

National Center for Policy Analysis

POLICY BACKGROUNDER No. 110

*For people with limited time
and a need to know.*

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Domestic Agenda Issue:

Why Does Crime Pay?

America is burdened by an appalling amount of crime. Even though the crime rate is not soaring as it did during the 1960s and 1970s, we still have more crimes per capita than any other developed country.

- Every year nearly 5 million people are victims of violent crimes — murder, rape, robbery or assault.¹
- Another 19 million Americans each year are victims of property crimes — arson, burglary and larceny-theft.²
- There is a murder every 24 minutes, a rape every six minutes, a robbery every 55 seconds and an aggravated assault every 33 seconds.³
- There is a motor vehicle theft every 20 seconds, a burglary every ten seconds and a larceny-theft every four seconds.⁴

Although the number of crimes reported to the police each year leveled off somewhat in the 1980s, our crime rate today is still enormously high — three times higher, for example, than it was in 1960.

Why is there so much crime?

Thinking About Crime

Most crimes are not irrational acts. Instead, they are acts freely committed by people who compare the expected benefits of crime with the ex-

"The crime rate today is three times higher than in 1960."

pected costs. The reason we have so much crime is that, for many people, the benefits outweigh the costs. For some people, a criminal career is more attractive than their other career options.

Because criminals and potential criminals rarely have accurate information about the probabilities of arrest, conviction and imprisonment, they are generally uncertain of the punishment they can expect. Some people overestimate their probability of success, while others underestimate theirs.

Despite the element of subjectivity, the evidence shows that crime will increase if the expected cost of crime to criminals declines. This is true for "crimes of passion" as well as economic crimes such as burglary or auto theft. The less costly crime becomes, the more often people fail to control their passions.

"Crime will increase if expected punishment for criminals declines."

The view that potential criminals respond to incentives is consistent with public opinion,⁵ and with the perceptions of potential criminals.⁶ It also is supported by considerable statistical research.⁷

Expected Punishment

"Expected punishment" is a way of measuring the cost of committing a crime. It is not the same as the length of time prisoners actually stay in prison. Rather, expected punishment is calculated by multiplying four *probabilities* — of being arrested for a crime after it is committed, of being prosecuted if arrested, of being convicted if prosecuted and of going to prison if convicted — and then multiplying the product by the median time served for an offense.⁸

Expected Punishment for Burglary. In the United States, about 7 percent of burglaries result in an arrest.⁹ Of those arrested, 88 percent are prosecuted. Of those prosecuted, 82 percent are convicted. Of those convicted, 21 percent are actually sent to prison. After multiplying these probabilities together, we see that a potential burglar has only a 1.1 percent probability of going to prison as a result of an act of burglary. Once in prison, a burglar will stay there about 17 months. But since more than 98 percent of burglaries never result in a prison sentence, the average sentence served for each act of burglary is only 5.4 days.¹⁰

"The average sentence served for each act of burglary is only 5.4 days."

On the average, then, a potential criminal can expect to spend only 5.4 days in prison for an act of burglary. Stealing is profitable so long as what is stolen is worth more than five days behind bars.

Expected Punishment for Other Serious Crimes. As Table I shows, expected punishment for committing other serious crimes is shockingly low:

TABLE I
**Expected Punishment
 For Potential Criminals**

<u>Crime</u>	<u>Expected Time in Prison¹</u>
Murder	2.3 years
Rape	80.5 days
Robbery	27.0 days
Arson	12.5 days
Aggravated Assault²	13.2 days
Burglary³	5.4 days
Motor Vehicle Theft	3.8 days
Larceny-Theft⁴	2.2 days

"The expected punishment for murder is only 2.3 years in prison."

¹Based on the probabilities of arrest, prosecution, conviction and imprisonment.

²The FBI defines "aggravated assault" as an unlawful attack by one person on another for the purpose of inflicting severe or aggravated bodily injury, usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

³Burglary is the unlawful entry of a structure to commit a felony or theft.

⁴Larceny-theft is the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.

Source: Morgan O. Reynolds, "Crime Pays; But So Does Imprisonment," National Center for Policy Analysis, NCPA Policy Report No. 149, March 1990, Appendix A, Table A-5, updated.

- Even for committing murder, a individual can expect to spend only 2.3 years in prison.
- For rape, the expected sentence is 80.5 days, for robbery 27 days and for aggravated assault 13.2 days.
- Someone considering an auto theft faces a risk of only 3.8 days in prison.

The Decline in Expected Punishment for All Serious Crimes. If the numbers in Table I appear low, the full reality may be worse. On the average,

TABLE II

The Decline in Expected Punishment for All Serious Crimes

<u>Year</u>	<u>Expected Time in Prison</u>
1950	24.0 days*
1954	22.5 days
1964	12.1 days
1974	5.5 days
1984	7.7 days
1988	8.5 days

*NCPA estimate based on incomplete data.

Source: Morgan O. Reynolds, "Crime Pays; But So Does Imprisonment," National Center for Policy Analysis, NCPA Policy Report No. 149, March 1990, Appendix A, Table A-1.

"Since the 1950s, expected punishment for a serious crime has been reduced by two-thirds."

those crimes with the longest expected prison terms (murder, rape, robbery and assault) are the crimes least frequently committed, comprising only about 10 percent of all serious crime. The remaining 90 percent carry an expected prison term of only a few days.

When expected punishment is weighted by the frequency of types of crimes, the picture is even more shocking: *On the average, a perpetrator of a serious crime in the United States can expect to spend about eight days in prison.* Table II shows how this overall expectation has changed over time:

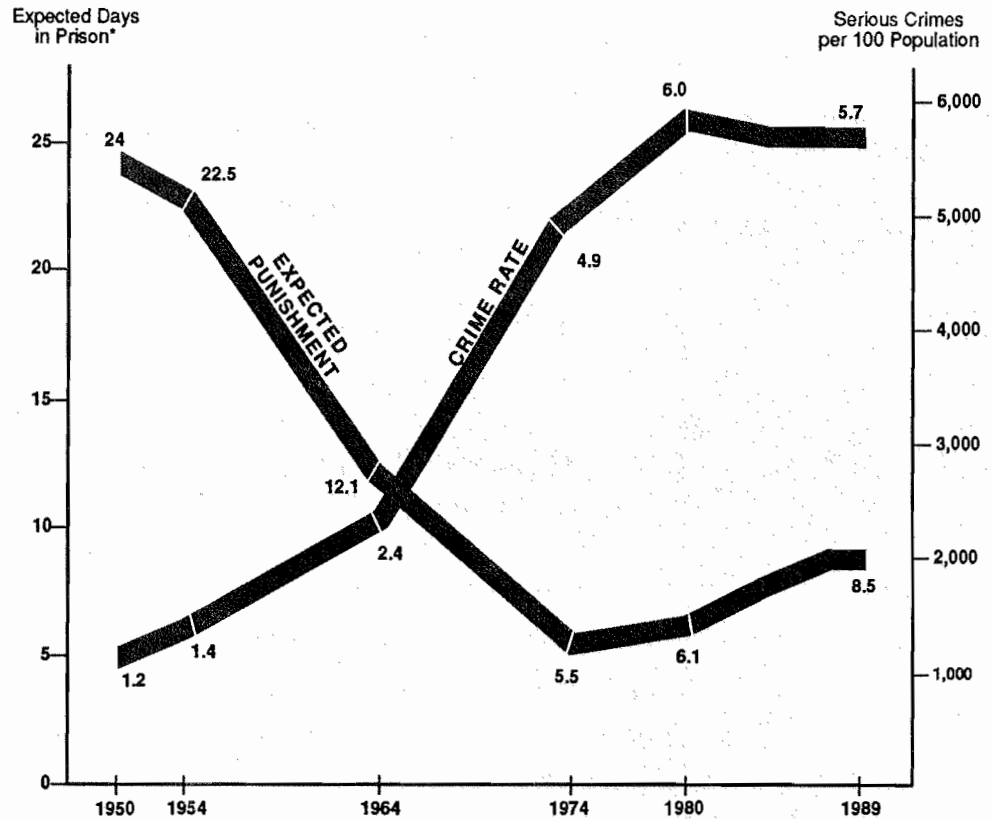
"On the average, the perpetrator of a serious crime can expect to spend about eight days in prison."

- Since the early 1950s, the expected punishment for committing a serious crime in the United States (measured in terms of expected time in prison) has been reduced by two-thirds.
- Over the same period, the total number of serious crimes committed has increased sevenfold. [See Figure I.]

The "Prices" We Charge for Crime. It is virtually impossible to prevent people from committing crimes. The most that the criminal justice system can do is impose punishment after the crime has been committed.

**FIGURE I
CRIME AND PUNISHMENT**

"The crime rate rose because expected punishment declined."



*Median prison sentence for all serious crimes, weighted by probabilities of arrest, prosecution, conviction and imprisonment.

Source: Table II.

"The 'price' for an auto theft is 3.8 days in prison."

People are largely free to commit almost any crime they choose. What the criminal justice system does is construct a list of prices (expected punishments) for various criminal acts. People commit crimes so long as they are willing to pay the prices society charges, just as many of us might risk parking or speeding tickets.

Viewed in this way, the expected prison sentences listed in Table I are the prices we charge for various crimes. Thus, the price of murder is about 2.3 years in prison; the price of burglary is 5.4 days; the price for stealing a car is 3.8 days. Since the prices are so low, it is small wonder so many are willing to pay them.

"Unless prison space can be expanded, other deterrence will be of limited value."

The Solution: Increase Expected Punishment

If America is to succeed in lowering the crime rate to, say, the level that prevailed in the 1950s, we must create at least as much crime deterrence as existed then. For example, there are three ways of raising the expected prison sentence for burglary to its 1950 level. Since the probabilities of prosecution and conviction, given an arrest, are already high, the options are:

- Increase the proportion of burglaries cleared by arrest from 14 to 42 percent; or
- Increase the percent of convicted burglars sent to prison from 21 to 63 percent; or
- Increase the median prison sentence for burglars from 17 to 51 months.

All three alternatives are expensive. A higher arrest rate requires that more money be spent on criminal investigation. A higher sentencing rate requires more court and litigation costs. All three alternatives require more prison space.¹¹ Unless prison space can be expanded, little else in the way of deterrence will be of much value.

What Punishment Accomplishes

The importance of punishment is illustrated vividly by the experience of two large states — California and Texas — during the 1980s.

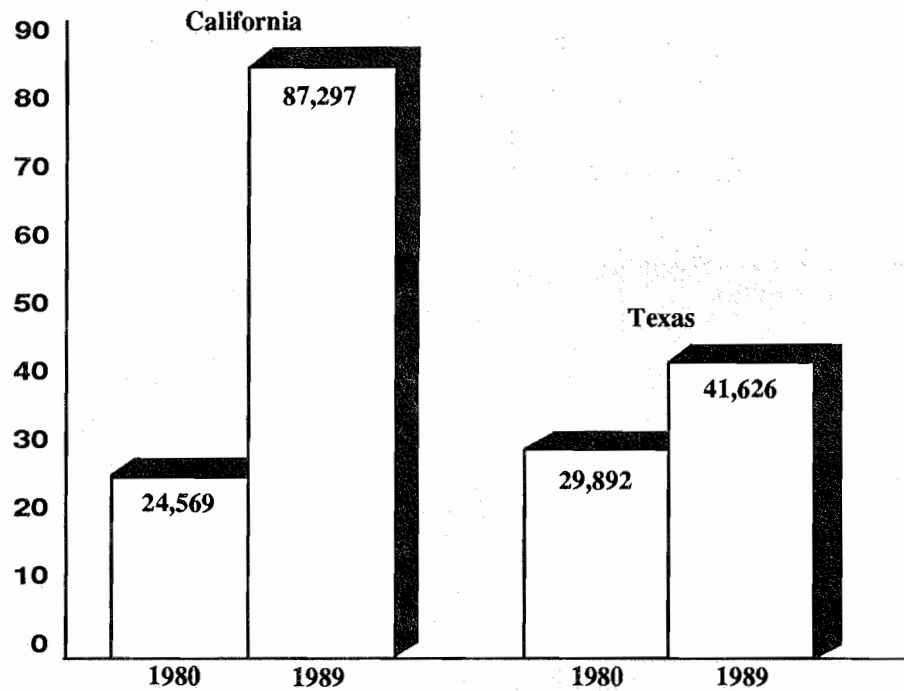
At the beginning of the decade, California, with a larger population, had fewer state prisoners than Texas — and a higher crime rate. (The crime rate in both states exceeded the national rate, California by 31.6 percent and Texas by 3.2 percent.)

- In the 1980s, California increased its state prison population by 255 percent — and serious crime dropped by 13.7 percent. [See Figures II and III.]
- Over the same period, Texas increased its state prison population by only 39 percent — and serious crime rose by 29.0 percent.¹²

"California's serious crime rate dropped when prison cells increased faster than the general population."

"When California increased its prison population by 225 percent, its crime rate dropped by 13.7 percent."

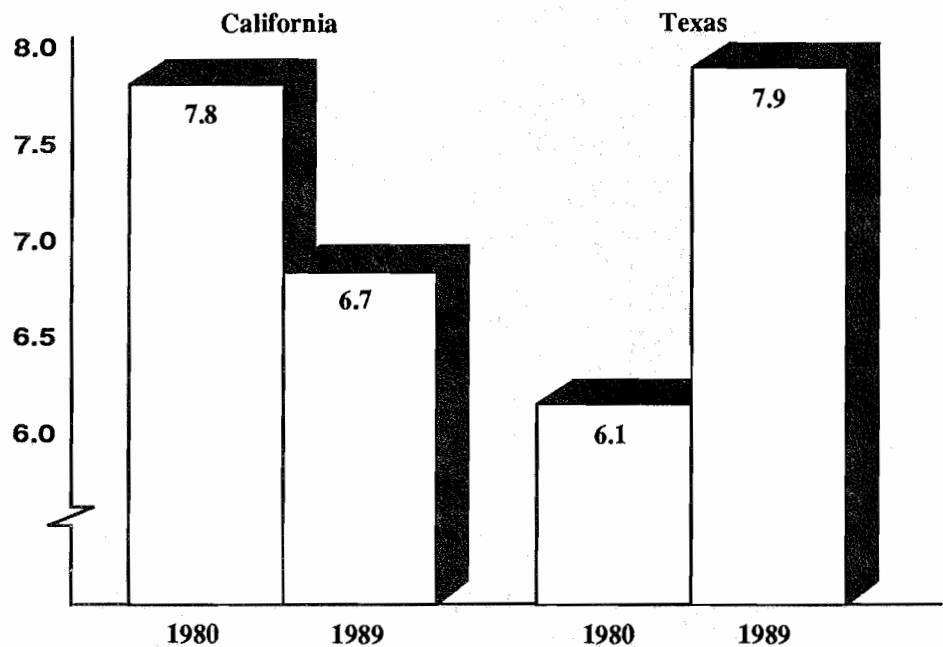
FIGURE II
Number of Prisoners



Source: California Department of Corrections, Texas Department of Criminal Justice.

FIGURE III

Crime Rates¹



"Over the same period, serious crimes in Texas rose by 20.7 percent."

¹Serious crimes per 100 population.

Source: *Uniform Crime Reports*, Federal Bureau of Investigation.

The Cost of Building Prisons

America is in the midst of the biggest prison building boom in its history. On December 31, 1989, prisons held 710,054 convicts, up from 436,855 prisoners at the beginning of 1984 and at 110 percent of design capacity. In 1989 the system added 82,466 inmates — a record — enough to fill 165 new 500-bed prisons.

"Today, one out of every 350 Americans is in prison."

- Today, one out of every 350 Americans is in prison — not jail, probation or parole but in prison.
- With an additional 395,553 in local jails in mid-1989, 456,797 on parole and 2,520,479 on probation, one out of every 46 adults is under the supervision of the corrections establishment, or one of every 35 adult males.¹³

At an annual cost exceeding \$20,000 per prisoner, the total prison tab is more than \$15 billion a year. That cost will surely rise. Thirty-five states are under court orders to relieve prison overcrowding, and others face litigation. To increase capacity, more than 100 new state and federal prisons currently are under construction around the country. State governments spent some \$9 billion in 1989 on new prisons. In most cases, the construction cost per prison bed exceeds \$50,000.

The Cost of Not Building Prisons

Although the cost of building and maintaining prisons is high, the cost of not creating more prisons appears to be much higher. A study by the National Institute of Justice concluded that the typical career offender turned loose in society will engage in a one-person crime wave causing damage more than 17 times as costly as imprisonment.¹⁴

"A career criminal outside of prison costs society about \$430,000 a year."

- Sending someone to prison for one year costs taxpayers about \$25,000.
- A Rand Corporation survey of 2,190 professional criminals found that the average career criminal commits 187 to 287 crimes a year, each costing society an average of \$2,300.
- So keeping a career criminal out of prison costs, on the average, \$430,000 a year — \$405,000 more than the cost of imprisonment.

The failure to keep offenders in prison once they are there is another

hazard created by a lack of prison space, and early release often leads to more crime.

- A Rand Corporation survey of former inmates in Texas found that 60 percent were rearrested within three years of their release and 40 percent of those were reconvicted.¹⁵
- A survey of 11 states showed that 62.5 percent of all released prisoners were rearrested within three years, 46.8 percent were reconvicted and 41.1 percent were reincarcerated.¹⁶
- A study of 22 states for the Bureau of Justice Statistics found that 69 percent of young adults (ages 17 to 22) released from prison in 1978 were rearrested within six years, after committing an average of 13 new crimes.¹⁷

"Early release often leads to more crime."

Reducing Prison Costs¹⁸

Much can be done, even within the existing system, to reduce the high costs of constructing and operating prisons.

Better Approaches to Construction: Opportunities for innovation in prison construction abound, even within the public sector. For example:

- Florida expanded an existing facility by 336 beds for only \$16,000 per cell.¹⁹
- South Carolina used inmate labor to reduce construction costs by an estimated 50 percent with no quality loss, though some delay occurred.²⁰
- New York City has begun using renovated troop barges and a ferry boat as detention facilities.²¹

"The recidivism rate is only 2.1 percent among prisoners over 45 years old."

Early Release of Elderly Prisoners.²² Although the recidivism rate is about 22 percent for prisoners ages 18 to 24, among prisoners over age 45 the recidivism rate is only 2.1 percent. Nationwide, there are at least 20,000 inmates over age 55. Moreover, the average maintenance cost of an elderly prisoner is about \$69,000 — three times the cost of a younger prisoner. Early release of elderly prisoners to make room for younger criminals makes sense and would improve crime deterrence.

Boot Camp Therapy for Young Prisoners. Called "shock incarceration" by former federal drug czar William Bennett, boot camp therapy as an

alternative to prison for youngsters (not yet hardened criminals) is being used in Georgia, Alabama, Florida, Louisiana, Mississippi, New York, Oklahoma, South Carolina and Texas. Costs are lower, although the recidivism rate is about the same as for the prison system as a whole.

"Less than half of U.S. prisoners have been incarcerated for violent crimes."

Electronic Ankle Bracelets. Most people would agree that imprisonment is necessary and desirable for violent crimes such as homicide, rape, robbery and assault. But less than half of U.S. prisoners have been incarcerated for such crimes.²³ A recent, less expensive, alternative to imprisonment is the electronic monitoring device that is worn by parolees. Judges can impose conditions of parole, including restrictions on the range and timing of the parolees' activities, and the restrictions can be enforced by monitoring companies.

Using Abandoned Military Bases. Some military bases are now targeted for closure. Over the years, a number have been closed or reduced in size. Many have been converted to other uses, but others could be converted into minimum security prisons. In a few cases this has already happened.

- Part of Maxwell Air Force Base in Montgomery, Alabama, has been used as a federal prison since the 1930s.
- Eglin Air Force Base in Florida is host to an 800-bed minimum security prison camp.
- At Tyndall Air Force Base in Florida, officials converted a dormitory and administration building into a 120-bed prison facility at a cost of only \$625 per bed.

"It would be hard to argue that facilities previously used by our armed forces are inhumane."

It is possible that the courts would require extensive — and expensive — modification of base facilities before they could be used as prisons. However, it would be hard to argue that facilities previously used by our armed forces are "inhumane."

Another potential problem — the federal government's policy of assuring that its land is returned to its highest potential use — could be solved by corporatizing the prison system and giving abandoned military bases to the corporate entity to convert to prison use or sell in the private marketplace, using the proceeds to purchase prison facilities elsewhere. Selling the Presidio in San Francisco, for example, would give California prison officials the money to buy a large tract of less expensive property on which to construct new prison space.

Reducing Costs Through Privatization And the Creation of Factories Behind Bars

"The most promising ways to control costs are privatization of the construction and operation of prisons."

The most promising ways to control taxpayer costs involve the privatization of prison construction and operation. Short of full privatization, government-operated correctional facilities could be corporatized and operated like private businesses.

Prison Construction. Prison construction is a major growth industry, and companies offering modular prison facilities, prison equipment, security systems and food and health services abound.

- Corrections Corporation of America (CCA) completed a 350-bed minimum security facility in Houston in 1984 for the U.S. Immigration and Naturalization Service. Construction was completed in just five-and-a-half months at a cost of only \$14,000 per bed. The INS estimate for doing its own construction was \$26,000 per bed and construction time of two-and-a-half years.²⁴
- In Loudon County, Virginia, Surfside 6 Industries used steel shipping containers to build a six-cell, 23-cot prefab jail. The cost: \$96,000, or \$4,000 per bed. The construction time: 15 days.²⁵

Prison Operation. Private operation of prisons is less familiar than private prison construction. But there is no insurmountable legal obstacle to total privatization. Unlike government agencies, private firms must know and account for all the costs of prison operation, including long-run costs.²⁶ If they can do so and still operate prisons for less than the government — and all indications are that they can — then government should impose punishments and let the private sector supply prisons.

"Government should impose punishments and let the private sector supply prisons."

- As a private contractor, CCA charges the INS only \$24 per inmate per day, a charge which includes recovery of the cost of building the facility.²⁷
- Operating costs for publicly-run prisons are twice that amount, even without taking construction costs into account.²⁸

Employing Prisoners. A recent survey commissioned by the National Institute of Justice identified more than 70 companies which employ inmates in 16 states in manufacturing, service and light assembly operations.²⁹ Prisoners work as reservationists for TWA and Best Western motels, sew leisure wear, manufacture water-bed mattresses and assemble electronic components.

"Prisons were originally intended to be self-supporting."

PRIDE, a state-sponsored private corporation that runs Florida's 46 prison industries — from furniture making to optical glass grinding, made a \$4 million profit in 1987.³⁰

Such work benefits everyone. It enables prisoners to earn wages and acquire marketable skills, while learning individual responsibility and the value of productive labor. It also ensures that they are able to contribute to victim compensation and to their own and their families' support while they are in prison.

Prisons originally were intended to be self-supporting, and during the 19th century many state prisons ran surpluses, returning excess funds to their state governments. Today, prison inmates are a huge drain on taxpayer wallets despite the millions of available hours of healthy, prime-age labor they represent.

Increasing productive work for prisoners requires the repeal of a number of federal and state statutes. The federal Hawes-Cooper Act of 1929 authorized states to ban commerce in prison-made goods within their borders. The Walsh-Healy Act of 1936 prohibited convict labor on government contracts exceeding \$10,000. The Sumners-Ashurst Act of 1940 made it a federal offense to transport prison-made goods within a state for private use.

Throughout the nation, a score of exceptions to the federal restrictions on prison labor have been authorized, *provided* the inmates were paid a prevailing wage, labor union officials were consulted, other workers were not adversely affected and the jobs were in an industry without local unemployment.³¹

Conclusion

"We must continue to make crime less lucrative for potential criminals."

Although crime continues on the high plateau, there are grounds for optimism. The number of young males began to decline in the 1980s and will continue to do so through the 1990s. Further, the odds of imprisonment for a serious offense increased in the 1980s as legislators responded to the public's "get tough" attitude. And the national crime rate decreased slightly.

What can be done to build on this relatively promising trend? At a minimum three things must occur. First, we must continue raising the odds of

imprisonment, making crime less lucrative for potential criminals. Second, we must reduce prison costs by privatization. Third, the laws hampering productive employment of prisoners must be relaxed.

Morgan Reynolds
Senior Fellow

NOTE: Nothing written here should be construed as necessarily reflecting the views of the National Center for Policy Analysis or as an attempt to aid or hinder the passage of any bill before Congress.

Footnotes

- ¹ National Crime Survey conducted annually by the U.S. Bureau of Census for the Bureau of Justice Statistics.
- ² Ibid.
- ³ Estimation, *Crime in the United States, Uniform Crime Reports for the United States* (Washington, DC: U.S. Dept. of Justice, 1988).
- ⁴ Ibid.
- ⁵ As Harvard political scientist James Q. Wilson wrote, "The average citizen thinks it is obvious that people have discovered it is easier to get away with it." James Q. Wilson, *Thinking About Crime*, revised ed. (New York: Basic Books, 1983), p. 117.
- ⁶ "The risks posed by the criminal enforcement system are notoriously low," writes economist Kip Viscusi, "and data show that youthful criminals know it." W. Kip Viscusi, "The Risks and Rewards of Criminal Activity: A Comprehensive Test of Criminal Deterrence," *Journal of Labor Economics*, Vol. 4, No. 3, 1986, pp. 317-340.
- ⁷ Ibid. See also the earlier surveys of the literature in Gordon Tullock, "Does Punishment Deter Crime?" *The Public Interest*, Vol. 36, Summer 1974, pp. 103-111; and Morgan O. Reynolds, *Crime by Choice* (Dallas: Fisher Institute, 1985), ch. 12.
- ⁸ These calculations give the total amount of time actually spent in prison divided by the total number of crimes committed.
- ⁹ Assumes that one-half of all burglaries are unreported.
- ¹⁰ Morgan O. Reynolds, "Crime Pays; But So Does Imprisonment," National Center for Policy Analysis, NCPA Policy Report No. 149, March 1990, Table III, p. 6, with statistics updated.
- ¹¹ For example, increasing the arrest rate while holding constant the probabilities of prosecution, conviction and imprisonment as well as the median prison sentence would require that more burglars be sent to prison.
- ¹² U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 1988*, and earlier reports, cited in *Statistical Abstract of the United States*, 1990.
- ¹³ U.S. Department of Justice, Bureau of Justice Statistics, *Correctional Populations in the United States, 1987*, December 1989, No. NCJ-118762.
- ¹⁴ *Wall Street Journal*, March 21, 1989.
- ¹⁵ Stephen Klein and Michael Caggiano, *Policy Implications and Recidivism* (Santa Monica, CA: Rand Corporation, 1986) and Joan Petersilia, et al., *Prison Versus Probation* (Santa Monica, CA: Rand Corporation, 1986).
- ¹⁶ U.S. Department of Justice, Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, 1988, p. 658.
- ¹⁷ Allen Beck, *Recidivism of Young Parolees* (Washington, DC: Bureau of Justice Statistics, 1987).
- ¹⁸ See also Dana C. Joel, "Time to Deal with America's Prison Crisis," *Heritage Backgrounder*, No. 738, Heritage Foundation, November 15, 1989.
- ¹⁹ U.S. Department of Justice, Bureau of Justice Statistics, *Report to the Nation on Crime & Justice*, pp. 124-125. Cited in Republican Policy Committee, "Bursting at the Beams: America's Overcrowded Prisons," April 19, 1989, p. 2.
- ²⁰ Eckerd, "Responsibility, Love, and Privatization: A Businessman's Guide to Criminal Rehabilitation," *Policy Review* 45, Summer 1988, pp. 52.
- ²¹ *New York Times*, October 25, 1986, p. L29; and *New York Times*, October 28, 1988, p. B1.
- ²² See Jonathan Turley, "Solving Prison Overcrowding," *New York Times*, October 9, 1989. Turley directs the Project for Older Prisoners at Tulane University.
- ²³ *Time to Build? The Realities of Prison Construction* (New York: Edna McConnell Clark Foundation, 1984), p. 10.
- ²⁴ Charles D. Van Eaton, "Jail Overcrowding in Michigan: A Public Problem with a Private Solution?," a Mackinac Center Report, April 17, 1989, p. 14.
- ²⁵ Associated Press dispatch, August 12, 1989; *Fortune*, August 14, 1989, p. 17.
- ²⁶ Charles H. Logan, *Private Prisons: Cons and Pros*, New York: Oxford University Press, 1990.
- ²⁷ Van Eaton, op. cit.

²⁸ Ibid.

²⁹ James K. Stewart, director, National Institute of Justice, Department of Justice, in a letter to the *Wall Street Journal*, July 26, 1989.

³⁰ Eckerd, "Responsibility, Love and Privatization," p. 10.

³¹ Bruce Fein and Edwin Meese III, "Have to Fight Crime Within Our Limited Means," *Houston Chronicle*, May 3, 1989, p. 29A.