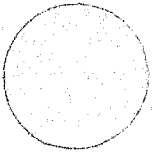


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## **Crime in Texas**

by

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## **Agenda for Texas**

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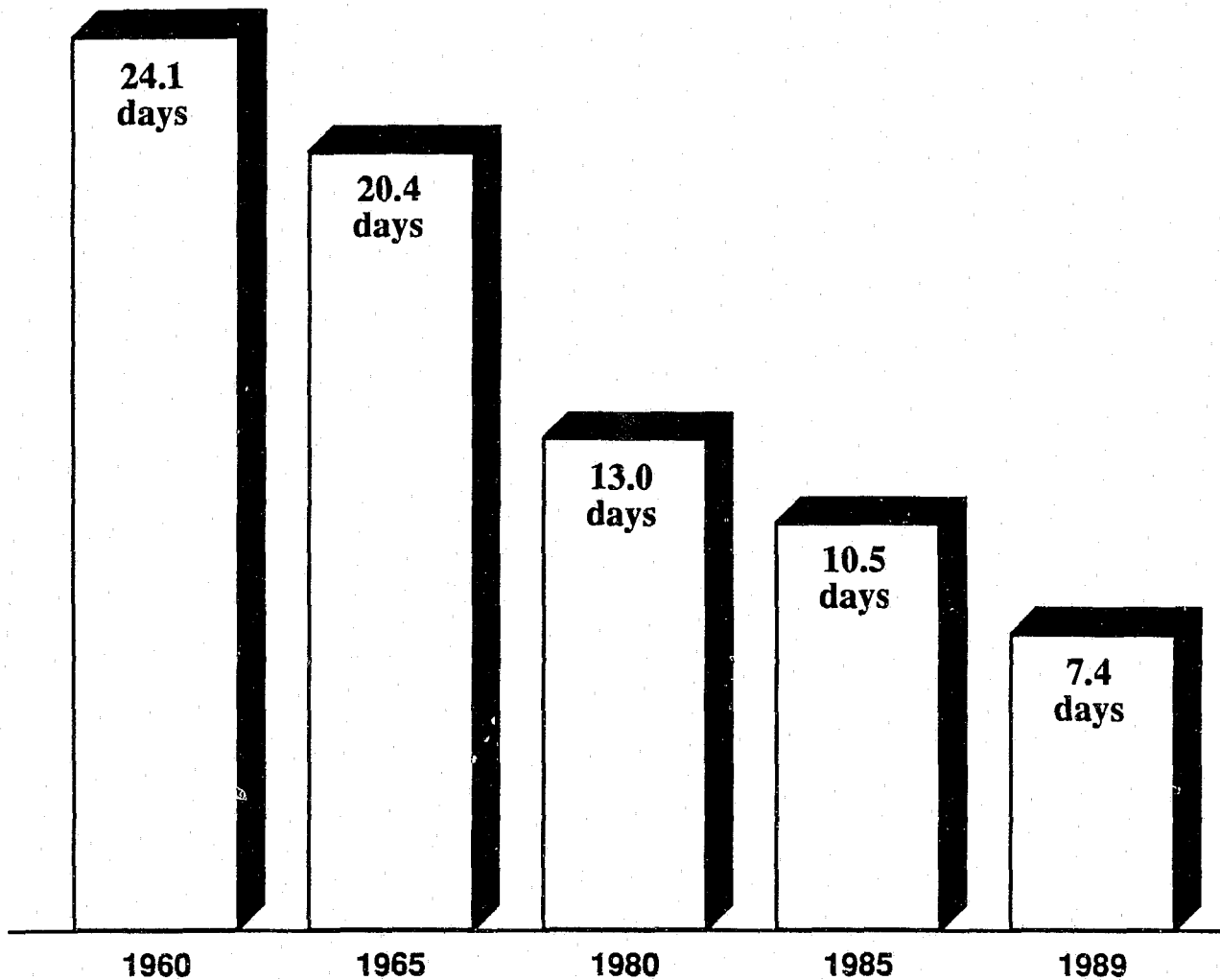
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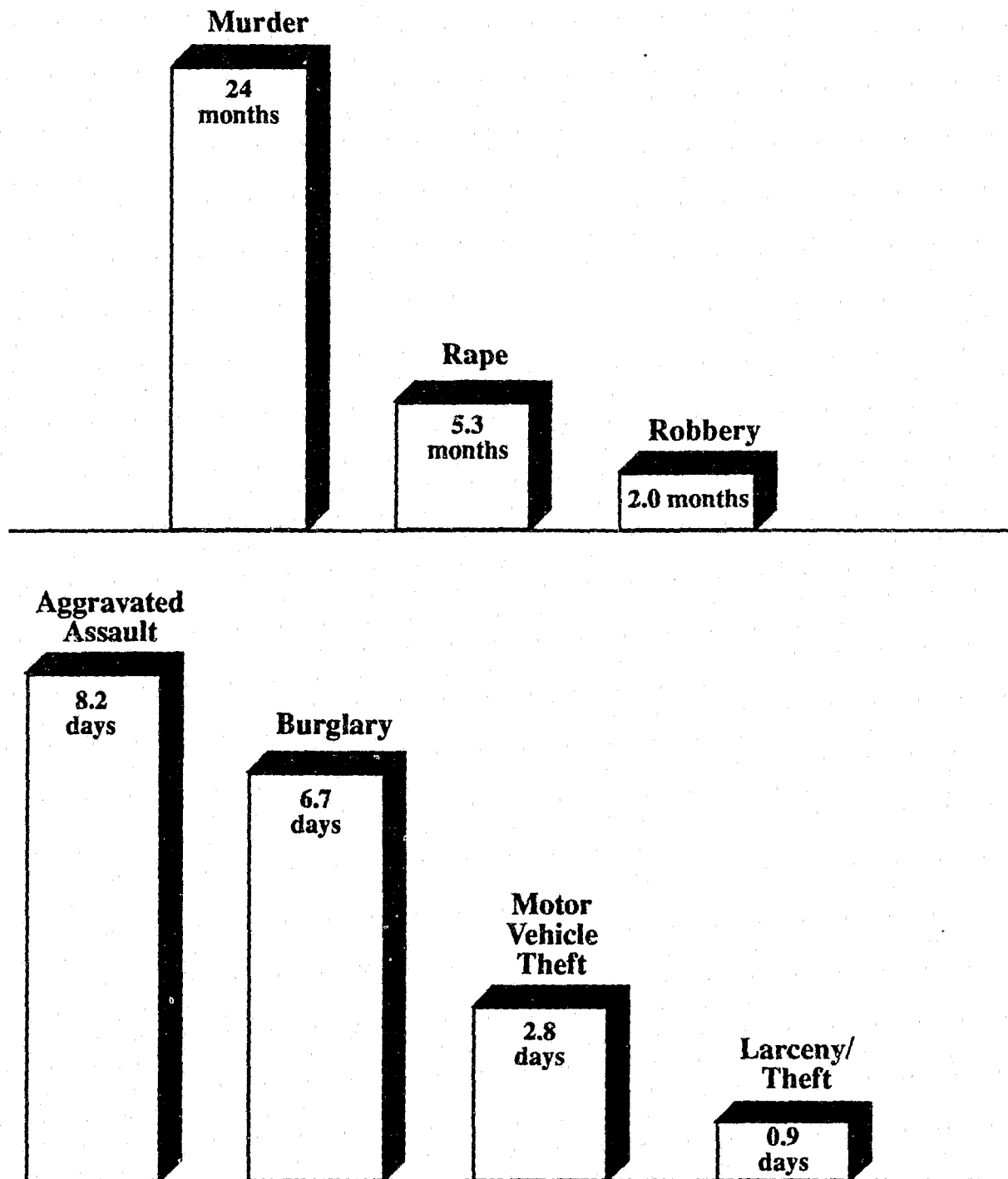
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## **Expected Days in Prison\* For Committing a Serious Crime in Texas**



\*Based on probabilities of arrest, prosecution, conviction and imprisonment. For those in prison, the average time served is currently ten months.

## Expected Time in Prison\* For Committing Selected Crimes

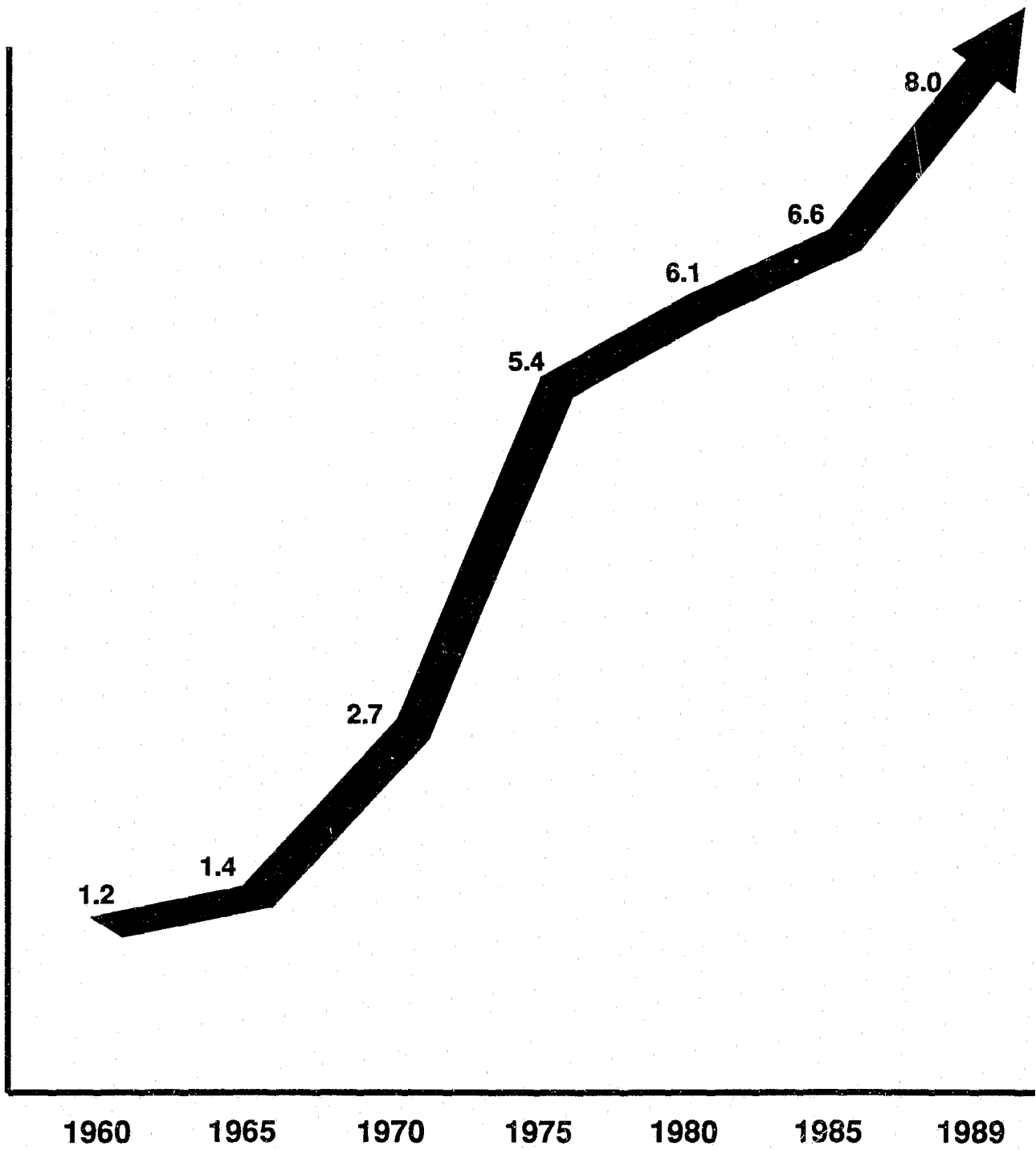


\*Based on the probabilities of arrest, prosecution, conviction and imprisonment. For those in prison, the median time served is currently ten months.

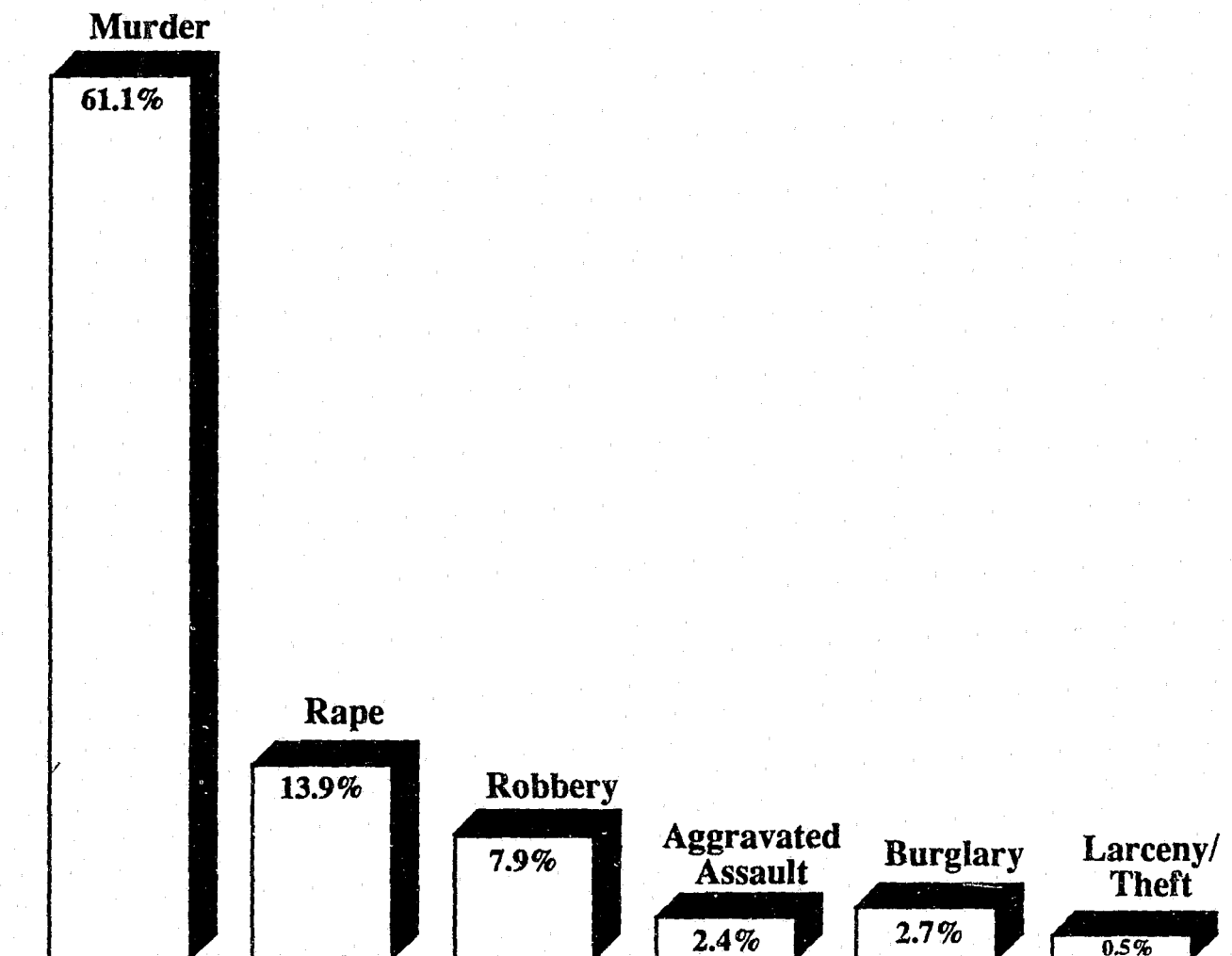
The FBI defines *robbery* as taking or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear. *Aggravated assault* is an unlawful attack by one person on another for the purpose of inflicting severe or aggravated bodily injury, usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm. *Burglary* is the unlawful entry of a structure to commit a felony or theft. *Larceny/theft* is the unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another.

# Crime Rate in Texas

(Crimes per 100 population)



## Probability of Going to Prison in Texas\*



\*Percent of crimes that result in a prison sentence.

## Executive Summary

Texas is suffering from an epidemic of crime that began in the late 1960s and early 1970s.

- Each year, about 2.7 million Texans — one out of every three households — are victims of serious crimes.
- On an average day in Texas, six murders, 22 rapes, 108 robberies and 165 life-threatening assaults are reported to police.
- The state crime rate, which was below the national average before 1975, today is 38 percent above the national average.
- The crime rate in Texas is more than six times higher than in 1960 and 29 percent higher than in 1980, even though the national crime rate has dropped by 4 per cent in the past 10 years.

Why is there so much crime? The main reason is that, for most criminals in Texas, crime pays.

- Overall, fewer than three of every 100 serious crimes lead to prison terms, and the average sentence served has shrunk by 56 percent since 1980.
- When the probabilities of arrest, conviction and imprisonment are considered, a potential criminal can expect to spend only 7.4 days in prison as a result of committing a serious crime.
- When incarcerated, prisoners serve less than 20 percent of their sentences today, compared to 50 percent in 1974.
- Ninety percent of convicted felons in the Texas criminal justice system are “doing time” outside of prisons.

What can we do to reduce crime? Take steps to make sure that crime does not pay by increasing arrest and conviction rates, and increasing the length of time convicted criminals spend in prison. More arrests and convictions will increase the demand for prison space. The state, which already plans to boost prison capacity, can do so without skyrocketing costs to the taxpayer by (1) speeding privatization of prison construction and operation; and (2) using alternative punishments such as electronic bracelets, boot camps and other intermediate sanctions for nonviolent criminals.

*"The Texas crime rate is 38 percent above the national average."*

*"Texas has the third highest crime rate in the nation."*

## The Problem

Texas is burdened by an appalling amount of crime. Even though the crime rate is not soaring as it did during the 1960s and 1970s:

- Every year, an estimated 230,000 Texans are victims of violent crimes: murder, rape, robbery or assault.<sup>1</sup>
- Another 2.5 million Texans each year are victims of property crimes: arson, burglary or larceny/theft.<sup>2</sup>
- On an average day in Texas, six murders, 22 rapes, 108 robberies and 165 life-threatening assaults are reported to police.<sup>3</sup>
- A car is stolen every 3.4 minutes, and a burglary is committed every 1.5 minutes.<sup>4</sup>

The Texas crime rate is also high relative to that of other states:

- The state crime rate, below the national average in 1975, is today 38 percent above the national average.<sup>5</sup>
- The national crime rate has dropped 4 percent in the past 10 years, while the crime rate in Texas has risen 29 percent.<sup>6</sup>
- Texas has the third highest crime rate in the nation, trailing only Florida and Arizona.<sup>7</sup>

Why is there so much crime? The reason is that for an increasing number of potential criminals, crime pays.



## The 'Price' We Charge for a Crime

The economic theory of crime is relatively new. According to this theory, most crimes are not irrational acts. Instead, they are committed by people who at least implicitly compare the expected benefits with the expected costs, including the costs of being caught and punished. The reason we have so much crime is that, for many people, the benefits outweigh the costs. For some, crime is more attractive than their other career options. Put simply, the economic theory of crime says that we have so much crime because *crime pays*.

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

It is virtually impossible to prevent people from committing crimes. What the criminal justice system does is construct a list of "prices" (expected punishments) for various criminal acts. People commit crimes so long as they are willing to pay the price society charges, just as many of us might risk a parking or speeding ticket by disobeying traffic laws.

Because criminals and potential criminals rarely have accurate information about the probabilities of arrest, conviction and imprisonment, their personal assessments of the expected punishments vary widely. Some overestimate their probability of success, while others underestimate. The more skillful and intelligent criminals face better odds of getting away with their crimes.

Despite the element of subjectivity, the economic theory of crime makes one clear prediction: If the expected cost of crime to criminals declines, crime will increase. This is true for "crimes of passion" as well as economic crimes. The less costly crime becomes, the more often people fail to control their passions. Incentives matter in all human behavior.

*"According to the economic theory of crime, the amount of crime is inversely related to expected punishment."*

The economic theory of crime is consistent with public opinion<sup>8</sup> and with the perceptions of potential criminals.<sup>9</sup> It is supported by considerable statistical research.<sup>10</sup> According to the theory, the amount of crime is inversely related to expected punishment.

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

of being prosecuted after an arrest; the probability of being convicted, given prosecution; and the probability of going to prison, given a conviction.

As Table I shows, the *expected punishment* is the result of multiplying all four probabilities and then multiplying that result by the median time served.

TABLE I

## Calculating Expected Punishment

EXPECTED TIME IN PRISON =

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

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

Even if each of the separate probabilities is reasonably high, their product can be quite low. Suppose, for example, that each were 0.5 (in other words, one-half of all crimes resulted in an arrest; one-half of all arrests led to prosecution; one-half of all prosecutions produced a conviction; and one-half of all convictions meant a prison sentence). In this case, the overall probability that a criminal would spend time in prison is only 6.25 percent.

**Expected Punishment in Texas.** Here is the expected punishment for crime, on the average, in Texas today:

- Prior to committing the act, a potential murderer can expect to spend only 2 years in prison, a rapist 5.3 months and an auto thief 2.7 days.<sup>11</sup>
- Overall, the expected punishment for a crime of violence or felony theft is only 7.4 days.<sup>12</sup>

"Overall, the expected punishment for a crime of violence or felony theft in Texas is 7.4 days."

Expected punishment is *not* the length of time criminals actually remain in prison. The median prison stay in Texas is about 10 months. Ex-

*"Since 1960, expected punishment has dropped by more than two-thirds."*

pected punishment is the actual prison time spent multiplied by the probabilities of arrest, prosecution, conviction and imprisonment. Expected punishment takes into account the fact that more than 97 percent of all crimes in Texas do not result in any prison time.

## Crime Rises as Expected Punishment Declines

If the numbers in Table II seem shockingly low, the full reality may be worse. On the average, the crimes with the longest expected prison terms (murder, rape, robbery and assault) are the crimes least frequently committed, comprising only about 8 percent of all serious crime in Texas. The remaining 92 percent of crimes carry an expected prison term of only a few days.

Table III shows how this overall expectation of punishment has declined over the past three decades.<sup>13</sup>

- Since 1960, the expected punishment for committing a serious crime in Texas has dropped by more than two-thirds.
- Over the same period, the number of serious crimes per 100,000 population in Texas has increased more than sixfold.

TABLE II

### Expected Punishment in Texas

<u>Crime</u>	<u>Expected Time in Prison<sup>1</sup></u>
Murder	24.0 months
Rape	5.3 months
Robbery	2.0 months
Aggravated Assault	8.2 days
Burglary	6.7 days
Motor vehicle theft	2.8 days
Larceny/theft	0.9 days

<sup>1</sup>Based on actual time served and the probability of going to prison once a crime is committed.

TABLE III

### Decline in Overall Expected Punishment for Serious Crimes in Texas

<u>Year</u>	<u>Expected Time in Prison<sup>1</sup></u>
1960	24.1 days
1965	20.4 days
1970	10.8 days
1975	8.7 days
1980	13.0 days
1985	10.5 days
1989	7.4 days

<sup>1</sup>Based on actual time served and the probability of going to prison once a crime is committed.

*"Only about 21 percent of serious crimes are cleared by arrest."*

**The Probability of Arrest.** Table IV shows the percentage of crimes "cleared by arrest" in the FBI's West South Central Region, which includes Texas, Oklahoma, Arkansas and Louisiana. Texas makes up 60 percent of the four-state area. Note the dramatic decline in arrest rates over the past 30 years, even for the most serious crimes.<sup>14</sup>

- Since 1960, the probability of being arrested for committing a murder has fallen by 25 percent.
- The probability of arrest for rape has dropped 20 percent, for robbery 28 percent and for burglary 52 percent.

Overall, during the 1980s, only about 21 percent of all serious crimes in the West South Central Region were cleared by arrest.<sup>15</sup> In Japan, by contrast, 50 percent of serious crimes are cleared by arrest. And Japan, with a population of 122 million, has fewer murders each year than Texas, with a population of only 17 million.<sup>16</sup>

**Odds of Going to Prison.** Police in Texas arrested nearly 200,000 people for felonies in 1989, but only 33,303 — or 17 percent of those arrested — wound up going to prison. That means that 83 out of every 100 people arrested for serious crimes in Texas served *no* time in prison.<sup>17</sup>

*"For 83 out of every 100 arrests for serious crimes, no time was served in prison."*

TABLE IV

### Percent of Serious Crimes Cleared by Arrest

Crime	1960	1989	Change 1960 to 1989
Murder	96.5%	72.5%	- 25%
Rape	74.3%	59.6%	- 20%
Robbery	41.3%	29.9%	- 28%
Aggravated Assault	79.2%	58.3%	- 26%
Burglary	30.6%	14.7%	- 52%
Larceny/theft	23.7%	19.5%	- 18%

**Time Served in Prison.** The probability of serving prison time for murder, rape or aggravated assault has risen in Texas since 1960, but increases in prison admissions have been more than offset by shorter sentences served, thereby decreasing expected punishment for every crime except murder and rape. While it may be coincidental, the murder rate per 100,000 population in Texas over the past two decades has increased by only 3 percent, far less than the rate for any other serious crime.

TABLE V

### Expected Punishment in Texas, 1960

<u>Crime</u>	<u>Percent of Serious Crimes Resulting in a Prison Sentence</u>	<u>Median Sentence Served</u>	<u>Expected Punishment</u>	<u>Crimes per 100,000 pop.</u>
Murder	26.3%	3.5 years*	11.0 months	8.7
Rape	6.8%	4.1 years	3.3 months	9.3
Robbery	12.4%	2.1 years	3.1 months	32.8
Agg. Assault	1.7%	2.4 years	14.9 days	111.8
Burglary	2.5%	1.3 years	11.9 days	613.8
Larceny/Theft	4.5%	10.6 months	14.5 days	233.1

\*Median for murder in 1960 is the average of sentences served for 1957, 1960 and 1965. The median for 1960 alone was abnormally low compared with other years.

### Expected Punishment in Texas, 1988

<u>Crime</u>	<u>Percent of Serious Crimes Resulting in a Prison Sentence</u>	<u>Median Sentence Served</u>	<u>Expected Punishment</u>	<u>Crimes per 100,000 pop.</u>
Murder	61.1%	3.3 years	24.0 months	12.1
Rape	13.9%	3.2 years	5.3 months	48.4
Robbery	7.9%	2.1 years	2.0 months	234.2
Agg. Assault	2.4%	11.3 months	8.2 days	357.9
Burglary	2.7%	8.2 months	6.7 days	2,157.2
Larceny/Theft	0.5%	6.0 months	.9 days	4,407.9

TABLE VI

**Crime and Punishment**

(1960-1988)

<u>Crime</u>	<u>Change in Expected Sentence</u>	<u>Change in Crime Rate</u>
<b>Murder</b>	+ 116%	+ 39%
<b>Rape</b>	+ 61%	+ 420%
<b>Robbery</b>	- 35%	+ 614%
<b>Agg. Assault</b>	- 45%	+ 220%
<b>Burglary</b>	- 44%	+ 251%
<b>Larceny/Theft</b>	- 94%	+ 1,792%

*"For an increasing number of potential criminals, crime pays."*

The Texas experience contrasts with the national picture during the 1980s, when expected punishment rose, keeping national crime rates below the peak recorded in 1980.<sup>18</sup> For example:

- Between 1982 and 1986, the expected number of days in prison rose 26 percent nationally but dropped 36 percent in Texas.
- During that same period, serious crime in Texas increased from 12 percent to 35 percent above the national average.<sup>19</sup>

**Unreported Crimes**

Based on the number of crimes reported to the police, 97.5 percent of all serious crimes committed in Texas are not punished by imprisonment.<sup>20</sup> According to the National Crime Survey, however, only 35 percent of serious crimes are ever reported. If there are nearly two unreported crimes for every one reported, then the overall probability of going to prison in Texas for the commission of a serious crime falls below 1 percent ( $35\% \times 2.5\% = 0.9\%$ ) — or one prison term for every 114 major felonies committed.

*"Although expected punishment rose nationally in the 1980s, it dropped in Texas."*

*"97.5 percent of serious crimes are not punished by imprisonment."*

## Possible Explanations

The main factor responsible for the decline in punishment over the last three decades was a decline in the probability of imprisonment combined with a decline in the length of prison time served. Why?

**Law Enforcement Personnel.** We cannot blame a decrease in law enforcement personnel. As Table VII shows, although Texas has fewer police per 10,000 population than the national average, the number of full-time police employees in Texas has more than doubled since 1968. Total employment in the courts and correctional system has grown proportionately. Apparently, more people now produce less justice.

TABLE VII

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

<u>Year</u>	<u>Police Employees In Texas</u>	<u>Police Employees per 10,000 Population<sup>1</sup></u>	
		<u>Texas</u>	<u>U.S.</u>
1968	17,375	16	20
1979	31,705	23	26
1987	40,952	24	27

<sup>1</sup>Full Time Equivalent.

*"Apparently, more law enforcement personnel now produce less justice."*

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

**Federal Court Decisions:** One key factor that had an impact throughout the '70s and '80s was the change in the criminal justice system caused by the U.S. Supreme Court. After the Supreme Court's first landmark decision in 1961 expanding the rights of criminal defendants and making it more costly for police and prosecutors to obtain criminal convictions, a growing reluctance to prosecute and punish criminals emerged.

"Supreme Court decisions led to a growing reluctance to prosecute and punish criminals."

A series of related decisions followed: *Gideon v. Wainwright* (1963) required taxpayer-funded counsel for defendants who could not afford an attorney; *Escobedo v. Illinois* (1964) and *Malloy v. Hogan* (1964) expanded privileges against self-incrimination, impeding interrogation of suspects by police; and *Miranda v. Arizona* (1966) made confessions — even voluntary ones — inadmissible as evidence unless the suspect had first been advised of certain rights.

The enforcement system was transformed by these decisions. As Justice Cardozo wrote in a 1926 case, "The criminal is to go free because the constable has blundered."<sup>21</sup> Justice White, dissenting in the *Miranda* case, warned that the decision would have "a corrosive effect on the criminal law as an effective device to prevent crime."<sup>22</sup> It appears that what Judge Macklin Fleming called "the pursuit of perfect justice" has increased the time and effort required to apprehend, convict and punish the guilty.<sup>23</sup>

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

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

**Texas Court Decisions.** Through its Court of Criminal Appeals, Texas gives even more legal privileges to criminal defendants than those created by the federal judiciary:



*"Unlike the federal court system, Texas separates criminal and civil appeals."*

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

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

## Do Governors Make a Difference?

Governors are by no means the sole determinants of crime and punishment, but a comparison of recent administrations is revealing (see Table VIII).

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

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

The decline in punishment in Texas during the 1960s mirrored a nationwide trend. As the impact of the *Ruiz* decision was felt, the Mark White administration in the mid-'80s presided over another major drop in the expected length of a prison stay, defying a national trend toward increased punishment.

During Bill Clements's first administration, both the probability of imprisonment and the length of expected prison stay increased. During the first three years of his second administration, the total number of prisoners increased by about 3,500, but annual releases also increased as much as 4,000.

TABLE VIII

## Do Governors Make a Difference?

<u>Governor</u>	<u>Years</u>	<u>Probability of Imprisonment</u>			<u>Expected Days in Prison</u>		
		<u>Start</u>	<u>End</u>	<u>Change</u>	<u>Start</u>	<u>End</u>	<u>Change</u>
Price Daniel	1957-62	4.6%	4.8%	+ 4%	24.1	24.8	+ 3%
John Connally	1963-68	4.8%	2.1%	-56%	24.8	11.0	-56%
Preston Smith	1969-72	2.1%	1.7%	-19%	11.0	11.4	+ 4%
Dolph Briscoe	1973-78	1.7%	1.8%	+ 6%	11.4	13.9	+22%
William Clements	1979-82	1.8%	2.0%	+11%	13.9	14.0	+ 1%
Mark White	1983-86	2.0%	2.5%	+25%	14.0	8.9	-36%
William Clements	1987-90	2.5%	NA	NA	NA	NA	NA

NA: Not Available.

TABLE IX

# Change in the Prison Population

<u>Governor</u>	<u>Year</u>	<u>Average Prison Population</u>	<u>Admitted</u>	<u>Released</u>
Briscoe	1973	16,689	7,780	6,994
	1974	16,956	8,217	7,819
	1975	18,151	9,358	7,995
	1976	20,976	10,554	7,625
	1977	20,862	11,077	11,029
	1978	24,615	12,894	8,733
Clements	1979	25,164	13,041	11,602
	1980	28,543	14,176	9,656
	1981	30,315	15,702	12,757
	1982	34,393	18,837	13,950
White	1983	36,769	22,870	20,146
	1984	35,772	23,058	23,486
	1985	37,320	25,365	23,333
	1986	38,246	30,471	29,347
Clements	1987	39,652	35,077	33,370
	1988	39,664	33,816	33,428
	1989	41,626	33,303	30,903
	1990	44,510 (p)	NA	NA

(p) preliminary, May 1990

NA: Not Available.

## The Solution: Increase the Expected Cost of Crime

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

To lower the Texas crime rate to, say, the level of the 1960s, we must create at least as much crime deterrence as existed then. For example, since the probabilities of prosecution and conviction for robbery, given an arrest, are already high, there are three ways of raising the expected punishment for robbery to its 1960s level:

- Increase the proportion of robberies cleared by arrest from 29.9 percent to 46.3 percent, or
- Increase the proportion of arrested robbers sent to prison from 26 percent to 40 percent, or
- Increase the median prison sentence served by robbers from 2.1 years to 3.3 years.

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

*"Texas is in the midst of a prison building boom."*

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

- Today, one of every 370 Texans is in a state prison — not in jail, not on probation or parole, but in prison. By 1993, one of every 292 Texans will be in prison.<sup>24</sup>
- Counting the 78,000 on probation and the 290,000 on parole, one of every 31 adult Texans is currently under the supervision of the state's corrections agencies.<sup>25</sup>
- Texas has more criminals under state supervision — in prison, on probation or on parole — than any other state.

*"Among criminals under supervision, Texas has a lower percentage in prison than any other large state."*

*"The recidivism rate among prisoners over age 45 is only 2.1 percent versus about 22 percent for those age 18 to 24."*

- At the same time, of the criminals under supervision, Texas has a lower percentage in prison than any other *large* state. California, with a population half again as large as that of Texas, has twice the number of people in state prisons.<sup>26</sup>

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

## Reducing Costs within the Public Sector

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

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

- Florida expanded an existing facility by 336 beds for only \$16,000 per cell.<sup>27</sup>
- South Carolina used inmate labor to reduce construction costs by an estimated 50 percent with no quality loss, though some delay occurred.<sup>28</sup>
- New York City has begun using renovated troop barges and a ferry boat as detention facilities.<sup>29</sup>

**Early Release of Elderly Prisoners:**<sup>30</sup> Nationwide, the recidivism rate among prisoners over age 45 is only 2.1 percent, versus about 22 percent for those age 18 to 24. Moreover, the average maintenance cost of an elderly prisoner is much higher than that of a younger one. Early release of many Texas prisoners over age 55 is a sensible way to make room for younger criminals. As of August 31, 1989, more than 3,000 inmates in Texas were age 45 and over, and 460 were 60 or older.

*"Travis County opened a boot camp in 1988, and Harris County plans to open one in April."*

**Boot Camp Therapy for Young Prisoners:** Called "shock incarceration" by former federal drug czar William Bennett, boot camp therapy as an alternative to prison for first-time young offenders is already being used in Texas as well as eight other states.<sup>31</sup> Travis County opened the Convicted Offenders Re-Entry Effort (CORE) in 1988. Of 216 offenders who finished the program over a 19-month period, only 19 have been rearrested. Another 134 offenders were kicked out of the program for failing to meet its standards. Harris County is planning to open a boot camp in April to accommodate 400 young offenders.

**Electronic Ankle Bracelets:** The cost of punishment would be greatly reduced if ways were found to punish criminals without imprisoning them. Few people would deny that imprisonment is necessary for violent crimes such as murder, rape, robbery and assault. But only 20 percent of all prisoners in Texas have been incarcerated for violent crimes.<sup>32</sup> One recent alternative for the rest is an electronic monitoring device that can be worn by parolees. Judges impose the conditions of parole, including restrictions on location and timing of activities, and these restrictions are enforced by monitoring companies.

## Reducing Costs Through Privatization

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

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

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

- Corrections Corporation of America (CCA) completed a 350-bed minimum security facility in Houston in 1984 for the U.S. Immigration and Naturalization Service. Construction was completed in just five-and-a-half months at a cost of only \$14,000 per bed. The

*"The Corrections Corporation of America charges half the operating costs of publicly-run prisons."*

INS estimate for doing its own construction was \$26,000 per bed and construction time of two-and-a-half years.<sup>33</sup>

- In Loudon County, Virginia, Surfside 6 Industries used steel shipping containers to build a six-cell, 23-cot prefab jail. The cost: \$96,000, or \$4,000 per bed. The construction time: 15 days.<sup>34</sup>

**Prison Operation:** Private operation of prisons is less familiar than private prison construction. But there is no insurmountable legal obstacle to total privatization. Unlike government agencies, private firms must know and account for all the costs of prison operation, including long-run costs.<sup>35</sup> If they can do so and still operate prisons for less than the government — and all indications are that they can — then government should impose punishments and let the private sector supply prisons.<sup>36</sup>

- As a private contractor, the Corrections Corporation of America (CCA) charges the INS only \$24 per inmate per day, a charge which includes recovery of the cost of building the facility.<sup>37</sup>
- Operating costs for publicly-run prisons are twice that amount, even without taking construction costs into account.<sup>38</sup>
- CCA was selected by Louisiana in 1989 to manage a medium security prison in Winn Parish.
- All of CCA's 11 correctional facilities are accredited by the American Correctional Association, compared to 5 percent of prisons and jails nationally.

## Employment of Prisoners: Factories Behind Bars

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

A recent survey commissioned by the National Institute of Justice identified more than 70 companies which employ inmates in 16 states in manufacturing, service and light assembly operations.<sup>39</sup> Prisoners work as reservationists for TWA and Best Western motels, sew leisure wear, manufacture water-bed mattresses and assemble electronic components. PRIDE, a state-sponsored private corporation that runs Florida's 46 prison industries — from furniture making to optical glass grinding, made a \$4 million profit in 1987.<sup>40</sup>

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

*"Productive work for prisoners benefits everyone."*

**Historical Experience.** Prisons originally were intended to be self-supporting, and during the 19th century many state prisons ran surpluses, returning excess funds to their state governments. Today, prison inmates are a huge drain on taxpayer wallets despite the millions of available hours of healthy, prime-age labor they represent. If prisoners worked 40 hours a week at the current federal minimum wage of \$3.80, each would produce \$7,900 of market value per year.

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

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

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

Throughout the nation, a score of exceptions to the federal restrictions on prison labor have been authorized, *provided* the inmates were paid a prevailing wage, labor union officials were consulted, free labor was not adversely affected and the jobs were in an industry without local unemployment.<sup>41</sup>

**Removing State Legal Barriers.** Until 1987, prisoners in Texas were forbidden to work for pay. Legislation passed after Sunset Law review of the Texas Department of Corrections in 1987 included authorization for the



*"Legislation passed in 1987 authorizes moves toward using inmate labor in Texas."*

department to contract with other state agencies and local governments for the use of inmate labor and to pursue agreements with private business and industry to use inmate labor as well.

Removal of remaining impediments to prison production and gainful employment would help Texas put prisoners to work and relieve taxpayers of the \$20,000 per prisoner annual burden of maintaining them.

## Using Abandoned Military Bases

Over the years, a number of military bases in Texas have been closed or reduced in size. Many have been converted to other uses, but others remain closed or have large areas that are not used. Some of these could be converted into minimum security prisons. In a few cases elsewhere, this is already happening.<sup>42</sup>

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

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

It is possible that the courts would require extensive — and expensive — modification of base facilities before they could be used as prisons. However, it would be hard to argue that facilities previously used by our armed forces are "inhumane." Even without the modifications that might be necessary to use them as permanent prison facilities, the bases have great potential as emergency prison resources.

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

the money to buy a large tract of less expensive property on which to construct new prison space.

## The Cost of *Not* Building Prisons

Although the cost of building and maintaining prisons is high, the cost of not creating more prisons appears to be much higher. A study by the National Institute of Justice concluded that the typical career offender turned loose in society will engage in a one-person crime wave causing damage more than 17 times as costly as imprisonment.<sup>43</sup>

*"Keeping a career criminal out of prison costs society \$430,000 a year in additional crimes."*

- Sending someone to prison for one year in Texas costs taxpayers about \$20,000.
- A Rand Corporation survey of 2,190 professional criminals found that the average career criminal commits 187 to 287 crimes a year, each costing society an average of \$2,300.
- So keeping a career criminal out of prison costs, on the average, \$430,000 a year — \$410,000 more than the cost of imprisonment.

The failure to keep offenders in prison once they are there is another hazard created by a lack of prison space, and early release often leads to more crime.

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

- A Rand Corporation survey of former inmates in Texas found that 60 percent were rearrested within three years of their release and 40 percent of those were reconvicted.<sup>44</sup>
- A survey of 11 states showed that 62.5 percent of all released prisoners were rearrested within three years; 46.8 percent were reconvicted, and 41.1 percent were reincarcerated.<sup>45</sup>
- A study of 22 states for the Bureau of Justice Statistics found that 69 percent of young adults (ages 17 to 22) released from prison in 1978 were rearrested within six years, after committing an average of 13 new crimes.<sup>46</sup>

## Conclusion

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

### Improvements:

"1. Raise the level of expected punishment."

"2. Allow private employment of prisoners."

"3. Abolish the Court of Criminal Appeals."

1. First, the public sector must continue raising the level of expected punishment to deter criminal activity. Crime must be made *not* to pay. Such deterrence will require more prison cells for violent criminals and more use of alternative punishment for non-violent offenders. The costs of constructing more prisons and operating both those and existing prisons can be reduced by privatization. The Texas Department of Criminal Justice must also be required to keep better track of its vast assets and its spending.
2. Second, the laws hampering private employment of prisoners must be relaxed. The Department of Corrections already has the authority to pursue private employment agreements; now the other legal hurdles must be removed. Prisoners should work to pay for a greater portion of what it is now costing taxpayers to keep them in prison.
3. Third, the Court of Criminal Appeals should be abolished. This court, separate from the rest of the court structure, has created more legal privileges for criminal defendants than those created by the U.S. Supreme Court. The federal system does not separate criminal appeals from civil appeals, nor should the state. Criminal law does not raise narrow technical questions, but general issues that should be decided by Supreme Court justices rather than crime specialists and defendants' attorneys.

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

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

# Appendix

TABLE A-1

## Total Crime in Texas By Offense 1960-1989

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

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

TABLE A-2

## Texas Crime Rates Per 100,000 Population 1960-1989

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

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

TABLE A-3

## Texas Admissions to Prison by Crime Type 1960-1989

<u>Year</u>	<u>Total Crimes</u>	<u>Murder</u>	<u>Rape</u>	<u>Robbery</u>	<u>Agg. Assault</u>	<u>Burglary</u>	<u>Larceny/ Theft</u>	<u>Motor Vehicle Theft</u>
1960	5,035	216	61	368	179	1,450	992	19
1961	5,690	NA	NA	NA	NA	NA	NA	NA
1962	5,608	168	41	410	NA	1,870	NA	6
1963	5,659	219	44	349	194	1,848	1,115	8
1964	5,703	288	261	541	104	1,981	882	57
1965	5,614	264	47	251	264	1,598	1,124	29
1966	NA	NA	NA	NA	NA	NA	NA	NA
1967	5,020	224	61	411	194	1,500	1,014	12
1968	4,244	291	80	443	201	1,488	NA	5
1969	NA	NA	NA	NA	NA	NA	NA	NA
1970	NA	NA	NA	NA	NA	NA	NA	NA
1971	NA	NA	NA	NA	NA	NA	NA	NA
1972	7,725	361	148	814	38	2,059	1,527	50
1973	7,780	822	301	1,227	232	2,024	1,982	105
1974	8,217	593	197	1,223	94	2,050	991	99
1975	9,858	576	216	1,665	204	2,747	1,079	206
1976	10,554	665	243	1,388	259	3,000	1,143	294
1977	11,077	677	286	1,540	312	3,303	1,235	264
1978	12,894	772	314	1,566	400	3,277	1,340	361
1979	13,041	891	368	1,687	432	3,392	1,463	419
1980	14,176	892	433	1,699	463	3,864	1,735	514
1981	15,702	912	477	1,787	511	4,090	1,808	545
1982	18,837	1,014	500	2,083	623	4,615	2,276	604
1983	22,870	1,114	527	2,210	723	5,192	2,566	663
1984	23,058	1,055	407	1,697	718	4,576	2,081	665
1985	25,365	1,240	214	2,627	1,024	7,563	2,075	751
1986	30,471	1,333	258	3,028	1,261	8,884	3,502	1,482
1987	35,077	1,463	1,163	3,264	1,493	10,159	3,602	2,012
1988	33,816	1,888	1,128	3,100	1,431	9,624	3,386	2,064
1989	33,003	NA	NA	NA	NA	NA	NA	NA

NA: Not Available

Source: Texas Department of Corrections, *Statistical Report*, annual.

TABLE A-4

## Probability of Imprisonment in Texas 1960-1989

<u>Year</u>	<u>Total Crimes</u>	<u>Murder</u>	<u>Rape</u>	<u>Robbery</u>	<u>Agg. Assault</u>	<u>Burglary</u>	<u>Larceny/ Theft</u>	<u>Motor Vehicle Theft</u>
1960	4.57	26.31	6.77	12.35	1.69	2.54	4.46	0.12
1961	5.16	NA	NA	NA	NA	NA	NA	NA
1962	4.85	23.11	4.33	13.07	NA	3.25	NA	0.04
1963	4.44	28.93	4.32	9.60	1.62	2.96	3.67	0.05
1964	4.02	30.43	21.97	12.29	0.79	2.93	2.59	0.28
1965	3.79	33.42	4.11	5.66	1.82	2.25	3.08	0.15
1966	NA	NA	NA	NA	NA	NA	NA	NA
1967	3.59	20.95	4.23	5.68	1.11	1.69	1.99	0.05
1968	2.14	25.11	4.98	4.96	1.14	1.41	NA	0.02
1969	NA	NA	NA	NA	NA	NA	NA	NA
1970	NA	NA	NA	NA	NA	NA	NA	NA
1971	NA	NA	NA	NA	NA	NA	NA	NA
1972	1.73	25.16	5.35	5.91	0.17	1.46	0.67	0.13
1973	1.63	35.16	10.01	10.90	0.98	1.87	0.82	0.26
1974	1.42	35.90	5.65	6.19	0.43	1.10	0.33	0.22
1975	1.41	35.14	6.30	8.29	0.90	1.35	0.30	0.43
1976	1.55	43.78	6.83	8.00	1.18	1.55	0.28	0.67
1977	1.60	39.71	6.59	7.87	1.17	1.61	0.32	0.52
1978	1.78	41.66	6.37	7.32	1.40	1.56	0.34	0.62
1979	1.64	29.87	9.10	6.57	1.27	1.41	0.35	0.58
1980	1.63	37.29	6.46	5.75	1.16	1.47	0.38	0.65
1981	1.76	37.28	7.00	6.26	1.25	1.49	0.40	0.65
1982	1.96	41.12	7.39	6.20	1.38	1.61	0.45	0.69
1983	2.46	49.75	8.32	7.42	1.71	1.98	0.51	0.80
1984	2.39	50.41	5.54	5.95	1.68	1.72	0.39	0.76
1985	2.36	58.16	2.56	8.30	2.19	2.61	0.35	0.75
1986	2.47	59.03	3.00	7.57	2.14	2.63	0.53	1.24
1987	2.71	74.68	14.41	8.58	2.58	2.86	0.51	1.63
1988	2.51	61.18	13.90	7.89	2.38	2.68	0.46	1.54
1989	2.47	NA	NA	NA	NA	NA	NA	NA

NA: Not Available

Source: Calculated by dividing entries in Table A-3 by respective entries in Table A-1.

TABLE A-5

# **Estimated Sentences Served — All Texas Crimes 1957-1989**

<b>Year</b>	<b>Prisoners On-Hand</b>	<b>Prisoners Released</b>	<b>(years) Implied Average Sentence Served</b>	<b>(years) Implied Median Sentence Served</b>
1957	10,091	4,141	2.44	1.83
1960	11,308	5,889	1.92	1.44
1965	12,854	6,559	1.96	1.47
1970	14,331	6,898	2.08	1.56
1975	18,151	7,995	2.27	1.70
1980	28,543	9,610	2.97	2.23
1985	37,320	23,333	1.60	1.20
1988	39,664	33,428	1.19	.89
1989	40,789	36,052	1.13	.85

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



## Footnotes

- <sup>1</sup>Calculated from FBI *Uniform Crime Reports*, annual, and U.S. Bureau of Justice Statistics, *National Crime Survey*, annual.
- <sup>2</sup>*Ibid.*
- <sup>3</sup>Calculated from FBI *Uniform Crime Reports*.
- <sup>4</sup>*Ibid.*
- <sup>5</sup>FBI *Uniform Crime Reports*.
- <sup>6</sup>*Ibid.*
- <sup>7</sup>*Ibid.*
- <sup>8</sup>James Q. Wilson, *Thinking About Crime*, revised ed. (New York: Basic Books, 1983), p. 117.
- <sup>9</sup>W. Kip Viscusi, "The Risks and Rewards of Criminal Activity: A Comprehensive Test of Criminal Deterrence," *Journal of Labor Economics*, Vol. 4, No. 3, 1986, pp. 317-340; and *Houston Chronicle*, Dec. 2, 1990, p. 1A, p. 25A and p. 1D.
- <sup>10</sup>*Ibid.* See also earlier surveys of the literature in Gordon Tullock, "Does Punishment Deter Crime?", *The Public Interest*, 36, Summer 1974, pp. 103-111; Morgan O. Reynolds, *Crime by Choice*, (Dallas: Fisher Institute, 1985), Ch. 12; and Stephen G. Craig, "The Deterrent Impact of Police: An Examination of a Locally Provided Public Service," *Journal of Urban Economics*, Vol. 21 (1987): pp. 298-311.
- <sup>11</sup>Calculated from FBI *Uniform Crime Reports*, annual, and Texas Department of Corrections, *Statistical Report*, annual.
- <sup>12</sup>*Ibid.*
- <sup>13</sup>*Ibid.*
- <sup>14</sup>FBI *Uniform Crime Reports*.
- <sup>15</sup>*Ibid.*
- <sup>16</sup>In 1985, the most recent year for which comparative figures are available, the FBI *Uniform Crime Reports* show 2,132 homicides in Texas, and the Interpol International Crime Statistics show 1,780 homicides in Japan.
- <sup>17</sup>Texas Department of Corrections, *Statistical Reports*.
- <sup>18</sup>Morgan O. Reynolds, "Crime Pays, But So Does Imprisonment," NCPA Policy Report No. 149, March 1990.
- <sup>19</sup>FBI *Uniform Crime Reports*.
- <sup>20</sup>FBI *Uniform Crime Reports* and Texas Department of Corrections, *Statistical Report*.
- <sup>21</sup>*People v. Defore*, 242 NY 21 (1926).
- <sup>22</sup>384 US 543.
- <sup>23</sup>Macklin Fleming, *The Price of Perfect Justice* (New York, Basic Books, 1974); Reynolds, *Crime by Choice*, chapter 8; and Steven R. Schlesinger, "Criminal Procedures in the Courtroom," in James Q. Wilson's *Crime and Public Policy* (San Francisco: Institute for Contemporary Studies, 1983).
- <sup>24</sup>This assumes a prison population of 60,000 and a state population of 17.5 million.
- <sup>25</sup>*Statistical Abstract of the United States*, 1990.
- <sup>26</sup>*Ibid.*
- <sup>27</sup>U.S. Department of Justice, Bureau of Justice Statistics, *Report to the Nation on Crime & Justice*, pp. 124-125. Cited in Republican Policy Committee, "Bursting at the Beams: America's Overcrowded Prisons," April 19, 1989, p. 2.

## Footnotes (continued)

<sup>28</sup>Eckerd, "Responsibility, Love, and Privatization: A Businessman's Guide to Criminal Rehabilitation," *Policy Review*, 45, Summer, 1988, p. 52.

<sup>29</sup>*New York Times*, Oct. 25, 1986, p. L29, and Oct. 28, 1988, p. B1.

<sup>30</sup>Jonathan Turley, "Solving Prison Overcrowding," *New York Times*, Oct. 9, 1989. Turley directs the Project for Older Prisoners at Tulane University.

<sup>31</sup>Richard Berke, "For Criminals, Camp is No Vacation," *New York Times*, May 30, 1989.

<sup>32</sup>Texas Department of Corrections, *Statistical Reports*.

<sup>33</sup>Charles D. Van Eaton, "Jail Overcrowding in Michigan: A Public Problem with a Private Solution?," Mackinac Center, April 17, 1989, p. 14.

<sup>34</sup>Associated Press, Aug. 12, 1989; *Fortune*, Aug. 14, 1989, p. 17.

<sup>35</sup>Samuel Jan Brakel, "Privatization and Corrections," Reason Foundation, January, 1989; and Charles Logan, "Privatization and Corrections: A Bibliography," National Institute of Justice, January 1989.

<sup>36</sup>One of the difficulties of making private-public comparisons is that actual costs of public prisons often are greater than reported costs. The Criminal Justice Institute has estimated that public corrections facilities understate their actual operating costs by 15-20 percent. Rutgers University economists suggest that the average understatement is 30 percent. See Steve Shwiff and Gale Norton, "Private Prisons Now," Independence Institute Issue Paper No. 19-88, Sept. 29, 1988; and *Time to Build? The Realities of Prison Construction* (New York: Edna McConnell Clark Foundation, 1984), p. 11.

For argument that the private sector has little actual cost advantage over the public sector, see John D. Donahue, *The Privatization Decision: Public Ends. Private Means* (New York: Basic Books, 1989), Chapter 8.

<sup>37</sup>Van Eaton, op. cit.

<sup>38</sup>*Ibid.*

<sup>39</sup>James K. Stewart, director, National Institute of Justice, Department of Justice, in a letter to *The Wall Street Journal*, July 26, 1989.

<sup>40</sup>Eckerd, "Responsibility, Love and Privatization," p. 10.

<sup>41</sup>Bruce Fein and Edwin Meese III, "Have to Fight Crime Within Our Limited Means," *Houston Chronicle*, May 3, 1989, p. 29A.

<sup>42</sup>Al Pagel, "Military Bases— Sites for Prisons?," *Correction Compendium*, January-February, 1989. Cited in Dana C. Joel, *Time to Deal with America's Prison Crises*, pp. 9-10, Heritage Foundation Background, Nov. 15, 1989.

<sup>43</sup>*Wall Street Journal*, March 21, 1989.

<sup>44</sup>Stephen Klein and Michael Caggiano, *Policy Implications and Recidivism* (Santa Monica, CA: Rand Corporation, 1986) and Joan Petersilia, et. al., *Prison Versus Probation* (Santa Monica, CA: Rand Corporation, 1986).

<sup>45</sup>U.S. Department of Justice, Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, 1988, p. 658.

<sup>46</sup>Allen Beck, *Recidivism of Young Parolees* (Washington, DC: Bureau of Justice Statistics, 1987).

## About the Author

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

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