MORAL CREDIBILITY AND CRIME

Paul H. Robinson

We are in a crime panic. Legislators compete with one another to propose the toughest anti-crime legislation. "Three strikes and you're out" gets trumped with "two strikes" proposals. An additional $28 billion in federal anti-crime spending gets strong support in the midst of a deficit reduction drive. The bloody caning of an American youth in Singapore is cheered.

Clear-headed commentators point out the lack of justification for the panic: crime rates have not in fact increased recently, they correctly note. But a complete picture of our crime situation includes two other important pieces of information. First, one reason that crime has not increased recently is because we have increasingly altered our life style to avoid it. We no longer go out at night. We no longer let our children walk to a friend's house to play. We install locks, carry mace, and gladly pay more for apartment buildings with security. Private expenditures on security in 1983 were $21.7 billion, considerably more than the $13.8 billion of public spending.\(^1\) By 1990, private annual expenditures had risen to $52 billion.\(^2\) The rate of crime has stabilized because we increasingly diminish the quality of our lives to avoid it. The injury of crime escalates even where its incidents do not.

Another important piece of the crime picture is the fact that crime has dramatically increased over the longer term, albeit in sufficiently small increments that no single reported increase alone justified panic. In 1955, there were 46 robberies annually per 100,000 population; for equal population today we have over 270 robberies annually, a six-fold increase. Rape rates have more than tripled. Burglary rates have almost quadrupled. Murder per capita has more than doubled. The aggravated assault rate has increased more than six-fold.\(^3\) Overall the major crime rate is more than four times what it was four decades ago, including both urban and rural areas.\(^4\)

Perhaps the current crime panic is not born of new data but of realized frustration, like the monkey who works methodically to free himself from a trap and goes berserk only when he realizes there is no escape. It is frustration, not crime, that has boiled over.
To many, our situation is beyond tolerable. 82% of those polled in one study feared serious crime and believed that it was getting worse. 34% felt "truly desperate" about rising crime. And that was almost five years ago, before the current panic.

*What We Have Tried*

The slow march to an unbearable sea of crime is not the result of inattention but rather is despite our best efforts to stop it. In the 1950’s we thought we could best avoid crime by not just imprisoning criminals but by rehabilitating them. Today we would call it "attacking the root cause" of the problem--offenders had a disease; we would treat it. The logic of the rehabilitative model meant fully indeterminant sentences for all felonies--from one day to life, depending on the treatment needed and how the offender responded. But by 1974 Robert Martinson concluded in his survey article, *What Works?:* "I am bound to say that these data, involving over two hundred studies and hundreds of thousands of individuals as they do, are the best available and give us very little reason to hope that we have in fact found a sure way of reducing recidivism through rehabilitation."

Deterrence became a popular alternative. Potential offenders would be dissuaded from committing offenses by the threat of serious penalties. The greater the threatened sanction--i.e., the longer the prison term--the greater the disincentive. The high cost of imprisonment normally would put a natural limit on the severity of the deterrent threat, but the threat could be made dramatic without fiscal crisis by publicly imposing longer sentences than would actually be served. This is possible because the deterrent benefit is fully realized at the moment of public imposition. Later, offenders can be quietly released early by parole boards (conveniently left over from the rehabilitation approach). Typical was the federal system, where a legal presumption generally required that an offender be released before serving a third of the sentence imposed.

But in our open society the shell game was soon discovered. The public came to understand that a twenty year sentence really meant a maximum of seven and commonly much less. To counteract this "discounting" of sentences, judges imposed ever greater sentences, sometimes of hundred years. But this only increased public skepticism, as the potential sentence discount also increased--even a sentence many times longer than the human life span could end in early
release after a few years if the parole board so chose. Many states are following
the lead of the federal system's recent shift to "real time" sentencing, where
offenders must serve at least 85% of the term imposed. With time, the
credibility of the sentences will return.

But what is the real strength of the deterrent threat of prison? Deterrence
depends upon potential offenders thinking about the consequences of their
actions, which many do not do. More important, to be deterred, those who do
think about the consequences must see some real risk that they will be caught and
punished, and that risk must outweigh the benefits they expect from the crime.
Unfortunately for deterrence, most offenders seriously overestimate the
effectiveness of their particular precautions. Most if not all genuinely believe
that, unlike the other poor sap, they are sure to avoid detection or capture.

But even if potential offenders were brutally realistic about their chances of
being caught and punished, what is the risk they would see? An astounding
number of serious offenses are never reported to police (e.g., 21% of rapes,
40% of burglaries), either out of embarrassment or fear of reprisal or from a
belief that the police are impotent to do anything. Of the offenses reported,
clearance rates (the rate at which police identify and arrest a suspect for reported
offenses) have been steadily dropping for decades. The homicide clearance rate
nationwide, which was 93% in 1955, has steadily declined to a current 67%.
Rape has declined from 79% to 52%. Burglary from a not very high 32% to a
sad 13%.

And, as our more realistic potential offender knows, getting arrested is a
far cry from getting punished. The overall conviction rate of those arrested for
the most serious offenses--homicide, rape, robbery, burglary, aggravated assault-
is 30%. Further, less than half of those convicted of a felony are sentenced to
prison. Finally, of those actually sentenced to prison, the median time served
ranges from 5.5 years for murder to 2.2 years for kidnapping to 1.4 years for
arson.

The cumulative effect of the many escape hatches from punishment leaves
a deterrent threat that looks like this: Homicide offers a 44.7% chance of being
caught, convicted, and imprisoned. A person contemplating a rape faces a 12%
chance of going to prison. Robbery presents a 3.8% chance. Assault, burglary,
larceny/theft, and motor vehicle theft are each a 100-to-1 shot. Our potential
offender may not be entirely cowed by these threats. (These figures also explain
why longer prison terms can have only a limited effect in deterring crime: if a
robber faces a 3.8% chance of going to prison, why should it matter to him whether the likely sentence is 2 years or 10 years? 96.2% of robbers won't be serving any time.)

Our fall back crime control policy increasingly has been to hold in prison those offenders we think may commit another crime. We know this works (at least to protect the general public—victimization of other prisoners is another matter). Unfortunately, we are no better at predicting future dangerousness than we are at rehabilitating. Of every three people predicted to commit a serious offense, we are wrong about two of the three. In other words, two-thirds of the prisoners detained for dangerousness will be needlessly detained. Thus, if we are to protect society, we must incarcerate vastly more people than are actually dangerous. Besides its obvious unfairness, this approach makes the incapacitation strategy wildly expensive.

And, even at its best, the value of incapacitating dangerous offenders is limited to avoiding subsequent offenses. It does nothing to avoid offenses before or after (or during) imprisonment.

This is a truly depressing picture. Can't we do something to prevent people from committing crimes in the first place? Is this the future of mankind: ever increasing numbers of people in prison?

**Moral Credibility as Crime Control**

We tend to think of criminals as a distinct class of persons, us and them. This image is reinforced by reports that one group of offenders are responsible for a disproportionately large share of crimes. If we could only do something with these criminal-types in our society, the logic goes, we could solve our crime problem. And then the standard punishment-vs.-prevention debate is off and running: Should we keep more of these folks in prison, or should we target this group for more social services, or what balance of the two?

It is true that some offenders truly are career criminals. But the greater truth is that all offenders, except a small group of the mentally ill, are not irrevocably driven to crime. For nearly any criminal, whatever the person's age, race, sociological background, or economic status, one can point to hundreds of thousands of people of essentially the same characteristics who have chosen to act differently, to remain law abiding.
Those who commit crimes are not a different kind of person than the rest of us but rather are people like us who have chosen to do bad things, just as we could choose tomorrow. Fred Katz's study of *Ordinary People and Extraordinary Evil* shows how ordinary people in the normal course of everyday choices can step by step come to undertake serious wrongdoing, even horrendous acts like those of the Nazi Holocaust and the My Lai massacre.\(^\text{16}\)

Because current debate frames the problem as "How to deal with our criminal class?," it distracts from the positive inquiry--"Why do people obey the law?" Why, even in difficult situations of need and temptation and even when unlikely to get caught and punished, do the vast majority of people remain law abiding? Perhaps if we understand better what makes a person choose *not* to commit a crime even when temptation and opportunity present themselves, we could develop and enlarge that influence.

Here is what recent social science research hints at: Beyond the threat of legal punishment, people obey the law (1) because they fear the disapproval of their social group and (2) because they generally see themselves as moral beings who want to do the right thing (as they perceive it). In their study, Grasmick and Green conclude: "each of the three independent variables [of deterrence by threat of legal punishment, social disapproval, and personal moral commitment] makes a significant independent contribution to the explained variance [i.e., the rate of criminal behavior]."\(^\text{17}\)

As to social disapproval specifically, Meir and Johnson find: "despite contemporary predisposition toward the importance of legal sanction, our findings are . . . consistent with the accumulated literature concerning the primacy of interpersonal influence [i.e., social disapproval]" over legal sanction.\(^\text{18}\) As to moral commitment specifically, Tom Tyler concludes:

Testing the ability of each of the attitudinal factors . . . to predict variance in compliance . . . the most important incremental contribution is made by personal morality . . . . This high level of normative commitment to obeying the law offers an important basis for the effective exercise of authority by legal officials. People clearly have a strong predisposition toward following the law. If authorities can tap into such feelings, their decisions will be more widely followed.\(^\text{19}\)
Can legal authorities tap into these powerful forces of compliance? If they can, the potential benefits are enormous. First, as the studies quoted above suggest, both the fear of social disapproval by one’s group and one’s own moral commitment have strong compliance effects, stronger than the present deterrent threat of legal punishment.

Second, unlike the threat of legal punishment, both of these sources of compliance are not dependent on the chance of being arrested, convicted, and sentenced. A person’s family or friends may suspect his violations even if the authorities do not or cannot prove them. In any case, the person always knows of his violations. Thus, harnessing the compliance powers of social group and personal morality could reduce crime even if policing and prosecuting functions cannot be made more effective.

Finally, neither of these sources of compliance have the staggering costs of large-scale incarceration. Nor do they require the increased intrusions of privacy that more effective crime investigation would require nor the increased errors in adjudication that easier prosecution rules would require. In other words, they offer the best of both worlds, significantly better compliance at little cost.

But one key condition must exist if the power of social disapproval and personal moral commitment are to be harnessed by the criminal law: the criminal law must be seen by the potential offender and by the potential offender’s social group as an authoritative source of what is moral, of what is right. More specifically, the social science studies suggest, the extent of the law’s power to gain compliance depends upon the extent of the law’s moral credibility.

By "moral credibility" and "moral authority" I mean the criminal law’s reputation for (1) punishing those who deserve it, under rules perceived as just, (2) protecting from punishment those who do not deserve it, and (3) where punishment is deserved, imposing the amount of punishment deserved, no more, no less. I do not underestimate how complex a matter it is to determine liability rules that will be perceived as just. But, as John Darley and I show in our new book, Justice, Liability, and Blame: Community Views and the Criminal Law (Westview 1994), it is entirely feasible to determine and articulate shared community intuitions on morally just principles of punishment.

What can we do to increase the criminal justice system’s moral authority? What current practices and rules undercut the system’s moral credibility? Full
answers would require a detailed review, but in this brief space I can at least touch upon the highlights.

But first a caveat. Some failures of the system are inevitable. Less than perfect clearance rates by police, for example, admittedly limit the system's ability to do justice. But most people understand that not every offender can be caught and punished, that there are practical limits to policing and prosecution. Failures of the system from these limits may frustrate in the individual case but over time they are not likely to hurt the system's credibility. What can hurt is the system's tolerance of *avoidable* failures of justice.

*Avoidable Escapes From Justice*

Does the system systematically fail to impose deserved punishment when it has the power to do so? Are there instances where the system appears to have *chosen* a course that frustrates justice? Let me suggest five such instances.

First, the American criminal justice system routinely excludes reliable evidence, under application of what is called the "exclusionary rule." This suggests a system not singularly committed to doing justice but rather a system diverted to other goals, such as discouraging police overreaching. But one may ask, if such diversion hurts the system's moral credibility and therefore its compliance power, would it not make more sense to further those other goals by other means? Why not discourage police misconduct by providing direct liability of officers or by making it easier for victims to get compensation from municipalities? If limiting police overreaching is such an important goal, why not attack it frontally rather than by "punishing" the offending officers by letting the criminal go free?

Plea bargaining is a second practice seen by many as illustrating the system's moral poverty: an offender who gets a "bargain" does not get justice. The reality is that some plea bargains reflect genuine disputes on the facts, but there are many cases, and in some jurisdictions it is the vast majority of cases, in which plea bargains are struck for expediency. If we are willing to spend an additional $28 billion to fight crime, why not spend a small portion of that to fight crime by doing justice?

Unnecessary limits on police power is a third source of perceived lack of credibility. Police power is properly limited in the name of individual freedoms. But many will argue that in a democracy the majority ought to be free
to choose, for example, less privacy for less crime. If a majority of residents in
a public housing project want periodic gun sweeps of their building, should their
preference be frustrated by the courts? Why not at least allow those who prefer
gun sweeps to live together in a building where such is permitted, leaving those
who oppose gun sweeps to live together and to bear the burden of their choice?

The law's recognition of non-exculpatory defenses is a fourth source.
Defenses of diplomatic immunity and the statute of limitations, for example,
allow a blameworthy offender to remain exempt from criminal liability. The
entrapment defense, a peculiarly American institution, is of the same sort,
although not always recognized as such. It is a practice analogous to the
"exclusionary rule," where police conduct is controlled by "punishing" officers
by letting the criminal go free.

There are practical bars to reducing the scope of diplomatic immunity.
Our international treaty obligations require it. But there are no such bars to
lengthening periods of limitation or to limiting an "entrapment" defense to
instances of duress (for which there already exists a separate duress defense) and
instances of unconstitutional police conduct (which, like other exclusionary rule
violations, might better be deterred by methods other than by letting criminals go
free).

A final practice that undercuts the system's moral credibility is sentences,
such as probation, which are perceived as "soft" or as no punishment at all.
When properly and selectively applied, non-incarcerative sanctions can be a
source of real punishment, at a much lower cost than prison. But for many
reformers, the "intermediate sanctions" movement, as it is called, is just another
opportunity to avoid imposing just desert in favor of a failed sentencing theory of
the past. If non-incarcerative sanctions are to succeed, the total "punitive bite"
of the sanctions--as the community perceives it--must match the amount of
punishment the offender deserves.

Avoidable Injustice

But doing justice is only half of earning moral authority. It is as
important, if not more so, that the system does not do injustice. Are there
instances where the system seems to have chosen to risk injustice? Here are
five.
First, American jurisdictions have increasingly adopted offenses that do not require proof of a defendant's culpable state of mind. Criminal liability, then, can be imposed for an honest and reasonable mistake or an unavoidable accident. In the same spirit, almost no American jurisdiction recognizes a reasonable mistake of law defense. Such rules may ease the burden for prosecutors but they also dilute the moral significance of a successful prosecution.

Second, and similarly, some states have abolished their insanity defense, others are moving in that direction, and still others achieve de facto abolition by adopting a verdict of "guilty but mentally ill," which encourages juries to convict even when an offender is insane. Insanity abolition is touted as necessary to keep dangerously mental ill people incarcerated, given the limitations imposed by courts upon their civil commitment. But if limitations on civil commitment are the problem, then those limitations ought to be attacked directly. If the insanity defense in some jurisdictions is thought to be to broad, then it ought to be reduced in scope. There are too few cases of insane offenders to create large-scale injustice but the effect of the abolition trend is to create the impression that the system does not care about an offender's blameworthiness.

Third, criminal law is increasingly used to sanction purely regulatory offenses. The move is understandable; the reformers seek to enlist the moral condemnation of criminal conviction as added deterrence, a threat that civil liability does not carry. But the use of criminal conviction, in the absence of a serious criminal harm that deserves moral condemnation, endangers the very effect for which it is enlisted. As the "criminal" label is increasingly applied to minor violations of a merely civil nature, criminal liability will increasingly become indistinct from civil and will fail to incite reprobation.

A similar effect occurs when purely legal entities are criminally "convicted." Legal fictions like corporations cannot make immoral choices, only the human beings within them can. To criminally convict a legal fiction is to undercut the claim that criminal conviction ought to bring moral condemnation.

A fourth source of damage to the system's moral credibility is the current state of correctional facilities. When made a prisoner, a person is stripped of the ability to defend himself and to avoid places and situations of danger. Prison authorities take complete control and, with it, necessarily take complete responsibility for protection. With this responsibility and with the vast authority granted to officials to meet it, a single assault on a prisoner by another prisoner
is objectionable. In our current prisons, more than 15,000 prisoners are assaulted each year.\textsuperscript{20}

Robert Johnson explains that, "from the mid-60’s to the present, a new prison type has emerged. It is defined by the climate of violence and predation on the part of the prisoners that often marks its yards and other public areas."\textsuperscript{21} The trend is born out by the victimization statistics. In California in 1973, for example, there were 289 assaults on inmates. With about twice the population in 1983, there were 1,438 assaults.\textsuperscript{22} In Texas in 1973, there were 130 prison assaults. In 1982, with a bit more than twice the population, there were 887—a tripling of the assault rate in less than ten years. The next year in Texas, 1983, there were 3,411 assaults,\textsuperscript{23} probably not a typical year, but a devastating year: on average one of every 10 prisoners in Texas was the victim of an officially reported assault. Imagine the daily fear that that suggests. Imagine those prisoners' views of the system's moral authority.

One final damaging practice, and one of the most pervasive, is setting punishment according to the perceived dangerousness of an offender rather than according to the offender's desert, a point touched on earlier. Under the assumption that a prior offense proves future dangerousness, a prior offense is widely used to increase the term of imprisonment under so-called recidivist statutes, including the "three strikes and you're out" proposals of current debate. The same dangerousness rationale is used by parole boards in setting release policy and by sentencing commissions in setting guidelines. The United States Supreme Court approved such practice as constitutional. In Rummel v. Estelle, for example, it approved a life term for a third fraud offense of passing a bad check for $120.75 (the two previous offenses involved an $80 credit card fraud and a $26.36 forged check).\textsuperscript{24}

Even assuming a past offense is a good prediction of future dangerousness, one simply cannot deserve punishment for an offense not yet committed, for an act that others only think will be done. This is why the law requires, for example, that an actor must perform some act before he or she can be held liable for attempt or some other inchoate offense. Thinking about committing a crime, we have said since criminal law existed, is not enough for criminal liability, for there can only be moral blameworthiness in choosing to act upon the intention. Yet, under recidivist statutes, we routinely punish for offenses of which the prisoner has not yet even thought.
Certainly society must be able to protect itself from dangerous persons, but to use the criminal system for this purpose, in the absence of an actor's blameworthiness for past conduct, is to undercut the law's moral authority. If we feel we must incarcerate to protect against acts not yet committed, civil rather than criminal commitment ought to be used, just as we civilly commit the mentally ill and persons with contagious diseases when they pose a threat. But civil commitment has, as it should, requirements that criminal commitment does not. First, if commitment is based on present dangerousness rather than a past offense, then periodic reviews ought to test for continuing dangerousness. Second, if commitment is for our protection and not for deserved punishment, then its conditions ought to be non-punitive in nature and the detainee's liberty ought to be restricted only to the extent required for our protection and no more.

A recent New York Times op-ed criticized a jury's death verdict that jurors justified on the ground that a decision for life created the possibility of release. The writer was much offended that the jury could return a death verdict without concluding that the offender actually deserved the death penalty. But the logic of the verdict is entirely consistent with the common practice of American criminal justice, where dangerousness, rather than desert, drives punishment. If we are to be offended because the death penalty is imposed because of dangerousness rather than desert, then we also ought to be equally offended by each of the hundreds of cases each day where prison terms are set according to dangerousness rather than desert. Indeed, the argument against dangerousness is stronger with regard to imprisonment. Incarceration under civil commitment provides identical protection as under criminal commitment, while the death penalty provides a level of protection that civil law cannot match.

* * *

We have lost much ground in the past 40 years in fighting crime. Ironically, that same period was one of significant efforts to "revolutionize" the fight against crime. Our recent insights into the law's moral authority as compliance power may help explain our past failures. By setting sentences that would best rehabilitate an offender or would best deter other potential offenders or would best incapacitate a dangerous offender, each of our past programs distributed punishment in a way that could be seriously disproportionate to an offender's blameworthiness. The cumulative effect of these policies has been to
divert the criminal justice system from doing justice, and public perception of that shift has undercut the system’s moral authority. Our past crime control reforms may well have increased rather than decreased crime.

The research is incomplete. We do not yet fully understand the interaction between the system’s moral credibility and crime. How much decrease in credibility causes how much increase in crime? Is the relationship a continuous one, or are there credibility "trigger" points below which crime dramatically increases? Will research confirm my speculation above about the practices that most undercut the system's moral authority?

On the other hand, we do know that human beings share a desire for justice and there seems little risk in giving it to them. If further research supports the conclusions of the preliminary studies, it will be effective crime control, not only justice, that demands we reexamine every practice that contributes to the moral poverty of American criminal justice.

Paul H. Robinson is Professor of Law at Northwestern University School of Law and a former Commissioner of the United States Sentencing Commission. His book, Justice, Liability, and Blame: Community Views and the Criminal Law (Westview 1994), with John Darley, will be published later this year.
NOTES


3. 1955 figures taken from: Table 30, Urban Crime Rates, 1955, 1955 Uniform Crime Reports for the United States 92 (1956); Table 34, Rural Crime Rates, 1955, 1955 Uniform Crime Reports for the United States 96 (1956). In order to combine 1955 urban and rural rates, figures were weighed proportionally with population. For example, Burglary has an urban rate of 423 and a rural rate of 230; by multiplying these figures by percentage of population in each respective area, total rates can then be found, i.e. (423 x .6573) = 278 added to (230 x .3427) = 78.8 for a total of 357 as a combined rate. Modern figures taken from: Table 3.122, Estimated number and rate of offenses known to police, 1991, 1992 Sourcebook of Criminal Justice Statistics 357 (1993).

4. Id. This increase represents a comparison of the combined major crime categories -- homicide, rape, robbery, aggravated assault, burglary, larceny-theft, and auto theft -- for 1955 and 1991. The comparison rates were determined by adding the total number of offenses in all categories and inserting those totals into the following formula: (total # of offenses / population) x 100,000. The 1955 rate was (1440) while the 1991 rate was (5898) providing a 4.10 times increase.


12. Table 6.125, First releases from prisons in 35 states, 1988, 1991 Sourcebook of Criminal Justice Statistics 693 (1992). Even these short terms of imprisonment seriously overestimate the typical length of time served because these figures only include those offenders who are sentenced to prison. In reality more violent offenders are sentenced to jail than to prison, and for property offenses twice as many criminals are sentenced to jail. See Table 5.57, Sentences Received in 14 States, 1988, 1991 Sourcebook of Criminal Justice Statistics 549 (1992).

13. The larger picture may be summarized by the chart below. The statistics are drawn from the following sources:

   Column (a): Table 1, Personal and household crimes, 1990, 1990 Criminal Victimization in the United States 16 (1992).


   Column (c): Table 4.2, Number and rate of arrests, 1990, 1991 Sourcebook of Criminal Justice Statistics

Column (e): Federal figures from Table 5.19, Offenders sentenced to prison in U.S. District Courts, 1990, 1992 Sourcebook of Criminal Justice Statistics 490 (1993); State figures from Table 5.52, Felony sentences imposed by State courts, 1990, 1992 Sourcebook of Criminal Justice Statistics 529 (1993) (figures determined by converting percentage incarcerated back to totals through Table 5.50 supra).


<table>
<thead>
<tr>
<th>1990 Type of offense</th>
<th>(a) Number Committed</th>
<th>(b) Number Reported</th>
<th>(c) Number Arrests</th>
<th>(d) Number Convictions</th>
<th>(e) Prison Sentence</th>
<th>(f) Time (Months) Served</th>
<th>(g) 1989 Time Served</th>
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14
<table>
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<tr>
<th>Crime Type</th>
<th>Total</th>
<th>Federal</th>
<th>State</th>
<th>Federal</th>
<th>State</th>
<th>Fed=</th>
<th>State=</th>
<th>Years</th>
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<tr>
<td>Total</td>
<td>26,122,820</td>
<td>14,275,630</td>
<td>55.4%</td>
<td>2,313,247</td>
<td>8.9%</td>
<td>379,292</td>
<td>1.5%</td>
<td>279,909</td>
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<td>Murder and Non-Negligent Manslaughter</td>
<td>NA</td>
<td>23,440</td>
<td>----</td>
<td>Fed=133</td>
<td>State=10,895</td>
<td>47%</td>
<td>Fed=124</td>
<td>State=10,350</td>
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<tr>
<td>Rape</td>
<td>130,260</td>
<td>102,560</td>
<td>78.7%</td>
<td>30,966</td>
<td>23.8%</td>
<td>Fed=149</td>
<td>State=18,024</td>
<td>14.0%</td>
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<tr>
<td>Robbery</td>
<td>1,149,710</td>
<td>639,270</td>
<td>55.6%</td>
<td>136,300</td>
<td>11.9%</td>
<td>Fed=1,337</td>
<td>State=47,446</td>
<td>4.2%</td>
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<td>Assault</td>
<td>4,728,810</td>
<td>1,054,860</td>
<td>22.3%</td>
<td>376,917</td>
<td>8.0%</td>
<td>Fed=455</td>
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<td>Burglary</td>
<td>5,147,740</td>
<td>3,073,900</td>
<td>59.7%</td>
<td>341,192</td>
<td>6.6%</td>
<td>Fed=99</td>
<td>St.=109,250</td>
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<tr>
<td>Larceny-Theft</td>
<td>12,975,320</td>
<td>7,945,700</td>
<td>61.2%</td>
<td>1,241,236</td>
<td>9.6%</td>
<td>Fed=2,709</td>
<td>St.=113,094</td>
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<td>Motor-Vehicle Theft</td>
<td>1,967,540</td>
<td>1,635,900</td>
<td>83.1%</td>
<td>168,338</td>
<td>8.6%</td>
<td>Fed=275</td>
<td>State=21,065</td>
<td>1.1%</td>
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15. M. Peterson, H. Braiker and S. Polich, Who Commits Crimes 186-188 (1981) (25% of the most active offenders were responsible for 58% of armed robberies, 46% of assaults, 48% of drug sales and 65% of burglaries in the sample group).
20. Table 6.124, Deaths and assaults among inmates and staff in State and Federal prisons, 1991, 1992 Sourcebook of Criminal Justice Statistics 669 (1993); (totals do not include Federal figures which are taken from Table 6.139, Deaths and assaults among inmates and staff in State and Federal prisons, 1990, 1991 Sourcebook of
23. Id. at 56.