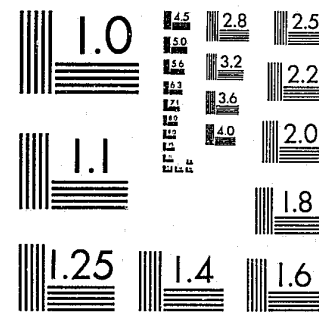


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Report  
of the  
Taylor's  
rule  
control  
omission

CRIME 2  
JUSTICE  
IN SAN DIEGO



U.S. Department of Justice 81363  
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**CRIME AND JUSTICE IN SAN DIEGO:  
REPORT OF THE MAYOR'S CRIME CONTROL COMMISSION**

San Diego, California  
1981

**The Mayor's Crime Control Commission**

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Maureen O'Connor, Chair

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# THE CITY OF SAN DIEGO

August, 1981

## MAYOR'S CRIME CONTROL COMMISSION

PETE WILSON  
Mayor  
Chair  
MAUREEN O'CONNOR  
W.B. KOLENDER  
Resource Panel  
Chair  
NORM STAMPER  
Staff Director

Dear Mayor Wilson:

Crime and Justice in San Diego: Report of the Mayor's Crime Control Commission, presents the findings and recommendations of the citizens' group you formed in September, 1979 to reduce crime in our city. As chair of the Commission, I am pleased to present this report to you and to the citizens of San Diego.

I know you share my appreciation for the work done by this body. I have never worked with a more dedicated and productive citizen group. Their enthusiasm and their probing questions have produced recommendations that we believe will make San Diego a safer city.

Our resource panel, consisting of the leaders of the region's criminal justice agencies, helped the Commission develop recommendations that are both imaginative and realistic. I thank them for that.

Thanks are also due to the Commission's fulltime staff, headed by Norm Stamper, Special Advisor to Police Chief Bill Kolender. Jane Donley, Jon Dunchack, Mark Linsky and Sherry Silver all helped to conduct what I believe to be the most thorough and incisive study of crime and justice in San Diego's history. Sherry, who wrote much of the report, and Jon, who edited it, deserve our thanks for putting our information and ideas into clear and comprehensible language. Monica Brennan-Canini, secretary to the Commission, did a remarkable job in preparing the report for publication.

Finally, I would like to thank the scores of San Diegans who testified before the Commission or who sought us out to tell us of their concerns. It is for these people, along with all San Diegans who share a concern about crime, for whom this work was done.

Sincerely,

*Maureen*  
MAUREEN O'CONNOR  
Chair

CITY ADMINISTRATION BUILDING, 202 C STREET, SAN DIEGO, CALIFORNIA 92101 (714)236-6601

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# INTRODUCTION

San Diego is a great city. We have parks and beaches, marinas and coves. San Diego's rolling hills, bays, colorful bridges, vast open spaces and skyline of modern office buildings give the city a distinctive beauty. Our modern colleges and universities — centers of law, business, science and medical education — provide us with diverse educational opportunities. Valuable research in biomedics and oceanography has made the city's scientific community well known and greatly respected. San Diego is a city that works. It has been developed with care and forethought, and it shows. We are free of the brown skies and acrid smells of an industrial city. Our freeways were well planned. They actually work. Our municipal government is meeting the challenge of the grave fiscal problems that face many other American cities. But one condition that plagues other cities now also threatens the quality of life in San Diego: that condition is crime.

San Diego at a Glance		
Population:	852,000 — 8th largest city in the U.S.	
Average Age:	28	
Ethnic Distribution:	80.5% white 7.5% black 8.1% latino 3.9% other	
Employment:	Trade	22%
	Government & public education	21%
	Services	21%
	Manufacturing	14%
	Construction	6%
	Finance, insurance & real estate	5%
	Transportation, communications & utilities	4%
	Agriculture	2%
	Other	5%
Average Household Income:	\$28,000	

From 1970 to 1980, the number of violent crimes — homicide, rape, robbery and aggravated assault — increased by more than 211 percent in San Diego. Our population increased only 22 percent during this same period. By 1980 there was one reported violent crime every 85 minutes in the city. Our feeling of security, once a natural part of San Diego life and unusual in a city of this size, is giving way to distrust and fear.

Perhaps even more disturbing is that many San Diegans seem to be accepting crime as an inevitable result of rapid urban growth and modern life. We become numb to endless stories of senseless crimes. We adapt our living habits and we modify our expectations of personal safety. *We accommodate crime.* What will happen if we don't fight back? How much crime will we have in 1985? In 1990? The Mayor's Crime Control Commission was formed to see that we do fight back. San Diegans can have something to say about how much crime we will have in the future. The Commission was brought together in the fall of 1979 and charged by Mayor Wilson to find ways to:

- reduce serious crime in our city;
- increase citizens' feelings of personal security and safety; and
- enhance public confidence in the criminal justice system.

In forming the Commission, Mayor Wilson asked its members to develop recommendations for reducing serious crime here in San Diego. Clearly, both white collar crime and organized crime fall into the category of serious crimes. But it was significant increases in *street crime* that brought us together as a commission. The Commissioners rode along with police officers, toured correctional institutions, analyzed numerous studies and received testimony from nationally known experts, local practitioners and people who have personally suffered from crime. The result was a thorough analysis of the local criminal justice system: law enforcement, courts and corrections. Significant problems were found in each. Some of the problems are local in nature, others are state and even nationwide in scope. Solutions have been proposed for many of these problems. We think they will work. They deserve the fullest consideration of elected officials, criminal justice practitioners and the general public. In issuing this report, we are compelled to point out that the Commission's work is just beginning. One of the things that distinguishes this commission from others is that it is still in existence. Too often a citizen group is formed, recommendations are developed, a report is written and . . . that's all. Often, there is no follow-through provided to ensure that the recommendations are actually adopted; they simply wind up as footnotes in other studies. That won't happen in San Diego.

# Chapter 1 CRIME IN SAN DIEGO

## An Attack on Crime

More than half the people in this country are now afraid to walk alone at night, even within a mile of their own homes.<sup>1</sup> Nationwide, crime has become the overriding public concern of the day. Personal fear of a random, violent attack is increasing, fed by horrifying accounts of senseless and vicious crimes. The nation's crime wave is thought to be out of control and widening its net, now touching those who never before were afraid. Crime seems no longer limited to back alleys, inner cities, and noisy bars. Crime and the fear it engenders have invaded suburban homes, daytime streets, cities that had thought themselves safe. To some, we are all now targets. In despair, many are arming themselves. Others lament their own powerlessness, or that of the criminal justice system to stop this nightmare of escalating crime. Something must be done.

But before we can attempt a counterattack, we must learn as much as we can about the war we are facing. How much crime is there? Who is committing which crimes? What specific crimes are increasing most rapidly? What have the crime trends been over the last ten years? Answers to these questions are absolutely necessary if we are to launch a reasoned and powerful attack on crime.

## The San Diego Crime Scene

San Diego's rate of violent crime — the number of homicides, rapes, robberies and aggravated assaults per 1,000 people — increased 156 percent between 1970 and 1980. The actual number of violent crimes has tripled — from almost 2,000 in 1970 to more than 6,000 in 1980.<sup>2</sup> Table 1.1 shows the changes — in both actual numbers and rates — for violent and property crimes in San Diego over the last decade. The specific crimes included — the so-called index crimes — are those recorded nationally by the Federal Bureau of Investigation. There are four violent index crimes: murder, rape, robbery and assault; and three property index crimes: burglary, larceny-theft, and motor vehicle theft.<sup>3</sup>

Table 1.1 Crime in San Diego 1970-1975-1980				
	1970	1975	1980	Percentage Increase 1970-1980
Population:	699,600	768,900	852,500	
Total Crime Index — Rate*	56.11	78.06	82.70	+47%
Total Number of Crimes	39,253	60,022	70,505	+80%
Violent Crime Rate	2.84	5.02	7.26	+156%
Number of Violent Crimes	1,987	3,859	6,189	+211%
Property Crime Rate	53.27	73.04	75.44	+42%
Number of Property Crimes	37,266	56,163	64,316	+73%

\*Rates are per 1,000 population  
SOURCES: Population/City of San Diego Planning Department; Crime/FBI Uniform Crime Report

More specifically, Table 1.2 displays all seven index crimes and their increase in rate per 1,000 population since 1970.

Table 1.2 Crime Rate by Type in San Diego 1970-1980			
Crime	1970 Rate	1980 Rate	Percentage Increase
Murder	.05	.12	+140%
Forcible Rape	.19	.42	+121%
Robbery	1.20	3.50	+192%
Aggravated Assault	1.40	3.21	+129%
Burglary	9.87	23.41	+137%
Larceny/Theft	38.07	42.99	+ 13%
Motor Vehicle Theft	5.33	9.04	+ 70%

SOURCE: FBI Uniform Crime Reports



## The Fear vs. The Reality of Crime

While the changes in San Diego are alarming, and the increase in crime has been swift, the fear — in San Diego and elsewhere — is likely to be out of proportion to actual levels of crime.

A survey conducted in San Diego by the U.S. Department of Justice found that more than one out of four San Diegans — 26.3 percent — felt unsafe in their own neighborhood at night.<sup>4</sup> But based on actual offenses, not even one percent of the people in San Diego were actually victims of a violent crime in 1980.

But the fear is there, and it is as real as the almost 20,000 burglaries and over 100 homicides we had in San Diego in 1980. Such fear is not innocuous. It invades our lives and takes something away. Fear affects the way we live. The Department of Justice survey found that 28 percent of San Diegans admitted they had changed or limited their activities because of crime or the fear of crime. And that survey was in 1974 — given the sustained local increase in crime since then, it is probable that the fear has grown.

*The fear of crime can make the most routine activity — such as shopping in the evening — a terrifying experience.*



Tim Gaughen

**Replacing Fear With Knowledge.** The unknown — the uncontrollable — is the foundation of fear. We are most afraid of what we can't see, of events we can't predict. Knowledge about crime in San Diego — the way it is now, how it was ten years ago, and how it compares to other cities — can temper the growing and pervasive anxiety that threatens our comfort and our peace of mind. That knowledge is also the first step in our fight against crime. It can show us where to begin.

## A Snapshot of Crime

While the Federal Bureau of Investigation's Crime Index includes only a few crimes, it does allow relatively reliable analysis of crime trends in San Diego and comparisons with other cities.

**What Happened To Our City?** Crime has always fluctuated unpredictably. Looking back, the 1930s, 1940s, and 1950s are now thought to represent relatively tranquil eras after many years of extreme lawlessness; the increases in crime during the 1960s and 1970s are considered a return to yet another peak in the crime cycle.<sup>5</sup>

During the last decade, San Diego experienced large increases in its overall crime rate (the seven index offenses), along with the rest of the country. Between 1970 and 1979, the United States crime rate grew 103 percent. In San Diego, the increase was 55 percent.

The growth in overall U.S. crime is mostly attributable to increases in property crimes. But in San Diego, the growth of violent crime far outpaced the increases across

SWAT team in action.



## The Limits of Crime Statistics

*Unfortunately, our knowledge of crime is more limited than it appears. In an age and nation where detailed statistics about almost anything are usually taken for granted, there are enormous gaps of information, not only about what causes crime, but even about how much crime there is. The criminal justice system doesn't attempt to measure all crimes, and statistics on other crimes are often unreliable.*

*Only the crimes that come to the attention of the police are recorded at all, and even then, police departments have varying degrees of accuracy and different reporting methods, as well as different definitions of the same crimes. Police discretion in making arrests and recording offenses also makes it difficult to discover how much crime there really is.*

*Because crime statistics are based on only those offenses known to the police, a large increase in the number of crimes — forcible rapes, for example — can have as much to do with a sudden change in victims' willingness to report the attack as with an actual increase in the number of offenses.*

*Many victims do not report crimes, and the "victimization studies" which attempt to measure these unreported offenses are subject to the methodological problems commonly associated with surveys.*

*In 1974, almost 10,000 San Diego households and 1,300 businesses were surveyed as part of a national victimization study.<sup>6</sup> The results revealed that only 40 percent of all violent crimes in San Diego had been reported to the police. Victims reported the following percentages of specific crimes to the police:*

- 26 percent of personal thefts
- 46 percent of robberies
- 49 percent of aggravated assaults
- 50 percent of household burglaries
- 52 percent of rapes
- 63 percent of motor vehicle thefts
- 80 percent of commercial burglaries

*Ignoring for the moment the difficulties in attempting to measure unreported crime, there are significant problems just with the crime data that are available.*

*Even within San Diego County, criminal justice agencies have not agreed upon common definitions for each crime. Although the agencies which gather the statistics for reporting purposes — the Federal Bureau of Investigation and California's Bureau of Criminal Statistics (BCS) — have in theory agreed on definitions, they cause confusion by using them differently. For example, BCS reports only thefts of over \$200, while the FBI reports all thefts. The number of thefts in a given year, then, depends on where you look — to the Bureau of Criminal Statistics or to the FBI. In San Diego in 1979, this difference was more than 23,000 crimes.*

*Unfortunately, not everyone who uses these statistics realizes this and other discrepancies. Confusion is often the result when the numbers are used without a clear idea of the source or the definition.*

*The criminal justice system generally lacks the computerized, sophisticated, and progressive statistical and analytical techniques used in most large private businesses. Efforts to draw a clear crime picture — and to communicate it effectively — are frustrating if not impossible under these conditions.*

the U.S. Between 1970 and 1979, the rate of violent crime jumped 130 percent in San Diego, but only 50 percent at the national level. In fact, San Diego's violent crime rate, which began the decade at a lower level than the national average, was 22 percent higher than the U.S. rate by 1979.

**The Latest News.** In 1980, for the first time in many years, San Diego's overall crime rate actually decreased — by 4.7 percent. While this is an encouraging sign, it is also ironic testimony to the criminal justice system's ignorance in identifying why crime rates change.

What we can do is identify the main source of the rate decrease — a drop in the number of larceny-thefts. The burglary rate also decreased, although the actual number of burglaries increased slightly.

Unfortunately, even in 1980, when the property crime rate decreased in San Diego, our violent crime rate grew once again — by 11 percent. Much of the increase can

be attributed to a large jump — over 25 percent — in the rate of aggravated assault.

## Why Is San Diego Getting More Violent?

With every announcement of increases in crime — in police department murder statistics, FBI annual reports, and political speeches — there is a public outcry of anguish and fear that demands to know why. And assorted answers are predictable: inflation, recession, unemployment, family breakdown, societal disintegration.

The truth is, no one really knows why general levels of crime fluctuate from one year to the next. No one really knows why any person would commit a serious crime. There are too many motives for human behavior, too many variables.



**Please Note . . .**  
Statements about percentage changes can be misleading if the figures are not examined carefully.  
A large number will show less of a percentage change than a smaller number, even if both increase by the same amount.  
For example, if the number of crimes per 1,000 people increased by the same number in both San Diego and the rest of the U.S., San Diego would show a smaller percentage change because its base crime rate, in 1970, was higher than the overall U.S. rate. In 1970, San Diego's overall crime rate was 56.11. An increase of 20 crimes per 1,000 people—to 76.11—would result in a 35 percent increase. The U.S. overall crime rate in 1970 was 27.18. Here, an increase of 20 crimes per 1,000 people—to 47.18—would result in a 74 percent increase, a percentage change much greater than the San Diego growth, even though the actual increase in crimes per 1,000 population was the same.  
This does not mean that the smaller percentage increase actually noted in San Diego's overall crime rate for 1970-1979 in comparison to the U.S. is some statistical fluke; the U.S. increase was in fact more dramatic because of its lower 1970 crime rate. The caution is simply to point out that percentage changes are influenced by the numbers involved and must be interpreted carefully.  
This effect should also be taken into account when comparing percentage increases for different crimes—some of which involve very small numbers, and therefore lead to large percentage changes.

Why then do we monitor crime statistics so carefully? What use are they if they can't tell us why crime is up, or why violence in San Diego has become such a large part of our everyday news?

**What Numbers Can — And Can't — Do.** Offense statistics can only tell us what happened, not why. They can help us pinpoint problem areas: convenience store robberies in Ocean Beach, thefts in Rancho Bernardo, or assaults in Hillcrest. They can help set local priorities for action, and targets for improvement. Nationally and statewide, statistics can indicate the appropriate direction for planning and funding of special programs for crime reduction.

**Pinpointing The Problem.** In attempting to explain the reasons for increases or decreases in crime rates, the best we can do is speculate. The San Diego Police Department suggests, for example, that much of the recent increase in violent crimes, especially aggravated assault, is due to increased juvenile gang activity. Police Chief Bill Kolender points out that as recently as five years ago there were only three known gangs in the city — there are now 40, with 2,800 members.<sup>7</sup> Contrary to public perception, well over half the gang-related crimes involve vic-

tims who are not gang members.

This is less an explanation for the increasing violence than a description — it reveals who may be doing it; not why. Nor is it the whole story. Gang members are not responsible for all or even most aggravated assaults, and their influence has only recently been dramatically felt — San Diego's violent crime rate has been increasing steadily over the last ten years.

Another major factor associated with the rise in aggravated assault is the increased willingness of victims to report instances of domestic violence — such as spousal assault and child abuse, both of which are included in the definition of aggravated assault.

There is also strong evidence linking the use of alcohol and drugs with criminal behavior. Murders and robberies are often connected with narcotics transactions. On a broader scale, it is generally accepted that a large number of robberies, burglaries and auto thefts are committed in order to support drug habits. And, crimes committed while under the influence of drugs or alcohol make a significant contribution to soaring rates of violent and property crimes.

**And One Solution . . .** A recent trend in San Diego — a decreasing burglary rate since 1978 — may allow us to do a bit more than just speculate. In fact, identifying the reason for this decrease is likely to be the closest anyone will come to a clear cause-effect explanation of a crime trend. And the explanation itself is rewarding testimony to the capacity for individual citizens to actually do something about crime.

Formation of "community alert" groups in San Diego, initiated by the San Diego Police Department in the mid-1970s, has been clearly responsible for a reduction in

Youth gangs use graffiti to stake out territory and signal their violent intentions.



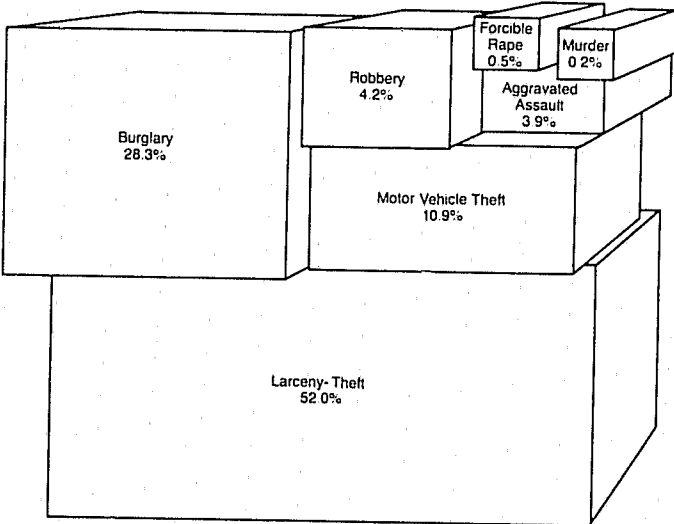
Table 1.3 City of San Diego FBI Crime Index Offenses Rate per 1,000 People 1970-1980												
Crime	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	% Change 1979-1980
Murder & Non-Negligent Manslaughter	.05	.05	.04	.08	.09	.08	.08	.06	.08	.12	.12	0
Forcible Rape	.19	.20	.23	.23	.27	.30	.30	.37	.39	.40	.42	+ 5.0%
Robbery	1.20	1.56	1.68	1.92	2.61	2.86	2.94	3.11	3.10	3.47	3.50	+ 0.9%
Aggravated Assault	1.40	1.13	1.36	1.49	1.74	1.78	2.01	1.99	1.97	2.56	3.21	+25.4%
All Violent Crime	2.84	2.94	3.30	3.72	4.72	5.02	5.32	5.53	5.54	6.54	7.26	+11.0%
Burglary	9.87	12.21	13.63	15.62	17.88	20.36	20.48	23.59	24.71	24.02	23.41	- 2.5%
Larceny/Theft	38.07	36.59	36.30	36.02	40.76	45.59	47.04	45.00	43.18	47.22	42.99	- 9.0%
Motor Vehicle Theft	5.33	5.19	5.53	6.11	6.39	7.10	8.04	7.93	8.49	9.01	9.04	+ 0.3%
All Property Crime	53.27	53.98	55.46	57.75	65.02	73.04	75.56	76.52	76.38	80.25	75.44	- 6.0%
Total Crime Index	56.11	56.93	58.76	61.46	69.74	78.06	80.88	82.05	81.92	86.80	82.70	- 4.7%

SOURCES: Population/City Planning Department (February 1981), Crime/FBI Uniform Crime Reports

Table 1.3 shows the percentage changes in rate from 1979 to 1980 for each index crime. It also presents the crime rate for all seven offenses for each year, 1970 through 1980.

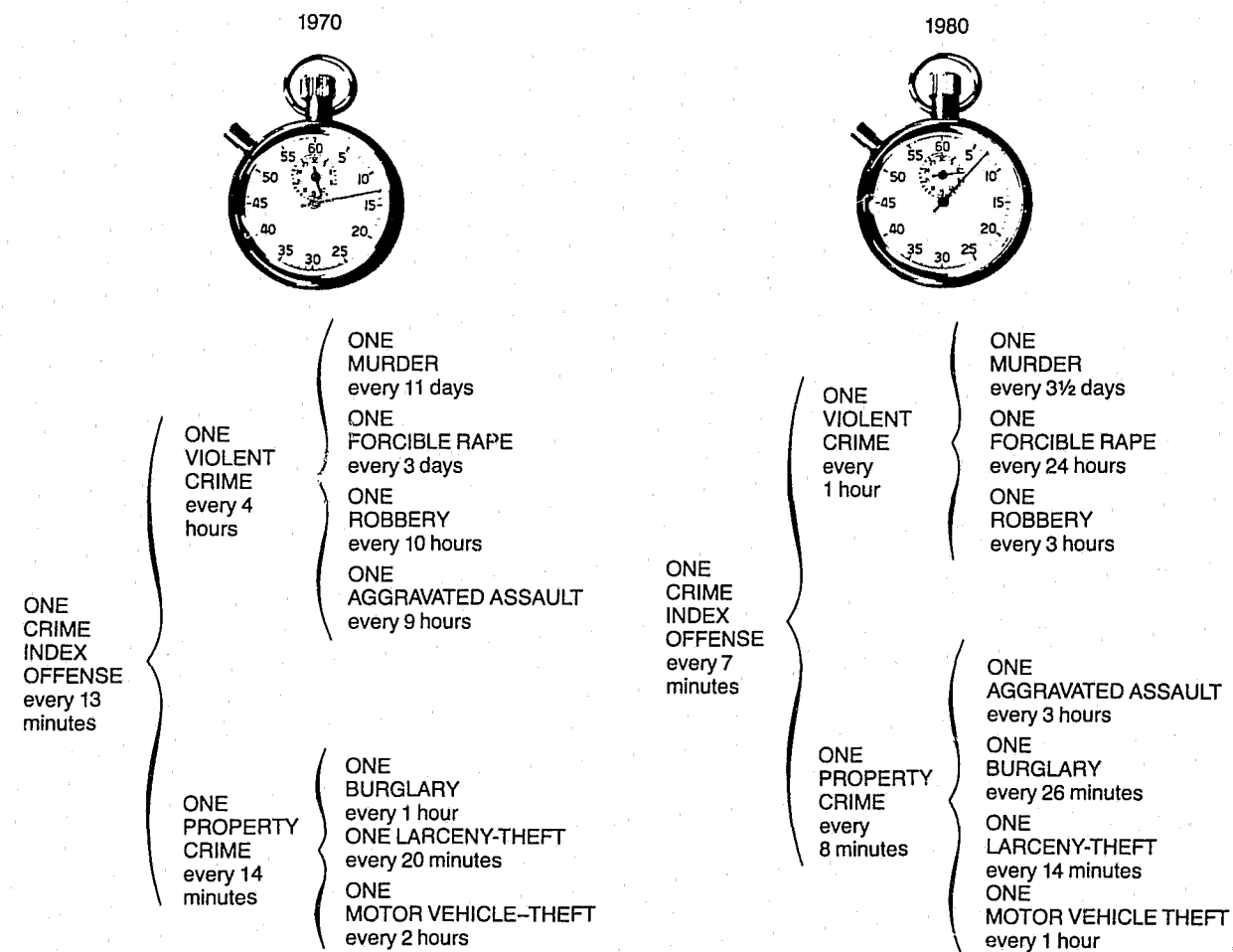
Figure 1.1  
Proportion of Crime Index Offenses by Type  
City of San Diego — 1980

Figure 1.1 displays each offense's percentage contribution to San Diego's 1980 crime index. It clearly shows the relatively small number of violent crimes, despite the large increase since 1970.



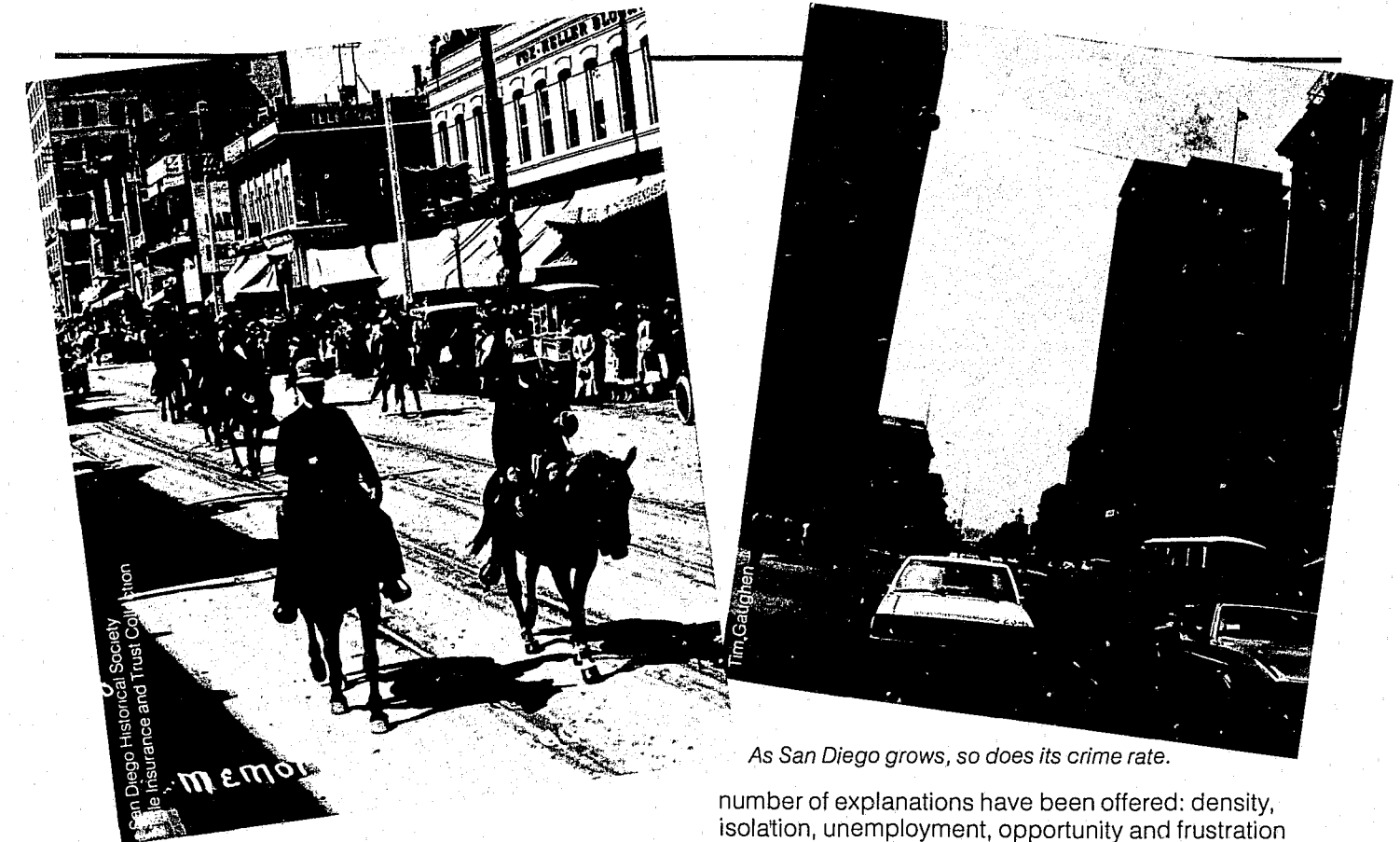
SOURCE: FBI Uniform Crime Reports

Figure 1.2  
Crime Clock  
City of San Diego



NOTE: This does not imply a regularity in the commission of crimes. The clock merely displays relative frequency of occurrence.  
SOURCE: FBI Uniform Crime Reports

By means of a "crime clock," Figure 1.2 compares the 1970 and 1980 levels of each index crime in terms of frequency of occurrence.



As San Diego grows, so does its crime rate.

residential burglaries in the city. Community alert groups had been formed in over 1,000 neighborhoods by the end of 1979, a year which saw the first decrease — 4.7 percent — in residential burglaries.<sup>8</sup> This offense had increased 15 percent every year for the preceding ten years. New groups are continually forming, and burglary rates are still decreasing. By the beginning of 1981, the number of groups had surpassed 2,000. The city's overall burglary rate (which also includes burglaries other than residential) decreased 2.5 percent in 1980.

**The Growth Of A City.** While decreases in certain crimes are gratifying, increases are much more common, and the contributing factors are seldom known.

Occasionally, however, it is possible to isolate an event that is occurring at the same time as an increase in crime, and identify it not as a cause, but as a likely contributor to the increase.

In San Diego's case, that event is the growth of a city — more importantly, the *very rapid growth* of a city, from the country's 14th largest to its eighth largest in ten years. This doesn't make crime easier to accept, but it does help us understand its rise.

For many reasons, big cities typically have higher crime rates — and often more violence — than small cities. Any

number of explanations have been offered: density, isolation, unemployment, opportunity and frustration are but a few.

**How Do We Compare?** Comparing San Diego's growth in violent crime to the U.S. as a whole can be misleading. Average U.S. crime rates combine all areas — urban, suburban, and rural.

A more logical comparison would be to look at other cities that have experienced similar rates of population growth, or that are now close in population to San Diego. Figures 1.3 through 1.12 depict 1970-1979 trends for total, violent, property and individual offenses, comparing San Diego to two sets of cities — one set with similar current populations (Dallas, Baltimore, San Antonio and Phoenix), and another with similar growth over the last decade (Houston, San Antonio, Phoenix, and San Jose).

Ironically, as displayed in the graphs, San Diego's large percentage increase in violent crime is partly attributable to the fact that we began the decade with an unusually low violent crime rate — even lower than the U.S. as a whole. It is suggested that our rapid population growth simply caused us to catch up — very quickly.

San Diego's 1980 decrease in its property crime rate is an encouraging sign, especially since it had risen by 1979 to a level higher than that of comparable cities. Unfortunately, 1980 data for other cities was unavailable before preparation of this report.



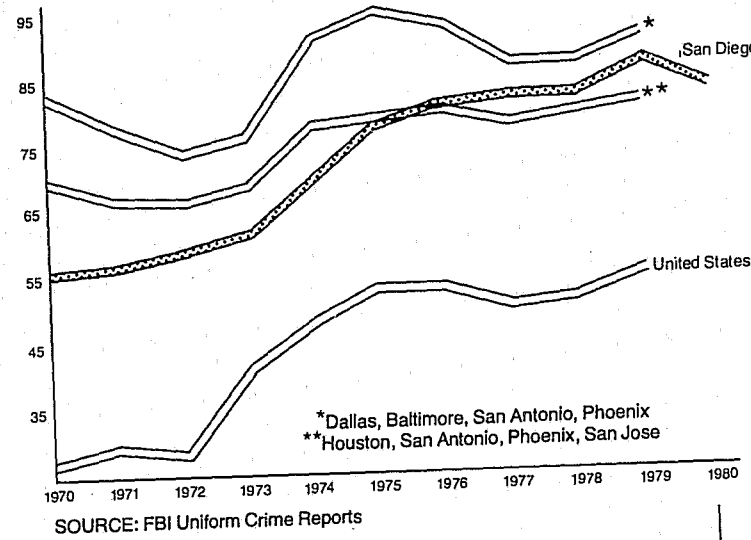


Figure 1.3  
FBI Index Crimes  
Rate per 1,000 Population  
San Diego vs. Comparable  
Cities and U.S. Average  
1970-1979

Figure 1.4  
Violent Crimes  
Rate per 1,000 Population  
San Diego vs. Comparable  
Cities and U.S. Average  
1970-1979

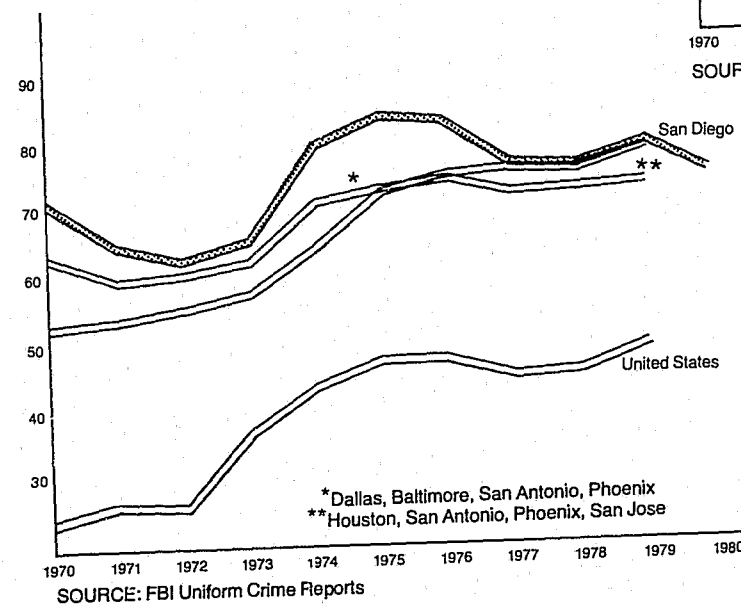


Figure 1.5  
Property Crimes  
Rate per 1,000 Population  
San Diego vs. Comparable  
Cities and U.S. Average  
1970-1979

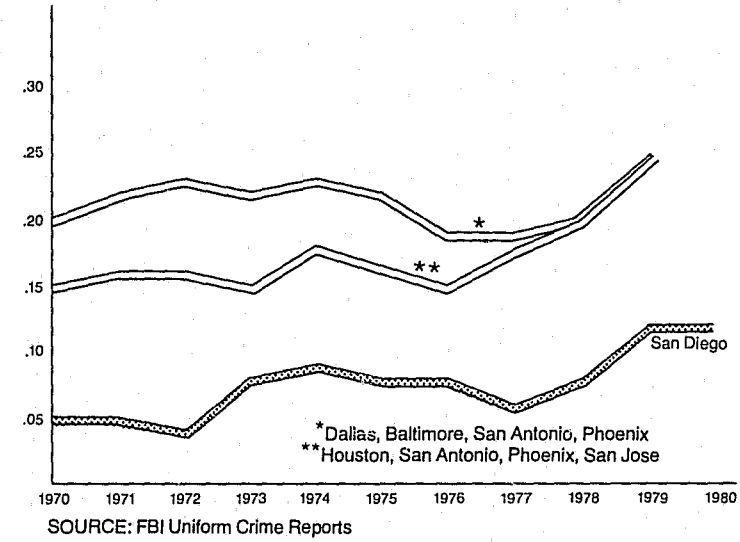
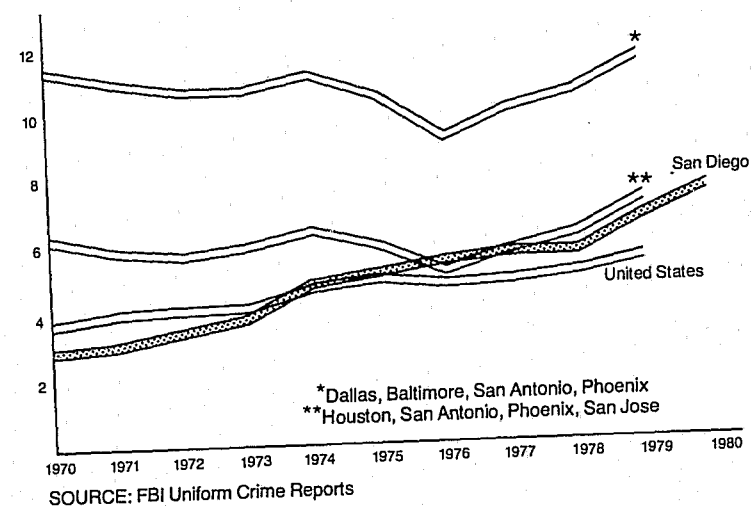


Figure 1.6  
Murder and Non-Negligent Manslaughter  
Rate per 1,000 Population  
San Diego vs. Comparable Cities  
1970-1979

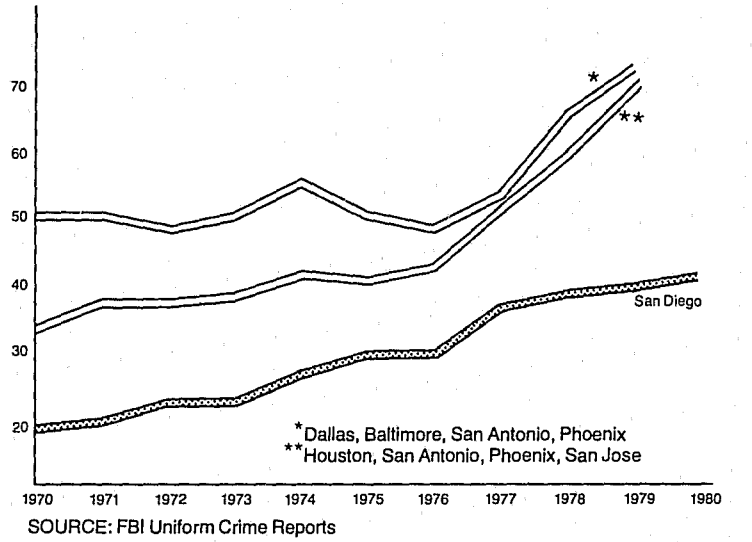


Figure 1.7  
Forcible Rape  
Rate per 1,000 Population  
San Diego vs. Comparable Cities  
1970-1979

— Definition —  
**Murder and non-negligent manslaughter**, as defined in the Uniform Crime Reporting program, is the willful (non-negligent) killing of one human being by another.  
The classification of this offense, as in all other Crime Index offenses, is based solely on police investigation as opposed to the determination of a court, medical examiner, coroner, jury, or other judicial body. Not included in the count for this offense classification are deaths caused by negligence, suicide, or accident; justifiable homicides, which are the killings of felons by law enforcement officers in the line of duty or by private citizens; and attempts to murder or assaults to murder, which are counted as aggravated assaults.

— San Diego Trends —

Year	Reported Crimes	Rate per 1,000 Population
1970	32	.05
1980	103	.12
Percentage change: +222%		+140%

— Definition —  
**Forcible rape**, as defined by the FBI, is the carnal knowledge of a female forcibly against her will. Assaults or attempts to commit rape by force or threat of force are also included; however, statutory rape (without force) and other sex offenses are not included in this category.

— San Diego Trends —

Year	Reported Crimes	Rate per 1,000 Population
1970	135	.19
1980	362	.42
Percentage change: +168%		+121%

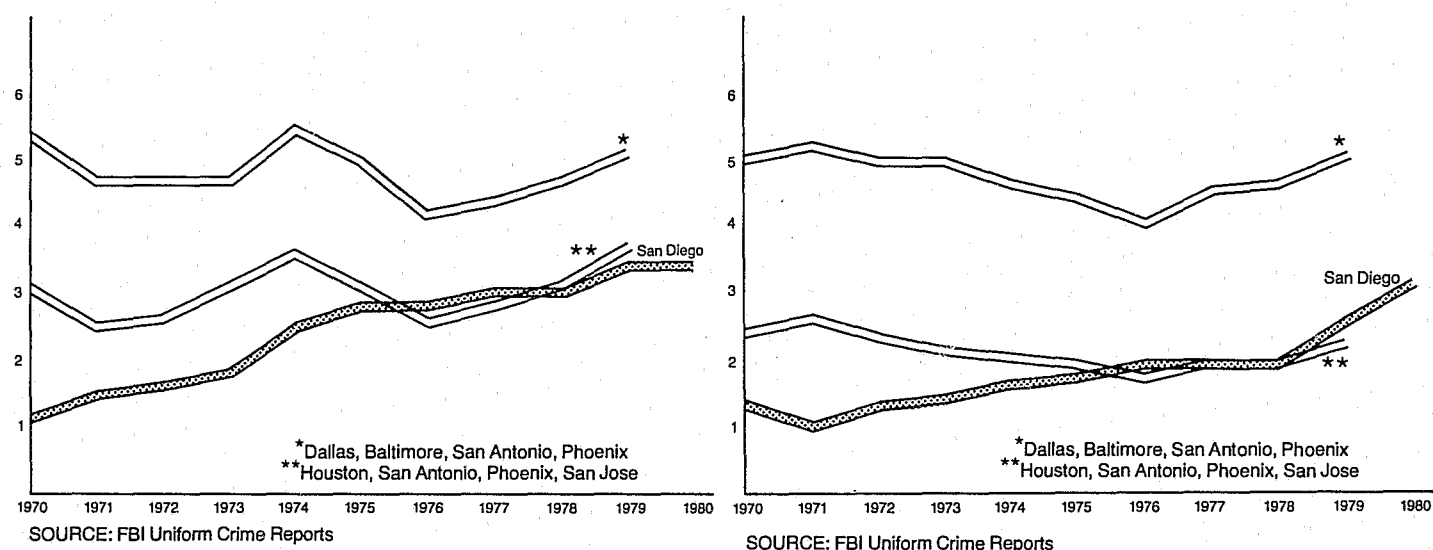


Figure 1.8  
Robbery  
Rate per 1,000 Population  
San Diego vs. Comparable Cities  
1970-1979

Figure 1.9  
Aggravated Assault  
Rate per 1,000 Population  
San Diego vs. Comparable Cities  
1970-1979

— Definition —  
**Robbery** is the 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.

— San Diego Trends —

Year	Reported Crimes	Rate per 1,000 Population
1970	839	1.20
1980	2,986	3.50
Percent change: +256%		+192%

— Definition —  
**Aggravated assault** is an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault is usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Attempts are included since it is not necessary that an injury result when a gun, knife, or other weapon is used which could and probably would result in serious injury if the crime were successfully completed.

— San Diego Trends —

Year	Reported Crimes	Rate per 1,000 Population
1970	981	1.40
1980	2,738	3.21
Percent change: +179%		+129%

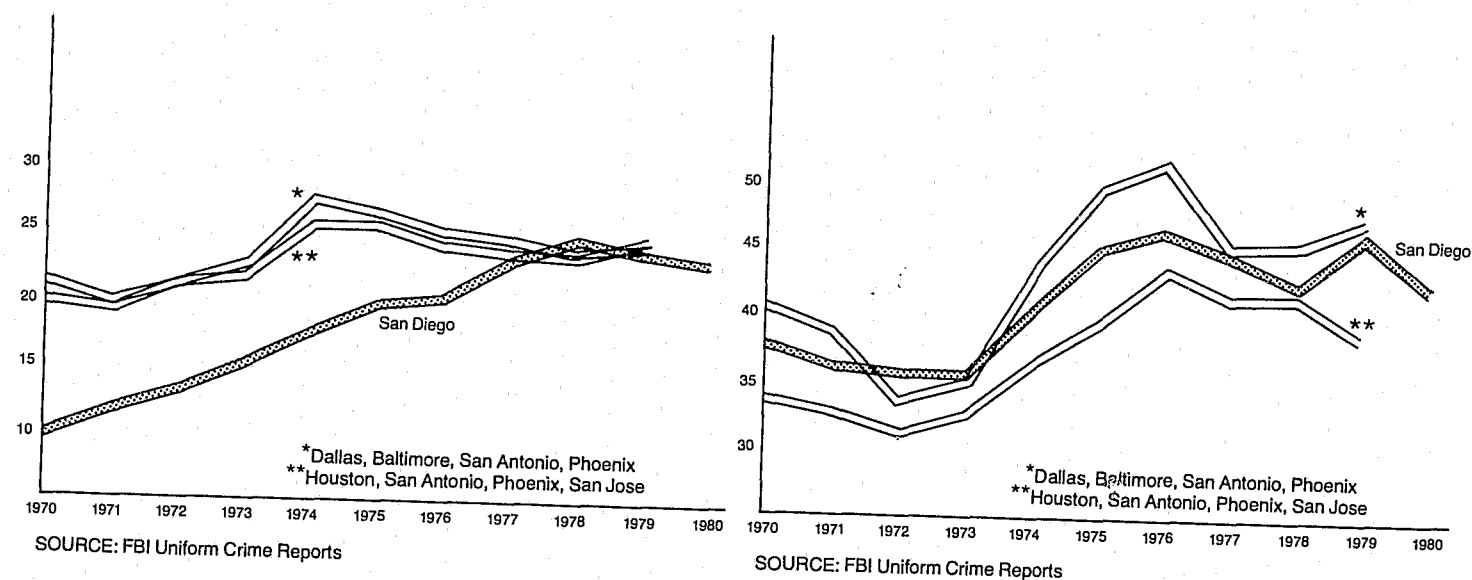


Figure 1.10  
Burglary  
Rate per 1,000 Population  
San Diego vs. Comparable Cities  
1970-1979

Figure 1.11  
Larceny-Theft  
Rate per 1,000 Population  
San Diego vs. Comparable Cities  
1970-1979

— Definition —  
The Uniform Crime Reporting program defines **burglary** as the unlawful entry of a structure to commit a felony or theft. The use of force to gain entry is not required to classify an offense as burglary. Burglary in this program is categorized into three sub-classifications: forcible entry, unlawful entry where no force is used, and attempted forcible entry.

— San Diego Trends —

Year	Reported Crimes	Rate per 1,000 Population
1970	6,902	9.87
1980	19,960	23.41
Percent change: +189%		+137%

— Definition —  
**Larceny-theft** is the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. It includes crimes such as shoplifting, pocket-picking, purse-snatching, thefts from motor vehicles, thefts of motor vehicle parts and accessories, bicycle thefts, etc., in which no use of force, violence, or fraud occurs. In the Uniform Crime Reporting program, this crime category does not include embezzlement, "con" games, forgery, and worthless checks. Motor vehicle theft is also excluded from this category for crime reporting purposes inasmuch as it is a separate Crime Index offense.

— San Diego Trends —

Year	Reported Crimes	Rate per 1,000 Population
1970	26,634	38.07
1980	36,649	42.99
Percent change: +38%		+13%

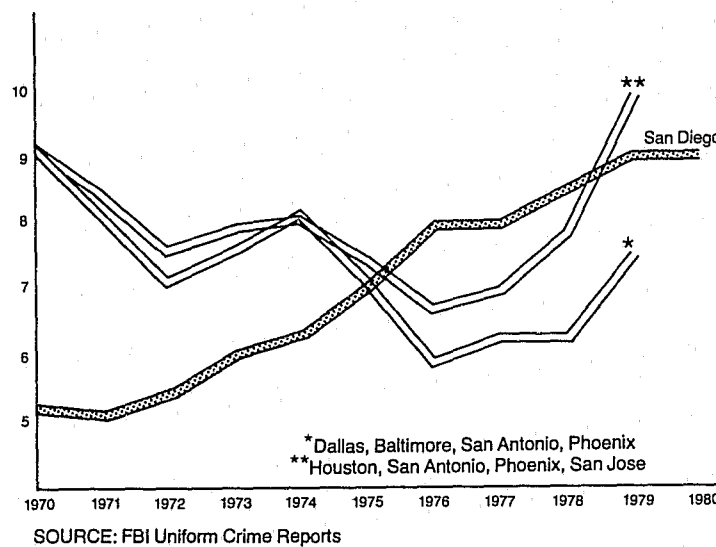


Figure 1.12  
Motor Vehicle Theft  
Rate per 1,000 Population  
San Diego vs. Comparable Cities  
1970-1979

— Definition —  
In Uniform Crime Reports, **motor vehicle theft** is defined as the theft or attempted theft of a motor vehicle. This definition excludes the taking of a motor vehicle for temporary use by those persons having lawful access.

— San Diego Trends —

Year	Reported Crimes	Rate per 1,000 Population
1970	3,730	5.35
1980	7,707	9.04
Percent change:	+107%	+69%

**San Diego: Still Very Safe.** Despite the large increase in violent crimes since 1970, the graphs show that San Diego is still one of the safest large cities in the country.

In 1979, our rate of violent crime — 6.5 per 1,000 people — was 42 percent lower than the average of four cities closest in population to San Diego; their average rate of violent crime was 11.3 per 1,000 people.

The four cities with growth rates most similar to ours also had a higher rate of violent crime than San Diego, at an average of 7.1 per 1,000 people in 1979.

San Diego's murder rate — despite recent increases — remains much lower than our comparison cities, as does our rate for forcible rapes. San Diego's robbery rate has stabilized, and remains lower than that for both other groups of cities.

Our biggest current concern is with the recent and rapid rise in aggravated assaults. The Commission hopes that public and San Diego Police Department awareness of this dangerous trend will result in a high priority effort to reduce the number of aggravated assaults in San Diego.

**Violence Rate Is Second Lowest.** Expanding the scope of comparison beyond just those cities that have similar growth patterns and population — to include the 15 largest cities in the country — reveals only one city more safe than San Diego: San Antonio, Texas. Ranked tenth in population, San Antonio's 1979 violent crime rate was 4.9 per 1,000 people; San Diego was next lowest with a rate of 6.5. Although it is only 30th in population, Atlanta — at more than 25 crimes of violence per 1,000 people in 1979 — is by far the most violent city in the U.S.

Baltimore has a violent crime rate more than three times greater than San Diego's. New York, San Francisco, Detroit, Washington, D.C., and Los Angeles all have rates of violent crime that are at least twice as high as ours.

Table 1.4 ranks the 15 largest cities in the country according to their rates of total index offenses, violent crimes and property crimes for 1979. While we are second safest in terms of violent crime, we had one of the highest rates of property crime in 1979. However, the recent decreases in San Diego's theft and burglary rates for 1980 are encouraging.

Table 1.4  
Crime Rates per 1,000 Population  
15 Largest Cities  
1979

Total Index Crimes	Property Crimes	Violent Crimes
San Francisco 107.3	Phoenix 96.6	Baltimore 19.6
Dallas 106.3	Dallas 93.3	New York 18.6
Phoenix 104.6	San Francisco 90.6	San Francisco 16.8
Baltimore 93.2	SAN DIEGO 80.4	Detroit 16.7
Los Angeles 90.3	Houston 78.7	Washington, D.C. 16.1
Detroit 88.0	Los Angeles 75.2	Los Angeles 15.2
Houston 87.5	Baltimore 73.6	Dallas 13.0
New York 87.4	Detroit 71.2	Chicago 9.1
SAN DIEGO 86.9	Washington, D.C. 69.9	Houston 8.8
Washington, D.C. 86.0	New York 68.7	Memphis 8.5
Indianapolis 68.3	San Antonio 61.4	Philadelphia 8.3
San Antonio 66.3	Indianapolis 60.4	Indianapolis 8.1
Memphis 65.2	Memphis 56.8	Phoenix 8.1
Chicago 61.0	Chicago 51.9	SAN DIEGO 6.5
Philadelphia 47.0	Philadelphia 38.7	San Antonio 4.9

SOURCE: FBI Uniform Crime Reports

**But What Does It All Mean?** The comparisons with other cities tell us that our fear of crime need not be so great in San Diego. Relatively few of us, thankfully, will be touched by crime; for a city this size, we are still remarkably safe. Actually, the large crime increases San Diego experienced during the last decade are better testimony to unusually low crime rates in 1970 than an indication of impending disaster in the 1980s.

But favorable comparisons with other cities are scant consolation to San Diegans who are afraid to walk alone at night, or who have been harmed — physically or emotionally — by crime. The numbers don't help them. The fact that we have lower rates or slower increases than other cities does not negate the need for action. With or without comparisons, San Diego has in fact become more violent, and we must do something about it. Crime statistics, by telling us what and where our problems are, show us where to begin.

## On The Street Where You Live

More specific analysis of crime in San Diego — by neighborhood — can further pinpoint our problems, our targets, and our priorities. When presented to the public, this information is indispensable in the fight against crime. Neighborhood awareness — on the part of both police and residents — is one of the most valuable tools in any crime fighting effort.

For setting targets and priorities, area crime rate analyses are often necessary, and sometimes surprising. An analysis of Oakland, for example, found that all commercial robberies occurred in only 12 percent of the city's areas. A New York City study found that one police precinct had one violent crime for every 22 residents while another precinct had one such crime for every 1,049 residents.<sup>10</sup> Crime fighting objectives and resource allocation can, and should, be based on these results.

In San Diego, the Commission found that there is a considerable fluctuation of crime from community to community.

Figure 1.13 shows the geographic distribution of calls for police service in San Diego during fiscal year 1980. Studies have shown a consistently high correlation between calls for service and levels of crime.

## Who Is Doing This To Us?

That there is an unseen enemy — whether in our own neighborhood or in the world outside it — is a frightening thought. Who are the criminal offenders in San Diego?

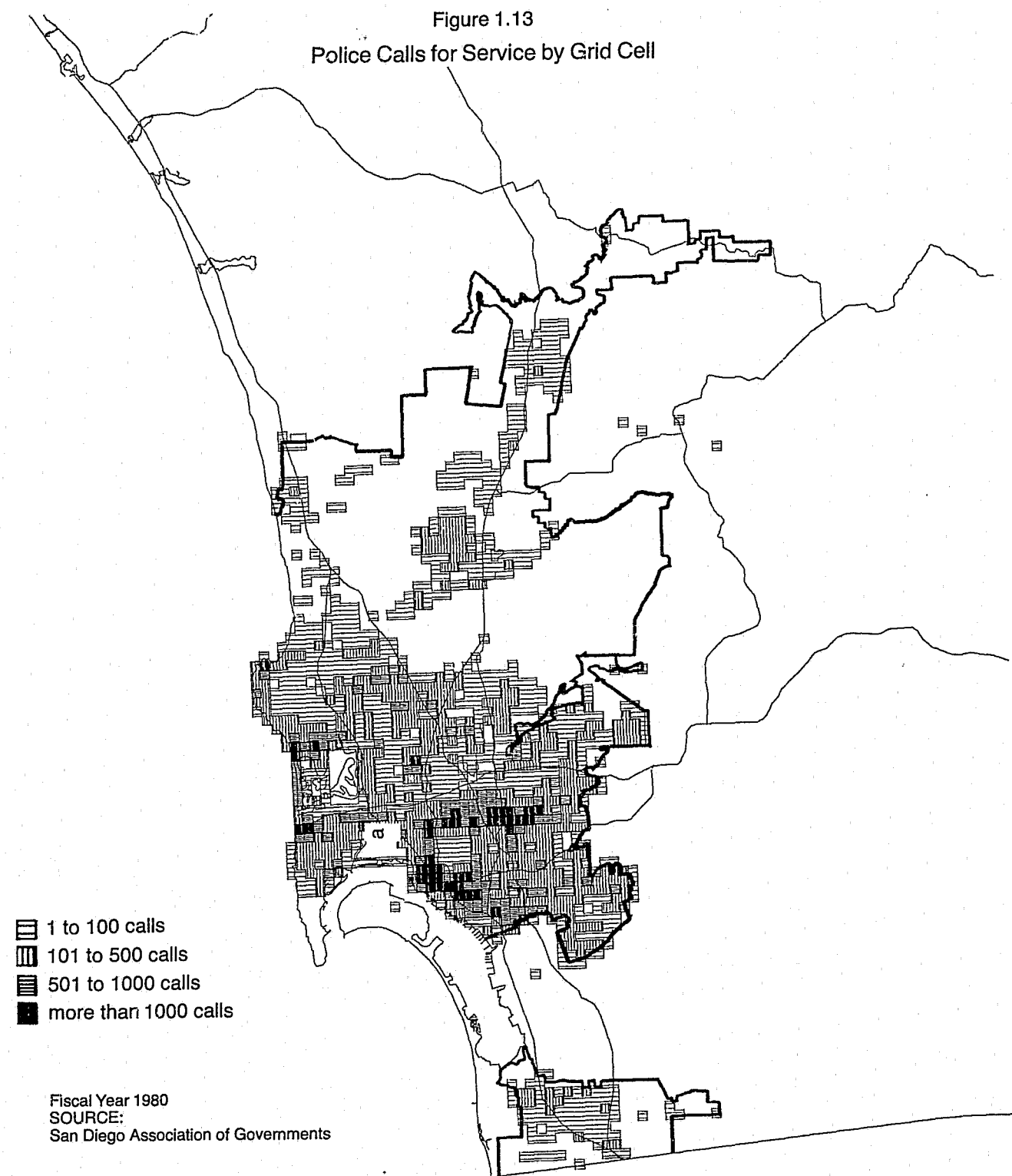
We only know about the ones who are arrested, of course. There are many, many others who are not caught.

Of those arrested for any one of the seven major offenses in the City of San Diego during 1979, 89.5 percent were male and 10.5 percent were female. Juveniles (under 18) accounted for over 31 percent of the arrests.<sup>11</sup>

As is the case across the country, a vastly disproportionate number of those arrested in San Diego are racial minorities. While blacks, Mexican-Americans and other minorities constitute only 19.5 percent of our total city population,<sup>12</sup> they made up 58.7 percent of all San Diego Police Department arrests for the seven major offenses in 1979. When only the violent crimes are counted, the numbers are even worse. Almost 65 percent of those arrested for homicide, rape, robbery and assault were minorities.<sup>13</sup>

What this means is that minorities also suffer most frequently as victims of violent crimes, since an overwhelming number of crimes involve victims and offenders of the same race.<sup>14</sup> Murder is now the leading cause of death among black males ages 24-34; black men are eight times as likely to die in a homicide as are white men.<sup>15</sup> Nowhere are rising crime rates more destructive than in minority communities.





## Why They Are Doing It: The Causes of Crime

We can describe criminal offenders in terms of age, race, and sex, but we still don't know why they commit crimes.

Many of them are unemployed, poor, uneducated, unloved. But even these conditions interact with an incredibly complex set of other factors to shape personalities and lives. What is the trigger for crime? Can these conditions be true causes if they don't always cause crime? Or is there something deeper?

**The Research Problem.** Why don't we know the answers? To judge by the number and types of research studies, books, interviews and professional papers, we certainly should know more than we do. But it seems that these efforts have simply piled up theories and suggestions, rather than refined the knowledge.

Asking the criminals tells us little. Sixteen-year-old Brenda Spencer said she fired her gun into a crowded yard at San Diego's Cleveland Elementary School — and killed two people — because she didn't like Mondays. Bank robber Willie Sutton, when asked why he robbed banks, said, "Because that's where the money is."

Ironically, even the more substantive research gives us little additional insight. For every definitive result, there is an equally plausible but opposite finding. Part of the problem, of course, is the subject matter. Scientific experimentation with human beings is not always ethical or practical. Cause-effect relationships are difficult to establish when the subjects are examined only after the fact. Researchers cannot control the variables by telling police officers, prosecutors or judges what decisions to make.

**Should We Even Try?** Many suggested causes — poor self-esteem, academic failure, lack of maturity, poverty — may only be associated characteristics, not causes. In fact, most poor people, most persons who are uneducated, and most people with low self-esteem do not commit crime. And there are individuals who are rich and educated and who come from stable family backgrounds who do commit crime.

Some question whether the crime causation problem — or its solution — is a logical quest for the criminal justice system at all:

Since stealing, cheating and hitting people over the head appear to be conduct as ancient as men and women themselves, the crime causation search is puzzling . . . I am very skeptical about ever finding more than a conditional set of relationships which will always involve a mixture of regional traditions, situational encounters, perceptions about being detected, economic settings, population mobility and density, racial differences, value emphases, educational and skill achievement, family and peer influences, dominant values and individual and social attitudes.<sup>16</sup>

The Commission regretfully agrees. The criminal justice system cannot now afford to take on the monstrous task of discovering the reasons for crime. It has more immediate problems.

## The Costs of Crime

Crime, and the resources to fight it, are enormously expensive.

Locally, some \$129.5 million in state and local funds were spent for various criminal justice functions in San Diego County during 1979;<sup>17</sup> combined state and local criminal justice expenditures totalled \$3.1 billion.<sup>18</sup>

At the federal level, the U.S. government spent about \$3.8 billion in fiscal year 1978 on justice agencies and services.<sup>19</sup>

Within the City of San Diego, where more current data are available, actual police department expenditures totalled \$46.4 million for fiscal year 1980; its operating budget for fiscal year 1981 is \$52 million. The figure is expected to reach \$56.8 million in 1982.

These are significant amounts, and they affect the entire public sector. In the era of Proposition 13, money for criminal justice generally means less money for other programs. There is a certain irony here. It is believed by many that cutting services such as libraries, parks and recreation — which have been typically sacrificed to provide extra criminal justice funds — may actually worsen crime (particularly juvenile crime) by removing opportunities for supervised recreation and personal growth.

Crime levies other costs not so easily measured.

There are the voluntary costs of personal crime prevention: deadbolt locks, alarms and fences, plus more aggressive measures like mace and firearms.

There are also the "hidden" costs of crime which are actually shared by all of us. Stolen cars and other personal property eventually translate into higher insurance premiums. As consumers, we pay higher prices for legitimate purposes like security guards, and for illegitimate ones like price-fixing and trade restraint.

Add too the very real costs paid by the actual victims of crime: medical expenses, lost time at work, and lost or damaged property. In San Diego, it is estimated that violent crime cost its victims \$24.6 million, while the price of property crime was \$93.5 million during 1979.<sup>20</sup>

Let's be frank: at least for the near future, fighting crime is likely to cost more, not less. Unless we can overwhelm and not merely hold the line on crime, the public costs of crime fighting will continue to increase.

Crime must be controlled, for if it is not, there is one final and ultimate cost: the loss of a peaceful and secure society. That price is too high.

### The Things We Can Change

The work of the Commission — its research and recommendations — is based on a practical, local crime fighting effort. This chapter identified those crimes that most affect our city, and presented the current state of the crime problem in San Diego. Chapter 2 describes the procedures and the problems of our criminal justice system. The chapters that follow offer the Commission's recommendations for change.

## Chapter 2 AN OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM

### Crime Control: A Hopeless Dream?

Much as we would like to be able to control crime by governmental strategies, we do not know how to do it . . . and that will always be the case.

— James Q. Wilson<sup>1</sup>

Crime is up. Violence is increasing. We grow more fearful every day. The criminal justice system has failed.

Or has it? It depends upon what we expect the criminal justice system to do. If we think it should control crime, then it has failed.

But, says Professor James Q. Wilson, "Crime is not simply the consequence of the efficiency or inefficiency of the criminal justice system. Crime is a form of human behavior."<sup>2</sup> And we cannot expect the American criminal justice system, with its devotion to individual rights and individual liberty, to totally control human behavior.

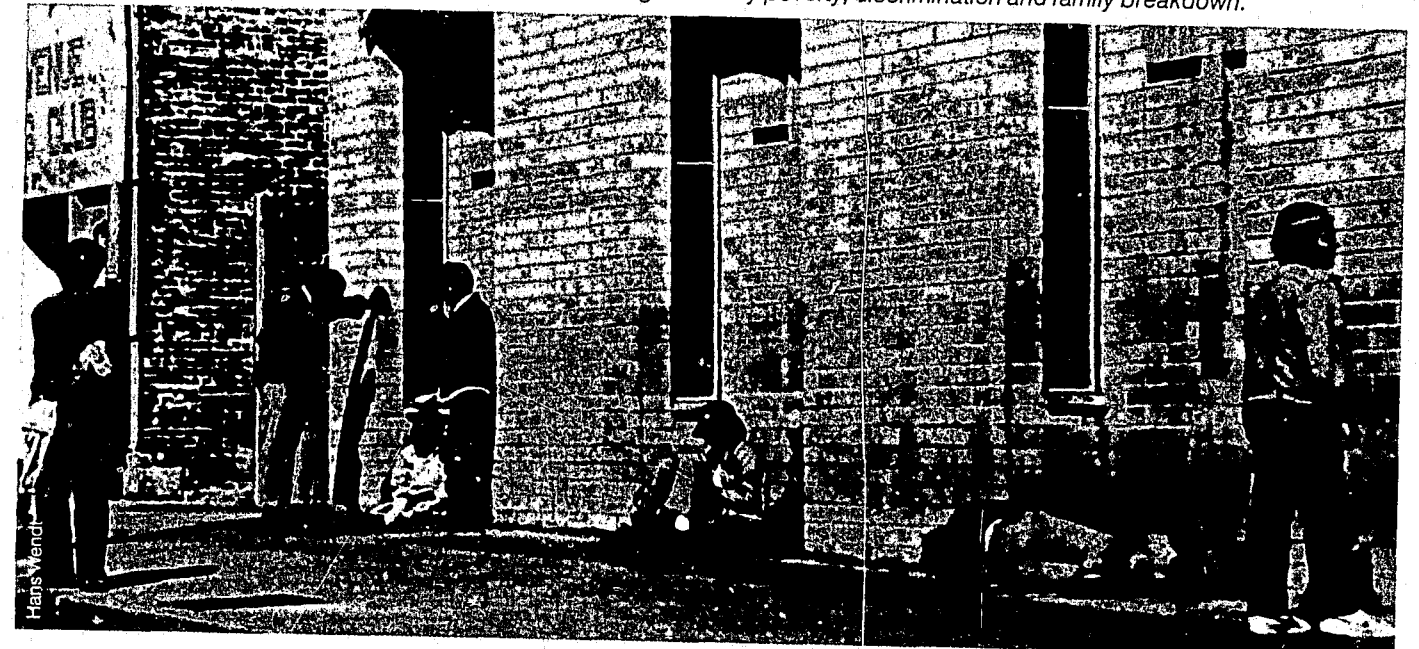
In his address to the Commission, Professor Wilson noted the accomplishments of San Diego's system of criminal justice, and the progressive, experimental attitude of its practitioners. His answer, then, to "the fact that the crime rate appears to be going up, despite your

best efforts, despite the fact that you have done what many other jurisdictions have refused even to consider,"<sup>3</sup> is that no system of criminal justice, not even the best, can explain or control deviant human behavior.

**Justice As The Goal.** "The purpose of the criminal justice system is not to control crime," Wilson says. "The purpose of the criminal justice system is to do justice."<sup>4</sup> This view is not a defense of the system but rather a more realistic way of examining its problems and arriving at solutions. The system's agencies cannot alone reverse the damage done by poverty, faulty socialization and deprivation of emotional ties. That it should be expected to is ludicrous.<sup>5</sup>

We must separate the problems of American society from the problems of its criminal justice system, realize there are some things the system simply cannot cure, and get on with the job of improving the administration of justice. The control of crime will have to be accomplished through all layers of American life. Holding police officers, lawyers and judges accountable for a soaring crime rate is somewhat like blaming doctors for the lung cancer of a man with a three-pack-a-day cigarette habit. All we can expect is that the doctors will do their best with the man who faces them in their office or on the operating table.

*The criminal justice system cannot alone reverse the damage done by poverty, discrimination and family breakdown.*



This is not to say that the criminal justice system has no effect upon crime. The system reflects and supports the behavioral norms of society and attempts to punish those who stray too far. Not having a system that does these things would certainly lead to even more deviance from accepted norms. But, as author Charles Silberman told the Commission, "We expect more from the criminal justice system than it can deliver"<sup>6</sup> . . . [it] simply cannot handle the entire job of social control."<sup>7</sup>

**Where Have We Gone Wrong?** Even though the criminal justice system does not and cannot solve all the social ills that contribute to crime in America, it can and should do its best, as a doctor does, with what it gets. That may mean catching more criminals, or convicting more, or locking up more, or diverting more, or rehabilitating more. Or, and perhaps most importantly, the criminal justice system may be doing its best when it does things more equitably; making " . . . with justice for all" a meaningful phrase.

There are policies and programs that do effect a reduction in specified types of crimes, and there are procedures that do improve the administration of justice. But there are problems plaguing the criminal justice system that impede progress in reducing crime and administering justice. Like the belief that there is a simple answer:

. . . if you hear anyone say that they have a single solution, a bold stroke, a particular policy that will affect the crime rate, treat them with the same healthy skepticism that you would treat a snake-oil salesman.<sup>8</sup>

System problems include a devastating and embarrassing lack of information about what works; what policies, programs and procedures change criminal behavior or prevent crime. This is due in part to the inability or unwillingness of criminal justice professionals to isolate a specific problem, develop a program to overcome or reduce the problem, and evaluate program effectiveness based on measurable and concrete objectives. Sophisticated research and evaluation in the criminal justice field has only recently begun, and there is a long way to go before the fundamental issues are sorted out through systematic evaluation of results.

In addition to the generally poor quality of research efforts, cause-effect relationships are particularly difficult to establish in the criminal justice field; finding out "what works" — and proving it — becomes nearly impossible. A judge cannot take defendants A and B — two 19-year-old males from the same environment, with the same amount of schooling and the same IQ scores — who jointly committed a crime, and sentence one to a 10-year prison term and let the other go free in order to test the deterrent effects of prison.

But there are other research methods available that can provide an acceptable level of confidence in the findings. It is the absence of these methods in the criminal justice field — despite billions of dollars allocated to criminal justice research in the last decade — that has slowed our progress in learning what works against crime.

**Where Has Our Money Gone?** The cutoff of federal funds to the Justice Department's Law Enforcement Assistance Administration (LEAA) in this fiscally conservative era comes as no surprise in light of its poor 13-year record. Congress' Omnibus Crime Control and Safe Streets Act of 1968 created LEAA to disperse funds aimed at controlling crime and delinquency, and improving the criminal justice system. The Juvenile Justice and Delinquency Prevention Act of 1974 provided additional funds for juvenile delinquency programs and research. California alone has been allotted over \$400 million in grants since 1969, receiving \$35-50 million each year, over \$1 million of which went to the San Diego area annually.<sup>9</sup> In fiscal 1978, the LEAA national appropriation was \$646 million.<sup>10</sup>

Despite the billions spent since Richard Nixon made fear of crime one of the prime issues in his campaign for the presidency, most crime statistics are worse, people are more afraid, and the experts don't know what to do about it. A rationale for continuing to spend over \$600 million a year is hard to summon.

"The American people believe we have waged war on crime and failed," said Senator Joe Biden. "Therefore, they have concluded that nothing can be done about it."<sup>11</sup>

**Is It Too Late?** Unfortunately, LEAA was in a position, with its money and the expertise that went along with it, to develop excellent crime fighting programs. That potential was struck down in part by the lack of adequate and accurate evaluation of those programs, thus preventing the development of a unified body of knowledge about what does and does not work in fighting crime.

LEAA's problems also included those common to many mammoth bureaucracies. "Confused and poorly led" by ten different administrators in its first 11 years, it dispersed money over a wide range of problems without first establishing goals.<sup>12</sup> It developed no standards to measure performance. In 1971, a House subcommittee criticized the program for "inefficiency, waste and maladministration."<sup>13</sup> It attacked problem areas in piecemeal fashion; first police, then prisons in 1971, social programs in 1974, and courts in 1976. Priorities were shifted without considering systemic implications.

In 1979 Congress started narrowing the focus of LEAA programs, requiring that program effectiveness be measured against specified goals. But this corrective action was apparently taken too late. Since 1979, funds for LEAA programs have been severely curtailed, and the future of the agency is in jeopardy.

**Another Set Of Problems: A System Divided.** With or without adequate research and evaluation, given the myriad of social conditions that produce or nurture criminal

behavior, the criminal justice system is severely limited in its power to control crime. The school, family and work environments exert their influence for years before the system sees the criminal product. And yet, criminal justice professionals must do their best, after the fact, to try to reduce crime and to do justice.

Conflicting research findings have produced little insight into what police, attorneys, judges and corrections officials should do in their fight against crime, and many

*The criminal justice system—law enforcement, courts and corrections—cannot solve the social ills that contribute to crime in America.*



Tim Gaughen



policy discussions are based on participants' philosophical or emotional biases. Often, there is not even agreement about what constitutes provision of "justice" — the one unarguable purpose of the criminal justice system.

Adding to the system's problems is its disjointed nature. A variety of law enforcement, defense, prosecution, judicial, probation and corrections agencies exist on local, state and national levels, all doing quite different jobs.

For the most part, these agencies do not direct their attention to long-range, systemwide goals. Funds, especially on the local level, must be competed for, and "us-them" territorial attitudes are common. Research efforts are not coordinated, and solutions to common problems are often discussed and "solved" separately by agencies, with no plan for comprehensive attack on all fronts — police, prosecution, courts and corrections.



**It's Not That Simple.** The diffused and confused state of the system and the lack of a reliable body of knowledge greatly complicate policy decisions. For example, as a result of the relatively recent realization that the criminal justice system can do little to influence the complex set of circumstances that lead to criminal behavior, the system in general has grown impatient with its original goal of rehabilitation, and has renewed its emphasis on incapacitation of offenders. However, incarceration is not a universally-accepted solution, nor is it deemed appropriate for all offenders, even by its most vigorous proponents. Which offenders should be incarcerated, for how long, and where, are questions still unanswered. Also unsolved is the best way to identify, apprehend and prosecute the designated offenders.

Research results are not consistent. While in 1973 the National Advisory Commission on Criminal Justice Standards and Goals found "substantial evidence that probation, fines, public service and restitution are less costly than incarceration and consistently produce lower rates of recidivism,"<sup>14</sup> the evidence from a 1977 Rand Corporation study suggested that "incapacitation by imprisonment may be the most direct (and possibly the only) alternative for reducing the societal toll at the hands of habitual offenders."<sup>15</sup> Whether these two studies are referring to the same type of offender is not clear, which is itself a problem even if the findings aren't contradictory. Common definitions (of "habitual offender," for example), which don't exist in the research, would also help reduce some of the confusion in applying the results to form new policies and procedures.

The emotional or philosophical biases so often tied to the criminal justice field also complicate policy decisions.

Locally, for example, even in light of the Rand research, Judge Michael Greer still believes that "sending someone to prison is to virtually destroy him as a human being,"<sup>16</sup> and Lou Katz, former Director of the County's Office of Defender Services, believes that "warehousing offenders does not solve the crime problem."<sup>17</sup>

**So What Can Be Done?** Society's fight against crime focuses on poverty, social deprivation, unemployment, racism and other complex issues which are beyond the direct control of the criminal justice system. While there are some related societal problems that may be reachable through criminal justice programs — for example, the detection and treatment of learning disabilities in juvenile offenders and job skills training in prisons — the major

*Many believe that rehabilitation has failed, and that incapacitation is the answer. Others disagree.*

focus of the criminal justice system should be on improving the effectiveness and efficiency with which the system dispenses justice.

Prison and jail conditions, arrest policies, conviction rates, plea bargaining, sentencing guidelines, due process procedures, management of police activities, treatment of victims and witnesses, and law-making by state legislatures are processes that directly affect the quality of justice. It is issues such as these that the Commission has studied most intensively, and our recommendations are based on the problems we found.

The Commission believes that implementation of these recommendations will improve the quality of justice in San Diego.

## Criminal Justice In San Diego

James Q. Wilson, whose advice has been sought by five U.S. presidents, offered his opinion of San Diego's system of criminal justice:

I feel in coming to San Diego that I am coming to a city and a county which are nationally recognized as among the most progressive jurisdictions in the nation . . . Many of the things I recommend when I am invited to speak in less forward-looking jurisdictions, you have tried. And you have not only tried them in an attitude of enthusiasm, you have often tried them in an experimental attitude; namely to find out what works.<sup>18</sup>

Professor Wilson tells us there are no easy, quick victories — that dealing with crime and justice is a "long, slow, piecemeal" struggle. And that San Diego is doing well in the fight.

**How Well Are We Doing?** The efficiency and effectiveness with which the criminal justice system operates are evaluated most easily — though not always most reliably — by the statistics it generates so profusely. A description of San Diego's system of criminal justice logically begins, then, with a look at the numbers. (Since the system is regional, the figures we use are countywide unless noted otherwise. San Diego police statistics are treated in Chapter 3.)

**The System Misses Some.** No criminal justice system, in San Diego or anywhere else, ever deals with all of the crimes that are committed. As then San Diego City Councilmember Larry Stirling put it, "The system leaks like a sieve."<sup>19</sup>

*Less than one out of six reported burglaries is solved.*

A large percentage of crimes are never reported to officials. While 50 percent is used as a general approximation of non-reporting, this figure varies by type of crime. According to victimization surveys, over 40 percent of rapes, assaults and robberies are never reported to the police. One out of two burglaries and one out of three vehicle thefts are not reported.<sup>20</sup>

Based on community values, law enforcement workload, police priorities, and the facts of each case, some reported crimes are investigated less vigorously than others. For these and other reasons (some of which are not under control of the police), a large number of reported crimes are never solved, or "cleared."<sup>21</sup> Clearance generally results in the arrest of a suspect for the crime. Here too, as with victim reporting, clearance rates vary with different crimes.



Based on 1978 figures for San Diego County, most reported homicides (about 73 percent) are cleared, but less than one out of five reported vehicle thefts and less than one out of six reported burglaries are solved.<sup>22</sup> Only half of the reported rapes, and less than a third of the reported robberies are cleared by the police. Taken together, less than half of all reported violent crimes (homicide, rape, robbery, and aggravated assault) are cleared.

Immediate blame for police departments is unwarranted. Many crimes are not reported until long after the suspect has fled; many victims or witnesses cannot recall enough details to help the police solve the crime; and police resources are limited. A limited number of officers and investigators, a lack of equipment, and the absence of helpful but expensive technical systems can all hamper crime-solving efforts.

Actually, San Diego County law enforcement clearance rates are, for most crimes, better than the average U.S. rates. In 1978, San Diego police departments cleared, on the average, a greater percentage of assaults, robberies, burglaries, motor vehicle thefts, and violent crimes than did other U.S. police departments.<sup>23</sup>

**And It Loses Track of Some.** The actual tracking of criminal cases statistically begins not with the commission of a crime but with the arrest of a suspect. Although the point will not be belabored here, faulty collection methods and other problems create difficulties in analyzing crime and arrest statistics. The FBI's Uniform Crime Reporting (UCR) system, for example, defines theft differently than does California's Bureau of Criminal Statistics (BCS).<sup>24</sup> Using both sets of data for comparison or tracking purposes is difficult.

California's BCS compiles information from the state's law enforcement agencies on all arrests within a given year, and breaks these arrests down into type of crime as well as age, sex, and race of offender. It also shows how police agencies disposed of their cases (release of suspect or turnover to other authorities), but goes no further, not tracking each arrest through the prosecution, adjudication and sentencing process. Through BCS information alone, we do not know what happened to each person arrested.

To partially solve this problem, California has one of the most advanced systems in the nation in its Offender Based Transaction System (OBTS), which actually tracks the disposition of individual cases all the way through the criminal justice process. Unfortunately, OBTS does not capture all arrests — it tracks adult felony arrests only.<sup>25</sup>

Through a separate, less sophisticated system, it is also possible to determine what happens to those juveniles referred to the probation department by law enforcement or other sources (school, parents, welfare, etc.).

Unfortunately, while there were 16,749 adult felony arrests reported by law enforcement agencies in San Diego County in 1979<sup>26</sup> (and another 71,234 reported adult misdemeanor arrests)<sup>27</sup>, we can only follow through to final disposition those 12,246 adult felony arrests that were reportedly disposed of in 1979.<sup>28</sup> And, of the reported 26,056 juvenile arrests in 1979<sup>29</sup> (including all felonies, misdemeanors and status offenses), BCS only follows the 12,187 juveniles who were referred to probation in that year.<sup>30</sup>

Our knowledge of what happens to a suspect in the criminal justice system then, is incomplete, limited to the cases that are actually tracked to disposition, and should be generalized with caution.

**Release By Law Enforcement: One Of Six Arrests.** For the most part, our basis for analysis of the criminal justice process is the 12,246 adult felony arrests disposed of in 1979 and tracked by OBTS.<sup>31</sup> The juvenile justice system differs enough from the adult process to warrant a separate discussion, later in this chapter.

Under Section 849 (b) of the California Penal Code, law enforcement agencies have the discretion to release any person they arrest.<sup>32</sup> In 1979, according to OBTS data, one of six adult felony arrestees in San Diego County was released under this section. Of those released, the great majority (69 percent) were for insufficient evidence, and almost 20 percent were released because the victim refused to prosecute.

Table 2.1 presents all the stated reasons for police release of arrestees in San Diego County in 1979.

Table 2.1 Reason for Police Releases Of Felony Adult Arrests San Diego County, 1979		
Basis for Release	Percent of Total Arrests Released By Police	Percentage of All Police Releases
Insufficient Evidence	11.4%	69.0%
Victim Refused to Prosecute	3.2%	19.7%
Further Investigation	1.2%	7.3%
Exonerated	0.5%	3.0%
Unspecified/Other	0.2%	1.0%
Total	16.5%	100.0%

SOURCE: Bureau of Criminal Statistics

**Which Crimes Result In Release Most Often?** Although 16.5 percent of all adult felony arrests were released by police, an analysis by crime type reveals that the greatest percentage of releases were for drug law violations (23 percent of all released had been arrested for this offense). On the other hand, only three-tenths of one percent of releases were of those who had been arrested for homicide.

Another look at the data reveals that 30 percent of those arrested for forcible rape were released by police, as were 29 percent of those arrested for robbery.

Table 2.2 displays — for each crime type — the percentage of those arrested who were later released by police.

Table 2.2 Police Releases by Type of Crime Felony Adult Arrests San Diego County, 1979		
Crime	Percent of Persons Arrested for Listed Crime — Later Re- leased by Police	Percent of All Police Releases
Homicide	5.9%	0.3%
Forcible Rape	30.0%	2.7%
Robbery	29.1%	15.4%
Assault	19.7%	13.7%
All Violent Crimes	23.5%	32.1%
Burglary	10.0%	10.9%
Theft	15.8%	14.8%
Motor Vehicle Theft	22.0%	9.0%
Drug Law Violations	18.4%	22.6%
All Other	10.3%	10.8%

SOURCE: Bureau of Criminal Statistics

**Rejection By Prosecutor: 20 Percent of Police Requests.** If not released by law enforcement, the arrestee's charge is presented to the prosecutor, and a formal complaint is requested in order to begin the prosecution process. The prosecutor (San Diego County District Attorney's Office for all felonies and any misdemeanors occurring outside the City of San Diego; San Diego City



Prosecutors have the authority to decide which cases to prosecute.

Attorney for misdemeanors occurring in the City of San Diego), has the discretion to refuse to issue a complaint requested by police, based on any of a number of reasons. Of all complaints requested in San Diego County in 1979, 20 percent were denied by the prosecutor. The number of complaints rejected represents 15 percent of all felony arrests disposed of in 1979.<sup>33</sup> Taken together, police releases and prosecutor denials resulted in the release of almost one of every three adults arrested on felony charges.

Almost three-fourths of the complaints rejected were for reasons given by prosecutors as "unknown or other."<sup>34</sup> Translated into the professional terminology, this is known as "prosecutor discretion," and means, in essence, that prosecutors can decide not to prosecute any case presented to them. This often becomes a bone of contention between police — who become frustrated at seeing what is to them a well-investigated, prosecutable case turned down — and prosecutors, who must consider more stringent guidelines than are needed for arrest (including the legality of police procedures in making the arrest). This police-prosecutor issue is further explored in the section on courts.

**Which Crimes Are Most Often Denied Issuance?** As was true for police releases, the largest percentage of complaints denied (26 percent) were for drug law violations, and the smallest percentage (0.3 percent) were for homicide arrests.<sup>35</sup>

Table 2.3 displays each crime type and its percentage of arrests later denied issuance by prosecutors.

Table 2.3 Percentage of Complaints Denied by Type of Crime San Diego County, 1979		
Crime	Percent of Felony Arrests Denied by Prosecutor	Total of Felony Arrests Disposed of by Police Release and Prosecutor Denial
Homicide	5.9%	11.8%
Forcible Rape	18.3%	48.3%
Robbery	13.4%	42.5%
Assault	15.2%	34.9%
All Violent Crimes	14.4%	37.9%
Burglary	11.1%	21.0%
Theft	12.5%	28.3%
Motor Vehicle Theft	28.1%	50.1%
Drug Law Violations	19.4%	37.8%
All Other	11.9%	22.2%

SOURCE: Bureau of Criminal Statistics

**One-Third Of All Felony Arrests Not Prosecuted.** Taken together, police releases and prosecutor denials in 1979 accounted for the release of more than one-half of all adult felony arrests for motor vehicle theft and almost half of those arrested for forcible rape. It also resulted in the release of two of every five arrests for robbery, and more than one in three releases for assault and for violent crimes as a whole.

Prosecutors also have the discretion of issuing a misdemeanor complaint on some felony arrests. Of all the complaints that were issued in San Diego County in 1979, more than three-fourths were issued as felony complaints. (Prosecutors issued misdemeanor complaints on the other 25 percent).<sup>36</sup>

When compared to the total number of felony arrests, however, felony complaints were issued on only slightly more than half of all felony arrests, as Table 2.4 below illustrates.

Table 2.4 Disposition of Adult Felony Arrests San Diego County 1979	
Law Enforcement Releases	16.4%
Complaints Denied	15.0%
Misdemeanor Complaints	16.7%
Felony Complaints	51.8%

Figures do not total 100 percent due to rounding.  
SOURCE: Bureau of Criminal Statistics

Both police release and prosecutor complaint rejection are matters of professional discretion afforded by the laws of this state as determined by the state legislature and embodied in the California Penal Code. Throughout the entire criminal justice process, in fact, discretion plays a major role.

### Police and Prosecutor Discretion: Power Unlimited?

Police discretion after a crime is reported or observed is virtually unlimited. Police may choose not to investigate a report, or they may investigate, detain a suspect and then release without arrest. Or, they may arrest, book, and then release the suspect, if they determine a crime was not committed or there isn't sufficient evidence that the suspect committed the crime.

Further, all police departments have unwritten policies of non-enforcement. It is a crime to smoke in an elevator, to spit on the sidewalk and to speed, but not all smokers, spitters and speeders are arrested or cited.

The prosecutor's discretion lies in judging — against standards for due process, search and seizure, and the like — the police procedures used in carrying out an arrest. The prosecuting agency also examines the sufficiency of evidence and the likelihood of victim and witness cooperation. The prosecutor can choose to reject a case if it is not in the "interest of justice," if the crime is too trivial, or, some suggest, if likelihood of conviction is low. Workload considerations, with priority given to certain cases and not others, often affect prosecutors' decisions.



Even after arrest, police have the option to release or book criminal suspects.

As noted by the President's Commission on Law Enforcement and the Administration of Justice, "The prosecutor wields almost undisputed sway over the pretrial progress of most cases."<sup>37</sup> The prosecutor can choose to reject a complaint, deny issuance contingent on further police investigation, or grant a felony or misdemeanor complaint. The prosecutor also has discretion in the charging process and the plea negotiation phase, both of which can affect likelihood of conviction and sentence received.

Justice Jackson wrote in 1940, "The prosecutor has more control over life, liberty and reputation than any other person in America."<sup>38</sup>

Prosecutorial discretion is so great, in fact, that the National Advisory Commission on Criminal Justice Standards and Goals created a standard to guard against its misuse, calling for each prosecuting agency to develop

written office policies and procedures. In its discussion, however, the Commission acknowledged the importance of discretionary administrative processing as a "valuable part of the criminal justice process."<sup>39</sup>

### The Power Is Checked

Discretion is necessary, in part, because of the enormous workload generated by the deluge of criminal cases, and also valuable, perhaps, because of the unique nature of each case. Not all offenses can or should be handled by police or prosecutors according to rigid rules and unyielding standards.

While some decry the discretion — and accompanying power — allowed criminal justice agencies, the danger is somewhat mitigated by dispersing the use of this discretion and the power of decision among the many separate agencies that comprise the system itself. Prosecutorial discretion is directed, in part, to checking police practices; and the courts can refuse to hear evidence presented by the prosecutor. What many negatively label a "non-system" was in fact designed to be a divided system so that it is not quite as powerful against the individual.

The disadvantages of a "non-system" are real, though. Research to provide a solid body of knowledge has often been conducted in a vacuum by the separate agencies of the criminal justice field. Agencies do not work together toward common goals. An adversary system can discourage cooperation, although in fact the goals of both justice and the control of crime may be common to prosecutor and defender, to police officer and judge, to probation officer and prison warden.

### A Delicate Balance

Administrative discretion may ease the flow of cases, but do flexible, subjective decisions subvert the quality, or equality, of justice? Does the advantage of having checks and balances outweigh the benefits of uniform direction and adherence to consistent guidelines? Is the problem of in-fighting for relatively scarce fiscal resources — and its often resultant misdirection of funds — hampering progress toward more effective crime control?

We must be careful not to upset the precarious balance between the need to control crime — which a more unified system could surely do better — and the desire to protect individual rights, which a dispersed system more likely assures.



Due Process: Protecting The Individual

The enormously powerful discretion of police and prosecutors is tempered by means other than mere dispersion of responsibility.

The individual is protected against the state, as represented by police or prosecutors, by a set of procedural safeguards embodied in amendments to the U.S. Constitution. The U.S. Supreme Court has broadly interpreted these amendments (some say out of proportion) in an attempt to equalize that protection.

While one in three releases of felony arrestees by police or prosecutors in San Diego County may seem an alarming statistic, it is actually a partial reflection of the safeguards afforded those accused of a crime. Insufficient evidence or lack of probable cause for arrest, illegal searches, unconstitutional detention or questioning of suspects, and violation of other procedures established to protect the individual are all factors in the release of suspects — many of whom might have committed the crime. The high release rate may also of course reflect, to some degree, inadequate police investigation and report-writing, or may be due in part to prosecutors unwilling to pursue cases with low priority or low probability of conviction.

Although constitutional standards are uniform throughout the state, San Diego County's percentage of releases by both prosecutors and police officers in 1979 exceeded the percentages for California as a whole. One might conclude that this difference is due in part to a greater laxness in following constitutional procedures, or inadequate police investigations, or prosecutor hesitation to pursue cases.

San Diego County and statewide release rates are presented in Table 2.5.

Table 2.5  
Statewide vs. San Diego County  
Law Enforcement and Prosecutor Release Rates  
1979

	San Diego County	Statewide
Law Enforcement Release	16.5%	10.7%
Prosecutor Complaint Denial	15.0%	13.6%
Combined Release	31.5%	24.3%

SOURCE: Bureau of Criminal Statistics

Regardless of the reasons that may contribute to San Diego County's higher release rate, it is undeniable that a number of cases in both the state and the county are dropped (or later dismissed in trial court or on appeal) because police or prosecutors fail to follow the constitutional limitations on their power — the procedures of "due process" designed to protect the individual.

Are We Letting Too Many Go Free?

Because it is so powerful, and could so easily and quickly stigmatize its citizens and deprive them of their liberty, the American criminal justice system painstakingly tries to protect the rights of the individual against the state. The system is subjected to constitutional limits all along the way as it attempts to control crime and administer justice.

Debate is continuing between those who believe that such "technicalities" set an inordinate number of criminals free, and those who favor protection of individual rights even if it means sacrificing more efficient control of crime. The balance between due process and crime control forces is delicate and complex, and, as societal values change over time, the balance tips one way or the other. The new generally conservative mood of the country is reflected in stronger voices decrying rapid increases in crime, asserting that the shackles placed on the system are letting too many criminals go free.



Are we freeing too many criminals?

The Courts Uphold Protections

Ironically, while the general mood of the nation has become more conservative, the appellate and supreme courts, which rule on due process issues, continue to expand their interpretations of protection for criminal defendants. The U.S. Supreme Court has reinforced limits on police power in two recent decisions.

In *Brown v. Texas* (1979), the Court ruled that police may not randomly demand that a pedestrian, even one in a high-crime area, provide identification to police, without reasonable suspicion that the person is engaged in criminal activity.<sup>40</sup>

In another ruling (*Delaware v. Prouse*, 1979), the Court declared that police may not randomly detain a motorist to check license and registration without reasonable suspicion that either the license or registration is faulty, or that other criminal activity is in progress.<sup>41</sup>

A murder conviction against a 19-year-old was reversed recently when a California District Court of Appeal ruled that the defendant wasn't told he had the right to free legal counsel before being questioned by police. Although he was informed of the right to talk to a lawyer and have the attorney present during questioning, he wasn't told that one would be provided free of charge if he so desired. So although he was convicted and sentenced to life in prison without possibility of parole, he is now entitled to a new trial on the murder charge.<sup>42</sup>

Have They Gone Too Far?

California Attorney General George Deukmejian has publicly and angrily criticized California Supreme Court Chief Justice Rose Bird and the appellate courts for rulings which he says are aimed at protecting the criminal and not the public. He uses as an example the case in which a 19-year-old college student beat a woman to death with a table leg. When he was arrested and advised of his rights, he waived them and made a confession. The Court of Appeals reversed his conviction, ruling the defendant had been denied his rights, because when he asked to speak to his mother, his confession should have been stopped.<sup>43</sup>

A San Diego Union editorial accused the State Supreme Court of "misreading its constitutional mandate . . . [and an] overzealous championship of defendants' rights at the expense of society."<sup>44</sup>

In a case often cited, the California Supreme Court overturned the conviction of a man found guilty of killing his

parents and his grandfather so he could collect an inheritance. The Court ruled that the defendant had failed to make "a knowing and intelligent waiver" of his right to an attorney and to remain silent, because he asked to talk "off the record" with a police officer, resulting in a later confession. The officer, the Court ruled, should have told the defendant there's no such thing as "off the record."<sup>45</sup>

These are dramatic and exceptional cases, but they are often used as examples by those who believe constitutional protection too often oversteps its bounds in favor of criminals, thus providing an escape route that has nothing to do with guilt or innocence.

There are others, however, who feel with equal fervor that the work of the criminal justice system is to provide justice, only achieved through the strict observance of due process. These competing philosophies represent America's unending struggle to balance individual freedom and the control of crime.

The Exclusionary Rule

Perhaps the most controversial of all procedural safeguards is the exclusionary rule, developed to protect the intent of the Fourth Amendment. This Amendment declares "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures . . ."

The exclusionary rule, first applied in 1914 by the U.S. Supreme Court, holds that evidence obtained through unreasonable search or seizure cannot be used against the defendant. In a landmark 1961 case (*Mapp v. Ohio*), the Court held that the rule applies to state courts as well as federal courts.<sup>46</sup> California had adopted its own exclusionary rule in 1955.

Most prosecutors, including State Attorney General George Deukmejian and San Diego District Attorney Edwin L. Miller, Jr., have come out strongly against the rule, Miller declaring that it ". . . results in the complete distortion of the truth."<sup>47</sup>

The U.S. Supreme Court outlined three major reasons for the exclusionary rule. First, the justices said, excluding illegally obtained evidence will deter intentional police misconduct; if officers know the evidence will not be admissible, they will not act contrary to the rule.

Second, the exclusionary rule was justified as protecting the privacy of the individual against illegal searches and seizures: ". . . it is better often times that crime should go unpunished than that the citizen should be liable to have his premises invaded . . . his private books, papers, and letters exposed to prying curiosity."<sup>48</sup>

The Supreme Court later downgraded the protection of privacy rationale, perhaps because the rule does nothing to compensate the innocent victims of such Fourth Amendment violations. While the guilty go free as a result of an illegal search, the innocent may not have recourse after the fact.

The third reason for the exclusionary rule as supplied by the Supreme Court asserts that the use of illegally obtained evidence brings the court system into disrepute, or "soils its clean skirts." This fortifies some arguments against the rule, which claim that the courts' prime function — to find the truth — is soiled by the rule itself: "The disparity . . . between the error committed by the police officer and the windfall afforded the guilty defendant . . . is contrary to the idea of proportionality that is essential to the concept of justice."<sup>49</sup>

**Remedies For The Rule.** Prosecutors and others have been frustrated by what they view as a rule which does not do what it was intended to do: deter police misconduct and protect the innocent. Worse, they contend, is that it serves the interests of guilty defendants. They have suggested combinations of civil fines, police disciplinary procedures, and better police legal training as alternatives to the rule. The California District Attorneys Association's Committee to Abolish the Exclusionary Rule has suggested a detailed civil claim alternative. The 1973 [California] Governor's Select Committee on Law Enforcement Problems supported abolition of the rule and outlined a substitute procedure, permitting the victim of an illegal search or seizure to collect damages from the agency employing the offending officer.<sup>50</sup>

Complicating the issue in California is the accusation that the State Supreme Court has ruled even more leniently than the U.S. Supreme Court for criminal defendants in cases which question constitutionality of procedures. Culminating in the recent introduction of the "Truth in Trials" bill by State Senator Robert Presley, a committee of prosecutors from California attempted to correct this disparity. The bill, State Constitutional Amendment 7, would prohibit the state's courts, including the California Supreme Court, from expanding the protections afforded criminal defendants beyond those set forth by the U.S. Supreme Court. If approved by the state legislature, SCA 7 will be placed on the ballot for voter approval. San Diego District Attorney Ed Miller, who was closely involved with the project, believes that the bill will change the fact that "California gives far less protection from crime to its honest citizens than just about any other state."<sup>51</sup>

**Exclusionary Rule Research.** The extent to which procedures such as the exclusionary rule actually endanger the success of prosecution is debatable.

A 1979 study of federal criminal cases, prepared at the request of the U.S. Senate Judiciary Committee, concluded that the exclusionary rule "does not significantly affect" prosecutions.<sup>52</sup> Specifically, the study found that evidence was excluded as a result of the Fourth Amendment motion to suppress in only 1.3 percent of all cases studied, and that U.S. Attorneys dropped prosecution in only 0.4 percent of cases because of Fourth Amendment search and seizure problems. Lou Katz, then head of San Diego County's Office of Defender Services, declared that such a small reduction in conviction "is a small price to pay for putting some teeth in the Fourth Amendment."<sup>53</sup>

In New York City, the Vera Institute analyzed felony cases to determine why arrests did not stand up in court. It found that the exclusionary rule played no discernible role at all in the dismissal or reduction of charges in six of the seven felony offense categories analyzed.<sup>54</sup>

Of 12,230 felony arrests disposed of in San Diego County in 1979, only 0.4 percent were denied issuance because of illegal search and only 1.4 percent were rejected because of lack of probable cause.<sup>55</sup> It should be noted that these are the reasons for denial as stated by prosecutors. Other due process considerations could have also contributed to denial or release of other cases, and been listed as police release for "insufficient evidence," or prosecutor denial for "unknown, other."

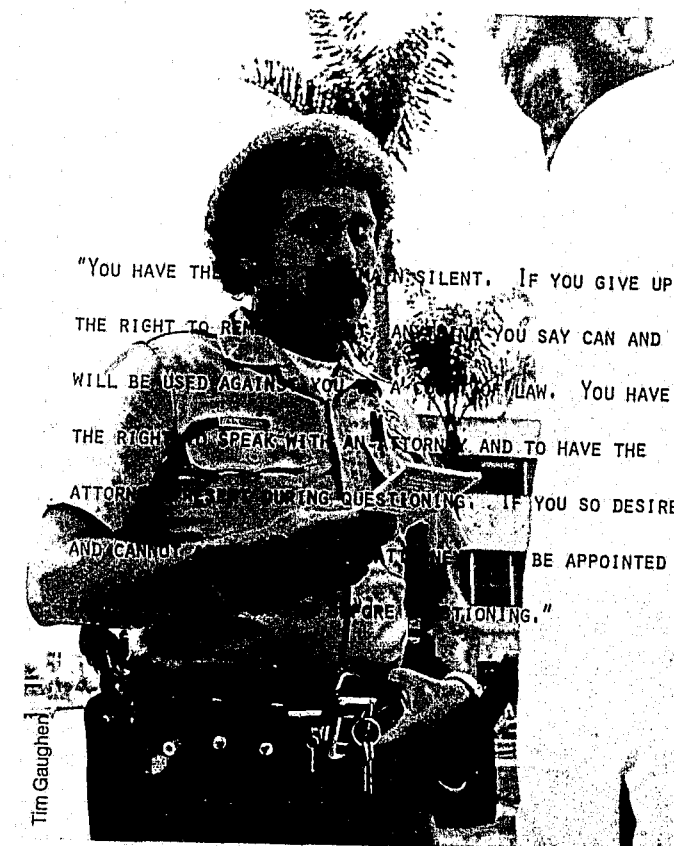
## Additional Protection

The Constitution places other limits on the state's power in order to protect individual rights. The Fifth Amendment provides the right not to testify against oneself — the right against self-incrimination. It guards against such flagrant abuses as torturing defendants to elicit confessions; a 1936 U.S. Supreme Court decision overturned the convictions of three black defendants who were brutally beaten into confessing and then sentenced to death.<sup>56</sup>

The 1966 U.S. Supreme Court *Miranda* decision describes specific procedural safeguards that must be ensured by police officers prior to questioning any suspect (the right to remain silent, the knowledge that any statement may be used against the suspect, and the right to have an attorney present).<sup>57</sup>

The Sixth Amendment provides the right to defense counsel. This right was asserted for all felony cases in a 1963 U.S. Supreme Court decision,<sup>58</sup> and was extended in 1972 to include any misdemeanor that could result in deprivation of liberty.<sup>59</sup>

Other due process safeguards include formal notification of charges, and the opportunity to confront witnesses and to present evidence. Not only must the police have probable cause to arrest, but the prosecution must establish guilt beyond a reasonable doubt, without compelling the accused to produce evidence or give testimony.



Police must follow specific legal procedures to protect the rights of individuals.

## The Obstacle Course Of Justice

Obviously, due process errors are made by police and prosecutors in many cases where the suspect has in fact committed a crime. Nonadherence to constitutional rights can set the guilty as well as the innocent free. Adherence to due process also complicates and slows

down the criminal justice system, and is, frankly, directly at odds with the efficiency needed to control crime. Courts could be more efficient — they could be quicker and more sure of convictions — if due process was of no concern. The police could be more effective if they could stop and search citizens at will, or rummage through homes on any slight suspicion.

At this extreme, though, innocent persons may be jailed, powerful and influential people may thwart justice, sanctions may not be equitable, and money may be used to buy freedom. Efficiency and humaneness must maintain a tenuous balance throughout the system. To accommodate each, the system is simultaneously an assembly line and an obstacle course.<sup>60</sup>

## Due Process vs. Crime Control

The weight given to crime control and due process is not equal, nor is it consistent through time. As individuals lean toward one or the other based on emotional, philosophical, or political grounds, societal winds of change also sway the balance, revealing contemporary society's expectations of the purpose of the criminal justice system itself.

In these conservative times, with a fear of rising crime, America is looking toward the criminal justice system for stability, to get things in order again, to control what's gotten out of hand. The generous expansion of individual freedoms in the last decade may be cut short. Crime control is on top of the agenda for now.

## The Power Of The Legislature

The backbone of the criminal justice system is the state legislature.

The state legislature sets most of the rules by which California's criminal justice system functions. Most crimes are prosecuted in state courts, which are run by the counties according to the rules and laws of the state. (Federal offenses such as bank robbery are for the most part investigated, prosecuted and tried by federal agencies in federal courts.)

The legislature is enormously powerful. It makes all the laws of the state, defines all crimes, and outlines the procedures by which an offender is to be apprehended, charged, prosecuted, tried, sentenced, and corrected. It sets priorities for crime fighting by allocating state funds for new or continuing programs. It is the collective author of the California Penal Code, a 1,200 page annual document used by all criminal justice personnel in the state.

The legislature's decisions serve to define and to limit the discretion of all agents of the criminal justice system. Recently, in fact, its enactment of the California Determinate Sentencing Law — a tightly constructed system of defined penalties for most crimes — has severely restricted the range of sentencing options available to judges.

## The Lawmakers Get Tough

Surprisingly, although California is thought to be one of the most liberal states in the country, its legislature has reacted more quickly and strongly than most other states in responding to the call for a renewed emphasis on controlling crime. It has passed a number of mandatory sentencing laws for specified violent crimes. These laws place greater emphasis on retribution and less on rehabilitation, particularly for violent crimes:

The Legislature finds and declares that those specified [violent] crimes merit special consideration when imposing a sentence to display society's condemnation for such extraordinary crimes of violence against the person.<sup>61</sup>

The laws mandate an additional three-year term to be imposed if an offender is convicted of one of several specified violent felonies and has served a previous prison term for one of them.

Whether or not a prison term has been served, a defendant found guilty of certain sex crimes who has a previous conviction for any of those crimes is subject to a five-year additional sentence.

Another bill recently passed denies probation in most felony burglary cases and requires a 90-day jail term for residential burglaries.<sup>62</sup>

The legislature has also ruled out probation for specified crimes committed with the use of a firearm — "use a gun, go to prison" — or during which the offender inflicted "great bodily injury."

In a move that may pave the way for additional tough crime laws, State Assembly Speaker Willie Brown changed the membership of the Assembly Committee on Criminal Justice, which had been described as the "bane of California's law enforcement establishment."<sup>63</sup> The Committee had stopped a number of bills supported by police and prosecutors.

A "habitual criminal" bill, passed by the legislature and vetoed by Governor Brown last year, has been re-introduced in the Assembly in two forms. They both attempt to provide long prison sentences to offenders who repeatedly commit violent felonies, mandating 15-year minimum sentences for the "relatively small number of

repeat, professional criminals [who commit] a large portion of serious violent felonies."<sup>64</sup>

Critics, including Governor Brown, maintain that the legislation is not necessary since "prosecutors of this state have not fully used their existing authority to lengthen prison terms for repeat offenders."<sup>65</sup>

## The Negotiated Plea Of Guilty

Why are the prosecutors not prosecuting to the full extent of the law, as Governor Brown suggests?

Despite the legislative "get tough" stance, some assert that prosecutors, rather than seeking sentence enhancements (for prior convictions or the use of a gun, for example), often use the tough new laws only as threats to get a defendant to plead guilty to the basic offense.

A study prepared for the Joint Committee on Revision of the Penal Code concluded that the intent of the legislature is undermined by this practice, and that crime fighting is weakened.<sup>66</sup> Examining hundreds of robbery and burglary cases in three unidentified California counties, the study found that defendants traded admissions of guilt to avoid prison. Those who went to trial got sentences twice as long as those who pleaded guilty.

The study concluded that although "To a great extent, plea bargaining is California's system of criminal justice," it not only interferes with crime control by reducing incarceration time of offenders but also results in a lack of uniform sentences and procedural fairness.<sup>67</sup>

**The Great Debate.** The U.S. Supreme Court has declared plea bargaining to be "an essential component" of the criminal process which "properly administered . . . is to be encouraged."<sup>68</sup> On the other hand, the National Advisory Commission on Criminal Justice Standards and Goals recommended its elimination.<sup>69</sup>

The [California] Governor's Select Committee on Law Enforcement Problems recommended that plea bargaining be accepted as a "legitimate and necessary practice."<sup>70</sup> The President's Commission on Law Enforcement and the Administration of Justice touted it as "the vital force that keeps criminal cases moving through the courts."<sup>71</sup> In response to a request from the California Judicial Council for cost-cutting, efficient court improvements, the State Bar of California's eight recommendations included encouraging the use of negotiated pleas.<sup>72</sup>

Arguments in favor of plea bargaining focus on the strain on court resources its elimination would cause. A substantial increase in trials would clog the courts, say plea

bargaining proponents. (More than 96 percent of those convicted in San Diego County in 1979 had pleaded guilty or no contest).<sup>73</sup> Also, proponents argue, the facts are not in serious dispute in most criminal cases. The defendant is simply willing to declare guilt, avoiding the time and expense of a trial as well as extended pretrial incarceration.

This argument does nothing to refute the claim that offenders who plead guilty to reduced charges may be getting unduly lenient sentences, especially in light of the intent of California's mandatory and determinate sentencing laws.

Unfortunately, the research findings are not consistent. While the aforementioned California study found that those who plead guilty to burglary or robbery receive less severe sanctions than those who are convicted after trial, an exhaustive study of plea bargaining in Washington, D.C., revealed no leniency for defendants who pleaded to burglary, assault or larceny.<sup>74</sup>

Interestingly, the Washington study observed that not all guilty pleas were a result of charge reduction (some defendants simply pleaded guilty to the original charge). Even those guilty pleas that followed reduction of charges did not result in more lenient sentences.



Tim Gaughen

## Can We Do Without It?

Faced with conflicting opinions and inconsistent findings about the effects of plea bargaining, several jurisdictions have experimented with its elimination. The effects are generally dependent upon the criminal justice climate, the expectations of participants, and the extent of elimination (some still allow plea negotiation for certain crimes). Often, the dire predictions of courts becoming hopelessly clogged have not proved true.

The County Attorney of Maricopa County, Arizona, banned plea bargaining for murder and robbery in 1973, and has since expanded the ban to most other violent crimes. He reports no increased clogging of courts, with 70 percent of defendants pleading guilty to the original charge.<sup>75</sup>

The elimination of plea bargaining in Black Hawk County, Iowa, decreased overcharging by prosecutors and led to improved police preparatory work, adding to the "overall efficiency" of the system.<sup>76</sup>

The most comprehensive study to date of the elimination of plea bargaining was conducted in Alaska, the only state to entirely ban the practice. This National Institute of Justice study reached some surprising conclusions:<sup>77</sup>

- conviction and sentencing of murder, rape, robbery and assault defendants appeared unaffected;
- the trial rate increased, but not to an unmanageable level; and
- court processes accelerated instead of bogging down.

Specifically, the trial rate increased 97 percent in Anchorage. While this was considered manageable in Alaska, a similar increase in other states may have disastrous results.

The study's authors, reflecting on their unanticipated findings, noted that "most of our original hypotheses were disproven," and suggested that many previous assumptions about the effects of plea bargaining (and its elimination) may in fact be false. They urged caution for those planning changes in the process, in light of these surprising findings.

*Plea bargaining is a common yet controversial practice of the American criminal justice system.*



Disposition Of Felony Arrests

While efficient procedures are important for the effective functioning of the criminal justice system, the greatest concern to the public is what happens to criminal offenders — are they convicted or acquitted, incarcerated or put on probation.

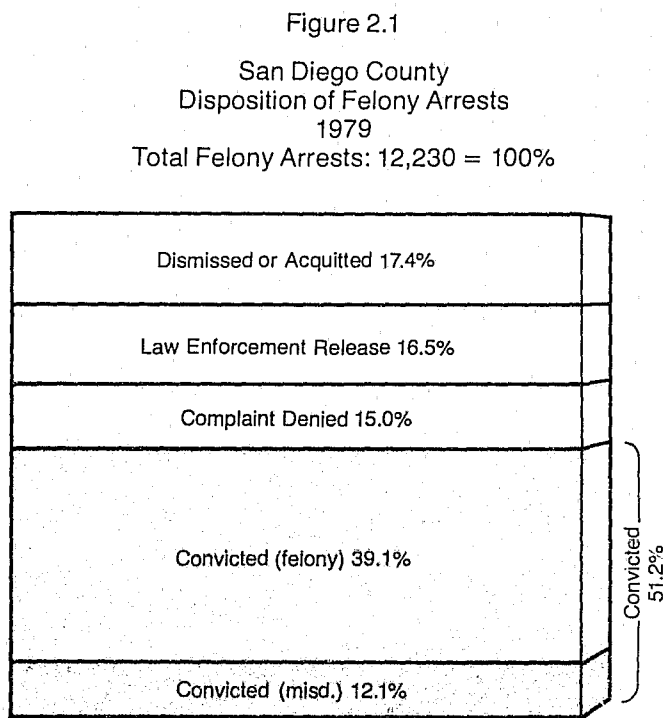
Just over half of all San Diego County adult felony arrests that were tracked to conclusion of the case in 1979 ended in conviction. Not all were prosecuted as felonies,

and not all convictions were of the crime for which originally arrested or charged. The other half of the more than 12,000 felony arrests had either been released by police or prosecutor, or dismissed or acquitted in court.

About half of all adult felony arrests result in conviction for a crime. More than three-fourths of those convicted are sentenced to prison or jail.



Figure 2.1 displays the final disposition of the 12,230 felony arrests.<sup>78</sup>



SOURCE: Bureau of Criminal Statistics

While 51.2 percent of all felony arrests led to conviction, this figure varied by offense. The highest conviction rates were for homicide (almost 75 percent convicted) and burglary (almost 66 percent convicted).

The lowest conviction rates were for drug law violations (less than 36 percent convicted) and motor vehicle theft (only 37 percent were convicted).

Guilty pleas accounted for more than 90 percent of all convictions. Less than three percent of the convictions resulted from jury trials.

From a prosecutor's point of view, the conviction rate would be expressed as a percentage of formal complaints filed, instead of as a percentage of total felony arrests. While only half of all felony arrests resulted in conviction, more than three-quarters of those who had a formal complaint filed against them were convicted.

Where Do They Go From There? Judges in California have the following sentencing options upon conviction of a felon. They can:

- place the offender on probation and add certain conditions, including confinement of up to one year in local custody;
- send the offender to state prison for a 90-day psychiatric diagnostic study, after which the offender is returned for sentencing; or
- choose the high, low or middle term of the designated sentence under the Determinate Sentencing Law, after consideration of the mitigating and aggravating circumstances of the crime.

Almost 40 percent of all those arrested on felony charges in San Diego County who had their cases disposed of in 1979 were incarcerated, including the five percent who were sentenced to state prison. Figure 2.2 shows the percentages of felony arrests disposed of by release, dismissal, acquittal, or sentence.

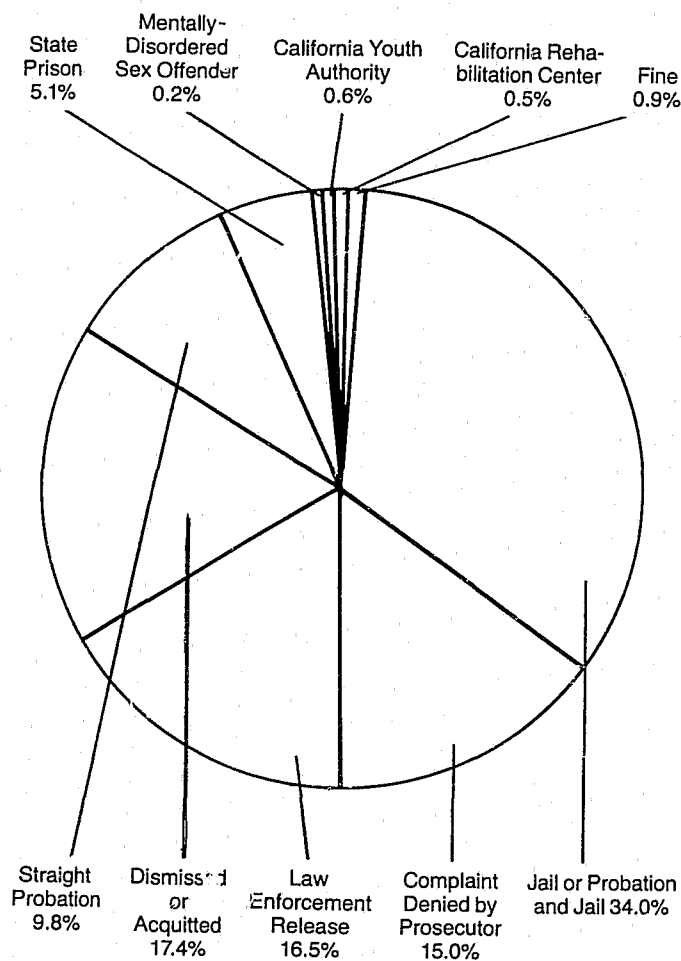
Contrary to common perceptions, not many defendants are sent home upon conviction. Almost 78 percent of those convicted in 1979 were incarcerated, including the ten percent who were sentenced to state prison. Less than 20 percent received straight probation.

Figure 2.3 displays the sentencing of those convicted. Its base is the 6,256 convictions, instead of the 12,230 total felony arrests shown in the previous figures.

Sentencing patterns vary for different crimes. While only ten percent of those convicted for all crimes were sent to state prison, almost 88 percent of those convicted of homicide and over 56 percent of those convicted of rape were sent to state prison.

Figure 2.2  
San Diego County  
Disposition of Felony Arrests and Convictions  
1979

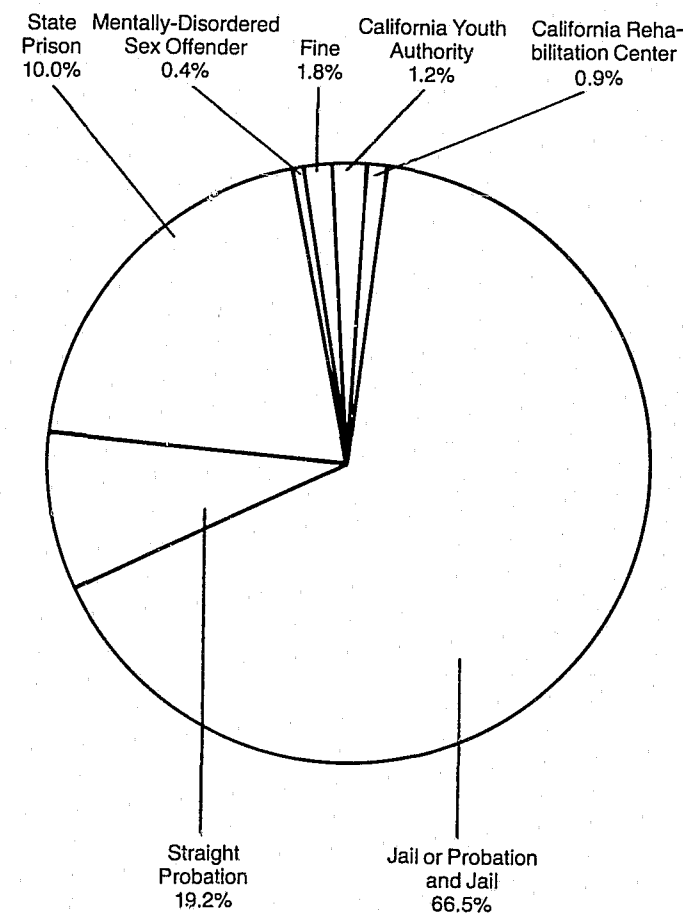
Total Felony Arrests: 12,230 = 100%



SOURCE: Bureau of Criminal Statistics

Figure 2.3  
San Diego County  
Disposition of Convictions on Felony Arrests  
1979

Total Convictions: 6,256 = 100%



SOURCE: Bureau of Criminal Statistics

**Summary of Dispositions.** The following key points summarize the flow of offenders through the criminal justice system in San Diego County in 1979. A full summary flow chart is shown in Figure 2.4.

- Since one out of three felony arrests was either released by law enforcement or denied complaint issuance by the prosecutor, only two-thirds of all felony arrests resulted in formal complaints.
- One out of two felony arrests led to conviction.
- Over 90 percent of convictions were on guilty pleas.

- Almost 40 percent of all those arrested on felony charges were incarcerated.
- Approximately five percent of all those arrested on felony charges were sent to state prison.
- Of all convictions (felony or misdemeanor), almost 78 percent led to incarceration.
- Of all those convicted (felony or misdemeanor), ten percent were sent to state prison.
- Of those convicted of a felony, 13 percent went to state prison.

Table 2.6 displays the sentence received upon conviction for each crime. The data are based on offenses for which defendants are actually convicted.

Table 2.6  
Disposition of Convictions  
San Diego County 1979

OFFENSE FOR WHICH CONVICTED	SENTENCE							
	Prison	California Youth Authority	Probation	Probation With Jail	Jail	Fine	California Rehabilitation Center	Mentally-Disordered Sex Offender
Homicide	87.7%	5.3%	0	7.0%	0	0	0	0
Forcible Rape	56.7%	3.3%	3.3%	23.3%	0	0	0	13.3%
Robbery	54.0%	9.6%	1.2%	34.5%	0.4%	0	0.4%	0
Assault	5.8%	1.1%	16.8%	66.7%	8.5%	0.5%	0.3%	0.3%
Burglary	16.7%	2.1%	7.2%	65.3%	6.8%	0	1.7%	0.3%
Theft	5.6%	0.5%	21.5%	62.4%	9.0%	0.2%	0.8%	0
Motor Vehicle Theft	9.6%	1.4%	9.6%	69.2%	9.6%	0	0.7%	0
Drug Law Violations	6.2%	0	18.3%	56.5%	10.9%	5.9%	2.1%	0
All Other	4.6%	0.4%	28.1%	54.8%	7.3%	3.3%	0.5%	1.0%

Some totals do not add to 100 percent due to rounding.

SOURCE: Bureau of Criminal Statistics

**Are We Sending More To Prison?** Several recent studies indicated that California's new Determinate Sentencing Law (DSL), which went into effect on July 1, 1977, has led to an increase in prison commitments on felony convictions.

Although noting an already-existing trend toward increased prison commitments, the California Judicial Council's 1980 annual report claimed that prison commitments (as a percentage of total dispositions upon felony conviction) increased noticeably when the new sentencing law took effect.<sup>79</sup> It added, however, that recent statistics suggest prison commitment may be stabilized at the new levels.

According to a Rand Corporation report, there was a 12 percent increase between 1977 and 1978 in the felon population in prison, attributable to the new law.<sup>80</sup>

Although San Diego County shows no appreciable difference between 1977 and 1978 in the percentage of convicted felons sent to state prison (11.7 percent and 11.3 percent respectively), the 1979 figure (13.2 percent) is somewhat higher than the three previous years.<sup>81</sup>

Specifically, the percentage of convicted robbers sent to prison from San Diego jumped between 1977 and 1978, but declined in 1979. The percentage of convicted burglars sent to prison decreased between 1977 and 1978, but increased substantially in 1979.<sup>82</sup>

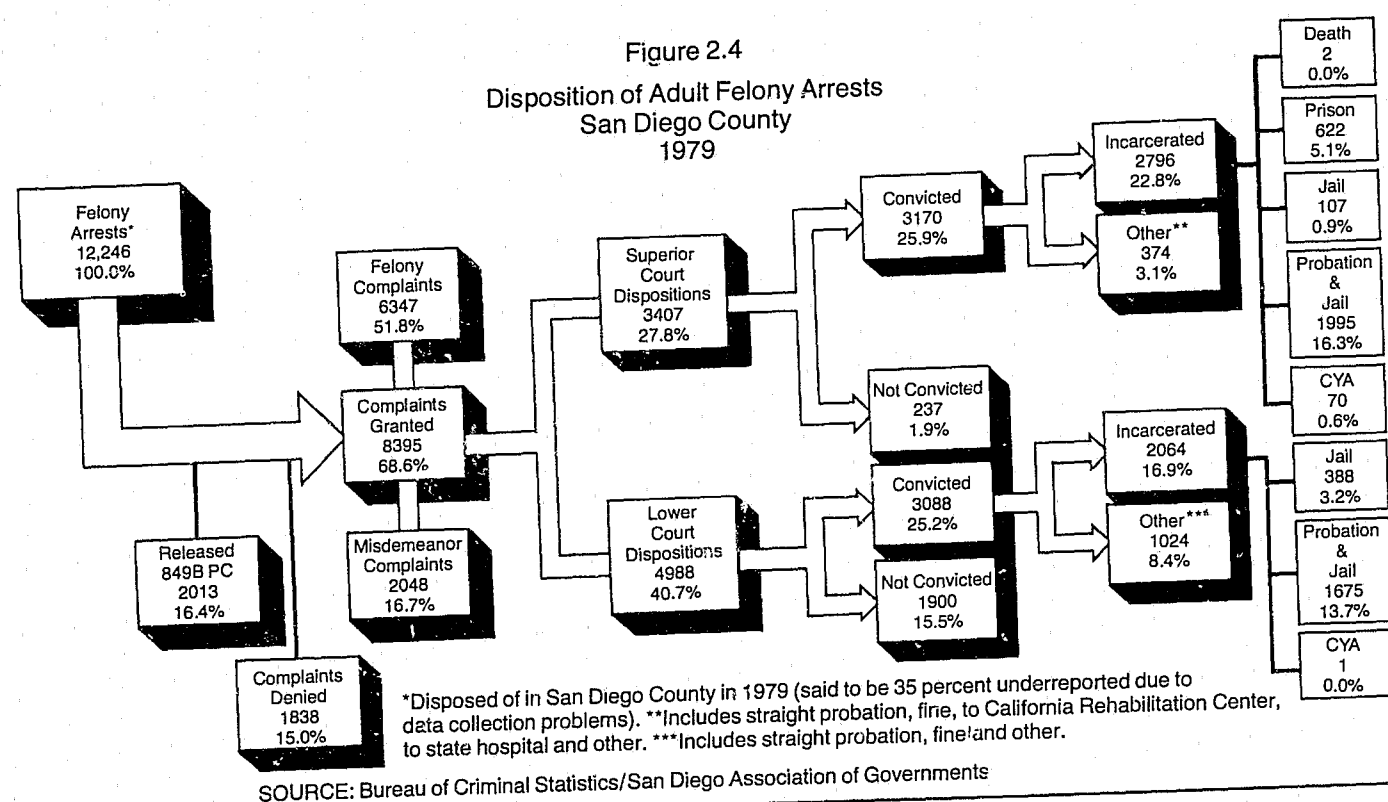
San Diego Judge Michael Greer, in an interview with Commission staff, expressed his belief that "judges are more willing to send convicted defendants to prison because of DSL."<sup>83</sup> This willingness is based in part on the fact that the sentence has been pre-judged by the legislature to be fair, and that the offender knows when he will be released.

**Why The New Law.** Determinate sentencing may be affecting prison commitments from San Diego County and in California generally, but sending more felons to prison was not its sole purpose as designed by the state legislature. Its intentions were far more dramatic.

The legislature's new law signaled a "profound rethinking of the purpose of the criminal justice system," according to James Q. Wilson.<sup>84</sup> In a preface to the new statute, the legislature for the first time declared that "the purpose of imprisonment for crime is punishment," not rehabilitation, and that "this purpose is best served by terms proportionate to the seriousness of the offense."<sup>85</sup>

While sentencing had previously been under the discretion of judges who had a wide range of sentences from which to choose (one year to life, for example), the legislature had now set fixed sentences for most crimes. Almost all felonies now have a determinate penalty consisting of a three-term (high, medium and low) range, such as two-four-six years or five-seven-nine years. The legis-

Figure 2.4  
Disposition of Adult Felony Arrests  
San Diego County  
1979



lature's intent was to eliminate disparity and provide uniformity in the sentences of offenders committing the same offense under similar circumstances.

While ensuring uniformity, the new sentencing statutes severely limit the discretion of judges, but, says Professor Wilson, signal a positive turn "in the direction of the principle of justice."<sup>86</sup>

**What Has It Done?** For the most part, the power of discretion has shifted from the judicial and executive branches to the legislature, which now sets the prison terms for most major crimes. The judge, however, retains the options of probation, narcotics commitments, Youth Authority commitments, and mentally-disordered sex offender commitments. Only if the judge chooses state prison as the sentence does the DSL apply.

Whereas previously a parole board made decisions on when to release prisoners, release is now mandatory for prisoners sentenced under the new law after the term has been served (including a usual reduction of term by one-third for good-time credits). A parole board still sets release dates for life prisoners.

**What Hasn't It Done?** Neither misdemeanor sentences nor alternative dispositions for felonies, such as probation, are affected by determinate sentencing.

Several felonies are still punishable by up to one year and a day in prison. Several serious felonies are punishable by death or life in prison, with or without possible parole. Second degree murder is punishable by 15 years to life, and first degree murder by 25 years to life.

**How It Works.** For offenses that have a determinate sentence and where the judge has decided to send the offender to prison, the judge must select the middle term in the three-tier range of penalties set for that offense, unless there are aggravating or mitigating circumstances (for example, the defendant's prior record). If there are sufficient mitigating or aggravating circumstances, the judge may choose the lower or upper term, and must state the reasons for this choice on the record.

Robbery is punishable by two, three or five years in state prison. First degree (nighttime residential) burglary's range is two, four, six years. The middle term — four years in this case — must be selected by the judge as the base term, in the absence of special circumstances.

Enhancements may be added by the sentencing judge to the base term. The legislature provides, for example, for an additional two-year consecutive term for any felony or attempted felony in which the defendant personally uses a firearm. Other enhancements — for infliction of

great bodily injury, damage or destruction of property in excess of \$25,000, use of a deadly or dangerous weapon, and being armed with a firearm — have also been set by the legislature.<sup>87</sup>

**It's Gotten Tougher.** In line with the legislature's recent get-tough stance, the determinate sentencing concept expresses a move away from rehabilitation toward punishment. In fact, the legislature has even increased the length of the set terms several times since the law's adoption in 1977.

A law effective January 1, 1980, significantly increased the potential penalties and prohibited probation for all forcible sex crimes. It provides a five-year enhancement for those convicted of certain sex crimes who have had a prior conviction on any of the designated crimes, and a ten-year enhancement for those convicted who have served two or more separate prison terms for any of the crimes.

**The Effect Of Determinate Sentencing Law.** Only recently have preliminary evaluations of the four-year-old law been issued, and they are gingerly phrased and only tentatively predictive. It may still be too early to tell its true effect.

The predicted increase in prison commitments seems to have generally taken place. Whether those offenders are spending more time in prison is still unknown. The complexity of the new sentencing scheme, including good-time credits and enhancements, make sentence lengths difficult to predict. Extensive changes in the law, including higher sets of ranges, increased enhancements, and a renewed concentration on the multiple, violent and/or habitual offender, have produced too unstable a four-year base to accurately evaluate the effects of DSL or to predict future consequences.

The biggest problem may be an error of omission — the failure of the legislature to deal with mentally-disordered violent offenders who are sent to prison. The DSL does not differentially treat these offenders, who also receive determinate sentences and must be automatically released when their term is completed. This follows from the legislature's rejection of the concept of rehabilitation, but may prove costly to the victims of some of society's most frightening and violent crimes.

## The Juvenile Justice System

Legally and philosophically, the juvenile justice system is not part of the criminal justice system. Juvenile offenders (under the age of 18 in California) are, by definition, not criminals.

Despite the fact that they commit a disproportionate number of crimes, a separate system still exists to protect juveniles from the harshness of the adult justice system. These old philosophies become harder to rationalize and more difficult to maintain in the face of increasing public fear of juvenile crime.

The Commission examined the juvenile justice system's current problems and has made dramatic recommendations. A full discussion of the issues is presented in this report's chapter on Courts, along with an analysis of the extent of juvenile crime. Only a brief outline of the processing of juveniles through the system will be presented here.

**Tracking Juvenile Arrests.** Juvenile arrests cannot be tracked through the system one-by-one to final disposition. Different statistics used by each agency — law enforcement, probation, courts — complicate the analysis. But some general statements and conclusions can be made.

On the whole, the juvenile system allows and encourages youthful offenders to be handled more informally than adults. All agencies within the system have a much broader set of alternatives and more discretionary decision-making power for dealing with youngsters than with adults. Police are more likely to release juveniles after arrest. In 1979, San Diego County law enforcement officers released 16 percent of adults but 26 percent of juveniles arrested on felony charges.<sup>88</sup>

That this informality happens by design in an effort to keep youngsters out of the destructive corrections system does little to appease those angered by what appears to be undue laxness in the face of a terrifying youthful crime wave. The system created a century ago to protect children is now seen as not only antiquated but ironic, since society must now be protected from its children. Also adding momentum to the drive to overhaul the juvenile justice system are objections that this more informal system actually denies youngsters their due process rights. The fact that juveniles are subject to arrest for offenses that would not be crimes if committed by adults (runaway, truancy, incorrigible, etc.) also adds a strange twist to the problem.

Still unresolved is the responsibility of the probation department in handling serious juvenile offenders.

Instead of requesting a formal complaint directly from the prosecutor if they decide to proceed with prosecution, law enforcement agencies refer the juvenile to the probation department, which has an assortment of alternative dispositions from which to choose. Probation officers may counsel youthful offenders and release them without further action, refer them to a community service agency

or to a Youth Service Bureau, place them on what is called informal probation,<sup>89</sup> or request that the prosecutor file a petition to proceed with prosecution. The prosecutor can only file a petition on a juvenile if asked by the probation department, or if the law enforcement agency has appealed the probation department's refusal to request a petition.



More than one-fourth of all juvenile felony arrests are handled by police departments without further action.

In 1979, the San Diego County Probation Department handled informally 66 percent of all juvenile cases referred to them. These include the youngsters who were simply released, counseled and then released, or referred to a community agency for help. It does not include those placed on informal probation (two percent of all referrals were given a formal contract to receive counseling in lieu of filing a petition). The remaining 32 percent of juveniles referred to probation had petitions filed in court.<sup>90</sup>

As usual, statistics can be misleading. These percentages include youngsters arrested for misdemeanors and for "status offenses," behavior that would not be criminal if the individual is over the age of 18.

A more accurate picture of how juvenile offenders are handled can be determined through an analysis of disposition by type of crime. Specifically, over 70 percent of robbery, 50 percent of assault, almost 70 percent of burglary and 60 percent of rape cases referred to the probation department had petitions filed to proceed with prosecution. Only 25 percent of theft and 42 percent of motor vehicle theft referrals were filed as petitions.<sup>91</sup>



Relatively few of juveniles arrested end up in court.

Many juvenile arrests are handled internally by police departments; a large number of juvenile arrests are never even referred to probation. More than one-fourth of all juvenile felony arrests are handled by police departments without further action. Specifically, 33 percent of juvenile thefts and 28 percent of juvenile burglary arrests never make it past the arrest stage.<sup>92</sup> By contrast, police released only 16 percent of adults arrested on theft charges and only ten percent of adults arrested for burglary in 1979.<sup>93</sup>

**The Juvenile Court.** Although the Juvenile Court is legally a part of the Superior Court in California, it functions separately, with special procedures. It has been

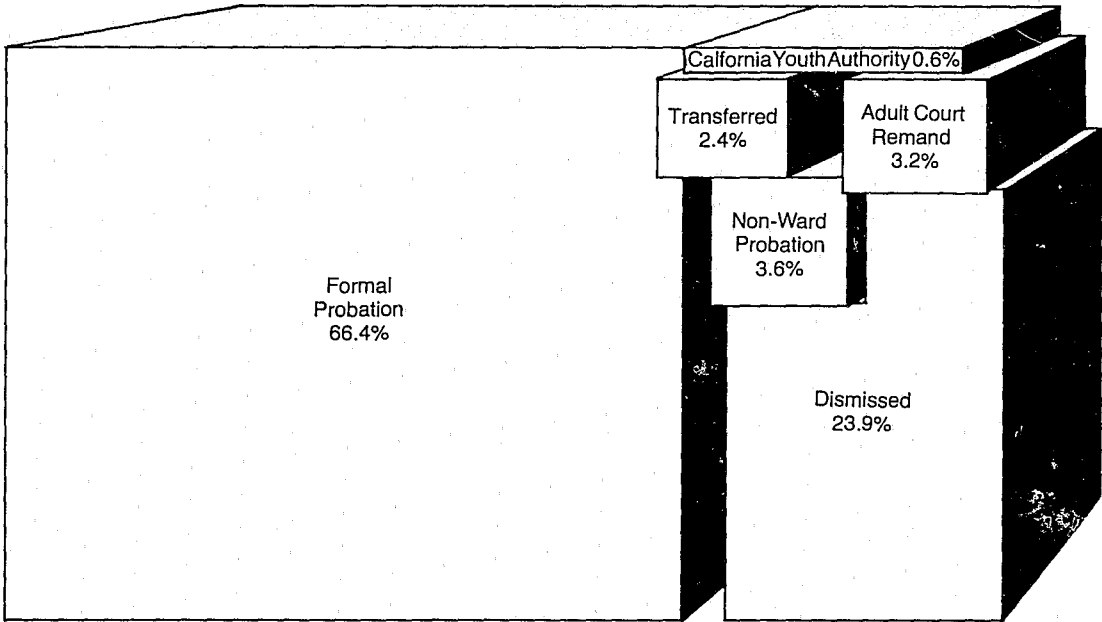
suggested that once in court, juveniles actually receive harsher sentences than adults, although more young offenders are weeded out of the system along the way.

The juvenile court judge's alternatives include dismissal of the case, transfer to another jurisdiction, remand to adult court (for 16- or 17-year-olds), non-ward probation,<sup>94</sup> formal probation, or sentence to the California Youth Authority. Probation, including supervision by a probation officer, can also take the form of residential placement (in a foster home or 24-hour school, for example), a non-residential sentence to a work program, restitution or fine.

Figure 2.5 displays the disposition of juvenile petitions filed in San Diego County in 1979. It may be interesting to note that of the 26,056 juvenile arrests reported in 1979,

only 3,563 found their way to juvenile court. The arrests originally included 5,280 status offenses, 13,996 misdemeanors, and 6,780 felonies.<sup>95</sup>

Figure 2.5  
San Diego County  
Disposition of Juvenile Petitions  
1979  
Total: 3,563 = 100%



Figures do not add to 100 percent due to rounding.

SOURCE: Bureau of Criminal Statistics



What happened in juvenile court to youngsters charged with specific crimes is displayed in Table 2.7, below.

Table 2.7  
Disposition of Juvenile Petitions  
San Diego County, 1979

	Total Petitions	Trans- ferred	Adult Court	Dismissed	Non-Ward Prob.	Formal Prob.	CYA
Homicide	7	0	57%	29%	0	14%	0
Rape	13	0	23%	8%	0	69%	0
Robbery	178	3%	12%	17%	1%	62%	5%
Assault	553	1%	4%	22%	5%	68%	1%
Burglary	965	2%	2%	12%	2%	82%	0
Theft	544	3%	3%	21%	6%	68%	0
Motor Vehicle Theft	233	5%	2%	13%	3%	77%	0

Some totals do not add to 100 percent due to rounding.  
SOURCE: Bureau of Criminal Statistics

## Chapter 3 LAW ENFORCEMENT

### They Can't Do It All

We expect too much of our police; certainly more than they can deliver.

We look upon police officers as our front line of defense against crime. We expect them to protect our safety by their presence and, if necessary, by heroic action. We expect them to apprehend all offenders — carefully and lawfully — so that lawbreakers are brought to justice.

Fine. Public protection and vigorous crime fighting is their job. But we also call upon the police to perform an incredible number of other services. They unclog congested city streets, mediate family disturbances, and clear drunks from sidewalks. We expect the police to respond — quickly and expertly — to a diverse array of social problems, ranging from blocked driveways to criminal homicide.

Numerous studies of the role of the police, including this one, seem invariably to reach two conclusions: first, our expectations of the police are unrealistically high; and second, we're not likely to alter them in any significant way. But can the police continue to do all we expect of them and still fight crime effectively in this era of increasing violence? Or should law enforcement priorities — and our expectations — be changed?

**What Can We Do?** Certainly there are some things that can be done to help the police help us. Strong community action to prevent residential burglaries is one example. Here in San Diego, over 50,000 citizens in more than 2,000 community alert neighborhoods have provided extraordinary assistance to the police — and, of course, to themselves — in the country's largest community alert program.



*We call upon the police to provide many services not related to crime.*

Also promising is the prospect of reducing the number of tasks performed by police officers that are not related to crime fighting. To this day, sworn personnel in other parts of the country provide around-the-clock chauffeur service for local elected officials. Police officers in some cities run elevators in municipal buildings all day long. While these and similar duties are a thing of the past locally, the Commission believes that there are still some non-enforcement tasks that could be handled by nonsworn police personnel, thereby freeing our sworn officers to concentrate more on the detection and apprehension of criminal offenders.

The Commission is also interested in a number of other steps that might be taken to ensure that our police officers are concentrating on crime fighting. Has the department, along with the San Diego community and its elected officials, established concrete objectives and priorities that underscore crime fighting as the primary goal? Is the department taking full advantage of, and is the city providing sufficient support for, appropriate technological assistance? Are there enough police officers to get the job done? And, have recruitment, compensation and other incentives been adequate to attract and retain competent police officers?

## Objectives And Priorities: Bureaucratic Nonsense Or A Real Need?

Rising crime rates, combined with budget cutbacks in government services, make it imperative that clear and specific objectives and priorities be established. The fight against crime needs to be directed and purposeful. Diffusion of police responsibilities must be halted. Throwing money at programs that are tangential to the police function must be stopped. Police cannot do everything. It must be decided — specifically — what needs to be done, in what areas of the city, and how. Our two most pressing needs — crime fighting effectiveness and cost-effectiveness — will not be adequately served by any other approach.

**What's Been Missing?** Police administrators have always had enforcement priorities, since police departments simply cannot enforce all the laws. But these priorities are usually not clearly articulated, or necessarily based on sound analysis. Even when they are, there is no mechanism for ensuring that beat officers and investigators follow the established priorities.

Similarly, police departments almost always state their goals. But the commonly heard goals of "reducing

crime" and "protecting the public" are only minimally useful in determining what the department — and its officers — should actually be doing.

Police administrators, operating without specific objectives, can't really know how well their departments are doing against crime. They are not sure if resources need to be reallocated. They are uncertain as to what special programs, task forces or units need to be created, emphasized or eliminated.

Beat cops, lacking clear direction, may also be confused. What should they be doing? Conducting field interrogations? Writing traffic tickets? Engaging in preventive patrol? What comes first?

**Why It Hasn't Been Done.** Setting objectives for and measuring the success of law enforcement efforts is complicated. Police administrators claim — and rightly so — that they have limited responsibility for increases and decreases in crime. They insist that extraneous social factors would confound any measurement of the effect of specific police activities. And they note that prevention — the ultimate test of effective crime fighting — is virtually unmeasurable. How do we measure a crime that didn't occur?

Police officials also note that law enforcement, by its very nature as a service to the public, needs to be concerned with the process — rather than the overall goal or product — of police services. Relying on this philosophy, evaluation of police success has been limited, for the most part, to measuring only that process. And what is measured is what is most easily counted — numbers of traffic tickets, arrests, and the like.

Even when it is agreed that clear objectives and priorities must be established, there is often sharp disagreement about what they should be. What crimes are the most destructive to the community's well-being? What kinds of crime entice youth into more serious criminal activity? What crimes can the police effectively reduce?

Finally, establishing well-defined crime fighting objectives and priorities takes a lot of thought and a lot of work. It requires thorough and accurate analysis of enormous amounts of data. Objectives and priorities must be clearly communicated to officers and their supervisors. Cohesive direction from above must be established to assure that objectives are met. Evaluations must be conducted in order to determine whether — and how — the fulfillment of specific objectives affects crime.

Police departments must overcome these difficulties if they want to wage an effective war against crime. Resources that are limited must be directed and on target. To ensure that this happens, a set of objectives and priorities can serve as the blueprint for an intelligent and systematic approach to crime fighting.

**How It Might Be Done.** What if, based on input from both the community and the department itself, the Chief of Police publicly said, "Next year, we will work to reduce the rate of street robberies in the city." What if he told his officers, "In order to meet our objective of reducing street robberies, we will increase the number of community alert groups by 15 percent, increase the number of field interrogations by five percent, and stake out locations of possible street robberies using ten percent of available patrol time."

In combination with other such directives, it would mean that the police department was beginning to establish and follow a set of specific outcome objectives and priorities. The allocation of police resources in San Diego would be greatly improved.

Effective police management doesn't stop, however, with the establishment of objectives and priorities. These aims must be communicated to officers and to the community. Indeed, the involvement of the community and police personnel in helping to set these aims is essential.

This can have two very positive effects. First, it can raise the level of community expectations about performance. Second, it can ensure feelings of accountability among the police — from the Chief on down.

**The Effects It Will Have.** Setting clear objectives and priorities means that some tough decisions will have to be made. It will also change some police department management practices.

For example, evaluation of police performance — individual and organizational — will be based on results, not just procedures. Personnel decisions — transfers, promotions, demotions, managerial and supervisory assignments — as well as organizational changes — staffing levels, policies and procedures — will be based on achievement of objectives.

These changes may also cause a significant change in attitudes. If an officer is made accountable for the crime on his or her beat and for individual efforts to reduce it, that officer will feel personally responsible for achieving results. Similarly, managers and supervisors will have every incentive to see that the entire department is using its every resource in the most effective way possible.

**A Caveat.** Criminals don't respect police objectives and priorities. Criminal activity may inexplicably shift from one

area of the city to another. A single criminal may cause a dramatic rise in the statistics for a particular crime. Enforcement objectives and priorities must be flexible.

**What Should Be Done?** The Commission developed three related recommendations to express its concern about the need for clearly articulated and publicly declared crime fighting goals in San Diego:

- 3.1 THE COMMISSION RECOMMENDS ENFORCING OBJECTIVE STANDARDS OF WORK PERFORMANCE AT ALL LEVELS OF THE SAN DIEGO POLICE DEPARTMENT AND USING PERFORMANCE EVALUATIONS AS A MAJOR DETERMINANT IN THE PROMOTION OF OFFICERS.
- 3.2 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO POLICE DEPARTMENT MEASURE INDIVIDUAL OFFICER PERFORMANCE BY THE OFFICER'S ABILITY TO REDUCE CRIME IN HIS OR HER BEAT AREA.
- 3.3 THE COMMISSION RECOMMENDS LINKING OFFICER PERFORMANCE EVALUATIONS TO OVERALL CRIME FIGHTING OBJECTIVES AND PRIORITIES OF THE SAN DIEGO POLICE DEPARTMENT.

## The San Diego Police Department: Quest For Excellence

Most police departments, including ours in San Diego, have not established specific crime fighting objectives for which their officers are held accountable, nor have they set and publicly declared their priorities in the fight against crime. These can be difficult and politically sensitive tasks which many law enforcement agencies are either unwilling or ill-prepared to tackle.

But our city's police department is unique. The San Diego Police Department enjoys an excellent reputation nationwide for its willingness to challenge traditional law enforcement strategies, to experiment with new ideas and to strive for improvement.

In less than a decade, the department has experimented with many of the most difficult and controversial questions facing American law enforcement (see sidebar). We are confident that they will continue to do so, and that our recommendations will be carefully considered.

**Applying the Lessons Learned.** The San Diego Police Department has learned a great deal from its decade of experimentation. Unfortunately, it has in some cases

failed to ensure that what it learns about policing is actually put into practice, and that the practice is carefully evaluated for results. The Commission heard substantial evidence, for example, that although progress has been made there remains a sizable gap between the promise and the practice of Community Oriented Policing (COP).

As a pilot program for the department in 1973, COP required officers to work closely with the community — to develop knowledge of the people and the problems of their assigned beats — in order to solve crime and other problems. Based on increased police officer familiarity and identification with a permanently assigned beat, COP's goals included greater police accountability, improved cooperation between citizens and police to prevent and solve crimes, and a more flexible approach to policing different areas of the city.

Since its adoption in 1975, COP has not been formally evaluated to determine if its original objectives are being met. The department knows that the theory is sound. But is it working? We don't know. Some important questions need to be answered: Is policing on the streets more reasoned, responsive and responsible? Are individual officers being held more accountable for crime and other related problems in their assigned areas? Are they following the COP style of policing consistently? Most important, how has crime been affected by COP policies and practices?

The Commission believes that a new test and an objective evaluation of the concept will not only answer these questions, but also reveal what modifications, if any, are needed in the concept — or the practice — of COP. The department must do what is necessary to ensure that the promise of Community Oriented Policing is finally and fully realized.

The Commission believes further that the department should conduct this experiment without financial assistance from either the federal government or a private funding agency. We do support an independent evaluation of the results, but the department is fully capable of carrying out the experiment on its own.

3.4 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO POLICE DEPARTMENT CONDUCT AND EVALUATE A NEW EXPERIMENT OF THE DEPARTMENT'S COMMUNITY ORIENTED POLICING PROGRAM, PRECEDED BY INTENSIVE TRAINING FOR AREA CAPTAINS, LIEUTENANTS AND SERGEANTS.

## COP In Action

Not long ago, there was a series of particularly vicious rapes in East San Diego. The rapist struck a number of times and then disappeared, leading sex crimes detectives to believe they had seen the last of him. The officer on the beat, however, had a thorough knowledge of all aspects of the rape series and a description of the suspect's vehicle. Months passed, with the officer keeping an eye out for the suspect. One evening the officer spotted the suspect's truck and caught the rapist in the same neighborhood where he had committed the rapes. The man was tried, convicted and sentenced recently to 27 years in prison. Investigators from the department's Sex Crimes unit report that this work is typical of officers who know what they are looking for and where to look. They maintain, with good reason, that this arrest is an example of Community Oriented Policing at its best: a dedicated police officer, informed, alert and doing something of real benefit for the community.



In order to avoid damaging police relations with the public, the practice of stopping and questioning citizens must be conducted with care.

In the last several years, the San Diego Police Department has experimented with a variety of progressive law enforcement policies and procedures in an attempt to provide the best possible services for the citizens of San Diego:

**Community Alert.** The department has worked with neighborhood residents to develop one of the fastest growing and most successful community alert programs in the United States. The idea is simple: neighbors organize in a series of meetings, receive crime prevention information from the police department, install or improve home security measures, and watch out for one another's safety and welfare. The program has significantly reduced residential burglaries — one of the city's most serious and stubborn crime problems.

**Community Oriented Policing.** Using a process called "profiling," police officers are required to develop knowledge of the people and problems of their assigned beats, and to carefully analyze crime, traffic, and other community problems. On the basis of this ever-increasing knowledge of their beats, the officers work with the community to develop strategies for solving or reducing problems.

**Field Interrogation (FI).** This is a traditional police tactic of stopping and questioning citizens under circumstances that are suspicious but which fall short of cause for arrest. The department studied the effects of

FIs on preventing crime, on detecting and apprehending criminals and on police-community relations. The results indicated that FIs do help to reduce crime, but that unless they are conducted with care they can seriously damage police relations with the public. The department is now using one of the most carefully drafted FI policies in the country, ensuring that it still has this valuable crime fighting tool.

**One Officer, Two Officer Study.** The experiment examined the effects of using one officer in a patrol car as opposed to two, in terms of officer safety and overall police efficiency. A formula was developed to determine the optimum number of officers per patrol car for each beat. Based on the study's results, most beats still use one officer cars.

**ARJIS And ICAP.** The Automated Regional Justice Information System and the Integrated Criminal Apprehension Program both provide critical crime information to beat officers and investigators through sophisticated computer systems. These two programs are among the finest of their kind in the nation.

**Decentralization.** To make police work more responsive and accountable to the communities of San Diego, officers will be working out of seven area stations sprinkled throughout the city. Temporary stations are already open and operating (in the Western and Northeastern areas), with others planned for the near future.



For effective community oriented policing, officers are responsible for developing and sharing information about their assigned beats.

## There's More Work To Do

Experimental and progressive as it may be, the San Diego Police Department still faces many of the problems beset by most large municipal law enforcement agencies. The remainder of this chapter outlines those issues the Commission believes to be most important for San Diego law enforcement, and presents recommendations for dealing with them.

## Are Officers Up To The Job?

We want police officers to be courageous, polite and articulate, with quick reflexes, physical strength and a good memory. We expect them to interpret complex legal issues, to write clear and legally defensible reports and to be prepared for danger at all times. Theirs is an exceptionally demanding job because it is so many jobs — peacekeeper, fighter, social worker, judge and more. Yet police work is still not considered a profession. The entrance requirements are minimal. The training standards are not uniform. What does this mean about the people we attract and keep in law enforcement?

This issue affects all of us of course, because effective crime fighting is compromised when the standards are not high. Fortunately, some steps have been taken. California's Commission on Peace Officer Standards and Training (P.O.S.T.) now requires police officer candidates to take a uniform set of courses before they can be certified to work in law enforcement. The San Diego Civil Service Commission recently approved a new standard that requires police officer candidates to have completed 60 units of college prior to hiring. The ruling takes effect in 1983.

But a more comprehensive set of standards is needed. A more extensive P.O.S.T. licensing program would significantly boost the level of law enforcement expertise throughout the state. Similar in structure to many licensing programs for other professions and trades, the program should also require police officers to observe a code of professional ethics. Unprofessional conduct or incompetence could result in revocation of the license.

A program which requires the applicant to fulfill licensing requirements before hiring will not only reduce training costs for local governments, but will also eliminate a number of clearly unqualified candidates before they enter the system.

The Commission believes that law enforcement licensing is a necessary step towards assuring that qualified candidates will be attracted to and remain in law enforcement.

- 3.5 THE COMMISSION RECOMMENDS STATE LEGISLATION WHICH WOULD REQUIRE ALL PEACE OFFICERS TO BE LICENSED, BUT WHICH WOULD CONTINUE TO RECOGNIZE LOCAL RESPONSIBILITY FOR SETTING HIRING AND PERFORMANCE STANDARDS.

## But Will They Apply?

Unfortunately, recent efforts to attract and retain adequate numbers of qualified police officers have not been successful in San Diego. A large percentage of applicants lack basic reading and writing skills. Many recruits don't make it through the training or probationary period.

The continuing difficulty in attracting and keeping qualified minority recruits has been especially troublesome. Although the department is fully committed to affirmative action goals, it has been unable to meet all of its minority hiring objectives. Women and minorities comprise a significant percentage of resignations, causing concern in the department about its ability to reflect the community it serves, and of the community's ability to identify with its police force. A close and cooperative relationship between the community and its police force is necessary for effective crime fighting.

The San Diego Police Department should supplement its own recruiting efforts with community resources. The high profile campaign of the Los Angeles Police Department, which uses professional athletes and other celebrities in its recruiting effort, has early signs of being very effective.

The Commission believes that a more effective recruitment strategy is essential if we are to have a professional police force that is representative of its own community.

- 3.6 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO POLICE DEPARTMENT DEVELOP NEW RECRUITMENT STRATEGIES WHICH ENLIST THE SUPPORT OF COMMUNITY ORGANIZATIONS IN ORDER TO FIND THE MOST DESIRABLE POLICE CANDIDATES.

## Keep Them On The Force

An experienced core of personnel is essential to the efficiency of any organization. But salary disputes and a high attrition rate have plagued the San Diego Police Department. Between January and April, 1980, the department lost an average of 25 police personnel each month. While the attrition rate has since been cut in half, the fact remains that 45 percent of all San Diego police officers have been on the force less than two years.<sup>1</sup> And the conventional wisdom in police circles is that it takes three to five years just to "get the hang of it."

The Board of Fiscal Overseers, a non-partisan group of business and community leaders, was asked by Mayor Wilson to examine the salary and attrition issues. The Board concluded that "... consideration should be given to a more orthodox longevity pay program that would reward experienced personnel."<sup>2</sup>

At least three local law enforcement agencies — the Sheriff's Department and the police departments of Imperial Beach and National City — offer incentive pay which is tied to the length of an officer's service with the department.

The Commission believes that a similar incentive pay program should be instituted to help retain experienced San Diego police officers. However, it is emphasized that such an incentive system must be coupled with consideration of an officer's level of performance, since length of service alone does not reflect an officer's professional competence.

- 3.7 THE COMMISSION RECOMMENDS THAT A PAY SYSTEM BE INSTITUTED FOR THE SAN DIEGO POLICE DEPARTMENT WHICH EMPHASIZES PERFORMANCE AS WELL AS LENGTH OF SERVICE.

## And Keep Them In Shape

The physical demands of police work are extraordinary. Long periods of inactivity in a patrol car are interrupted by short bursts of high emotional tension and physical exertion. From the perspective of crime fighting effectiveness and officer safety, physical conditioning is too important to be left to voluntary efforts by individual officers.

Concern about officer physical fitness led the Ad Hoc Task Force on Police Practices — formed in 1978 by a San Diego City Council committee — to recommend mandatory and periodic physical fitness tests for all officers. The proposal was never implemented.

As did the Task Force, the Commission recognizes that physical fitness requirements must reflect differences in officer age and work assignments.

- 3.8 THE COMMISSION RECOMMENDS THAT SAN DIEGO POLICE OFFICERS AT ALL LEVELS BE REQUIRED TO PASS ANNUAL JOB-RELATED PHYSICAL FITNESS TESTS WHICH MAKE ALLOWANCES FOR AGE AND ASSIGNMENT.



Physical fitness is necessary for effective police work.



How Many Police Officers Do We Need?

Perhaps the most complex issue facing elected officials, criminal justice researchers and police administrators is the question of how many police officers are needed to meet a community's law enforcement needs.

Examining the staffing practices and experience of other cities is of little help. The ratios of officers to population in American cities vary enormously. There is no significant correlation between police staffing levels and either crime rates or community feelings of personal security.

Table 3.1 compares San Diego's police staffing ratio with that of 15 other cities.

Table 3.1  
Police Officers per 1,000 Population  
San Diego vs. Other Cities  
1980

City	Officers Per 1,000 Population	Number Of Officers	Population
Washington (metro)	5.72	3,639	635,233
Philadelphia	4.39	7,377	1,680,235
Chicago	4.20	12,475	2,969,570
Baltimore	4.04	3,172	783,320
Detroit	3.48	4,157	1,192,222
Milwaukee	3.31	2,098	632,989
New York	3.29	23,087	7,015,608
San Francisco	2.77	1,871	674,063
Los Angeles	2.27	6,709	2,950,010
Dallas	2.16	1,952	901,450
Phoenix	2.02	1,585	781,443
Houston	2.01	3,126	1,554,992
Memphis	1.89	1,223	644,838
SAN DIEGO	1.58	1,349	852,189
Indianapolis	1.40	977	695,040
San Antonio	1.39	1,091	783,298

SOURCE: Telephone surveys

With the exceptions of San Antonio and Indianapolis, San Diego has fewer police officers than any of the other cities shown. One San Diego police officer is responsible for an average of 13,526 citizens during a typical watch.

There are powerful arguments in favor of an expanded police force. They begin with the proposition that although San Diego enjoys a relatively low crime rate in relation to other cities, there is still too much crime and too much paralyzing fear of it.

Proponents of an expanded San Diego police force note that there are keys to effective crime fighting that cannot be attained without a sufficient force. The most fundamen-



The San Diego Police Department has fewer police officers per capita than most other large cities.

tal elements of police work — beat coverage, response time, case workload — are all dependent upon adequate staffing.

Smaller beat size and more time for community interaction, both of which are necessary for successful community oriented policing, will only be possible with additional officers.

In attempting to discover what effects additional police officers would have on crime in San Diego, the Commission developed the following projections:

- more police on San Diego streets *would* have a positive effect on the quality of community oriented policing; *would* reduce the amount of overtime for officers; and *would* increase law enforcement visibility;

- more police *might*, if properly deployed, have an impact on certain types of crime and fractionally lower response times; and
- more police *probably would not*, by sheer weight of numbers, significantly reduce the overall amount of crime citywide, nor have any effect on those crimes now considered "non-suppressible," such as homicide.

These tentatively phrased projections reflect the discouraging lack of definitive research results concerning the effects of police staffing on crime fighting effectiveness.

Studies of the effects of increased preventive patrol, shorter response times and increased visibility, for example, have all reached ambiguous conclusions. The research effort continues, however, and a recent study has found that when an arrest is made soon after the offense — especially in robberies, burglaries, and larcenies — tangible evidence is more often recovered and conviction is more likely.<sup>3</sup> This situation requires shorter response times — and more police officers.

But how many is enough? There is no formula. We do know that an abrupt increase in officers is not appropriate. The rest of the criminal justice system — prosecutors, courts and prisons — must be prepared for the increased workload. What is needed is a gradual and planned increase in staffing.

3.9 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO CITY COUNCIL GRADUALLY INCREASE THE NUMBER OF SWORN AND SUPPORT PERSONNEL ASSIGNED TO THE POLICE DEPARTMENT, THEREBY PERMITTING A REDUCTION IN PATROL BEAT SIZE AND AN OPPORTUNITY FOR INNOVATIVE, NON-TRADITIONAL APPROACHES TO POLICING.

Use Sworn Officers Appropriately

One of the best — and least expensive — ways of improving a police department's crime fighting effectiveness is to relieve most sworn officers of tasks not directly related to criminal law enforcement. The police in general will probably never be rid of traffic, parking and crowd control functions. But these and other such duties need not be performed by sworn officers who are expertly trained for dangerous situations, preventive patrol, response to crimes in progress and crime scene investigation. The San Diego Police Department agrees with this

philosophy but has not been totally successful in putting it into practice.

**Incentives For Reserves.** The department's reserve officer program uses volunteers to supplement regular manpower, primarily during holidays, special events and weekends. Reserve officers are required to work at least ten hours per month and to serve without pay. But the program is in trouble.

Although 400 personnel are authorized, only 225 were working as of February, 1981. Reserve officers leave the program for a variety of reasons. Some have left because they needed paying second jobs, others because of military reassignments, and some because they just could not get through the training program. In one recent reserve class, only 19 of 60 candidates graduated.

The Commission is alarmed at the state of the reserve program. It is a valuable resource for the police department. Offering incentives to those considering reserve service is a comparatively inexpensive way of boosting the number of reserves in San Diego, adding significantly to the crime fighting capacity of the department.

3.10 THE COMMISSION RECOMMENDS DEVELOPING ADDITIONAL INCENTIVES OR BENEFITS TO ENCOURAGE SAN DIEGO POLICE DEPARTMENT RESERVE OFFICERS TO STAY WITH THE RESERVE PROGRAM.

**Expanded Role For Community Service Officers.** The community service officer program, like the reserve program, was developed to supplement the law enforcement capabilities of the San Diego Police Department.

Unlike reserve officers, community service officers (CSOs) are paid for their work and respond to low priority calls. Among CSO functions are such duties as aiding residents locked out of their homes, taking theft reports, searching for lost children, transporting accident victims and issuing parking citations.

Staffing for the CSO program was reduced from 60 to 30 positions in the fiscal year 1981 budget. This reduction, along with the fact that CSOs have not been utilized to full advantage, have kept the program from being totally successful in freeing officers for crime fighting tasks. The commission suggests that both CSOs and reserve officers be given expanded roles in investigating certain cold crimes (where the crime has already been committed and the suspect has left) and in providing traffic control.



Community service officers relieve sworn officers of many non-enforcement tasks.

3.11 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO POLICE DEPARTMENT RETAIN THE COMMUNITY SERVICE OFFICER PROGRAM AND EXPAND THE DUTIES OF BOTH CSOs AND RESERVE OFFICERS, ESPECIALLY IN THE AREAS OF COLD CRIMES AND TRAFFIC CONTROL.

## Automation As A Crime Fighting Tool

Case management is the process of investigating a case, recording the facts, transmitting these facts from one section of the police department to another, evaluating the case and its solvability, assigning it to an investigator and controlling its progress. The Commission has some serious concerns about the case management procedures of the San Diego Police Department.

In police work, most initial investigations are conducted by uniformed police officers, not detectives. Detectives normally enter a case after they receive the patrol officer's report. They rely heavily on the quality of the report to help them apprehend the criminal and prepare the case for prosecution. If a patrol officer's report is ambiguous or incomplete, it not only increases the time the

detective must devote to the case, it also lessens the chances of successful prosecution.

In theory, a poor crime report or arrest report is caught by the patrol officer's sergeant, but in practice, the volume of paperwork makes careful review extremely difficult. Moreover, reports are often delayed or lost in departmental mail. This is a serious and unnecessary detriment to crime fighting efficiency.

The San Diego Police Department's case management process was analyzed in a 1977 productivity improvement report prepared by the city manager's staff. Among its findings:

If the San Diego Police [Department] had automated reporting . . . savings [would be] generated . . . by reducing the amount of time officers spend writing reports as well as the time clerks spend processing reports into the files . . .<sup>4</sup>



An automated reporting system would allow police more time for crime fighting.

An automated system would allow police officers to call in their reports to a clerk, who would enter the information into a computer terminal. While this is of course no substitute for a good investigation — and cannot improve a poor one — it will ensure that whatever information the original officer does have is accurately and completely transmitted to the investigator.

Several cities have successfully adopted automated case management systems in order to assure standardization, accountability and equalization of workloads. A similar system is needed in San Diego if more crimes are to be solved.

3.12 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO POLICE DEPARTMENT ADOPT A CASE MANAGEMENT SYSTEM WHICH WILL PROVIDE MORE EFFECTIVE AND EFFICIENT INVESTIGATION OF CRIMES.

## Keeping Up With Youthful Offenders

Police need accurate information about juvenile offenders if they are to control juvenile crime, yet there are no formal information links among the many agencies that deal with juveniles. A computerized information system is needed to accomplish this purpose.

Under present conditions, it is conceivable that juveniles who are wanted for serious crimes in one jurisdiction may be stopped, questioned and released in another, because there is no way to establish whether the juveniles had prior contacts with other police agencies.

3.13 THE COMMISSION RECOMMENDS CREATION OF A REGIONAL COMPUTER-BASED JUVENILE TRACKING SYSTEM.

## How Fast Is Fast?

Recent research suggests that given certain circumstances, quicker police response time means more likely apprehension of criminal offenders. The circumstances include, of course, a short time span between the commission of the crime and the call to police. Studies have also shown that conviction is more likely if the arrest is made close to the time the offense was committed, since successful prosecution is often dependent on perishable physical evidence and the memory of witnesses.<sup>5</sup>

As shown in Table 3.2, San Diego Police Department response times improved slightly in 1980 compared to 1979 during the same 3-month period, most likely because of increased staffing levels in 1980. But are the response times good enough? If not, what should the department be striving for?

Response time objectives need to be established. Once they are, they can be used to help determine needed staffing levels and budget appropriations. They can also help to make decisions about resource allocation, patrol techniques, area station staffing and other issues.

Call Priority*	Description	Jan/March 1979	Jan/March 1980
I	Life saving	5.50	5.29
II	Crimes in progress	5.40	5.25
III	Non-violent disturbances	6.92	6.38
IV	Take report	11.62	10.97
V	Miscellaneous non-emergencies	13.01	11.72

\*Priority codes: All public requests which require the dispatch of a police unit are given a priority according to the apparent urgency of the call. The San Diego Police Department has five levels of grading calls, Priority I being most urgent and Priority V least urgent.  
SOURCE: San Diego Police Department.

3.14 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO CITY COUNCIL ESTABLISH RESPONSE TIME CRITERIA FOR DISPATCHING POLICE CARS IN RESPONSE TO CITIZENS' REQUESTS FOR POLICE SERVICE.

### What Are We Doing Wrong? Analyzing Citizen Complaints

No police department can operate effectively in the absence of broad-based community confidence. Among other factors affecting public confidence is the department's response to citizen complaints about police personnel and the service they provide.

In recent years, there has been a steady reduction in the number of such complaints against San Diego police officers. The number of complaints dropped from 1,247 in 1975 to 681 in 1979, and dropped again in 1980 to 476. Specifically, complaints about the use of excessive force have also significantly decreased: from 180 in 1975, to 93 in 1979 and 105 in 1980.<sup>6</sup> These figures speak favorably of departmental efforts to improve the professionalism of its officers.

Nevertheless, the Commission believes that routine analysis and public disclosure of complaints against police officers is in the best interest of citizens and the police department. It further believes that the Public Services and Safety Committee of the San Diego City Council would be the most appropriate forum for such disclosures.

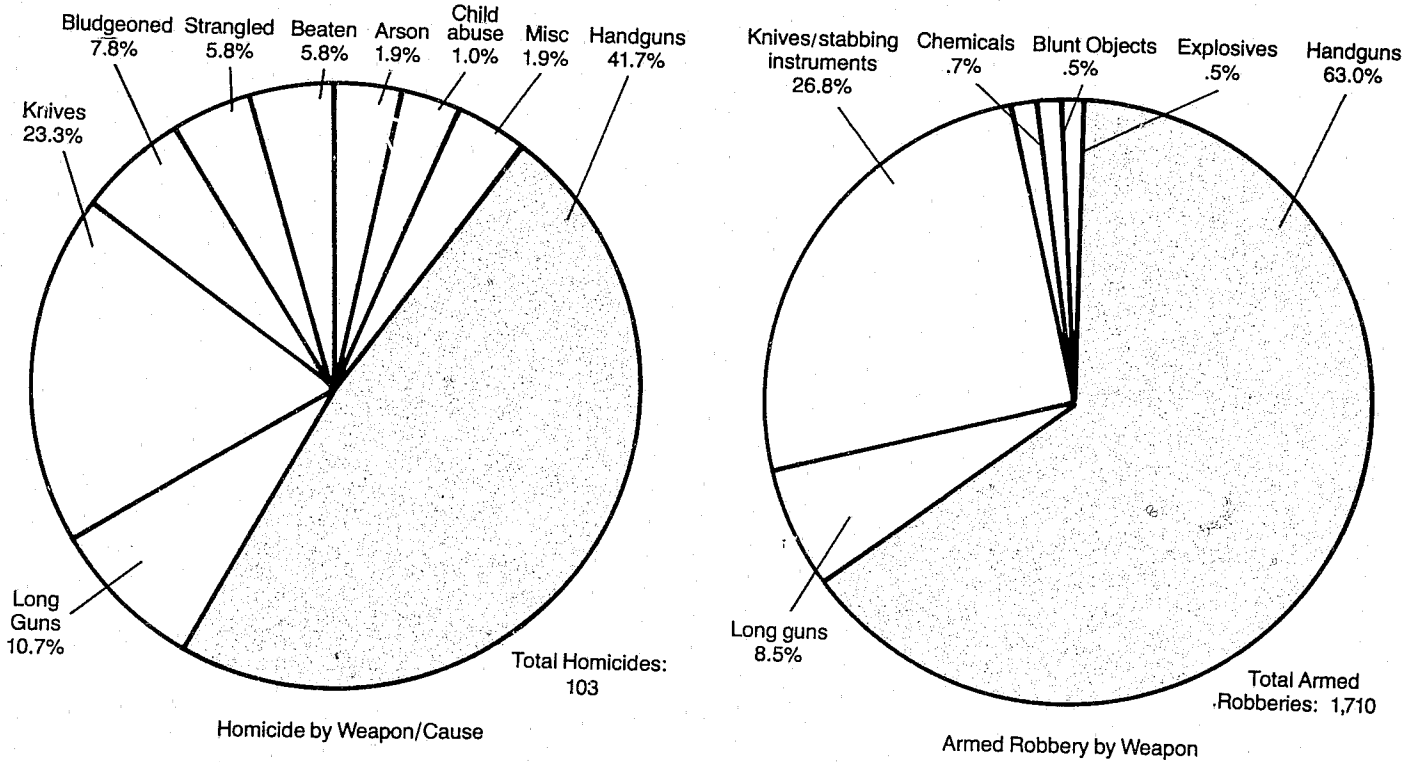
3.15 THE COMMISSION RECOMMENDS ADOPTION OF A SAN DIEGO CITY COUNCIL POLICY THAT REQUIRES THE CITY MANAGER TO PRESENT SEMI-ANNUALLY TO THE PUBLIC SERVICES AND SAFETY COMMITTEE AN ANALYSIS OF CITIZEN COMPLAINTS ABOUT POLICE PERFORMANCE.

### To Control Violence: Start With Guns

Of the 103 homicides in San Diego during 1980, 43 (almost 42 percent) were committed with handguns, and 11 others (almost 11 percent) with other kinds of firearms. Some 63 percent of San Diego's 1,710 armed robberies in 1980 were committed with handguns.

The relationship between the availability of handguns and violent crimes is both unmistakable and frightening. Figure 3.1 shows the weapons used for murders and armed robberies in San Diego during 1980.

Figure 3.1  
Weapons Used in Homicide and Armed Robbery  
City of San Diego  
1980



SOURCE: San Diego Police Department

Strict handgun laws in New York, Massachusetts, Washington, D.C., and Detroit have generated impressive reductions for homicide and robbery rates. In the District of Columbia, for example, the Firearms Control Act went into effect in 1977. An independent study demonstrated that it was this strong gun control law, and not chance alone or other extraneous factors, that caused the 26 percent decrease in handgun homicides, the 22.5 percent decrease in robberies with handguns, and the 10.5 percent decrease in handgun assaults in the District of Columbia after implementation of the Act.<sup>7</sup>

Meanwhile, over-the-counter sales of handguns in San Diego have soared: from 10,981 handguns in 1969 to 15,419 in 1979, an increase of 50 percent in a single decade.<sup>8</sup>

The Commission believes that stronger handgun legislation at the state level will bring about a significant reduc-

tion in crimes involving these weapons. The Commission does not believe that appropriate handgun controls will infringe upon our right as citizens to keep and bear arms.

3.16 THE COMMISSION RECOMMENDS STATE LEGISLATION WHICH WOULD: MAKE POSSESSION OF AN UNLICENSED HANDGUN RESULT, UPON CONVICTION, IN A MANDATORY SENTENCE OR FINE MORE STRICT THAN CURRENT STANDARDS; PROHIBIT JUVENILES FROM CARRYING FIREARMS EXCEPT WHEN ACCOMPANIED BY AN ADULT AND WITH THE PERMISSION OF A LEGAL GUARDIAN WITH STRICTER PENALTIES FOR THOSE CONVICTED; AND REQUIRE MANDATORY SENTENCING FOR ILLEGAL POSSESSION OF A FIREARM OR POSSESSION OF A STOLEN FIREARM.

## And Keep Them In Good Hands

Possession of handguns by private citizens should be preceded by safety training and the issuance of a firearms license. This recommendation is based upon recognition of the inherent danger of any firearm in untrained hands, and the need to assure that possession and ownership — as with motor vehicle registration — reflect both competence and accountability.

- 3.17 THE COMMISSION RECOMMENDS THAT THE STATE REQUIRE SUCCESSFUL COMPLETION OF A GUN SAFETY COURSE AND POSSESSION OF A FIREARMS LICENSE BEFORE A HANDGUN IS SOLD TO A CITIZEN.

## Gangs: A Special Problem

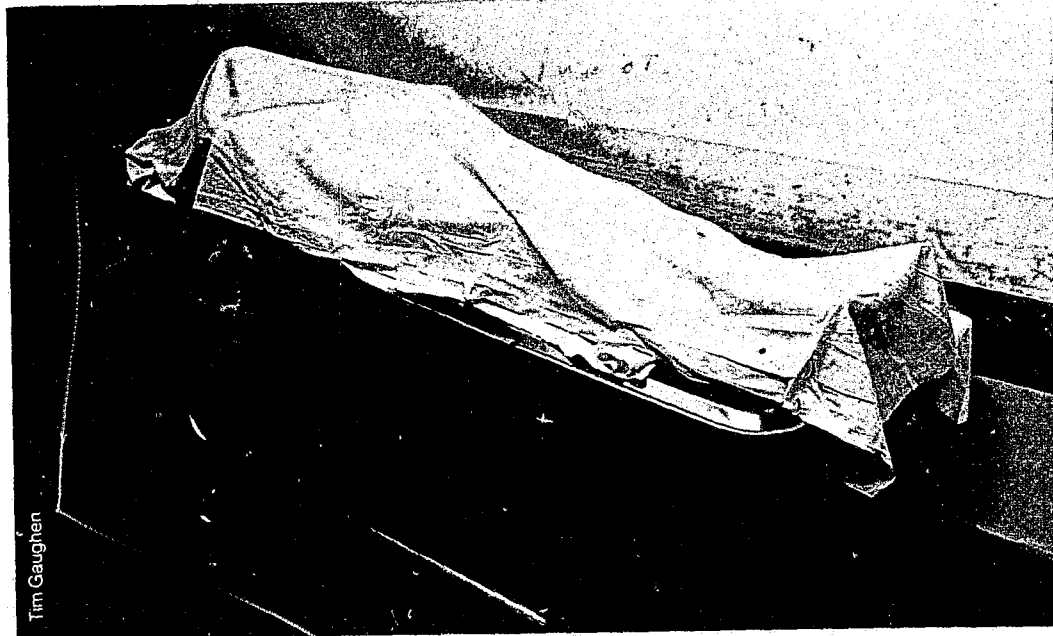
Five years ago, there were only three known youth gangs in San Diego. The San Diego Police Department can now identify 40, with an estimated 2,800 gang members.<sup>9</sup> Violent crimes committed by gangs is a serious problem, and getting worse as the number of members increases. Contrary to popular belief, gang violence is not always directed toward other gangs; well over half of all gang-related crimes involve victims who are not gang members.

In Los Angeles, a test program called the Gang Violence Reduction Project achieved a significant reduction in gang-related homicides over a two-year period.<sup>10</sup> Philadelphia used ex-gang members to prevent violent inter-gang confrontations. Their efforts resulted in a notable reduction in gang-related deaths.<sup>11</sup>

In spite of its best efforts, the San Diego Police Department has met with only limited success in dealing with gangs. Traditional methods of law enforcement have not been effective in stopping their growth or tendency toward violence. The urgency of the problem is such that Mayor Wilson has directed this issue to the city manager for immediate action.

Within the San Diego Police Department, the most critical need is coordination. The department's patrol division, juvenile unit, gang detail unit and school task force all deal with aspects of San Diego's youth gang problem. To be effective, the energies of these separate components must be focused into one strategy to combat gang violence.

- 3.18 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO POLICE DEPARTMENT'S PATROL, SCHOOL TASK FORCE, GANG DETAIL AND JUVENILE UNITS DEVELOP A COORDINATED, PREVENTION-ORIENTED STRATEGY FOR REDUCING GANG PROBLEMS.



Handguns accounted for 42 percent of San Diego homicides in 1980.

Most of the following findings and recommendations are directed to San Diego Police Department administrators. Although these recommendations deal with administrative matters, they are no less important than the preceding recommendations, which dealt largely with policy issues.

## Training Of Supervisors

A competent police force is created by the tone and character of leadership demonstrated on a day-to-day basis. Such leadership is not developed through exhortation from higher administrative levels. Nor is it derived by relying upon the gifted few. It is accomplished, in part, by thorough and continuous training in leadership skills.

The Commission found wide support among supervisory and academy personnel for more ongoing training of San Diego police sergeants and lieutenants, who exert considerable influence upon the overall performance of the men and women under their command.

- 3.19 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO POLICE DEPARTMENT REQUIRE ADDITIONAL POLICE SUPERVISORY TRAINING.

## Recognition Of Excellence

As in any joint human endeavor, recognition of work well done not only reinforces the values and ethics that contribute to such behavior, but is also a powerful way of spurring people toward even better performance. In the long run, a conscientious effort by police administrators to foster such a program would cost nothing, but would contribute significantly toward improving both the morale of individual officers and pride in the department as a whole.

- 3.20 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO POLICE DEPARTMENT PROVIDE MORE FORMAL RECOGNITION OF EXCELLENT PERFORMANCE.

## Patrol/Administration Relations

Several officers who spoke to the Commission emphasized the need to make police administrators more aware of problems in the field. San Diego police administrators generally concede there is less than adequate dialogue with field units due to the responsibilities of management and the size of the department.

A program to familiarize top management with individual patrol level officers would help close this communication gap, while providing administrators with an unfiltered look at how department policy is carried out on the street. The Commission endorses a program which would meet these needs.

- 3.21 THE COMMISSION RECOMMENDS THAT SAN DIEGO POLICE DEPARTMENT ADMINISTRATORS REGULARLY MEET AND/OR RIDE WITH PATROL LEVEL PERSONNEL.

## Public Disclosure of Police Officer Discipline

Legislation commonly referred to as the police officer's Bill of Rights protects California peace officers from a number of possible abuses from their own department administration, as well as from the public. The Commission supports the protection offered by these statutes, but feels that the provision which prohibits disclosing the names of disciplined officers works against public confidence and professional integrity.

The Commission believes that the public has the right to know the names of disciplined officers, after all appeal procedures have been exhausted and the disciplinary action stands.

- 3.22 THE COMMISSION RECOMMENDS LEGISLATION TO PERMIT PUBLIC DISCLOSURE OF THE NAMES OF OFFICERS WHO HAVE BEEN DISCIPLINED BY THEIR POLICE DEPARTMENT, WHERE THAT DISCIPLINE HAS BEEN SUSTAINED ON APPEAL.

## Disability Retirement

In fiscal year 1980, disability retirements for safety members — police, fire and lifeguards — cost the City of San Diego \$2,386,000. Currently, the city's retirement office lists some 302 safety members who are drawing disability retirements. The majority of disability retirement costs are attributable to the police department.

A March, 1980 *Los Angeles Times* article about the San Diego Police Department noted:

... should a 25-year-old officer earning \$1,600 a month be awarded disability retirement — \$800 a month — and ... lives to be 70, he would receive nearly \$400,000 in benefits over his lifetime.

These are significant costs to the city. At the same time, the disability retirement program is of obvious importance to its members. For both reasons, this program must be managed as carefully as possible.

- 3.23 THE COMMISSION RECOMMENDS BRINGING THE CITY OF SAN DIEGO'S DISABILITY RETIREMENT PROGRAM IN LINE WITH STATE WORKERS' COMPENSATION LAWS, INCLUDING REGULAR PHYSICAL RE-EXAMINATIONS. MORE EXTENSIVE USE SHOULD BE MADE OF LIGHT DUTY ASSIGNMENTS FOR OFFICERS WHO WOULD OTHERWISE RECEIVE DISABILITY RETIREMENTS.

## Confusion Over Retirement Benefits

In the pay and benefits dispute of 1980, many questions were raised about the fairness of the retirement system for safety members. The Board of Fiscal Overseers studied that system and found it to be both sound and equitable. A safety member who retires at age 50 with 25 years of service receives a monthly retirement of 50 percent of his or her highest three years' salary. After 30 years of service, the retirement rate



jumps to 78.6 percent of the three-year average. The system is comparable to retirement benefits from the California Highway Patrol, the San Diego Sheriff's Department and the U.S. Marshals.

Confusion over retirement benefits should be ended by having the city's retirement officer meet directly with officers to explain the benefits.

- 3.24 THE COMMISSION RECOMMENDS THAT THE CITY OF SAN DIEGO RETIREMENT OFFICER REGULARLY BRIEF POLICE OFFICERS ON THEIR RETIREMENT BENEFITS.

*Citizens play a larger role in crime prevention than all criminal justice agencies combined. Beat cops can patrol the streets, and detectives can investigate serious crimes, but it is the individual citizen who has the biggest say in his or her chances of becoming a victim. The procedures outlined below can appreciably reduce that likelihood.*

**Violent Crimes.** Violent criminals are opportunistic. Given the right circumstances the crime will occur. By being aware, the potential victim often escapes assault.

- Avoid secluded and unlit parking lots, garages and alleys.
- Whenever possible travel with a companion, or with the flow of other pedestrians.
- If followed, walk with confidence to create an aura of assertiveness, thus removing the attacker's psychological edge over a weak victim.
- Park your automobile in well lit areas. Lock the car. When returning, approach the car with keys in hand and check to see that no one is hiding inside.
- In the home, secure doors and windows even in daylight and admit no strangers.
- Carrying deadly weapons to protect yourself is not advised since these weapons are often unreachable at the time of attack and can be used on the victim. Non-lethal deterrents, such as chemical sprays, can be obtained after completion of a simple course which teaches their proper use.
- Women carrying handbags should hold them securely between the hand and armpit, "football style." A loose shoulder strap bag is an invitation to a purse snatcher and can result in serious injury to the owner if she is dragged along with the purse.
- If attacked, remain calm and observant of the attacker until you know what he wants. There are no behavior guidelines to follow beyond this point. There is some indication that screaming, struggling and kicking will cause an attacker to flee. It can also be true that resisting attack when the criminal has a

## Combining Crime Lab Functions

For more than a decade efforts have been made to consolidate city and county crime lab functions. Both the City Council and the County Board of Supervisors support the concept.<sup>12</sup> The advantages of consolidation are numerous: improved services; an end to duplication; opportunities for research and development; and uniform report procedures. Yet the consolidation has failed to take place because of underlying proprietary issues which involve questions of sharing power and authority between the city and county.

*gun or a knife may incite the attacker to use the weapon.*

- If attacked, get a good look at your assailant and his or her car. A license number is invaluable to investigators trying to apprehend the suspect.
- Rape victims should not shower or clean up following an attack. Physical evidence is vitally important in the effort to find and prosecute the assailant.
- After any crime, call the police immediately. Stay on the phone and provide as much information as you can, responding briefly to each question asked by the police operator.

**Property Crimes.** The San Diego Police Department recommends a series of relatively inexpensive housing improvements to deter residential burglary:

- exterior doors of solid wood;
- non-removable hinges on outside of doors;
- secure double doors with both flush bolts and dead bolt; and
- secure garage doors with padlocks or "cane" bolts.

### For Sliding Glass Doors:

- a bar behind the door to stop horizontal movements; and
- flathead screws in the upper track to prevent the lifting of the door off the track.

### For Locks:

- at least a one-inch throw for all bolt locks;
- case hardened steel roller;
- case hardened cylinder guard;
- at least a five-pin tumbler; and
- four-inch long metal strike plate.

### Other Easy Measures Include:

- vary the pattern of lighting in the house when not home;
- never leave new appliance boxes in the trash; and
- make arrangements to have mail, papers and throwaways picked up when on vacation.

The Commission believes that this delay has hurt the overall crime fighting effectiveness of all law enforcement agencies throughout the San Diego region.

- 3.25 THE COMMISSION RECOMMENDS CONSOLIDATING SAN DIEGO CITY AND COUNTY CRIME LAB FUNCTIONS.

## Citizen Crime Prevention

Individual citizens can do a great deal to significantly reduce their chances of becoming a crime victim (see sidebar). Efforts by the public to secure their own homes against intruders are vital in the prevention of both violent and property crimes. Rewards in the form of tax credits and lower insurance rates are excellent incentives for public action.

- 3.26 THE COMMISSION RECOMMENDS THAT THE STATE LEGISLATURE OFFER TAX CREDITS TO OWNERS WHO MAKE SECURITY IMPROVEMENTS TO THEIR HOMES.
- 3.27 THE COMMISSION RECOMMENDS THAT THE PUBLIC BE ENCOURAGED TO INSTALL BURGLAR RESISTANCE DEVICES AND TO SELECT INSURANCE COMPANIES THAT PROVIDE DISCOUNTS FOR SUCH MEASURES.

## Police Dispatch Procedures

Perhaps the most frequent complaint about police service in San Diego and throughout the nation is the length of time it takes for an officer to respond to a call from a victim or witness.

In reviewing complaints about police delays in responding to low priority calls, it was found that police dispatchers do not inform the caller of the approximate time it will take for an officer to reach the scene. To make citizen expectations of police response time more realistic, the Commission urges the department to re-examine dispatch procedures and to emphasize the importance of providing response time estimates.

- 3.28 THE COMMISSION RECOMMENDS THAT SAN DIEGO POLICE DEPARTMENT DISPATCHERS INFORM CALLERS OF THE ESTIMATED TIME THAT IT WILL TAKE TO RESPOND TO A LOW PRIORITY CALL FOR SERVICE.

## Multiprisoner Transport

The San Diego Police Department transports individual or small numbers of prisoners to various jail and detention facilities in patrol cars. The majority of these prisoners go to either the central jail or to the Las Colinas women's jail, and a significant portion of an officer's patrol time is consumed by driving suspects to the appropriate facility. The Commission believes that re-introduction of a large, multi-prisoner transport vehicle would relieve patrol officers of this time-consuming job, if staffed by reserve and/or community service officers.

- 3.29 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO POLICE DEPARTMENT REINTRODUCE THE MULTI-PRISONER TRANSPORTATION UNIT.

## Linking Crime Computer Systems

The Automated Regional Justice Information System (ARJIS) is a computer network which provides every law enforcement agency in the county with access to valuable information on suspects, crimes and field interviews.

Of particular interest to the Commission is the planned linking of ARJIS with the Justice Computer Information System (JURIS) which maintains information on cases being prosecuted by the county's district attorney. Combining these two separate information systems will provide enough information to track offenders from their initial entry into the criminal justice system to final disposition of the case. Without this link, large gaps will continue to exist in the ability of law enforcement agencies to track offenders.

The Commission urges adherence to the plan to link ARJIS and JURIS as an important step in improving the crime fighting capacities of law enforcement agencies throughout San Diego.

- 3.30 THE COMMISSION RECOMMENDS ADHERING TO A STRICT SCHEDULE TO CONNECT THE ARJIS AND JURIS COMPUTER INFORMATION SYSTEMS.

## ARJIS In Action

*While the eyes and ears of police officers remain their best tools, technology has worked its way into policing as it has into every other facet of our lives. The crime analysis unit of the San Diego Police Department employs computer technology to apprehend criminals and pinpoint crime problems. When properly used, it is a remarkably successful crime fighting aid.*

*On June 16, 1980, three people took \$6,000 from the Naval Training Center Chief Petty Officer's mess. Witness information indicated that the suspects left the scene in a green, mid-sized car. The patrol sergeant phoned the crime analysis unit with this information. Within 25 minutes, a possible auto, suspect and address were gathered from the computer and police records. A uniformed officer was sent to the address and the suspect vehicle showed up. A chase ensued, and after the main suspect crashed into several parked cars, he was arrested with evidence from the robbery still in his car.*

## Chapter 4 \_\_\_\_\_ COURTS

### And Justice For All . . .

My work is filled with deceit, incompetence, aggression, and violence . . . Many of my clients are monsters who have done monstrous things. Although occasionally not guilty of the crime charged, nearly all my clients have been guilty of something . . . I see myself as part of a process which is arbitrary, frequently racist, and often brutal . . . sometimes, late at night, I think back several hundred criminals ago when I entered law school filled with high expectations and principles, and I wonder what I have done . . .

—Seymour Wishman,<sup>1</sup>  
defense attorney

While not claiming to represent all lawyers, Wishman's harsh yet poignant indictment of his own profession and of the American court system cannot be ignored. It is a natural — if unsettling — extension of a national commission's assertion in 1973 that the American public's respect for its court system has been replaced by cynicism; that the people are alienated from and suspicious of its operations; and worse, that the courts are not doing their part in the fight against crime.<sup>2</sup>

But many argue that the criminal justice system should not be expected to control crime; that its sole mandate is to do justice.

As the central, crucial institution of the entire system, the criminal court is the arena where justice is carried out. But the American people don't like what they've been seeing in that arena lately. Surprising decisions by the state Supreme Court and media accounts of sensational

cases have helped fan the flames of public outrage at what is perceived to be over-emphasis on justice for the criminal, while justice for the victim and the public is ignored.

Others claim that equal justice for defendants has still not been achieved. The criminal court system, for all its emphasis on individual rights, is composed of many people who do not follow the letter of the law or the Constitution. Legal services obtained by poor people are not, in general, as good as those for the rich. Racism exists in all its despicable forms. Defendants without money remain in jail because they cannot make bail.

### Have The Courts Failed On Both Counts?

Insufficient and unjust as they appear to be, criminal courts generally do an effective job of separating the innocent from the guilty; most of those who should be convicted are convicted and most those who should be punished are punished.<sup>3</sup>

There are exceptions. A black man who spent two years in Folsom Prison for a crime he didn't commit says, "The system is based not on color but on money."<sup>4</sup> His 13-year-old son is confused about how you could be arrested and put in prison if you didn't do anything.

Former Justice William Clark of the California Supreme Court could not understand why his colleagues over-

*The American court system strives to protect individual rights while maintaining a peaceful, orderly society.*



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turned the murder conviction of a man who confessed to killing his parents and his grandfather to collect an inheritance. The Court ruled that the defendant had failed to make "a knowing and intelligent waiver" of his right to remain silent during questioning by police.<sup>5</sup>

Both arguments — that the criminal court system neither dispenses equal justice to defendants nor adequately protects the public — are backed by convincing evidence, some of which is based on exceptional cases that have dramatic impact when reported in the news. The criminal justice system's ability to balance the provision of individual rights and protection of the public is not perfect. The courts seek to maintain this delicate balance through the adversary system of prosecution and defense, through due process procedures, and through appellate rulings.

When the public believes that the balance has been tipped, it is the court system — as the central and most visible arena of justice — that must bolster sagging public confidence in the American system of criminal justice. Whether the roots of dissatisfaction are valid or not, they are there and the courts must respond.

## The Work Of The Commission

It was not the Commission's intent to analyze U.S. or state supreme court rulings or to recommend changes in their policies or procedures. Granted, the liberal character of the current California Supreme Court has raised harsh criticism from law and order legislators, law enforcement officials and an increasingly irate public that faces a rising crime rate and an even more disturbing fear of crime. But objections to appellate and supreme court decisions should not be confused with the problems of local courts.

The Commission focused its attention on our San Diego court system, its problems and achievements, and developed recommendations to solve those problems. We strived for workable and effective local improvements. Realizing the direct power of the legislative branch over the operation of the courts, the Commission has also recommended two statute changes at the state level.

Our quest for justice and the control of crime can and should begin in the local trial courts, and with San Diego's judges, defense attorneys, prosecutors and probation officers.

## The Public's Right To Know

The Commission found that what is true throughout the country is also true in San Diego: the public knows very little about how the court system works. When that knowledge is limited to media accounts of dramatic and exceptional cases or fourth- and fifth-person retellings of courtroom experiences, distrust and distortion may result.

Exceptional cases and apparent miscarriages of justice are conspicuous, but not typical. While improvements can and should be made in many areas of court operations, the public doesn't see the thousands of cases that are handled as they should be. Nor do most people understand court procedures or new laws. Unfortunately, the public is as unclear about the real problems of the court system as it is about its successes, its effective functioning, its basic procedures and its policies.

In a recent nationwide survey conducted for the National Center for State Courts, three out of four citizens admitted that they know either very little or nothing at all about state and local courts.<sup>6</sup> As dramatic proof, the survey found that:

- 37 percent of the public incorrectly think it is the responsibility of persons accused of a crime to prove their innocence; and
- 30 percent incorrectly believe that a district attorney's job is to defend an accused criminal who cannot afford a lawyer.

Some criticism of courts is well-deserved. Off-the-mark appellate and supreme court decisions, unnecessary trial court delay, poor treatment of victims and witnesses, inefficient and antiquated procedures, overly lenient or harsh sentences, and unequal treatment based on race, age or sex are very real defects in courts throughout the country. But the strained relationship — the suspicion and the cynicism — between the people and the courts designed to serve them is in large part a result of the public's lack of information. And the court system itself is clearly to blame for this.

Judges, prosecutors, and defense attorneys, in San Diego and elsewhere, have kept their court system a private and exclusive club. Unlike most law enforcement activities, court processes are generally not visible to the public. Policies, even when written, are not published. Information about basic procedures and court improvements is not widely disseminated.

The San Diego court system probably has as much if not more positive results and clear successes to report to its county residents than any other local court system in the country. As a visiting staff attorney for the State Bar of

## The San Diego Legal System: You Should Know . . .

**ITEM:** Because of its success in getting habitual criminals off the streets and into prison, San Diego's Major Violator Unit of the District Attorney's office was designated an exemplary project by the National Institute of Justice. In its first four years of operation, 96 percent of the defendants it processed for robbery were convicted without a reduction in the charge against them. Average sentences (8.8 years) were more than double the 4.3 years average given to habitual criminals before the project began. Every convicted defendant was incarcerated.

The following was a typical case handled by the Major Violator Unit.

*A murder and a wave of robberies and rapes had terrorized a wealthy residential neighborhood in the North County area of San Diego for months.*

*Then a tip from the drug subculture led the sheriff's office to two suspects, each with a long history of arrests and convictions.*

*Familiar with the ways of the criminal justice system, the two were confident they'd be released on bail. To them, plea bargaining was "the name of the game" and short prison sentences the likely outcome.*

*What they didn't know was that even before they were arrested, the sheriff's office learned that the pair had been branded "career criminals"*

*by the San Diego Major Violator Unit, and cell doors were about to slam behind them for a long time.*

*Both suspects tried to plead to reduced charges, but the prosecutor would not bargain. One took a chance and went to trial. He was convicted of all major counts and sentenced to life. The other pleaded guilty to all major counts and was sentenced to 14 years.<sup>8</sup>*

**ITEM:** The San Diego County Municipal Court Experiment, in which judges in all four municipal courts in the county are permitted to hear superior court matters, was praised by an independent evaluator as a "cost-effective and time-efficient means of processing felony criminal cases, which has resulted in a reduction in the criminal case workload of the Superior Court." The evaluation report recommended expansion of the experiment to other jurisdictions in the state.

**FACT:** For the most part, courts do not decide guilt or innocence. In San Diego County in 1979, according to the Bureau of Criminal Statistics, 96 percent of those convicted of a felony had pleaded guilty or no contest.

**FACT:** The Bureau also noted that it took an average of 183 days from time of arrest to be acquitted and 154 days to be convicted in the San Diego Superior Court in 1979. A conviction by jury trial took an average of 219 days from time of arrest. A conviction by guilty plea took 112 days.

THE JUDICIAL SYSTEM WORKS, INCLUDING BASIC PROCEDURES AND SYSTEM PROBLEMS AND SUCCESSES.

## Juvenile Crime: Our Biggest Problem?

America's crime problem is its youth problem and vice versa.<sup>9</sup>

Responding to increasing local and nationwide concern about juvenile crime and the perceived leniency of the courts in dealing with youngsters, the Commission focused a great deal of attention on the juvenile justice system and on juvenile crime in San Diego. We found both good news and bad news.

The juvenile arrest rate — arrests per 1,000 juveniles — for the seven major offenses (homicide, rape, robbery,

California told the Commission, "I want you to let San Diego citizens know that its court system is light-years ahead of the other counties in California."<sup>7</sup> James Q. Wilson told us that the San Diego District Attorney's Office is "well known throughout the country" for one of its highly successful special prosecution programs.

Neither this project's dramatic results nor those of a recent experiment designed to increase court efficiency was actively and widely publicized by the court administration or the prosecutor's office. Public confidence and trust will only result from greater knowledge about local court improvement efforts and successes, as well as a clearer understanding of important court concepts such as plea bargaining and determinate sentencing.

- 4.1 THE COMMISSION RECOMMENDS THAT ALL AGENCIES WITHIN THE COUNTY LEGAL SYSTEM DEVELOP A PROGRAM OF PUBLIC EDUCATION TO IMPROVE UNDERSTANDING OF HOW

assault, burglary, theft and motor vehicle theft) is the lowest it has been in San Diego County since 1973.<sup>10</sup> Although it increased through each year of the late 1960s and early 1970s, the juvenile arrest rate peaked in 1974 and has since been relatively stable. The overall change since 1973 has been a mere three percent increase; the change since 1974 reflects a six percent decrease. Theft is the only crime by juveniles that shows a clear and constant increase in its arrest rate. The 1979 juvenile arrest rate for theft was higher than it's ever been.

### A Note of Caution About Juvenile Arrest Statistics

*Arrest rates are not perfect indicators of the level of crime.*

*People can and do commit crimes without being arrested. Others are arrested and not charged.*

*Juveniles are much more likely than adults to be arrested in groups, inflating juvenile arrest statistics.*

*Law enforcement staffing levels and policies greatly affect arrests. Changes in policy from one year to the next can easily change numbers and types of arrests.*

*Unfortunately, when offender characteristics are needed for analysis, arrest rates are the only answer. They serve as a general indicator of offenses committed, but should be interpreted with caution.*

**Still Worse Than They Should Be.** The fact that juvenile arrest rates have stopped leaping every year is no cause for complacency. We still have a tremendous juvenile crime problem. Juveniles are still arrested for a grossly disproportionate percentage of some very serious crimes.

Although juveniles ages 10-17 make up only 12.5 percent of the total county population,<sup>11</sup> they accounted for 40 percent of all arrests for crimes against property and 21 percent of all arrests for violent crimes in 1979.<sup>12</sup>

As adult arrest rates continue their upward trend and juvenile rates stabilize or decrease, the percentage of crime committed by juveniles becomes smaller. But the fact remains that an eighth of San Diego County's population is still arrested for more than a third of all major offenses here. An analysis of juvenile arrests by offense is displayed in Figure 4.1.



*Our inability to deal effectively with young offenders guarantees an adult crime problem that will outstrip any that America has known to date — A national task force on juvenile justice.*

**And They Don't Stop.** Arrest statistics for young adults — ages 18-24 — indicate that far too many juvenile offenders are not deterred from continuing their criminal behavior. Almost 44 percent of all those arrested in 1979 in San Diego County for violent crimes were young adults ages 18-24. Yet this age group makes up less than 16 percent of the county population.<sup>13</sup> These young adults are arrested for homicide at a rate five times greater than juveniles, for rape at a rate four times greater, and at almost double the juvenile rate for robbery.

What is clear is this: it is the juveniles — the 14, 15, 16, and 17-year-old offenders who go through the juvenile justice system first — who become these young violent criminals. The juvenile justice system has not been able to steer many young offenders away from crime or, most frighteningly, from acts of violence.

To experts and the public alike, this country's juvenile justice system has failed. We are now at the mercy of those young and vicious criminals this special system was designed to help. Our inability to deal effectively with young offenders, in the words of a national task force on juvenile justice, "guarantees an adult crime problem that will outstrip any that America has known to date."<sup>14</sup>

### Juvenile Justice: A Fairy Tale That Never Came True

To say that juvenile courts have failed to achieve their goals is to say no more than what is true of criminal courts in the U.S. But failure is most striking when hopes are highest.<sup>15</sup>

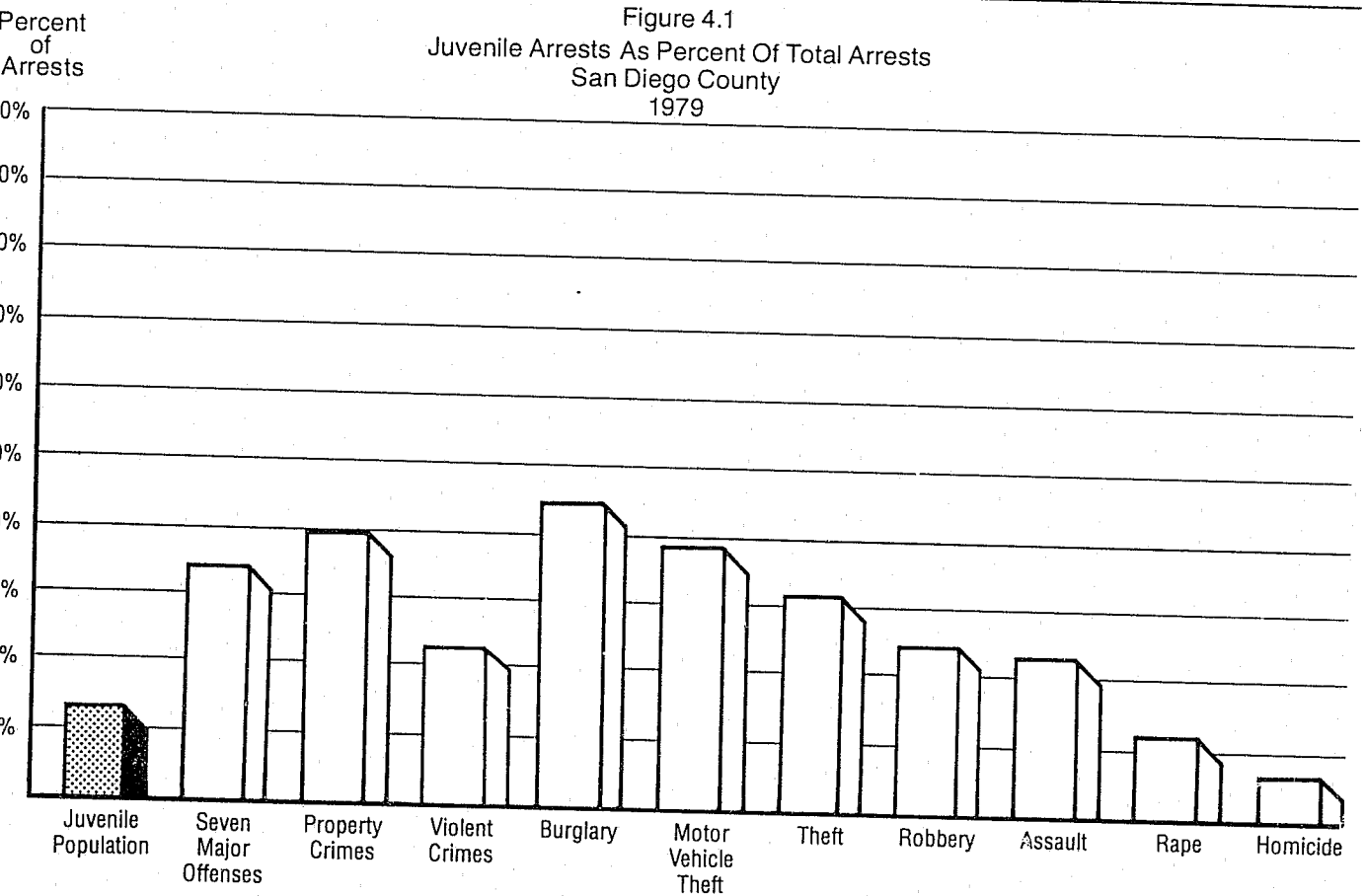
The first American juvenile court was established in 1899 as a paternalistic and informal arena within which the state could intervene easily in the lives of children deemed delinquent, wayward, ungovernable or unpro-

tected. It was originally designed more as a social agency than a court of law.

The court's objective was to treat rather than punish. Its founders sought to avoid the punitive, adversary and formalized trappings of the adult criminal process, with all its complex legal rules. There were no juries, no attorneys. Judges were to act as wise parents, "disciplining their children in love and tenderness."<sup>16</sup> Actually, the court had almost unlimited discretion to do whatever it deemed necessary to set a child straight.

The lack of procedural safeguards ensured that the juvenile court would betray its own intention to act in the best interest of the child; it eventually became an institution that was arbitrary and unfair.

More disastrous was the juvenile court's inability to successfully intervene in the lives of young offenders. Its treatment philosophy was doomed to failure by a striking lack of knowledge — which persists to this day — about how to predict, treat, and prevent delinquency.



SOURCE: Bureau of Criminal Statistics



**The Road to Recovery?** While procedural safeguards have since been adopted for juvenile court proceedings,<sup>17</sup> and the treatment of truants and runaways has been legally differentiated from that of delinquents,<sup>18</sup> there is still no consensus on what to do about juvenile offenders.

In the absence of proven treatment programs — while the experts disagree among themselves — the legislature has taken over, as it has with adults, proclaiming a get-tough stance and a renewed emphasis on retribution.

California's "Dixon Bill," in effect since 1977, stipulates that 16- and 17-year-olds charged with specific violent felonies must be handled in adult court unless the judge determines they are amenable to treatment in juvenile court. A more recent California law eased the transfer of 16- and 17-year-olds to adult court jurisdiction. And as of January, 1981, juvenile proceedings for certain serious crimes are no longer closed to the public.

Juveniles who are repeat or violent offenders (in Colorado), or have committed a serious felony (in Delaware and Washington), are subject to a minimum sentence in a juvenile facility.

While some are calling for even more severe sanctions for juveniles and a further alignment with the adult system's procedures (including lowering the age at which an offender may be tried in adult court), others are decrying the new punitive approach. They are calling for the use of more community-based alternatives and innovative treatment programs — and even total diversion from what they feel is a destructive corrections system. "Get-tough policies may temporarily quiet the public's fears," says the National Council on Crime and Delinquency, "but they have never worked."<sup>19</sup>

A recent and controversial study by Charles Murray and Louis Cox argue that in fact harsher sanctions do work, presenting evidence that correctional interventions cause reductions in arrests of previously chronic offenders, and that more serious sanctions — including incarceration — are more effective than ones that leave the delinquent at home.<sup>20</sup> The validity of these findings is still being debated.

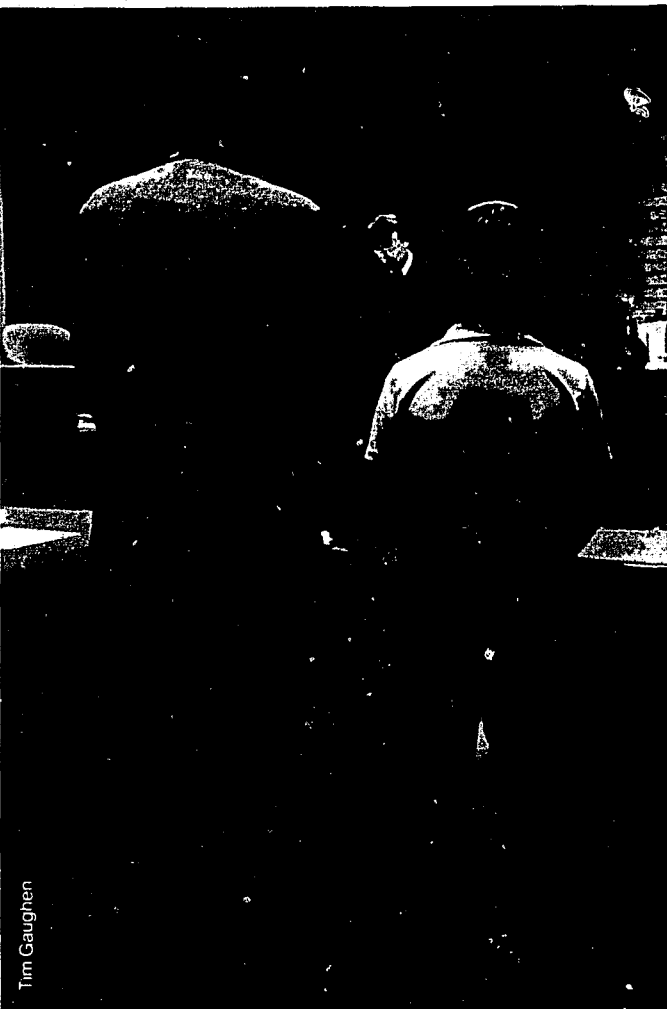
Meanwhile, a myriad of hastily-conceived and reactive legislation — combined with a disheartening lack of knowledge about how to treat juvenile offenders — has turned the juvenile justice system into a confused and scarred battleground of conflicting philosophies and warring camps.

*Young offenders must be exposed to clear and certain consequences for their criminal acts.*

The Commission believes that the confusion and inconsistency of the recent tumultuous years in juvenile justice must be resolved. Rather than piecemeal legislation, what is needed is a logical course of action based on well thought out theories of juvenile delinquency and its prevention.

**Make Them Accountable.** The juvenile justice system need not choose between harsher sanctions and community-based alternatives. For some habitual or violent juvenile offenders, tougher handling, including incarceration, may be appropriate. For others, including property offenders and those who commit lesser crimes: fines, restitution to victims, community service work, remedial education, drug treatment or other rehabilitative programs may be more beneficial.

While our juvenile justice system has played its hand with each of these, its tragic flaw is inconsistency, missing what should be the system's central core: *young offenders should be exposed to clear and certain consequences for their actions.* Not necessarily harsher sanctions, but definite and sure acknowledgement that they have done something wrong and that they are accountable. The consequences should and must be proportionate to the crime, the criminal history and the age of the offender.



Tim Gaughen

This conclusion is supported in part by the belief that delinquents tend to come from family backgrounds in which discipline is inconsistent.<sup>21</sup> It is also drawn from logical assumptions about why the chronic offenders studied by Murray and Cox changed their delinquent behavior when subjected to any sanction: they realized that society was finally taking them seriously. Currently, San Diego County law enforcement officers, victims, and others tell countless stories of juvenile offenders arrested four or five times, or more, before they are dealt with formally.

**Certain and Graduated Penalties.** In 1977 the state of Washington adopted a new juvenile code, the core of which is a detailed system of dispositions for convicted juvenile offenders. The juveniles receive a numerical

score for the offense, their previous criminal history and their age. Graduated penalties are based on this score, with some discretion afforded to judges. Certain scores result in mandatory incarceration. The law mandates diversion — which can include restitution and community service — for most nonhabitual misdemeanor offenders. Low scores prohibit incarceration; instead, the offender must make restitution to the victim, pay a fine and/or do a prescribed number of hours of community service work without pay.

In addition to ensuring that juvenile offenders are held accountable for their behavior, this plan virtually eliminates unfair sentence disparities, and is consonant with the criminal justice system's declared goal: justice for the offender, for the victim, and for society.

*Examples of Computed Sentences  
State of Washington  
Juvenile Code*

Case	Age	Offense	Prior Offenses	Sentence
#1	17	Armed robbery	None	• 103-129 weeks institution time
#2	16	Attempted burglary	None	• 60-90 hours community service work • Maximum \$75 fine • Maximum 9 months probation
#3	14	Attempted rape	None	• 8-12 weeks institution time
#4	15	First degree burglary	None	• 8-12 weeks institution time
#5	15	Possession of stolen property	Possession of stolen property Auto theft	• 100-150 hours community service • Maximum \$100 fine • 20-30 days detention • Maximum one year probation • No institution time
#6	15	First degree (residential) burglary	Attempted first degree burglary	• 21-28 weeks institution time

SOURCE: Revised Code of Washington, 1979, State of Washington

While the state of California need not attempt wholesale adoption of Washington's code, notices of its success are an encouraging inducement to use the plan as at least a general guide in enacting similar legislation.

The joint work of the American Bar Association and the Institute of Judicial Administration to develop standards for juvenile justice also concluded that sanctions should be proportional to the offense, and determinate in type and duration.<sup>22</sup> These standards may prove helpful in drafting the suggested legislation to overhaul California's confused juvenile justice system, eliminating the need to

continue the frantic production of a hodgepodge of patchwork laws.

4.2 THE COMMISSION RECOMMENDS THAT THE STATE LEGISLATURE REVISE THE CALIFORNIA JUVENILE COURT LAW TO REFLECT UNIFORM, CERTAIN AND GRADUATED PENALTIES. LOCALLY, A TASK FORCE SHOULD BE CREATED TO ENSURE LOCAL ADOPTION OF THIS PHILOSOPHY AND TO IMPLEMENT STATE LEGISLATION.



Legislation has been proposed to give district attorneys full and direct authority to prosecute on juvenile felony arrest.

**Authority for Juvenile Prosecution.** The California law that in 1977 brought a prosecuting attorney into Juvenile Court (Dixon Bill) created a confusing overlap of power between the probation department and the prosecutor. The probation department receives all juvenile offender referrals from law enforcement and other agencies, and as "middleman" decides whether or not to request that the District Attorney's office formally charge the juvenile by filing a petition in juvenile court. The prosecutor can overrule the probation department decision not to request a petition only if police appeal the case.

This procedure is not only a paperwork tangle, but is inappropriate for dealing with serious juvenile crimes. The probation department's decisions are based on the old individualized treatment and rehabilitation philosophy of juvenile justice, which has proved impotent in the fight against juvenile crime, and contradicts our call for consistent and uniform treatment of juvenile offenders.

San Diego Juvenile Court Judge Dennis Adams, in a letter to the State's Senate Judiciary Committee,<sup>23</sup> has proposed legislation that would take the probation department out of the filing procedure for juveniles charged with felony offenses. The law would give the probation department sole filing authority in juvenile misdemeanor cases. We support Judge Adams' proposal.

4.3 THE COMMISSION RECOMMENDS THAT THE STATE LEGISLATURE GRANT DISTRICT ATTORNEYS FULL AUTHORITY TO FILE ON ALL FELONIES WHERE THE CRIMINAL OFFENDER IS 16 OR OLDER, AND ON ALL BURGLARY, VIOLENT CRIMES AND SECOND-TIME FELONIES, REGARDLESS OF THE DEFENDANT'S AGE.

## The Future Of Probation

Our report reflects recent changes in juvenile justice philosophy. Realignment of system goals and other reforms have created confusion about the current role and future function of many agencies within the juvenile justice system. Most notably, probation departments now face increasing and conflicting demands.

Probation's original "child protection" theory may be inappropriate for making prosecution decisions about serious juvenile offenders, but these problems can be resolved legislatively, as proposed in this report. The probation department's larger potential as a powerful and valuable investigative, service delivery and supervisory agency need not falter, however, in the wake of legislative and philosophical changes.

In San Diego, the County Board of Supervisors has consistently whittled the probation department budget, restricting its ability to provide adequate services and carry sufficient staff. Its overburdened personnel are demoralized and frustrated. As its ability to provide services diminishes, so does its perceived effectiveness, and the rationale for budget slashing is perpetuated.

It is the Board of Supervisors' responsibility to ensure that objective evaluation of results replaces perceived effectiveness as the basis for allotment of funds to the probation department. It is the probation department's responsibility to define its own goals and objectives, both overall and for its specific programs, so that evaluation of success is possible. The probation department's role within the system and its overall goals should be agreed upon by the agencies with which it interacts.

4.4 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO COUNTY BOARD OF SUPERVISORS PROVIDE ADEQUATE FUNDING FOR THE SAN DIEGO COUNTY PROBATION DEPARTMENT BASED UPON RIGOROUS EVALUATION OF CLEARLY STATED GOALS AND OBJECTIVES. THE PROBATION DEPARTMENT SHOULD ENSURE THAT A WELL-DEFINED STATEMENT OF ITS ROLE, OBJECTIVES AND GOALS IS CONVEYED TO AND UNDERSTOOD BY THE AGENCIES WITH WHICH IT INTERACTS.

## Juvenile Diversion

As conceived by the Commission, the new juvenile court law would still allow the probation department to divert certain juveniles from the justice system. Juveniles charged with a misdemeanor, and those under 16 charged with a first-time felony other than burglary or a violent offense, will still come under the authority of the probation department, which still may, based on the individual case, decide not to request a petition to pursue prosecution.

In many cases, this would be a just and fair decision. Many juveniles need not undergo formal adjudication before a judge. But if they could have been legally prosecuted, these youngsters should still experience clear and certain consequences for their actions. More importantly, they should be exposed to a counseling, vocational or educational service agency that could be of assistance to them and, or their families.

Current state law allows a probation officer to offer counseling, drug treatment and other social services to juveniles and their parents in lieu of requesting that a petition be filed by the prosecuting attorney.<sup>24</sup> A formal contract — specifying that a petition may be filed if the juvenile does not participate in the program within 60 days — is signed by the youngster and his or her parents. The probation officer supervises and monitors the juvenile's progress during the program, which may not exceed six months.

The law requires a report by the participating social service agency to the probation department at the conclusion of the "informal supervision" program. The law does not mandate assessment of the agency by the probation department. Nor does it call for long-term evaluation of juvenile offenders' success in coping with their problems and staying out of trouble.

The informal supervision program is a valuable alternative to simply closing the case and sending the offender home. Yet of all juveniles referred to probation in 1979, only two percent were placed in informal supervision. More than 66 percent of all referrals were simply closed; it seems likely that many of these were indeed prosecutable, and should have entered the program.

In 1980 the probation department expanded the supervision program somewhat, but it should continue to ensure — by developing consistent guidelines for its intake officers — that most diverted juveniles are exposed to this valuable program.

It is also vital that the probation department begin formal evaluation of service agency performance, cooperation and success. Follow-up of juveniles who have completed the program should be a major evaluation component.

4.5 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO COUNTY PROBATION DEPARTMENT EXPAND ITS INFORMAL SUPERVISION PROGRAM, AND CAREFULLY EVALUATE AGENCY PERFORMANCE AND OFFENDER SUCCESS. THE PROGRAM SHOULD BE MONITORED BY AN INDEPENDENT GROUP FOR A PRESCRIBED PERIOD OF TIME.

## Family Court

In addition to bringing about philosophical changes in the goals and theories of juvenile justice, concern about juvenile crime has caused court experts to re-think the organization and structure of juvenile courts themselves.

One such proposed change is based in part on the observation that family problems, including divorce, child

abuse and neglect, are often related to a juvenile's delinquent behavior. Many families appear in court several times within the span of a few years to settle more than one of these problems.

Yet in San Diego and elsewhere, juvenile matters — delinquency, dependency, neglect, adoption — are not handled by the same court that deals with domestic relations — divorce, separation, custody, support. Although both sets of cases fall under the legal jurisdiction of the San Diego Superior Court, the Juvenile Court is physically separate, and its judges hear only juvenile issues.

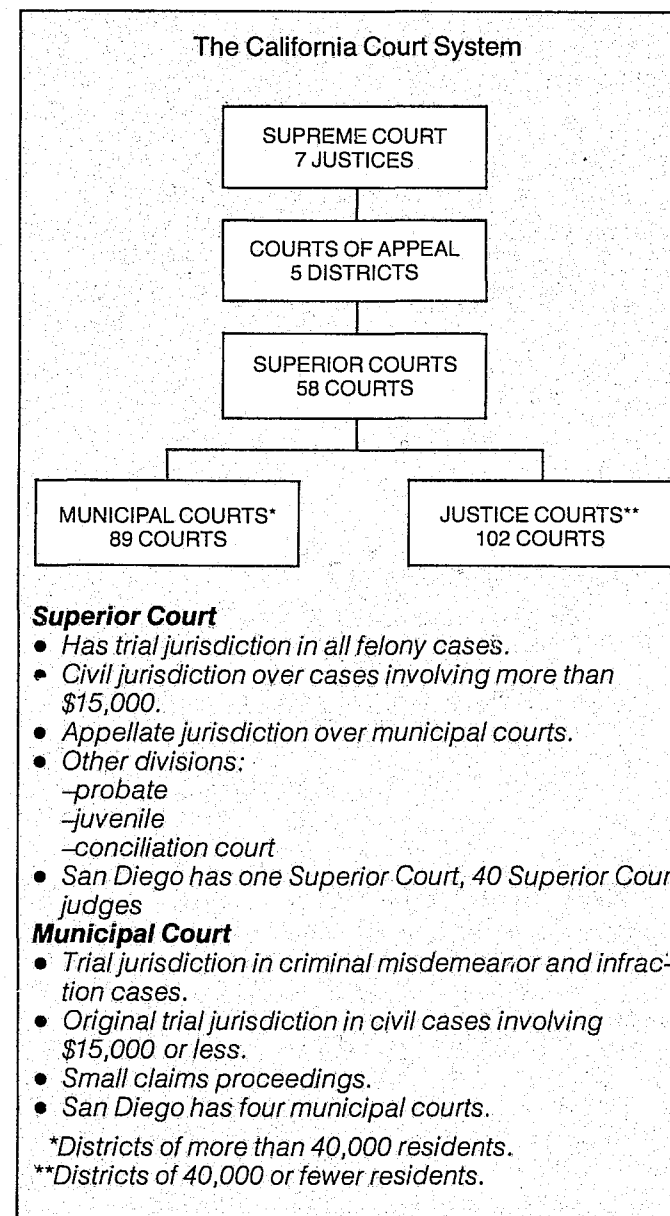
Conflicts among judicial orders may occur when different courts deliberate on matters concerning the same child or family. A custody award on a delinquency case in juvenile court may be inconsistent with a decision made during the parents' divorce case in another court. Parental visits may be banned by one court, allowed by another.

Consistent treatment of youngsters is compromised. Court efficiency is also sacrificed. Separate courts often maintain duplicative records of legal transactions involving the same parties. Adult probation may investigate a custody battle while juvenile probation has already made a report in juvenile court.

Some suggest that the consolidation of all family-related legal matters into one court will improve both the quality of legal decisions for families and the efficiency of court operations.<sup>25</sup> The Commission agrees. A family court would help to avoid conflicting judicial orders as well as time-consuming and expensive duplication of social service and clerical resources.

Unfortunately, evaluations of existing family courts — in Hawaii, Rhode Island and Washington, D.C. — have not been done. The Commission believes that San Diego should therefore serve as an experimental site for a family court before statewide adoption of the concept. Formal evaluation of the court's effectiveness in dealing with juvenile and family problems should be an important component of the experiment.

4.6 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO SUPERIOR COURT IMPLEMENT A PILOT STUDY TO TEST THE EFFECTIVENESS AND FEASIBILITY OF A FAMILY COURT IN SAN DIEGO.



## Alternative To Court: The Neighborhood Justice Center

Modifying the organization of court systems can only go so far in increasing their efficiency. Crime is on the rise, and courts are overburdened with cases. Court dockets are crowded. Hearings and trials are delayed. Delays, whether causing the accused to be detained in jail or free

on the street, do justice to neither defendants nor to society.

Alternative means of handling domestic, neighborhood, certain juvenile, small claims and other such disputes can clear clogged court calendars for timely and efficient handling of more serious cases.

For those involved in these disputes, the use of mediation hearings instead of formal court processing may provide more satisfaction at less expense in both time and money. In 1980, Congress called for the development of alternative mechanisms for resolving such cases, declaring that "Rights become illusory if adjudication is too long delayed or the value of a claim is consumed by the expense of asserting it."<sup>26</sup>

Neighborhood justice centers, where trained mediators resolve a variety of disputes, have already been established in many cities throughout the country. All have somewhat different means of operation and jurisdiction. Many handle only certain types of cases; some deal with a wide range, including criminal matters of assault, criminal mischief and larceny. Most have glowing self-reports of success, including evidence of reduced court workload, shorter time span for solution of problems, and wide community acceptance.

Three neighborhood justice centers were established as experimental projects in Atlanta, Kansas City and Los Angeles by the U.S. Department of Justice, to objectively test the feasibility and effectiveness of the mediation concept. The findings of the 18-month field test and evaluation revealed that:

- Neighborhood Justice Centers (NJC) resolve disputes more quickly — in one to two weeks, on the average — than the courts;
- NJCs are capable of handling a wide variety of minor interpersonal disputes, including interpersonal/criminal cases involving families, friends and neighbors, as well as civil/consumer disputes between landlords and tenants, consumers and merchants, and employers and employees;
- the centers attracted and handled a respectable number of cases, revealing that they are responding to a genuine public need;
- a large majority of agreements were still being observed six months after being made; and
- judges were unanimous in stating that the NJCs facilitated the processing of cases in their courts.

*Criminal courts are often needlessly confusing to victims and witnesses.*

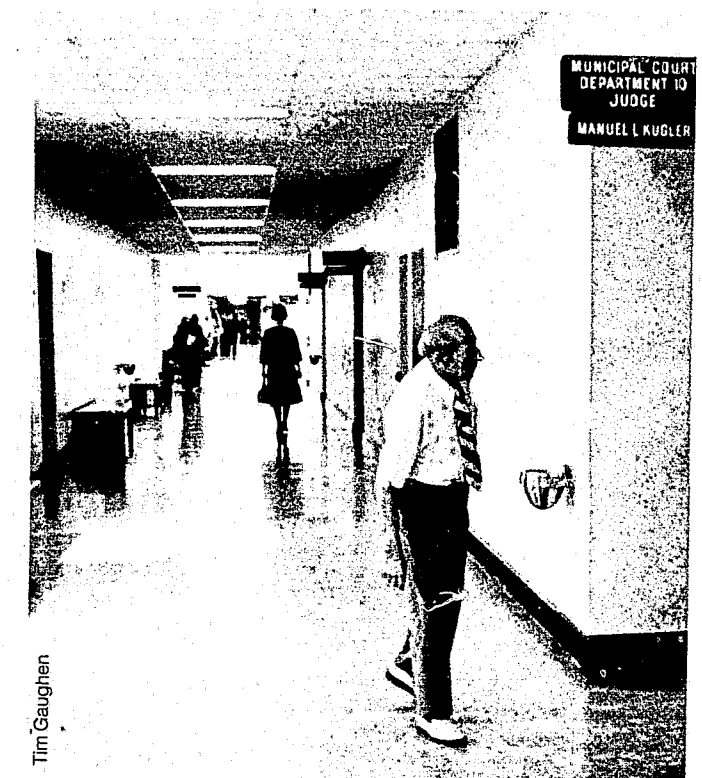
The evaluation report concluded that alternative dispute resolution "meets important public needs while serving to humanize the system of justice in this country."<sup>27</sup>

4.7 THE COMMISSION RECOMMENDS THAT NEIGHBORHOOD JUSTICE CENTERS BE ESTABLISHED AS PILOT PROJECTS IN SEVERAL SAN DIEGO COMMUNITIES TO HELP RESOLVE SELECTED DOMESTIC, NEIGHBORHOOD, CONSUMER AND JUVENILE-RELATED DISPUTES THROUGH QUALIFIED VOLUNTEER MEDIATORS. SCHOOLS AND CRIMINAL JUSTICE AGENCIES SHOULD BE ENCOURAGED TO REFER INDIVIDUALS TO THESE CENTERS.

## Victim/Witness Assistance

Criminal courts are run for the convenience of judges and lawyers, not of victims, witnesses, or defendants.<sup>28</sup>

Victims and witnesses often take a back seat to the court system's other concerns. Some suggest that improved treatment of victims and witnesses would increase their willingness to cooperate with police and prosecutors, and therefore reduce the rate of case dismissals caused by noncooperation. Recent research findings show no



Tim Gaughen

such effect.<sup>29</sup> Victim/witness programs did not have an impact on dismissal rates.

The extent to which noncooperation affects case prosecution is often exaggerated. Of all felony arrests tracked in San Diego County in 1979, only four percent were not prosecuted because the victim refused to prosecute or because a witness was not available.<sup>30</sup>

Yet if the criminal court is to succeed in building public confidence in the judicial system, to engender trust, to chip away at cynicism, and to carry out its mandate to dispense justice for all, then adequate treatment of victims and witnesses must be given more attention. When defender services are given precedence over victim services, the public has an understandably hard time accepting it.

During the course of the Commission's research, the San Diego District Attorney's office received a state grant to establish a Victim/Witness Assistance Project, providing expanded services to all county crime victims and prosecution witnesses. These services include crisis intervention, transportation to court, explanation of the criminal process, referrals to appropriate agencies, and assistance with state victim compensation forms.

The Commission strongly supports and commends this move. The program addresses most of the deficiencies we identified in our investigation. However, the court's lack of adequate physical facilities for victims and witnesses is still a concern.

- 4.8 THE COMMISSION RECOMMENDS THAT THE COUNTY ESTABLISH A RECEPTION CENTER IN THE COURTHOUSE TO SERVE AS A SAFE AND CONVENIENT PLACE FOR VICTIMS AND WITNESSES TO WAIT.

## Juror Parking and Waiting Areas

Ensuring adequate facilities for those who serve the courts by sitting on a trial jury is as important as improving the treatment of crime victims and witnesses. The courts have a responsibility to provide jurors both courtesy and comfort.

Most citizens' only contact with the criminal justice system is on jury duty. Often, the complex procedures and the hurried movements of those who work in the courts is confusing and unsettling to these outsiders. While much of this cannot be avoided, the courts can and should make some changes in what could be a harrowing experience for a citizen serving the court system as a juror.

Strangely enough, the complaint we heard most often from jurors was not what went on inside the court, but the lack of adequate inexpensive parking near the downtown courthouse.

- 4.9 THE COMMISSION RECOMMENDS THAT THE COUNTY PROVIDE ADEQUATE PARKING ARRANGEMENTS AND WAITING AREAS FOR JURORS.

## Police Legal Training

More felons would be convicted . . . if detectives did a better job of collecting evidence and presenting it to the prosecutor; in good measure, the courts are taking the blame for what the police fail to do.<sup>31</sup>

The fact that the District Attorney's office refused to issue a formal complaint on 20 percent of all complaints requested by law enforcement agencies in San Diego County in 1979 was cause for concern on the part of both police and prosecutors.<sup>32</sup> Their concerns are not the same, however.

On one side, the police claim that the District Attorney's complaint issuing policies are different for each type of crime and are not openly stated, keeping police in the dark about what they must do to ensure prosecution.

The District Attorney's office counters that police arrest reports often leave out information or evidence that attests to the legal sufficiency of the case, and that some reports show that police did not adhere to due process procedures during arrest. In either case, the formal complaint is denied.

The Commission's aim was not to investigate the agencies involved in order to discover a culprit. The legal restrictions, the amount and type of discretion, and the criteria for decision-making are different for police and prosecutor. They act as counterforces balancing each other's power, helping to ensure protection of the individual's constitutional rights.

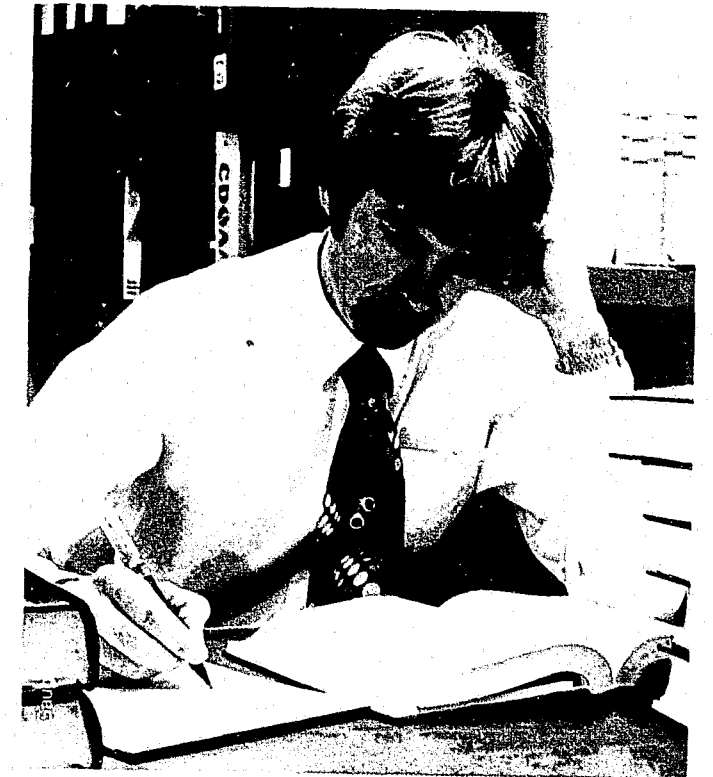
The constraints on law enforcement officers involve following proper procedures for due process in questioning a suspect, investigating a crime scene, searching an individual or house, seizing evidence and making an arrest. If due process is violated, the District Attorney's office must refuse to prosecute.

But police officers, among their many other duties, have an enormous task in keeping up with ever-changing laws and appellate and supreme court interpretations of what they can and cannot do. Esoteric and confusing legal terminology only makes it worse. The law involving searches and seizures has become so complicated that a two-volume, thousand page publication explaining the laws and rulings has already been completely revised since its release in 1972.<sup>33</sup>

Continuous legal training for police officers is necessary to keep them up-to-date on the current laws regulating their behavior. This training should also include report-writing skills, to ensure that police officers communicate the facts of each arrest and investigation as accurately and as clearly as possible in their written reports. Prosecution of offenders is often hindered by poorly written reports.

The Commission believes that an inservice legal training program would have its greatest impact in the San Diego Police Department, whose officers make more than half of all felony arrests in the county.<sup>34</sup>

- 4.10 THE COMMISSION RECOMMENDS THAT THE SAN DIEGO POLICE DEPARTMENT RE-EMPHASIZE INSERVICE LEGAL TRAINING FOR ITS BEAT OFFICERS AND INVESTIGATORS. IN ADDITION TO LEGAL ISSUES, ACCURATE AND ADEQUATE REPORT-WRITING SHOULD BE STRESSED.



*Police officers must be kept up-to-date on the ever-changing, complex laws regulating their behavior.*



## Chapter 5 **CORRECTIONS**

### **A Renewed Goal: Protecting The Public**

If he who breaks the law is not punished he who obeys it is cheated.<sup>1</sup>

Corrections has not always been viewed simply as a way of punishing criminal offenders or keeping them off the streets. The prisons, jails, probation and parole departments, reform schools and work camps that comprise the corrections system were also designed as vehicles for rehabilitation — for correcting deviant behavior so that offenders could re-enter society as well-adjusted and productive citizens.

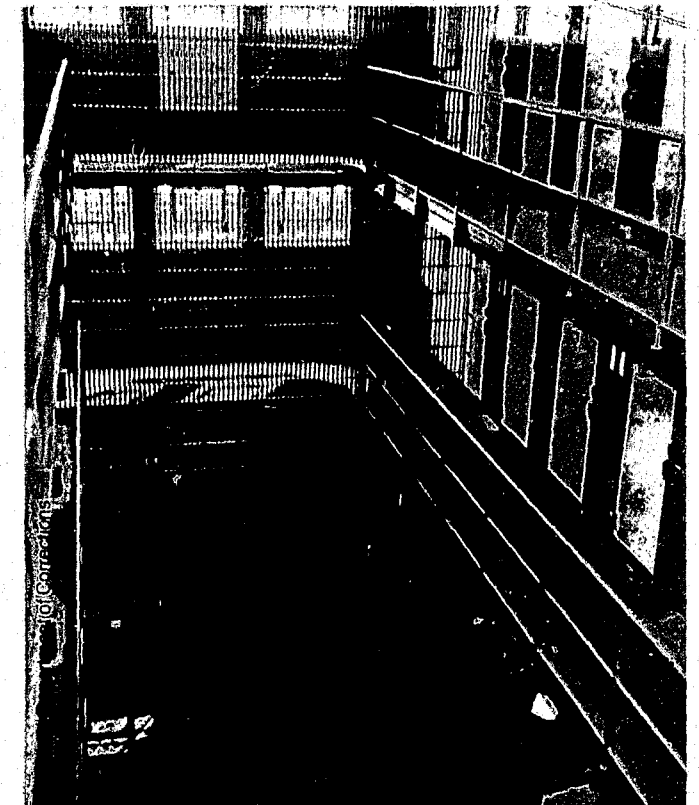
Well, it seems to have failed at that. More than two-thirds of those released from prison will be arrested again. And the recidivism rate — the proportion of those *convicted* for committing new crimes after release — is one-third.<sup>2</sup> In spite of the fact that we lock up more criminal offenders per capita — and for longer periods of time — than any nation except the Soviet Union and South Africa, our crime rates continue to soar.

This failure — the revolving doors that our prisons and jails have become — has caused a re-thinking of corrections' role in the criminal justice system. Since it so clearly has not worked for most serious offenders, rehabilitation has been generally abandoned as a goal. Attempts to "cure" offenders of their criminality must now take a back seat to protection of the public. Criminals must be held accountable for their crimes.

### **The Prison Problem**

California was one of the first states to embody the new retributive philosophy in its laws. In the language of its Determinate Sentencing Law (DSL), which went into effect in 1977, "The purpose of imprisonment for crime is punishment." A study of the DSL's effects attributes nearly half the recent increases in state prison populations to the new law.<sup>3</sup> While another report claims that the increases are not due to the DSL,<sup>4</sup> it is agreed that a greater percentage of convicted felons are now going to prison than ever before. This fact alone warrants close scrutiny of — and solutions for — the corrections system's often overlooked problems.

Overcrowding of prisons and jails, escalating costs of facilities construction, inhumane conditions and lack of primary care services cannot be tolerated. If our communities are to be protected by incarcerating greater numbers of offenders, we must be willing to face the challenge of improving a corrections system that is in disar-



*The United States locks up more criminal offenders for longer periods of time than any nation except the Soviet Union and South Africa.*

ray, and solve the problems we have long been content to ignore.

Virtually all those who enter prison are eventually returned to society; many more vicious, embittered, and violent than before. If incarceration is to be part of our answer to a rising crime rate, then the disgrace that is the American prison and jail must be faced — and overcome.

### **Corrections—The Larger View**

A renewed emphasis on punishment of offenders and protection of society need not lead to total abandonment of treatment efforts — even for those incarcerated. Nor does our resolve to hold offenders accountable by ensuring clear and certain consequences for their deviant and destructive behavior always mean incarceration.

The Commission believes that the challenge is to fairly and accurately determine which offenders must be sepa-

rated from society by imprisonment. The others — those who pose no danger to the public — must not be allowed to add to the crowding of jail and prison cells. These offenders should pay the price of criminality in other ways — in service to the community, work camps, fines and restitution to victims.

Both groups — those behind bars and those not — must be exposed to work opportunities and treatment programs. For the hopes of society lie in salvaging the lives of at least a few of the hundreds of human beings sentenced every day in this country for a criminal offense. We simply cannot lock everyone up and throw away the key. The problems facing corrections must be solved — or they will come back to haunt us.

### Setting The Standards

One of the biggest barriers to solving the problems faced by corrections has been the failure of public officials and corrections administrators to agree on goals and standards, and to ensure compliance.

The first set of standards for corrections was developed by the American Correctional Association (ACA) in 1946. They were updated in 1977. Corrections standards have since been developed by other agencies, including the California Board of Corrections and the U.S. Department of Justice.

The ACA's standards are the most comprehensive and widely-accepted. Nearly 3,000 standards in ten categories cover all aspects of adult and juvenile corrections, including facilities, programs, administration, food service, medical care, volunteers and evaluation. The ACA, through its independent Commission on Accreditation for Corrections, has developed an accreditation program and is urging agencies to comply with the standards.

Accreditation provides public accountability, better conditions for inmates and staff, long-range cost savings and better coordination with other elements of the criminal justice system. It also justifies the need for resources to meet constitutional requirements and court orders. Currently, 19 states are under court orders to improve their corrections systems, and another 12 states have lawsuits pending.

The accreditation process takes about one year, and once achieved is valid for three years. Agencies do their own evaluation of compliance, followed by reviews and on-site visits by ACA consultants.

5.1 THE COMMISSION RECOMMENDS THAT THE CALIFORNIA STATE LEGISLATURE AND THE COUNTY BOARD OF SUPERVISORS ADOPT THE AMERICAN CORRECTIONAL ASSOCIATION'S STANDARDS FOR ALL EXISTING AND FUTURE JUVENILE AND ADULT CORRECTIONS PROGRAMS AND FACILITIES IN THEIR JURISDICTIONS. BOTH THE STATE AND COUNTY SHOULD BEGIN ACTIVELY SEEKING ACCREDITATION FOR ALL CORRECTIONS PROGRAMS AND FACILITIES BY 1982.

San Diego County Correctional Facilities	
	Average Daily Population
Central Jail, downtown	1,000 men
Vista Jail, Vista	234 men / women
Las Colinas, Women's Jail, Santee	139 women
Adult Camps:	557 men
La Cima, Julian	
Barrett, Alpine	
Descanso, Alpine	
Moreno, Campo	
West Fork, Warner Springs	
Work Furlough Center	
Juvenile Hall, Kearny Mesa	195 boys/girls
Girls' Rehabilitation Program, Juvenile Hall	15 girls
Juvenile Camps:	
Rancho del Rayo	15 boys
Lightning Unit	31 boys
Rancho del Campo	64 boys
State of California Correctional Facilities	
California Department of Corrections (CDC)	
12 prisons and 19 conservation camps	22,000 men and 1,000 women
California Youth Authority (CYA)	
10 youth schools and 8 camps	5,200 boys/girls
SOURCES: San Diego County Sheriff and Probation Departments California Department of Corrections California Youth Authority	

### Overcrowded Facilities—Will They Explode?

The most devastating and potentially destructive problem facing corrections today is the overcrowding of facilities. Increasing crime rates and tougher sentencing laws have filled our jails and prisons to capacity. Crowded together in sub-standard living conditions and with little to do, inmates in jails and prisons across the country have exploded in violent attacks upon guards and upon one another.

**San Diego's Jail: Overflowing.** In San Diego, the Central Jail was found to be unconstitutional by San Diego Superior Court Judge James Focht in May 1980 due to overcrowding. The jail has been chronically overcrowded since it opened in 1960. Its capacity is 813. Average daily population in recent years has been consistently, and sometimes significantly, above 1,000 men. The court has ordered the jail population reduced to 813 by August, 1981 and to 750 by August, 1982.

Judge Focht offered a drastic option if the jail overcrowding problem has not been solved by August, 1981. He said the court may have to:

... designate the jails of Orange, Riverside or Imperial Counties for confinement of the excess prisoners. In that event, the howls of indignation of the sheriffs of those counties will probably be second only to the howls of the San Diego taxpayers who will have to pay the cost of placing these prisoners in adjacent jails.<sup>5</sup>

**One Solution To Overcrowding: Release Before Trial.** The central jail currently confines about 1,000 men. Approximately 80 percent are either awaiting trial or have been convicted but not yet sentenced. The other 20 percent have been sentenced to jail terms.

Some of the 800 men awaiting trial or sentencing need not be held in jail. During the first half of 1980, only 25 percent of all jail bookings were on felony charges; only eight percent were for crimes of violence or for crimes involving weapons. Those who are not a danger to the public — at least a portion of those arrested for nonviolent offenses — need not await trial or sentencing in jail.

In his ruling, Judge Focht said, "The central jail's only logical future is for high-risk prisoners with violent propensities, special problem prisoners due to gang affiliation, and those charged with crimes of violence and the like."<sup>6</sup>

**Using The Alternatives.** The most important criterion in pretrial release decisions should always be public safety. But the Commission believes that responsible use of existing procedures and an innovative approach to new pretrial release programs can offer a cost-saving, efficient and effective solution for the jail's problems while at the same time providing public protection.

San Diego already uses some pretrial release programs which do reduce the number of people in jail. They include:

- **Bail**, either cash or bond. During the first half of 1980, 9,223 persons "bailed" out of central jail — or 24 percent of all those released.
- **Own recognizance (O.R.)** release, based on the defendant's reliability, community ties and written promise to appear in court. During the first half of 1980, 8,389 persons were released on O.R., representing 21 percent of all those released.
- **Field release citations**, issued by police for misdemeanor arrests, do not require detention but do require a court appearance. The San Diego Police Department issued citations for 48 percent of all arrests made during the first half of 1980, which kept nearly 20,000 people out of jail.



The Superior Court has ruled that San Diego's jail is overcrowded, and has ordered its population reduced.



Field release citations are one way of relieving jail overcrowding.

- **Policies** (as recommended by the Board of Supervisors in October, 1980) to end arrest and detention for those who would not ordinarily be arrested: those whose "attitude" is considered uncooperative or hostile, or are arrested for minor charges such as dogs or bottles on the beach, littering, etc.
- Detention of drunks (not drunk drivers) at the **Inebriate Reception Center (IRC)**, instead of jail. During the first half of 1980, 12,571 drunks were kept out of jail by referral to the IRC (another 2,842 drunks were arrested and booked in jail.)
- **Drunk driving quick release** program, which allows release of drunk driving suspects to the custody of a responsible third party, usually within two hours. During the first half of 1980, about 3,700 drunk drivers were quick-released, representing 38 percent of all drunk drivers arrested.
- **Misdemeanor quick release** program, similar to the drunk driving quick release program. During the first half of 1980, fewer than two percent of all those booked on misdemeanor charges were released under this program.

These programs should be fully utilized, and new alternatives (such as supervised pretrial release, neighborhood justice centers, and so forth) should be explored in an effort to reduce the central jail population.

However, it is crucial that both current and new alternatives to incarceration be very carefully controlled and evaluated, keeping in mind that the first priority is community protection from crime.

#### 5.2 THE COMMISSION RECOMMENDS THAT LOCAL PUBLIC OFFICIALS EVALUATE ALTERNATIVES TO JAIL DETENTION. THE EFFECTS OF ALTERNATIVES ON JAIL OVERCROWDING, PUBLIC SAFETY, AND THE CRIMINAL JUSTICE SYSTEM SHOULD BE INDEPENDENTLY EVALUATED.

**Another Solution: Community Service.** Pretrial release of unsentenced jail inmates serves as only one answer to overcrowding. Of those eventually sentenced, some non-dangerous offenders need not be incarcerated at all.

Alternative punishments — fines, probation, work camps, restitution to victims and community service work — when used for offenders who are not violent or in any way dangerous, can help reduce overcrowding while providing distinct advantages to the public.

Not only are the alternatives cheaper than incarceration, but they also eliminate the risk, according to a *Time* magazine essay, "of nondangerous offenders being turned vicious by sheer exposure to prison life."<sup>7</sup>

Community service work is one of the most cost-effective alternative sentences. It is also a form of restitution, in that it makes offenders personally responsible for repaying the community for losses and injuries they caused. As part or all of the sentence, the court can order the offender to work a certain number of hours or days without pay in public or private nonprofit agencies.

In San Diego, community service work is administered through either the probation department or United Way's Volunteer Bureau. The work includes weed abatement, litter collection and flood drainage projects. The program suffers from lack of public awareness and financial support (for vehicles, vehicle maintenance, tools, and staff), continuing threats of budget cuts which undermine staff morale, waiting lists of up to three months to get into the program, and inconsistencies in sentences ordered by judges. Yet there is evidence that the program works for many offenders and the community. More than 80 percent complete assignments successfully within the required time. Those who don't are given additional work, jailed or fined.

Judges may also order offenders to donate between 25 and 250 hours of service work in nonprofit human care

agencies, through the Court Referred Volunteer program run by United Way's Volunteer Bureau. The Volunteer Bureau attempts to match agencies' needs with offenders' skills. The work includes maintenance, landscaping, carpentry, typing, hospital services, musical entertainment in nursing homes and tutoring.

#### 5.3 THE COMMISSION RECOMMENDS THAT LOCAL JUDGES INCREASE THE USE OF COMMUNITY SERVICE WORK PROGRAMS AS SENTENCING ALTERNATIVES. ADEQUATE PUBLIC FUNDING SHOULD BE PROVIDED TO THE COUNTY PROBATION DEPARTMENT AND UNITED WAY'S VOLUNTEER BUREAU TO CONTINUE AND EXPAND COMMUNITY SERVICE WORK PROGRAMS. THE COURTS SHOULD DEVELOP GUIDELINES TO PROMOTE UNIFORMITY AND CONSISTENCY IN LENGTHS OF COMMUNITY SERVICE WORK ORDERED, AND FOR NON-COMPLIANCE PENALTIES. THE COURT SHOULD SUPERVISE THE MONITORING AND FOLLOW-UP OF PARTICIPANTS IN COURT REFERRAL WORK PROGRAMS.

### State Prisons: No Vacancy

In 1979, the state legislature commissioned four comprehensive studies on sentencing and incarceration in California. All four concluded that the state's prisons will be overcrowded by 1981, and that by 1985 there will be a need for 2,000 to 5,500 more prison beds.<sup>8</sup>

According to the California Department of Corrections (CDC), more than half of its existing beds, in 11 institutions, do not meet minimum state safety standards.<sup>9</sup> Overcrowding in these substandard facilities, according to CDC, contributes to idleness, fosters drug use and breeds violence among inmates.

**Keep The Right Ones In.** Recently enacted mandatory prison statutes, the Determinate Sentencing Law, and new tough crime legislation are continuing to send more convicted felons to prison. The Commission strongly supports incapacitation of violent and otherwise dangerous offenders, and applauds the laws, policies and procedures that protect the public from these criminals.

But some offenders do not belong in prison. Those who we can be reasonably certain pose no threat to themselves or to others should not waste taxpayer money by taking up space in a state-run facility. It costs \$10,000 to keep one inmate in prison for a year, and construction of new facilities costs approximately \$70,000 per bed.<sup>10</sup> We simply can no longer afford to lock up all nondangerous offenders.

Beyond the tremendous financial expense of new construction and maintenance of facilities, overcrowding has other costs. Crowded and substandard institutions have been judged unconstitutional in a number of states. They are fertile breeding grounds for violence. And they are ideal schools of crime. Overcrowding must stop.

**The Promising Alternatives.** Criminal offenders, no matter how non-dangerous, should be punished and held accountable for their crimes. Overcrowding is never an excuse for leniency. But expansion of alternatives such as minimum security work camps, community prerelease centers and work furlough centers will ensure that even low-risk offenders are subject to clear and certain consequences for their crimes, while at the same time easing prison overcrowding and maintaining public safety.

A recent CDC study calls for the use of correctional facilities located within the community for some low-risk inmates.<sup>11</sup> Careful screening and 24-hour supervision of inmates will help to assure public protection. To overcome public resistance to community corrections programs, CDC proposes establishing local advisory groups, composed of business, law enforcement, mental health, courts, public officials and citizens, to help operate these programs.

It is important to note that the Commission is not opposed to the construction of correctional facilities or the expansion of programs. On the contrary, the evidence is clear that all correctional needs and facilities are in urgent need of attention. More space for increasing inmate populations is needed. Some new prisons will have to be built. But this does not negate the need to take a long, hard look at who we lock up in state institutions. Now, more than ever, we simply cannot waste the space.

#### 5.4 THE COMMISSION RECOMMENDS THAT THE STATE FOREGO COSTLY, MAXIMUM SECURITY PRISON CONSTRUCTION (INCLUDING THE PROPOSED UTAH MESA PRISON). INSTEAD, IT SHOULD EXPAND CONSERVATION CAMPS AND COMMUNITY CORRECTIONAL CENTERS TO PROVIDE URBAN AND RURAL HOUSING IN NON-RESIDENTIAL AREAS FOR LOW-RISK INMATES.



San Diego's jail provides no treatment for mentally ill inmates who are often a danger to themselves, other inmates and staff.

## Inmate Treatment Programs: Some Special Problems

**Mental Health.** The National Coalition for Jail Reform — which consists of 28 organizations including the National Sheriff's Association, the National League of Cities, the American Civil Liberties Union and the National Urban League — has called for the removal of the mentally ill, the retarded, public inebriates and juveniles from jails across the country. San Diego has removed all juveniles and most public inebriates from its jail.

Because the County Mental Health facility cannot confine them securely, mentally ill inmates are still housed in the central jail. They are in need of psychiatric care and extra safety precautions. With no such services available, the mentally ill in jail are a danger to themselves, to other inmates and to staff.

Plans to construct a jail mental health facility have been postponed several times. The most recent proposal was to construct a 25-bed mental health facility inside the central jail, at a cost of nearly \$1 million. It would have reduced the central jail's capacity by 80 beds, and was not funded. Some arrangements must be made to provide secure facilities and necessary care for mentally ill inmates.

5.5 THE COMMISSION RECOMMENDS THAT THE COUNTY BOARD OF SUPERVISORS AND THE SHERIFF PROCEED WITH PLANS TO CONSTRUCT THE JAIL'S MENTAL HEALTH FACILITY, IN THE COUNTY'S FISCAL YEAR 1982 CAPITAL IMPROVEMENTS BUDGET.

**Alcohol And Crime.** Alcohol plays an enormous role in crime, and places a serious drain on San Diego's criminal justice resources:

- surveys of prison inmates show that between one-fourth and one-half believe that alcohol contributed to their crime;
- the California Youth Authority reports that 69 percent of its juvenile offenders used or abused alcohol;
- the San Diego County Alcohol program estimates almost half of the violent crimes committed in San Diego may involve alcohol; and
- more than 2,500 San Diegans are booked into jail each month or referred to the Inebriate Reception Center for public drunkenness. Nearly as many are arrested each month for driving while under the influence of alcohol.

The county supports a broad range of treatment programs for alcoholics and their families, including diversion, detoxification, short-term residential treatment, recovery homes and non-residential support. Assistance is also available from Alcoholics Anonymous, Al-Anon, Alateen, Women for Sobriety, Women's Christian Temper-

ance Union and the County Alcoholism Advisory Board. The Camp Viejas program for inmates who have drinking problems, based on U.S. Navy training concepts, provides education supplemented with support for behavior change.

Still, many offenders who have alcohol problems do not receive help, either before or after they commit a crime. Treatment programs in jails and prisons must be expanded and improved; the link between alcohol and crime is too strong to ignore. The commitment of funds for evaluation and expansion of treatment programs will be a small price to pay to break that link.

5.6 THE COMMISSION RECOMMENDS THAT THE COUNTY AND STATE IMPROVE AND EXPAND ALCOHOL TREATMENT PROGRAMS FOR JUVENILES AND ADULTS IN ALL CORRECTIONS FACILITIES. APPROPRIATE SUPERVISION AND AFTER-CARE SHOULD BE PROVIDED, AND AN EVALUATION TO DETERMINE PROGRAM EFFECTIVENESS SHOULD BE PERFORMED.

## Putting Them To Work

**State Prisoners.** The overcrowding, idleness and boredom that generate violence in our prisons have more destructive potential than most people think. Occasional incidents and prison riots are only the most obvious results; there are other, more insidious effects. Prisons that provide little or no work opportunities and vocational training for inmates are perpetuating the cycle of unemployment, low self-esteem, and the "What do I have to lose?" attitude that encourages an offender to continue a life of crime upon release from prison.

Only about ten percent of state prison inmates are employed by Correctional Industries, a self-supporting program that produces goods — such as license plates, flame-retardant clothing and agricultural products — for state agencies. Incentives to work are weak: the maximum wage is 35¢ an hour, set by law 18 years ago.

Another ten percent of prison inmates participate in vocational training programs — learning skills in deep sea diving, dog grooming and dry cleaning, among others. Better coordination of vocational training, Correctional Industries and post-release community employment is needed.

Correctional centers located in the community and combined with industrial worksites offer the most promise — they are a cost-effective way to provide valuable work opportunities for inmates while protecting the public from these offenders. Such a facility could house, train and

employ low-risk inmates with less than two years left on their sentence, and eventually provide these and other offenders with job placement after they are released.

5.7 THE COMMISSION RECOMMENDS THAT THE CITY OF SAN DIEGO SUPPORT AND HELP DEVELOP AN EXPERIMENTAL COMMUNITY CORRECTIONAL-INDUSTRIAL CENTER IN A NONRESIDENTIAL AREA OF METROPOLITAN SAN DIEGO, TO PROVIDE HOUSING, JOB TRAINING, WORK EXPERIENCE AND POST-RELEASE JOB PLACEMENT FOR UP TO 120 LOW-RISK INMATES.

**County Camp Inmates.** Putting probation camp inmates to work can be of significant benefit to the San Diego community. Following the \$12 million worth of damage by floods to 269 county roads in 1980, the Commission examined the possible use of state or county prison labor for road repair. Between 1932 and 1975, county camp inmates provided labor for county road construction, but in 1970 the county's Board of Supervisors voted to phase out these road crews.

There are no legal restrictions on the use of prison labor for road construction projects, except Section 2768 of the California Penal Code, which prohibits prisoners from working on "any bridge . . . which requires the employment of skilled labor." There has been resistance, however, from organized labor to the use of prisoners on other highly-skilled labor projects. Officials in county and state transportation departments have expressed concern about the lack of technical skills, equipment and adequate supervision of inmate labor, as well as the high transportation costs in bringing prisoners to and from the camps.

Even with these limitations, a shift back to the use of inmate labor for county repair is advisable. In September, 1980, the county claimed it was still \$9.1 million shy of what it needed to repair roads damaged by floods six months before.

5.8 THE COMMISSION RECOMMENDS THAT THE COUNTY SUPPORT THE USE OF PROBATION CAMP INMATES IN EXISTING OR EXPANDED CAMPS TO REPAIR AND MAINTAIN COUNTY ROADS, UNDER THE SUPERVISION OF THE TRANSPORTATION DEPARTMENT.



Juvenile Corrections

Are They Being Punished Or Let Go? San Diego's Juvenile Hall, located in Kearny Mesa, is operated by the probation department. It houses up to 238 juveniles for an average of 14 days, either before they receive their court decisions or while they await transfer to county camps or California Youth Authority facilities. Unlike some counties, our Juvenile Hall is not used to confine youngsters after their court hearings.

Juvenile Hall has been seriously overcrowded in the past. Between 1977 and 1979, it was cited for overcrowding violations on five occasions. The state filed a lawsuit against the Hall in 1979. Since then, the probation department has kept the number of juveniles below the Hall's rated capacity; the department has accelerated transfers to CYA facilities; shortened camp programs to make room for new admittees; increased the use of home supervision; and placed many in foster and community group homes.

In 1979, the county's Office of Program Evaluation analyzed Juvenile Hall's current and projected populations and concluded that there would be a need for additional beds through 1988 — assuming there are no changes in the number of beds available in the City Rehabilitation Center or boys' camps, and no changes in juvenile court law. Many enforcement officers, judges, prosecutors and probation officers, however, are concerned that the overcrowding restrictions are preventing serious juvenile offenders from being detained when they should be.

To answer this and other concerns about juvenile justice in San Diego, including the extent of juvenile accountability for crime, the Commission believes that a comprehensive study should be made of those juveniles arrested and referred to Juvenile Hall. Information should include their prior criminal histories, what happens to them in the criminal justice system, what types of treatment programs they participate in, and for how long.

Juvenile Hall's capacity problems may be worsened by a recent federal policy change. As of October 1, 1980, juveniles are no longer permitted to be housed in adult federal prisons. The Metropolitan Correctional Center (MCC), however, still holds juveniles as material witnesses in alien smuggling cases. The MCC is unable to abide by its own policy because the county's Juvenile Hall and Hillcrest Receiving Homes are already filled to capacity.

5.9 THE COMMISSION RECOMMENDS THAT BEFORE UNDERTAKING ANY EXPANSION OF LOCAL JUVENILE FACILITIES, THE COUNTY CONDUCT A COMPREHENSIVE STUDY OF JUVENILE OFFENDERS. BEFORE REMOVING JUVENILES FROM THE METROPOLITAN CORRECTIONAL CENTER, THE FEDERAL GOVERNMENT SHOULD CONSIDER FUNDING OTHER SUITABLE HOUSING.

Juvenile Crime: Serious Business. In San Diego and elsewhere, juveniles — those under the age of 18 — are arrested for a vastly disproportionate number of serious crimes. There are no correctional needs more vital than certainty of punishment, adequate facilities, and effective treatment programs for young offenders. We must demand the best — and earliest — efforts to lead juveniles away from lives of crime. This presents the criminal justice system's greatest challenge, and society's greatest hope.

A comprehensive correctional program for dealing with young offenders is imperative. Both the county and the state must improve correctional services for juveniles.

5.10 THE COMMISSION RECOMMENDS THAT LOCAL FACILITIES PROVIDE EDUCATIONAL AND TREATMENT FOR JUVENILE OFFENDERS. THE STATE SHOULD MAINTAIN AND EXPAND, IF NECESSARY, CALIFORNIA YOUTH AUTHORITY FACILITIES, AND PROVIDE EDUCATIONAL AND VOCATIONAL TRAINING AND OTHER TREATMENT PROGRAMS FOR VIOLENT AND REPETITIVE JUVENILE OFFENDERS. SUPPORT SERVICES (SUCH AS JOBS, HALFWAY HOUSES AND COUNSELING) SHOULD BE PROVIDED FOR JUVENILES RE-ENTERING THE COMMUNITY FROM STATE AND COUNTY FACILITIES.

Preventing Delinquency. The factors which cause criminal behavior are complex, as are all the variables which influence the direction of human development.

Considerable evidence demonstrates that during the early years of childhood, the establishment of learning patterns, emotional development, and the formation of individual expectations and aspirations take place at a rapid and critical pace. Further evidence shows that detection of serious pre-delinquent problems is possible in early childhood and that the capability to positively influence these problems is also possible.

A comprehensive approach offers the best chance of leading children toward productive and positive goals. The school environment — self-contained and able to reach large numbers of children — is the most logical place for these attempts.

The San Diego Unified School District has in fact been working with troubled children, and its current emphasis on positive but firm discipline is promising. However, new efforts are needed at the entry level to identify and help high-risk children. The educational system has not been geared for this approach, and a coordinated program has not been established.

The Commission is keenly aware of the potential problems involved in any early identification program; we recognize the need for professionalism in differentiating between behavior that is predictive of future serious

problems, and behavior that is uncomfortable or disruptive but not necessarily serious. We also believe that intervention can take place without singling out an individual child for special treatment.

The Commission has established a high priority for crime prevention. A sensitive and intelligent set of strategies to accomplish behavioral changes in young children whose future may otherwise be clouded by violence and criminality must begin.

5.11 THE COMMISSION RECOMMENDS THAT AN EXPERIMENTAL, PILOT PROJECT BE ESTABLISHED IN LOCAL SCHOOLS, UNDER THE DIRECTION OF A LOCAL UNIVERSITY OR OTHER APPROPRIATE INSTITUTION, TO MEASURE THE EFFECTIVENESS OF EARLY IDENTIFICATION AND INTERVENTION AS A CRIME PREVENTION METHOD.

"Scared Straight" — Does It Prevent Crime?

Since the 1978 television broadcast of "Scared Straight," the award-winning documentary which showed 17 juvenile offenders hearing about the horrors of prison from "lifers" at Rahway State Prison in New Jersey, interest in similar prison programs for juveniles has increased throughout the country.

Programs such as these are intended to change juveniles' attitudes and behavior about crime by making them aware of its negative consequences, especially the potential brutality of other inmates and the constant tension and danger of prison life.

California prison inmates have been running their own awareness programs for juveniles for years, at the California Institution for Men, at San Quentin and at the California Conservation Center.

Serious doubts have been raised, however, about the effectiveness of such programs.

At the end of the original documentary, "Scared Straight," the 17 juveniles contritely said they were giving up crime. The narrator notes that after six months, all but one of the 17 had gone straight. He adds that 80 to 90 percent of the 8,000 juveniles who had visited Rahway prison had also gone straight.

But a closer analysis of the Rahway program, by Rutgers University Professor James O. Finckenauer, found that the juveniles who participated in the program did worse (in terms of arrest during the following year) than a control group who did not participate. Only 59 percent of the randomly selected group who visited Rahway went straight, compared to 89 percent of the control group who did not visit the prison. Finckenauer concludes, "Juvenile delinquency is a complex behavioral phenomenon, for which there are no panaceas, cure-alls, or simplistic solutions. It is not possible to simply scare kids straight."<sup>12</sup>

## Public Awareness is Vital

In our study of corrections, one stumbling block was the difficulty in finding current, comprehensive, and concise information about local corrections programs. Sometimes the information was not available or was incomplete or out of date. Seldom did it discuss corrections in the context of the entire criminal justice system. We believe the average citizen would benefit from knowing more about these issues. Increased public awareness is essential if we are to give corrections the kind of attention it needs.

- 5.12 THE COMMISSION RECOMMENDS THAT ALL LOCAL CORRECTIONS AGENCIES INITIATE AGGRESSIVE INFORMATION PROGRAMS TO INFORM THE SAN DIEGO COMMUNITY ON A REGULAR BASIS ABOUT: THE CONDITIONS OF CORRECTIONS FACILITIES; THE CHARACTERISTICS OF THOSE IN CUSTODY OR ON PROBATION; PROGRAM GOALS, ACTIVITIES AND ACHIEVEMENTS (DETERMINED BY INDEPENDENT EVALUATIONS); SUGGESTIONS TO IMPROVE THE CARE, TREATMENT AND RE-ENTRY INTO SOCIETY OF OFFENDERS; AND AS OFTEN AS POSSIBLE, STORIES OF HUMAN INTEREST AND SUCCESS. WE ENCOURAGE THE LOCAL MEDIA TO ASSIST IN THIS EFFORT.

## Chapter 6 AN AGENDA FOR ACTION

This report has presented some 52 individual recommendations that deal with the most significant crime and justice issues now facing San Diegans.

While some of our recommendations reflect new insight into local criminal justice problems, at least an equal number have been supported for years by many in the field. Yet nothing has been done.

There are several reasons for this inaction: a lack of consensus about the problems and needed changes; an absence of focused public pressure for specific action; inadequate funding; the narrow organizational interest of most local criminal justice agencies; and the great weight of political and administrative inertia.

But this report can serve as a vehicle for change. It contains recommendations which provide a comprehensive plan of action against crime — a plan which can, with public support and political responsiveness, reverse the factors that have impeded improvement.

We urge quick action. The majority of these recommendations can be implemented within 15 months of the release of this report. But recommendations cannot implement themselves. Change will only occur through persistent, focused public pressure and active lobbying.

The public's role is crucial.

We hope that San Diegans will support these recommendations and closely monitor the review and enactment process. *No other single action will do more to assure responsible and decisive action.*

We emphatically believe that needed changes will not occur if one agency or one jurisdiction is pitted against another. There is no place for preoccupation with program ownership, with jockeying for funds, or with placing credit or blame.

Enthusiastic debate about these recommendations is both expected and desired. While minor modifications and other improvements are likely, we are confident that the core intent of the recommendations will survive rigorous review.

This doesn't mean that the Commission's work is done. It is our intent to augment public support with aggressive lobbying. To this end, an implementation committee of Commission members has already been formed and will begin its work upon release of this report.

This committee will work with local and state governments to ensure that the legislative and administrative changes we have proposed are enacted.

The committee will explain the purpose and expected results of each proposal, provide additional research information as needed, and direct the implementation

efforts. From time to time, progress reports will be issued to the public.

We cannot afford procrastination. Inaction will do more than ruin the opportunity to improve San Diego's criminal justice system. It will also reinforce the public's already serious lack of confidence in the government's ability to fight crime. The government sector and its policy makers can ill afford any further loss of credibility over the issue of effective crime control.

This should not be interpreted as license, however, to charge blindly ahead with emergency programs and extraordinary budget appropriations. We must cease simply throwing money at crime, as has been so popular recently. As with any program, public funds for crime fighting efforts should be apportioned with discretion.

Money should be directed at those programs with the greatest promise of fighting crime effectively. These programs must have clearly stated goals, the achievement of which can be measured fairly and accurately. We must expect, and be able to assess, *results*. For every program, results should mean reduced crime and greater personal safety, greater efficiency and improved cost effectiveness.

But in the final analysis, what will make these recommendations succeed is the public's determination to make them work.

It has always been easy to criticize new ideas as unworkable. Change is often difficult. The telephone was seen as impractical because people needed their hands free; traffic signals were dangerous because drivers and pedestrians wouldn't notice them and they could break down; natural gas was too explosive for home use.

But these and thousands of other ideas worked because people wanted them to work — because they needed them to work.

We need to change the criminal justice system. Toward that end, we must try our new ideas.

These recommendations do not belong solely to the Commission or to elected and administrative officials. They belong to every one of us. It is everyone's job to see that they are acted upon, or to find out why not.

# Chapter 1NOTES

1. Gallup poll for *Newsweek*, March 23, 1981.

2. All crime statistics in this chapter, unless otherwise noted, are from the Federal Bureau of Investigation's *Uniform Crime Reports*, except for San Diego's 1980 figures, which are preliminary and came from the San Diego Police Department. Rates are calculated using population figures from the City of San Diego Planning Department.

3. Arson was added as an eighth offense in 1978. Because they are not available for other years, arson data are not used in this report.

4. U.S. Department of Justice, *San Diego: Public Attitudes About Crime*, 1979, p. 46.

5. Charles Silberman, *Criminal Violence, Criminal Justice*, Random House, New York, 1978, p. 19.

6. U.S. Department of Justice, *Criminal Victimization Surveys in 13 American Cities*, 1975.

7. William Kolender, Chief of Police, San Diego Police Department, in briefing to City Council's Public Services and Safety Committee, February, 1981.

8. Keith Williams, San Diego Police Department, in telephone conversation with Commission staff, February 25, 1981.

9. For this table only, population figures for San Diego were taken from the FBI Uniform Crime Reports, to ensure fair comparisons with other cities. As a result, the rates noted for San Diego's index and property crimes are slightly different than those used in other analyses in this chapter, which used the more accurate City of San Diego Planning Department population figures. Using either set of rates would not alter San Diego's ranking in the 15-cities comparison, however.

10. Henry S. Ruth, Jr., *Research Priorities for Crime Reduction Efforts*, The Urban Institute, Washington, D.C., 1977, p. 14.

11. The California Bureau of Criminal Statistics (BCS), part of the California Department of Justice, is the statewide collector of arrest statistics from local law enforcement agencies. Its seven major offenses are defined similarly to the seven index crimes recorded by the FBI, but include only felonies. Since arrest statistics are not available from the FBI, this report uses the arrest figures from BCS for these seven crimes. The FBI reports offenses known to the police, not arrests.

12. City of San Diego Planning Department.

13. California Department of Justice, Bureau of Criminal Statistics, "Adult and Juvenile Arrests, 1979," San Diego (City).

14. *Time*, March 23, 1981, p. 20.

15. *Time*, *op. cit.*, p. 21.

16. Ruth, *op. cit.*, pp. 59-60.

17. California Department of Justice, Bureau of Criminal Statistics, *Criminal Justice Profile, San Diego County*, 1979.

18. California Department of Justice, Bureau of Criminal Statistics, *Crime and Delinquency in California*, 1979.

19. U.S. Department of Justice, *Summary Report, Expenditure and Employment Data for the Criminal Justice System*, 1978.

20. San Diego Police Department, Research and Analysis unit.

# Chapter 2NOTES

1. James Q. Wilson, address to Mayor's Crime Control Commission, May 6, 1980.

2. *Ibid.*

3. *Ibid.*

4. *Ibid.*

5. Solomon Kobrin, "Outcome Variables in Program Evaluation: Crime Control, Social Control, and Justice," in M. W. Klein and K. S. Teilmann, *Handbook of Criminal Justice Evaluation*, Sage Publications, Beverly Hills, 1980, p. 45.

6. Charles E. Silberman, at Mayor's Crime Control Commission meeting, June 2, 1980.

7. Charles E. Silberman, address to Mayor's Crime Control Commission, June 2, 1980.

8. Wilson, *op. cit.*

9. "The Law Enforcement Assistance Administration Program in California — An Overview," undated, p. 1.

10. *Ibid.*, p. 3.

11. U.S. Senator Joseph Biden, in "Shutting Down the LEAA," by Robert E. Taylor, *The Wall Street Journal*, December 2, 1980, p. 22.

12. *Ibid.*

13. *Ibid.*

14. National Advisory Commission on Criminal Justice Standards and Goals, *A National Strategy to Reduce Crime*, 1973, p. 113.

15. Joan Petersilia, *Criminal Careers of Habitual Offenders: A Summary Report*, The Rand Corporation, Santa Monica, 1977, p. 19.

16. Judge Michael Greer, San Diego Superior Court, interview with Commission staff, January 3, 1980.

17. Lou Katz, Director, San Diego Office of Defender Services, address to Mayor's Crime Control Commission, December 3, 1980.

18. Wilson, *op. cit.*

19. Larry Stirling, in "Justice System a Sieve, City Told," by Lynne Carrier, *Evening Tribune*, March 11, 1980.

20. U.S. Department of Justice, *Sourcebook of Criminal Justice Statistics*, 1979, p. 329.

21. According to the Bureau of Criminal Statistics, an offense is cleared when at least one person is arrested, charged and turned over to the court or juvenile authorities. The arrest of one person can clear several crimes, or several people may be arrested to clear one crime. In certain situations a clearance may be counted by "exceptional" means when the police know the identity of the offender, have enough information to support an arrest, and know the location of the offender, but for some reason cannot take the offender into custody.

22. California Department of Justice, Bureau of Criminal Statistics, *Criminal Justice Profile, San Diego County*, 1979.

23. *Ibid.*, and U.S. Department of Justice, *Crime in the United States*, 1978 (Federal Bureau of Investigation's Uniform Crime Reports).

24. The Bureau of Criminal Statistics does not include theft under \$200. The FBI has no such restriction.

25. The Offender Based Transaction System's (OBTS) statistics cannot even be compared meaningfully with the Bureau of Criminal Statistics' total reported adult felony arrests. There are two reasons for this. One, the arrest tracked by OBTS is reported in the year it was disposed of by conclusion of the case, not the actual year of arrest. Second, the OBTS data is generally 35 percent underreported by the counties (because of the faulty collection and reporting methods), so not even all the dispositions for each year are captured.

26. California Department of Justice, Bureau of Criminal Statistics, "Adult and Juvenile Arrests Reported, 1979," San Diego County.

27. *Ibid.*

28. California Department of Justice, Bureau of Criminal Statistics, "Disposition of Adult Felony Arrests," 1979, San Diego County.

29. California Department of Justice, Bureau of Criminal Statistics, "Adult and Juvenile Arrests Reported, 1979," San Diego County.

30. California Department of Justice, Bureau of Criminal Statistics, "Initial Referrals of Juveniles to Probation Departments, January 1, 1979-December 31, 1979," San Diego County.

31. Another data quirk: Offender Based Transaction System (OBTS) displays information in two forms. One, the disposition table, counts those arrests actually disposed of in San Diego County, regardless of county of arrest (the 12,246 figure). This table shows the arrests by crime categories (homicide, rape, etc.) and what happens to each, but does not show reasons for police or prosecutor release. The other OBTS display is a "disposition tree," which shows the disposition of those arrests actually made in San Diego County, regardless of where the disposition

took place. This tree does not show the arrests by crime type, but does indicate the reasons for police and prosecutor releases. The total number of arrests tracked on the tree is slightly different (12,230) than those on the table. These numbers are close enough for our analysis.

32. *California Penal Code, 1979-1980*, Section 849(b), p. 322.
33. California Department of Justice, Bureau of Criminal Statistics, "1979 Dispositions of Adults Arrested on Felony Charges, San Diego County."
34. *Ibid.*
35. California Department of Justice, Bureau of Criminal Statistics, "Dispositions of Adult Felony Arrests," 1979, San Diego County.
36. *Ibid.*
37. The President's Commission on Law Enforcement and the Administration of Justice, *The Challenge of Crime in a Free Society*, U.S. Government Printing Office, Washington, D.C., 1967, p. 11.
38. Justice Jackson, in Charles E. Silberman, *Criminal Violence, Criminal Justice*, Random House, New York, 1978, p. 271.
39. Task Force on Courts, National Advisory Commission on Criminal Justice Standards and Goals, *Courts*, U.S. Department of Justice, 1973, p. 243.
40. Stephen J. Morse, "Understanding Adversary Process and Conflict in Criminal Justice," in Klein, et. al., *op. cit.*, p. 335.
41. *Ibid.*
42. *San Diego Daily Transcript*, "Reversed: Not Told of Free Counsel," December 15, 1980.
43. *San Diego Daily Transcript*, "Deukmejian Lambasts Bird," October 22, 1980.
44. *San Diego Union*, "The Wayward Court" (editorial), October 1, 1980.
45. *Evening Tribune*, "Court Voids Murder Conviction," November 16, 1979.
46. 367 U.S. 643 (1961).
47. Edwin L. Miller, Jr., "The Exclusionary Rule," undated.
48. Justice T. Cooley, from "A Treatise on the Constitutional Limitations," in "The Exclusionary Rule: Why Suppress Valid Evidence?" *Judicature*, Volume 62, No. 5, November, 1978.
49. Justice Powell, in "The Exclusionary Rule," Miller, *op. cit.*
50. The Governor's Select Committee on Law Enforcement Problems, *Controlling Crime in California*, 1973.
51. *San Diego Daily Transcript*, "Bill Addresses Laws that Free by Technicality," December 4, 1980.
52. General Accounting Office, U.S. Government, "Impact of the Exclusionary Rule on Federal Criminal Prosecutions," GGD 79-45, April 19, 1979.
53. Lou Katz, Director, San Diego Office of Defender Services, in letter to Mayor's Crime Control Commission, dated December 18, 1979.
54. Charles Silberman, *Criminal Violence, Criminal Justice*, Random House, New York, 1978, p. 264.
55. California Department of Justice, Bureau of Criminal Statistics, "1979 Dispositions of Adults Arrested on Felony Charges, San Diego County."
56. *Brown v. Mississippi*, 297 U.S. 278 (1936).
57. 384 U.S. 436 (1966).
58. *Gideon v. Wainwright*, 372 U.S. 335 (1963).
59. *Argersinger v. Hamlin*, 407 U.S. 25, 37 (1972).
60. Herbert L. Packer, "Two Models of the Criminal Process," in *Criminal Justice: Law and Politics*, ed. by George F. Cole, Duxbury Press, 1972.
61. *California Penal Code, 1979-1980*, p. 272.
62. *Senate Bill 1236 (Beverly)*.
63. Robert Fairbanks, "Assembly May Abolish Crime Panel," *Los Angeles Times*, December 14, 1980, p. 3.
64. Assemblyman Alister McAlister (D-San Jose), author of Assembly Bill 87, in "Habitual Criminal Bill Back on List," *San Diego Daily Transcript*, December 15, 1980.
65. California Governor Jerry Brown quoted in, "Tough Habitual Criminal Bill Draws Expert's Criticism," *Evening Tribune*, December 18, 1980.
66. As reported by Philip Hajer, "Plea Bargaining Could Weaken Crime Fighting," *Los Angeles Times*, December 6, 1980.
67. *Ibid.*
68. *Santobello v. New York*, 404 U.S. 257, 260-261 (1971).
69. National Advisory Commission on Criminal Justice Standards and Goals, *op. cit.*, p. 94.
70. The Governor's Select Committee on Law Enforcement Problems, *op. cit.*, p. 53.

71. The President's Commission on Law Enforcement and the Administration of Justice, *op. cit.*
72. Russell Longaway, Staff Attorney, State Bar of California, at Mayor's Crime Control Commission's Courts Committee meeting, April 14, 1980.
73. California Department of Justice, Bureau of Criminal Statistics, "1979 Dispositions of Adults Arrested on Felony Charges, San Diego County."
74. William Rhodes, *Plea Bargaining: Who Gains? Who Loses?*, U.S. Department of Justice, National Institute of Law Enforcement and Criminal Justice, 1978, p. 57.
75. Moise Berger, "The Case Against Plea Bargaining," *American Bar Association Journal*, No. 62 (May, 1976), pp. 621-624.
76. "The Elimination of Plea Bargaining in Black Hawk County: A Case Study," *Iowa Law Review*, No. 60 (April, 1976), pp. 1053-1071.
77. U.S. Department of Justice, National Institute of Justice, *News Feature*, December 21, 1980.
78. As previously noted, the Bureau of Criminal Statistics uses two different methods for arriving at this number; they are close enough for accurate analysis using either one, as appropriate.
79. Judicial Council of California, *Annual Report*, January 1, 1980, p. 5.
80. A. J. Lipson and M. A. Peterson, *California Justice Under Determinate Sentencing: A Review and Agenda for Research*, Rand Corporation, June, 1980.
81. California Department of Justice, Bureau of Criminal Statistics, *Criminal Justice Profile, San Diego County*, 1979.
82. In 1977, 47.5 percent of those convicted of robbery in San Diego County were sent to state prison. In 1978, this figure was 56.0 percent, and was 54.0 percent in 1979.  
  
Of those convicted of burglary in San Diego County in 1977, 14.0 percent were sent to state prison. In 1978, 13.5 percent were sent to prison, and 16.7 percent were sent to prison in 1979.
83. Greer, *op. cit.*
84. Wilson, *op. cit.*
85. *California Penal Code 1979-1980*, Section 1170, p. 444.
86. Wilson, *op. cit.*
87. *California Penal Code 1979-1980*, Sections 12022(a) and (b), 12022.5, 12022.6, 12022.7, as described in "Determinate Sentencing: Summary, Terms, Statutes," Charles E. Nickel, San Diego County District Attorney's Office, December 8, 1978, pp. 2-3.
88. California Department of Justice, Bureau of Criminal Statistics, "Adult and Juvenile Arrests Reported, 1979," San Diego County.
89. Informal probation, called the Informal Supervision program by the San Diego County Probation Department, is actually a formal diversion agreement which binds the juvenile offender to counseling and other social services in lieu of filing a petition against the juvenile in court. A contract is signed by the minor and the parents; failure to participate may result in the filing of a petition.
90. California Department of Justice, Bureau of Criminal Statistics, "Initial Referrals of Juveniles to Probation Departments, January 1, 1979-December 31, 1979," San Diego County.
91. *Ibid.*
92. California Department of Justice, Bureau of Criminal Statistics, "Adult and Juvenile Arrests Reported, 1979," San Diego County.
93. California Department of Justice, Bureau of Criminal Statistics, "Disposition of Adult Felony Arrests," 1979, San Diego County.
94. Non-ward probation is specified under Section 725(a) of the Welfare and Institutions Code (Juvenile Court Law), and allows a probation grant not to exceed six months without declaring a juvenile a ward of the court.
95. California Department of Justice, Bureau of Criminal Statistics, "Adult and Juvenile Arrests Reported, 1979," San Diego County.



**CONTINUED**

**1 OF 2**

## Chapter 3 NOTES

1. San Diego Police Department, Personnel Section, April, 1981.
2. "Report of the Board of Fiscal Overseers on Police Officer Compensation and Attrition," April 14, 1980, p. 5.
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4. Financial Management Department, City of San Diego, *Productivity Improvement Project: Police Records of the San Diego Police Department*, August 4, 1977, pp. 46-47.
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18. The U.S. Congress passed the Juvenile Justice and Delinquency Prevention Act in 1974, which directed that status offenders shall not be placed in secure facilities, and that delinquents shall not be detained or confined in adult institutions.  
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## Chapter 5

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