

U.S. Criminal Justice and Corrections: Effective Public Policy?

Fall 2008

Our Resources are Misspent,
Our Punishments Too Severe,
Our Sentences Too Long

Supreme Court Justice Anthony
M. Kennedy

COURSE ORGANIZATION

- **CRIME, CRIME VICTIMS - Week One**
 - Perspectives through history
 - Numbers and trends
 - What has happened in the last 60 years and why
 - The War on Drugs
- **CORRECTIONS – Week Two**
 - Numbing Numbers
 - What are the Goals of corrections?
 - Who are the Criminals?
 - Effective Public Policy?

Course Organization

- **SPECIAL TOPICS – Week three**
 - International Comparisons
 - Sexual Crimes and What is the Situation in Virginia and Fairfax?
 - Media and Political Hot Topic Crimes
 - Racism, morality, and other issues
 - The Innocence Commission and Virginia
- **The FUTURE & ODDS AND ENDS– Week four**
 - Reforms and will they work
 - Some real cases and people in jail and prison
 - You be the judge on current cases in the news

ISSUES AND CONCERNS OF THE CLASS

- QUESTIONS WE SHOULD ADDRESS
- PERSONAL EXPERIENCES
- CURRENT ISSUES AND TOPICS

Instructor

- Have not worked with offenders that were “innocent”
- Have a high respect regarding the dedication and professionalism of persons associated with the criminal justice system.

Instructor Warts

- Is an Economist which means we may occasionally wax philosophical. Supply, demand, indirect and hidden costs, social science, human motivations, etc.
- Has interest in and knowledge of but not a career in criminal justice. What you see is what you have got.
- Hard of hearing so please tone down if I get loud and be patient if I do not always immediately get your comments.

COURSE PURPOSE

- To expand our knowledge of serious criminal justice and corrections problems
- To look at the enormous human costs, taxpayer burden and seemingly “out of control growth” of criminal punishment and corrections versus the benefits of current policies
- To provide plenty of time for discussion

CRIMINAL JUSTICE

- Criminal justice involves public polices developed within the political framework of the democratic process
 - Americans rank crime among the nations greatest problems.
 - U.S. violent crime tends to be far out of line with comparable nations

- The pursuit of criminal justice is, like all forms of "justice," "fairness" or "process," essentially the pursuit of an ideal.
Throughout history, criminal justice has taken on many different forms which often reflect the cultural mores of society.

PERSPECTIVE

- **CRIMINAL JUSTICE** primarily deals with issues of societal laws. Criminal cases involve societal injury and the appropriate punishment of the offender.
 - **POLICING**
 - **COURTS**
 - **CORRECTIONS**
 - **CRIMINOLOGY INCLUDING THE CAUSES OF CRIME AND THE TREATMENT OF OFFENDERS**

Crime and the Metaphorical

- Behind every great fortune there is a crime – Honore' De Balzac
- Crime is rampant. We even steal away from responsibility. Andre Brie
- Morality is the custom of one's country and the current feeling of one's peers – Samuel Butler
- There is no crueller tyranny then that which is perpetuated under the shield of law and in the name of justice. Montesquieu, Charles-Louis De Secondat

More Metaphors

- The more laws the more criminals. Karol Bunsch – Poland
- Law has never made men a whit more just. Henry David Thoreau
- Laws too gentle are seldom obeyed, laws too severe, seldom executed. Benjamin Franklin
- The best way to get a bad law repealed is to enforce it strictly. Abraham Lincoln

The Final Metaphorical Word

- Trust in God, but tie your camel.
Muhammad
- Educate the children and it won't be
necessary to punish the men. Pythagoras

Crime

- Is crime “normal”? Emile Durkheim, French sociologist, 1895 – Crime is present not only in the majority of societies....but in all societies of all types. There is no society that is not confronted with the problem of criminality. Its form changes; the acts thus characterized are not the same everywhere.....

Crime: Mala in Se versus Mala Prohibita

- Acts evil in themselves (Mala in Se) in Greek, Roman and English common law include serious crimes of assault and theft, such as murder, rape, robbery, larceny and burglary.
- Acts simply prohibited by law (Mala Prohibita) are the result of legislative decisions to prohibit undesirable behaviors such as alcohol use, drunkenness, drug use and gambling, traffic violations, etc. Crimes without victims perhaps.

Mala in Se crimes

- The types of evil crimes against persons or property remains relatively constant over the centuries.
- If laws did not exist the number of Mala in Se crimes probably would not increase, a strong moral force exists absent the law.
- These crimes tend to transcend the boundaries of time and place. See Albanese

Violent Crimes

- Mala in Se crimes are generally what we fear. If there is a perception of an increase in evil violent crimes then this will cause a public outcry for political action.

Mala Prohibita crimes

- It can be argued that the number of mala prohibita offenses has grown dramatically in the United States. These are crimes without victims, political offenses and regulatory offenses.
- Commercialized sex, alcohol related crimes and drug sales and use come to mind. Treason, sedition, espionage, bribery and regulatory offenses including immigration laws are other examples. The danger is over criminalization which may dilute the force of the law if laws are considered petty and intrusive..

Mala Prohibita

- Mala Prohibita crime offenses vary widely between societies (i.e. the US and Europe), over time and sometimes even within societies i.e. the States of the United States. See Albanese
- Traffic regulations vary by jurisdiction, country, and technology in common use for example.
- Organized crime thrives on mala prohibita

Organized Crime

Prohibited activities that are in demand commercially are an open invitation to continuing crime enterprises.

The organization or enterprise rationally works for profits.

Their existence is maintained through use of force, threats and/or corruption of public officials.

The risk one is willing to take and the profits of crime go up proportionally. Narcotics and drugs, prostitution, interstate theft, certain types of pornography, illegal immigration and smuggling of high tariff goods are examples.

Organized Crime and Street Crime

- Organized crime does well in situations where there is a willing and private exchange of goods and services—participants do not feel they are being harmed but crimes are prosecuted on the grounds that society as a whole is being injured.
- Visible crime or “street crime” or “ordinary crime” is the least profitable, most vulnerable to apprehension. In addition to violent homicide, rape, theft, larceny and burglary other more common offenses include public order crimes—public drunkenness, aggressive panhandling, street prostitution, vandalism and disorderly conduct.

Crime

- The history of American criminal law is a history of change. Some acts once against the law later became lawful – sale of alcoholic beverages during prohibition. Other lawful acts became crimes.
- Cocaine was used for religious rituals and burials as early as 500 BCE. It was widely available in the U.S. in the late 19th century as a safe and useful medicine that could cure depression and sexual dysfunction. Have a Coca-Cola and a smile.

Crime in the United States 2006

- Uniform Crime Reports (UCR)
- Based on 16,000 agencies, representing 93 percent of the population in 47 states
- Part I or index crimes are considered quite serious and tend to be the most reliably reported.
- UCR focuses on index crimes, which include murder and non-negligent manslaughter, robbery, forcible rape, aggravated assault, burglary, larceny/theft, motor vehicle theft, and arson.

NIBRS

- National Incident Reporting System
- General concepts the same as UBCR
- More detail, more complete, allows for reporting multiple crimes with single incident.
- Includes Crimes Against Society including drugs and narcotics, vandalism, pornography, sex offenses, fraud, et. al.
- Data base is not as rigorous or reliable.

NIBRS

Includes all Uniform Crime Reports Violations Plus the following:

Group A Offenses: [Assault](#) (Simple, [Intimidation](#)), [Bribery](#), Breaking and Entering, [Counterfeiting/Forgery](#), Destruction/[Damage/Vandalism](#) of Property, [Drug](#)/Narcotic Offenses (including drug equipment violations), [Embezzlement](#), [Extortion/Blackmail](#), [Fraud](#) (false pretenses/swindle/confidence game, credit card and [ATM](#) fraud, [impersonation](#), [welfare](#) and [wire fraud](#)), [Gambling](#) (betting, wagering, operating/promoting/assisting gambling, gambling equipment violations, [sports tampering](#)), Homicide (negligent manslaughter, [justifiable homicide](#)), [Kidnapping](#)/Abduction, [Larceny](#) (pocket picking, purse snatching, shoplifting, [theft](#) and all other larceny), [Pornography/Obscene Material](#), [Prostitution](#) Offenses (prostitution, assisting or promoting prostitution), [Sex Offenses](#), Forcible (forcible [sodomy](#), sexual assault with an object, forcible fondling), Sex Offenses, Non-forcible ([incest](#), [statutory rape](#)), Stolen Property Offenses/[Fence](#), Weapon Law Violations

Group B Offenses: Bad Checks, [Curfew](#)/Loitering/Vagrancy Violations, Disorderly Conduct, Driving Under the Influence, [Drunkness](#), Family Offenses Nonviolent, Liquor Law Violations, [Peeping Tom](#), Runaway, [Trespass](#) of Real Property, All Other Offenses

Crime in the United States 2006 (UCR)

- 1.4 million violent crimes
 - Less than one-half percent chance you will be involved in one (far less for seniors)
 - Rate is down 37 percent from highs of 1991 and 1992
- 10.0 million property crimes
 - A three to three and one-half percent you will be involved in one (less for seniors)
 - Rate is down 35 percent from highs of 1991

Violent Crime 2006 (UCR)

Type	Total	Rate per 100,000
		<u>2006</u> <u>1991</u>
<u>Total</u>	<u>1,417,145</u>	474 758
Murder	17,034	5.7 9.8
Rape	92,455	31 42
Robbery	447,403	149 273
Assault	860,853	288 433

Property Crime 2006 (UCR)

• Type	Total	• Rate per 100,000
		• <u>2006</u> <u>1991</u>
• <u>Total</u>	9,983,568	• 3,335 5,140
• Burglary	2,183,746	• 729 1,252
• Larceny-Theft		•
•	6,607,013	• 2,207 3,229
• Motor Vehicle		
• Theft	1,192,809	• 398 659

Violent Crime Virginia 2006 (UCR)

Type	Total	Rate per 100,000	
		<u>National</u>	<u>Virginia</u>
• <u>Total</u>	21,568	474	282
• Murder	399	5.7	5.2
• Rape	1,792	31	23
• Robbery	7,749	149	101
• Assault	11,628	288	152

Property Crime Virginia 2006 (UCR)

Type	Total	Rate per 100,000	
		<u>National</u>	<u>Virginia</u>
• <u>Total</u>	189,406	3,335	2,478
• Burglary	31,913	729	417
• Larceny-Theft			
•	142,679	2,207	1,867
• Motor Vehicle			
• Theft	14,814	398	194

Crime in the United States

- Crime rates lowest in the Northeast and Midwest, highest in the South and West
- In the South: SC, FL, MD, TN, and LA relatively high. KY, WV, VA, and MS relatively low.
- Cities (MSA's) in the South: Baltimore, Nashville, Miami, Tampa and Houston have high violent crime rates

Crime rates in the United States

- Violent crime rates tend to be highest in Metropolitan areas.
- Property crime rates may run higher in cities outside metropolitan areas
- Crime rates tend to be lowest in non-metropolitan areas

United States Crime Index Rates 1960-2006

• Year	Violent (per 100,000)	Property
• 1960	161	1,726
• 1970	364	3,621
• 1980	597	5,353
• 1990	732	5,088
• 2000	506	3,618
• 2006	474	3,334

Crime Index Declines 1991-2006

United States

- Crime rates are down substantially in the last 25 years for both violent crime and property crime. One can speculate as to why.
- The economy has been strong, unemployment is down or
- There is less interest in cocaine and other illegal drugs or .

Crime Index Declines 1991-2006

Why continued-

- Get tough on crime has worked or
- Get tough on crime has basically no impact on crime or
- Community based crime prevention programs have been increasingly effective or

Crime Index Declines 1991-2006

Why Continued

- Persons are reluctant to report crimes (especially within family or community settings given the tendency for harshness and punitive criminal justice or
- Police resources are being used more efficiently through identifying crimes prone locations and hot spots or
- Police are focusing more resources on non-violent crime and other public safety issues or
- You can fill in the _____.

Why the 1960-1990 Crime Increase?

- Violent crime index up 354%, Property crime index up 195%
- Turbulent times: Civil Rights. Viet-Nam. Fears about the emergence of widespread use of drugs.
- Politics.
- Increased funding of law enforcement.
- Improved data collection.
- Other factors?

1960-1990 Increase in Crime

Politically there was fear of change that tied into arguments that it was time to “Get tough on crime” and stop coddling criminals.

Social changes, permissiveness, use of drugs and perceived changes in morality all fed into a demand for action.

Laws were passed that added to the list of crimes, enforcement of existing laws was stiffened and State and local policing organizations improved participation in national data bases including the UCR.

Other Suggested Factors for Increases in Crime Rates

- Increased power and importance of prosecutors.
- Increased consideration of victims rights.
- Racial repercussions of the civil rights movement especially in the Southern States.
- Lack of options for treating the mentally ill.
- The political need to get elected frequently and the benefits of appearing to be tough on crime and avoid any appearance of being soft on criminals.

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1960-2006 U.S. Crime Index Rates

Finer Details

- Murder: 1960 index 5.1, 1980 peak index 10.2. The 1966 and 2005 index was equal at 5.6. The index may have increased due to the drug wars and remained relatively high from 1972 to 1994.

1960-2006 U.S Crime Index Rates

Finer Details

- Forcible Rape and attempts or assaults to rape: 1960 index 9.6, 1992 peak index 42.8. The 1978 and the 2006 index was roughly equal at 30.9. The index likely increased due to major improvement in the UCR data and an increased willingness to report this very serious crime. The more recent declines may reflect concerns about the impacts of reporting rape and the impact on acquaintances and families.

1960-2006 U.S Crime Index Rates

Finer Details

- The index rates for other violent crimes, namely robbery and aggravated assault, and property crime including burglary, larceny/theft and motor vehicle theft all followed a pattern of increases in the 60's and early 70's with peak rates occurring in the 80's and early 90's. The index rates likely reflect improvements in UCR data in the 60's, side effects of the drug wars of the 80's and early 90's but with declines more recently that may be in response to community based and efficient police targeting of problem areas.

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 - Effective Public Policy?

CRIME VICTIMS

Murder

- Victims: Males 79 percent, Blacks 50 percent and Whites 46 percent.
- Means: Firearms over two-thirds. Handguns involved in over three-fourths of murders with firearms.
- Felonies (including robbery) and narcotic drug laws 22%
- Arguments, family members, acquaintances, strangers
- Mainly a crime of passion. Arguments, known acquaintances, one time event situations. The number of mafia or commercial type murders is less than two percent of the total.
- U.S. murder rates five times that of England and Canada.

National Crime Victimization Survey (NCVS)

- Second of nations two crime measures
- UCR based on monthly law enforcement reports.
- NCVS is based on annual survey by the Bureau of the Census of approximately 87,000 households.
- The NCVS is the primary source of information on the characterization of criminal victimization and on the number and types of crimes not reported to laws enforcement officials.

Crime Victimization 2005

- US high on lethal violence, par on minor violence and lower on property crime than many industrialized nations
- All crimes estimated at 23.4 million, personal crimes 5.4 million or 23 percent, property crimes 18.0 million or 77 percent
- Two-thirds of the violent crimes represent attempted/threatened violence. Assaults constitute 84 percent of violent crimes.
- Thefts constitute three-fourth of property crimes.

Crime Victimization 2005

Personal Crimes

- Per 1000 persons
 - Males 26.3 Females 18.1
 - Whites 20.9 Blacks 28.7
 - Never married 39.0 Married 18.8
 - Widowed 6.9 Separated 32.8

Crime Victims per 1000 persons 2005

- African American Teenage Males 113
- White Teenage Males 94
- White Teenage Females 55
- African American Adult Males 35
- White Adult Males 18
- White Elderly Males 6, Females 3

Crime Victimization

- Exposure – Cities, most crime is intra-racial, low income – less able to afford security
- Crime costs – lost property, lower productivity, medical care
- Psychological – fear, quality of life
- Criminal justice system
- Total cost of crime – Billions, perhaps seven percent of GDP or one trillion plus?

Crimes Reported 2005

- Reported to Police
 - All crimes 41 percent
 - Personal crimes 47 percent
 - Rape, Sexual Assault 38 percent
 - Property Crimes 39 percent
 - Motor Vehicle Theft 83 percent

Crime Not Reported

- Not all crimes are reported. There may be a victim/offender relationship so the crime is covered up. There may be a lack of confidence in the police. The crime may be considered a private transaction without a victim. There may be other reasons including too much trouble, not worth the fuss, etc.

Crime Clearances

- To count as a clearance
 - At least one person arrested
 - Charged with commission of a crime
 - Case turned over to courts for prosecution
- Note:
 - One person may commit several crimes
 - Several persons may commit one crime
 - clearances may relate to crimes committed in previous years

Crime Clearances

Clearances

Violent crimes 47 percent

Murders 62 percent

Aggravated assaults 56 percent

Forcible rapes 44 percent

Robberies 26 percent

Property crime 16 percent including 13 percent of motor vehicle thefts

Crime Clearances and Arrests

- Not all reported crimes result in arrests: There may be a lack of evidence or often the charge is of a lesser crime for those arrested to make it more likely there will be a conviction through a plea agreement.

Estimated Persons Arrested 2006

- Total 14.4 million
- Largest categories Drug abuse violations 1.9 million, DUI 1.5 million, Liquor laws, drunkenness and disorderly conduct 1.9 million, aggravated and other assaults 1.8 million and larceny theft 1.0 million.
- Uniform Crime Reports comprise 2.2 million arrests

Arrest

- The term arrest is related to the French word *arret.*, meaning “stop”.
- So an arrest is the act of depriving a person of their liberty in relation to the investigation and prevention of crime.
- For serious crimes, you may be incarcerated pending judicial bail determination or an arraignment. In other cases, the police may issue a notice to appear for arraignment.
- An arrest is not a conviction but it is serious.

Convictions: Criminal Justice Models

	Due Process Model	Crime Control Model
Goal	Preserve Individual Liberties	Repress Crime
Value	Reliability	Efficiency
Process	Adversarial (Lawyer vs Lawyer)	Administrative
Major Decision Point	Court Room (Jury)	Police, Pretrial Process
Basis of Decision Making	Law	Discretion

Judge

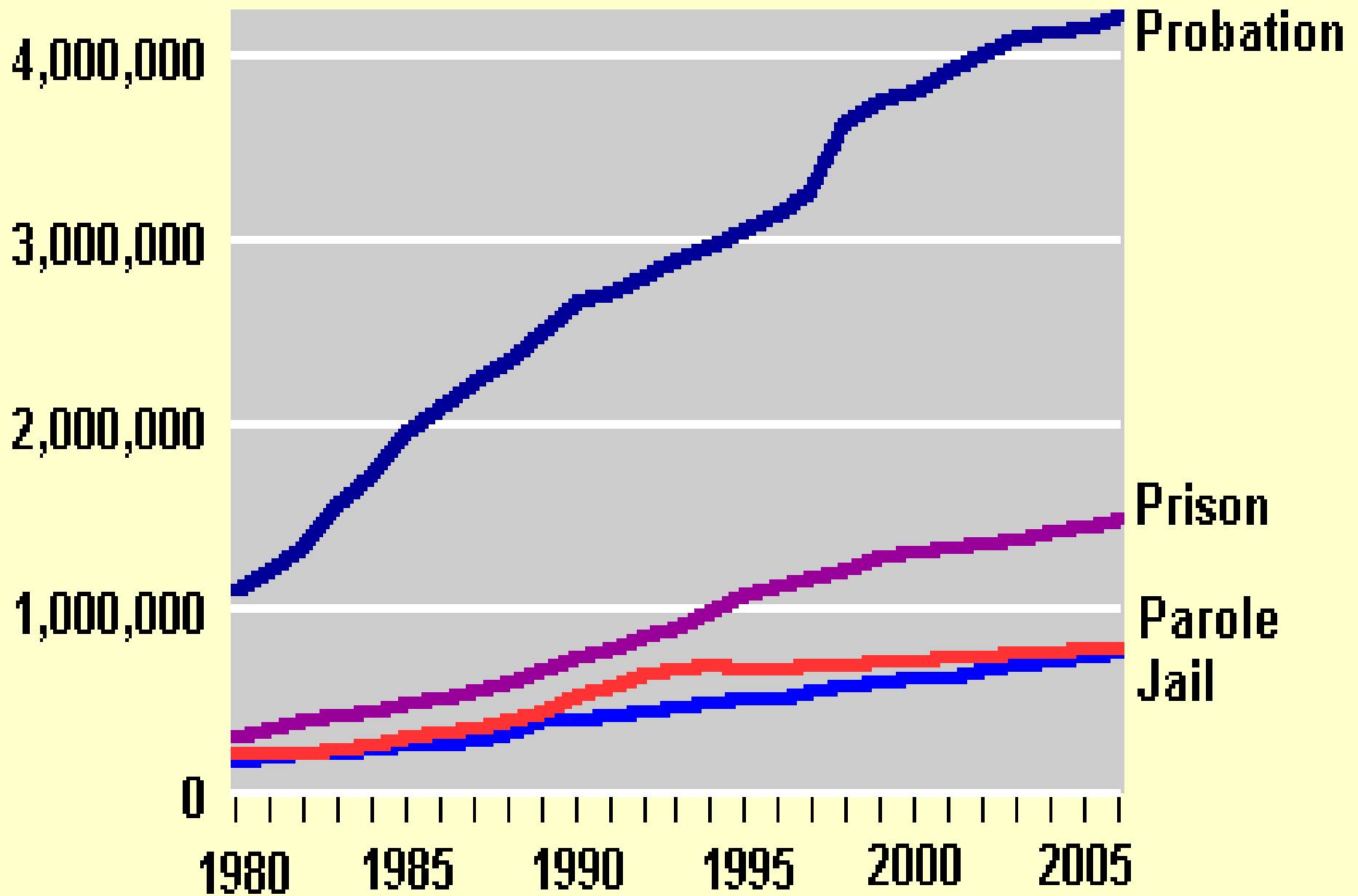
CORRECTIONS

- A crime is committed.
- Through due process it is determined that an offender is guilty of breaking a public law.
- The courts determine the appropriate punishment for the offender.
- Punishments may include fines, restitution and community service. In many cases the offender will be placed under the supervision of a probation officer.

CORRECTIONS

- For about one-quarter of the criminal convictions the offender will be sentenced to incarceration. An accused can also be denied bond and serve time in local jails awaiting trial.
- Misdemeanor sentences of less than one year are served in jail.
- Felony sentences of one year or more normally result in incarceration in state or federal prisons.

Adult correctional populations, 1980-2006



CORRECTIONS

- IN 2006, OVER 7.2 MILLION PEOPLE WERE ON PROBATION, IN JAIL OR PRISON, OR ON PAROLE AT YEAREND.
- **THIS IS 3.2 % OF ALL U.S. ADULT RESIDENTS OR 1 IN EVERY 31 ADULTS**

CORRECTIONS

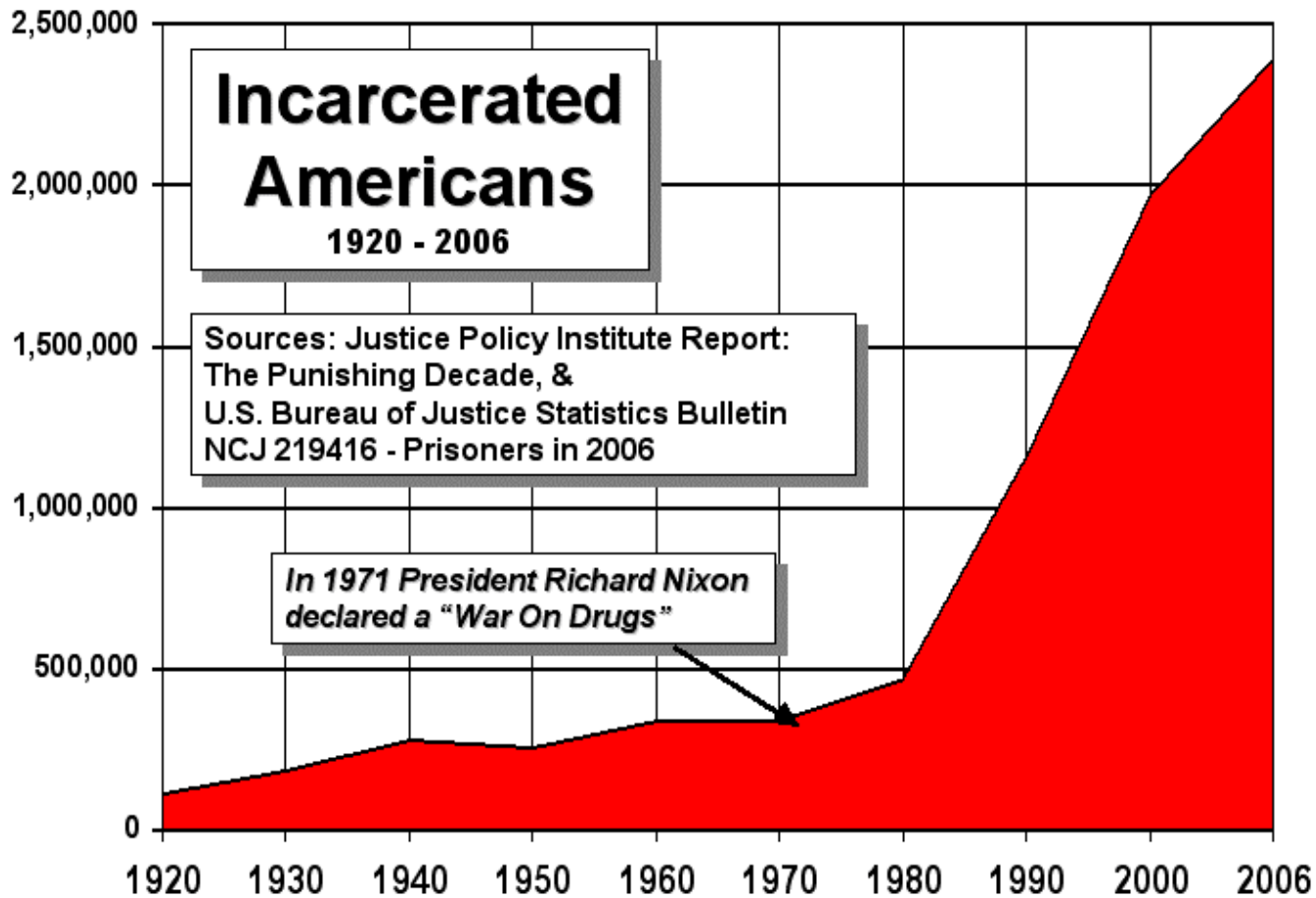
- TO GET A PERSPECTIVE: 7.2 MILLION PERSONS IS THE ENTIRE WASHINGTON, DC, ARLINGTON, ALEXANDRIA STANDARD METROPOLITAN AREA
- WE CAN TOSS IN CLEVELAND AS A BONUS.
- AS A CITY THE CORRECTIONS POPULATION WOULD LAG CHICAGO AS THE FOURTH LARGEST IN THE U.S

CORRECTIONS

- Total number under correctional supervision 2006
7,211,400
- Probation and Parole
5,035,225
 - Probation 4,237,023*
 - Parole 798,202
- Incarceration 2,258,983
 - Prison 1,492,973
 - Jail 766,010

*Includes 82,808 persons on probation in prison

US incarceration trends



INCARCERATION

- **NUMBING NUMBERS**

2,308,622 prisoners – Federal and State prisons or local jails as of June 30, 2007

U.S. Population 301,139,947

Rate of incarceration per 100,000 persons 767

INCARCERATION

- NUMBING NUMBERS

Informal Estimates

2,400,000 prisoners-Federal and State prisons or local jails as of June 30, 2008

U.S. Population 303,824,646

Rate of incarceration per 100,000 persons 789

In 2009 the rate of incarceration per 100,000 persons will exceed 800

INCARCERATION

- On June 30, 2006 an estimated 4.8 percent of black men were in prison or jail, compared to 1.9 percent of Hispanic men and 0.7 percent of white men.
- Women comprise an estimated one-half percent of prisoners but the percentage is increasing.

Incarceration of Men

- On June 30, 2006 an estimated 11.7 percent of Black men ages 25-29 were in prison or jail, compared to 3.9 percent of Hispanic men aged 25-29 and 1.7 percent of white men ages 25-29.

Inmate Population

- It is estimated that three-fourths of the persons that are incarcerated have a history of drug/alcohol abuse.
- One out of six have mental illness.
- One-half the women have suffered sexual or physical abuse.
- Prisoners predominately come from poor/working class communities.
- Two-thirds are racial and/or ethnic minorities.

Incarceration

- A view through the bars can spoil the prettiest landscape – Wieslaw Brudzinski

Purposes of Incarceration

- Retribution
- Incapacitation
- Deterrence
- Rehabilitation

Retribution

- Person has infringed upon the rights of others so deserves to be punished.
 - “An eye for an eye, a tooth for a tooth”
 - “Just deserts”
 - Frontier justice – The “Martins and the Coys” and lynching of offenders

Retribution continued

- Rape clear cut via victim, family, community, etc. What of marijuana use, prostitution, cheating on income taxes, petty theft, and other non-violent crimes?
- State becomes the punisher and enforces retribution. Can also involve fines and financial penalties. Issue of set tariff for wrongs regardless of mitigating circumstances.

Retribution continued

- International law: Persons come to prison as a punishment, not for punishment.
- Punishment with the loss of liberty and freedom of choice and separation from friends and family is the loss.
- Punishment is not another element to be meted out once a person is in prison through beatings, torture, deprivation of light, heat, food and water and medical care.

Retribution continued

- Goal of retribution – no effort to change the offender and provides nothing for society except revenge
- In recent years since the 1960's retribution as a justification for punishment has become more popular as states have abandoned social reform as a purpose of sentencing.

Retribution

- Increased tendency to continue punishment beyond jail or prison
 - Denial of voting rights for felons. Virginia is one of two states that make restoration of voting rights especially difficult.
 - Registration of offenders and listings that can hinder employment and obtaining licenses.
 - Set tariff for wrongs regardless of extenuating circumstances.
 - Denial of access to federal programs including home loans to felons.

Incapacitation

- Society can remove an offender's capacity to commit further crimes by detention in prison or execution
- “Lock them up and throw away the key”, banishment, join the army in WW I or II, or “three strikes you are out” in California.
- Focus is on characteristics of the offender

Incapacitation continued

- Research suggests that relatively few offenders are responsible for a large number of violent and property crimes.
- Therefore we should lock up these “career criminals” but difficult to predict so lock up all persons for more time. This policy has an impact on correctional facilities and increases the likelihood offenders will opt for expensive time-consuming trials. They are less likely to cop a plea.

Incapacitation continued

- Difficult to predict probability of repeating crimes in determining sentence or decision to release the offender.
- How to determine the length of sentence?
- Presumably will release offender once “reasonably” sure that they will no longer repeat crimes.

Incapacitation continued

- What happens when offender gets out?
Nearly 100 percent of offenders are released at some point.
- Incapacitation sentences may be seen as violation of due process by punishing offenders for *predicted* future acts as opposed to actual crimes.

Incapacitation continued

- Current issues include the deviants or undesirables of society. Mentally ill and/or chronic consumers of alcohol or drugs on the street.
- Black or Latino unemployed young males hanging around on street corners dealing drugs.
- Tempting to sweep the streets clear to temporarily and presumably reduce crime. Social removal as a bases for incarceration.

Incapacitation continued

- Longer sentences for chronic criminals should theoretically reduce crime. We therefore should be able to incarcerate our way out of crime. Politically this sells well but unfortunately there is little or no research that clearly validates this hypothesis.
- A by product is a major increase in families without male role models and one can argue that the policies of recent years may actually generating new criminals for the future.

Deterrence

- Deterrence aims to prevent crime through the example of offenders being punished.
- *General* deterrence is directed at preventing crime among the general population.
- *Special* deterrence is aimed at preventing future crimes by a particular offender.

Deterrence continued

- Politically popular “tough on crime” promises of the likelihood and severity of punishment for various acts presumably send a message to a would be criminal.
- A problem is that we cannot measure how many crimes are not committed. We can only measure the offenses.

Deterrence continued

- To date there is virtually no reliable evidence to suggest that criminal sanctions can deter crime. Only those offenders who are not deterred come to the attention of the criminal justice system. See Albanese
- Deterrence assumes people act rationally and think before they act. Crimes involving human relationships, drugs, alcohol, psychological problems, mental illness and impulsive acts of vandalism are predominately tied to anger, depression and strong emotions. They are seldom rational.

Rehabilitation

- Popular model in the 1940's to 1970's but has changed since then. Assumes crime is really caused by identifiable, curable problems such as poverty, lack of job skills, low self-esteem and hostility towards authority.
- Goal is to restore a convicted offender to a constructive place in society through some form of vocational or educational training or therapy.

Rehabilitation continued

- Criminal behavior is assumed to result from some social, psychological, or biological imperfection. Treatment of the disorder becomes the primary goal of corrections.
- Focus is on the offender. Persons are treated, not punished and are returned to society when “cured”.

Rehabilitation

- Practically have periods of dissatisfaction with the philosophical basis and practical results of rehabilitation.
- “the sanctioning authority is entitled to choose a response that expresses moral disapproval, mainly punishment.
- No matter what the program some persons completing programs and/or being released early released early on parole because of completing rehabilitation programs will commit crimes in the future.

Rehabilitation continued

- Judges should not set fixed sentences but rather maximum and minimum terms so that the parole board can release inmates when they have been rehabilitated
- Based on opinion polls of public program administrators and prison wardens there is a lot of public support for rehabilitation

Rehabilitation continued

- Many legislatures, prosecutors, and judges have abandoned the goal in favor of retribution, deterrence and incapacitation.
- Politicians cannot stand the heat for cases that fail due to the media frenzy. “Willie Horton” etc. Sort of the “one percent solution”.

Corrections: Current situation

- There is a lack of agreement on the purposes of corrections and incarceration. This has contributed to a concern about disparity in sentences. Disparity occurs when offenders with similar backgrounds who commit similar crimes receive different sentences. The result has been a trend toward uniform mandatory and fixed sentences.

Corrections: Past Years

- Major increases in the number of persons under supervision by the corrections system over the past 50 years.
 - Increase in punitive policies. Rhetoric that more liberal policies are permissive.
 - Reaction to the civil rights movement of the 60's.
 - Fear of whites in part based on racial stereotypes and racial prejudice
 - Fear of minorities of crime

Corrections: Past Years Continued

- Fear of loss of moral values with pop culture. Loss of control.
- Women's rights.
- Fear of disorder: Immigration, broken homes, societal secularization, pornography, gay and lesbian rights, courser language
- Fear of drug use and permissiveness

Corrections: Results in Past Years

- Replacement of social welfare programs with social control.
- Reduction in discretion that can be exercised by judges.
- War on drugs
- Explosion in corrections programs including prison and jail sentences.
- Political dividends in 1984 (Reagan), 1988 George H.W. Bush and 1996 (Clinton)

Corrections, Religion and Punitive Justice

- A 1976 Supreme Court case of *Gregg v. Georgia* played two roles in the movement toward a more punitive system of criminal justice.
- It opened the gates for states to impose the death penalty.
- It ruled that public opinion was a legitimate basis for formulating justice policy.
- States, through either direct legislation or the formation of sentencing commissions enacted penal policies based on “just deserts” and, in varying degrees, on a rejection of the rehabilitative model.

Corrections, Religion and Criminal Justice continued

- Penal changes were driven by the perceived need for “harsher punishment”.
- At both the state and federal level public opinion data suggested that sentences served were considerably and consistently more lenient than public estimates of what ought to be the normative societal response.
- Krisberg, President of the National Council on Crime and Delinquency, views the “reemergence of puritanism as a major force in American political and social discourse.” “In this formulation, evil is a virtually inevitable character flaw in certain individuals” and “social and economic forces are assumed to have little impact on deviant behavior. Therefore “punishment becomes the primary societal response to offenders, and religious conversion is the only acceptable rehabilitation program.

COURSE ORGANIZATION

- CRIME, CRIME VICTIMS - Week One
- CORRECTIONS – Week Two
 - Numbing Numbers
 - What are the Goals of corrections?
 - Who are the Criminals?
 - Effective Public Policy?

Course Organization

- SPECIAL TOPICS – Week three
 - International Comparisons
 - Drugs
 - Sexual Crimes
 - Racism and Criminal Justice
 - Media and Political Hot Topic Crimes
 - The Innocence Commission and Virginia
- The FUTURE & ODDS AND ENDS– Week four
 - Reforms and will they work
 - Some real cases and people in jail and prison
 - You be the judge on current cases in the news
 - The Death Penalty
 - Women in Prison
 - Prison Costs

Parents Incarcerated and Their Minor Children

- BJS The nations prisons (excludes jails) held approximately 744,200 fathers and 65,600 mothers at mid-year 2007.
- Parents held in the nations prisons—52 percent of state inmates and 63 percent of federal inmates—reported having an estimated 1,706,600 children, 2.3 percent of the U.S. resident population under age 18.
- Extending the data to include parents in jail (conservative 50 percent of the number held in prisons) and projecting to mid-year 2008 (conservative 4 percent increase over mid-year 2007) the total estimate for mid-year 2008 would be 2,660,000 children.
- This is slightly greater then the combined population of Wyoming, The District of Columbia (as a city), Alaska and Delaware.

Bureau of Justice Statistics Data

- Overall excellent data and well done. But series do not correspond for good reasons.
- Uniform Crime Reports 2006
 - Violent Crimes 1.4 million. Murder, rape, etc.
 - Property crimes 10.0 million. Burglary, etc.
 - Total UCR crimes 11.4 million
- Nation Crime Victimization Survey 2006– sample est. 23.4 million
- Crime Clearances BJS
- Arrests BJS 2006
 - Violent and Property UCR crimes 2.2 million
 - All other arrests 12.2 million
 - Total arrests 14.4 million
- Note: NCVS does not generally include estimates of “victimless” crime. The largest categories being substance abuse crimes i.e. alcohol or drugs.

Incarceration – Current situation

- The move toward uniformity in sentencing is the result of the widespread adoption of retribution and incapacitation as guiding philosophies in most jurisdictions

Incarceration

- Nationally the states spent \$55 billion on prisons in 2007. This is projected to increase by \$27.5 billion by 2011 including \$15 billion for prison operations and \$12.5 billion for housing.
- Virginia spent \$1.136 billion in fiscal year 2007 on corrections. For every dollar spent on higher education, Virginia spent 60 cents on corrections. New York spent 83 cents.

Incarceration

- By 1990 every state and the federal government had enacted some of the following:
 - Mandatory sentences with reduction in judicial discretion.
 - Truth-in-sentencing policies that rewarded states with federal funds (to build more prisons) if convicts are required to serve more of their sentences.
 - The suspension of parole programs
 - Mandatory life sentences without parole if convicted three times for certain felonies.

Incarceration

- Nearly everyone who goes in comes out. Each year more than 700,000 prisoners are released from federal and state prisons and 9 million people go in and out of U.S. jails.
- Recent years have seen a flood of prisoners whose prior experiences and prison terms have left them so ill-equipped to reenter their communities and find work that two-thirds of them are arrested for a new crime within three years, and more than one-half are back behind bars.

Incarceration and recidivism

- Longer sentences without rehabilitation or reentry programs leads to high rates of recidivism. Longer sentences and high rates of recidivism leads to three predictions.
 - The increase in incarceration would outstrip the criminal justice system's capacity, producing severe overcrowding in in prisons and jails.
 - Corrections budgets would have to swell commensurately.
 - The families and communities to which prisoners return will suffer further disruption and damage.
- These predictions have become facts.

Recidivism

- Research and data on recidivism is sparse.
- A 1994 BJS report indicated that over two-thirds of State prisoners released in 1994 were rearrested within three years either because of a new crime or because of a technical violation of their parole.
- Overall 1994 reconviction rates were relatively stable compared with a 1983 study. For violent offenders the reconviction rates were at 40-41%, property offenders at 53% and public-order offenders at 42%.
- The rate increased significantly for drug offenders going from 35% in 1983 to 47% in 1994.

Recidivism

- A British report by BBC in 2005 indicated the recidivism rate for released prisoners for the United States is 60% compared to 50% for the United Kingdom (UK). The lower rate for the UK was attributed to a focus on rehabilitation and education of prisoners compared to the U.S. focus on punishment, deterrence and incapacitation.
- Some UK observers now view the treatment of recidivism as a mental health issue rather than a “crime” issue.

Recidivism

- An Open Society Institute 1997 study indicated that inmates who received some post-secondary education had recidivism rates 40 percent lower than those that received no post secondary education. The overall recidivism rate of 67 percent for State prisoners was lowered to 15 percent with earning an A.A. degree, 13 percent with a Bachelor's degree and 1 percent with earning a Master's degree.
- Nearly all funding for college level training for inmates was removed by the 1994 Violent Crime Control and Law Enforcement Act and has never been restored.

Incarceration side effects

- State corrections budgets have swelled.
- Most states have had to divert funds from education, welfare and other social services to prisons.
- Many states are terminating in-prison drug treatment, education, and other programs, making it more likely that released prisoners will buckle in the outside world, re-offend, and be incarcerated in short order. In a sense a policy to increase public safety may unintentionally decrease it.

Incarceration and Crime

- “Increasing incarceration while ignoring more effective approaches will impose a heavy burden upon courts, corrections and communities, while providing a marginal impact on crime”.
Incarceration and Crime: A Complex Relationship. The Sentencing Project, 2005
- The Sentencing Project is a national nonprofit organization that works for a fair and effective criminal justice system.

Incarceration and Crime

- Has the unprecedented 36 year rise in the use of incarceration had an impact on the rate of crime in the United States?

Sentencing Project Report

- From 1920 to 1970 the rate of growth in the population and the growth in the use of incarceration was commensurate. There was a slightly higher rate of growth in incarceration.
- From 1970 to mid-2008 the U.S. population growth was 100 million persons or 49 percent. During the same period we can estimate that the U.S. jail and prison population grew from less than 330,000 to 2.4 million or over 625 percent.

Sentencing Project Report

- There was a significant 48 percent increase in the crime rate between 1970 and 1991. There has been a significant 37 percent record decrease in the crime rate between 1991 and 2006.
- Advocates of increased use of incarceration contend the policies of the past have been the primary factor responsible for the reduction in the crime rate. The two-pronged approach of tougher sentences and restrictive release patterns have led to the crime drop.

Sentencing Project Report

- The tougher sentencing rules have been most evident in the federal system where mandatory minimums, sentencing guidelines, and the abolition of parole have combined to create an extremely punitive system.
- The Dept. of Justice has argued that “tough sentencing means less crime” by ensuring that violent offenders are off the streets and that the guidelines impose just punishment and deter others from committing crimes.

Sentencing Project Report

- Despite the Dept. of Justice claims, such a direct link between increased incarceration and lowering crime rates is far from an accepted fact. The Sentencing Project Report looked at distinguishing between state and national trends, differing measures of crime and victimization and assessing various time frames for analysis. Other factors including general economic trends, employment rates, age, demographics, rates of drug abuse and geographic variation.

Sentencing Project Report

- Analysis Complications: Neither the Uniform Crime Reports of serious violent crimes (determines crime rate) or the National Crime Victimization Survey of sample households incorporate any assessment of drug offenses, since personal drug use or drug sales, apart from those resulting in arrests, are not reported to the police as victimizations.
- This absence of data greatly obscures the overall number of people engaged in illegal activity and skews the national perception of actual trends in criminal activity.

Sentencing Project Report

- Without going into all the aspects of the study and the methodology, the report concludes: AN OVERVIEW OF CHANGE IN INCARCERATION AND CRIME IN ALL 50 STATES REVEALS NO CONSISTENT RELATIONSHIP BETWEEN THE RATE AT WHICH INCARCERATION INCREASED AND THE RATE AT WHICH CRIME DECREASED.

Sentencing Project Report

- While the nation celebrates a reported crime rate at a 40 year low it is instructive to note that despite the addition of more than 1.3 million (my 2008 estimate) persons to the prison population (excluding jail inmates), crime rates are at the level (likely below) that they were at a time (1970) when the number of prisoners was just a fraction of the total today.

Incarceration and Crime: Other Reports

- A 2000 Sentencing Project report concluded that between 1991 and 1998 that there was no discernable pattern of states with higher rates of an increase in incarceration experiencing more significant declines in crime.
- Updating the study to include 1998 to 2003: Since 1998, 12 states experienced stable or declining incarceration rates, yet the 12% average decrease in crime rates in these states was the same as in the 38 states in which rates of imprisonment increased.

Incarceration and Crime: Other Reports

- In a 2004 report economist Steven Levitt identified the growth in incarceration as one of four primary factors leading to a decline in crime in the 1990's. He argued that each additional person incarcerated results in the prevention of 15 crimes.
- However his model predicts the majority of crimes prevented by incarceration of additional persons is comprised of "less socially costly property crimes". He concludes this approach is not necessarily the most efficient allocation of resources since the social benefit of radically expanding the prison population was likely to be well below his estimates.
- He estimates 80% of the crime that would be prevented for each additional prisoner would be for non-violent offenses.
- In effect Levitt concludes there are diminishing marginal returns from increasing the incarceration rate. The marginal benefit of incarcerating an additional person declines with each additional arrest.

Incarceration and Crime: Other Reports

- Levitt, in a more recent article, noted that it seems quite plausible that substantial indirect costs are associated with the current scale of imprisonment including impact on the African American community, and that further increases in imprisonment may be less attractive than the naïve cost benefit would suggest.
- Other factors accounting for the drop in crime rates in the 1990's include a growing economy, changes in drug markets (topping out), strategic policing and community response to crime.

Crime and Incarceration

- According to Blumstein and Beck there is little evidence that changes in crime have been the driving force in expanding the prison population.
- In what is likely the most sophisticated analysis of factors regarding the prison population they concluded that for the period 1980-1996 changes in crime explained only 12% of the increase of the prison rise, while changes in sentencing policy accounted for 88% of the increase.

Crime and Incarceration

- Blumstein and Beck: Persons arrested for a felony offense became far more likely to be sentenced to prison (accounting for 51% of the increase) and to be sentenced for a longer period of time in prison (37 percent of the increase). Newly adopted policies such as mandatory sentencing, “truth in sentencing,” and increasingly “three strikes you’re out” laws have resulted in a far more punitive justice system than in the past.

Corrections: Effective Public Policy?

- What is the purpose of our current public policy with regard to criminal offenders?
- For those that are being incarcerated it appears that rehabilitation has been abandoned and will not survive political scrutiny. Research indicates that massive incarceration of additional offenders does not appear to have deterred or reduced crime and that incapacitation, with the exception of a few of the very worst offenders, also does not have an impact of crime.
- **Therefore retribution or revenge appears to be the primary goal of current policy. Is it effective public policy?**

International Comparisons

Crime and Incarceration: International Comparisons

- Mauer states U.S. rates of victimization are in the mid-range of the nations surveyed. Residents in New York City, for example, are less likely to be victims of burglary or theft than persons in London.
- One less formal source but well done: For the crime of assault, 2.2 percent of Americans are victimized each year, compared to 2.3 percent for Canadians and 2.8 percent for Australians.

Crime and Incarceration: International Comparisons

- For violent crimes Americans are considerably less safe than citizens of other countries. For example homicide rates in the U.S. are about four times that of most nations in western Europe.
- Mauer concludes that despite the fact that the U.S. has a higher rate of violent crime than other industrialized nations, much of the unprecedented prison increase of recent years is explained not by crime rates but by changes in sentencing and drug policy.

International Criminal Justice

- Research by Marc Mauer. Comparative International Rates of Incarceration: An Examination of Causes and Trends. The Sentencing Project. June 2003
- ...the U.S now locks up its citizens at a rate 5-8 times that of the industrialized world to which we are most similar, Canada and western Europe. My note, now likely 6-9 times in 2008.

International Criminal Justice Incarceration Rates

- Rate per 100,000
- U.S. 800 est. for 2008
- Virginia 759
- Russian Fed. 628
- Ukraine 345
- South Africa 335
- Libya 216
- New Zealand 183
- Worldwide Ave. 166
- United Kingdom 148
- Zimbabwe 136
- European Union 133
- China 119
- Canada 107
- Germany 93
- France 85
- Denmark 67
- Japan 61
- Pakistan 57
- Indonesia 52
- India 30

Source: Kings College
London

International Incarceration Rates

- International Centre for Prison Studies at King's College London.
- The U.S. currently has the largest documented prison population rate in the world both in absolute and proportional terms.

Crime and Incarceration: International Comparisons

- Germany decreased use of short prison sentences. The legislature embraced the idea that short-term imprisonment does more harm than good, it disrupts the offenders ties with the family, job, and friends, introduces the offender into prison subculture, and stigmatizes the offender for the rest of his or her life.
- In California a man convicted of stealing \$153 worth of videotapes from a department store received a sentence of 50 years to life. It is estimated California taxpayers will spend at least \$1 million over the next 50 years to lock up this videotape thief. Such policies may be found constitutional, but they do not necessarily represent effective crime policy.

U.S. Justice Versus Europe

- France – average time served 8 months in 1999. U.S. 53 months for state prisons in 1996 and 28 months all offenses; federal 91 and 67 months. (note likely longer now in U.S.). German law: Sentences of less than 6 months result in fines and no prison time

Crime and Incarceration: International Comparisons

- U.S. sentencing practices appear to be much harsher for many offenses.
- Burglars in the U.S serve an average of 16.2 months in prison compared to 5.3 months in Canada and 6.8 months in England/Wales.
- In the 70's Finnish officials instituted reforms to increase the use of suspended sentences and earlier eligibility for parole release. Incarceration declined 40 percent in 15 years.

Crime and Incarceration: International Comparisons

- Stern observes that “Among mainstream politicians and commentators in Western Europe, it is a truism that the criminal justice system of the U.S. is an inexplicable deformity.

U.S. Law Versus Europe

- European law: Many acts are prohibited but not necessarily inherently evil. State power has made for mildness in continental Europe.
- U.S. punishments function of mass politics and often volatile and vicious currents of democratic process. – “soft on crime” electioneering, judgeship elections gain “political publicity” which is not the case in western European countries.

U.S. Justice versus Europe

- U.S. cultural roots. Suspicious of central government authority. Egalitarian social status—dislike of social hierarchy. Procedural fairness but less respect for person. Christian/religious tradition. American racism. Violence – rate of crime, violence in prisons and policing. Degradation in punishment.

U. S. Justice versus Europe

- European model. Offenders must not be degraded but accorded respect and dignity. Prison is a rare sanction. Sentences dramatically shorter but with some sense of proportionality—sentence though indeterminate cannot be disproportionate to the gravity of the offense. Prison uniforms largely abolished. Rules on inmate privacy, elimination of barred doors. Principle of approximation or normalcy, prison life should approach outside. German convicts work at “real jobs”, No loss of civil rights—right to vote in contrast to the United States.

U.S. Justice versus Europe

- Humiliation and degradation is a prime feature of American criminal justice.
 - Formal equality – treat all exactly alike – no special mercy
 - Hit every offender equally hard
 - American law-tendency to define all offenses as inherently evil and consequently to punish harshly
 - Procedural protections

U.S. Justice versus Europe

- Punishment is a function of mass politics and often vicious currents of democratic electioneering—“soft on crime” electioneering, judgeship elections gain “political publicity”.
- U.S. politics of punishment have led to tough retribution statutes that have lengthen prison sentences.
- Use of “fear card” tool is easy pickings and very effective tool if media chooses not to try and discover validity of charges (Willie Horton case). Once elected, politicians are obligated to “get tough on crime” which tends to be a code word for racism.
- Intoxication that comes with treating people as inferior. Penal laws often lead to degradation.
- Federal drug laws have led to incarceration of thousands of nonviolent prisoners.
- Status abuse is commonly a symptom of a changing and troubled society.
- U.S. loss of political rights with ex-offender status is common.

U.S. Justice versus Europe

- Fewer criminal zones in Europe. Violent offenders, terrorists, certain sex offenders and drug dealers.
 - Very limited use of prison on property offenses.
 - Increased use of fines, probation, and community service.
 - Use of “day fine” system tailored to ability to pay and to degree of integration into society.
 - Drug users do not find themselves in prison.
 - Prostitution legalized in Northern Europe, procuring is not.
 - Deviancy has been defined down.
 - Special class of judges. Presupposes inmates will be released early, provide treatment toward re-socialization.
 - Continental courts have grown stronger.

U.S. Justice versus Europe

- U.S. one-half of state prisoners are property offenders.
- U.S. lower courts have grown weaker.
- American drive toward “zero tolerance” too closely akin to fascists—especially the Nazi’s. Too close and disturbing not to be discussed.
 - U.S. does not have programmatic racism or sterilization but does have some similar declarations. Permanent elimination of habitual offenders—receiving public shaming sanctions—mobilizing mass support for something nasty enough to make “them” hurt.
 - U.S. horizontal society has resulted in a criminal justice system long on degradation and short on mercy—foolish to think any major changes are coming soon.

Invisible Punishment in the U.S.

- Varies by state.
 - Loss of political rights - right to vote. Virginia one of worst states on reinstatement of voting rights.
 - Loss of passport or visa
 - U.S. indirectly imposes major burden on families including economic hardship, social risk for children, health and disease risks.
 - Incarceration in remote rural areas to promote local economy imposes major burden on family relationships. Travel can be a major burden – reliable car, motel cost, child care, family members searched, crowded waiting rooms and visiting via plexiglas window by phone.

Invisible Punishment in the U.S. Continued

- Telephone contact for prisoners limited, bastion of price gouging – call collect, sweet heart profit deals. Calls at .35 cents to 4.00 per minute.
- Offenders may be ineligible for health and welfare benefits, food stamps, public housing, federal educational assistance, drivers license may be suspended, no longer qualify for certain employment and professional licenses, job training programs, cannot enlist in the military, possess firearm, and obtain federal security clearance.

Invisible Punishment in the United States Continued

- In some communities almost one-half of all young men will eventually be incarcerated. This rate of incarceration will destroy the entire social fabric of a community. Dating relationships are altered (a long term stable relationship for a woman becomes unreal). The economics of extended families are perverted—older women usually get the kids, and have to support them, as well as bear the considerable costs of maintaining a relationship between the children and their incarcerated parent.
- Side note: There likely are well over two and one-half million children in the U.S. with one or more parents in jails or prisons.

U.S. Justice Versus Europe

- Mildness and use of pardons are little used in the U.S. Victims rights movement have been a political force. Politics of reform in Europe is profoundly different then in the U.S.
- European prison guards are civil servants and receive several months training. Professional norms of respect.
- Dignity of prisoners pursued in Europe with an intensity unlike anything found in the U.S. “Inmates are just like anybody else”.
- Resistance to public exposure

U.S. Justice Versus Europe

- Granting of amnesties with shorter sentences a regular practice in European justice. Systematic mercy is something that is almost wholly lacking in U.S. Bastille day in France, Christmas in every state are common days for granting pardons.
- Dignity and honor matter in Europe throughout the law.
- Criminal justice policy making in Europe almost entirely devoid of expert scrutiny from government specialists or from scholars. European tepid bureaucratic routinization of criminal law is an important barrier to overheated democratic retributivism that has come to America.

Drugs

Drugs in 1907

- Marijuana, heroin, and morphine were all available over the counter at the local corner drug stores. Back then pharmacists said “Heroin clears the complexion, gives buoyancy to the mind, regulates the stomach and bowels, and is, in fact, a perfect guardian of health.

Substance Abuse

- A 1990 study concluded drunk driving resulted in 1.8 million arrests and drunk drivers were responsible for approximately 22,000 deaths annually, while overall alcohol-related deaths approached 100,000 annually.
- For 1990 drug related arrests for possession were 700,000. Drug related-deaths through overdose, AIDS, or violence associated with the drug trade were estimated at 21,000 annually. My note: 2006 arrests for drug abuse violations were just under 1.9 million.
- Drunk drivers are predominantly white males and if arrested are generally charged as misdemeanants and typically receive sentences involving fines, license suspension and community service. Persons convicted of drug possession are disproportionately low-income and African-American and Hispanic: they are usually charged with felonies and frequently sentenced to incarceration.

2007 Drug Arrests

- All Drugs 1,841,182
 - Possession 1,518,975
 - Percent Possession 85%
 - Sale Mfg. 322, 207
- Marijuana 872,721
 - Possession 89%
 - Sale/Mfg. 11%
- Heroin or Cocaine
 - Total 541,307
 - Possession 73%
- Synthetic Drugs 88,367
 - Possession 69%
- Other dangerous non-narcotic drugs 338,777
 - Possession 85%

Drugs Categorized

- In the United Kingdom drugs are categorized as either A, B, or C to reflect the degree of harm they are considered to cause the individual or society when abused.
- Class A – the more harmful drugs. Includes heroin, morphine, methadone, cocaine, opium, Ecstasy and LSD
- Class B – less potent opioids like codeine, amphetamines and barbiturates.
- Class C – the least harmful. Includes marijuana, tranquilizers, less potent stimulants and mild analgesics.

Drug War Arguments

- 1. Most people can use most drugs without doing much harm to themselves or anyone else. Only a tiny few of the millions that have tried marijuana have gone on to have problems. The same is true for cocaine and hallucinogens. That a few million people have serious problems is no reason to demonize these drugs and the people that use them.

Drug war arguments continued

- 2. Drugs are here to stay. The time has come to abandon the concept of a “drug free society”. Virtually all Americans have used some psychoactive substance, whether caffeine, nicotine or marijuana.
- The market in illicit drugs is as great as it is in the inner cities because palliatives for pain and depression are harder to come by and because there are fewer economic opportunities that can compete with the profits of violating prohibition.

Drug war arguments continued

- 3. Prohibition is no way to run a drug policy, we learned that with alcohol. Prohibitions for kids make sense.
- America's indiscriminate drug prohibition is responsible for too much crime, disease, and death to qualify as sensible policy.

▪

Drug war arguments continued

- 4. Option of harm reduction policies focused on reducing crime. Disease and death can be diminished even among people who can't, or won't, stop taking drugs. This pragmatic approach is followed by much of Europe and has been much more successful than U.S. drug policy. Average age of heroin addicts and HIV rates among users are dramatically lower than in the U.S., police do not focus on users but on major dealers or petty dealers. Decriminalized cannabis markets are regulated in a quasi-legal fashion.

Drug war arguments continued

- 4. Harm reduction strategies. There is a wide range of choice in drug-policy options between the free-market approach favored by Milton Friedman and Thomas Szasz (well know psychiatrist and academic) and the zero-tolerance approach of William Bennett, Dir. National Drug Control Policy under George H.W. Bush

Drug war arguments continued: A dash of economics

- Trying to suppress the drug market through is self defeating for two reasons. First, cocaine and heroin are very cheap to grow, refine, ship and sell. The drug war has the impact of raising prices higher than they would otherwise be, but not high enough to keep drugs out of the hands of most consumers. Raising prices increases profits which provides a steady incentive for drug suppliers to remain in the trade and for new suppliers to enter.

War on Drugs

- The policy has exacerbated racial disparities in incarceration while failing to have any sustained impact on the drug problem. Critics point out enforcement is discretionary, no direct “victim”, police decide on where and when and what priority they will place on enforcing drug laws. The number of people using drugs has not changed dramatically since the 1970’s, the proportion of the population using has declined.
- Blacks have slightly higher rates of use than whites and Hispanics (7.9% versus 6.0% in 1995). African Americans comprise 15 percent of the users, 33 percent of the arrests for possession. Massachusetts 1997 found that blacks were 39X more likely to be incarcerated for a drug offense than whites.

Drug Snippets Continued

- In 2006, 43.6 percent of the 1,889,810 arrests for drug abuse violations were for marijuana—a total of 829,627. Of those 738,916 people were arrested for marijuana possession and 90,711 were arrested for marijuana trafficking/sale.
- “Cannabis remains by far the most commonly used drug in the world. An estimated 162 million people used cannabis in 2004, equivalent to 4 percent of the global population age 15-64. Use is most prevalent in Oceania, followed by North America and Africa. United Nations.
- Marijuana was first federally prohibited in 1937. Today 94 million Americans admit to having tried it.

Drug war arguments continued

- Legalization of drugs need not be viewed as a single giant step in which all restrictions are abruptly removed, resulting in a chaotic free market. With alcohol the federal government retained some oversight and a remarkable degree of discretion was given to individual states. Alcohol remains one of the most regulated products available, in terms of licensing, location, time, pricing, advertising and other respects. Similar liberalization—with taxation and other regulation—could be tried for other drugs....

Drug Policy Alliance

What's wrong with the Drug War

- Everyone has a stake in ending the war on drugs. Whether you are a parent concerned about protecting children from drug related harm, a social justice advocate worried about racially disproportionate incarceration rates or a fiscally conservative taxpayer you have a concern.
- U.S. federal, state and local governments have spent hundreds of billions of dollars trying to make American “drug free”. Yet heroin, cocaine, methamphetamine and other illicit drugs are cheaper, purer and easier to get than ever before.

Drug war arguments continued

- Ethan Nadelmann, Executive Director, Drug Policy Alliance states “The greatest beneficiaries of the drug laws are organized and unorganized drug traffickers. The criminalization of the drug market effectively imposes a de facto value-added tax that is enforced and occasionally augmented by the law enforcement establishment and collected by the drug traffickers.

Drug war arguments continued

- One police officer of 35 years points out “it’s the money stupid”. About \$500 worth of heroin or cocaine in a source economy will bring \$100,000 on the streets of an American city. Illegality permits obscene markups, enriching drug traffickers, distributors, dealers, crooked cops, lawyers, judges, politicians, bankers and businessmen. The Harrison Act of 1914 that first criminalize drugs was driven by the same Protestant missionary societies, the Woman Christian Temperance Union and other such organizations that led to prohibition of alcohol.

Drug war arguments continued

- Critics of present policies blame cowardly presidents unwilling to assume leadership for reform, a Congress concerned with appearing “tough on crime” unwilling to analyze alternative approaches and the Drug Enforcement Administration (not the agents trying to do a job) but the leadership unyielding regarding innovative public health-initiatives.

Drug War Side Effect

- The most pervasive drug scandal in the United States is the epidemic of under treatment of pain. “Addiction” to (i.e. dependence on) opiates among the terminally ill is the appropriate course of medical treatment. Smoking marijuana to ease the nausea of chemotherapy, to reduce the pain of multiple sclerosis, to alleviate the symptoms of glaucoma and to improve appetite dangerously reduced from AIDS are effective medicine. Users are regarded as criminals.

What's Wrong Continued

- Half a million people are behind bars on drug charges – more than western Europe (with a larger population) incarcerates for all offenses. The war on drugs has become a war on families, a war on public health and a war on constitutional rights. Drug Policy Alliance.
- Public health problems like HIV and Hepatitis C are all exacerbated by zero tolerance laws that restrict access to clean needles. Children of inmates are at risk of educational failure, joblessness, addiction and delinquency.
- People suffering from cancer, AIDS and other debilitating illnesses are regularly denied access to their medicine or even arrested and prosecuted for using medical marijuana.
- We can do better.

Drug snippets: Various sources that appear valid

- Marijuana has never been shown to cause an overdose death.
- A strong case can be made for taxing and regulating sales of marijuana.
- There is a need for making marijuana and cannabis available for medical use.
- Cannabis has become the most widely used illicit drug in the western world.
- The argument that marijuana serves as a “gateway” drug leading to use of other more harmful drugs has not been substantiated by researchers.

Drug war arguments continued

- Some countries have tried heroin prescription approaches to reduce drug and prohibition related crime. Sterile syringes can reduce the spread of AIDS. Methadone is to street heroin what nicotine patches are to smokers. Hundreds of studies including the National Academy of Sciences have concluded it is more effective than any other treatment in reducing heroin related crime, disease and death. It should be available in local pharmacies as opposed to expensive clinics.

Drug Perspectives

- Federal mandatory minimum drug sentences are extremely punitive. An extreme example is an offender who deals marijuana 3 times in one week. Each time he carries a handgun with him. If convicted his mandatory minimum sentence is 60 years.
- In 2007 775,138 Americans were arrested for marijuana possession compared to 597,447 people who were arrested for all violent crimes combined. This continues the trend of the last five years.

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Sex Crimes

- Sex crimes include rape, sexual assault, prostitution, indecent exposure, child molestation and other acts of sexual conduct.
- A simplified list of Virginia laws regarding sex offenders include sexual battery (misdemeanor), crimes against nature, taking indecent liberties with a minor, unlawful filming, possession of child pornography, carnal knowledge of a minor, incest, production and sale child pornography, abduction, abduction for immoral purpose, aggravated sexual battery, rape, forcible sodomy and other sexual penetration.

Sex Crimes

- Violent sex crimes reported in 2004/2005 included:

Rape/Sexual Assault	200,780
Rape/Attempted Rape	115,570
Rape	64,080
Attempted Rape	51,500
Sexual Assault	85,100

National Crime Victimization Survey U.S. totals

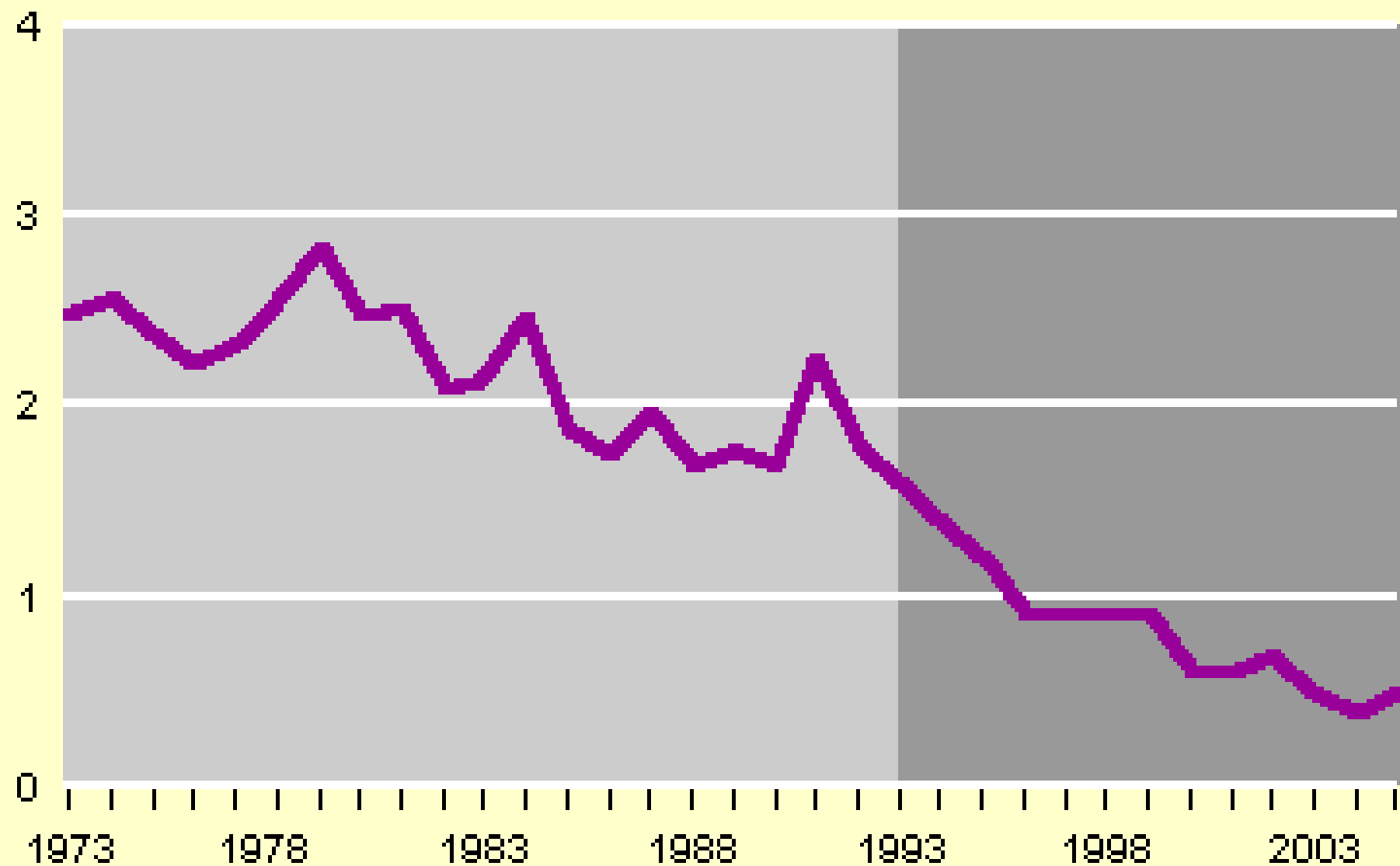
Sexual Crimes

- Sexual Crime index rates declined sharply between 1993 and 2005

– Sexual crime	Rate per 1,000 persons	
	1993	2005
Rape/sexual assault	2.5	0.8
Rape	1.0	0.3
Attempted rape	0.7	0.2
Sexual assault	0.8	0.3

Rape rates

Adjusted victimization rate
per 1,000 persons age 12 and over



Rape and Sexual Assault Characteristics of Victims 2005

- Highest incident rates
 - Households with the lowest incomes
 - Females who have never married, divorced females
 - Females in the South and West
 - Females urban victimization rates 2X that of suburban females. Rural rates very low (reporting?)
 - Rates for Black females high compared to other racial and ethnic groups.
 - Females age 16-19

Rape and Sexual Assault

- Victim and Offender Relationship, 2005
 - Female Victims
 - Non Strangers 73%
 - Intimate 28%
 - Other Relationship 7%
 - Friend and Acquaintance 38%
 - Stranger 26%
- Use of Weapons
 - No Weapon 85%
 - Weapon 7%
 - Firearm 3%
 - Knife 3%

Sexual Assault

- Sexual Assault in most states include any type of unwanted physical contact with any sexual organs. In many states it goes beyond just physical contact to include aggressive sexually suggestive statements.
- Sexual contact with any intoxicated person becomes sexual assault, regardless of what type of intoxicating substance the victim was under the influence (alcohol, narcotics, “date rape drug”).

Virginia Sex Offenders Released from Prison, Jail, or placed on Probation FY 1998 to FY 2000

• Initial Conviction Offense	• Offenders	• %Cases
Aggravated Sex. Bat.	675	32.5
Rape	492	23.6
Carnal Knowledge	326	15.7
Indecent Liberties	303	14.6
Forcible Sodomy	156	7.5
Non-Forcible Sodomy	64	3.1
Object Sex. Penetration	27	1.3
Kidnap Immoral Purposes	25	1.2
Incest	12	.5

Sex Offender

- Sex Offender is a person who has been criminally charged and convicted of, or has pled guilty to, or pled Nolo contendere to a sex crime. Crimes requiring mandatory sex offender registration may include child sexual abuse, downloading pornographic material of persons under age 18 (child pornography), rape, statutory rape and even non-sexual offenses including kidnapping.

Sexual Predator

- The term is used pejoratively to describe a person seen as obtaining or trying to obtain sexual contact with another person in a metaphorically “predatory” manner. Analogous to how a predator hunts down its prey, so the sexual predator is thought to “hunt” for his or her sex partners. People who commit sex crimes, such as rape or child abuse, are commonly referred to as sexual predators, particularly in tabloid media or as a power phrase by politicians.

Statutory Rape

- Statutory rape is illegal sexual activity between two people when it would otherwise be legal if not for their age: In accordance with the FBI definition it is non-forcible sexual intercourse with a person who is younger than the statutory age of consent.
- Different jurisdictions use many different statutory terms for the crime such as “sexual assault”, “rape of a child”, “corruption of a minor”, “carnal knowledge of a minor” or simply “carnal knowledge”. Force or threat need not be present as in adult rape. The laws presume coercion because a minor or mentally retarded adult is legally incapable of giving consent to the act.
- “Romeo and Juliet” laws. Recognition of closeness in age circumstances.

Virginia Laws and the Age of Consent

- My suggested general guideline for parents. If your child is 18 and is dating someone who is 16 or 17 make sure they know the rules. Do not let anyone who is 18 date someone 15 or less. Danger of carnal knowledge Class 4 felony – 2 to 10 years with fine of less than \$100,000 or for exposure Class 5 felony – 1-10 years or less than 1 year if plead guilty. Also true for 17 dating 14 if three years or more difference in age.
- See Virginia – Age of consent laws

Other Virginia Laws: Sex

- Adultery and Fornication Class 4 misdemeanor. Fine of less than \$250
- Taking indecent liberties with children.
 - Exposure
 - Fondling.
 - Enticing minors less than 18 to perform
 - All Class 5 felonies 1-10 years but with less than 1 if plead guilty.

Sexual Offender and Crimes Against Minors Registry

- Virginia State Police Zip Code 22030
- Area most of Fairfax City and some to west.
- 36 persons on registry. White 20, Black 8, Hispanic surname 4, Asian/Pacific Islander 3, American Indian 1. All males. On average two to three new registrants per year.
- Age range 24 to 67. 20's 2; 30's 12; 40's 11; 50's 9 and 60's 3.

Sexual Crimes and Crimes Against Minors Registry Zip Code 22030

- Crimes and number of active registrations, September 16, 2008
- Aggravated Sexual Battery 7; Rape 2; Rape and Abuse of Child 1; Aggravated Sexual Assault 1; Sexual Assault of Child 1; Sexual Abuse of Minor 1; and Attempted Rape or Sodomy 1.
- Carnal Knowledge of Child 13-15 years 6; Taking Indecent Liberties with Child 6; Indecency with Child 3; Lewd and Lascivious Acts with Child 2; Possession of Child Pornography 1; Use of Communications System to Contact Minor 1; and Production, Distribution, Finance Child Pornography 2.
- Oral Copulation 1; Sexual Offender 2nd and 3rd Degree: Crimes against Nature 2. and Violent Offender Failure to Register 5.

Issues Regarding Sexual Offenders

- Research suggests recidivism rates for sexual offenders is much lower than for other crimes.
- Sexual offenders are usually subject to residency-restriction laws. The laws may be counter-productive. It may drive the offender out of the community and leads to a lack of stability.
- Law professionals note due to the social stigma of sex crimes and potentially severe sentencing, the defense of a criminal sexual conduct case can be extremely complicated. There is a societal tendency to assume guilt. Trials receive an enormous amount of media attention. Even if acquitted, the allegations of committing a sex crime can severely damage personal and social relations. Persons on an offender register often become ostracized or targets of retaliatory crime.

Reporting of Sexual Crimes

- Many victims are afraid to report sexual assaults to the police. They may fear:
 - Further victimization by the offender
 - Other forms of retribution by the offender or by the offenders friends or family
 - Arrest, prosecution and incarceration of an offender who may be a family member or friend and upon whom the victim or others may depend.
 - Others finding out about the sexual assault (including friends, family members, media and the public)
 - Not being believed and
 - Being traumatized by the criminal justice system response.

Sexual Crime Issues

- Prostitution: A victimless crime?
- Child maltreatment Versus Child Molestation
- Pedophilia
- Other views

Child Maltreatment Versus Child Molestation

- Federal regulations define child abuse and neglect as:
 - Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or
 - An act for failure to act which presents an imminent risk of a serious harm.
- For 2006 an estimated 905,000 children were victims of maltreatment. The national estimates are based on counting a child each time he or she was the subject of a Child and Protective Services investigation.
- It is estimated that 8.8 percent of victims were sexually abused.
- Nearly 83 percent of victims were abused by a parent acting alone or with another person.
- Sexual relations with a prepubescent child is called “child molestation” and is generally treated as a more serious crime than statutory rape.

Child Sexual Abuse

- 1996 Study by US Dept. of Health and Human Services
 - 140,000 cases of child sexual abuse occur every year
 - Three-fourths of the victims are abused by someone they know
 - About one out of three are under age seven

Pedophilia

- The American Heritage Dictionary defines pedophilia as “The act or fantasy on the part of an adult engaging in sexual activity with a child or children.” Children affected by pedophilia are prepubescent boys and girls (13 years old or younger). Pedophilia is classified as a mental disorder and does not always involve physical contact between adult and child. Regardless, the thoughts or the actual act is the way the person reaches sexual excitement and gratification.
- Medical professionals generally recognize that only two to ten percent of child molesters are pedophiles.

Sexual Crimes Other Views

- A article that might be considered radical suggests “many accusations of sexual offenses are false or grossly exaggerated. As many as half of all reported “rapes” never really occurred.
- Perhaps as many as a third accusations of sexual fondling or intercourse with a girl below the age of consent are “invented” by the child.
- The age of consent for girls is set artificially high, long past the age of reproductive maturity.
- False claims are used to blackmail, manipulate and to injure the accused man, often in insidious acts of revenge.

“CARL”

“JOE”

Discrimination and Criminal Justice

Racism in General

- USA Today/Gallop Poll 2008: Most Americans say racism is widespread against blacks in the United States. Discrimination a major factor in lower average educational level for blacks, lower average income level for blacks, lower average life expectancies for blacks and a higher percentage of blacks serving time in U.S. prisons.

Racism in the United States

- CNN poll 2006. Most Americans see racism as a lingering problem in the U.S. But just 13 percent of whites and 12 percent of blacks see themselves as racially biased.
- But Univ. Conn. Expert who has studied issue for 30 years estimates 80 percent of white Americans have racist feelings they do not even recognize. Stealth discrimination. Via the media, job interviews based on name, flagging a cab in NY city, etc.

Racism in Criminal Justice

- UN Commission of Human Rights 2008. The United States is the **only country in the world** that sentences children (persons under the age 18) to life in prison without the possibility of parole or release (known as life without parole or LWOP). Among the 2,381 U.S. prisoners currently serving LWOP for crimes they committed as children, there are staggering racial disparities, with black youth serving LWOP at a per capita rate 10 times higher than white youth.

Racism in Criminal Justice

- Human Rights Watch 2008. Information from 34 states:
 - Across the 34 states, a black man is 11.8 times more likely than a white man to be sent to prison on drug charges, and a black woman 4.8 times more likely than a white woman.
 - In 16 states, African Americans are sent to prison at rates between 10 and 42 times the rates for whites. The 10 states with the greatest disparities in prison admissions for drug offenders are: Wisconsin, Illinois, New Jersey, Maryland, West Virginia, Colorado, New York, Virginia, Pennsylvania, and Michigan.

Discrimination in Criminal Justice

- Human Rights Watch 2002
- In nine states, between 4 and nearly 8 percent of adult Latino men are incarcerated.
- In ten states, Latino men are incarcerated at rates between five and nine times greater than those of white men.
- In eight states Latino women are incarcerated at rates that are between four and seven times greater than those of white woman.
- Native-Americans are the victims of violent crimes at twice the rate of the general population and 70 percent of the violence is committed by persons not of the same race.

Racism in Criminal Justice

- The Sentencing Project 2008. Data from 43 of the nations largest cities between 1980 and 2003:
 - Since 1980, the number of drug arrests in American cities for African Americans increased 225 percent, compared to only 70 percent for whites. Black arrest rates grew by more than 500 percent in 11 cities during the period.
 - These results come not as a result of higher rates of drug use by African Americans, but instead, the decision by local officials about where to pursue drug enforcement. Local enforcement decisions were the prime contributor to racial disparity.

Criminal Justice and Racism

- African Americans are 1/3 arrests, 1/2 incarcerations.
- Are African Americans prone to crime per se? Not supported.
 - More economically disadvantaged—discrimination
 - Racist criminal justice system
 - Police 4X as likely to make unfounded arrests
 - Rate of incarceration higher—same offense
 - Discrimination at each step of the potential 30 steps in the criminal justice process
 - African Americans 13 percent of drug users but 35 percent of arrests for possession, 55 percent of convictions, and 74 percent of convictions for drugs.

Criminal Justice and Racism

- Race is a consistent and frequently significant disadvantage when criminal justice and imprisonment decisions are made.
- Federal sentencing guidelines for crack cocaine are 100 times more harsh than for user of power cocaine (drugs are almost identical). Blacks tend to use crack, whites powder.
- Easier to make arrests in open air inner city markets (blacks) than in suburban basements (whites).

Racism and incarceration continued

- Crack versus powder cocaine: In 1986, Congress enacted a sentencing provision that required only 1/100 of the amount of crack cocaine to trigger the same penalty as powder cocaine. By 1993 federal prison sentences for blacks averaged 41 percent longer than those of whites, with the crack (favored by blacks) versus powder (favored by whites) distinction being the major reason for the difference.

Criminal Justice and Racism

- Race is a consistent and frequently significant disadvantage when criminal justice and imprisonment decisions are made. Where will the police officers patrol, whether to arrest kids who are drinking underage or to inform their parents, whether to charge a shoplifting offense as a misdemeanor or a felony, whether to offer a plea or go to trial.
- How will a prosecutor charge a case, negotiate a plea or make a recommendation on sentencing. “At every stage of pretrial negotiation, whites were more successful than non-whites” San Jose New review of 700,000 cases matched by crime and crime history.

Race and Violent Crime

- Avoidance tactics on violent crime can also be punitive on the black community and unhealthy in the long run.
- There is a need to focus efforts on understanding and combating causes of higher crime in poor, urban minority communities.
- 94 percent of black homicide victims were victimized by black offenders.
- 76 percent of black victims of violent crime were victimized by black offenders.
- Civil rights as well a a police issue.

Discrimination and Criminal Justice

- Similar discrimination in England and Wales versus blacks.
- New Zealand 12 percent of the population is Maori compared to just over half in prison. Australian Aboriginals are 2 percent of the population and 19 percent of those imprisoned.
- Similar patterns regarding native Canadians, gypsies in Hungary, Western Europe, foreigners in general.
- Minorities often those who have not managed to get themselves a position with income, employment, family security and social acceptance.

Race and Incarceration

- On June 30, 2006 an estimated 4,786 black men per 100,000 were in prison or jail.
- South Africa under apartheid (1993) incarcerated 851 black males per 100,000.
- What does it mean that the America as a leader of the “free world” locks up it’s black males at a rate 5.8 times higher then what was the most openly racist country in the world. (Note 5.8 is likely low and may be approaching 6.5 currently).

Racism and incarceration

- The most subtle effect of the prison boom has been the unintended lowering of the ratio of marriageable men to women, particularly in the black community. The smaller the ratio, the greater men's sexual bargaining power and hence the likelihood of illegitimacy and single-parent households, which are the root causes of violence and disorder in the inner city.

Racism and incarceration continued

- Sending fewer black men to prison is not going to solve the problem by itself. Black families are in trouble for many reasons, labor-market changes, a legacy of welfare dependency, racial and class segregation, and the inversion of traditional values, both within the street culture of the ghetto and the larger, eroticized, commercial culture of the mass media. Black men need jobs and the will to keep at these jobs and to base family life on them.

The Media

Crime in the Mass Media: Some Critical Views

- The mass media's images of crime are almost never objective. When social life is routine and orderly there is little news. Nothing sells like **violence and sex**.
- The media feature unusual events rather than representative events. They emphasize the **sensational** rather than the mundane.

Crime in the Mass Media continued

- In modern societies everyday images of crime tend to be filtered through the self-interested and often distorted lenses of the mass media
- Our **image of the typical criminal**—a sick degenerate, violent person who preys on the innocent and the vulnerable. **Often a racial or ethnic minority.**
- Our obsession with crime is seldom based on rational reflection

Crime in the Mass Media continued

- **Murder** constitutes only **0.2 percent** of all crimes recorded by the police but in a 1980 study murder composed over **26 percent of newspaper entries about crime.**
- The media distort the incidence of nonviolent crime. Whereas nonviolent crimes like theft compose 47 percent of all crimes reported to police, such crimes constitute only 4 percent of all crime item in newspaper.

Crime in the Mass Media continued

- Crime consumes an enormous chunk of dramatic and informational space in the media.
- A UCLA report indicates **33 percent of total TV** program time in the U.S. is devoted to crime or law-enforcement shows with a concentration at prime time.
- TV news and newspapers conveniently convey to us the images of the amount of crime.

Crime in the Mass Media continued

- A high percentage of stories in the evening and late-night local news programs concerns crime, as do their lead items.
- Crime and justice topics occupy **10-13 percent of all national TV news**, 20 percent of local TV news, and as much as 25 percent of all newspaper news space.

Crime in the Mass Media continued

- The media are preoccupied with **violent crime** rather than other forms. Approximately 80 percent of all TV programs contain violence including 90 percent of children's cartoon shows.
- In the news there is a **strong bias** toward coverage of **murder, sexual crimes** and other forms of violence, often coupled with **drug abuse**.

Crime in the Mass Media continued

- The enormous volume of crime-related items in the media creates the **mistaken image of a society with an enormous amount of violent crime.**
- *Time* and *Newsweek* cover stories misrepresent the problem of crime as primarily a problem of urban African Americans.

Crime in the Mass Media continued

- Media incentives for violent crime coverage on TV includes first and foremost **ratings**, the need to fill space when other news is ordinary (akin to poker tournaments on sports channels) and the ease of immediate feeds and coverage via on the scene reports nationally and from around the world. **A daily violent murder or sex crime is guaranteed.**

Crime in the Mass Media

- Dowler in a thorough and complex analysis concludes:
- Regular **viewers of crime show are more likely to fear crime.** The strength of this finding was minimal or weak. Crimes on TV shows and films tend to overemphasize crimes of violence (murder and robbery) and **offenders are often portrayed as psychopaths that prey on weak and vulnerable victims** or as businessmen that are shrewd, ruthless and violent.
- Crime shows rarely focus on mitigating issues. Greed, revenge and mental illness are the basic motivation and offenders are “different” or “monsters” to be feared.
- Dowler also concluded that **crime show watching was not related to punitive attitudes or perceived police effectiveness.**

Sexual Crime and the Media

- Intense interest by the media **especially with respect to children. Result has created the perception that it is a wide spread problem and that there has been a major increase in sexual crime.** Good article by Radford provides a reality check.
- If you believe the near-daily news stories, sexual **predators lurk everywhere: in parks, at schools, in the malls—even in teens computers.** A few rare (but high profile) incidents have spawned an unprecedented slate of new laws enacted in response to the public's fears.
- Every state has notification laws to alert communities about released sex offenders. Officials in Florida and Texas plan to ban convicted sex offenders from public shelters during hurricanes.

Sexual Crime and the Media

- A few myths: If a child is missing , chance is good it is a sexual offender. Fact: Sex offender is actually among the *least* likely explanations, far behind runaways, family abductions and the child being lost or injured.
- **The news media emphasizes the dangers of Internet predators, convicted sex offenders, pedophiles and child abductors. Fact: there have been almost no or relatively few instances and there is little hard data on Internet predators.** In a 2001 Dept. of Justice study of 1,501 teens not a single one reported a solicitation that led to any actual sexual contact or assault. About 3 percent received a request for a telephone number or to meet somewhere but the requests were mostly from other teens.

Sexual Crime and the Media

- **Most of the concern is from the perception that if an offender has committed one sex offense, they are almost certain to commit more.** Therefore sex offenders more than murders or armed robbers should be monitored and separated from the public once they are released from prison.
- Fact: a Dept. of Justice study of 10,000 men convicted of rape, sexual assault and child molestation had recidivism rates 25 percent less than for all other criminals. **Two other studies indicated that only 3 to 5 percent of sex offenders committed another sexual crime within three years of their release.** Studies also suggest that sexual offenders living near schools are no more likely to commit a sex crime than those living elsewhere.

Sexual Crime and the Media

- A tragic result of the myths is that the panic over sexual offenders distracts the public from **a far greater threat to children: parental abuse and neglect**. The vast majority of crimes against children are committed by the victims own family and family friends. The National Center for Missing and Exploited Children indicates “based on what we know about those that harm children, **the danger to children is greater from someone they or their family knows than from a stranger**”. A Wisconsin study reported this was the case for 90% of the molestation cases. Of the 35% involving family members, fathers or stepfathers were responsible for half. The rest involved cousins, brothers, uncles and grandfathers. Of the molestations by family friends (47%) half involved the mother’s live-in-boyfriend.

Innocence Commission

- Book by Jon Gould, professor GMU and attorney. Jon was chair of the ICVA (Innocence Commission of Virginia).
- Wrongful convictions have been with us for years.
- Virginia has a well earned reputation as the cradle of the confederacy and whose criminal justice system has been lambasted as one of the most needlessly severe in the country. A “political museum piece” in the first half of the twentieth century. Penal institutions reflected “isolated, fragmented and generally racist, sexist, and repressive forms of social control.”

ICVA

- 2004 report by the ABA found that Virginia ranked among the worst states in providing quality legal representation to indigent defendants.
- Virginia also known for its enthusiastic endorsement for the death penalty. From 1608 to 1972 Virginia executed 1,277 people, the most of any state in the union. From 1976 to 2006 they are second only to Texas.
- Virginia earned the ignominious label in legal circles as “the worst state in the union for both unfair trials and lack of due process protection—even when considerable doubt concerning an inmate’s guilt is found. “After conviction, innocence is irrelevant.” Mary Sue Terry, Attorney General

ICVC

- Gould draws upon various studies to argue that the “true” rate of erroneous felony convictions is less than 5 percent but could be 1 or 2 percent.
- One of the worst cases was that of Earl Washington, Jr., African American, I.Q. 69 who came within 9 days of execution after 17 years of incarceration for allegedly committing rape and murder. Investigator Curtis Reese Wilmore “deliberately fabricated” the evidence against Washington. The State eventually paid a civil rights judgment of 1.9 million plus legal cost estimated at over a million in prosecuting, incarcerating and defending Washington’s conviction.
- Virginia has made modest improvements in recent years.

ICVA

Why wrongful convictions:

- Mistaken identification of defendants
- Suggestive identification procedures
- “Tunnel vision” by police officers and detectives
- Antiquated forensic testing methods
- Inadequate, if not ineffective, defense counsel
- Failure to disclose exculpatory reports to the defense and in some cases the prosecution
- Interrogations involving suspects with mental incapacities.
- Inconsistent statements by defendants (often under pressure)
- The unavailability of adequate post conviction remedies to address wrongful convictions once they have occurred.
- High pressure interrogations. False confessions.
- Testimony by questionable informants. False accusations for revenge, jailhouse snitches, etc.
- Misconduct by investigative personnel. Rare but does occur.

REFORM

- Broader observations and suggestions
- Bierne and Messerschmidt conclude they can do no better than the reform recommendations of Currie that follow.
- The recommendations have more to do with social conditions than specific criminal justice issues.

Reform continued slide 1

- Exploration and development of intensive rehabilitation programs for youthful offenders, preferably in the local community or in a supportive institutional milieu
- Community-based, comprehensive family support programs, emphasizing local participation and respect for cultural diversity

Reform continued slide 2

- Improved family planning services and support for teenage parents
- Paid work leaves and more accessible child care for parents with young children, to ease the conflicts between child rearing and work
- High-quality early educational programs for disadvantaged children

Reform continued slide 3

- Expanded community dispute-resolution programs
- Comprehensive, locally based services for domestic violence victims
- Intensive job training, perhaps modeled along the lines of supported work, designed to prepare the young and displaced for stable careers

Reform continued slide 4

- Strong support for equity in pay and working conditions, aimed at upgrading the quality of low-paying jobs
- Substantial permanent public-private job creation in local communities, at wages sufficient to support a family breadwinner, especially in areas of clear and pressing social need as public safety, rehabilitation, child care and family support

Reform continued slide 5

- Universal—and generous—income support for families headed by individuals outside the paid labor force

Social Reforms

- The major social policy reforms suggested by Bierne and Messerschmidt may be difficult to achieve in the United States. It would take a dramatic change from current programs and policies by the federal government along with adjustments in state criminal justice systems.

Reforms

- Consider changes in our National Drug Policy.
 - Utilize fines, educational and counseling programs and community service as alternatives to incarceration for those charged with possession of marijuana and similar drugs. Minimize the incarceration of offenders for possession of “harder drugs” along with above programs.
 - Shift national program funds from supply reduction and law enforcement (2/3 currently) to demand reduction—treatment (1/3 currently).

Reforms

- Follow European principles of using custodial (incarceration) sentences only when necessary.
- Consider the Canadian requirement (also in use in Europe) that all prisoners being held for more than two years be assessed and a plan for programs and rehabilitation be implemented under the supervision of a case manager.
- Revoke denial of the vote to felons. Eliminate other forms of invisible punishment including loss of access to programs..

Reforms

- Make punishment visible. Provide the same access by the media to the incarcerated as by the general public or families. This includes interviews, written communications, telephone calls and elimination of attempts by prison officials to squash stories regarding crimes, prison conditions, etc.
- Require truth in advertising the benefits of criminal sanctions including corrections. Virginia is a good example of the need.
- Require truth in legislating regarding the costs and alleged benefits of incarceration and other criminal sanctions.
- Truth in sentencing: Provide open information on criminal codes, sentences and any other sanctions including fines.
- Make criminal penalties proportional to the seriousness of the crime. Base fines on incomes and ability to pay.

Reforms

- Return to individualized justice that provides judges with latitude for flexibility on sentencing, use of parole incentives and consideration of factors including the past record of offenders.
- Learn from the Europeans on milder sentencing and decriminalizing of victimless and non-violent events.
- Require and provide support for treatment, educational and other counseling programs.
- Fund and greatly expand research programs on criminal justice. Current efforts are pathetic in contrast to the cost of criminal justice systems.

Reforms

- Recognize that research and reforms can be a threat to large vested interests or political points of view.
- Confront the debilitating pressure of fear. Provide objective information to the public.
- Recognize we cannot be society's wastebasket for conduct some people deem wrong. Do not overdo criminalizing actions that seem morally wrong.
- Completely reform drug laws, prostitution and other morally based laws.
- Recognize crime and crime response can lead to political exploitation, recognize and put into perspective the media adage "if it bleeds, it leads".
- To the extent possible employ judges and criminal justice professions through the civil service as opposed to elected officials.
- Look at the European models of cooperation between prosecutors, the legal profession and judges as opposed to our adversarial approaches to justice.

Reform

- Crime rates in the United States are not out of line with other major industrialized nations except for homicides (guns will be with us for a long time)
- There is no reason our rates of incarceration cannot return to the levels of the 1880's to the 1950's or those of European nations.

Reform

- For the equivalent public expenditures we could improve our society through major reforms in our social programs and in criminal justice systems.
- Whether we have the interest and political will to make progress is very unclear. I would like to be optimistic.

Reform

- The electoral dividends of appearing “tough on crime” have been more appealing to U.S. politicians than the long-term social dividends of flexible and reasonable criminal sanctions. Getting rid of the 100 to 1 ratio for crack versus powder cocaine; revising sentencing guidelines to permit greater judicial discretion, including referral of more drug users into treatment; eliminating mandatory minimum sentences for lower-level trafficking offenses—these and other reforms will require real political courage.

Reform

- On a local basis, the programs being utilized in Fairfax County including the work of Offender Aid and Restoration (OAR) hold promise.
 - Pre-release programs where inmates work regular private sector jobs and return to jail in their off hours.
 - Community service programs in lieu of incarceration for some non-violent offenders.
 - Transitional assistance such as bus tokens to shelter, clothing and assistance in locating jobs for newly released inmates.
 - Mentoring programs with inmates in jail if requested and resources permit.

OAR Programs continued

- The provision of courses within the jail on topics such as computer skills, personal relationships, anger management, financial planning, impact of crime and violence with victims groups, fathering skill, life skills, personal behavior and after release issues.
- Alcohol and drug counseling outside the jail for low level offenders.
- Relatively new are peer groups comprised of ex-offenders counseling and mentoring inmates that are close to being released or have just been released.
- Programs from other providers include alcohol and substance abuse counseling, GED classes, employment skills and a number of counseling programs that focus on religion and values.

Fairfax County Programs

- Funding is an issue. The OAR program is highly dependent on County funds for staffing supplemented with private donations and volunteer assistance.
- The proportion of those inmates with access to OAR programs is small. OAR programs do reach a sizable number of persons on the outside and help lower incarceration rates.

Other Reforms

- Consider “getting soft on incarceration” to save funds at the federal, state local level.
- Dust off parole and become aggressive with amnesties and providing judges with flexibility in sentencing.
- Remove politics to the extent possible from judicial and criminal justice appointments.
- Put a moratorium on building prisons.
- De-criminalize and lower sentencing guidelines to bring them in line with the Europeans.

Realism

- The cost of corrections may begin to get burdensome enough to bring about change.
- Our numbers should increasingly cause us embarrassment in world forums.
- Crime rates are apt to rise if we go into a major depression.
- Some innovative programs by a few states may provide examples of ways to reform the system.
- Policies and programs move slowly. Do not become overly optimistic.

The Causes of the Current Approach in the United States to Criminal Justice

- We really don't know that definitively but Beirne indicates at least five factors that distinguishes the social structure of the United States from other "comparable societies" and that these factors contribute to its "high" crime rate and out of sight rates of incarceration.

The Causes of High U.S. Crime Rates

- 1. The United States has had one of the highest rates of structural unemployment since 1945
 - Structural unemployment involves a mismatch between workers looking for jobs and the vacancies available. The issue may be job skill, location or other factors.
 - Computers and the technological revolution for example may have eliminated jobs, but they opened up many new positions.

The Causes of High U.S. Crime Rates

- 2. The United States has the largest underclass of persons economically, socially and politically discriminated against because of race and ethnic background versus comparable societies.
 - African-Americans historically and African-American and Hispanic males currently come to mind.

The Causes of High U.S. Crime Rates

- 3. The United States has inferior support systems of welfare, social security, health and education versus comparable societies.

The Causes of High U.S. Crime Rates

- 4. The extreme commercialism of U.S. capitalism provides incentives and motivations to circumvent acceptable (namely legal) means of achievement.

The Causes of High U.S. Crime Rates

- 5. The U.S. criminal justice system is one of the most punitive control mechanisms in the world.

The Economics of Crime

Jens Ludwig

McCormick Tribune Professor, University of Chicago

Nonresident Senior Fellow, Brookings Institution

Research Associate, National Bureau of Economic Research

Goal of crime policy in US

- Minimize social costs of crime subject to constraints
 - Resources
 - Civil liberties
- Issues I will touch on:
 - Role of benefit-cost analysis for crime policy
 - Incarceration (*the* crime policy issue in US)
 - Alternatives to incarceration on the margin

Cost of crime in US

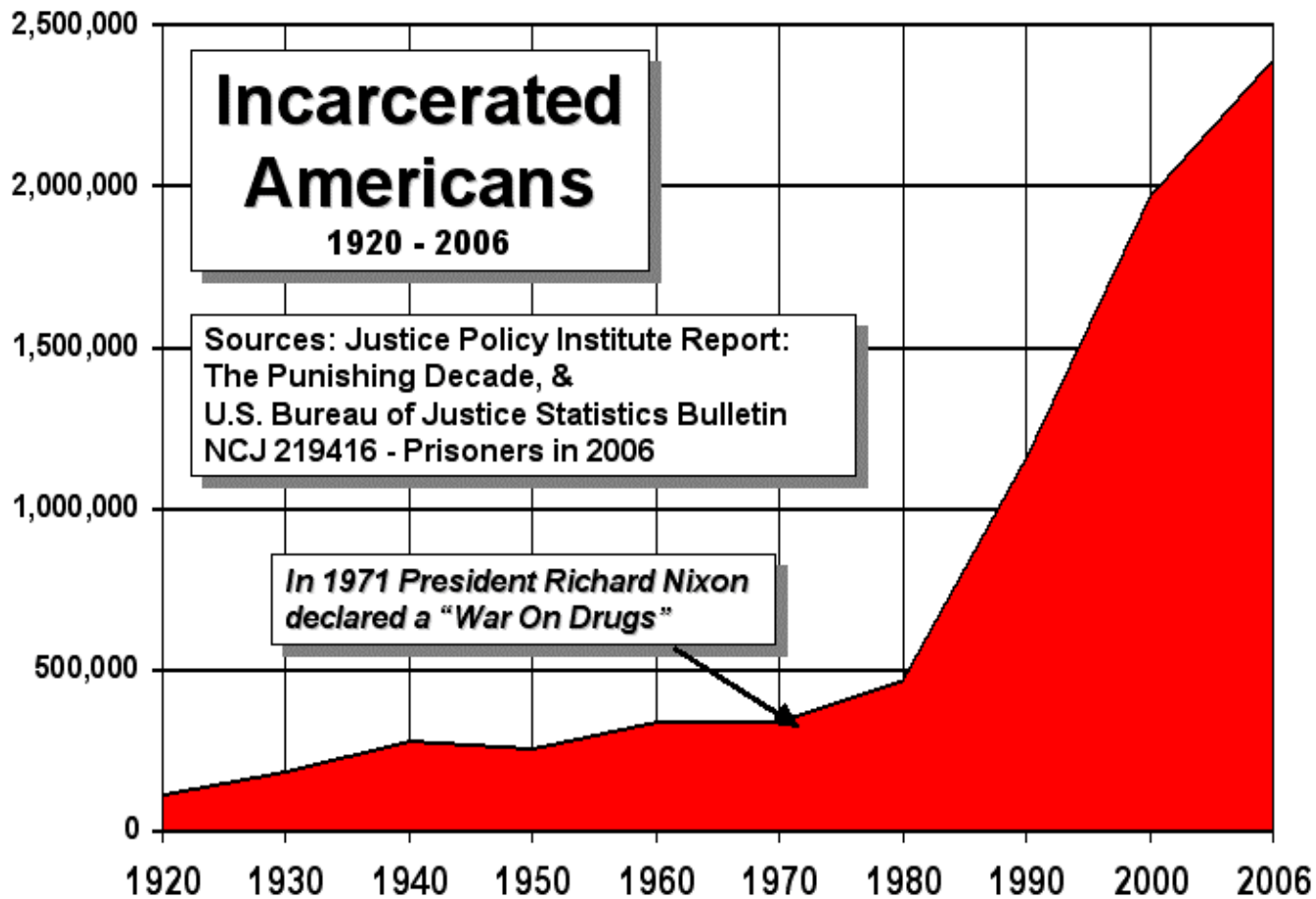
- May be as high as \$2 trillion per year
 - Very large relative to US GNP (\$14 trillion)
 - Dominated by violent crime & economic crime
 - Very regressive
 - Disproportionately affects low-income & minorities

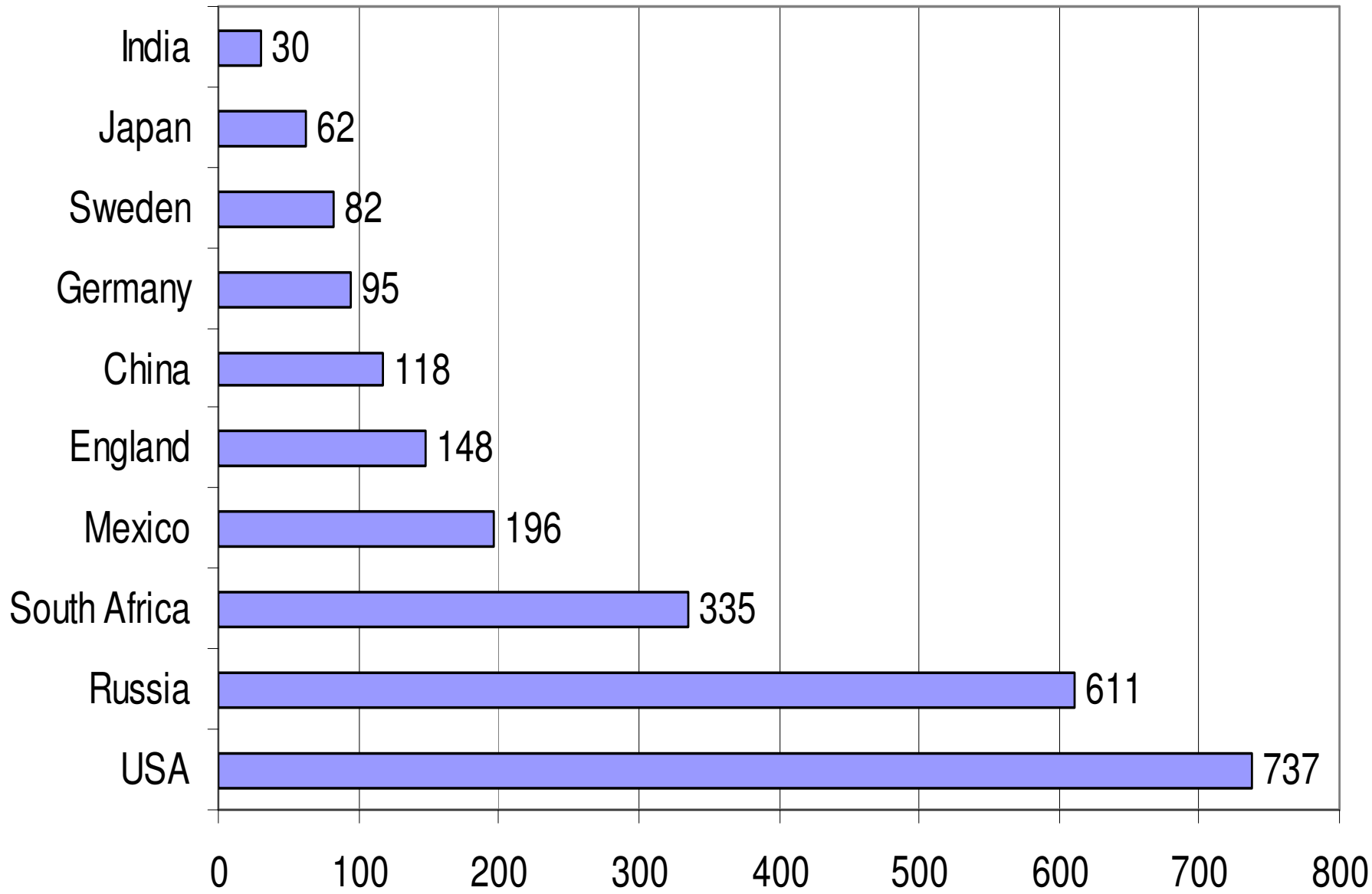
- Implies even costly new anti-crime efforts might pass a benefit-cost test

Application of benefit-cost analysis to incarceration policy

- Potential effects of incarceration on crime
 - Incapacitation (mechanical)
 - Deterrence (behavioral)
 - Assumes in response to incentives
 - Criminal justice as crime prevention
 - Replacement (behavioral, partially offsetting)
- We expect diminishing marginal returns from expanding prison populations
- Is US beyond optimal incarceration rate?

US incarceration trends





Too much of a good thing

- Increased incarceration reduces crime
 - MB \approx MC as of early 1990s
 - Steve Levitt 1996, *Quarterly Journal of Economics*
 - Uses plausibly exogenous policy variation for identification
 - So we're probably beyond optimal point now
 - China has lower incarceration rate, but longer sentences (more short sentences better?)
- In US, efficiency gains from redirecting resources from prisons to other policies?

Alternatives to mass incarceration

- More policing
 - Identification of causal effects using “natural experiments” from sharp policy shifts
 - More police spending reduces crime
 - At present levels, US very “under policed”
 - 3.3 police per 1,000 pop
 - Marginal dollar on police generates from \$4 to \$8 in benefits to society (Donohue and Ludwig, 2007)
 - (Argument hinges on cost of crime estimates)
 - US has been scaling back police spending in recent years
 - China same opportunity? Purportedly longer prison sentences & fewer police (1 per 1,000 residents)

Alternatives to mass incarceration

- Improving efficiency of policing
 - Targeting most severe aspects of problem
 - Crime “hot spots” (Lawrence Sherman, 2003)
 - Criminal gangs (Anthony Braga & colleagues)
 - Illegal gun carrying (Ludwig & Cohen, 2003)
 - Repeat offenders
 - Requires good data infrastructure
 - Better data collection and analysis might be remarkably cost-effective intervention

Alternatives to mass incarceration

- Crime prevention through social programs
 - Economic model: Increased opportunity costs of time should reduce criminal behavior
 - Identification is difficult (selection into programs)
 - Great value of randomized experimentation
 - Evidence from good natural experiments
 - Lochner and Moretti, 2004: more schooling, less crime
 - Schweinhart et al., 2005: more preschool, less crime
 - Weiner, Lutz and Ludwig, 2008: racially desegregating schools leads to less criminal behavior

Alternatives to mass incarceration

- Diversion to drug treatment
 - Evidence from US counter-intuitive: Most relapse, but still passes benefit-cost test
 - Hypothesis that drug treatment with stronger incentives to quit may be more effective
 - Would be interesting to know whether that is true in China
 - Relapse may lead to labor at reeducation camp

Lessons from the Becker economic model of crime

- Benefit-cost analysis helps set overall budget for crime prevention
 - Also helps choose among competing uses
 - Think about resource allocation on margin
 - Example of over-incarceration in US
 - Evidence that criminals respond to incentives highlights potential alternatives (more police, social programs)
 - Measurement issues for BCA very difficult in practice
 - Plausibly exogenous variation for impact evaluation
 - Measurement of WTP even more difficult
 - But in theory great promise for improving policy in this area

U.S. Criminal Justice

- One argument is that the relatively punitive criminal justice system in the United States is stimulated, at least to some extent by public opinion, has coincided with the revival of Protestant evangelicalism and fundamentalism and with their followers involvement in politics and policy debates. See Grasmick, et. al.

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- 5. continued. The Grasmick, et. al. study argues that evangelical/fundamentalist Protestants are more inclined to attribute crime to offenders dispositional characteristics than to situational factors. Consequently they are expected to be more punitive than members of other groups. Sort of the “we are good, they are evil” type of rhetoric of national politics.

Reform

- We suggest that there is no evidence that the punitive nature of the U.S. penal sanctions reduces the crime rate significantly. On the contrary: punitive penal policies are a violent part of the very problem they are apparently designed to solve. Bierne and Messerschmidt.

Reform continued

- We should pursue reductions in the crime rate through social policies applied to the class structure itself. Certain societies in Western Europe have reported great success with a host of practical social policies.

Sands of Time

- Our current criminal justice system is a mess in many respects.
- It is not by any means an efficient use of public funds or effective public policy.
- In time this may change but at the moment it is difficult to be optimistic.
- One need is to have leaders willing to move away from “one percent solutions” that minimize risk versus over punishing all. We have gone way overboard on corrections versus milder sanctions.