# Crime and Punishment in Texas: 1993 Update

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# Executive Summary

After being buffeted by a steadily rising crime rate for almost 30 years, Texans began seeing some relief at the end of the 1980s. The Texas crime rate has declined every year since 1988, thanks to lower rates of burglary and larceny, which make up more than three-fourths of all serious crimes. And early reports from 1992 indicate that the trend may be spreading to other categories of crime. Why the change? The most significant change in Texas criminal justice since 1988 has been an increase in the time convicted felons actually serve in prison.

- The median prison sentence for all serious crimes rose 20 percent, from 10 months to 12 months, and was higher for every type of serious crime.
- Estimated median sentences for murder, rape and aggravated assault all increased by more than 30 percent.

Despite improvements, Texas continues to suffer from an epidemic of crime that began in the late 1960s and early 1970s. And Texas still has the highest crime rate of any state except Florida. Why is there so much crime? The main reason is that, for most criminals in Texas, crime still pays.

- Fewer than two of every 100 serious crimes reported to the police lead to prison terms.
- When incarcerated, prisoners serve less than 15 percent of their sentences today, compared to 50 percent in 1974.
- Eighty-nine percent of convicted felons in the Texas criminal justice system are "doing time" outside of prisons.
- Overall, only 10.5 days are spent in prison for every serious crime committed in Texas.

What can we do to reduce crime? Take steps to make sure that crime does not pay by increasing arrest and conviction rates, by sending more convicted felons to prison and by increasing the length of time they spend there. The biggest prison building boom in Texas history, now under way, will help meet some of the demand for additional prison space. Building and operating prisons is expensive. Yet the cost of *not* doing it is higher still.

The state can hold down the cost to the taxpayer by (1) speeding privatization of prison construction and operation; (2) initiating private employment of prisoners for some work; and (3) using electronic bracelets, boot camps and other alternative punishments for nonviolent criminals.

# The Problem — and Some Relief

It will come as no surprise to most Texas families to learn that Texas is burdened by an appalling amount of crime:[1]

- Every year, an estimated 290,000 Texans are victims of violent crimes: murder, rape, robbery and assault.
- Another 2.5 million Texans each year are victims of property crimes: arson, burglary and larceny/theft.
- On an average day in Texas, 7 murders, 25 rapes, 136 robberies and 230 life-threatening assaults are reported to police.
- A car is stolen every 3 minutes, and a burglary is committed every 1.5 minutes.

*"Texas has the second highest crime rate in the nation, but there are signs of improvement."*

The Texas crime rate — the number of serious crimes per 100 population — is also high relative to that of other states:[2]

- Although the state crime rate was below the national average in 1975, today it is 32 percent above the national average.
- The crime rate in Texas has risen 29 percent in the past 10 years, giving Texas the second highest crime rate in the nation — trailing only Florida.

That is the bad news. The good news is that the situation is showing some improvement:[3]

- Between 1988 and 1991 (the latest year for which complete statistics are available), the Texas crime rate declined by 2.5 percent, reversing a 30-year trend.
- After peaking at 8.0 crimes for every 100 people in 1988, the crime rate dropped slightly each year thereafter, reaching 7.8 in 1991.

This improvement has not been across the board, however. The decline in the overall crime rate was due entirely to decreases in the rates of burglary and larceny, which account for more than three-fourths of all serious crime. The murder rate in 1991 was at its highest level since 1981. And the rates for rape, robbery, aggravated assault and car theft reached an all-time high. Even so, preliminary statistics for 1992 from Houston and Dallas, the state's largest cities, give an encouraging indication that the downward trend may be spreading to other categories of crime.[4] [See Figure I.]

- Murders dropped 23.4 percent in Houston and 22.6 percent in Dallas.
- Overall, crime in Houston declined by 17.8 percent, and every category of serious crime except aggravated assault was down.[5]
- Crime in Dallas declined 16.0 percent, with a drop in every category.[6]

Preliminary statistics from some other large cities in the state were also favorable. Overall crime was down 15 percent in Fort Worth and 2 percent in Austin.[7]

## The 'Price' We Charge for a Crime

*"People commit crimes so long as they are willing to pay the price society charges."*

The reduction in the crime rate beginning after 1988 coincided with an increase in expected punishment — the length of time a person committing a crime could expect to spend in prison. The average expected punishment for all serious crimes rose from 8.2 days in 1988 to 10.5 days in 1991, an increase of 28 percent. In other words, crime in Texas has gone down in recent years because Texas got tougher on criminals.

Committing a crime has become more costly to criminals in Texas since 1988. Still, the problem of crime in Texas is by no means solved. Why is there so much crime? The reason is that for many potential criminals, crime still pays.

**Why People Commit Crimes.** Most crimes are not irrational acts. Instead, they are committed by people who at least implicitly compare the expected benefits with the expected costs, including the costs of being caught and punished. The reason we have so much crime is that, for many people, the benefits outweigh the costs — making crime more attractive than other career options.

It is virtually impossible to prevent people from committing crimes. 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 price society charges, just as many of us might risk a parking or speeding ticket by disobeying traffic laws.

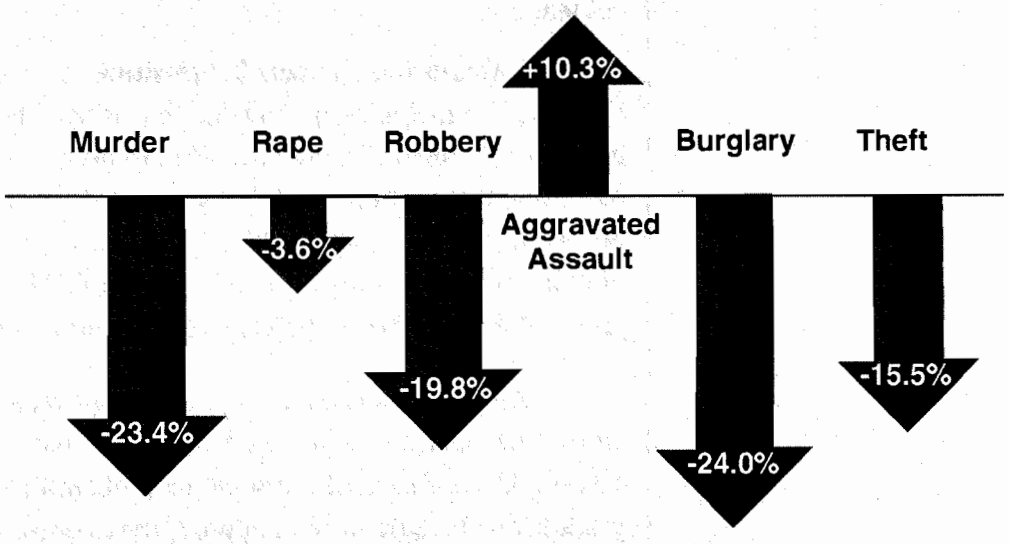
Because criminals and potential criminals rarely have accurate information about the probabilities of arrest, conviction and imprisonment, their personal assessments of the expected punishments vary widely. Some overes-

*"The overall crime rate in 1992 dropped by 17.8 percent in Houston and by 16 percent in Dallas."*

**FIGURE I**

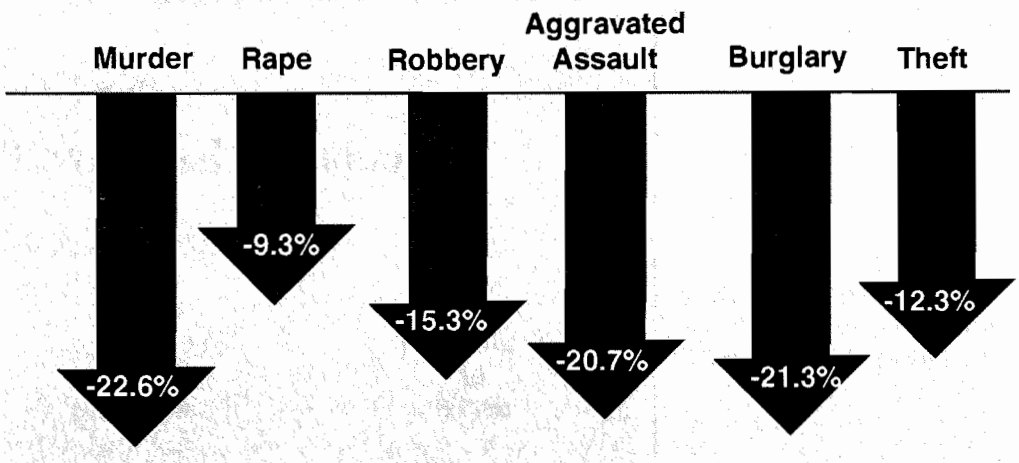
## Crime in 1992

### Houston




Source: Houston Police Department, On-Line Offense Crime Reports.

### Dallas




Source: *Dallas Morning News,* January 15, 1993.

timate their probability of success, while others underestimate. The more skillful and intelligent criminals face better odds of getting away with their crimes.

Despite the element of subjectivity, if the (objectively measured) expected cost of crime to criminals declines, crime will increase and vice versa.[8] This theory is consistent with public opinion[9] and with the perceptions of potential criminals.[10] And it is supported by considerable statistical evidence.[11]

**Calculating Expected Punishment.** Four adverse events must occur before a criminal actually ends up in prison. The criminal must be arrested, prosecuted, convicted and sentenced to prison. As a result, the expected punishment for crime depends on a number of conditional probabilities: the probability of being arrested for a crime after it is committed; the probability of being prosecuted after an arrest; the probability of being convicted, given prosecution; and the probability of going to prison, given a conviction.

As Table I shows, the *expected punishment* is the result of multiplying all four probabilities and then multiplying that result by the median time served. Even if each of the separate probabilities is reasonably high, their product can be quite low. Suppose, for example, that each was one-half.[12] The overall probability that a criminal would spend time in prison would be only 6.25 percent.

Expected punishment is *not* the length of time criminals actually remain in prison. The median prison stay in Texas is about 12 months.[13] Rather, expected punishment has to do with *probabilities*. Expected punishment takes into account the fact that more than 98 percent of all crimes in Texas do not result in any prison time.

*"Four adverse events have to occur before a criminal actually winds up in prison."*

**TABLE I**

## Calculating Expected Punishment

**EXPECTED TIME IN PRISON =**

| (1) Probability of arrest | x | (2) Probability of prosecution | x | (3) Probability of conviction |
|---|---|---|---|---|
| | x | (4) Probability of imprisonment | x | (5) Median Sentence |

**Expected Punishment in Texas.** The expected punishment for various crimes in Texas is depicted in Figure II. As the figure shows:[14]

- Prior to committing the act, a potential murderer can expect to spend only 2.5 years in prison, a rapist 7.7 months and an auto thief 2.7 days.
- Overall, the expected punishment for a crime of violence is 58 days and for a felony theft is only 3.4 days.

*"Overall, the expected punishment for a crime of violence is 58 days and for felony theft 3.4 days."*

If the expected punishments shown in Figure II seem shockingly low, the full reality may be worse. On the average, the crimes with the longest expected prison terms (murder, rape, robbery and assault) are the crimes least frequently committed, comprising only about 11 percent of all serious crimes in Texas. The remaining 89 percent of crimes carry an expected prison term of only a few days.

**Changes Over Time.** Figure III shows the relationship between the overall expectation of punishment and the crime rate over the past 30 years. As the figure indicates:[15]

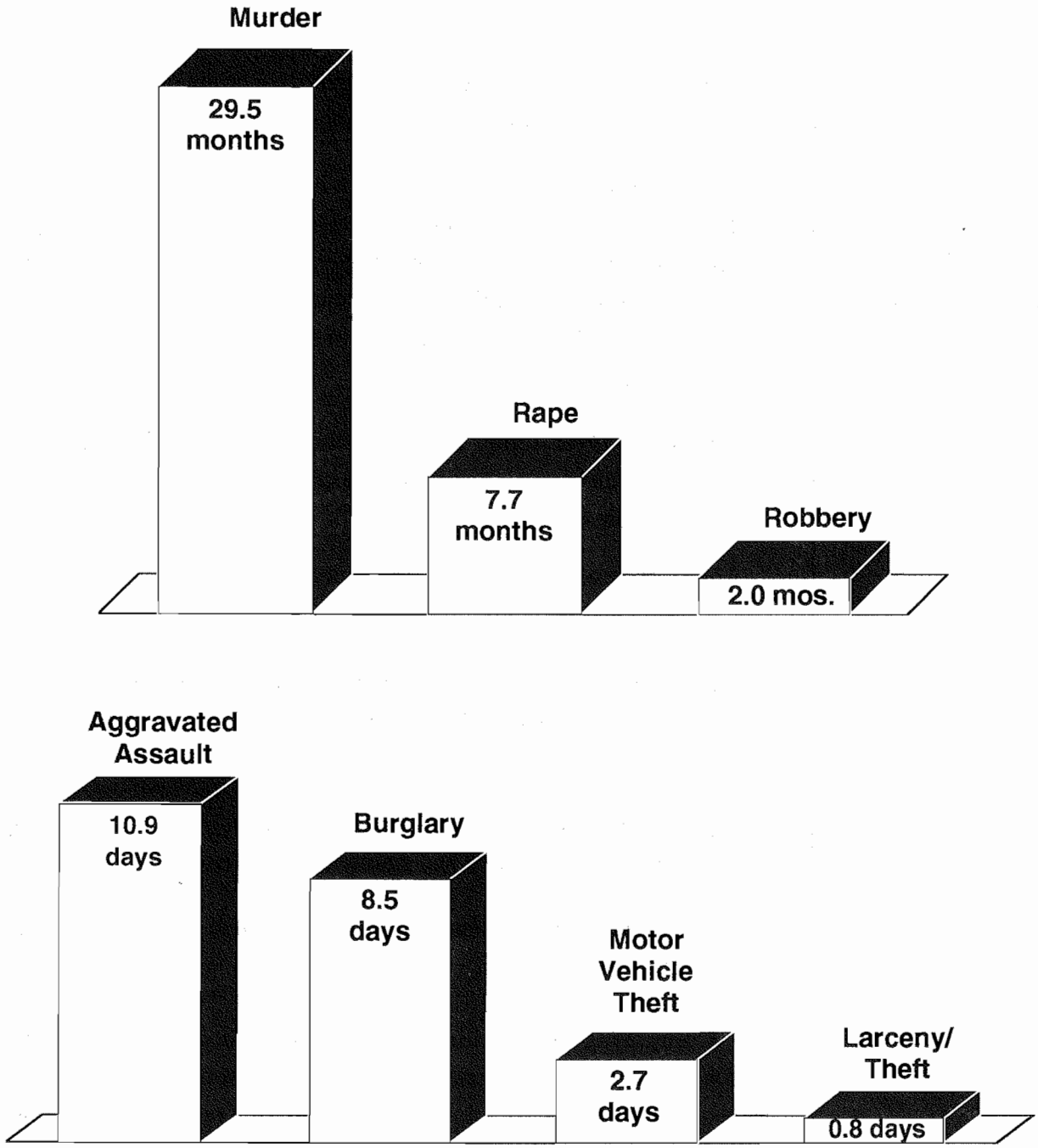
- Expected punishment fell sharply from 1965 to 1975, coinciding with a steep rise in the crime rate.
- Although the crime rate continued to climb, the rate of increase moderated from 1975 to 1980 — a period when expected punishment rose.
- Expected punishment began falling again in the 1980s, and by 1985 the crime rate had resumed a steep rise.
- Expected punishment began rising again in 1988, and this time the crime rate fell.

**Comparing Texas with the Nation as a Whole.** The Texas experience contrasted with the national picture during most of the 1980s, when expected punishment rose nationally, keeping crime rates below the peak recorded in 1980.[16] For example:

- Between 1982 and 1986, the expected number of days in prison rose 26 percent nationally but dropped 36 percent in Texas.
- During that same period, serious crime in Texas increased from 12 percent to 35 percent above the national average.[17]

FIGURE II

# Expected Time in Prison For Committing Selected Crimes[1]

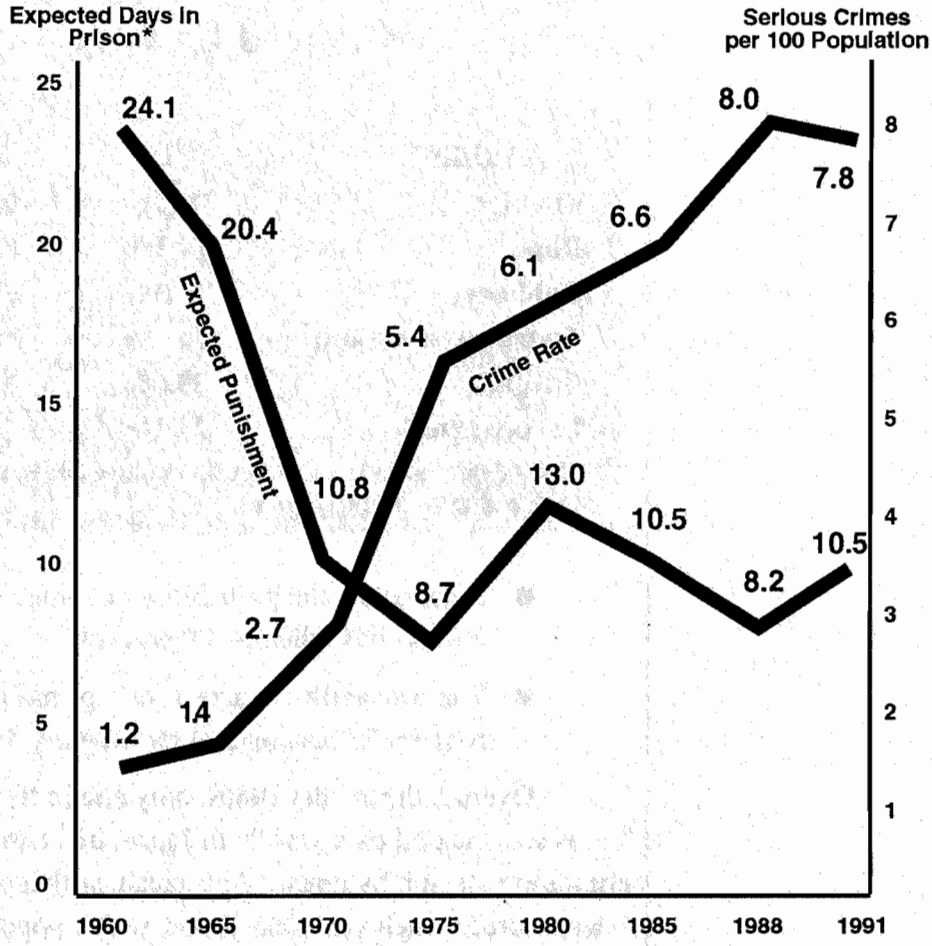



[1]Based on the probabilities of arrest, prosecution, conviction and imprisonment. For those in prison, the median time served by all prisoners was twelve months in 1991. The FBI defines *robbery* as taking or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear. *Aggravated assault* is 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. *Burglary* is the unlawful entry of a structure to commit a felony or theft. *Larceny/theft* is the unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another.

*"Expected punishment began rising in 1988, and the crime rate fell."*

**FIGURE III**

## Crime and Punishment in Texas




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

Sources: NCPA calculations from FBI, *Uniform Crime Reports*, annual, and Texas Department of Criminal Justice, *Statistical Report*, annual.

# Why Expected Punishment in Texas Is Low

Since 1960, the expected punishment for committing a serious crime in Texas has dropped by more than 50 percent. Over the same period, the number of violent crimes reported to the police per 100 population in Texas has increased more than fivefold. Why is expected punishment in Texas so low? Let's take a closer look.

**The Probability of Arrest.** Table II shows the percentage of crimes "cleared by arrest" in 1991 in Texas. Note the dramatic decline in arrest rates over the past 30 years, even for the most serious crimes.[18]

TABLE II

## Percent of Serious Crimes Cleared by Arrest in Texas[1]

| Crime | 1960 | 1991 | Change: 1960 to 1991 |
|---|---|---|---|
| **Murder** | **96.5%** | **69.0%** | **- 29%** |
| **Rape** | **74.3%** | **59.0%** | **- 21%** |
| **Robbery** | **41.3%** | **27.0%** | **- 35%** |
| **Aggravated Assault** | **79.2%** | **57.0%** | **- 28%** |
| **Burglary** | **30.6%** | **14.0%** | **- 54%** |
| **Larceny/theft** | **23.7%** | **19.0%** | **- 20%** |

[1]1960 figures include Oklahoma, Arkansas and Louisiana. 1991 figures rounded to nearest full percentage point.

- Since 1960, the probability of being arrested for committing a murder has fallen by 29 percent.
- The probability of arrest for rape has dropped 21 percent, for robbery 35 percent and for burglary 54 percent.

Overall, during the 1980s, only one in five reported serious crimes in Texas was cleared by arrest.[19] In Japan, by contrast, 50 percent of serious crimes are cleared by arrest. And Japan, with a population of 122 million, has fewer murders each year than Texas, with a population of only 17.5 million.[20]

*"For 89 out of every 100 arrests for serious crimes, no time was served in prison."*

**Probability of Going to Prison.** Police in Texas arrested nearly 210,000 people for violent and property crimes in 1991, but only 24,000 — or 11 percent of those arrested — wound up going to prison. That means that 89 out of every 100 people arrested for serious crimes of violence or against property in Texas served *no* time in state prison.[21]

**Median Time Served.** As Table III shows, the probability of serving prison time for murder, rape, aggravated assault or burglary has risen since 1960. But these increases in state prison admissions have been more than offset by shorter sentences served, thereby decreasing expected punishment for every crime except murder and rape.[22] Note, also, as Table IV shows:

- Over the 31-year period 1960 to 1991, the greatest increase in the average sentence served was for murder, and the increase in the murder rate over the period was less than the increase in the rate for any other serious crime.
- By contrast, expected punishment has decreased by 94 percent for larceny/thefts — and despite its fall since 1988, the rate of larceny/theft has increased by 1,716 percent since 1960.

*"A murderer or rapist was more than twice as likely to go to prison in 1991 as in 1960."*

TABLE III

## Probability of Going to Prison[1]

| Crime | 1960 | 1991 | Change: 1960 to 1991 |
|---|---|---|---|
| Murder | 26.3% | 54.6% | +107.6% |
| Rape | 6.8% | 14.5% | + 113.2% |
| Robbery | 12.4% | 7.3% | - 41.1% |
| Aggravated Assault | 1.7% | 2.4% | + 41.2% |
| Burglary | 2.5% | 3.2% | + 28.0% |
| Larceny/theft | 4.5% | .4% | - 91.1% |

[1]The percent of serious crimes resulting in a prison sentence.

*"Crime increased the most when expected punishment decreased the most."*

TABLE IV

## Crime Rates and Average Prison Sentences 1960-1991

| Crime | Change in Expected Sentence | Change in Crime Rate |
|---|---|---|
| Murder | + 168% | + 76% |
| Rape | + 133% | + 445% |
| Robbery | - 39% | + 773% |
| Agg. Assault | - 27% | + 334% |
| Burglary | - 29% | + 194% |
| Larceny/Theft | - 94% | + 1,716% |

**Texas versus California.** The importance of prisons is illustrated vividly by comparing the experience of Texas with that of California 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.[23] Yet over the decade, California made a much bigger investment in imprisonment than Texas. That decision paid off:

- From 1980 to 1991, California increased its state prison population by 314 percent — and serious crime dropped by 13.0 percent. [See Figures IV and V.]
- Over the same period, Texas increased its state prison population by only 73 percent — and serious crime rose by 28.0 percent.[24]

**Unreported Crimes.** Based on the number of crimes reported to the police, 98 percent of all serious crimes committed in Texas are not punished by imprisonment.[25] According to the National Crime Survey, however, only 35 percent of serious crimes are ever reported. If that figure holds for Texas, only 6/10 of 1 percent of all actual crimes result in imprisonment — or one prison term for every 162 major felonies committed.[26]

*"The median sentences for murder, rape and aggravated assault all increased more than 30 percent from 1988 to 1991."*

## Why the Crime Rate Has Been Falling in Recent Years

What happened to reverse the trend in crime between 1988 and 1991? Probably the most important change was that people convicted of crimes began serving longer prison sentences for every crime. As Figure VI shows:

- The median sentences served for murder, rape and aggravated assault all increased more than 30 percent.
- The median sentences served for robbery and burglary increased by 4.8 percent and 7.5 percent, respectively.

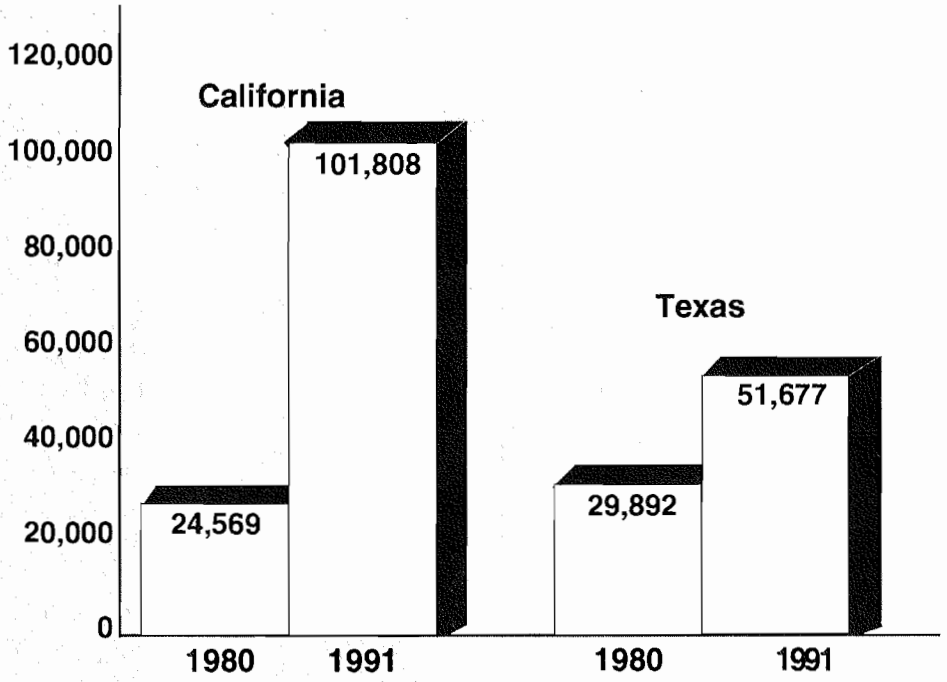
Increasing the median sentence had a significant effect on expected punishment for every type of crime except robbery and motor vehicle theft.

- Expected punishment rose 22.9 percent for murder (24 months to 29.5 months) and 45.3 percent for rape (5.3 months to 7.7 months).
- Expected punishment rose 200 percent for larceny (0.9 days to 2.7 days), 32.9 percent for aggravated assault (8.2 days to 10.9 days) and 26.9 percent for burglary (6.7 days to 8.5 days).
- Expected punishment for robbery stayed the same (2 months), and for motor vehicle theft it fell 3.6 percent (2.8 days to 2.7 days).

*"When California increased its prison population by 314 percent, its crime rate dropped by 13 percent."*

FIGURE IV

## Number of Prisoners

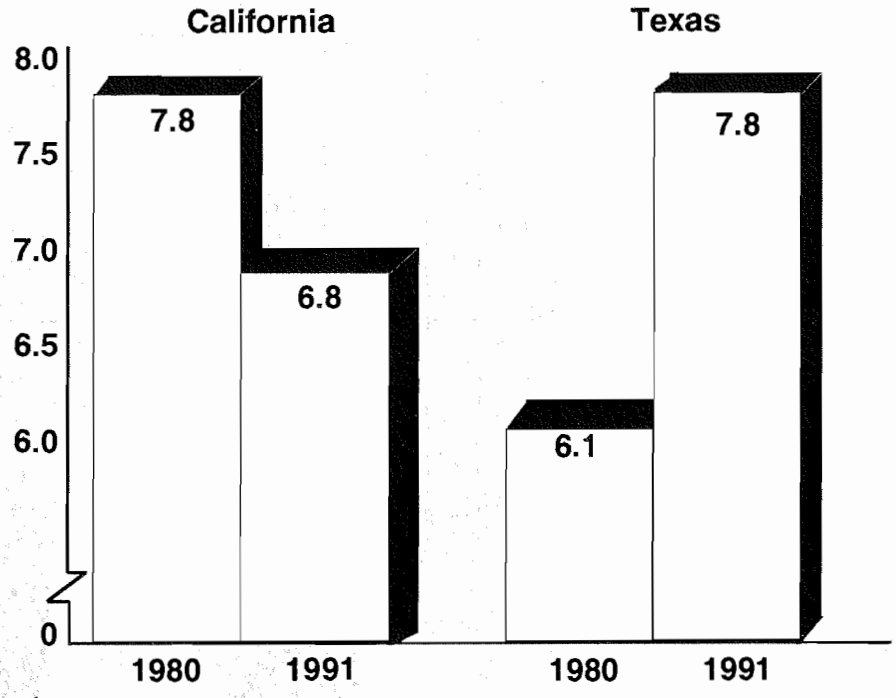



Source: Bureau of Justice Statistics, "Prisoners in 1991," Bulletin, May 1992.

*"Over the same period, serious crime in Texas rose 28 percent."*

FIGURE V

## Crime Rates[1]



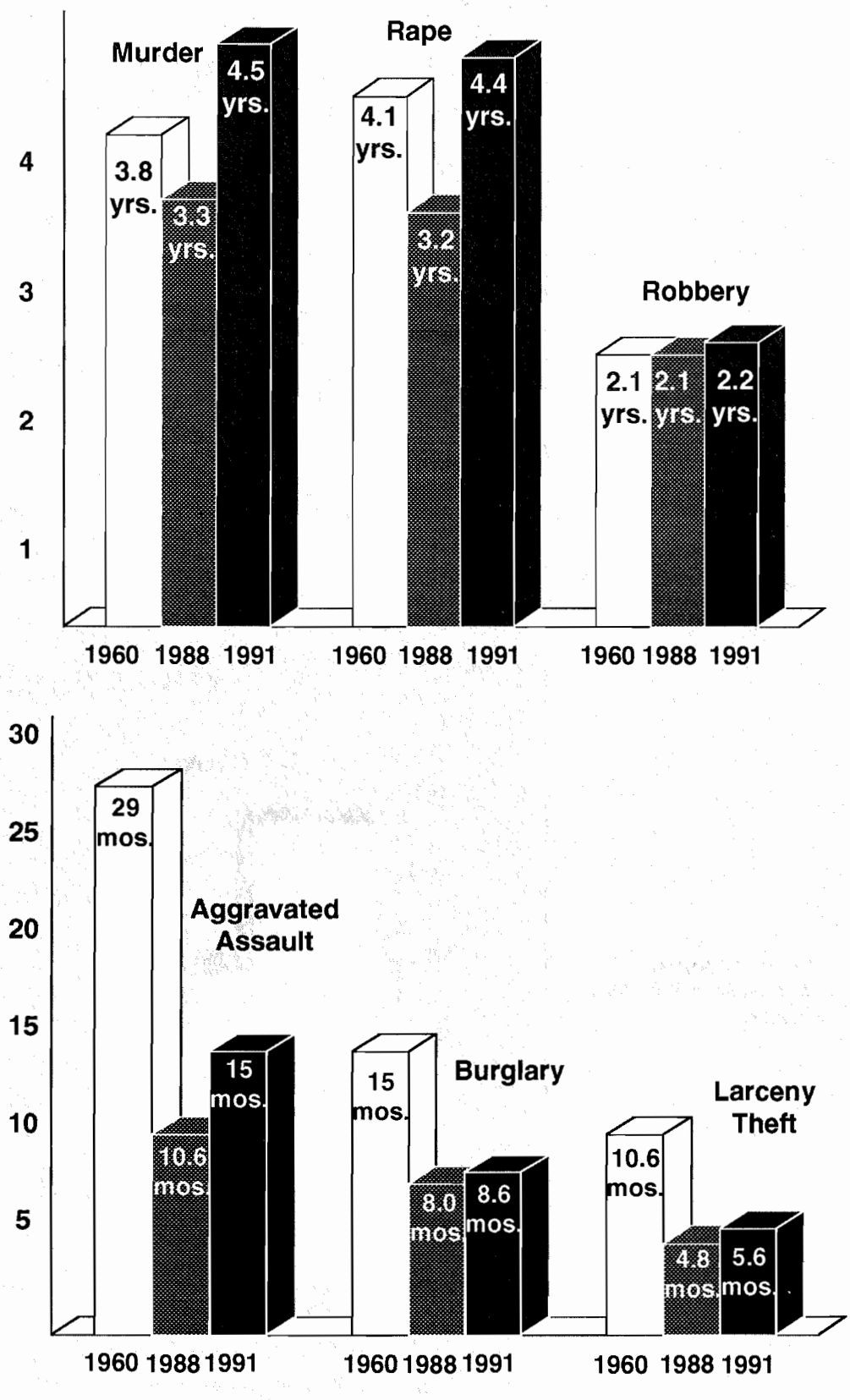

[1]Serious crimes per 100 population.

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

*"The median sentence rose for every serious crime between 1988 and 1991."*

FIGURE VI

## Median Sentence Served in Texas for Selected Crimes



# Other Factors Affecting the Crime Rate

For the last three decades, the probability of going to prison for committing a crime has generally declined. So has the overall length of prison time served. Crime and punishment obviously do not operate in a vacuum. They are affected by a host of political, judicial, social and other influences. This section examines some of these.

**Law Enforcement Personnel.** As Table V shows, Texas had fewer police per 10,000 population than the national average during the 1970s, but the number of full-time police employees in Texas has increased 40 percent since 1987, pushing Texas above the national average. Total employment in the courts and correctional system has grown apace.

**Federal Court Decisions.** One key factor that had an impact throughout the 1970s and 1980s was the change in the criminal justice system caused by the U.S. Supreme Court. After the Supreme Court's first landmark decision in 1961 expanding the rights of criminal defendants and making it more costly for police and prosecutors to obtain criminal convictions, a growing reluctance to prosecute and punish criminals emerged.

A series of related decisions followed: *Gideon* v. *Wainwright* (1963) required taxpayer-funded counsel for defendants who could not afford an attorney; *Escobedo* v. *Illinois* (1964) and *Malloy* v. *Hogan* (1964) expanded

*"Texas has more police per capita than the nation as a whole."*

TABLE V

## Full-Time Police Employees in Texas and the United States

| Year | Police Employees In Texas | Police Employees per 10,000 Population[1] Texas | U.S. |
|---|---|---|---|
| 1968 | 17,375 | 16 | 20 |
| 1979 | 31,705 | 23 | 26 |
| 1987 | 40,952 | 24 | 27 |
| 1991 | 57,128 | 32 | 28 |

[1] Full time equivalent.

privileges against self-incrimination, impeding interrogation of suspects by police; and *Miranda* v. *Arizona* (1966) made confessions — even voluntary ones — inadmissible as evidence unless the suspect had first been advised of certain rights.

The enforcement system was transformed by these decisions. As Justice Cardozo wrote in a 1926 case, "The criminal is to go free because the constable has blundered."[27] Justice White, dissenting in the *Miranda* case, warned that the decision would have "a corrosive effect on the criminal law as an effective device to prevent crime."[28] It appears that what Judge Macklin Fleming called "the pursuit of perfect justice" has increased the time and effort required to apprehend, convict and punish the guilty.[29]

*"Through the Court of Criminal Appeals, Texas gives more legal privileges to criminals than those created by the federal courts."*

In Texas in 1980, Federal District Judge William Wayne Justice compounded the problem by declaring the Texas prison system unconstitutionally "cruel and unusual punishment." The resulting court orders, federal monitoring and consent decrees in *Ruiz* v. *McCotte*r prohibited the state from housing more than two prisoners in one cell, forbade assigning inmates to supervise the activities of other inmates, ordered staffing increased to one guard per six inmates (now one per four) and ordered the state to reduce its prisoner population to 95 percent of prison capacity. The state's failure to expand prison space under these federal constraints was a major factor in the decline in length of prison sentences in Texas during the 1980s.

Under terms of a settlement reached in December 1992, state officials recovered "control" of the state prisons. Yet District Judge Justice still has the final word on matters like size of inmate population, staffing, medical care and the use of tents to house size of inmates. This situation could have been avoided if the state had sought termination of the Ruiz suit. The U.S. Justice Department had joined state officials in calling for an end to the suit, and recent decisions by the U.S. Court of Appeals and U.S. Supreme Court suggested that the state's chances of winning complete prison control were excellent.

**Texas Court Decisions.** Through its Court of Criminal Appeals, Texas has given criminal defendants even more legal privileges than has the federal judiciary:

- In the federal courts, oral confessions can be admitted into evidence; in Texas, they cannot be unless they are recorded.
- If police obtain evidence operating on good faith under a search warrant, and the search warrant is later thrown out, the federal courts will admit the evidence under a "good faith" exception; the Texas Court of Criminal Appeals will not.

The Texas Court of Criminal Appeals operates independently of the Texas Supreme Court, while the federal court system does not separate criminal appeals from civil appeals.

**Social and Demographic Factors**. The late 1960s and early 1970s were socially turbulent years — the Vietnam War, the rise of a counterculture, urban riots. Also during the 1960s, males between the ages of 15 and 24 — the most crime-prone group — grew from 6.6 percent to 8.5 percent of the U.S. population. The increase continued during the 1970s, with the young male population peaking at 8.9 percent in 1980. This demographic factor undoubtedly helped boost the crime rate nationwide.

Texas has a higher Hispanic population than the nation as a whole (25.5 percent versus 9 percent), but in most racial, ethnic and social dimensions the state resembles the national averages. There are some factors that arguably imply a somewhat higher-than-average crime rate for Texas because of a larger supply of crime-prone people: Texas has a younger population than the national average, and the marriage and divorce rates exceed national norms slightly, possibly because of the more youthful population. Texas also is a growth state with a warm-weather climate and border location, and therefore has a relatively larger mobile and transient population.

*"The Mark White administration presided over a major drop in expected prison stays."*

## Do Governors Make a Difference?

Governors are by no means the sole determinants of crime and punishment, but a comparison of recent administrations is revealing. [See Table VI.]

- During the 1960s, there was virtually no increase in the number of people sent to Texas prisons each year.
- During that same period, the number of serious crimes reported to police more than doubled.
- As a result, the odds of imprisonment for committing a serious crime fell by 53 percent.
- By 1978, prison admissions rose to 12,900, a 166 percent increase over 1968, but crime rose even faster, driving down the probability of imprisonment by 17 percent.

The decline in punishment in Texas during the 1960s mirrored a nationwide trend. As the impact of the *Ruiz* decision was felt (see the discussion above), the Mark White administration in the mid-1980s presided over another major drop in the expected length of a prison stay, defying a national

TABLE VI

## Do Governors Make a Difference?

| | | Probability of Imprisonment[1] | | | Expected Days in Prison | | |
|---|---|---|---|---|---|---|---|
| Governor | Years | Start | End | Change | Start | End | Change |
| Price Daniel | 1957-62 | 4.6% | 4.8% | + 4% | 24.1 | 24.8 | + 3% |
| John Connally | 1963-68 | 4.8% | 2.1% | -56% | 24.8 | 11.0 | -56% |
| Preston Smith | 1969-72 | 2.1% | 1.7% | -19% | 11.0 | 11.4 | + 4% |
| Dolph Briscoe | 1973-78 | 1.7% | 1.8% | + 6% | 11.4 | 13.9 | +22% |
| William Clements | 1979-82 | 1.8% | 2.0% | +11% | 13.9 | 14.0 | + 1% |
| Mark White | 1983-86 | 2.0% | 2.5% | +25% | 14.0 | 8.9 | -36% |
| William Clements | 1987-91 | 2.5% | 2.9% | +16% | 8.9 | 10.5 | +18% |
| Ann Richards | 1991- | 2.9% | — | — | 10.5 | — | — |

[1] All admissions to state prisons, including drug offenders, divided by the seven FBI felony crimes against the person and property.

trend toward increased punishment. Former U.S. Attorney General William Barr said, "While much of the rest of the country was investing in prisons and imposing tougher sentences, [Texas] didn't build prisons and, in fact, reduced the amount of time that felons spent in prison."[30]

*"While much of the nation was building prisons and toughening sentences, Texas wasn't."*

During Bill Clements' first administration, both the probability of imprisonment and the length of expected prison stay increased. During his second administration, the total number of prisoners incarcerated for crimes of violence increased by 9,500 (with no increases of property offenders), with virtually the entire change coming in 1989-90. [See Table VII.]

## The Solution: Increase the Expected Cost of Crime

To lower the Texas crime rate to, say, the level of the 1960s, we must create at least as much public deterrence as existed then. For example, since the probabilities of prosecution and conviction for robbery, given an arrest, are

*"We must create as much deterrence as existed in the 1960s."*

already high, there are three ways of raising the expected punishment for robbery to its 1960s level:

- Increase the proportion of robberies cleared by arrest from 27.0 percent to 41.8 percent, or
- Increase the proportion of arrested robbers sent to prison from 28 percent to 44 percent, or
- Increase the median prison sentence served by robbers from 2.2 years to 3.4 years.

**TABLE VII**

## Change in the Prison Population

| Governor | Year | Prison Population | Admitted | Released |
|---|---|---|---|---|
| **Briscoe** | **1973** | **16,689** | **7,780** | **6,994** |
| | **1974** | **16,956** | **8,217** | **7,819** |
| | **1975** | **18,151** | **9,358** | **7,995** |
| | **1976** | **20,976** | **10,554** | **7,625** |
| | **1977** | **20,862** | **11,077** | **11,029** |
| | **1978** | **24,615** | **12,894** | **8,733** |
| **Clements** | **1979** | **25,164** | **13,041** | **11,602** |
| | **1980** | **28,543** | **14,176** | **9,656** |
| | **1981** | **30,315** | **15,702** | **12,757** |
| | **1982** | **34,393** | **18,837** | **13,950** |
| **White** | **1983** | **36,769** | **22,870** | **20,146** |
| | **1984** | **35,772** | **23,058** | **23,486** |
| | **1985** | **37,320** | **25,365** | **23,333** |
| | **1986** | **38,246** | **30,471** | **29,347** |
| **Clements** | **1987** | **39,652** | **35,077** | **33,370** |
| | **1988** | **39,664** | **33,816** | **33,428** |
| | **1989** | **41,626** | **33,303** | **30,903** |
| | **1990** | **49,157** | **46,290** | **38,041** |
| **Richards** | **1991** | **49,608** | **39,646** | **37,735** |

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

## The Costs of Prisons

*"Texas is in the midst of the biggest prison building boom in its history."*

Texas is in the midst of the biggest prison building boom in its history. Following voter approval of $200 million in bonds in November of 1989, construction will boost the state's total prison capacity to more than 60,000 during 1993, with an additional 7,500 beds planned for community-based correctional facilities. Within five years, the state prison system plans to have space for 93,000 prisoners.

- During 1993, one of every 292 Texans will be in a state prison — not in jail, not on probation or parole, but in prison.[31]
- Counting the 110,000 on parole and the 308,000 on probation, one of every 31 adult Texans is currently under the supervision of the state's corrections agencies.[32]
- Texas has more criminals under state supervision — in prison, on probation or on parole — than any other state except California (469,760 versus 475,070 in 1990-91).

At the same time, of the criminals under supervision, Texas has a smaller percentage in prison than any other *large* state:

- California, with a population much less than twice that of Texas, has twice the number of people in state prisons.[33]
- While Texas is constrained to a maximum of 95 percent of design capacity, California operates its prisons at 183 percent of design capacity.[34]

The Texas Department of Criminal Justice calculates the current cost of keeping a criminal in prison at $14,000 per year, up dramatically from $2,920 ten years ago. Even $14,000 is an incomplete figure ignoring, for example, building, land and state employee pension costs. The total cost is probably closer to $20,000.

# Reducing Costs in the Public Sector

Prisons are expensive. But much can be done to reduce the high costs of constructing and operating them. Even within the existing system, economies are possible. What follows is an overview of ways to economize.

**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.[35]
- South Carolina used inmate labor to reduce construction costs by an estimated 50 percent with no quality loss, though some delay occurred.[36]
- New York City uses renovated troop barges and a ferryboat as detention facilities.[37]

**Early Release of Elderly Prisoners.**[38] The recidivism rate among prisoners over age 45 is only about 10 percent of that for prisoners ages 18 to 24. Moreover, the average maintenance cost of an elderly prisoner is much higher than that of a younger one. Early release of many Texas prisoners over age 55 is a sensible way to make room for younger criminals. As of August 31, 1989, more than 3,000 inmates in Texas were age 45 and over, and 460 were 60 or older.

*"The recidivism rate among prisoners over age 45 is only about 10 percent of that for those ages 18 to 24."*

**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 young first-time offenders is already used in Texas as well as 22 other states.[39] Travis County opened the Convicted Offenders Re-Entry Effort (CORE) in 1988. Of 216 offenders who finished the program over a 19-month period, only 19 have been rearrested. Another 134 offenders were kicked out of the program for failing to meet its standards. Harris County opened a boot camp in 1991 to accommodate 400 young offenders.

**Electronic Ankle Bracelets.** The cost of punishment would be greatly reduced if we found ways to punish criminals without imprisoning them. Few people would deny that imprisonment is necessary for violent crimes such as murder, rape, robbery and assault. But only 20 percent of all prisoners in Texas have been incarcerated for violent crimes.[40] One recent alternative for the rest is an electronic monitoring device that can be worn by parolees.

Judges impose the conditions of parole, including restrictions on location and timing of activities, and these restrictions are enforced by monitoring companies.

## Reducing Costs through Privatization

*"The most promising way to control costs is privatization."*

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

**Prison Construction.** Since prison construction is a major growth industry, the number of private suppliers is expanding rapidly. Companies offering modular prison facilities, prison equipment, security systems, and food and health services abound. Some political jurisdictions have been more receptive to privatization than others.

- 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.[41]

- In Loudoun County, Va., 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.[42]

- CRSS Constructors, Inc., has more than $1 billion in corrections construction under way in 12 states.[43]

**Prison Operation.** The operation of prisons by private contractors is growing in Texas and elsewhere. Unlike government agencies, private firms must know and account for all the costs of prison operation, including long-run costs.[44] Government usually can save money by contracting out these operations.

- Corrections Corporation of America (CCA) charged the INS only $24 per inmate per day at Houston, a charge that included recovery of the cost of building the facility.

- The state comptroller's office reported in 1991 that the average cost of operating private prisons in Texas was $30.62 per prisoner per day, compared with $42.47 for operation by the Texas Department of Criminal Justice.[45]

One of the difficulties of making private-public comparisons is that actual costs of public prisons often are greater than reported costs. The Criminal Justice Institute has estimated that public corrections facilities understate their actual operating costs by 15-20 percent. Rutgers University economists suggest that the average understatement is 30 percent.[46]

At least three private firms operate corrections facilities in Texas:

- Wackenhut Corporation, with 12 facilities in five states and Australia, operates five of them with 2,523 beds in Texas.[47]
- CCA, with 19 facilities in the United States and one each in Australia and Britain, has four in Texas with 1,608 beds.[48]
- Pricor operates six county adult detention centers in Texas with 3,000 beds.[49]

Although quality differences have not been evaluated in Texas, three major studies elsewhere have reported favorably on private versus public operation.[50] The Texas comptroller's report noted that governmental bodies had benefited from the additional property, sales and franchise taxes paid by the private prisons — taxes obviously not paid by government-operated prisons.[51]

## Employment of Prisoners: Factories Behind Bars

*"More than 70 companies employ inmates in 16 states in a variety of jobs."*

A survey commissioned by the National Institute of Justice identified more than 70 companies that employ inmates in 16 states in manufacturing, service and light assembly operations.[52] Prisoners work as reservationists for TWA and Best Western motels, sew leisure wear, manufacture water-bed mattresses and assemble electronic components. 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.[53]

South Carolina and Nevada have become leaders in private sector use of prison labor, yet nationally only 5,000 or so prisoners (less than 1 percent) work for private companies.[54]

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.

**Historical Experience.** 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. If prisoners worked 40 hours a week at the current federal minimum wage of $4.25, each would produce $8,840 of market value per year.

During a relaxation of federal prohibitions on the use of inmate labor during World War II, U.S. prison industries produced sorely needed war materiel, and prison morale reportedly rose. As in the 19th century, many prisons became self-supporting, and some ran surpluses. Yet the federal government reimposed its restrictions at the war's end, paying little heed to the success of the prisons in becoming self-supporting and less to the rehabilitative value of the work itself.

**Removing National Legal Barriers.** Increasing productive work for prisoners requires the repeal of a number of 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.

*"Increasing productive work for prisoners requires the repeal of a number of statutes."*

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, free labor was not adversely affected and the jobs were in an industry without local unemployment.[55]

**Removing State Legal Barriers.** Until 1987, prisoners in Texas were forbidden to work for pay. Legislation passed after Sunset Law review of the Texas Department of Corrections in 1987 included authorization for the department to contract with other state agencies and local governments and to pursue agreements with private business and industry to use inmate labor.

Removal of remaining impediments to private production and gainful employment would help Texas put prisoners to work and relieve taxpayers of the $20,000 per prisoner annual burden of maintaining them. However, Texas' leadership in state-run prison industries probably has hindered the move toward private sector opportunities for prison employment and production.

## Using Abandoned Military Bases

Over the years, a number of military bases in Texas have been closed or reduced in size. Many have been converted to other uses, but some remain closed or largely unused and could be converted into minimum security prisons. In a few cases elsewhere, this is already happening.[56]

- Part of Maxwell Air Force Base in Montgomery, Ala., 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.

*"Even if military bases can't be used permanently, they have potential as emergency prison resources."*

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." Even without the modifications that might be necessary to use them as permanent prison facilities, the bases have great potential for emergencies.

Another potential problem — the federal government's policy of assuring that its land is returned to the 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.

## The Cost of *Not* Building Prisons

Although the cost of building and maintaining prisons is high, the cost of not doing so 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.[57]

- Keeping someone in prison for one year in Texas costs taxpayers about $20,000.

- 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 — $410,000 more than imprisonment.

*"In Texas, 60 percent of released prisoners were rearrested within three years."*

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.[58]

- 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.[59]

- 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.[60]

## Conclusion

What can be done to reduce crime in Texas? At a minimum, this report suggests two types of improvements:

1. First, the public sector must continue raising the level of expected punishment to deter criminal activity. Crime must be made *not* to pay. Such deterrence will require more prison cells for violent criminals and more use of alternative punishment for nonviolent offenders. The costs of constructing more prisons and operating both those and existing prisons can be reduced by privatization. The Texas Department of Criminal Justice must also be required to keep better track of its vast assets and its spending.

2. Second, the laws hampering private employment of prisoners must be relaxed. The Department of Corrections already has the authority to pursue private employment agreements; now the other

legal hurdles must be removed. Prisoners should work to pay a greater portion of what it now costs taxpayers to keep them in prison.

Criminals show no respect for the lives and property of others. They are outlaws, by definition. It is time we in Texas got back to basics and *punished* and incapacitated without shame and without misguided illusions of rehabilitation. The Texas system already provides federally mandated levels of counseling, training, prerelease programming and other programs with noble intentions. What criminals need most, however, is evidence that their crimes do not pay.

*"What criminals need most is evidence that crime does not pay."*

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 or any state legislature.

# Footnotes

[1] Calculated from Federal Bureau of Investigation, *Uniform Crime Reports,* annual; U.S. Bureau of Justice Statistics, *National Crime Survey,* annual; and Texas Department of Public Safety, *Crime in Texas,* annual. [See Table A-1 in the appendix to this report.] Note that no drug offenses are included in these crime figures.

[2] Ibid.

[3] Ibid. [See Table A-2 in the appendix to this report.]

[4] The numbers in Figure I reflect changes in the total number of crimes, not changes in the crime rate.

[5] Houston Police Department, On-Line Offense Crime Reports, 1991 and 1992.

[6] *Dallas Morning News,* January 15, 1993, p. 1A.

[7] *Houston Chronicle,* January 23, 1993, p. 1A.

[8] This is true for "crimes of passion" as well as economic crimes. The less costly crime becomes, the more often people fail to control their passions. Incentives matter in all human behavior.

[9] James Q. Wilson, *Thinking about Crime*, rev. ed. (New York: Basic Books, 1983), p. 117.

[10] 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. 317-40; Julie Horney and Ineke H. Marshall, "Risk Perceptions among Serious Offenders: The Role of Crime and Punishment," *Criminology*, Vol. 30, No. 4, November 1992, pp. 575-91; and *Houston Chronicle,* Dec. 2, 1990, pp. 1A, 25A and 1D.

[11] Ibid. See also earlier surveys of the literature in Gordon Tullock, "Does Punishment Deter Crime?" *The Public Interest*, 36, Summer 1974, pp. 103-11; Morgan O. Reynolds, *Crime by Choice*, (Dallas: Fisher Institute, 1985), ch. 12; and Stephen G. Craig, "The Deterrent Impact of Police: An Examination of a Locally Provided Public Service," *Journal of Urban Economics,* Vol. 21 (1987): pp. 298-311.

[12] In other words, one-half of all crimes resulted in an arrest, one-half of all arrests led to prosecution, one-half of all prosecutions produced a conviction, and one-half of all convictions meant a prison sentence.

[13] See Table A-6 in the appendix to this report for estimated median sentences for each category of crime.

[14] Calculated from FBI *Uniform Crime Reports*, annual, and Texas Department of Criminal Justice, *Statistical Report,* annual.

[15] Ibid.

[16] Morgan O. Reynolds, "Crime Pays, But So Does Imprisonment," NCPA Policy Report No. 149, March 1990.

[17] FBI, *Uniform Crime Reports,* annual.

[18] Ibid., and Texas Department of Public Safety, *Crime in Texas 1991,* p. 10. The 1960 figures are for the FBI's West South Central Region, which also includes Oklahoma, Arkansas and Louisiana, but Texas makes up 60 percent of the four-state area.

[19] Ibid.

[20] In 1985, the most recent year for which comparative figures are available, the FBI *Uniform Crime Reports* show 2,132 homicides in Texas, and the Interpol International Crime Statistics show 1,780 homicides in Japan. In 1991 Texas had 2,652 homicides.

[21] Calculated from FBI, *Uniform Crime Reports,* and Texas Department of Criminal Justice, *Statistical Reports.* The national probability of imprisonment for serious crimes against the person or property has declined since 1988 because a sharp increase in drug convictions has displaced growth in other incarcerations. Reported crimes of violence and against property have risen more than 10 percent since 1988. See Bureau of Justice Statistics, *Prisoners in 1991,* Bulletin, May 1992. [Admissions to prison and probability of imprisonment are shown in Tables A-3 and A-4 in the appendix to this report.]

[22] For estimated sentences served for each crime, see Table A-5 in the appendix to this report.

[23] The crime rate in both states exceeded the national rate, California by 31.6 percent and Texas by 3.2 percent.

[24] U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 1991,* and earlier reports cited in *Statistical Abstract of the United States,* 1990.

[25] FBI, *Uniform Crime Reports,* and Texas Department of Criminal Justice, *Statistical Report.*

[26] The percent of reported crimes that are punished by imprisonment (1.8%) times the percent of all crimes that are reported (35%) equals the actual imprisonment rate (0.6%).

[27] *People* v. *Defore*, 242 NY 21 (1926).

[28] 384 US 543.

[29] Macklin Fleming, *The Price of Perfect Justice* (New York: Basic Books, 1974); Reynolds, *Crime by Choice,* ch. 8; and Steven R. Schlesinger, "Criminal Procedures in the Courtroom," in James Q. Wilson's *Crime and Public Policy* (San Francisco: Institute for Contemporary Studies, 1983).

[30] *Dallas Morning News,* January 25, 1992.

[31] This assumes a prison population of 60,000 and a state population of 17.5 million.

[32] *Statistical Abstract of the United States,* 1992.

[33] Bureau of Justice Statistics, *Prisoners in 1991,* Bulletin, May 1992.

[34] Ibid.

[35] U.S. Department of Justice, Bureau of Justice Statistics, *Report to the Nation on Crime and Justice*, pp. 124-25. Cited in Republican Policy Committee, "Bursting at the Beams: America's Overcrowded Prisons," April 19, 1989, p. 2.

[36] Eckerd, "Responsibility, Love and Privatization: A Businessman's Guide to Criminal Rehabilitation," *Policy Review*, 45, Summer 1988, p. 52.

[37] *New York Times,* Oct. 25, 1986, p. L29, and Oct. 28, 1988, p. B1.

[38] Jonathan Turley, "Solving Prison Overcrowding," *New York Times,* Oct. 9, 1989. Turley directs the Project for Older Prisoners at Tulane University.

[39] Doris L. MacKenzie and Claire C. Souryal, "Boot Camp Survey: Rehabilitation, Recidivism Reduction Outrank Punishment as Main Goals," *Corrections Today*, Vol. 53, No. 6, October 1991, pp. 90-96.

[40] Texas Department of Corrections, *Statistical Reports.*

[41] Charles D. Van Eaton, "Jail Overcrowding in Michigan: A Public Problem with a Private Solution?" Mackinac Center, April 17, 1989, p. 14.

[42] Associated Press, Aug. 12, 1989; *Fortune,* Aug. 14, 1989, p. 17.

[43] *Corrections Today,* December 1992, p. 14.

[44] Samuel Jan Brakel, "Privatization and Corrections," Reason Foundation, January 1989; Charles Logan, "Privatization and Corrections: A Bibliography," National Institute of Justice, January 1989; and Charles Logan, *Private Prisons; Cons and Pros* (New York: Oxford University Press, 1990).

[45] John Sharp, Comptroller of Public Accounts, "Breaking the Mold: New Ways to Govern Texas," *Texas Performance Review,* Vol. 2, Part II, July 1991. The cost of debt service is not included in either amount.

[46] See Steve Shwiff and Gale Norton, "Private Prisons Now," Independence Institute Issue Paper No. 19-88, Sept. 29, 1988; and *Time to Build? The Realities of Prison Construction* (New York: Edna McConnell Clark Foundation, 1984), p. 11. For argument that the private sector has little actual cost advantage over the public sector, see John D. Donahue, *The Privatization Decision: Public Ends, Private Means* (New York: Basic Books, 1989), ch. 8.

[47] Telephone interview, Wackenhut Corporation, January 20, 1993.

[48] Telephone interview, Corrections Corporation of America, January 21, 1993.

[49] *Privatization 1991,* Reason Foundation.

[50] Sharp, "Breaking the Mold," pp. 21-22.

[51] Ibid., pp. 22-23.

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

[53] Eckerd, "Responsibility, Love and Privatization," p. 10.

[54] *Business Week*, February 17, 1992, p. 42.

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

[56] Al Pagel, "Military Bases — Sites for Prisons?" *Correction Compendium*, January-February 1989. Cited in Dana C. Joel, *Time to Deal with America's Prison Crises,* pp . 9-10, Heritage Foundation Backgrounder, Nov. 15, 1989.

[57] *Wall Street Journal,* March 21, 1989; also see Mark A. Cohen, "Some New Evidence on the Seriousness of Crime," *Criminology,* 26, No. 2, 1988, pp. 343-53.

[58] 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).

[59] U.S. Department of Justice, Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, 1988, p. 658.

[60] Allen Beck, *Recidivism of Young Parolees* (Washington, D.C.: Bureau of Justice Statistics, 1987). Definitions of recidivism vary among authorities and this, together with sampling errors, accounts for differences in recidivism rates reported.

# Appendix

**TABLE A-1**

## Total Crime in Texas By Offense 1960-1991

| Year | Total Crimes | Murder | Rape | Robbery | Agg. Assault | Burglary | Larceny/ Theft | Motor Vehicle Theft |
|---|---|---|---|---|---|---|---|---|
| 1960 | 110,225 | 821 | 901 | 2,979 | 10,593 | 57,166 | 22,227 | 15,538 |
| 1961 | 110,194 | 785 | 941 | 2,990 | 10,591 | 56,397 | 23,562 | 14,928 |
| 1962 | 115,693 | 727 | 946 | 3,138 | 10,569 | 57,591 | 26,200 | 16,522 |
| 1963 | 127,412 | 757 | 1,018 | 3,637 | 11,944 | 62,405 | 30,392 | 17,259 |
| 1964 | 141,701 | 782 | 1,188 | 4,403 | 13,219 | 67,669 | 33,989 | 20,451 |
| 1965 | 148,124 | 790 | 1,143 | 4,432 | 14,475 | 71,110 | 36,531 | 19,643 |
| 1966 | 172,820 | 979 | 1,249 | 5,885 | 16,042 | 82,044 | 42,466 | 24,155 |
| 1967 | 193,993 | 1,069 | 1,442 | 7,429 | 16,553 | 88,730 | 50,803 | 27,967 |
| 1968 | 226,496 | 1,159 | 1,605 | 8,936 | 17,656 | 102,338 | 61,566 | 33,236 |
| 1969 | 282,089 | 1,264 | 2,175 | 12,822 | 20,073 | 121,255 | 82,432 | 42,068 |
| 1970 | 302,961 | 1,294 | 2,352 | 15,019 | 21,808 | 128,912 | 89,423 | 44,153 |
| 1971 | 309,126 | 1,378 | 2,728 | 13,977 | 24,581 | 134,651 | 89,522 | 42,289 |
| 1972 | 447,225 | 1,435 | 2,767 | 13,774 | 22,903 | 140,573 | 227,410 | 38,363 |
| 1973 | 477,211 | 1,501 | 3,006 | 16,765 | 23,723 | 149,358 | 241,904 | 40,954 |
| 1974 | 576,832 | 1,652 | 3,486 | 19,757 | 22,113 | 185,928 | 297,850 | 46,046 |
| 1975 | 661,675 | 1,639 | 3,430 | 20,076 | 22,658 | 203,821 | 362,665 | 47,386 |
| 1976 | 682,340 | 1,519 | 3,666 | 17,352 | 21,885 | 193,280 | 400,767 | 43,871 |
| 1977 | 692,450 | 1,705 | 4,332 | 19,558 | 26,714 | 205,672 | 383,451 | 51,018 |
| 1978 | 723,164 | 1,853 | 4,927 | 21,395 | 28,475 | 209,770 | 398,923 | 57,821 |
| 1979 | 793,097 | 2,235 | 6,043 | 25,667 | 34,043 | 239,758 | 412,515 | 72,836 |
| 1980 | 870,458 | 2,392 | 6,700 | 29,547 | 39,339 | 262,600 | 450,792 | 79,088 |
| 1981 | 892,723 | 2,446 | 6,821 | 28,528 | 40,765 | 275,978 | 454,879 | 83,306 |
| 1982 | 962,977 | 2,466 | 6,816 | 33,618 | 45,278 | 285,967 | 501,727 | 87,105 |
| 1983 | 928,858 | 2,239 | 6,333 | 29,769 | 42,205 | 262,198 | 503,582 | 82,532 |
| 1984 | 964,128 | 2,093 | 7,343 | 28,540 | 42,761 | 266,074 | 529,518 | 87,799 |
| 1985 | 1,075,295 | 2,132 | 8,364 | 31,680 | 47,854 | 289,825 | 595,912 | 99,528 |
| 1986 | 1,235,822 | 2,258 | 8,607 | 40,021 | 59,039 | 341,747 | 665,029 | 119,121 |
| 1987 | 1,296,519 | 1,959 | 8,068 | 38,053 | 57,881 | 355,597 | 711,594 | 123,367 |
| 1988 | 1,345,369 | 2,022 | 8,119 | 39,301 | 60,057 | 361,972 | 739,642 | 134,256 |
| 1989 | 1,346,866 | 2,029 | 7,951 | 37,913 | 63,996 | 342,346 | 741,660 | 150,971 |
| 1990 | 1,356,527 | 2,389 | 8,750 | 44,297 | 73,907 | 314,512 | 731,261 | 154,145 |
| 1991 | 1,356,527 | 2.652 | 9,266 | 49,700 | 84,125 | 312,693 | 734,261 | 163,830 |

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

TABLE A-2

# Texas Crime Rates Per 100,000 Population 1960-1991

| Year | Total Crimes | Murder | Rape | Robbery | Agg. Assault | Burglary | Larceny/ Theft | Motor Vehicle Theft |
|---|---|---|---|---|---|---|---|---|
| 1960 | 1,177.5 | 8.7 | 9.8 | 32.8 | 111.8 | 613.8 | 233.1 | 168.1 |
| 1961 | 1,125.8 | 8.0 | 9.6 | 30.5 | 108.2 | 576.2 | 240.7 | 152.5 |
| 1962 | 1,143.7 | 7.8 | 9.4 | 31.0 | 104.5 | 569.8 | 259.0 | 163.3 |
| 1963 | 1,234.3 | 7.3 | 9.9 | 35.2 | 115.7 | 604.5 | 294.4 | 167.2 |
| 1964 | 1,363.0 | 7.5 | 11.4 | 42.4 | 127.1 | 650.9 | 326.9 | 196.7 |
| 1965 | 1,403.9 | 7.5 | 10.8 | 42.0 | 137.2 | 674.0 | 346.2 | 186.2 |
| 1966 | 1,607.3 | 9.1 | 11.6 | 54.7 | 149.2 | 763.1 | 395.0 | 224.7 |
| 1967 | 1,724.8 | 9.8 | 13.8 | 68.4 | 152.3 | 816.4 | 467.4 | 257.3 |
| 1968 | 2,064.3 | 10.6 | 14.6 | 81.4 | 160.9 | 932.7 | 561.1 | 302.9 |
| 1969 | 2,521.6 | 11.3 | 19.4 | 114.8 | 179.4 | 1,083.8 | 736.9 | 376.0 |
| 1970 | 2,705.8 | 11.6 | 21.0 | 134.1 | 194.8 | 1,151.3 | 798.7 | 394.3 |
| 1971 | 2,697.4 | 12.0 | 23.8 | 122.0 | 214.5 | 1,175.0 | 781.8 | 369.0 |
| 1972 | 3,839.2 | 12.3 | 23.8 | 118.2 | 196.6 | 1,206.7 | 1,952.2 | 329.3 |
| 1973 | 4,046.2 | 12.7 | 25.5 | 142.1 | 201.1 | 1,266.4 | 2,051.1 | 347.2 |
| 1974 | 4,787.0 | 13.7 | 28.9 | 164.0 | 183.5 | 1,543.0 | 2,471.8 | 382.1 |
| 1975 | 5,407.8 | 13.4 | 28.0 | 164.1 | 185.2 | 1,665.6 | 2,963.7 | 387.2 |
| 1976 | 5,464.4 | 12.1 | 29.4 | 139.0 | 175.3 | 1,547.8 | 3,209.5 | 351.3 |
| 1977 | 5,397.1 | 13.3 | 33.8 | 152.4 | 208.2 | 1,603.1 | 2,988.7 | 397.6 |
| 1978 | 5,556.8 | 14.2 | 37.9 | 164.4 | 218.8 | 1,611.9 | 3,065.3 | 444.3 |
| 1979 | 5,925.3 | 16.7 | 45.1 | 191.8 | 254.3 | 1,791.2 | 3,081.9 | 544.8 |
| 1980 | 6,143.0 | 16.9 | 47.3 | 208.5 | 277.6 | 1,853.8 | 3,181.4 | 558.1 |
| 1981 | 6,050.3 | 16.6 | 46.2 | 193.2 | 276.3 | 1,870.4 | 3,082.9 | 564.6 |
| 1982 | 6,302.2 | 16.1 | 44.6 | 220.0 | 296.3 | 1,871.5 | 3,283.6 | 570.1 |
| 1983 | 5,907.3 | 14.2 | 40.3 | 189.3 | 268.4 | 1,667.5 | 3,202.6 | 524.9 |
| 1984 | 6,029.9 | 13.1 | 45.9 | 178.5 | 267.4 | 1,664.1 | 3,311.8 | 549.1 |
| 1985 | 6,568.7 | 13.0 | 51.1 | 193.5 | 292.3 | 1,770.5 | 3,640.3 | 608.0 |
| 1986 | 7,408.1 | 13.5 | 51.6 | 239.9 | 353.9 | 2,048.6 | 3,986.5 | 714.1 |
| 1987 | 7,722.4 | 11.7 | 48.1 | 226.7 | 344.2 | 2,118.0 | 4,238.5 | 734.8 |
| 1988 | 8,017.7 | 12.1 | 48.4 | 234.2 | 357.9 | 2,157.2 | 4,407.9 | 800.1 |
| 1989 | 7,926.9 | 11.9 | 46.8 | 223.1 | 376.6 | 2,014.9 | 4,365.0 | 888.5 |
| 1990 | 7,826.8 | 14.1 | 51.5 | 260.8 | 435.1 | 1,851.5 | 4,304.7 | 909.0 |
| 1991 | 7,819.1 | 15.3 | 53.4 | 286.5 | 435.1 | 1,851.5 | 4,232.3 | 944.3 |

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

TABLE A-3

# Texas Admissions to Prison by Crime Type 1960-1991

| Year | Total Crimes | Murder | Rape | Robbery | Agg. Assault | Burglary | Larceny/ Theft | Motor Vehicle Theft |
|---|---|---|---|---|---|---|---|---|
| 1960 | 5,035 | 216 | 61 | 368 | 179 | 1,450 | 992 | 19 |
| 1961 | 5,690 | NA | NA | NA | NA | NA | NA | NA |
| 1962 | 5,608 | 168 | 41 | 410 | NA | 1,870 | NA | 6 |
| 1963 | 5,659 | 219 | 44 | 349 | 194 | 1,848 | 1,115 | 8 |
| 1964 | 5,703 | 288 | 261 | 541 | 104 | 1,981 | 882 | 57 |
| 1965 | 5,614 | 264 | 47 | 251 | 264 | 1,598 | 1,124 | 29 |
| 1966 | NA | NA | NA | NA | NA | NA | NA | NA |
| 1967 | 5,020 | 224 | 61 | 411 | 194 | 1,500 | 1,014 | 12 |
| 1968 | 4,244 | 291 | 80 | 443 | 201 | 1,488 | NA | 5 |
| 1969 | NA | NA | NA | NA | NA | NA | NA | NA |
| 1970 | NA | NA | NA | NA | NA | NA | NA | NA |
| 1971 | NA | NA | NA | NA | NA | NA | NA | NA |
| 1972 | 7,725 | 361 | 148 | 814 | 38 | 2,059 | 1,527 | 50 |
| 1973 | 7,780 | 822 | 301 | 1,227 | 232 | 2,024 | 1,982 | 105 |
| 1974 | 8,217 | 593 | 197 | 1,223 | 94 | 2,050 | 991 | 99 |
| 1975 | 9,858 | 576 | 216 | 1,665 | 204 | 2,747 | 1,079 | 206 |
| 1976 | 10,554 | 665 | 243 | 1,388 | 259 | 3,000 | 1,143 | 294 |
| 1977 | 11.077 | 677 | 286 | 1,540 | 312 | 3,303 | 1,235 | 264 |
| 1978 | 12,894 | 772 | 314 | 1,566 | 400 | 3,277 | 1,340 | 361 |
| 1979 | 13,041 | 891 | 368 | 1,687 | 432 | 3,392 | 1,463 | 419 |
| 1980 | 14,176 | 892 | 433 | 1,699 | 463 | 3,864 | 1,735 | 514 |
| 1981 | 15,702 | 912 | 477 | 1,787 | 511 | 4,090 | 1,808 | 545 |
| 1982 | 18,837 | 1,014 | 500 | 2,083 | 623 | 4,615 | 2,276 | 604 |
| 1983 | 22,870 | 1,114 | 527 | 2,210 | 723 | 5,192 | 2,566 | 663 |
| 1984 | 23,058 | 1,055 | 407 | 1,697 | 718 | 4,576 | 2,081 | 665 |
| 1985 | 25,365 | 1,240 | 214 | 2,627 | 1,024 | 7,563 | 2,075 | 751 |
| 1986 | 30,471 | 1,333 | 258 | 3,028 | 1,261 | 8,884 | 3,502 | 1,482 |
| 1987 | 35,077 | 1,463 | 1,163 | 3,264 | 1,493 | 10,159 | 3,602 | 2,012 |
| 1988 | 33,816 | 1,888 | 1,128 | 3,100 | 1,431 | 9,624 | 3,386 | 2,064 |
| 1989 | 33,003 | NA | NA | NA | NA | NA | NA | NA |
| 1990 | 46,357 | 1,564 | 1,467 | 4,099 | 2,036 | 12,142 | 3,947 | 2,648 |
| 1991 | 39,646 | 1,447 | 1,343 | 3,646 | 2,004 | 10,063 | 3,217 | 2,148 |

NA: Not available. Source: Texas Department of Corrections, *Statistical Report*, annual.

TABLE A-4

# Probability of Imprisonment in Texas 1960-1991

| Year | All Serious Crimes | Murder | Rape | Robbery | Agg. Assault | Burglary | Larceny/ Theft | Motor Vehicle Theft |
|---|---|---|---|---|---|---|---|---|
| 1960 | 2.98 | 26.31 | 6.77 | 12.35 | 1.69 | 2.54 | 4.46 | 0.12 |
| 1961 | NA | NA | NA | NA | NA | NA | NA | NA |
| 1962 | NA | 23.11 | 4.33 | 13.07 | NA | 3.25 | NA | 0.04 |
| 1963 | 2.96 | 28.93 | 4.32 | 9.60 | 1.62 | 2.96 | 3.67 | 0.05 |
| 1964 | 2.90 | 30.43 | 21.97 | 12.29 | 0.79 | 2.93 | 2.59 | 0.28 |
| 1965 | 2.41 | 33.42 | 4.11 | 5.66 | 1.82 | 2.25 | 3.08 | 0.15 |
| 1966 | NA | NA | NA | NA | NA | NA | NA | NA |
| 1967 | 1.76 | 20.95 | 4.23 | 5.68 | 1.11 | 1.69 | 1.99 | 0.05 |
| 1968 | NA | 25.11 | 4.98 | 4.96 | 1.14 | 1.41 | NA | 0.02 |
| 1969 | NA | NA | NA | NA | NA | NA | NA | NA |
| 1970 | NA | NA | NA | NA | NA | NA | NA | NA |
| 1971 | NA | NA | NA | NA | NA | NA | NA | NA |
| 1972 | 1.12 | 25.16 | 5.35 | 5.91 | 0.17 | 1.46 | 0.67 | 0.13 |
| 1973 | 1.40 | 35.16 | 10.01 | 10.90 | 0.98 | 1.87 | 0.82 | 0.26 |
| 1974 | 0.91 | 35.90 | 5.65 | 6.19 | 0.43 | 1.10 | 0.33 | 0.22 |
| 1975 | 1.01 | 35.14 | 6.30 | 8.29 | 0.90 | 1.35 | 0.30 | 0.43 |
| 1976 | 1.02 | 43.78 | 6.83 | 8.00 | 1.18 | 1.55 | 0.28 | 0.67 |
| 1977 | 1.10 | 39.71 | 6.59 | 7.87 | 1.17 | 1.61 | 0.32 | 0.52 |
| 1978 | 1.11 | 41.66 | 6.37 | 7.32 | 1.40 | 1.56 | 0.34 | 0.62 |
| 1979 | 1.09 | 29.87 | 9.10 | 6.57 | 1.27 | 1.41 | 0.35 | 0.58 |
| 1980 | 1.10 | 37.29 | 6.46 | 5.75 | 1.18 | 1.47 | 0.38 | 0.65 |
| 1981 | 1.13 | 37.28 | 7.00 | 6.26 | 1.25 | 1.49 | 0.40 | 0.65 |
| 1982 | 1.22 | 41.12 | 7.39 | 6.20 | 1.38 | 1.61 | 0.45 | 0.69 |
| 1983 | 1.40 | 49.75 | 8.32 | 7.42 | 1.71 | 1.98 | 0.51 | 0.80 |
| 1984 | 1.16 | 50.41 | 5.54 | 5.95 | 1.68 | 1.72 | 0.39 | 0.76 |
| 1985 | 1.44 | 58.16 | 2.56 | 8.30 | 2.19 | 2.61 | 0.35 | 0.75 |
| 1986 | 1.60 | 59.03 | 3.00 | 7.57 | 2.14 | 2.63 | 0.53 | 1.24 |
| 1987 | 1.79 | 74.68 | 14.41 | 8.58 | 2.58 | 2.86 | 0.51 | 1.63 |
| 1988 | 1.68 | 61.18 | 13.90 | 7.89 | 2.38 | 2.68 | 0.46 | 1.54 |
| 1989 | 1.57 | 58.40 | 12.87 | 8.16 | 2.31 | 2.77 | 0.40 | 1.28 |
| 1990 | 2.09 | 65.47 | 16.77 | 9.25 | 2.75 | 3.86 | 0.54 | 1.71 |
| 1991 | 1.76 | 54.60 | 14.50 | 7.34 | 2.38 | 3.22 | 0.44 | 1.31 |

NA: Not available. Source: Calculated by dividing entries in Table A-3 by respective entries in Table A-1.

TABLE A-5

# Estimated Sentences Served — All Texas Crimes 1957-1991

| Year | All Prisoners On Hand | Prisoners Released | (years) Implied Average Sentence Served | (years) Implied Median Sentence Served |
|---|---|---|---|---|
| 1957 | 10,091 | 4,141 | 2.44 | 1.83 |
| 1960 | 11,308 | 5,889 | 1.92 | 1.44 |
| 1965 | 12,854 | 6,559 | 1.96 | 1.47 |
| 1970 | 14,331 | 6,898 | 2.08 | 1.56 |
| 1975 | 18,151 | 7,995 | 2.27 | 1.70 |
| 1980 | 28,543 | 9,610 | 2.97 | 2.23 |
| 1985 | 37,320 | 23,333 | 1.60 | 1.20 |
| 1988 | 39,664 | 33,428 | 1.19 | .89 |
| 1989 | 41,626 | 30,903 | 1.35 | 1.01 |
| 1990 | 49,157 | 37,921 | 1.30 | .97 |
| 1991 | 49,608 | 37,735 | 1.31 | .99 |

Source: Columns 1 & 2 — Texas Department of Corrections, *Statistical Report*, annual.
Column 3 — Implied Average Sentence Served = col. 1 ÷ col. 2
Column 4 — Implied Median Sentence Served = .75(col. 3)

TABLE A-6

# Estimated Median Sentences Served, Texas, Selected Years, 1960-1991

| Year | Murder | Rape | Robbery | Agg. Assault | Burglary | Larceny/ Theft | Motor Vehicle Theft |
|---|---|---|---|---|---|---|---|
| 1960 | 3.77[a] | 4.06 | 2.13 | 2.44 | 1.26 | .88 | 1.00 |
| 1965 | 4.00 | 5.24 | 3.39 | 2.23 | 1.09 | .81 | 2.25 |
| 1970 | 2.78 | 4.52 | 2.90 | 2.21 | 1.42 | 1.29 | .95 |
| 1972 | 3.39 | 3.48 | 3.04[b] | 1.83[b] | 1.37[b] | 1.22[b] | .72[b] |
| 1976 | 4.26 | 4.02 | 3.03 | 1.74 | 1.43 | .90 | 1.44 |
| 1980 | 3.56 | 3.41 | 2.35 | 1.25 | 1.39 | .97 | 1.39 |
| 1981 | 6.79 | 6.03 | 2.34 | 1.75 | 1.33 | 1.03 | 1.02 |
| 1983 | 3.65 | 2.82 | 2.39 | .96 | 1.20 | .83 | .90 |
| 1985 | 3.78 | 2.50 | 2.24 | .96 | 1.03 | .62 | .77 |
| 1987 | 3.28 | 4.51 | 2.08 | .81 | .73 | .39 | .53 |
| 1988 | 3.33 | 3.20 | 2.21 | .88 | .66 | .40 | .48 |
| 1991 | 4.50 | 4.41 | 2.21 | 1.25 | .72 | .47 | .57 |

a: Figure is for 1957.

b: Figures are for 1971.

# About the Author

**Morgan O. Reynolds,** an NCPA Senior Fellow and a professor of economics at Texas A&M University, received his Ph.D. from the University of Wisconsin in 1971. He has published many articles in academic journals, edited *W. W. Hutt: An Economist for the Long Run* (1986), and authored *Power and Privilege: Labor Unions in America* (1984), *Crime by Choice* (1985), *Making America Poorer: The Cost of Labor Law* (1987) and *Public Expenditures, Taxes, and the U.S. Distribution of Income* (1977). He has been a consultant for the National League of Cities, the U.S. Department of Labor and many private organizations. He also serves on the board of the *Journal of Labor Research* and the *Review of Austrian Economics* and is a member of the Mont Pelerin Society and an adjunct scholar of the Cato Institute.

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The NCPA is the source of numerous discoveries that have been reported in the national news. According to NCPA reports:

- Blacks and other minorities are severely disadvantaged under Social Security, Medicare and other age-based entitlement programs;
- Special taxes on the elderly have destroyed the value of tax-deferred savings (IRAs, employee pensions, etc.) for a large portion of young workers; and
- Man-made food additives, pesticides and airborne pollutants are much less of a health risk than carcinogens that exist naturally in our environment.

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