

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

Winter 2010

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

Supreme Court Justice  
Anthony M. Kennedy  
August 2003

# Criminal Justice Expenditures

- In real terms (adjusted for growth in the population and for inflation) US expenditures on criminal justice increased between 1982 and 2006 by 190 percent for Police, 230 percent for Judicial and 280 percent for Corrections.

# COURSE ORGANIZATION

- CRIME, CRIME VICTIMS - Week One
- ARRESTS, CONVICTIONS,  
CLEARANCES - Week Two
- Col. David Rohrer, Chief, FCPD - Week  
three
- OFFENDERS, INCARCERATION – Week  
Four

# Course Organization continued

- DRUGS, SO's, SPECIAL ISSUES – week five
- Lt. Col. James Whitley, Fairfax County Sheriff's Office – week six
- Derwin Overton, Executive Director, OAR of Fairfax County – week seven
- REFORMS, MEDIA, POLITICS. YOU BE THE JUDGE – week eight

# ISSUES AND INTERESTS OF THE CLASS

- QUESTIONS WE SHOULD ADDRESS
- YOUR PERSONAL EXPERIENCES
- CURRENT TOPICS AND CHALLENGES

# 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 talk about diminishing marginal returns, return on investment in public policy, collateral punishments, 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 me down if I get loud and be patience 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 and taxpayer burden of crime, 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 (Likely true in the 1980's and 1990's; less true today).
  - 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.
- Criminal justice is a matter of “dispute resolution”.

# 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 drunkenness, prostitution, 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.

# 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.
- 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, dealing drugs, 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 19<sup>th</sup> 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

# Crime in the United States 2008

- Uniform Crime Reports (UCR)
- Based on 17,000 agencies, representing 95 percent of the population
- 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 Based Reporting System
- General concepts the same as UCR
- 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](#)),

# NIBRS Continued

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/[Fencing](#), Weapon Law Violations

# NIBRS Continued

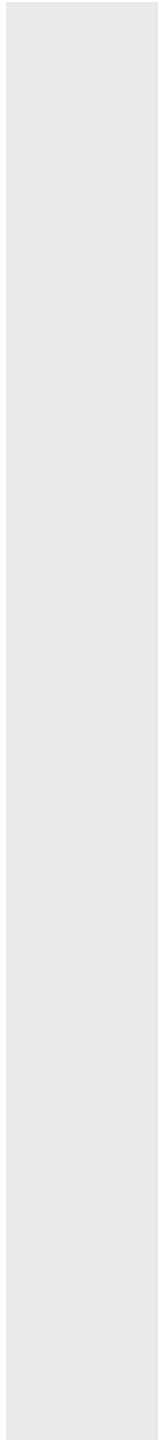
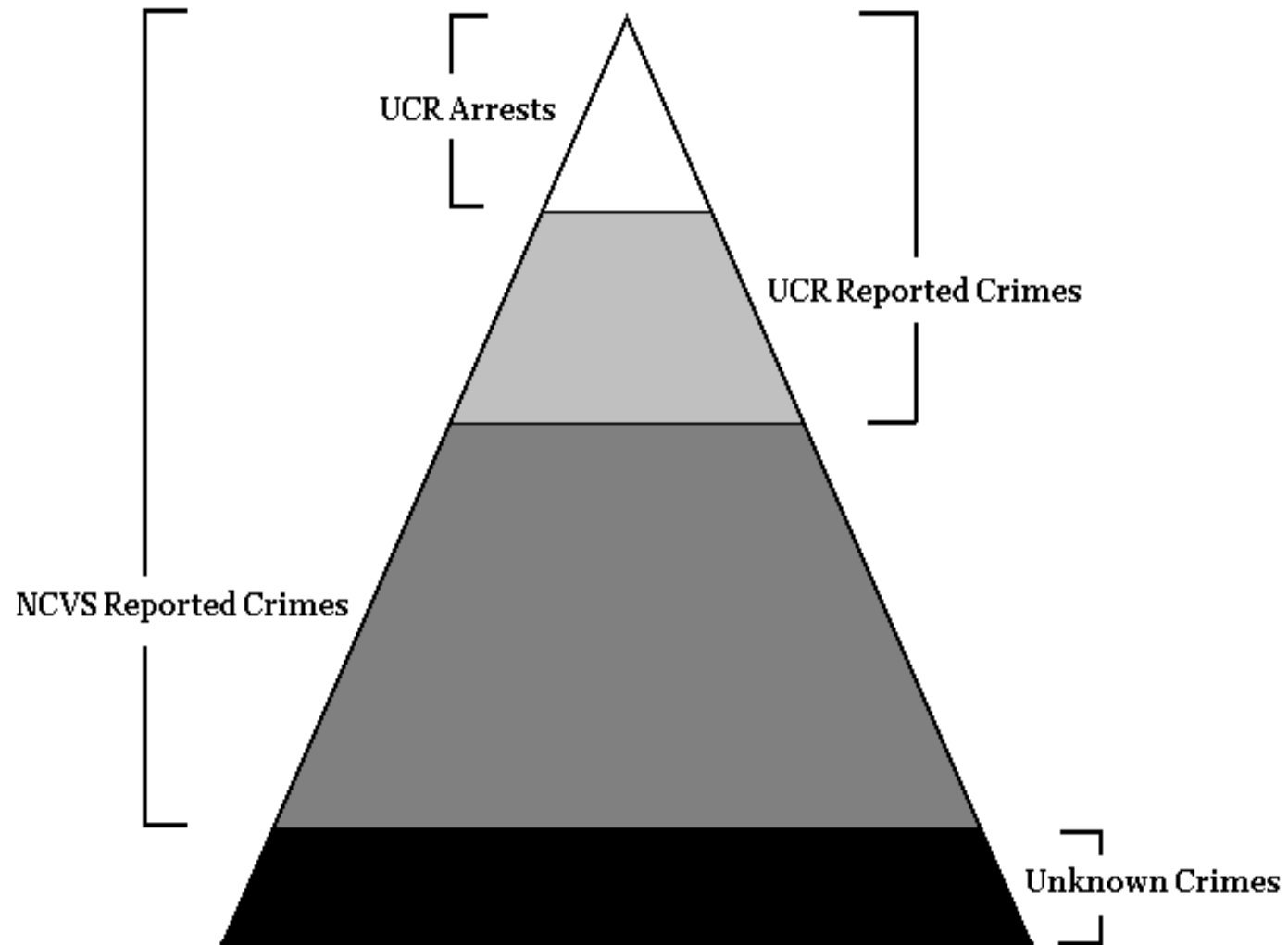
## Group B Offenses:

Bad Checks, Curfew/Loitering/Vagrancy  
Violations, Disorderly Conduct,  
Driving Under the Influence, Drunkenness,  
Family Offenses Nonviolent,  
Liquor Law Violations,  
Peeping Tom, Runaway, Trespass of Real  
Property, All Other Offenses

# NIBRS

- In 2004 over 5,000 law enforcement agencies submitted NIBRS data. This represents about 20% of the population and about 16% of the crime statistics.
- It appears the effort has struggled in recent years. A major problem is non-reporting of “crimes against society”. Sales of drugs and narcotics, gambling and wagering and sexual offenses and favors of all types are frequently private sector transactions between individuals. Presumably both parties are agreeable to the “crime” so it does not get reported to the police.

Violent Crime Arrests, Reports, and Unknown





# Crime in the United States 2008 (UCR)

## ➤ 1.4 million violent crimes

- Less than one-half percent chance you will be involved in one (far less for seniors)
- Rate per 100,000 Inhabitants is down 40 percent from highs of 1991 and 1992

## ➤ 9.8 million property crimes

- A three to three and one-half percent you will be involved in one (less for seniors)
- Rate per is down 38 percent from highs of 1991

# Violent Crime 2008 (UCR)

➤ Type	Total	➤ Rate per 100,000	
		➤ <u>2008</u>	<u>1991</u>
➤ <u>Total</u>	<u>1,382,012</u>	➤ 454	758
➤ Murder	16,272	➤ 5.4	9.8
➤ Rape	89,000	➤ 29	42
➤ Robbery	441,855	➤ 145	273
➤ Assault	834,885	➤ 275	433

# Property Crime 2008 (UCR)

➤ Type	Total	➤ Rate per 100,000	
		➤ <u>2008</u>	<u>1991</u>
➤ <u>Total</u>	<u>9,767,915</u>	➤ 3,212	5,140
➤ Burglary	2,222,196	➤ 731	1,252
➤ Larceny-Theft		➤	
➤	6,588,873	➤ 2,167	3,229
➤ Motor Vehicle			
➤ Theft	956,846	➤ 315	659

# Violent Crime Virginia 2008 (UCR)

➤ Type	Total	➤ Rate per 100,000	
		➤ <u>National</u>	<u>Virginia</u>
➤ <u>Total</u>	19,882	➤ 454	256
➤ Murder	368	➤ 5.4	4.7
➤ Rape	1,758	➤ 29	23
➤ Robbery	7,737	➤ 145	96
➤ Assault	10,319	➤ 275	152

# Property Crime Virginia 2008 (UCR)

➤ Type	Total	➤ Rate per 100,000	
		➤ <u>National</u>	<u>Virginia</u>
➤ <u>Total</u>	195,634	➤ 3,264	2,518
➤ Burglary	31,993	➤ 722	412
➤ Larceny-Theft		➤	
➤	150,382	➤ 2,178	1,936
➤ Motor Vehicle			
➤ Theft	13,259	➤ 363	171

# Crime in the United States

- Crime rates per 100,000 inhabitants for both violent and property crime were lowest in the Northeast followed by the Midwest and West and were the highest in the South.
- In the South: SC, TN, DE, FL, LA, and MD had high rates of violent crime while VA, WV, MS, KY, AL and NC had relatively lower rates of violent crime per 100,000 inhabitants.
- Cities (MSA's) in the South: Florence, SC; Pine Bluff, AR; Salisbury, MD; Tallahassee, FL; Nashville, TN and Miami-Fort Lauderdale, FL have relatively 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 1960-2008

➤ 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
➤ 2008	454	3,212



# Virginia Crime Index Rates 1960-2008

➤ Year	Violent (per 100,000)	Property
➤ 1960	183	1,469
➤ 1970	302	3,363
➤ 1980	307	4,313
➤ 1990	351	4,090
➤ 2000	282	2,746
➤ 2008	256	2,518

# US & Virginia Crime Rates 1960-2008

- Virginia violent and property crime rates have consistently been less than US rates.
- Virginia violent crimes rates currently are 15 percent less per 100,000 inhabitants than in 1970 and are 28 percent less than in 1990.
- US violent crimes rates are 38 percent less than in 1990 and property crime rates are 40 percent less.

# Crime Index Declines 1990-2008

## United States

- Crime rates are down substantially in the last 20 years for both violent crime and property crime. Reasons why that have been cited include:
  - Changing demographics (particularly the portions of young adult males in the population)
  - There is less interest in enforcing laws related to hard drugs (heroin, cocaine) and other illegal drugs, primarily marijuana
  - There have been changes in drug market patterns

# Crime Index Declines 1990-2008

## Why continued-

- The economy has been strong, unemployment is down (or at least has been until currently).
- Protective defensive actions by citizens and the development and use of community based crime prevention programs have been very effective
- Private sector initiatives and investments have provided for safe environments

# Crime Index Declines 1990-2008

## Why continued-

- Statutory changes and reforms have “decriminalized” some offenses
- Police departments have effectively targeted “hot spots” and adjusted public safety initiatives depending on need..
- The use of alternatives to incarceration for less serious crimes has helped prevent or reduce de-stabilizing some neighborhoods

# Crime Index Declines 1990-2008

## Why continued-

- There is some indication that citizens are reluctant to report crimes (especially within family or community settings given the tendency for harshness and punitive criminal justice
- Of particular interest is whether the major increase in incarceration of offenders in recent years has had an impact on the crime rate. There is no real empirical evidence that there has been any impact in terms of lowering the crime rate. States that have tended to lower the incarceration rate have experienced better results than states that have tended to increase the incarceration rate. Almost without exception all states have had reductions in their crime rates.

# Flashback: 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 wide-spread use of drugs (limiting sales creates monopoly profits).
- Need to compete for territories for distribution and sales of illegal drugs, access to profits.
- 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 and retributions stemming from 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.

# United States Crime Index Rates 1960-2008

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# 1960-2008 U.S. Crime Index Rates

## Finer Details

- Murder: 1960 index 5.1, 1980 peak index 10.2. The 1966 and 2007 index was equal at 5.6. The index likely increased due to the profits of drug sales and remained relatively high from 1972 to 1994.

# 1960-2008 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 1977 and the 2008 index was roughly equal at 29+. 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 15 year declines may reflect concerns about the impacts of reporting rape and the impact on acquaintances and families.

# 1960-2008 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 private sector initiatives, community based programs and efficient police targeting of problem areas.

# **CRIME VICTIMS**

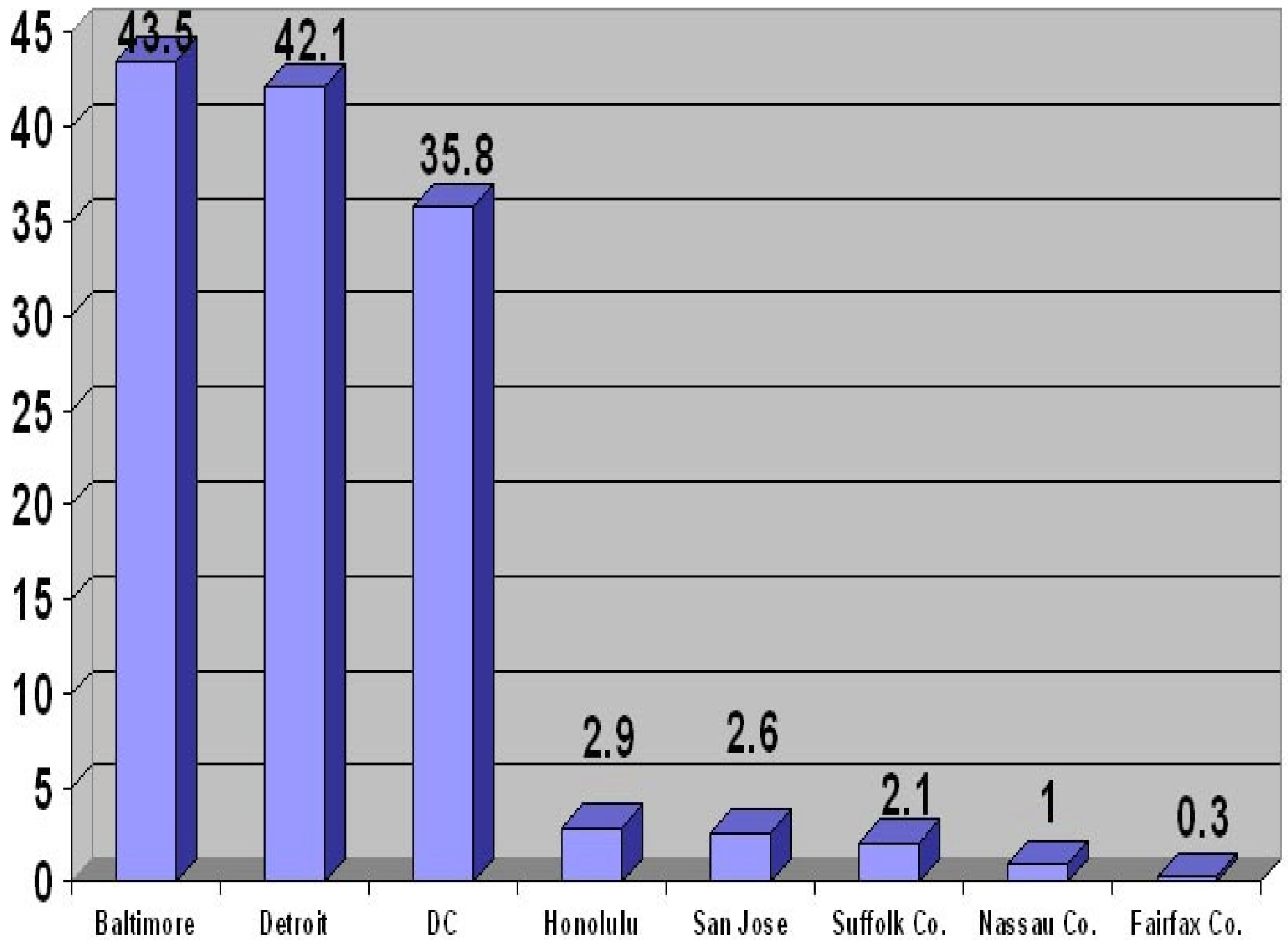
# Murder

- Victims: Males 78 percent, Whites 52 percent and Blacks 44 percent.
- Means: Firearms over two-thirds. Handguns involved in over 7 in 10 murders with firearms.
- Felonies (including robbery and narcotic drug laws) 15%
- Other than felonies 49%. Breakout includes arguments 54%, gangland (predominantly juveniles) 13%, brawls due to alcohol or drugs 3% and other-not specified 29%.
- Murders and non-negligent manslaughters known to police in 2008 totaled 14,180 or 4 per day nationally.
- Murders are less than 2% of violent crimes.

# Murder continued

- Other 2008 murder totals are amazingly small
  - Rape 23, Prostitution and commercialized vice 7, other sex offenses 11, romantic triangles 104, sniper attacks 4, brawl due to influence of alcohol 125, brawl due to influence of narcotics 68
- The U.S. murder rate per 100,000 resident population was 5.4 for 2008. This compares with 2004 data of 26 for South America, 20 for Africa, 8.1 for East Europe, 7.6 for the World , 3.2 for Asia and 1.5 for West and Central Europe. U.S. murder rates are three to four times those of Canada and England.





# Murder continued: Victim-offender relationship

- Dominated by other than felony type incidents. Arguments with family members, acquaintances and strangers most common incidents
- Murder is mainly a crime of passion, one time event situations. The number of mafia or commercial type murders is less than two percent of the total.

# Change of Focus

- US high on lethal violence, par on minor violence and lower on property crime than many industrialized nations
- All crimes estimated based on the National Crime Victimization Survey (NVCS) at 21.3 million, personal crimes 5.4 million or 23 percent, property crimes 16.3 million or 77 percent

# 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 76,000 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 law enforcement officials.

# Crime Victimization 2008

- Two-thirds of the violent crimes represent attempted/threatened violence. Assaults constitute 84 percent of violent crimes. Of the assaults, 80 percent are simple assaults where an intent by an attacker to inflict severe or aggravated bodily, often by a weapon, is unclear.
- Thefts constitute three-fourth of property crimes.

# Crime Victimization 2008

## Violent Crimes

### ➤ Per 1000 persons

- Males 21.3 Females 17.3
- Whites 18.1 Blacks 25.9
- Never married 35.8\* Married 9.5\*
- Widowed 7.3\* Separated 35.7\*
- Age 50-64 10.7 Age 65 or older 3.1

\*2007 NCVS data

# 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

# Violent Crime Victims per 1000 persons 2007

- African American Age 16-19 Males 50
- White Age 16-19 Males 56
- White Age 16-19 Females 44
- African American Age 20-50 Males 22
- White Adult Age 20-50 Males 24
- White Age 50-64 Males 13, Females 10



# Crime Victimization

- Exposure – Cities, most crime is intra-racial, low income – less able to afford security
- Crime costs – lost property, lower productivity, medical care. NCVS 2007 estimate is a total of \$18 billion. Motor vehicle theft and robbery the most expensive per incident. Violent crime \$2 billion w/o a value on homicides.
- Psychological – fear, quality of life
- Total societal costs including law enforcement, courts and criminal justice system much higher.