been charged with a crime but do not even bother to show up for trial."⁴⁴ As in most such cases, the court's orders have led to skyrocketing fiscal costs and a worse human toll exacted in murders, rapes, and other crimes committed by those released in order to ease "overcrowding" or to remedy other ostensible violations of constitutional rights.

⁴¹Patrick A. Langan, "America's Soaring Prison Population," *Science*, March 29, 1991, pp. 1568-1573; *Time Served in Prison and on Parole, 1984* (Bureau of Justice Statistics, December 1987); *Sentencing and Time Served* (Bureau of Justice Statistics, 1987); *Tracking Offenders, 1987* (Bureau of Justice Statistics, October 1990); *Prisoners in 1994* (Bureau of Justice Statistics, August 1995), p. 12.

⁴²*Census of State and Federal Correctional Facilities* (Bureau of Justice Statistics, 1992), p. 7.

⁴³William C. Collins, "A History of Recent Corrections is a History of Court Involvement," *Corrections Today*, August 1995, p. 150.

⁴⁴Sarah B. Vandenbraak, "Bail, Humbug! Why Criminals Would Really Rather Be in Philadelphia," *Policy Review*, Summer 1995, p. 73.

To be clear, we understand that since 1960 judges have done much to end horrible or abusive conditions behind bars. Too often, however, the courts have expanded prisoners' rights without due regard for such competing values as budgetary limits, institutional order, and public safety.⁴⁷ As the National District Attorneys Association has declared, "federal court orders in prison litigation often have severe adverse effects on public safety, law enforcement and local criminal justice systems."⁴⁸ And as ought never to be forgotten, government by consent decree is not the same as government by the consent of the governed.

Many of the most harmful court orders have married faulty constitutional interpretations to false empirical assumptions. For while some prisons are crowded, most prisons are not terribly "overcrowded." At the end of 1994, states reported that they were operating between 17 and 29 percent over their capacity (the maximum number of prisoners their facilities were designed or reconfigured to hold). Thirteen states and the District of Columbia were operating at or below 99 percent of their capacity. Because of new prison construction, the ratio of the inmate population to the capacity of state prisons has remained stable since 1990.⁴⁹

Moreover, despite the conventional wisdom about the harmful effects of "overcrowding," the statistical data simply do not support the belief that inmates suffer greater levels of violence, illness, or other problems when prisons operate over capacity or increase population densities. And there is no shortage of case studies which suggest that dedicated prison managers have run truly crowded prisons without any increases in critical incidents or other serious problems.⁵⁰ It is clear that the quality of prison management and other intervening variables determine the negative consequences, if any, that flow from having prisoners, few of whom are confined to their cells all day, share limited cell space or sleep in make-shift dormitories.

By the same token, while it is easy to exaggerate the extent of resort-like conditions behind bars, the fact is that most prisons do offer prisoners a wide array of basic amenities and services, and that some prisons do indeed resemble resorts. As table 17 shows, in 1991 over 97 percent of federal prisoners, and 91 percent of state prisoners, were involved in some type of training, program activity, or work assignment. For a large number of prisoners, health care services and the like are both better and more readily available on the inside than they were on the outside.

⁴⁷William D. Hagedorn and John J. Dilulio, Jr., "The People's Court?: Crime, Federal Judges, and Federalism," in Martha Derthick, ed., forthcoming; John J. Dilulio, Jr., ed., *Courts, Corrections, and the Constitution* (Oxford University Press, 1990).

⁴⁸National District Attorneys Association, Resolution, December 1994.

⁴⁹*Prisoners in 1994* (Bureau of Justice Statistics, August 1995), p. 8.

⁵⁰For a good recent summary of the statistical evidence, see Gerald G. Gaes, "Prison Crowding Research Examined," *The Prison Journal*, September 1994, pp. 329-363. For case studies, see John J. Dilulio, Jr., *Governing Prisons: A Comparative Study of Correctional Management* (Free Press, 1987), "Well-Governed Prisons Are Possible," in George Cole, ed., *Criminal Justice* (Wadsworth, 1993), chapter 23, "Prisons That Work: Management is the Key," *Federal Prison Journal*, Summer 1990, pp. 7-15, and "Principled Agents: The Cultural Bases of Behavior in a Federal Government Bureaucracy," *Journal of Public Administration Research and Theory*, July 1994, pp. 277-318.

Indeed, in many states half or more of every prison dollar is now spent not on custody or security basics but on prisoner medical services, education, "treatment programs," and other functions.⁵¹ In 1990 only 234 of the nation's 1,037 prisons were maximum-security prisons, and even in those facilities most prisoners enjoyed access to all manner of amenities and services, and were hardly confined to their living quarters all day. While there remains no evidence that most prison-based programs rehabilitate offenders, there is some evidence that certain types of prison-based substance abuse programs do some good, and that most prisoners who need drug treatment get it while incarcerated.⁵²

⁵¹*Sourcebook of Criminal Justice Statistics* (Bureau of Justice Statistics, 1994), p. 14.

⁵²Charles H. Logan and Gerald G. Gaes, "Meta-Analysis and the Rehabilitation of Punishment," *Justice Quarterly*, June 1993, pp. 245-263; Marcia R. Chaiken, *Prison Programs for Drug-Involved Offenders* (National Institute of Justice, October 1989); Susan Wallace, "Drug Treatment: Perspectives and Current Initiatives," *Federal Prisons Journal*, Summer 1991; M. Douglas Anglin, "Ensuring Success in Corrections-Based Interventions with Drug-Abusing Offenders," paper presented at the Conference on Growth and its Influence on Corrections Policy, University of California at Berkeley, May 10-11, 1990, *Sourcebook of Criminal Justice Statistics 1993* (Bureau of Justice Statistics, 1994), p. 637. It is worth noting here that in 1991 all state and federal government substance abuse treatment programs (prison- and community-based, both for offenders and others) had a utilization rate of 81.1 percent; see *Sourcebook*, p. 542.

Table 17. Training, programs, activities, and work assignment of sentenced federal and state prison inmates, by sex, 1991

	Percent of sentenced inmates					
	All		Male		Female	
	Federal	State	Federal	State	Federal	State
Any training, programs, activities, or work assignment	97.7	91.1	97.7	91.0	98.7	93.0
<i>Training</i>						
Academic	58.1	45.8	58.0	45.9	59.1	44.9
Basic < 9th grade	10.4	5.3	10.7	5.3	7.0	5.1
High school	27.3	27.4	26.6	27.5	35.3	25.6
College	18.9	14.0	19.0	14.0	17.2	13.7
Other	8.4	2.6	8.6	2.5	6.0	4.0
Vocational	29.4	31.4	29.5	31.4	28.8	31.5
<i>Programs/activities</i>						
Religious	38.5	32.0	37.2	31.2	53.9	44.5
Self-improvement	19.8	20.2	17.9	19.5	41.7	32.4
Alcohol/drug support group	9.2	17.1	8.6	17.1	15.5	22.7
Counseling	11.6	17.1	10.8	16.7	20.2	23.4
Pre-release	7.0	8.1	6.4	8.0	13.2	8.9
Arts and crafts	13.1	7.4	11.8	7.1	28.9	12.6
Outside community	2.7	2.7	2.4	2.7	5.8	2.8
Ethnic or racial	6.1	2.5	5.9	2.5	7.8	2.1
<i>Work assignment</i>						
Any	91.2	74.8	91.0	69.7	93.4	74.8
General janitorial	11.7	13.4	11.6	13.3	13.7	16.3
Food preparation	13.1	12.6	13.0	12.5	13.8	16.0
Maintenance, repair or construction	14.6	8.9	14.7	9.1	12.4	4.9
Grounds and road maintenance	6.4	8.2	6.3	8.2	7.2	8.4
Library, barbershop, office or other services	14.9	8.0	14.9	7.8	14.3	11.7
Goods production	2.9	4.3	2.8	4.3	3.7	5.2
Farming, forestry, or ranching	.4	3.9	.4	4.0	.4	2.6
Laundry	2.3	3.0	2.4	3.0	1.8	4.0
Hospital or medical	1.7	.5	1.7	.5	1.8	.9
Other	24.8	12.0	24.7	11.9	26.5	13.8
Number of inmates	53,764	701,775	49,548	663,619	4,216	38,156

Source: Bureau of Justice Statistics, 1994.

3. Crime By Community-Based Violent Convicts

It is clear that violent convicted offenders do not do much hard time behind bars. And it is equally clear that they do tremendous numbers of serious crimes when loose on the streets, including a frightening fraction of all murders. For starters, a recent BJS analysis reveals the following:²⁴

- * In 1991, 45 percent of state prisoners were persons who, at the very time they committed their latest conviction offenses, were on probation or parole.
- * Based only on the latest conviction offenses that brought them to prison, the 162,000 probation violators committed at least 6,400 murders, 7,400 rapes, 10,400 assaults, and 17,000 robberies while "under supervision" in the community an average of 17 months.
- * Based only on the latest conviction offenses that brought them back to prison, the 156,000 parole violators committed at least 6,800 murders, 5,500 rapes, 8,800 assaults, and 22,500 robberies while "under supervision" in the community an average of 13 months.
- * The prior conviction offense was violent for half of parole violators returned to prison for a violent offense. The prior conviction offense was violent for 43 percent of probation violators sent to prison for a violent offense.
- * Together, probation and parole violators committed 90,639 violent crimes while "under supervision" in the community.
- * Over half of the 13,200 murder victims were strangers.
- * Over a quarter of the 11,600 rape victims were under the age of 12, and over 55 percent of them were under 18.
- * Of all arrested murderers adjudicated in 1992 in urban courts, 38 percent were on probation, parole, pretrial release, or in some other criminal justice status at the time of the murder.
- * A fifth of all persons who were arrested for the murder of a law enforcement officer from 1988 to 1992 were on probation or parole at the time of the killing.

These numbers represent only the crimes done by probation and parole violators who were actually convicted of new crimes and sent to prison. They do not even begin to measure the total amount of murder and mayhem wrought by community-based violent criminals whom the system has had in custody one or more times but failed to restrain.

The number of persons who are on probation or parole in a given year exceeds the number who are on probation or parole on any given day. As table 18 indicates, while 690,000 convicted criminals were on parole at the end of 1994, over 1 million cases were handled on parole in the course of the year. Likewise, while 2.96 million convicted offenders were on probation at the end of 1994, over 4.2 million cases were handled on probation in the course of the year.

²⁴*Probation and Parole Violators in State Prison, 1991* (Bureau of Justice Statistics, August 1995)

Table 18. Adults on parole and probation, 1994

	1/1/94	Entries	Exits	1/31/94	Year
Parole	676,000	411,000	396,000	690,000	1,101,000
Probation	2,900,000	1,360,000	1,300,000	2,960,000	4,260,000

Note: Because of nonresponse or incomplete data, the population on 1/1/94 minus exits is not exactly equal to the 12/31/94 population. Also, both the yearly figures and the entry and exit counts may involve a small fraction of double-counting because an undetermined number of adults on probation and parole enter and exit the system more than once a year.

Source: Calculated from *Probation and Parole 1994* (Bureau of Justice Statistics, 1994), pp. 5, 6.

Large numbers of convicted violent criminals are on probation and parole--more, in fact, than are in prison. For example, as Joan R. Petersilia has found, "on any given day in the U.S. in 1991, there were an estimated 435,000 probationers and 155,000 parolees residing in local communities who have been convicted of violent crime--or over a half million offenders. If we compare that to the number of violent offenders residing in prison during the same year, we see that there were approximately 372,500 offenders convicted of violent crime in prison, an approximately 590,000 *outside* in the community on probation and parole!"⁶⁴

As table 19 indicates, in the nation's 75 largest counties in 1990, convicted offenders on probation and parole were 25 percent of all felony defendants, 23 percent of all those arrested for violent offenses, and 21 percent of all murder arrestees. Adding pretrial releases and others with a criminal justice status to these totals raises them to 38 percent, 36 percent, and 39 percent, respectively. Hence, about a third of all violent crime is traceable to persons who were on probation, parole, or pretrial release at the time of the offense.

⁶⁴Joan R. Petersilia, "A Crime Control Rationale for Reinvesting in Community Corrections," *Spectrum*, Summer 1995, p. 19.

Table 19. Criminal justice status of felony defendants at time of arrest, by most serious arrest charge, 1990

Most serious arrest charge	Number of defendants	Percent of felony defendants in the 75 largest counties						
		With criminal justice status at time of arrest						
		Total	Without criminal justice status	Total	Probation	Pretrial release for earlier case	Parole	Other
All offenses	42,895	100%	62%	38%	18%	11%	7%	1%
Violent offenses	10,914	100%	64%	36%	16%	12%	7%	2%
Murder	440	100	61	39	14	11	7	6
Rape	595	100	76	24	12	6	5	1
Robbery	3,192	100	50	50	20	17	13	2
Assault	5,415	100	68	32	15	11	5	1
Other violent	1,272	100	74	26	13	7	3	3
Property offenses	15,248	100%	62%	38%	18%	12%	7%	1%
Burglary	4,588	100	57	43	21	12	9	1
Theft	6,239	100	61	39	19	11	7	1
Other property	4,420	100	67	33	14	12	6	1
Drug offenses	13,210	100%	62%	38%	18%	11%	8%	1%
Sales/trafficking	8,687	100	63	37	16	12	7	1
Other drug	4,523	100	58	42	20	10	10	1
Public order offenses	3,523	100%	58%	42%	25%	7%	6%	4%
Driving related	1,143	100	56	44	35	4	3	1
Other public-order	2,379	100	58	42	20	8	7	6

Note: Data on criminal justice status at time of arrest were available for 76% of all cases. Detail may not add to total because of rounding.

Source: *Pretrial Release of Felony Defendants, 1990* (Bureau of Justice Statistics, November 1992)

The revolving door numbers do not become any less disturbing when broken down by violent offense categories. If anything, the reverse is true. For example, 42 percent of felony weapons defendants in 1992 had a criminal status at the time of the offense--17 percent on probation, 10 percent on parole, and 14 percent on pretrial release. And of those felony

weapons defendants with a history of felony convictions, more than half had two or more such convictions.⁶⁵

Nor do the numbers look any more comforting when examined on a state-by-state basis. For example, table 20 tallies the crimes known to have been committed by prisoners released early from Florida prisons between January 1987 and October 1991--crimes committed during the period that the offenders would have been incarcerated had their prison sentences not been reduced. It shows that prisoners released early were responsible for 25,919 crimes, including 4,654 violent crimes. Among the violent crimes that would have been averted had these offenders remained behind bars rather than being released early were 346 murders and 185 sexual assaults.

Table 20. Crimes known to have been committed by convicted offenders released early from Florida prisons, 1/87 to 10/91

Category	Number	%	Offense	Number	%
Violent crimes	4,654	18.0	Murder, Manslaughter	346	1.3
			Sex Offenses	185	0.7
			Robbery	2,369	9.2
			Misc. Violent Offenses	1,754	6.8
Property crimes	11,834	45.9	Burglary	5,711	22.1
			Theft, Fraud, Forgery	4,777	18.5
			Weapons, Escape	969	3.8
			Misc. Property Offenses	377	1.5
Drugs	9,331	36.1	Drug offenses	9,331	36.1
Total	25,819	100		25,819	100

Source: SAC Notes (Florida Statistical Analysis Center, July 1993), p. 3.

Likewise, table 21 summarizes the data on how many persons convicted of murder in Virginia from 1990 through 1993 were on parole, probation, pretrial release, or had some other form of community-based legal status at the very moment they murdered. It shows that fully a third of the 1,411 convicted murders were "in custody" at the time they killed--91 on parole, 156 on probation, 81 on pretrial release, and 146 on electronic monitoring, with suspended sentences, or other forms of supervision.

⁶⁵ *Weapons Offenses and Offenders* (Bureau of Justice Statistics, November 1995), p. 5.

Table 21. Convicted murderers in Virginia, legal status at time they murdered, 1990-1993

Year	Probation	Parole	Pretrial Release	Other	None
1990	39	19	18	21	263
1991	36	21	17	40	231
1992	38	26	26	46	235
1993	43	25	20	39	208
1990-93	156	91	81	146	937

Note: Other includes unsupervised probation, community diversion, electronic monitoring and suspended sentences.

Source: Virginia Department of Corrections, Virginia Department of Criminal Justice Services, 1995.

The closer one examines the facts and figures about how much violent crime is done because of revolving-door justice, the plainer it becomes that the failure to restrain known criminals accounts for much of the predatory street crime that plagues our cities. For example, in 1994 a series of investigative reports by a local newspaper turned up plenty of facts about revolving-door justice in Dade County, Florida, which encompasses Miami. For example, only 671 of 4,615 identified local career criminals (average of 20 prior felony arrests and 6 convictions) were behind bars. From January 1992 to March 1994, 5,284 people were arrested twice or more and charged with violent or other serious felony crimes, including murders. Some 2,298 of them (43 percent) were rearrested for crimes worse than their first arrests. Only 9 percent (about 500) were convicted and sentenced to prison.⁵⁶

Similarly, a 1994 local newspaper investigation into crime and punishment in New Jersey revealed that in 1993, 217,347 cases entered the state's criminal justice pipeline. Four out of ten cases were reduced or screened out of the system. Only 24 percent of those arrested and indicted wound up behind bars. About 40 percent got probation. Of those convicted, under 30 percent saw the inside of a prison for six months or more.⁵⁷

In fact, many local newspapers around the country have done such investigative reports on the reality of revolving-door justice. But such reports are virtually unheard of in the national press, which spills incomparably more ink about how many convicted criminals are in prison rather than how many are not, and focuses little on how many released felons commit more crimes.

⁵⁶Jeff Lean et al., "Crime and Punishment," *The Miami Herald*, August 28-September 5, 1994 and December 18, 1994. Also see *Final Report of the Dade County Grand Jury* (Circuit Court of the Eleventh Judicial Circuit of Florida, May 11, 1994).

⁵⁷Dave Neese, "Plenty of Punishment, Little Crime in Jersey," *The Trentonian*, August 15, 1994, p. 3.

By the same token, it speaks legions that while one can easily find detailed information on such things as the number and kind of treatment programs afforded to convicted rapists,⁵⁸ most states compile no data on such things as the ages of rapists' victims,⁵⁹ or on how many convicted murderers were on probation, parole, or pretrial release at the time that they killed.⁶⁰ Some state probation and parole agencies do not even keep data on how many of their charges are returned to prison during the term of their supervision.⁶¹ Undoubtedly, most Americans would be more interested in knowing whether sex offenders are being punished and incapacitated, whether children are being raped, and whether convicted felons are being set free to murder, than in knowing whether notoriously hard-to-rehabilitate felons are enjoying a certain treatment regimen.

4. Reinventing Probation and Parole

Likewise, most citizens would be interested to know just why it is that probation and parole are failing to restrain so many violent criminals, and what, if anything, can be done to restrain them. It is all too obvious that hundreds of thousands of convicted criminals now on probation and parole need to be incarcerated; in the next section we will further document the costs and benefits of imprisonment.

But let us be absolutely clear: moving toward either blanket no-parole or no-probation policies would be completely unwise, totally unworkable, and impossibly expensive. Remember: even though millions of crimes are committed by community-based felons who recidivate, not everyone on probation or parole commits new crimes. For example, we know that within 3 years of sentencing, nearly half of all probationers and parolees commit a new crime or abscond.⁶² But we also thereby know something else of equal importance, namely, that half of these community-based convicts do *not* enter (or flee) through the revolving door.

But how, if at all, can the justice system do a much better job of determining "which half is which" *before* it is too late--that is, before released community-based felons commit more murder and mayhem on the streets? How can it sort offenders more intelligently so that those who need to be restrained in prison remain behind bars, those who need to be restrained by hands-on supervision on the streets are effectively supervised, and those who are highly unlikely to violate the terms of their community-based sentences are monitored accordingly?

⁵⁸For example, see *Sourcebook of Criminal Justice Statistics 1993* (Bureau of Justice Statistics, 1994), table 6.77.

⁵⁹*Child Rape Victims, 1992* (Bureau of Justice Statistics, June 1994), p. 1: "Thirty-six states responded that they did not keep such statistics. . . ." Also see Andre Henderson, "The Scariest Criminal," *Governing*, August 1995, pp. 35-38.

⁶⁰Twenty-nine states do not retain such data on murderers; most other states retain only some such data for selected years. Brookings Institution, Homicide Information Project, phone survey and correspondence, Summer 1995.

⁶¹For example, Anne Morrison Piehl, *Probation in Wisconsin* (Wisconsin Policy Research Institute, August 1992), p. 11: "The Wisconsin Division of Probation and Parole is uncomfortable thinking in terms of summary statistics and, therefore, does not record how many probationers go to prison during the term of their supervision."

⁶²*Recidivism of Felons on Probation, 1986-1989* (Bureau of Justice Statistics, 1992), pp. 1-6. *Prisons and Prisoners in the United States* (Bureau of Justice Statistics, 1992), p. xvi.

Those who in the 1960s made the initial push for the widespread use of "alternatives to incarceration" stressed that caseloads must be kept within manageable limits. A 1967 presidential commission on crime recommended "an average ratio of 35 offenders per officer."⁶¹ But in many jurisdictions today, officers "supervise" hundreds of "cases" at once. Those who in recent years have attempted to salvage the wreck of probation and parole have claimed that, by returning to intensive supervision, convicted criminals can be handled on the streets in ways that protect the public and its purse better than either routine probation and parole.

Unfortunately, however, more intensive programs have done little to remedy the problems of probationer and parolee noncompliance and recidivism. For example, a recent study found that over 90 percent of all probationers were already part of the very graduated punishment system called for by advocates of "intermediate sanctions"--substance abuse counseling, house arrest, community service, victim restitution programs, and so on. But about half of all probationers still did not comply with the terms of their probation, and only one-fifth of the violators ever went to jail for their noncompliance. As the study concluded, "intermediate sanctions are not rigorously enforced."⁶²

Even the most intensive forms of intermediate sanctions have not proven highly effective. For example, the most comprehensive experimental study of intensive supervision programs for high-risk probationers concluded that these programs "are not effective for high-risk offenders" and are "more expensive than routine probation and apparently provide no greater guarantees for public safety." Similarly, the best experimental study of intensive supervision programs for high-risk parolees found that the "results were the opposite of what was intended," as the programs were not associated with fewer crimes or lower costs than routine parole.⁶³

But it is important to note that even the "intensive" programs that failed were not all that intensive. For example, Joan R. Petersilia has recently found that most probationers get almost zero supervision, while even probationers who are categorized as high-risk offenders and slated for intensive monitoring receive little direct, face-to-face oversight. As she writes, if "probationers are growing in numbers and are increasingly more serious offenders, then they are in need of more supervision, not less. But less is exactly what they have been getting over the past decade."⁶⁴

⁶¹ Presidents' Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, D.C.: Government Printing Office, 1967), p. 167.

⁶² Patrick A. Langan, "Between Prison and Probation: Intermediate Sanctions," *Science*, May 6, 1994, p. 791.

⁶³ Joan Petersilia and Susan Turner, *Intensive Supervision for High-Risk Probationers: Findings from Three California Experiments* (Santa Monica: RAND Corporation, 1990), pp. ix, 98, and Susan Turner and Joan Petersilia, "Focusing on High-Risk Parolees: An Experiment to Reduce Commitments to the Texas Department of Corrections," *Journal of Research in Crime and Delinquency*, vol. 29, February 1992, p. 34. Also see Joan Petersilia and Susan Turner, "Intensive Probation and Parole," in *Crime and Justice: A Review of Research*, volume 17, (University of Chicago, 1993), pp. 281-335.

⁶⁴ Joan R. Petersilia, "A Crime Control Rationale for Reinvesting in Community Corrections," *Spectrum*, Summer 1995, p. 19.

And note: this is not the fault of America's probation and parole officers, most of whom do the virtually impossible job of "caseload management" as well as it can be done given the legal, budgetary, and other constraints under which they presently operate.

Rather, if Americans want to slow or stop revolving-door justice, then we must be ready and willing to invest not only in keeping more violent and repeat criminals behind bars longer, but in keeping more community-based offenders under strict supervision. We can afford neither to leave probation and parole to business as usual nor to abandon them. Community-based corrections departments must be reinvented administratively as law enforcement agencies dedicated first and foremost to restraining violent and repeat criminals. Reinventing probation and parole will inevitably mean reinvesting in them. As Petersilia has estimated, we "currently spend about \$200 per year per probationer for supervision. It is no wonder that recidivism rates are so high."⁶⁷ In short, there can be no denying the reality of revolving-door justice, and hence no escape from the need to restrain and punish more violent and repeat criminals more effectively both behind bars and on the streets.⁶⁸

5. The First Revolving Door: Juvenile Justice

When it comes to the "first revolving door"--the juvenile justice system--the need to incarcerate certain types of violent and repeat offenders, and to structure no-nonsense but treatment-oriented community-based sanctions for less serious youth offenders, seems even more acute and pressing.

As discussed in part one of this report, the demographics and dynamics of juvenile crime make it certain that more and more serious youth offenders are just over the horizon. As countless studies have shown, adult repeat offenders often begin as juvenile repeat offenders. For example, a study of juvenile courts in Maricopa County, Arizona and the state of Utah revealed that significant fractions of youth returned to juvenile court after a first referral for the following offenses: burglary (58 percent), motor vehicle theft (51 percent), robbery (51 percent), forcible rape (45 percent), and aggravated assault (44 percent).⁶⁹

Despite many legislative efforts aimed at trying more juvenile criminals as adults, not much has happened. In 1991 only about 51,000 male juveniles were held in public juvenile facilities, 32.5 percent of them for violent offenses ranging from murder to robbery.⁷⁰ But in 1992 alone there were over 110,000 juvenile arrests for violent crimes, and 16.64 times that number for property and other crimes.⁷¹

A good unobtrusive measure of just how bad revolving-door justice for juvenile offenders has become is the fact that in a survey of judges conducted by a trade paper for legal professionals, 93 percent said juveniles should be fingerprinted, 85 percent said that juvenile records should be available to adult authorities, and 40 percent said the minimum age for

⁶⁷Ibid., p. 1.

⁶⁸John J. Dilulio, Jr., *No Escape: The Future of American Corrections* (Basic Books, 1991), pp. 5, 102.

⁶⁹Penelope Lemov, "The Assault on Juvenile Justice," *Governing*, December 1993, p. 30.

⁷⁰*Sourcebook of Criminal Justice Statistics* (Bureau of Justice Statistics, 1994), p. 584.

⁷¹Ibid., pp. 423-426.

facing murder charges should be 14 or 15.⁷² (Most Americans, no doubt, would be surprised to learn that in most jurisdictions juveniles who commit crimes are not fingerprinted, and that their records of violent crimes are not weighed at all in adult criminal proceedings.) Likewise, much to the chagrin of advocates of leaving the juvenile justice system the way it is, both the Clinton administration and members of the 104th Congress have endorsed policies that would greatly facilitate the criminal prosecution of violent and repeat juvenile offenders in adult courts.⁷³

There is budding evidence that concerted efforts to close the first revolving door can work. To cite just one example, in July 1991, Harry L. Shorstein became state attorney for the Fourth Judicial Circuit in Jacksonville, Florida. At that time, Jacksonville was besieged by violent crime, much of it committed by juvenile offenders. In the year before Shorstein arrived, juvenile arrests had risen by 27 percent, but most young habitual criminals were released quickly. Jacksonville's finest were doing their best to remove serious young criminals from the streets, but the rest of the system was not following suit.

Then, in March 1992, Shorstein instituted an unprecedented program to prosecute and incarcerate dangerous juvenile offenders as adults. In most parts of the country, juvenile criminals for whom the law mandates adult treatment are not actually eligible for state prison sentences and are routinely placed on probation without serving any jail time. But Shorstein's program was for real. He assigned 10 veteran attorneys to a new juvenile-prosecution unit. Another attorney, funded by the Jacksonville Sheriff's office, was assigned to prosecute repeat juvenile auto thieves.

By the end of 1994, the program had sent hundreds of juvenile offenders to Jacksonville's jails and scores more to serve a year or more in Florida's prisons. Jacksonville's would-be juvenile street predators got the message, and the effect of deterrence soon appeared in the arrest statistics. From 1992 to 1994, total arrests of juveniles dropped from 7,184 to 5,475. From 1993 to 1994, juvenile arrests increased nationwide and by over 20 percent in Florida. But Jacksonville had a 30 percent decrease in all juvenile arrests, including a 41 percent decrease in juveniles arrested for weapons offenses, a 45 percent decrease for auto theft, and a 50 percent decrease for residential burglary. Although Jacksonville still has a serious violent crime program, the number of people murdered there during the first half of this year declined by 25 percent compared with the same period a year ago.⁷⁴

While everyone would benefit from following this example and restraining violent juvenile criminals, perhaps the biggest potential beneficiaries of such policies are none other than violent juvenile offenders themselves. For example, a recent study by Harvard University economist Anne Morrison Piehl reveals that between 1990 and 1994 some 155 persons age 21 or younger were murdered by guns or knives in Boston: 22 (14 percent) were on probation

⁷²"Tougher Treatment Urged for Juveniles," *New York Times*, August 2, 1994, p. A16, citing data from a survey of 250 judges conducted by Penn and Schoen Associates for *National Law Journal*.

⁷³Ken Cummins, "Clinton: Try More Youths as Adults," *Youth Today*, November-December 1995, pp. 28-29; Text of S. 1245, "Violent and Hard-Core Juvenile Offender Reform Act of 1995," 104th Congress, 1st Session, September 15 (legislative day, September 5), 1995. Also see Peter Reinhartz, "Juvenile Injustice in New York," *Wall Street Journal*, July 20, 1994, p. A13.

⁷⁴Data provided by Office of the State Attorney, Fourth Circuit, Jacksonville, Florida, 1995. Also see Mark Silva, "How 1 City Got Tough on Juvenile Crime," *The Miami Herald*, January 20, 1995, pp. A1, A10, and Paul Pinham, "Trial-As-Adult Policy Helped Lower Arrests," *The Florida Times-Union*, January 24, 1995, p. A6.

when they were killed, and 95 others (61 percent) had been arraigned in Massachusetts courts prior to their deaths. Likewise, 117 of the 155 young murder victims (76 percent) had criminal histories. And among the 64 known murders age 21 or younger, 15 (23 percent) were on probation when they killed, and 46 others (72 percent) had been arraigned in Massachusetts courts prior to the murders. Thus, 95 percent of the young killers and three-quarters of the young victims had criminal histories.⁷⁵

It could not be any clearer: unless we close the revolving door on juvenile crime, we will close the coffin on more juveniles.

6. Why Prison Pays

Of course, incarcerating more juvenile and adult violent criminals will not rid America of its violent crime problem. As we stated at the outset of this report, Americans must actively pursue all three key crime goals—prevention, protection, and restraint.

But we continue to be amazed that many crime analysts and others refuse to acknowledge the data on how socially beneficial and cost-effective a crime-restraint tool imprisonment can be.

For example, many experts and commentators who must truly know better continue to assert that increased levels of incarceration have been a failure because increased imprisonment rates have not always been followed immediately by decreased crime rates. But as these same students of the subject are normally the first ones to emphasize, crime rates are largely a complex function of demographic and other variables over which the justice system, do whatever it will, can exercise relatively little direct control. As National Bureau of Economic Research economist Steven D. Levitt has observed, "To the extent that the underlying determinants of crime . . . have worsened over time, the increased use of prisons may simply be masking what would have been an even greater rise in criminal activity."⁷⁶

To state the point a bit more bluntly, it apparently takes a Ph.D. in criminology to doubt that if we released half of all prisoners tonight, we would experience more crime tomorrow. This common sense of the subject—the obvious reality that prisons restrain convicted criminals from committing large numbers of crimes that they would be committing if free—is supported not only by the empirical data reported above on crime committed by community-based convicted criminals, but by a number of recent studies which estimate how much undetected and unpunished crime prisoners did before being taken off the streets.

To begin, we need to recognize that imprisonment offers at least four types of social benefits. The first is retribution: imprisoning Peter punishes him and expresses society's desire to do justice. Second is deterrence: imprisoning Peter may deter him or Paul or both from committing crimes in the future. Third is rehabilitation: while behind bars, Peter may participate in drug treatment or other programs that reduce the chances that he will return to crime when free. Fourth is incapacitation: from his cell, Peter can't commit crimes against anyone save other prisoners, staff, or guards.

⁷⁵Data provided by Professor Anne Morrison Pichl, Project on Youth Crime in Boston, Harvard University, John F. Kennedy School of Government, 1995.

⁷⁶Steven D. Levitt, "The Effect of Prison Population Size on Crime Rates: Evidence from Prison Overcrowding Legislation," National Bureau of Economic Research, February 1995, p. 1.