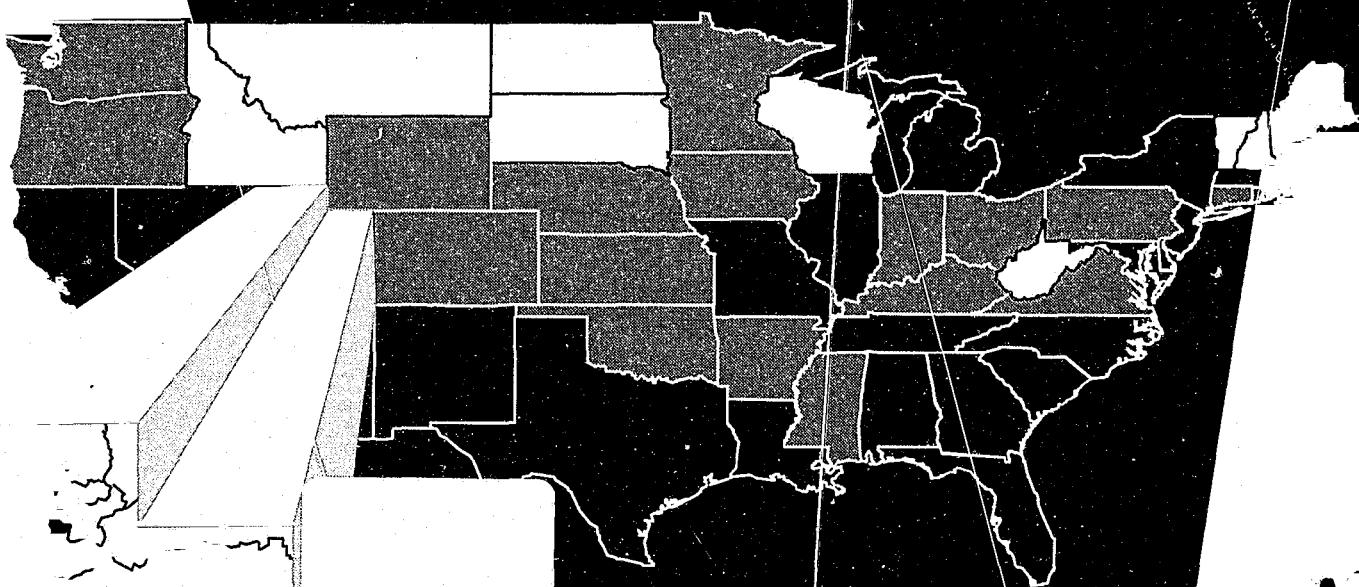


Report to Utah on Crime and Justice



149240

Commission on Criminal and Juvenile Justice

Commission Priorities

The 1983 Legislature created the Utah Commission on Criminal and Juvenile Justice (UCA 63-25). The Commission is comprised of 17 key criminal justice leaders throughout the state. Its twelve person staff also provides the criminal justice staffing for the Governor's Office.

The Commission is charged to ensure broad philosophical agreement concerning the objectives of the criminal justice systems in Utah. It was created to

provide a mechanism for coordinating the functions of the various branches and levels of government concerned with criminal justice. It is also charged to:

- (1) Provide analysis and recommendations on all criminal and juvenile justice legislation, state budgets, and facility requests;
- (2) Provide public information on the criminal and juvenile justice systems;
- (3) Promote criminal justice research and program evaluation;
- (4) Provide a criminal justice plan annually;
- (5) Develop, monitor, and evaluate sentencing and release guidelines;
- (6) Forecast future demands for the criminal justice system; and,
- (7) Promote the development of criminal and juvenile justice information systems.

The Commission is comprised of the following members:

Richard Carling, Chairman
Citizen Representative

Sheriff David Bateman
President of the Sheriff's Association

Georgia Block
Public Education Representative

D. Douglas Bodrero
Commissioner, Department of Public Safety

Representative Afton Bradshaw
Utah House of Representatives

Ronald W. Gibson
State Court Administrator

Chief Pete Hansen
President of Chief of Police Association

Judge Timothy R. Hanson
Chief Justice Designee

H.L. "Pete" Haun
Chairman, Board of Pardons

Tim Holm
Director, Division of Youth Corrections

Glen Lambert
Private Rehabilitation Treatment Agency

O. Lane McCotter
Executive Director, Department of Corrections

Senator Eldon A. Money
Utah Senate Representative

Rodney Snow
Utah State Bar Representative

Jan Graham
Utah State Attorney General

Judge Diane W. Wilkins
Juvenile Court Judge Representative

David Yocom
SWAP Representative

S. Camille Anthony
Executive Director, CCJJ

149240

Report to Utah on Crime and Justice

January 1993

A report of the Utah Commission on Criminal and Juvenile Justice
prepared by Richard J. Oldroyd and Michael D. Haddon.

Special thanks to Commission members and staff who reviewed the final draft, and particularly David Walsh (Acting Executive Director), Mary Lou Bozich, and Laura Lewis for their extensive and insightful editing.

149240

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Office of Justice Programs, United States Department of Justice

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Chapter 1

Unique Utah

Utah is well known for its scenic beauty, its great skiing, and its "Mormon pioneer heritage."

This chapter provides an overview of some ways that Utah is atypical and the implications these unique features have for criminal justice in the state.

How is Utah's population unique?
Do young people commit a disproportionate amount of crime?

How does Utah's violent crime rate compare with that of the nation as a whole? How does Utah's property crime rate compare with the nation as a whole?

How does drug use in Utah compare to the United States as a whole?

Which is the most literate state in the United States? How does Utah's high school graduation rate compare to that of the U.S.?

How does Utah's incarceration rate compare to that of the United States?

How does crime compare with other major issues in the eyes of Utah citizens?

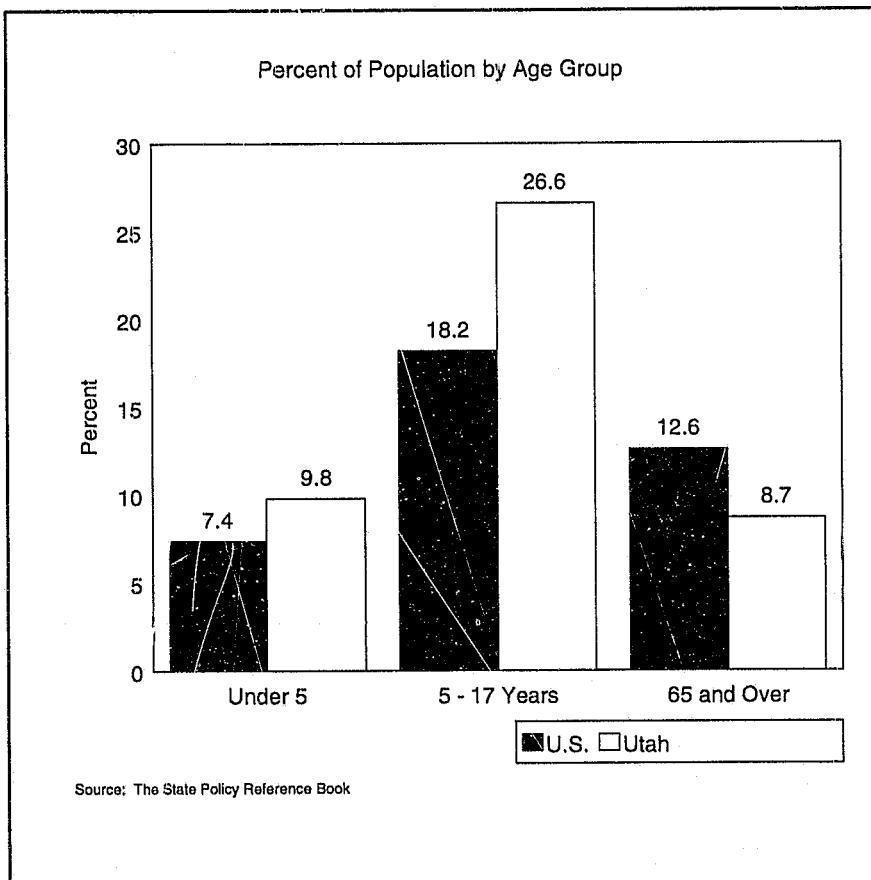
Utah has the most youthful population in the U.S.

Utah is not a typical state. The discussion that follows will attempt to identify some of Utah's unique characteristics and the implications these have for the functioning of criminal justice in the state.

Utah is the "kids capitol" of the United States.

Perhaps more than anything else Utah is unique because of the large number of children in its population. The fertility rate (number of women having children) is easily the highest of any state and is 37% higher than the national average. As a result, Utah's median age of 25.7 years is also the youngest in the nation by almost four years. Utah leads the next closest state by 5% in the number of school age children in its population which is 50% higher than the national average (see graph).

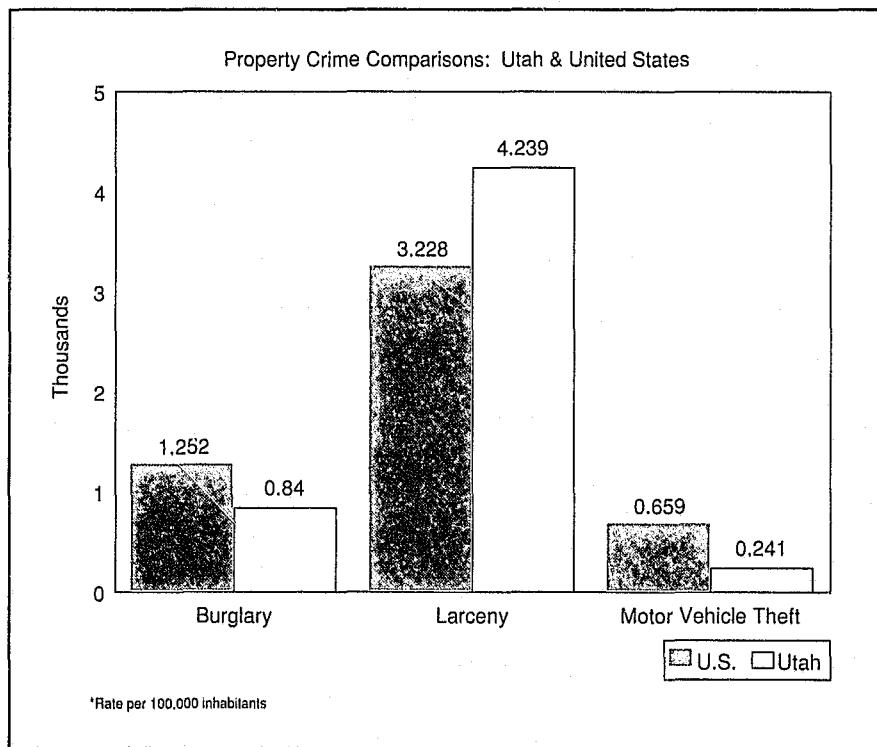
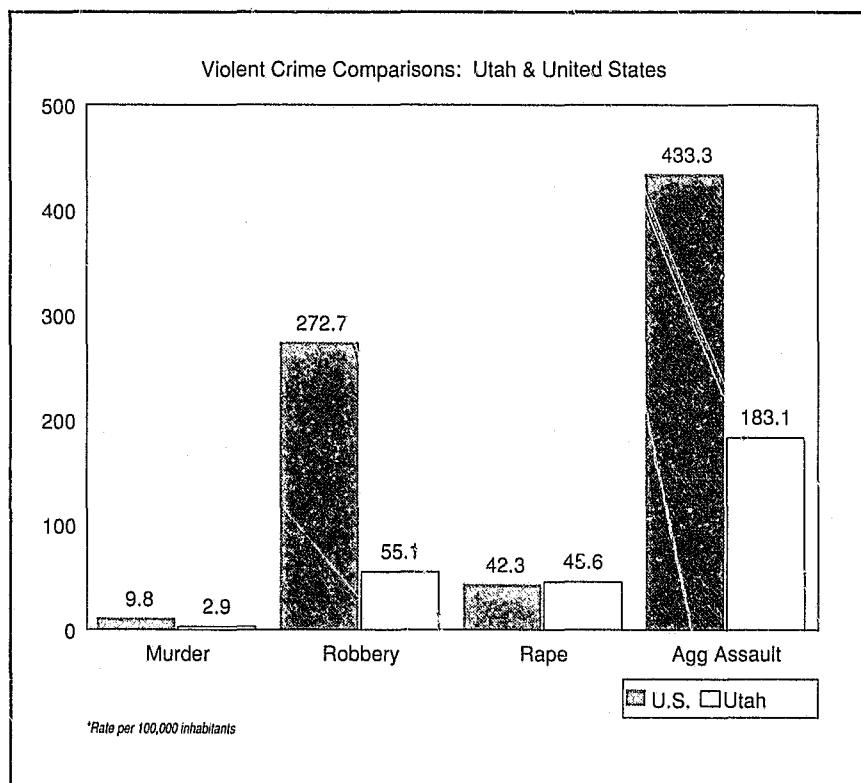
This is particularly significant because young people are generally arrested for crimes at a much higher rate than older people. Those 15-17 years of age are arrested at twice the rate of 22 year olds and the rate continues to drop in half with each decade of age. With Utah having 50% more school age children in its population, it would not be unreasonable to expect that Utah's crime rate would be substantially above the national average.



Utah's crime rates are generally low

Rates of reported crime in Utah are generally substantially below the national averages.

The most commonly used measures of crime are the Part 1 Offenses reported to police and recorded in the Uniform Crime Reports. Seven different crimes are reported. The four violent crimes are: murder, rape, robbery and aggravated assault. The Utah and national comparisons for violent crimes are shown in the adjacent graph.



The Uniform Crime Reports also include three property offenses: burglary, larceny and auto theft. With the exception of larceny, Utah's rates are again well below national averages as shown in the adjacent graph.

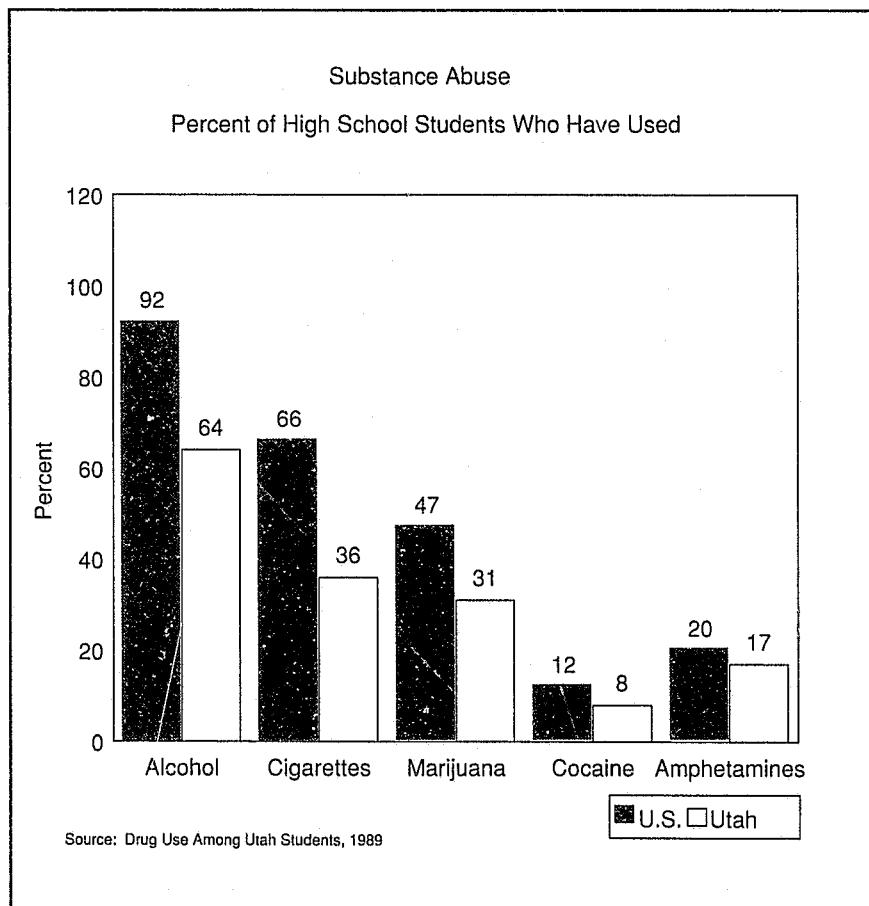
Utahns are less likely to use drugs

Utah's young people also report using alcohol and other drugs much less frequently than youth in the nation as a whole.

Utahns generally use alcohol, tobacco, and street drugs much less frequently than is typical of their counterparts in the United States as a whole. The adjacent graph shows the comparison between high school seniors in Utah and the United States who have used alcohol and other drugs. The differences in drug and alcohol consumption are also similar in other age groups. Utahns, however, do tend to abuse prescription drugs at rates equal to or slightly higher than those of the nation as a whole.

Utahns are increasingly becoming concerned about crime. A recent Dan Jones poll showed that crime was the fourth most serious concern ranking behind education, economic development and health care. This is the highest ranking in the last 10 years.

Much of the concern is focused at gangs on the west side of the Salt Lake Valley.

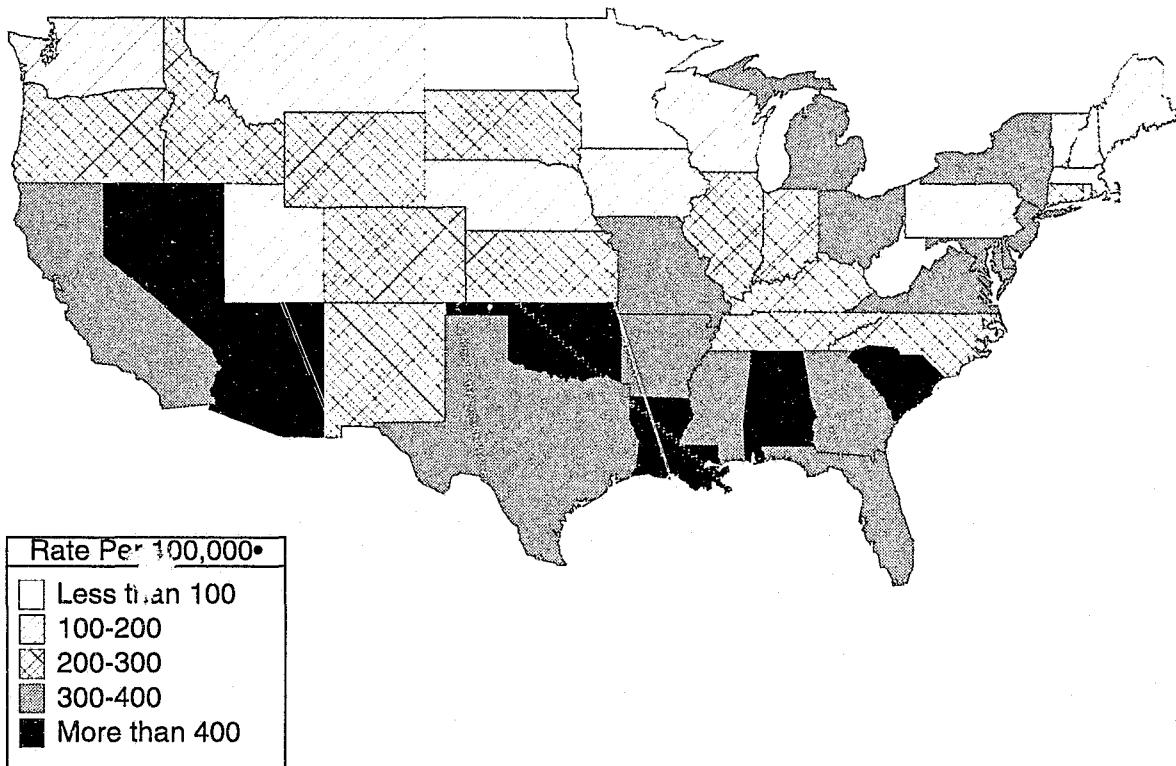


Utah's incarceration rate is low

Utah is the most literate state in the United States. Utah's high school graduation rate is 10% higher than the national average, but nine states have higher graduation rates.

Utah's incarceration rate is the lowest in the western states and is the eighth lowest nationally. There are substantial differences among the states on most demographic dimensions. Utah is unlike its neighbors not only because of its lower crime rates, but because of its low incarceration rate which, at 152 per 100,000, is about half the national average. In this characteristic, Utah appears more similar to the midwestern states of Wisconsin, Iowa and Nebraska and the New England States of Massachusetts, Vermont and New Hampshire on these two dimensions (see map).

Incarceration Rate By State From BJS Special Report October 92•



Basic Sources:

Bureau of Justice Statistics

Bulletin: Prisoners in 1991. U.S.

Department of Justice, Office of

Justice Programs. Oct. 1992.

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Department of Public Safety,

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Chapter 2

The Criminal Event

This chapter provides an overview of crime as it exists in Utah with data that answers such questions as:

How are crimes defined? How do violent crimes differ from property crimes? How do felonies differ from misdemeanors?

How is information about crime collected and reported? How much crime is there in Utah and what are the trends for commonly reported crimes?

Where does most crime occur? What times of day are associated with high crime? What time of year is crime highest?

What is the involvement of weapons in crime?

What areas of crime are currently causing the most concern?

Definitions of crimes and description of crime reporting methods

Crimes are defined by law.

In this report we define crime as all behaviors and acts for which society provides formally sanctioned punishment. In the United States, what is included in the definition of crime varies among federal, state, and local jurisdictions.

How do violent crimes differ from property crimes?

Violent crime refers to events such as homicide, rape, and assault that may result in injury to a person. Robbery is also considered to be a violent crime because it involves the use or threat of force against a person. Child sexual abuse is considered to be a violent crime even if no force occurs because of the age difference between the victim and perpetrator.

Property crimes are unlawful acts committed with the intent of gaining property. They do not involve the use or threat of force. Larceny, burglary, and motor vehicle theft are examples of property crimes.

How do felonies differ from misdemeanors?

Felonies in Utah are the more serious crimes. They are the crimes for which a person may be sentenced to prison. Misdemeanors are less serious crimes for which offenders are typically fined or sent to jail.

How is information about crime collected and reported?

There are two main sources of information about crime in the United States: The Uniform Crime Report (UCR) and the National Crime Victimization Survey (NCVS). These two sources present a somewhat different picture of what is happening regarding crime. The UCR suggests substantial increases in crime during the last decade while the NCVS suggests that the likelihood of being a victim has declined.

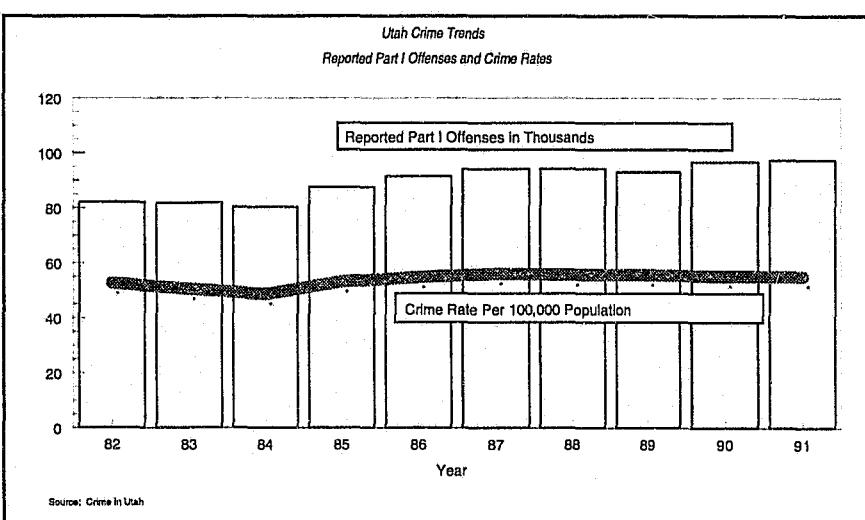
The Uniform Crime Report shows trends in eight major crimes. Crime reports received by each police agency are tabulated at the state level before being forwarded to the F.B.I, where the national report is published.

The National Crime Victimization Survey is conducted by the Census Bureau for the Bureau of Justice Statistics. The Census Bureau uses a rigorous scientific survey technique to survey households in the United States to determine if any

members of that household have been victims of crime in the last year. Unfortunately, only about 75 Utahns are sampled annually. This sample is too small to make valid projections to the general population. However, in 1992 the University of Utah Survey Research Center attempted to use a parallel methodology on a more representative Utah sample.

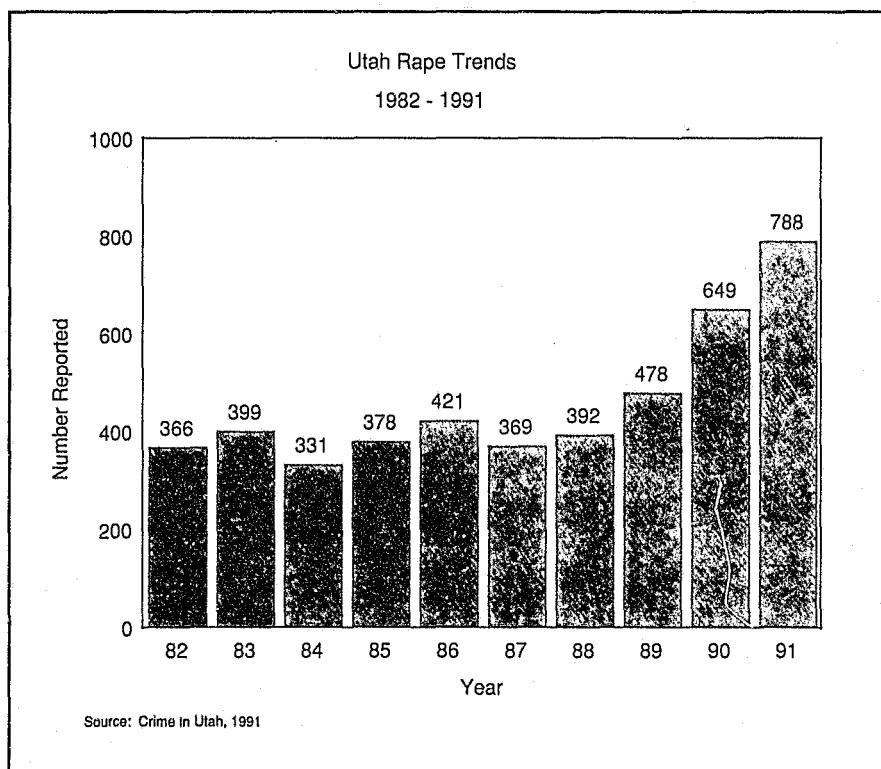
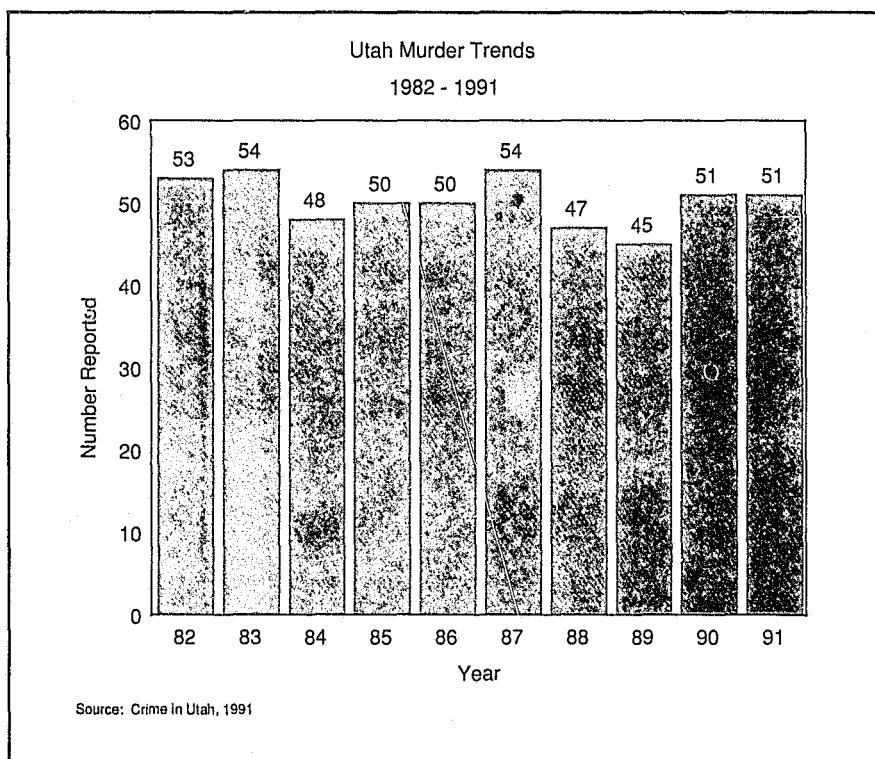
How much crime is there in Utah and what are the trends?

Each year the Department of Public Safety's Bureau of Criminal Identification publishes a report called **Crime in Utah**. It consists of reports of the eight Part I index crimes that make up the Uniform Crime Report data. The figure below shows both the trend in number of Part I crimes reported as well as the crime rate which reflects the number of crimes reported in relation to the increasing population of Utah. The crime rate is decreasing slightly.



Crime descriptions and trends: murder and rape

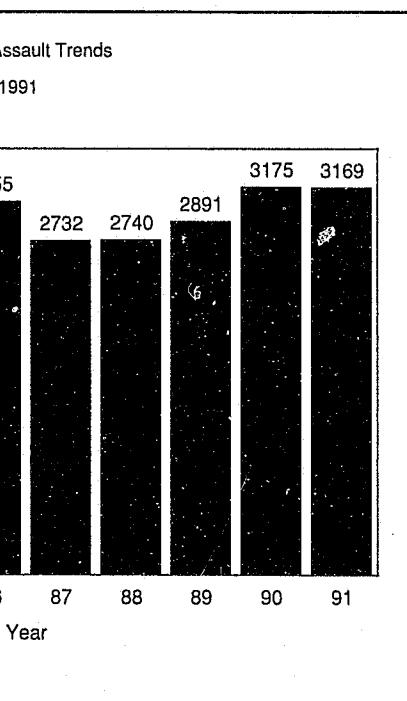
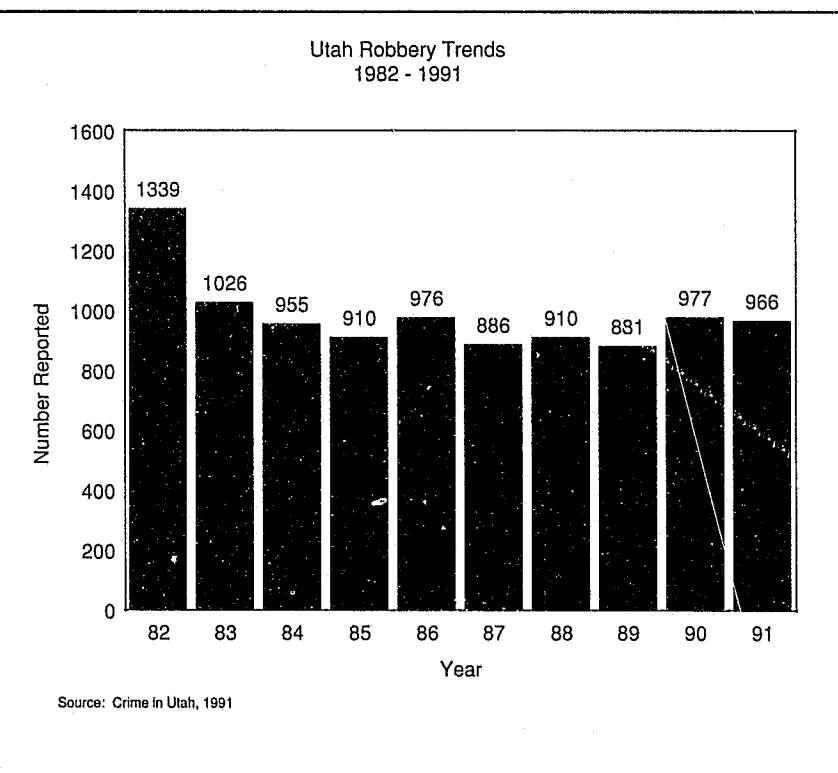
Murder is the unlawful, willful (non-negligent) killing of another person. The number of murders in Utah has varied with a high of 54 reported in 1983 and 1987, and a low of 45 reported in 1989.



Rape is sexual intercourse with another person without that person's consent. The number of rapes reported in Utah has varied from a low of 331 in 1984 to an all-time high of 788 in 1991. The substantial increase is a cause for concern.

Robbery and aggravated assault

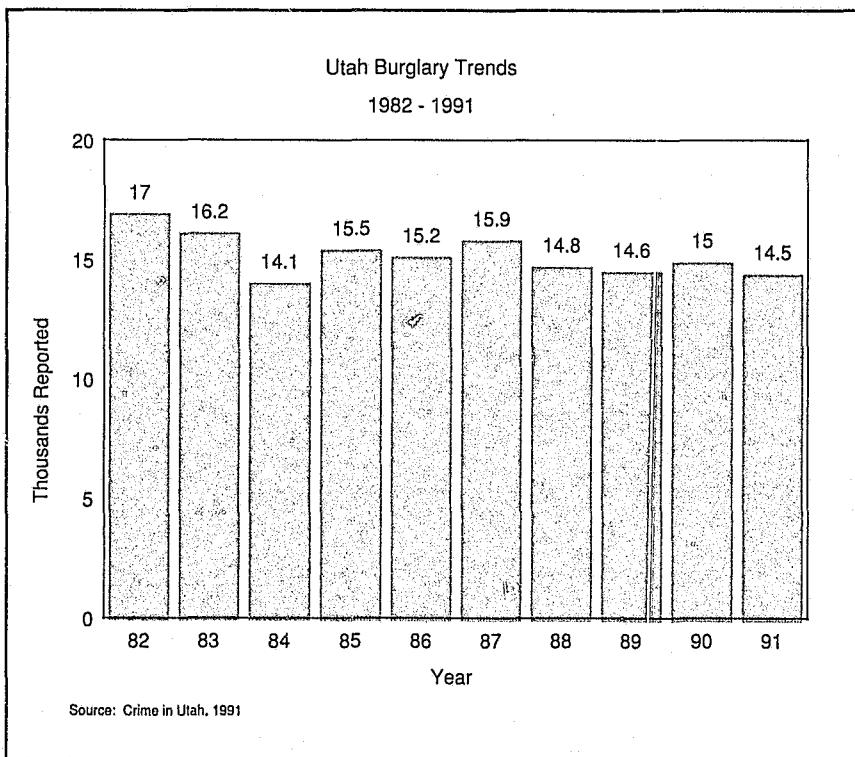
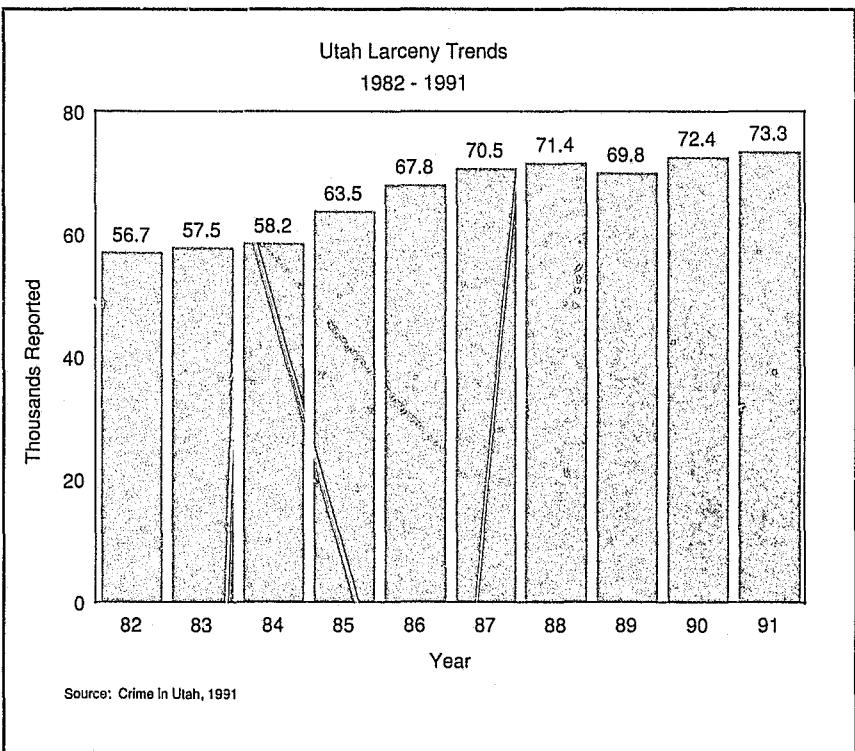
Robbery is the unlawful and intentional taking of personal property that is in the possession of another from his person or immediate presence by force or threat of force. The number of robberies reported has dropped from a high of 1,339 in 1982 to a low of 881 in 1989.



Aggravated Assault is the unlawful attack by one person upon another for the purpose of inflicting severe bodily harm. Attempted aggravated assault is also included in this count.

Larceny and burglary

Larceny/theft is the unauthorized control over the property of another with the intent to permanently deprive the owner of the property. Larceny/theft is by far the most frequently reported of the Part 1 index offenses. The range varies from a low of 56,673 reported in 1982 to a high of over 73,300 reported in 1991.



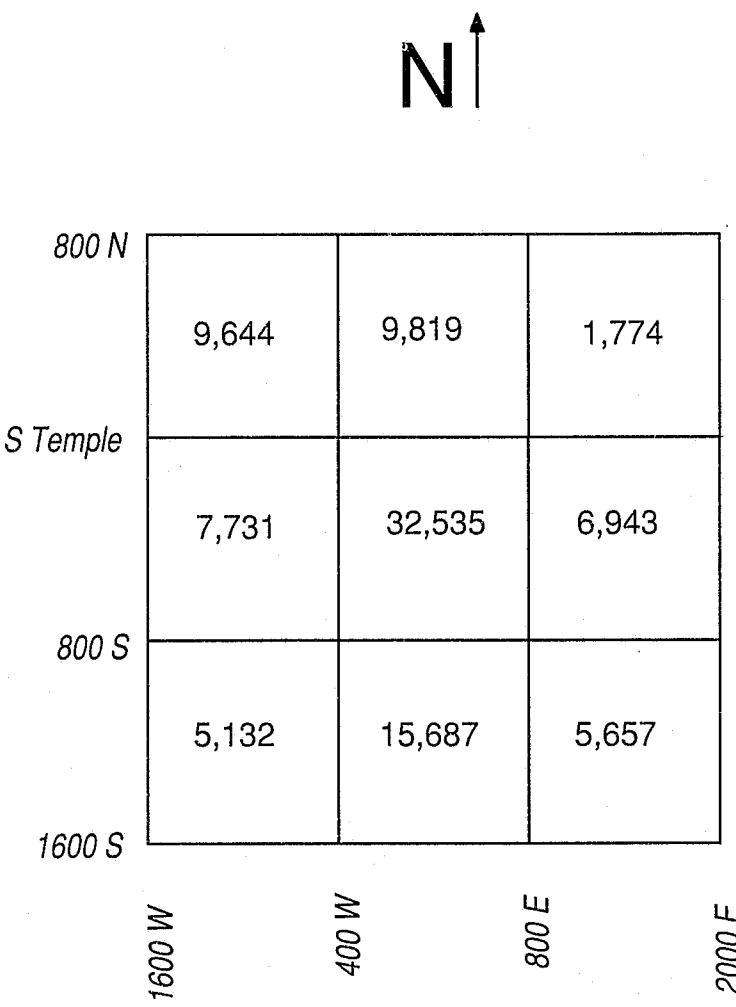
Burglary is the unlawful entry of any fixed structure, vehicle, or vessel used for overnight accommodation, industry, or business, with or without force, with the intent to commit a felony, theft or assault. The number of burglaries reported has varied from a low of 14,098 in 1984 to a high of over 17,000 in 1982.

Crime rates are highest in metropolitan areas

Where does most crime occur?

Crime rates are highest in major metropolitan areas. Even in Salt Lake City, there are pockets where crime is reported much more frequently than others. Reports are highest in the square mile area around downtown.

Downtown Salt Lake City: Reported Crime



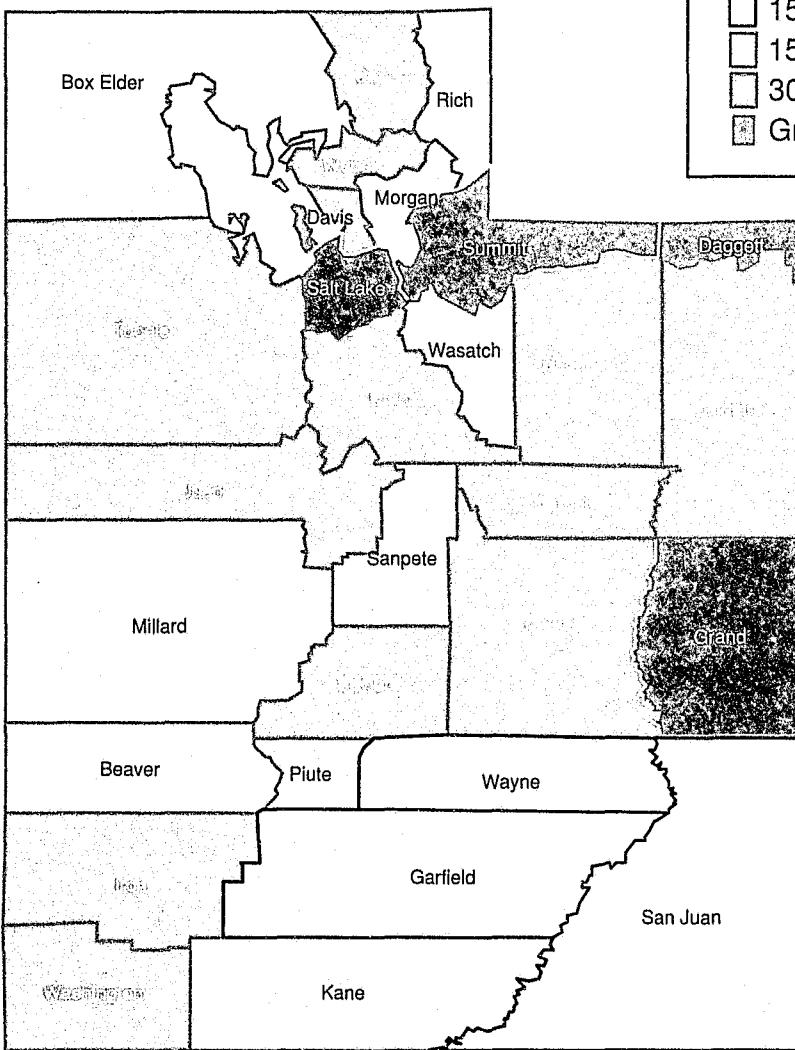
Crime rates are often high in recreation areas

In Utah, the crime rates are also unusual in rural parts of the state where there are popular recreation sites, but few residents. For example, Daggett County has only 20,779 residents, but attracts many visitors to Flaming Gorge Dam and the Green River below it. With such a small population, it doesn't take many visitors committing crimes to give Daggett County a high crime rate. Be sensitive to this situation as you examine the county map below which shows the reported crime rates for each of Utah's 29 counties.

Crime Rate for Utah Counties

1990

| Rate Per 1,000 Population | |
|-------------------------------------|-----------------|
| <input type="checkbox"/> | 15 or less |
| <input type="checkbox"/> | 15 - 30 |
| <input type="checkbox"/> | 30 - 45 |
| <input checked="" type="checkbox"/> | Greater than 45 |

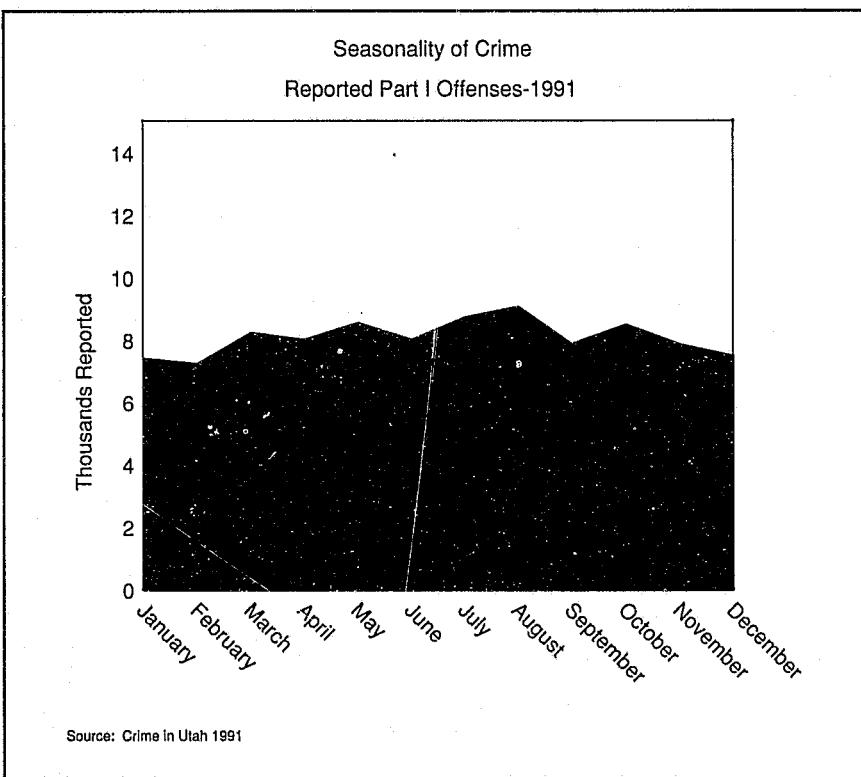
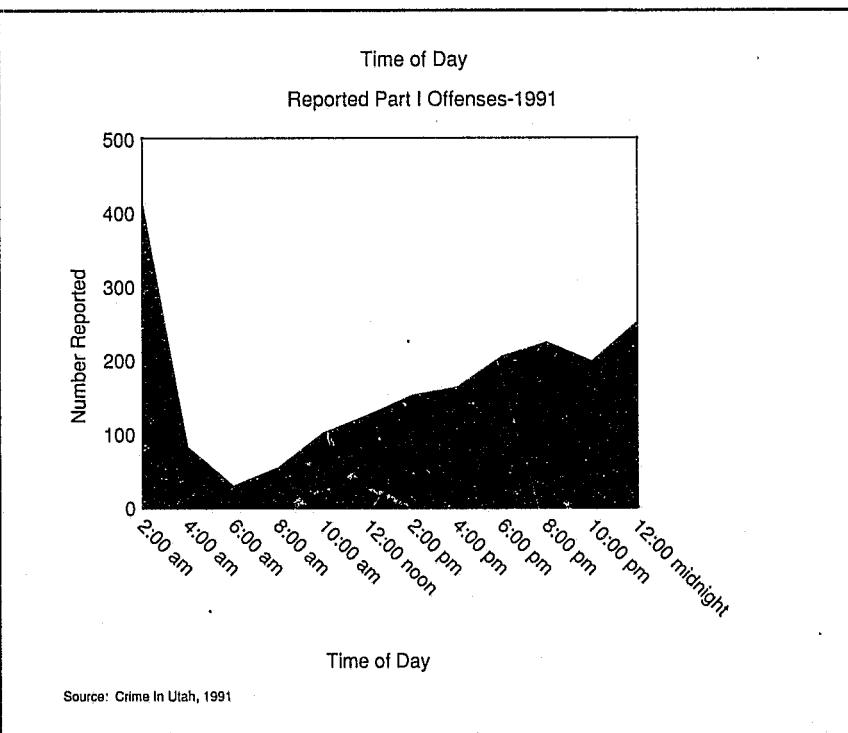


Crime occurs more frequently at night and during the summer

When does crime occur?

As a general rule, frequency of crime is highly related to time of day as well as season of the year.

A close look at the adjacent graph strongly suggests that crime increases dramatically in the late evening and early morning hours.



Most types of crime also increase substantially during the extended daylight hours and hot summer months of July and August when most of the young people are out of school.

Most violent crimes do not involve weapons

What is the involvement of weapons in crime?

Except for homicide, most violent crimes do not involve weapons. Violent offenders may use weapons to coerce the victim to submit to the offender's demands without actually assaulting the victim or causing injury. More than half of all reported incidents where the offender was armed with a gun and half of all reported incidents where the offender was armed with a knife involved only the threat posed by the weapon itself (Report to the Nation, 1988).

There is also concern with the more minor types of crime, such as traffic offenses and parking tickets. Criminal penalties such as jail are almost never used against these offenders, yet due process entitlements encourage too many offenders to ignore responsibility and sanctions associated with the offense. Many feel that society would be better served if such offenses were handled by civil rather than criminal sanctions.

The war against drugs continues to demand considerable attention. New laws are being passed in attempt to respond to manufacturing and trafficking drugs. Many of these have focused on protecting children.

Emerging Issues:

Why are reports of sexual assault increasing so rapidly? Should most traffic offenses and most infractions be decriminalized?

There has also been concern about crimes directed against specific groups, such as the elderly or minorities.

There is substantial concern with the increasing numbers of rapes and child sexual abuse cases being reported. It is difficult to distinguish how much of the increase should be attributed to more crimes being committed and how much to increased willingness to report.

In the past there has been reluctance to classify disputes and violence among family members as crimes. In recent years, there has been a great deal of attention devoted to "domestic crimes."

Another major concern relates to gangs and the violence that frequently accompanies gang rivalries. Gang related crime will continue to get increasing attention in coming years.

Basic Sources:

Bureau of Justice Statistics

Bulletin: Crime and the Nation's Households - 1991. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, July, 1992.

Bureau of Justice Statistics

Bulletin: Criminal Victimization 1991. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Oct. 1992.

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U.S. Department of Justice,
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Bureau of Criminal Identification.
1992.

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and Justice. (2nd Ed.) U.S.
Department of Justice, Office of
Justice Programs, Bureau of
Justice Statistics. March, 1988.

Salt Lake City Police Department

Annual Report - 1991.

Chapter 3

Victims of Crime

This chapter provides an overview of crime victims in the state of Utah. The information addresses questions such as:

How do we learn about crime victims?

What are the characteristics of crime victims?

How much property in Utah is lost to criminals? How likely is it to be recovered?

What relationships commonly exist between crime victims and perpetrators?

What rights do crime victims have in the criminal justice process?

What resources are available to help crime victims?

Victims report some crime

How do we learn about crime victims?

Uniform Crime Reports

The most official information about crime victims comes when they report a crime to a law enforcement agency. Information from such reports is compiled annually in the Utah Department of Public Safety publication entitled **Crime in Utah** and is also forwarded to the F.B.I. for inclusion in the publication **Crime in the United States**. Unfortunately, many crimes are not reported to law enforcement agencies so the information compiled about victims is quite limited.

National Crime Victimization Survey

Most of the information we have about crime victims comes from the National Crime Victimization Survey conducted nationwide by the Bureau of the Census for the Bureau of Justice Statistics. Unfortunately, the sample from Utah is too limited to make inferences from.

What is the likelihood of being a victim of crime?

According to the National Crime Victimization Survey, approximately one-quarter of the households in the United States report that they have been victimized by crime during the past year. In the course of a lifetime, almost

everyone will be the victim of at least one property crime, and a majority will be a victim of violent crime.

What percentage of crimes are reported to police?

The people of our nation are always interested in the trends of crimes reported to police. A more intriguing, and apparently much larger, number of crimes is not reported. This type of crime is often referred to as "hidden crime". We begin to understand it through surveys of people who are victims as well as through reports from some offenders. The National Crime Victimization Survey (NCVS) suggests that 62% of those who are victims do not report the offense to police. The crime of auto theft is most frequently reported (76%), probably because of the extent of the loss and the insurance requirements to report. The NCVS showed that 50% of rapes, robberies, aggravated assaults, and burglaries are reported. However, another survey with some methodological improvements found that only 16% of rapes are being reported, but that there was increasing rate of reporting. Hopefully, much of the increase in rape and sexual abuse reporting can be attributed to an increased willingness to report rather than dramatically increasing frequency in the occurrence of these offenses.

What are common reasons that victims give for not reporting crime?

According to the National Crime Victimization Survey, the most common reasons cited for not reporting violent crime were: the offender's lack of success (20%), the crime was a personal matter (20%) or some other reason (17%). The most common reason for not reporting property crime was the recovery of the stolen property or the offender's lack of success (26%) and reporting the crime to some other official (17%).

What groups are more likely to report crimes to the police?

Although rates for reporting personal thefts were similar, blacks were somewhat more likely than whites to report violent crimes to police. Female victims were more likely to report personal crimes than males. Homeowners were more likely than renters to report household crimes. The higher the household income, the more likely a household crime was to be reported. The larger the loss, the more likely a household crime was to be reported. For both violent and personal crimes, victims aged 12 to 19 were the least likely of all age groups to report the crime.

Effects of crime on victims

What are the effects of crime on victims?

Monetary and property loss:

Property crimes occur more frequently than violent crimes; therefore, monetary and property loss are common. The adjacent Table 3.1 shows the amount of property loss that was reported to police in Utah and the amount that police reported was recovered.

Keep in mind that many crimes are not reported to the police. Of course, some of the property loss was covered by insurance and each year several million dollars are paid by offenders in restitution. Still, the amount of property lost is staggering. Also staggering is the amount of money paid for security devices and personnel.

Injury, stress and psychological trauma. Physical injury, not infrequently, totally alters a victim's life and the lives of those close to them. Even the psychological trauma and stress associated with being a crime victim can have serious consequences. Stress has been shown to lower the capability of the immune system, thus increasing the frequency of disease. Depression and anger are not uncommon. Fear, suspicion, flashbacks, and sleeplessness can seriously affect personal productivity and lifestyle.

Table 3.1: Reported Property Loss, 1991

| Property Category | Stolen | Recovered |
|-----------------------|---------------------|---------------------|
| Currency, notes, etc. | \$4,193,891 | \$366,038 |
| Jewelry, metals, etc. | 5,067,157 | 457,972 |
| Clothing & furs | 1,643,903 | 317,436 |
| Stolen vehicles | 15,835,411 | 9,938,758 |
| Office equipment | 1,740,662 | 134,416 |
| Electronic equipment | 7,073,002 | 554,886 |
| Firearms | 717,820 | 142,271 |
| Household goods | 1,201,789 | 135,940 |
| Consumable goods | 472,661 | 76,126 |
| Livestock | 105,679 | 11,233 |
| Miscellaneous | 16,254,961 | 1,786,913 |
| Totals | \$54,306,936 | \$13,921,989 |

Victim's benefits

What has been done in recent years to assist victims of crime?

Most agree that for many years our criminal justice system has forgotten victims, often treating them as just another piece of evidence. In recent years, much has been done to increase both the sensitivity to victims and their involvement in the criminal justice process.

One of the highlights is the establishment of the Utah Office of Crime Victim Reparations to reimburse victims for their out of pocket expenses that result from violent crime. The Victim Reparations Fund comes from a surcharge on criminal fines and penalties. Last year, over 2.5 million dollars was paid to crime victims. **Table 3.2** itemizes the purposes of the reimbursements.

Offenders are also ordered to pay restitution to victims as a condition of supervision. These restitution amounts are determined and ordered by the court. During fiscal year 1992, the Department of Corrections collected \$1,866,639 from offenders' restitution payments.

**Table 3.2: Reimbursement Purposes
Fiscal Year 1992**

| Benefit Payment By Category | Amount |
|-----------------------------------|-----------------------|
| Medical expenses | \$1,499,029.55 |
| Mental health counseling | 794,675.53 |
| In-patient counseling | 363,320.87 |
| Loss of wage | 264,598.15 |
| Loss of support | 6,743.37 |
| Funeral benefits | 81,643.61 |
| Dental care | 115,869.33 |
| Economic loss payments | 3,306.88 |
| Relocation costs | 2,553.10 |
| Travel | 29,222.91 |
| Replacement services | 7,031.54 |
| Medically-necessary devices | 16,165.21 |
| Essential personal property | 2,662.79 |
| Rehabilitative costs | 15,332.80 |
| Insurance premiums or spend-downs | 3,408.67 |
| TOTAL BENEFIT PAYMENTS | \$3,205,564.31 |

Victim's Bill of Rights

Utah's Victim's Bill of Rights

A victim's bill of rights was also passed in Utah, first as a joint resolution then as a statute. There is now movement to establish victims' rights as a constitutional amendment. Some of the rights enumerated in the current statute include:

(a) Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508 of the Utah Code Annotated, regarding witness tampering, and Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and corrections personnel have the duty to provide this information in a timely manner and in a form that is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims are entitled to restitution or reparations, including medical costs, as provided in Sections 63-63-1, 77-27-6, 62A-7-122, and 76-3-201 of the Utah Code Annotated (UCA). State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Utah Crime Victims' Reparations Board, and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in Sections 77-24-1 through 77-24-5 (UCA). Criminal justice agencies shall expeditiously return the property when it is no longer needed for court, law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of both pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider

victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

The Utah Constitution was also amended to allow a judge to consider the dangerousness of an offender in making bail release decisions. Many other pieces of legislation and administrative rules have been passed to improve the plight of victims. Much still remains to be done.

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The Offender

This section focuses on the characteristics of Utah's criminal offenders. The following are basic questions examined:

What is the criminal career of the typical offender?

What is the prior record of the offender? How is the career criminal affected?

Who is the typical offender?
Male? Female? White? Black?
Are their proportions comparable to the general population?

How many offenders are female?
Do criminal tendencies differ among males and females?

What impact does age have on crime? Are there differences in age among probationers, inmates and parolees?

What emerging issues face our state? Are the rapidly increasing populations of sex offenders a concern? Are minorities disproportionately represented in criminal populations under supervision? What can we do about overcrowding and alternatives to incarceration? Can reduced recidivism be achieved through programming?

Who commits crime?

Explanations of deviant criminal behavior

Through analysis of the offender attempts have been made to explain why crime occurs in society. Several schools of thought have been developed to accomplish this arduous task.

The *Classical School* surmises that offenders commit crimes through the process of rational choice. To them, it seems practical that offenders receive either enjoyment or benefit from their deviant tendencies.

Innate Criminality links criminal behavior to biological factors within the offender. Today, scientists have attempted to link criminal behavior to a chromosome abnormality referred to as the XYY pattern.

Others hypothesize that offenders suffer from psychological problems. Mental illnesses are prominent among many offenders.

Finally, a leading theory today examines the correlation between deteriorating social conditions and increasing criminal activity. Based on this theory, people commit crimes to obtain items required for survival, or people have feelings of hopelessness and turn to crime through a lack of respect for society.

These brief descriptions only scratch the surface of possible causes of criminal behavior. Any

one of these factors or, more than likely, a combination of them can be used to explain why crime occurs in our society.

Studying probationers, inmates and parolees

Most data referred to in this analysis breaks the offenders into three groupings: probationers, inmates, and parolees.

Probationers are offenders not sent into the prison system, but for whom supervision is provided in the community. These offenders are generally supervised for 12-36 months.

Prison inmates are offenders sent into a secure, controlled environment. In Utah, the average time served is about 26 months, although the time varies considerably. Some offenders have been in prison for more than 30 years.

Parolees comprise those who are released from prison. Parole is the time period when offenders are supervised in the community following their release from prison.

All information within this section represents a "snapshot" of the Utah criminal justice system at a certain point in time.

Offender gender and race

Table 4.1: Offender Gender and Race

| | Utah Population | Probationers | Inmates | Parolees |
|-----------------|-----------------|--------------|---------|----------|
| Gender | | | | |
| Male | 49.7% | 82% | 95% | 92% |
| Female | 50.3 | 18 | 5 | 8 |
| Race | | | | |
| White | 94 | 80 | 70 | 70 |
| Hispanic | 4 | 10 | 16 | 17 |
| Black | 0.07 | 4 | 8 | 9 |
| Native American | 1 | 3 | 3 | 2 |
| Asian | * | 1 | 1 | 1 |
| Unknown | * | 2 | 2 | 1 |

Sources: Utah Department of Corrections 1991 Annual Report
1990 Census of Population Characteristics, Utah

Most crime is committed by white males.

Males are over-represented in the criminal population. Although normal populations usually consist of equal numbers of males and females, the offender population in Utah is only 10 to 20 percent female. Information shows inmates are 95% male compared to probationers who are 82% male. This difference becomes significant when comparing the types of crimes committed by males and females.

Minorities are over-represented in the criminal justice system.

Race and the criminal justice system together comprise an issue of critical importance in our

society. Seventy-six percent of the offenders are white. However, whites comprise 94% of Utah's general population. Whites are proportionally under-represented in the criminal justice system.

Minority groups are over-represented in the offender population. Hispanics comprise only 4% of Utah's general population, while our "snapshot" shows 12% of offenders are Hispanic. The same over-representation exists for blacks. Blacks comprise less than one percent of Utah's population, while they comprise 6% of Utah's offender population.

Probationers typically commit less severe crimes and, therefore, are not sentenced to prison, although they may spend some time in jail. Both inmates and parolees commit

crimes where prison incarceration is deemed appropriate. Once offenders are broken into the three distinctive categories of probationers, inmates and parolees, more racial disparity arises.

Looking at Table 4.1, the numbers indicate a larger percentage of white offenders are in the probation category as compared to white offenders who are in prison or on parole. Minorities, on the other hand, have a significantly smaller percentage in the probation category than in the prison or parole categories. This indicates that minorities are generally being convicted of more severe offenses, or they are receiving more severe penalties for similar crimes.

Offender marital status and educational level

Table 4.2: Offender Marital Status and Education

| Marital Status | Utah Population | Probationers | Inmates | Parolees |
|----------------------|-----------------|--------------|---------|----------|
| Never Married | 26% | 41% | 44% | 45% |
| Married | 61 | 25 | 21 | 21 |
| Separated | 1 | 8 | 6 | 7 |
| Divorced | 8 | 18 | 21 | 21 |
| Common law | * | 4 | 3 | 3 |
| Widowed | 5 | 1 | 2 | 1 |
| Unknown | * | 3 | 3 | 2 |
| Education | | | | |
| 1-6 | * | 1 | 3 | 2 |
| 7-11 | * | 42 | 49 | 48 |
| High school graduate | * | 41 | 35 | 38 |
| 13+ | * | 15 | 10 | 10 |
| Unknown | * | 2 | 3 | 1 |

Sources: Utah Department of Corrections 1991 Annual Report
1990 Census of Population Characteristics, Utah

Offenders are typically single and have only a high school education.

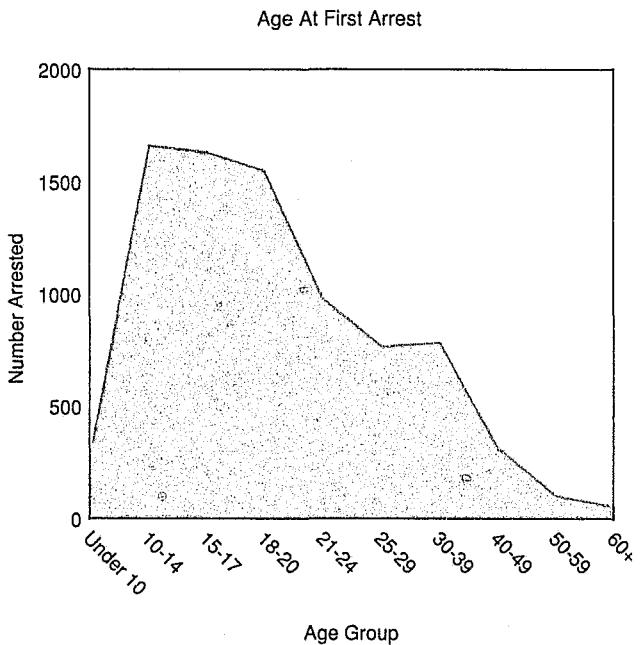
As illustrated in **Table 4.2**, the largest percentage of offenders (41-45%) have never been married. In the general population only 26% have never been married. In the general population, 61% are married, yet in the offender population approximately 23% are married. These trends indicate that a much larger percent of the offender population is single rather than married.

Education is another characteristic that defines the offender. When broken into the supervision categories, 56% percent of probationers completed their high school education while 45% of inmates and 48% of parolees completed high school in contrast to the Utah adult population where 80% completed high school. Those committing more serious offenses can generally be characterized as having received less formal education.

Offender age

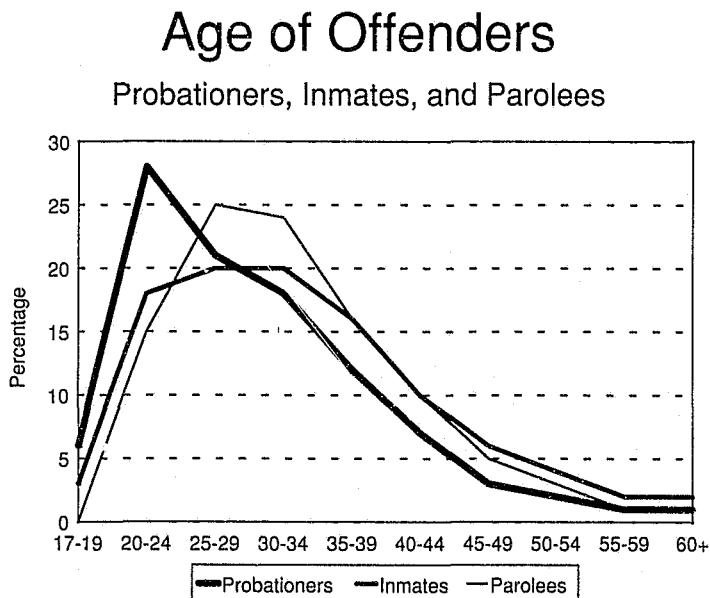
Most crime is committed by younger offenders.

Another demographic characteristic of the offenders is age. Most offenders begin their life of crime at an early age. As the adjacent graphic shows, most offenders' first arrest occurred between the ages of 10 and 20. After the age of 20, the number of first arrests significantly drops off. Perhaps, as the population matures, individuals grow out of their criminal tendencies.



Source: Utah Department of Corrections 1991 Annual Report

Age among probationers, inmates, and parolees differs.



Source: Utah Department of Corrections 1991 Annual Report

As youthful offenders mature they generally take one of two routes. Either they "grow out" of crime, or they commit more offenses and are thrust into the prison system.

Types of offenses

Violent crime categories

For our purposes, we will divide offenses into violent and non-violent crimes. Violent crime consists of murder, sexual assault, robbery, and aggravated assault. Non-violent crime consists of the remaining crime types.

The prison system is generally used as a final option for chronic offenders or for offenders who commit crimes of such a serious nature that the judge feels imprisonment is appropriate. Many

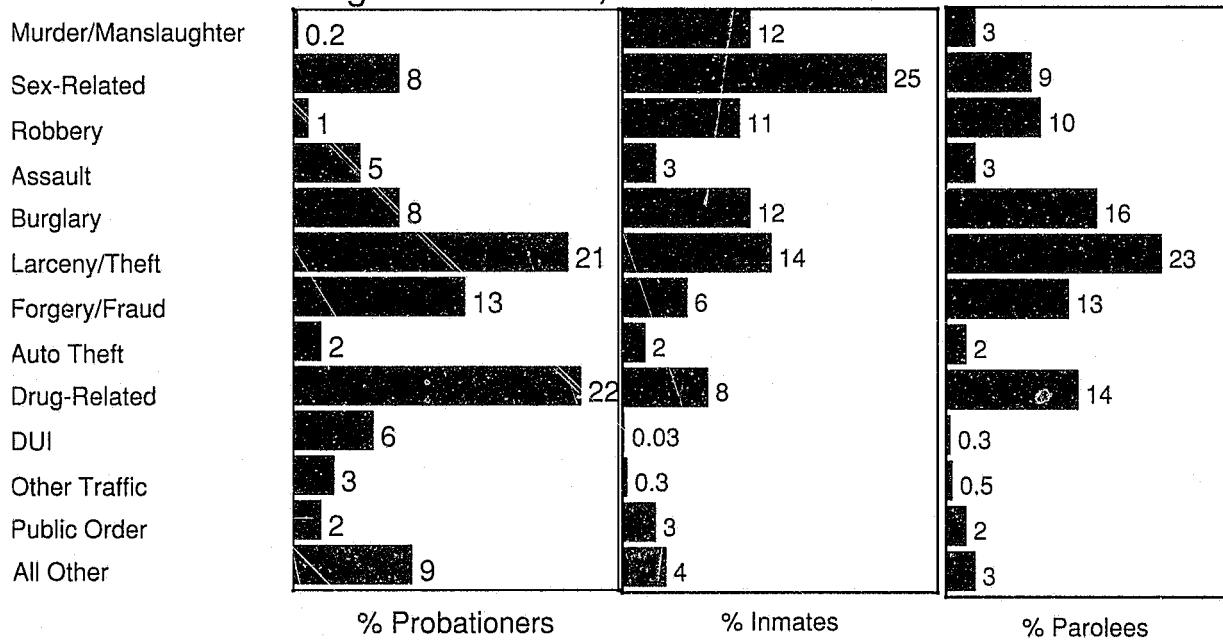
violent offenders find themselves in the latter category. According to our data probationers do not commit many of Utah's violent crimes. The largest percentage of violent criminals find themselves in the prison system either as current or past residents. Occasionally, some offenders are in prison for rather minor property offenses. However, these property offenders tend to have extensive criminal history records. In the inmate category, 51% have committed violent crimes.

Non-violent crime categories

As expected, a large majority (86%) of the probationers find themselves in the non-violent category. In the inmate and parolee categories a large percentage of offenders commit burglary and larceny. Because burglary and larceny are "youth" crimes, there are plausible correlations between the youthful population and the disproportionately high rate of larceny and burglary in Utah.

Types of Crimes Committed

Among Probationers, Inmates and Parolees

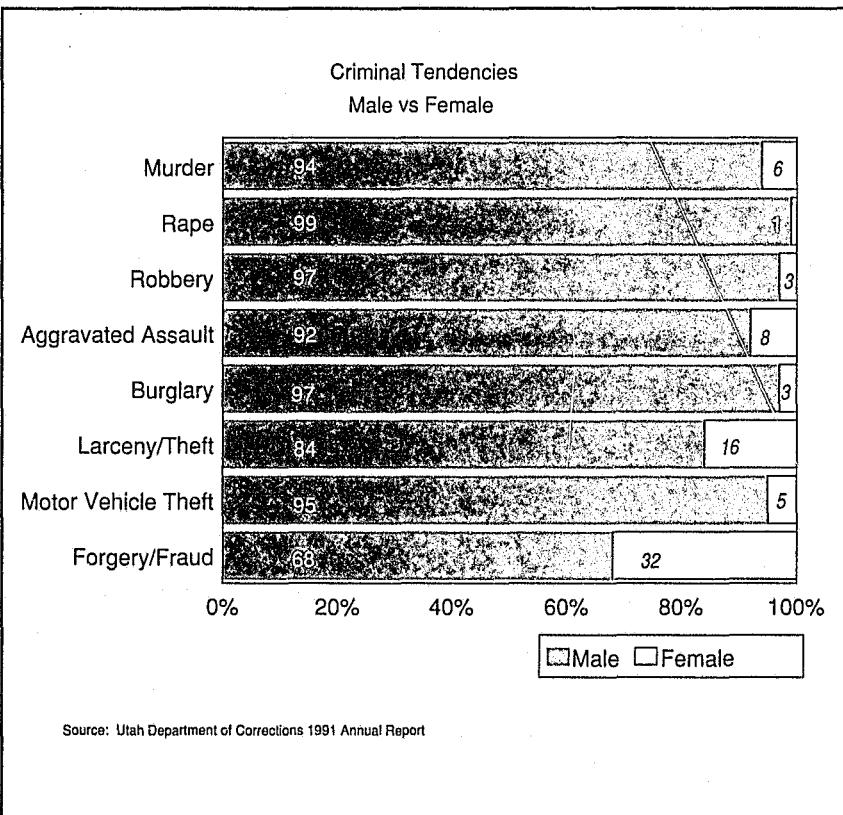
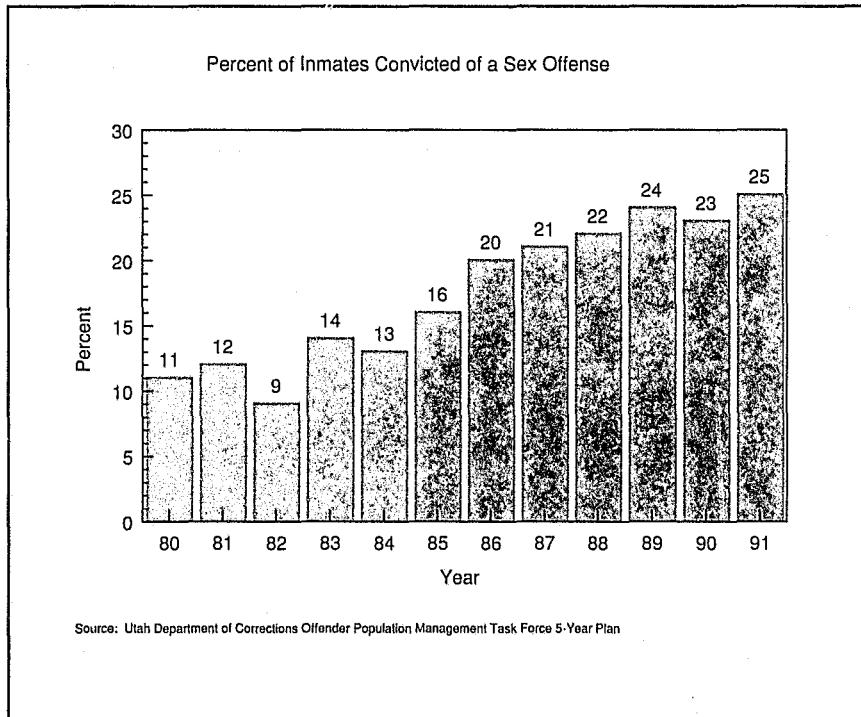


Source: Utah Department of Corrections 1991 Annual Report

Female offenders

HB 209 and Sexual Offenses

In 1983, the Utah Legislature passed House Bill 209 which created mandatory sentences for certain child sex offenses. Since that time, Utah has witnessed an alarming growth of child sex offenders in the prison system. In 1984, the year before the measure took effect, only 13% of the prison population had committed a sexual offense. In 1991, seven years after the measure took effect, 25% of the prison population had committed a sex offense. This presents a good example of how legislation can affect the crime rate and prison population.



Gender and crime

Again, using the categories of violent and non-violent crime, we see a dichotomy between violent and property crime tendencies among females. Although males commit more crime than females, in certain areas, females are closing the gap. In 1990, only a small proportion of the violent crime was committed by females. However, a much larger proportion of non-violent crimes were committed by females. Research indicates females' involvement in property crimes seems to be increasing. This increase tends to be larger in the categories of theft and fraud.

Emerging Issues

Offenders and Arrest Rates

Many in the field of criminal justice today focus attention on the chronic offender. There is strong evidence showing that a small number of offenders commit a large percentage of the offenses. If this is true, policies focusing on capturing and incapacitating these chronic offenders should significantly reduce crime.

In some aspects, Utah appears to direct incarceration policy towards these types of offenders. For our purposes, a chronic offender is defined as an offender arrested more than five times. Seventy-five percent of the probationers have been arrested five times or less while only 25% have been arrested more than five times.

In the inmate and parolee categories, we find the tables turned. Now, a majority of the offenders have been arrested over five times. Generally speaking, the state follows a policy of putting the chronic offender behind bars in an attempt to significantly decrease crime.

Emerging Issue: Alternatives to Incarceration

Unless there are major changes, Utah will face serious overcrowding difficulties in the following years. Our prison system will face bed shortages. The Department of Corrections projects a 980 bed deficit by 1997. With few alterna-

Table 4.3: Offender Arrests

| # of Arrests | Probationers | Inmates | Parolees |
|--------------|--------------|---------|----------|
| 1 to 5 | 75% | 48% | 43% |
| 6 to 10 | 17 | 24 | 28 |
| 11 to 15 | 5 | 12 | 13 |
| 16 to 20 | 2 | 5 | 6 |
| Over 20 | 2 | 10 | 10 |

Source: Utah Department of Corrections 1991 Annual Report

tives to incarceration, Utah faces a correctional system dilemma. Most of the population of our prison system have either been convicted of a violent crime or have been singled out as chronic offenders.

Without new prison beds or alternatives to incarceration, the state faces the reality of letting either chronic or violent offenders out into society.

Giving the judicial branch more punishment options could be effective in decreasing the prison population. The state is currently considering a variety of options, such as intensive supervision, electronic monitoring, and specialized housing, to provide alternatives to incarceration.

Many are questioning the desirability of incarceration at current levels. The United States has the highest incarceration rate of any industrialized nation.

In Utah, there is a movement to try to reduce recidivism by providing improved literacy training, educational training and treatment programs.

Questions are also being raised regarding the desirability of long term incarceration for child sex offenders. Treatment providers think many offenders in this group could be better treated and controlled in the community if the proper resources were available.

Programs are also being developed to teach offenders about the impact of crime on victims, to improve restitution payments and to improve accountability of offenders to their victims.

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Chapter 5

The Criminal Justice Response

This chapter is intended to highlight activities and events in the criminal justice process. The topics are discussed in the following order:

I. The Criminal Justice Process and Law Enforcement

II. Prosecution and Bail

III. The Courts

IV. Corrections

I. The Criminal Justice Process and Law Enforcement

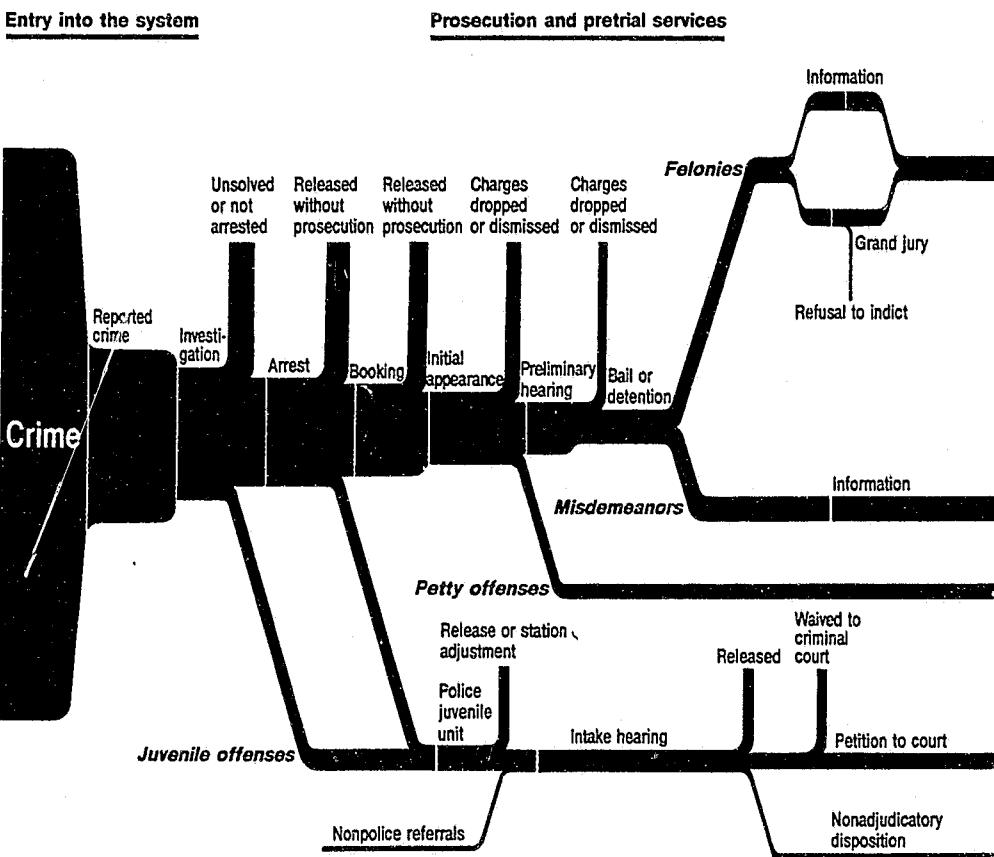
What is the criminal justice process and how do cases flow through it? What problems constrict the flow of offenders and information?

How does law enforcement respond to reported crime? How likely is a reported crime to be resolved? How does police strength in Utah compare to the U.S. as a whole?

What dilemmas are created by the need for specialization in small law enforcement agencies? What training is required for police officers? What do police officers do other than respond to crime? How is the police role changing in the community?

The criminal justice process is complex

What is the sequence of events in the criminal justice system?



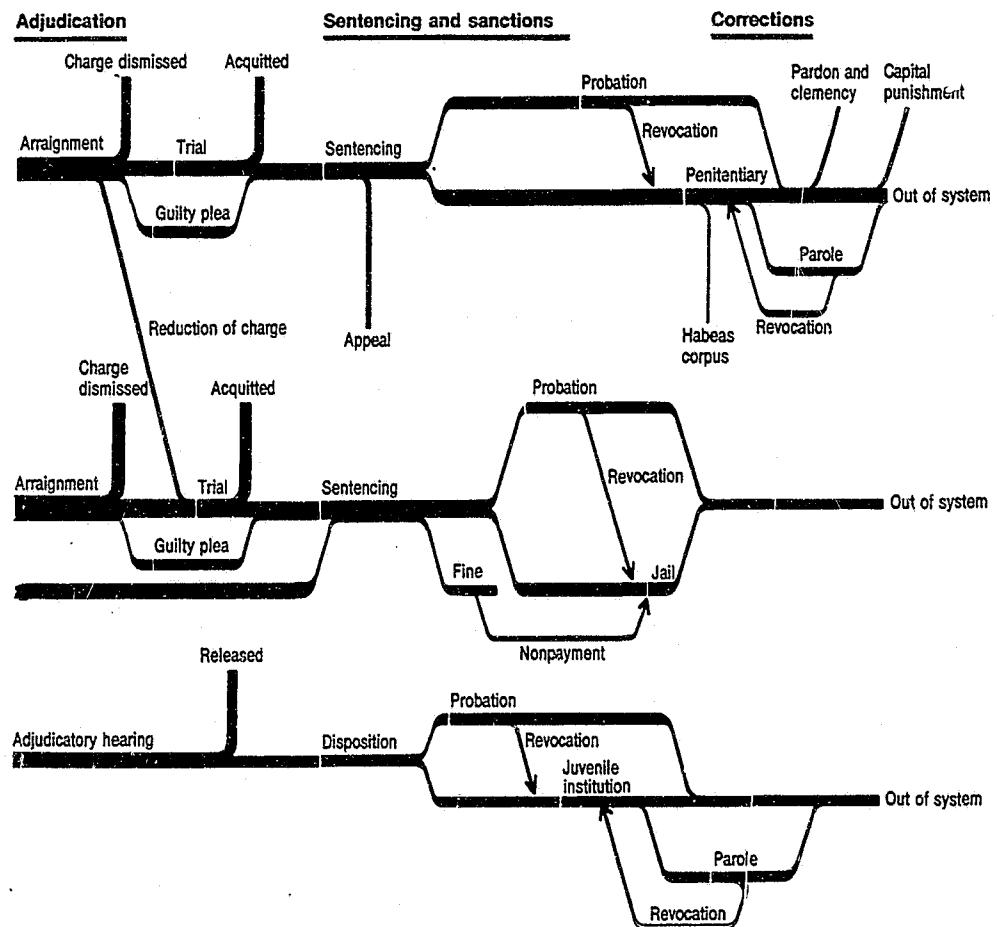
Note: This chart gives a simplified view of caseload through the criminal justice system. Procedures vary among jurisdictions. The weights of the lines are not intended to show the actual size of caseloads.

Criminal justice as a system

The chart on this page shows the flow through the criminal justice process from the time a crime occurs until the offender exits the system. The flow chart suggests a smooth and connected flow and a clear system. This is somewhat

misleading, mostly because of the various jurisdictions and levels of government involved. Assuming that a felony is committed, the crime should be reported to the law enforcement agency that has jurisdiction over the area where the crime occurred. Police agencies serve cities, while

sheriff's offices serve county governments. Currently in Utah, most felony prosecution is conducted by county prosecutors. The offender can be arraigned before either a local government justice of the peace or a state circuit court judge. If the offender pleads guilty or desires a trial, the



Source: Adapted from *The challenge of crime in a free society*.
President's Commission on Law Enforcement and Administration
of Justice, 1967.

case will be referred to the state district court for trial or sentencing. Prior to sentencing, the judge will typically ask the state Department of Corrections staff to conduct a presentence investigation and make sentencing recommendations to the judge. Sentencing options include: the state

prison, the county jail, supervision by state probation staff as well as fines and restitution that can be collected by either state or county staff. The criminal justice process is complicated by the various political units involved along with their various administrators and philosophies.

Limited law enforcement resources respond to crime

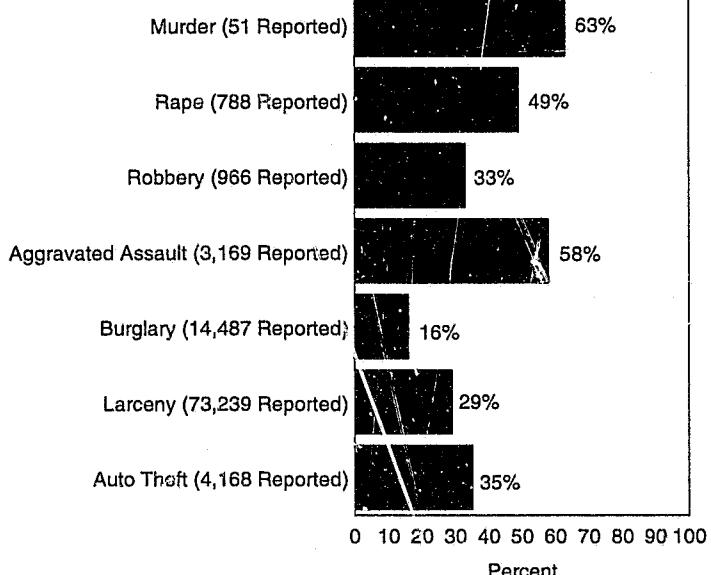
Law Enforcement: The Response

When a crime is reported, the expectation is that police will respond. For many years law enforcement administrators evaluated their effectiveness by how quickly a patrol officer's car arrived at the scene of the offense. Today, many crimes can be reported to a dispatcher or by telephone/mail correspondence. Research in recent years has suggested that rapid response to the site of the crime is mostly advantageous when the crime is in progress, the victim is in danger, or there is a crime scene in danger of contamination. An emerging concern is that there be an improved response to the emotional distress of the victim, and that the victim be informed about what to expect in the criminal justice process.

Once a crime is reported, how likely is that crime to be resolved?

The publication, **Crime in Utah**, reports the clearance rates for seven Part-1 offenses for which official statistics are currently being gathered. A cleared offense means that law enforcement has arrested the offender or otherwise resolved the case. The number of offenses reported and the clearance rates for 1991 are shown in the graph on this page. Research has also shown that a comparatively small percentage of law

Cleared Offense Rates: 1991



enforcement officers develop most of the cases that result in successful prosecution.

Number of officers

According to **Crime in Utah**, in 1991, there were 3,129 full time law enforcement officers in the state. This does not include correctional officers, wildlife officers, constables, and some others who have limited law enforcement authority. There is substantial difference from one jurisdiction to another in the number of police officers per 1,000 population. According to **Crime in the United States**, across the United States there is an average of 2.2 full time police officers per 1,000 population.

That is slightly higher than in Utah where the comparable average is 1.77 officers per 1,000 population. Among Utah counties, Piute County has the lowest rate at 1.06, and Daggett County has the highest rate at 4.24 per 1,000 population.

The limited number of law enforcement officers raises many concerns about how to best utilize the police. The Utah Highway Patrol, for example, in order to preserve limited manpower, gasoline, automobiles, etc., has times during each night when there are very few officers on duty.

Specialization

Another important problem is that law enforcement is becoming a very specialized field. Some areas of special concern are child sexual abuse, drug abuse, computer crime and white collar crime. It becomes very difficult for a small agency to develop the expertise necessary to deal effectively with these types of cases. Some jurisdictions are exploring consolidation and multi-disciplinary task forces to develop the resources needed to deal with crimes requiring specialized expertise.

Police training

Training of law enforcement officers is regulated by the state Peace Officers Standards and Training Council (POST), which determines the standards. Currently, new peace officers are required to complete 440 hours of pre-service training prior to beginning public service. Then, there is an annual 40 hour in-service training requirement. Police work is very demanding and the risks and liabilities are high.

Non-law enforcement roles of police

The police typically perform functions other than law enforcement. In fact, fewer calls are received for law enforcement (10%) than for other activities.

Service-related calls (38%) include such things as assisting injured persons, animal control, fire, etc. More than 40% of calls are for order maintenance such as domestic disputes. Information gathering (22%) involves routine questions at a crime scene, filling out reports, etc.

Community Policing

There seems to be a progressive realization that law enforcement cannot do all that needs to be done. The best solution appears to be to strengthen the relationship between the police, communities and neighborhoods. There are many different strategies to accomplish this.

Domestic Violence

There has been considerable concern nationally and in Utah regarding law enforcement response to domestic violence. Current law (Utah Code Annotated 77-36-3.1) requires the arrest or citation of the offending spouse and encourages prosecution/treatment. Research supports the use of this strategy in most situations. The major exception is when the offending spouse is unemployed and generally dysfunctional, short-term arrest may be counter-productive.

Gangs and Violence

At this point, the emerging concern for law enforcement in the 1990s appears to be gangs and the violent crimes associated with their rivalries and their involvement with drugs.

II. Prosecution and Bail

What is the role of the prosecutor? What percent of cases are resolved by guilty pleas? What role does the Attorney General play?

How does Utah's county attorney system work? What is the case flow like in the Salt Lake County Attorney's Office?

What are the most frequent problems that result in cases being rejected for prosecution? Who defends the many defendants who are indigent?

What is bail and how does it work? What is release on own recognizance or ROR? What are some of the risks associated with bail?

Utah's prosecution system

Prosecution

Once an offender has been identified or an arrest has been made, the prosecutor directs what happens in the case. The prosecutor functions as the "champion" of the state in seeking justice for the offense through the courts. The prosecutor must examine the evidence and determine if it is sufficient to meet the "beyond a reasonable doubt standard of proof" required to obtain a criminal conviction. The prosecutor also must examine the resources required to take a case to trial and the likelihood of future criminal appeal of the case. As a result of these concerns, most (80% - 90%) criminal cases are resolved by a guilty plea.

County Attorney System in Utah

Many states have a state-funded and controlled district attorney system. Utah's system is based on an elected county attorney who, in addition to criminal prosecution, is also responsible for advising county officials on all legal aspects of county government. Because Utah's counties are so diverse, the number of attorneys in an office ranges from a single part-time contractual arrangement to 56 in Salt Lake County. Some of the larger offices are automated and provide management information. Typically, however, little information is available about the functioning of prosecution. There are no accepted standards in the state regarding what information

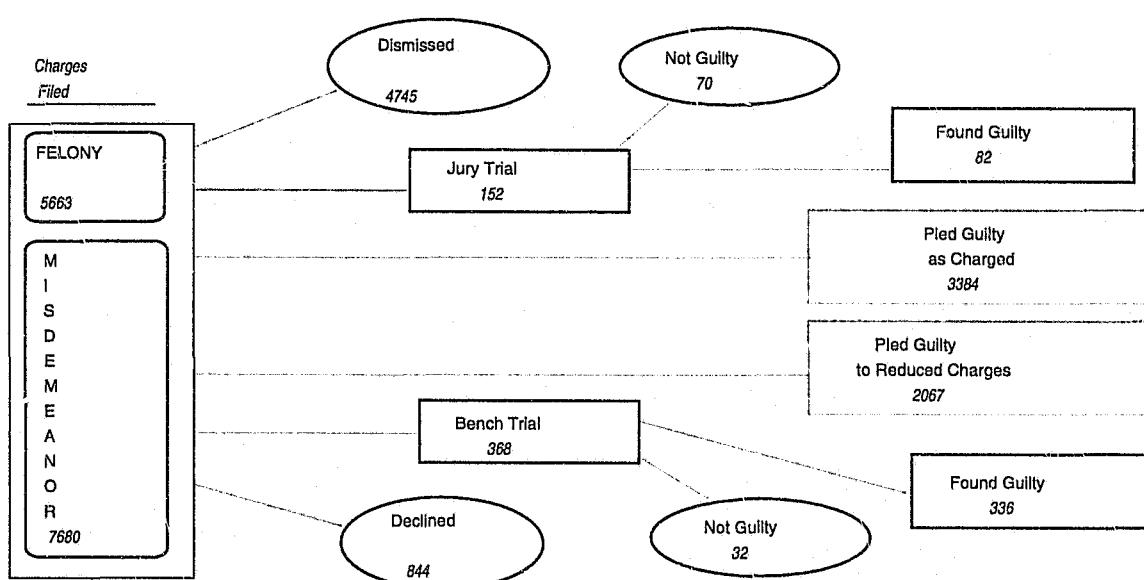
should be made available to the public.

There is some interest in allowing counties to consolidate prosecution resources and to segregate criminal and civil functions.

Flow of criminal charges filed in Salt Lake County

Most of the county attorney systems in Utah do not keep management statistics. The chart below, from the Salt Lake County Attorney's Office, gives one example of the flow of cases prosecuted. This is the largest prosecution agency in the state. The reader should be cautioned not to generalize this case flow to prosecution statewide, since each

Salt Lake County Attorney Case Flow: 1991



Prosecution, Defense, Pre-Trial Release

county's approach to prosecution differs substantially.

The reader may be concerned with the large proportion of charges that are dropped or where prosecution is declined. Please keep in mind the need to prove the charges beyond a reasonable doubt. Such a high standard proves difficult for many charges. Also be aware that although some charges may be dropped, in most cases the defendant will be convicted and sanctioned on other charges.

Evidence problems are the most common reason for prosecutors rejecting cases. A 1986 study by INSLAW, Inc. found that, in Salt Lake City, of 973 cases that were declined, 58% were declined because of insufficient evidence, 19% because of referral for other prosecution, 12% because of witness problems, and 8% in the interest of justice.

Attorney General's Office

The Sixth Amendment of the U.S. Constitution requires that all individuals accused of major crimes have the right to representation by an attorney. Since many accused are indigent, the state is required to provide defense for them. In small counties, the judge is likely to assign the case to a local attorney who might be in the courtroom. In larger counties a legal defenders office is established through contract.

Bail

The traditional objective of bail and other pre-trial release options is to assure appearance at trial. In medieval times, the accused was bailed to a third party who would be tried in place of the accused if the accused failed to appear. As the system evolved, the guarantee became the posting of a money bond that was forfeited if the accused failed to appear. In the United States Constitution, the Eighth Amendment states that bail shall not be excessive, but it does not grant the right to bail in all cases.

Today, most offenders are released prior to trial. There are a variety of release mechanisms. With **fully secured bail**, the defendant posts the full bail amount with the court. With privately secured bail, a bondsman signs a promissory note to the court for the bail amount and charges the defendant a fee for the service (usually 10% of the bail amount). If the defendant fails to appear, in theory, the bondsman must pay the court the full amount.

In **Release on Own Recognizance (ROR)** the court releases the defendant on the promise that he or she will appear in court as required. Other options may also be utilized. Both nationally and in Utah some counties have a pre-trial services organization that assists the court in evaluating

defendants for pre-trial release. Pryor and Smith found that upwards of 85% of all defendants released pending trial appeared for all court sessions.

However, bail release is not without risk. Toborg's study of eight jurisdictions nationally found that between 10% and 20% of those released are rearrested while on bail. Some law enforcement officers complain that the offenders they arrest are back on the streets before the officer can complete the arrest paperwork, and that this makes a mockery of the criminal justice system.

In recent years some states, including Utah, have modified their state constitutions to allow the court to consider the danger that an offender presents to the community in making the bail decision.

Most serious criminal prosecution is conducted by the county attorneys of the county where the offense occurred. However, the Utah Attorney General's office may become involved in special cases such as complex white collar crime, child sexual abuse or narcotics cases.

III. The Courts

What roles do the courts play in
the criminal justice process?
What other roles do courts play?

Why is the concept of an "independent" judiciary so important?
What rights are defendants entitled to? What are the five different levels of courts in Utah and their jurisdictions?

What are the trends in recent years in filing felony cases in Utah courts?

How does felony case processing time in Utah compare to other locations in the United States?
What information is usually provided to a judge prior to sentencing?

How do appeals take place? How long do appeals take? What has been done recently in Utah to dramatically reduce the time to complete appeals?

Role of the courts and defendant's rights

The courts participate in and supervise the judicial process.

The courts have several functions in addition to deciding whether laws have been violated.

The courts settle disputes between legal entities, invoke sanctions against law violators, and decide whether acts of the legislative and executive branches are constitutional.

Until the Middle Ages disputes between individuals, clans, and families (including those involving criminal acts) were handled privately. Over time, many acts came to be regarded as crimes against the entire community.

An independent judiciary is a basic concept of the U.S. system of government.

To establish its independence and impartiality, the judiciary was created as a separate branch of government co-equal to the executive and legislative branches.

In criminal cases the courts have the responsibility to provide an impartial forum to determine if an accused offender is guilty. The United States Constitution provides that all accused persons should be considered innocent until proven guilty. The standard of proof in criminal cases is "proof beyond a reasonable doubt". The courts have the responsibility to protect the rights of defendants as

enumerated in Utah Code Annotated 77-1-6 and listed below.

Defendant's Rights

- (1) In criminal prosecutions the defendant is entitled to:
 - (a) appear in person and defend in person or by counsel;
 - (b) receive a copy of the accusation filed against him;
 - (c) testify in his own behalf;
 - (d) be confronted by the witnesses against him;
 - (e) have compulsory process to insure the attendance of witnesses in his behalf;
 - (f) a speedy public trial by an impartial jury of the county or district where the offense is alleged to have been committed;
 - (g) the right of appeal in all cases; and
 - (h) be admitted to bail in accordance with provisions of law, or be entitled to a trial within 30 days after arraignment if unable to post bail and if the business of the court permits.
- (2) In addition:
 - (a) No person shall be put twice in jeopardy for the same offense;
 - (b) No accused person shall, before final judgment, be compelled to advance money or fees to secure rights guaranteed by the Constitution or the laws of Utah, or to pay the costs of those rights when received;
 - (c) No person shall be compelled to give evidence against himself;

(d) A wife shall not be compelled to testify against her husband nor a husband against his wife; and

(e) No person shall be convicted unless by verdict of a jury, or upon a plea of guilty or no contest, or upon a judgment of a court when trial by jury has been waived or, in case of an infraction, upon a judgment by a magistrate.

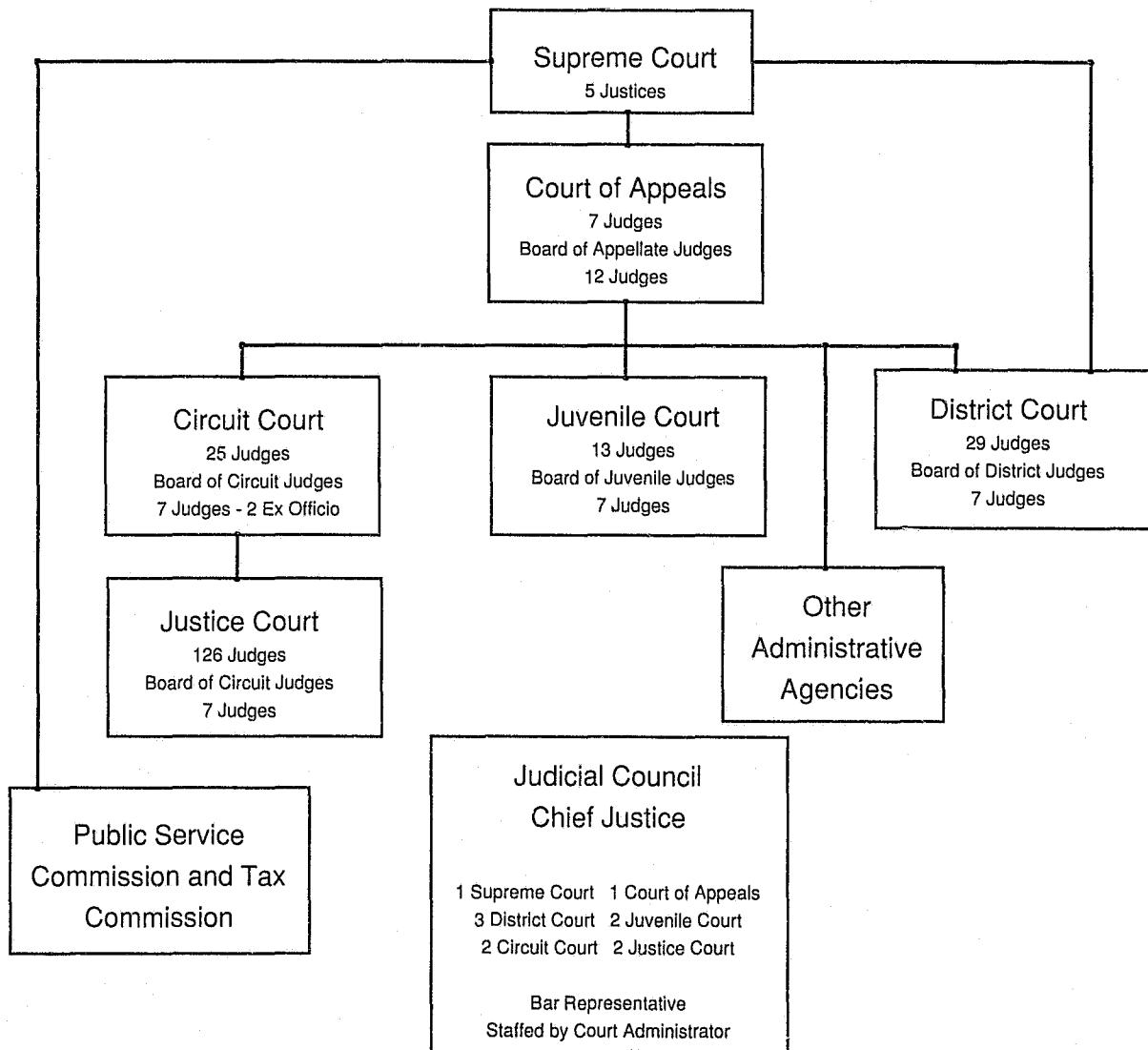
Structure of Utah's court system

In Utah there are currently five different levels of courts (see graphic).

All levels of courts handle both criminal and civil caseloads. The discussion here will deal only with criminal cases, but it must be kept in mind that this is only a portion of the court's role.

Justice of the Peace Courts may be established by the counties and larger cities. They hear Class C misdemeanors, and violations of ordinances and infractions committed within their territorial jurisdiction. They share jurisdiction with the circuit court on Class B misdemeanors and with the Juvenile Court on traffic offenses for minors. They are not courts of record. If an appeal is made, a

new trial is held at the district or circuit court level. Justice court judges can be appointed by the presiding district or circuit court judge to conduct preliminary hearings for felony cases. Justice Court judges do not need a law degree. There are currently approximately 125 justices of the peace serving 150 justice courts in the state.

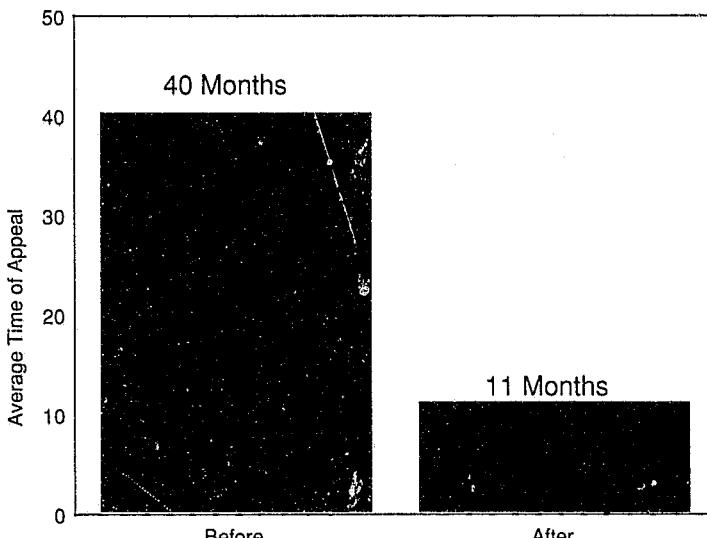


Court jurisdiction

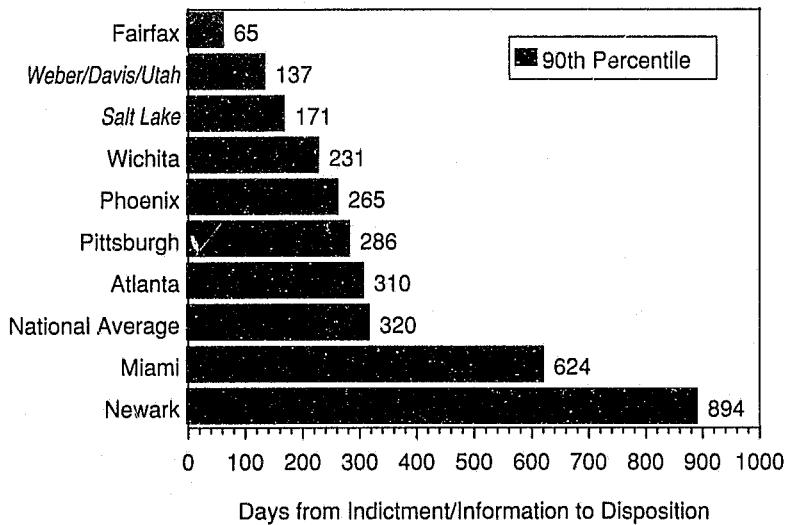
The circuit courts have exclusive criminal jurisdiction over Class A misdemeanors and are authorized to conduct preliminary hearings in felony cases. The circuit courts originally were municipal and county courts, but became state courts in 1978. Before January 1, 1992, there were 25 circuit court judges. After January 1, 1992, the more rural circuit courts became district courts, thus increasing the court's flexibility in those areas.

The district courts are the primary trial courts for felonies. There are currently 35 district court judges serving in eight judicial districts. Criminal appeals from both the district and circuit courts are heard in the Court of Appeals, except those involving a first degree or capital felony conviction.

Creation of the Appellate Court
Dramatically Reduced the Time for Appeal



1987 Felony Case Processing Times



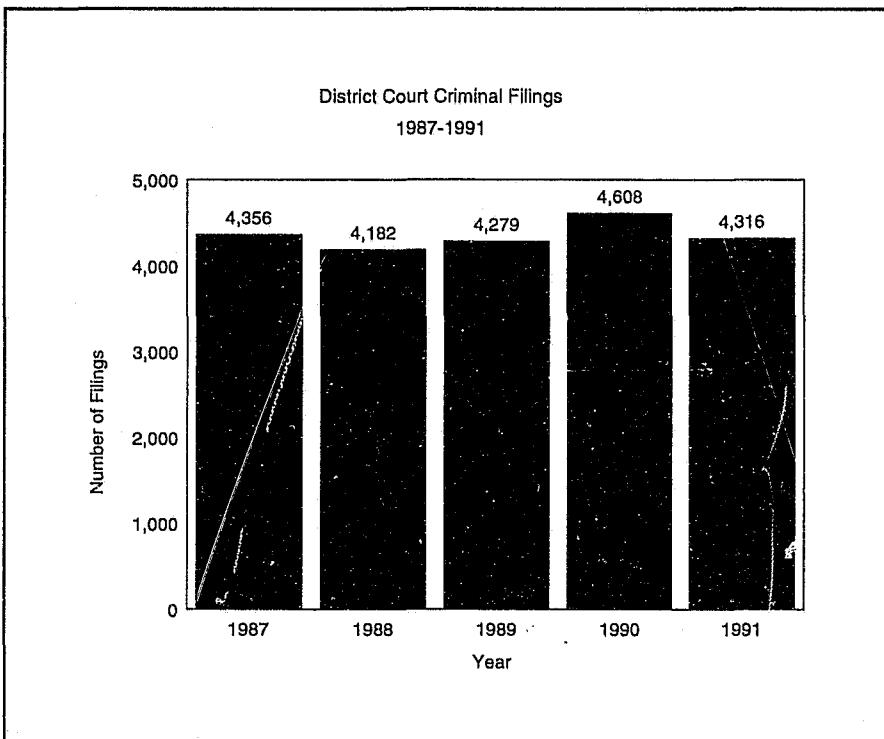
The 90th Percentile means 90% of all cases are closed within the number of days shown.

The Court of Appeals was created in 1987 to relieve the backlog of cases appealed to the Utah Supreme Court. It consists of seven judges. Evident from the above graph, the system has worked well and Utah's case backlog is among the lowest in the nation.

Timeliness is a major concern of the courts. Case processing times in Utah are well below the national average as shown in the adjacent graph.

Sentencing

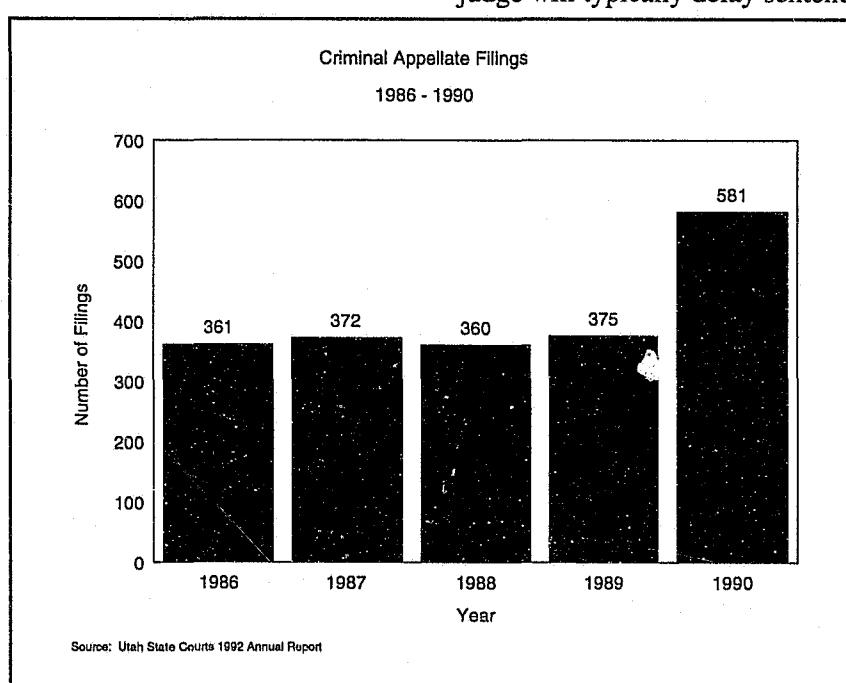
A speedy trial is a right guaranteed in the U.S. Constitution. Offenders who are arrested and jailed are entitled to a hearing before a magistrate within 24 hours (or 72 hours on a weekend), to determine if there is reason to believe that they have committed a crime. Shortly afterward, they are formally arraigned and informed of the charges against them. This is typically followed by a preliminary hearing and then a trial if charges are not dropped or a guilty plea is not entered. It is interesting to note that the number of felony cases filed in the district court has been quite stable over the last five years as shown in the adjacent graph. However, as shown in the next graph, the number of criminal appellate filings increased dramatically in 1990.



Sentencing

If an accused person is found guilty of a serious crime, the judge will typically delay sentenc-

ing for about three weeks and refer the offender for a pre-sentence investigation. In Utah these investigations are usually conducted by the Field Services Staff of the Utah Department of Corrections. These investigations provide information on the exact nature of the offense and the losses experienced by the victim(s). In addition, the prior criminal record of the offender is presented along with information on other relevant factors such as the offender's family, employment, education, substance abuse, etc. The pre-sentence staff also makes a recommendation to the sentencing judge. This, along with other information provided by the prosecution or defense, is considered at the sentencing hearing where the offender is actually sentenced.



IV. Corrections

What range of supervision is provided by the Department of Corrections? What different philosophies have guided corrections in the United States?

What level of government operates jails? What four types of legal status do prisoners in jail represent?

How does the Department of Corrections utilize jails? Why do the counties want jail reimbursement?

What is probation? How is it different from parole?

What percent of convicted felons in Utah are imprisoned? How much did Utah's prison population increase during the 1980s?

Why did the misdemeanor probation population decline so dramatically? What has happened to the parole population?

Why has the prison population increased so much? What two factors control prison population?

What is the Board of Pardons? What does it do?

Corrections' philosophy

Corrections

Most offenders who are convicted of serious crimes are sentenced to the Department of Corrections which has a variety of resources ranging from 23-hour a day confinement in an individual cell, to very periodic supervision in the community. The continuum of supervision structure provided by the Department of Corrections will be described in more detail.

Correctional Philosophy

One of the great dilemmas throughout human history has been what to do with those who commit crimes. The death penalty is one of the few things that has almost always been a factor. In earlier times corporal punishment, such as flogging and other various forms of physical torture, were common, as were banishment, penal colonies and indentured servitude.

The United States has done much to popularize the notion of the prison as "more humane punishment". The first major attempt was the Quakers' Walnut Street Jail in Philadelphia. The notion was to incarcerate offenders, isolate them with the Bible, and let them do penance, hence the name penitentiary.

This philosophy predominated in the United States from 1774 until well into the 19th century. In many of these penitentiaries there

was an attempt to enforce a code of silence. A major problem of these penitentiaries was that many inmates became insane.

The period from 1870 to 1900 can be called the "reformatory period". Under this philosophy, offenders worked their way out of prison by getting educated, learning a trade, and behaving well. Along with this came the notion that sentences should be indeterminate and based on the inmate's progress.

The period from 1900 to 1925 is frequently called the industrial period in American penal history. Inmates were involved in the building of roads, railroads, farming, and even prisons. The idea that offenders should work has been almost universally accepted, but it has been difficult to implement. Initially there were abuses associated with indentured servitude. Later, inmates and inmate labor were leased to private contractors interested in cheap labor. As competition and labor laws developed, many in the private sector began to complain about prison labor providing unfair competition, thus making their operations less profitable. The battle for meaningful work programs for offenders continues.

During much of the 20th century, there have been major breakthroughs in medicine and the development of the social sciences. Both offered the promise that offenders, who were either

sick or inappropriately educated, could be cured or rehabilitated. This hope came to dominate correctional philosophy until about 1975 when discouragement and public backlash and a review of formal research led **Corrections Magazine** to publish the headline: "Rehabilitation is Dead".

Since 1975 Corrections has been looking for a philosophical base. Major movements lead to a return to equitable punishment and protecting society from serious offenders by imprisoning and, thereby, incapacitating them.

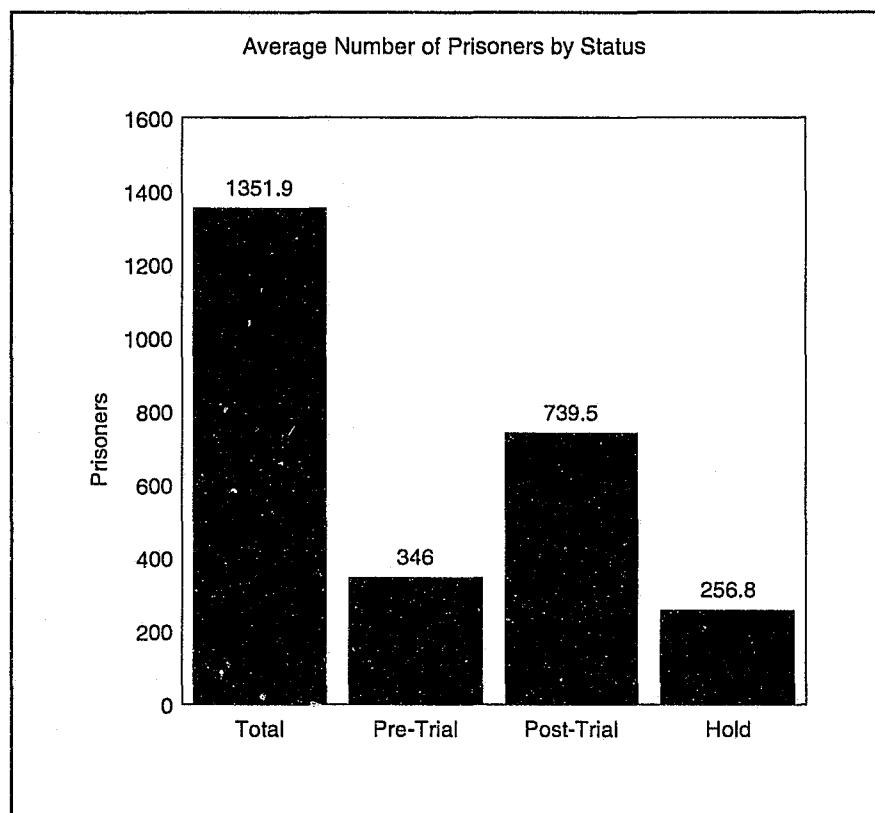
Prison populations have increased some fourfold during this period. The United States now imprisons a larger portion of its population than any other major nation. The financial costs are leading many to question the approach. Perhaps today even more than at any other time in our history, America is struggling with the dilemma of what to do with those who commit crimes.

During most of the history of American corrections, the needs of the victims have been secondary, if not forgotten. Since about 1975, the victims' movement has made major steps in sensitizing the criminal justice system to victim's needs for information, input and consideration in the criminal justice process. Restitution for victims from offenders is working only marginally well in most jurisdictions.

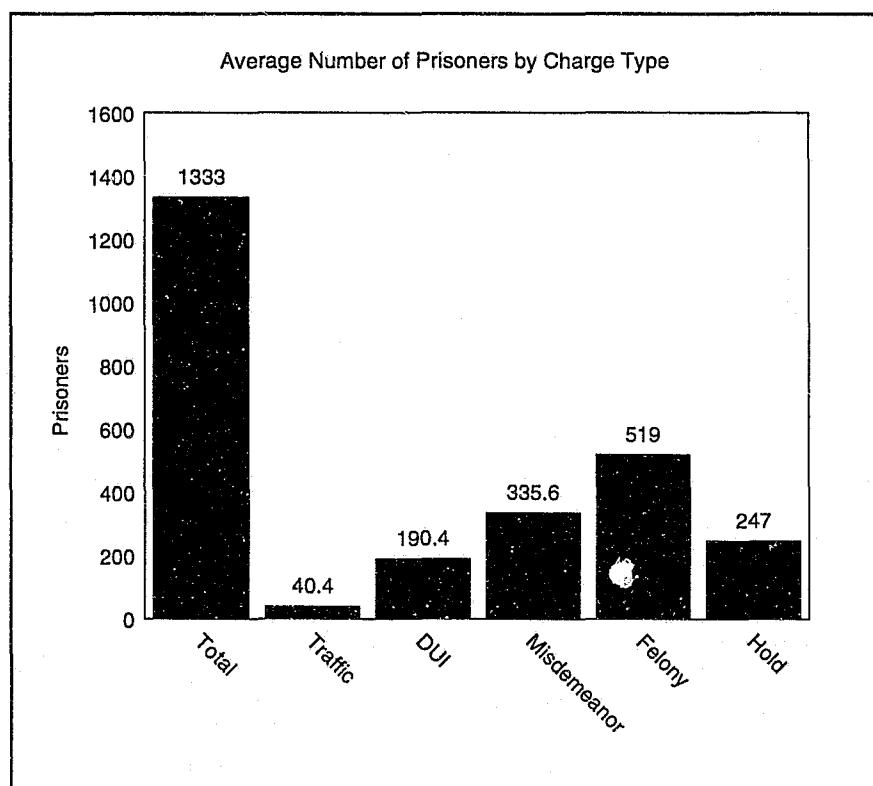
Status of prisoners in Utah jails

Correctional resources

Jails - In Utah, jails are operated by county governments and are used to house offenders after initial arrest and, in some cases, pending trial. Utah law also allows judges to sentence offenders to jail for up to one year. In some cases, such a sentence is a condition of probation. Jails are also frequently used to hold prisoners temporarily for other jurisdictions. The adjacent figure shows the types of prisoners typically in jail in Utah as found by a statewide jail study in 1989. A major issue in Utah in recent years has been whether the state should reimburse the counties for inmates sentenced to jail as a condition of probation.



The graph at the left shows the types of crimes for which jail inmates were incarcerated, as found in the 1989 jail study.



A large proportion of the jail population is there for only a short time, usually from the time of arrest until they are bailed out or released on their own recognizance. Judges, on occasion, will also order people to serve jail time intermittently, such as on weekends, etc. Jails have been a very important resource in dealing with the rapidly increasing prison population. Since many jails have space available, the Department of Corrections contracts with them to house prisoners to relieve overcrowding and increase flexibility for the state prison system.

Probation, prison, parole

Probation

Utah law allows judges to place offenders on probation rather than imprison them. The judge can specify conditions for the probation. Conditions can range from the offender being required to take antabuse to submitting to random drug testing or avoiding associating with other convicted felons. Field Services staff from the Department of Corrections are responsible for supervising these offenders and holding them accountable to the judge.

Corrections has a classification system that determines how intensive the supervision is. Supervision can range from the offender mailing in a report monthly to requirement that the offender reside in one of the seven community correctional centers operated by the Department of Corrections.

In recent years, electronic monitoring of offenders has been used to allow confinement of offenders in their own homes. Approximately two-thirds of sentenced felons are placed on probation. They will typically be supervised from 18 to 36 months. By the end of the first year of supervision, 6-7% of probationers are sent to prison for a technical violation or new crimes while on probation. By the end of two years, an additional 4-5% of the remaining probationers are sent to prison.

Imprisonment

Approximately one-third of convicted felons are imprisoned. Utah law currently provides sentencing in broad ranges depending on the degree of seriousness of the crime of conviction: Third Degree = 0 to 5 years; Second Degree = 1 to 15 years; and First Degree = 5 years to life. The average time served by prisoners released in recent years is just over two years.

Parole

Most inmates released from prison are supervised by Field Services staff in the community. This supervision is called parole. The parolee is answerable to the Board of Pardons which has authority to set conditions similar to those judges set for probationers.

In Utah, by the end of the first year, 57% of parolees have returned to prison. By the end of two years, 74% have returned. The majority of these returns are for violations of the conditions of supervision and not for new criminal offenses. This high rate of return is expected when Utah's low incarceration rate is considered.

Offender population

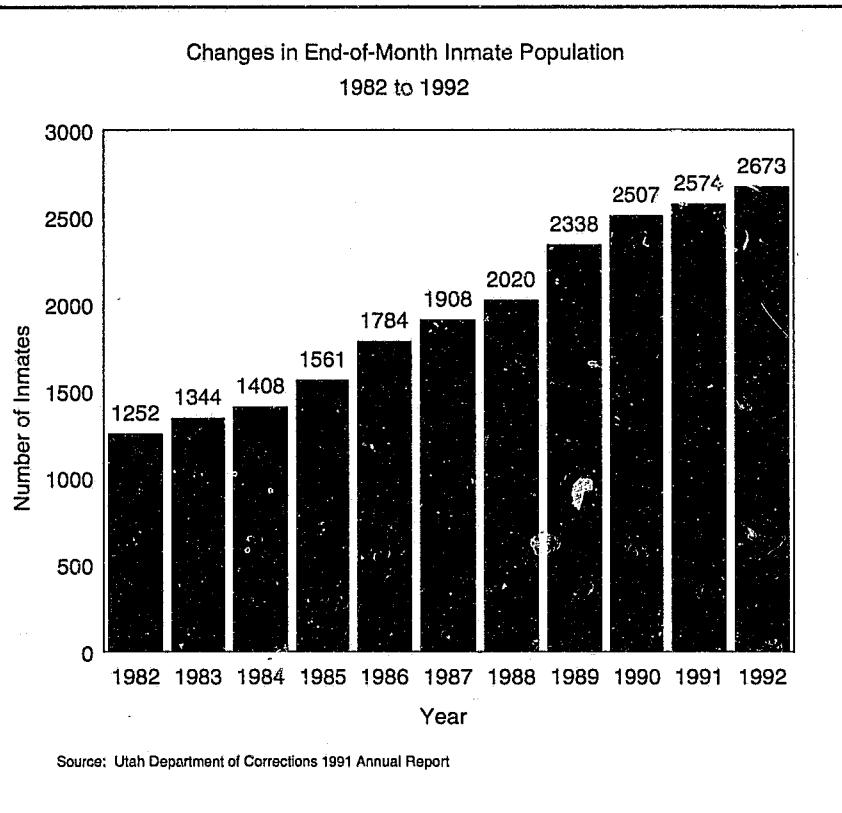
The felony prison population has witnessed changes during the past decade.

The percent of felons admitted to the Utah prison system has fluctuated over the past decade. The percent of total felonies admitted to prison reached a high of 33.5% in 1985 and a low of 26.0% in 1987. Trends indicate the felony admission rate peaked from 1984 through 1987, and since that time we have seen a decrease in the total percentage.

The state population, as well as the total number of felonies has increased dramatically since 1982. Since that time, the percentage of total felony admissions to prison has increased by 64.1 percent.

In the last two years, the percentage of total felony admissions to felony probation has increased at an even greater rate than felony prison admissions.

At the end of 1991, there were 4,061 persons convicted of felonies under probation supervision. By the end of 1992, the number had increased to 4,495. Corrections provides similar supervision for those convicted of Class A misdemeanors since many of them committed felonies, but plea bargained to a lower offense.



The Utah prison population has increased since 1980.

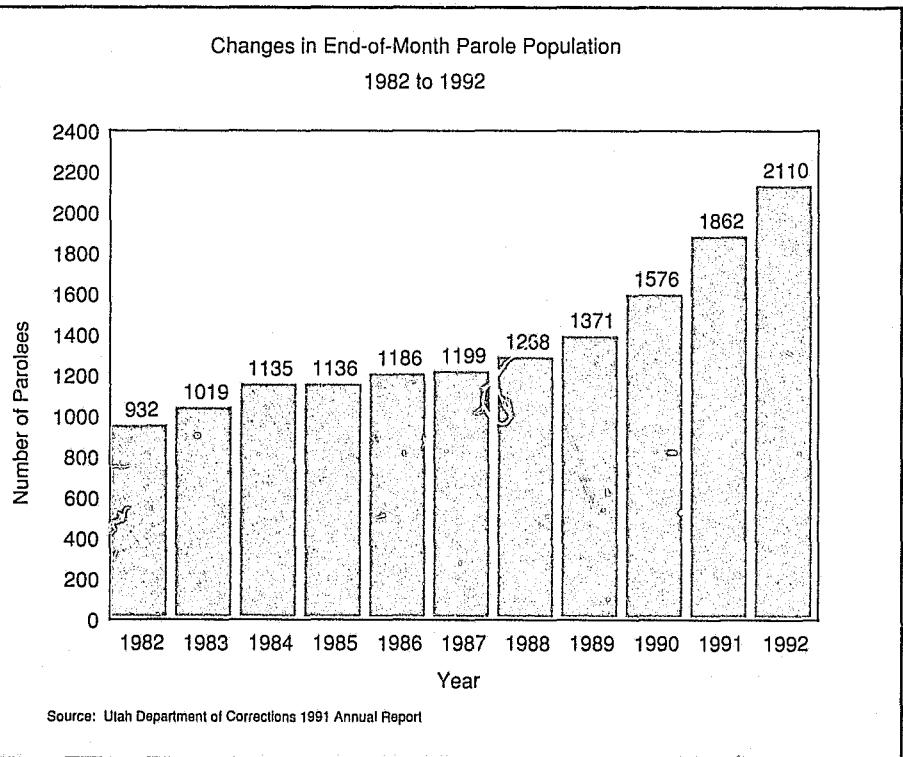
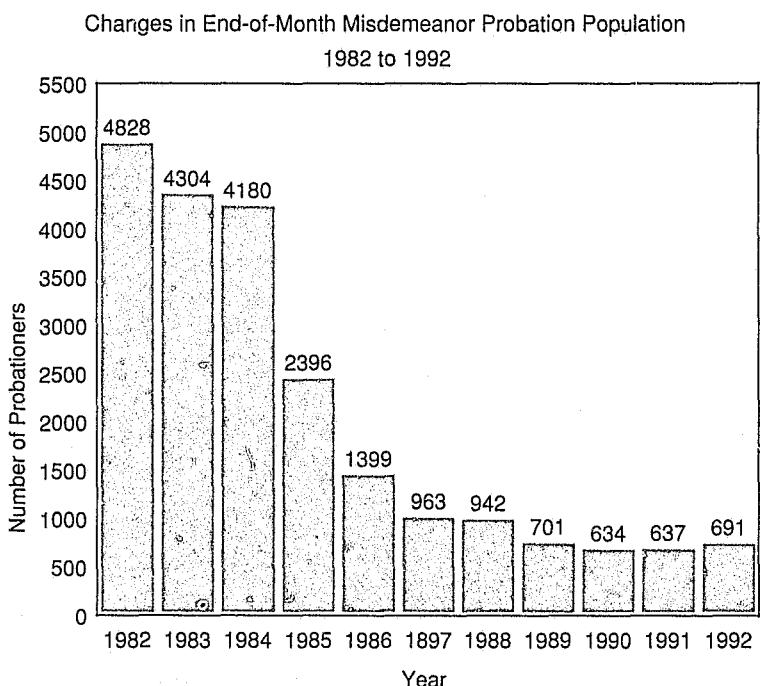
By examining the end of month inmate population in the adjacent graph, we can see a growth from 1,252 inmates in 1982 to 2,673 in 1992. The 113% increase in inmate population over the past decade is a cause for concern with regards to diminishing bed space or overcrowding. The trend through the 1980s shows that unless there are significant policy changes, the rise in inmate population will continue through the 1990s.

Since 1983, the length of stay for prison releases has increased slightly. In 1983, prison releases' average length of stay was twenty months. In 1990, the average length of stay for prison releases was twenty-five months. In 1990, it was estimated that a savings of one month of average prison time would save 67 beds.

Probation and parole populations see changes

Misdemeanor probation populations have drastically decreased since 1982.

In 1982, the end-of-month misdemeanor probation population reached a maximum of 4,828 individuals. By 1992, that number had decreased over 85 percent, to 691. In 1984, the Utah Legislature passed measures that decreased the Utah Department of Corrections' responsibility for the misdemeanor offenders in an attempt to focus limited resources on the most serious offenders.



End-of-month parole population shows an upward trend in Utah.

Similar to the trend witnessed in the inmate population, the parole population dramatically increased over the last decade. In 1982, the end-of-month parole population included 932 parolees, but by the time the 1992 arrived, that number increased to 2,110. The trend over the last decade indicates that an increasing parolee population is likely to continue, unless there are major changes in prison admission practices.

Prison growth has resulted from population increases and policy changes

Utah's incarceration rate has increased dramatically.

The crime rate in Utah has been relatively stable, but the incarceration rate has increased dramatically, as shown in the adjacent graph. There are several reasons for this occurrence.

Some of the change can be attributed to demographic shifts. Most of the increase has resulted from changes in policy.

Prison population is simply a function of how many offenders are admitted to prison and how long they stay. More specifically, the annual admissions multiplied by the average length of stay equals the prison population. For example:

$$400 \text{ Admissions} \\ \times 2 \text{ Years}$$

$$= 800 \text{ Prison Population}$$

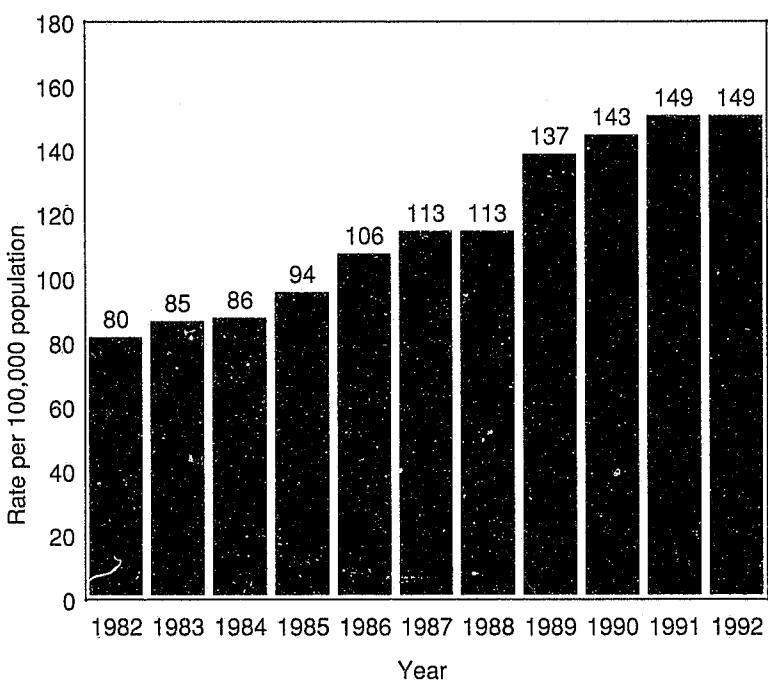
Doubling admissions would double the prison population, as would doubling the length of stay. In Utah, we have increased both the admissions and the length of stay.

Legislative decision making affects the prison population.

There are many instances where the increase or decrease in the criminal population is the result of legislative action. If the legislature creates a law that makes some

Changes in Utah's Incarceration Rate Per 100,000 Population

1982 to 1992



Source: Utah Department of Corrections 1991 Annual Report

behavior criminal, or increases the sentences for certain crimes, then suddenly a new sector of society faces possible incarceration.

An example of legislation increasing the prison population can be found in House Bill 209, which took effect in 1984. This legislation created mandatory sentences for certain sex offenses. Since the measure took effect, the state has witnessed a significant increase in the number of sex offenders in the Utah prison system. In 1982, only seven percent of the prison population was sex offenders, but by 1991, 25% of the prison system was sex offenders.

Board of Pardons

Once an offender is sentenced to prison, the judge loses jurisdiction. The Board of Pardons determines when the offender will be released.

The Board of Pardons is a five member board that collects pertinent information about prison inmates and conducts hearings. The Board of Pardons has authority to remit fines and forfeitures, commute punishments and grant pardons. It also oversees the supervision of parolees.

Emerging Issues

Corrections is concerned with the rapid growth in the offender population, particularly those in prison because of the requirement of physical facilities for housing offenders and because of the high cost of imprisonment. Corrections has a five-year plan to develop additional alternatives to incarceration that will adequately protect the public.

Corrections is also concerned about special populations, such as the mentally ill and those with developmental disabilities. They often require special environments. There is also a re-emerging concern with treatment programs for sex offenders and drug offenders. A current initiative is a recidivism reduction approach designed to enhance offenders' basic academic and vocational skills.

The courts have a plan for "Justice in the Twenty-first Century". They are concerned about the time and cost required to access the courts, and are proposing increased use of arbitration. There are also proposals to utilize technology to simplify the court process and to restructure the courts to better meet needs.

Prosecution is seriously considering the establishment of a state-wide funded full-time prosecution system to replace the current county-based system. The feeling is that this would substantially improve the resources available to rural Utah and allow for standard

setting which is very difficult in the current system. The legislation currently under consideration would allow counties to optionally enter into such an agreement with the state.

Law enforcement is generally moving toward "community policing" where police concentrate on serving as a resource to neighborhoods and communities. Technology offers much to law enforcement, both in actual crime fighting as well as the ability to organize, store, and retrieve information about crimes and offenders. There is also some movement to consolidate law enforcement services to improve efficiency and coordination. This is evident from the many multi-jurisdictional task forces that have been formed. There are also some situations where dispatch and other support services have been consolidated.

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The Juvenile Justice Response

In Utah, as well as most other states, there is a separate justice system for juveniles. This chapter will attempt to describe that system and answer questions such as:

Why does the juvenile justice system function in a more coordinated fashion than the adult justice system? How does the philosophy of juvenile justice differ from adult justice?

At what ages do people commit the most crime?

When will the "baby boom" population of the "at risk" youth peak in Utah? What implications does this have on the need for juvenile justice resources?

What types of crime do juveniles most frequently commit?

In Utah, what proportions of those who turned eighteen last year had contact with juvenile court for a criminal offense?

The need for juvenile justice resources should peak in 1996

Utah's juvenile justice response

Juvenile justice in Utah is primarily a state function. Because fewer branches and levels of government are involved, the system functions in a more coordinated fashion than the adult criminal justice system. The Juvenile Court and the Division of Youth Corrections share a common information system, which also provides many advantages to those seeking information.

Juvenile Justice Philosophy

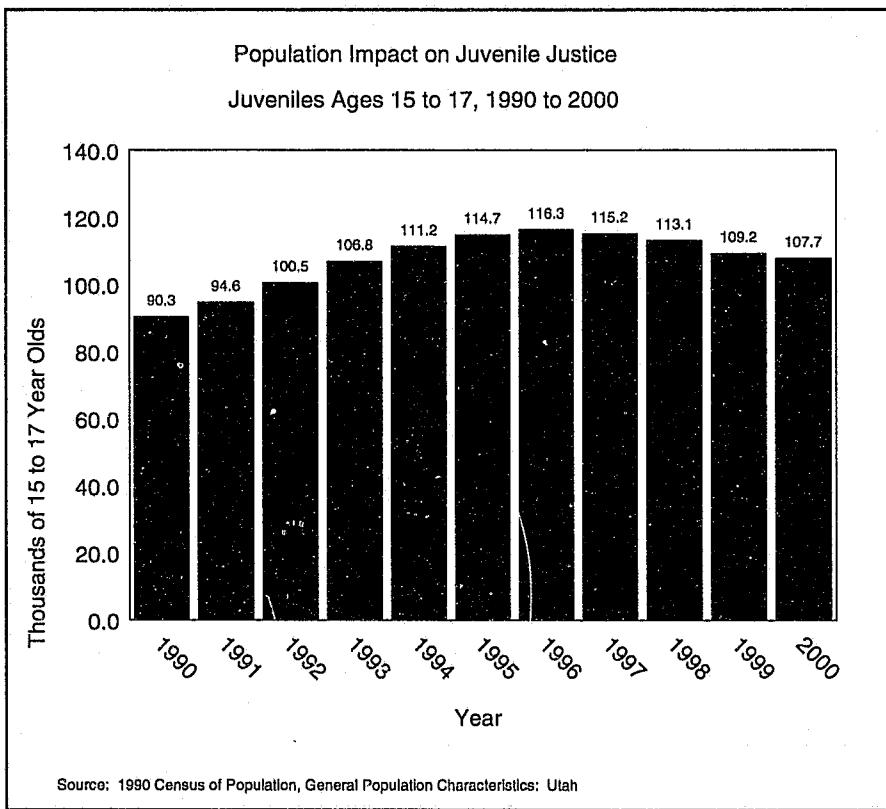
Since 1905, youth in Utah have been dealt with by a specialized Juvenile Court which emphasizes rehabilitation rather than simple punishment. In a presidential task force report, **The Challenge of Crime in a Free Society**, it was stressed that the juvenile court must focus on protection of the community, but that "what should distinguish juvenile from the criminal courts is their greater emphasis on rehabilitation, not their exclusive preoccupation with it." Until 1941, the juvenile courts in Utah were administered by the Governor, the State Superintendent of Public Instruction, and the Attorney General. From 1941 to 1965, they were administered by the State Welfare Department. In 1963, the Utah Supreme Court ruled that it was unconstitutional for the Welfare Department to administer the court. In 1965, the Juvenile Court Act established an independent, statewide juvenile court system.

Juvenile justice in Utah deals with a higher portion of the population than any state.

Earlier in chapter one entitled, "Unique Utah," it was pointed out that Utah is by far the youngest state in the nation with the largest percentage of school age population. It was also pointed out that young people ages 15 - 18 commit crimes at much higher rates than those slightly younger or those older.

The number of high risk juveniles in Utah's population should peak in 1996.

The graph below shows the number of juveniles who are ages 15 - 17 in the state, and who will impact on the state's juvenile justice system. Over 25% more high risk age juveniles will require services in 1996 than in 1990. However, after 1996, these needs should begin to decrease. The juvenile justice system and the legislature will need to carefully allocate resources to handle this increase.

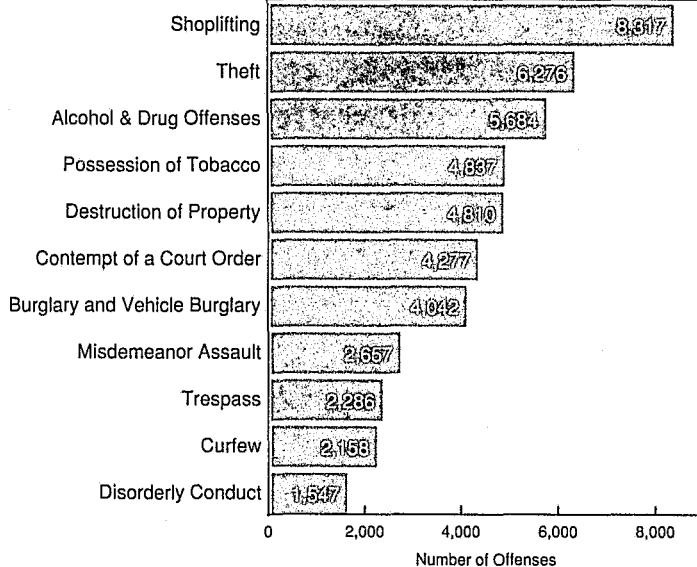


One-third of Utah's juveniles will have a criminal referral

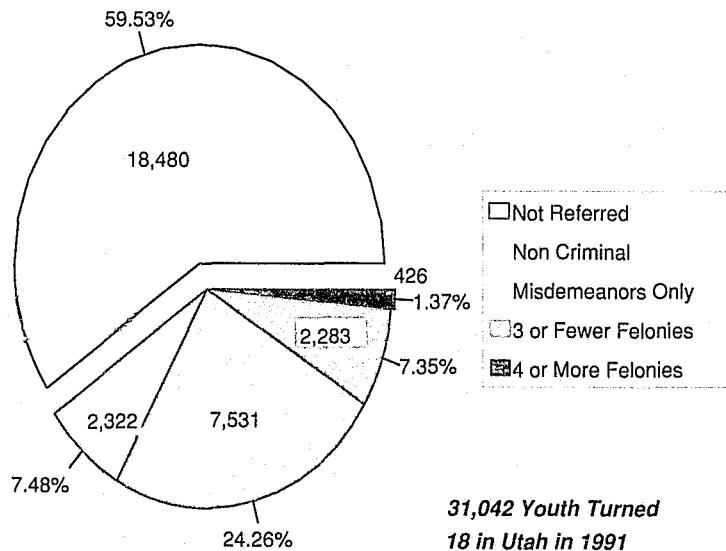
Juveniles have a tendency to commit different crimes than adults.

The adjacent graph shows the ten crimes that were most frequently reported to the Utah Juvenile Court during 1991.

Ten Offenses Most Frequently Reported to the Utah Juvenile Court During 1991



Juvenile Court Contact and the Class of 1991



One third of all youth who turned 18 in 1991 had at least one criminal referral to Utah's juvenile courts during their teen years.

The 426 youth (1.37% of the class of '91) who were referred for four or more felonies during their teen years were responsible for 3,152 (53%) of the 5,925 felonies for which their class was referred.

Utah has made major efforts to deinstitutionalize

The juvenile justice response

Law enforcement officers have considerable discretion in many criminal apprehensions. This is particularly true in juvenile cases. Many less serious offenses may result in the juvenile being taken to the police station, counseled and released to parents.

If the juvenile presents a high risk or has committed a serious offense, they may be kept in one of ten juvenile detention centers or multi-use centers located throughout the state. All but one of these centers is operated by the Division of Youth Corrections. There are approximately 150 detention beds available. The use of jails for the incarceration of juveniles is almost a thing of the past in Utah. The exception may be a youth who is certified to be tried as an adult.

The Juvenile Court is entirely separate from the adult courts. In Utah, thirteen judges handle the juvenile caseload for the entire state. In addition to criminal matters, the Juvenile Court also deals with dependency, neglect and abuse cases.

After a juvenile is arrested, the case is referred to a juvenile court intake worker. It is expected that the intake worker will resolve half of the cases without filing a petition for formal court action. If a petition is filed, the intake officer will prepare a presentence report for the juvenile court judge. Probation is recommended in

approximately nine percent of the cases. The county attorney's office may get involved in the more serious cases.

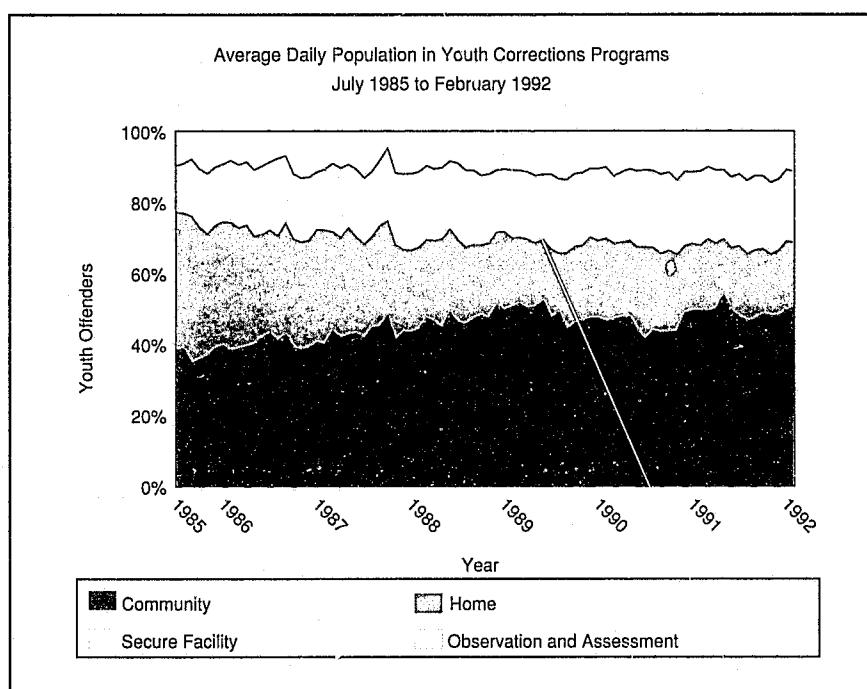
The juvenile court has a variety of options in dealing with offenders. They may impose a fine, restitution or community service. If additional supervision is required, the court may place an offender on probation. The probation staff work for the juvenile court and typically maintain caseloads of about 20 probationers per probation officer. If the judge feels that still greater supervision is required, the juvenile may be referred to the Division of Youth Corrections which is part of the Department of Human Services.

For the most difficult and heinous offenders, it is possible to certify the juvenile to stand trial as an adult and be sentenced as an adult.

Youth Corrections

The Division of Youth Corrections provides a variety of options to deal with the most serious and chronic juvenile offenders. The average daily population in youth corrections programs has been relatively constant at about 440 youth the last few years as portrayed in the graph below.

In the 1970s, there were over 400 in confinement. Since then, Utah has made a shift away from institutionalization.



Emerging issues include gangs, sexual abuse and racial disparity

The following information describes the major types of youth services in Utah.

Case Management - As shown in graph on the previous page, Youth Corrections provides a variety of types of supervision. All placements are assigned to a case management workload. In addition, they receive a program placement.

Community Alternatives - The majority of those supervised by Youth Corrections are placed in community alternatives to incarceration. There are approximately 40 different programs provided through contracts in the community. These include both residential and non-residential programs such as group homes, foster care, proctor care, alternative education, clinical treatment, tracking, vocational training and career development. There were 598 youth treated in these programs in 1991.

Observation and Assessment - This is a residential program which provides assessment and treatment planning, intensive daily programming and supervised trial placements. Three 16-bed centers served 259 youthful offenders in 1991. Youth stay up to 90 days in this program.

Secure Facilities - Youth corrections has 80 secure beds in three facilities where the most difficult youthful offenders are confined. Youth receive education and

treatment programs designed to confront delinquent norms, criminal thinking, and antisocial behavior.

Emerging Issues

Gangs - There is concern throughout the United States, and particularly in the larger cities, about the increasing presence of youth gangs. Gang graffiti is troublesome. Frequently the gang is heavily oriented towards drug use and crime. Violence is often spawned by antipathy toward rival gangs or law enforcement. Law enforcement is making major efforts to develop intelligence networks and work with gang members. There is a move to establish harsher penalties for gang-related crime. There is also some effort to establish recreation and other meaningful activities and relationships to help give high risk youth alternatives to gang involvement.

Minorities - Across the nation and in Utah, ethnic minorities are arrested and involved in correctional programs in numbers that greatly exceed their representation in the population. There is evidence to suggest that minority youth may be involved in a disproportionate amount of crime, and particularly violent crime. There is also evidence to suggest that there is substantial bias in the criminal justice process that results in more harsh treatment of minority youth. Efforts are being made to increase prevention and

support efforts in the minority communities and to increase the equity in decision making as far as minority youth are concerned.

Juvenile Sex Offenders - The number of child sexual abuse reports are increasing very rapidly in Utah. Research has shown that approximately 40% of the reported crimes are being committed by juveniles and that many of the adults who molest children started the pattern of molestation when they were juveniles. It is very important that this type of behavior be identified early and that treatment or some intervention be undertaken so that it does not continue.

Intensive Supervision - There is also some movement to create a type of supervision for young people that would be extremely supportive and where the supervisor would be a strong advocate for the juvenile in trouble. Many feel the current model stresses accountability, but is not sufficiently supportive.

Ancillary Court Services - The courts could function better with some ancillary services such as child development and linguistic experts, as well as other experts who could advise the court on how to proceed in many of the difficult and sensitive situations that come up when children are in the courtroom.

Court Reorganization

Discussion is currently underway regarding a reorganization of the courts. It may well be that the juvenile court function would be incorporated in a family court that would have broader jurisdiction in family matters. Currently, parallel proceedings may be going on in both the juvenile and district courts.

Philosophy

There is continual dialogue about the philosophy of juvenile justice. Utah's system is noted around the country as a model to be emulated in terms of providing treatment and services in the community. Others feel the system does not hold youth accountable for their criminal behavior. There promises to be spirited debate between the two perspectives.

Information Sharing

As noted elsewhere in this report, a higher percentage of people are arrested during their teenage years than at any other age. Some develop extensive criminal records. There is concern that information flow smoothly from the juvenile system to the adult system.

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The Costs of Criminal Justice

This chapter focuses on the costs of the criminal justice system. Some data is descriptive while other data is comparative. The following are issues of cost relevant to the discussion:

How are criminal justice dollars dispersed among each level of government?

Do different levels of government within the state spend their funds equally with regard to police, courts, legal services and corrections? Historically, what percentage of state, county and municipal government funds are dedicated to criminal justice functions?

How much does it cost to incarcerate an adult offender? How much do juvenile offender programs cost? What are the costs of probation and parole?

What does it cost to operate the court system? What are the average salaries of individuals in the court system? How much money is raised through the criminal justice system?

Criminal justice expenditures among levels of government

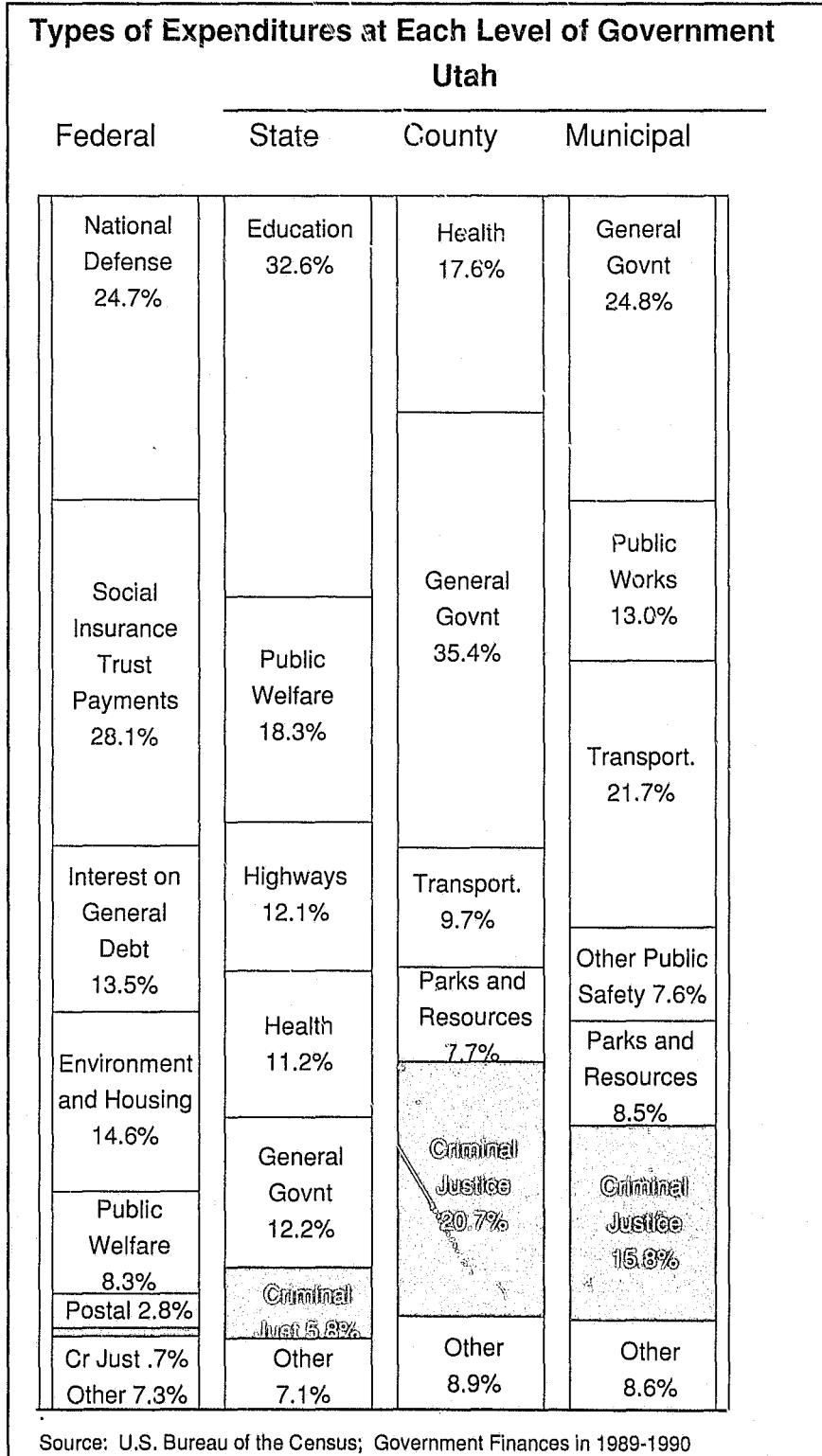
In the United States, 1989-1990, the federal, state, and local governments spent \$79.5 billion on criminal justice related expenses.

With all levels of government taken into account, 3.6% of all spending was for criminal justice activities. Out of this total, 1.6% went to police protection, 1.2% went to corrections and .8% went to judicial and legal expenditures.

Federal - In the fiscal year 1989-1990, two-thirds of the federal budget went to three items: national defense, social insurance/trust payments and interest on the national debt. The federal government contributed .7% of its budget in the pursuit of criminal justice activities. In comparison with its criminal justice expenditure, the federal government spent over fourteen times more federal money on debt maintenance.

State - Approximately one-third of Utah's state general expenditure went to education. Criminal justice expenditure represented only 5.8% of the state's general expenditure of \$2.49 billion. A majority of the state's general expenditure flows to education, public welfare and highway construction/maintenance.

County - The county governments in Utah spend over one-third of their funds on general government activity. At 20.7%, criminal justice activities account for a larger proportion of the county's budget than any other level of government.



Criminal justice spending differs according to the responsibilities of each level of government

Municipal - Utah cities also commit a large proportion of their budget to criminal justice activities. Nearly one-sixth of the cities' budgets are dedicated to criminal justice related items. It is interesting to note that over one-fifth of the municipalities' budgets are committed to transportation.

In Utah state government, corrections accounts for over half of the criminal justice spending.

In 1990, the Utah state government criminal justice expenditures were:

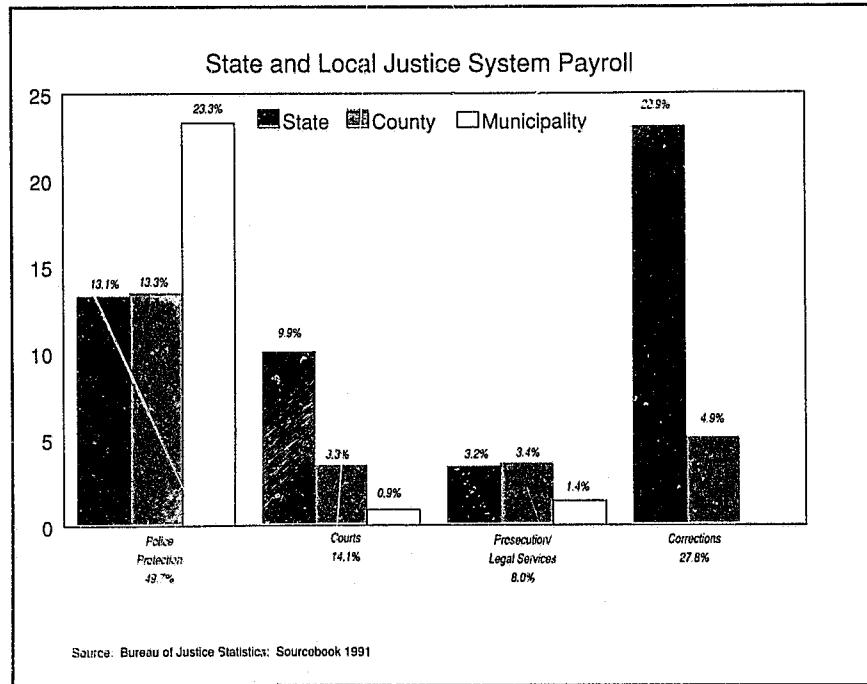
**54% for corrections
27% for judicial/legal services
19% for police protection**

The state level expenditure for corrections accounted for 72.3% of the total corrections expenditure within the state. The remainder of corrections expenditures, 27.7%, came from the county level.

Nearly half of Utah counties' criminal justice expenditures were for police protection.

In 1990, Utah county governments spent:

**46% for police protection
31% for corrections
23% for judicial/legal services**



Here we see a more heterogeneous mixture of criminal justice expenditure. Though counties clearly expend a larger proportion of their budget on police protection, a significant proportion of funds is spent in the remaining categories.

Utah municipalities spent most of their criminal justice funds on police protection.

In 1990, Utah municipalities spent:

**86% for police protection
15% for judicial/legal services**

Utah municipalities' expenditures for police protection accounted for 53.4% of all Utah criminal justice expenditures towards police protection. Counties accounted

for 28.7% of the police protection expenditure, while the state contributed 17.9% to police protection. The cities and towns of Utah contributed no expenditures towards corrections.

In summary, a statewide analysis shows 44.6% of the expenditures went to police protection, 32.0% went to corrections, 7.8% went to prosecution and legal services, 1.2% went to public defense, and .5% went to other criminal justice activities.

An historical look at Utah expenditures

Utah's spending on criminal justice has remained very stable over the past five years.

Looking at the graph below, we see that since 1985, the largest portion of the total criminal justice spending has come from the state level. The amount of dollars contributed by the state fluctuated from 1985 to 1990, but the changes have not been erratic.

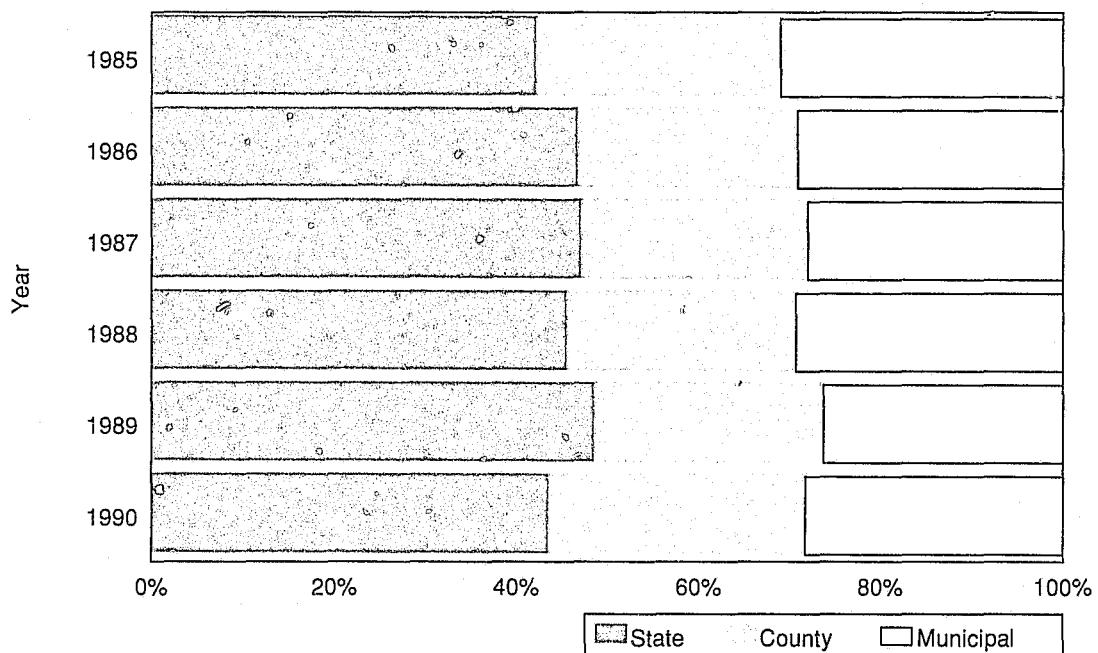
The municipal level accounts for the second largest portion of Utah's criminal justice spending.

Over the past five years the cities have also experienced some minor fluctuations.

The county level contributes the least in terms of total state criminal justice expenditures. County expenditures have remained surprisingly consistent over the past five years.

Generally speaking, we have not witnessed one level of government contributing more or less to the maintenance of the criminal justice system in the state of Utah.

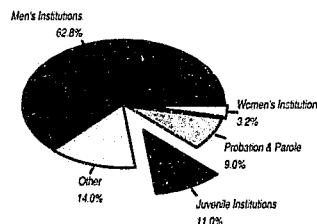
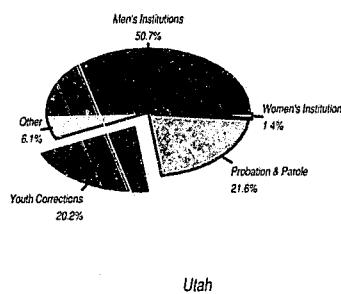
Historical Trends in Utah Justice System Funding



Source: U.S. Bureau of the Census: Government Finances

Cost of youth corrections

Direct Expenditures for Corrections Activities



Source: Bureau of Justice Statistics: Sourcebook 1991

Youth Corrections consumes nearly one-fifth of all direct expenditures for corrections activities.

Utah's youth population is proportionally higher than the national average. We would expect to see this demographic characteristic reflected in youth corrections. Indeed we do see a larger proportion of corrections expenditures going to youth corrections in Utah compared to the national average.

Several different programs are used in Utah for youth corrections. Each is characteristically different both in cost and function. Facilities range from community alternatives, where youth are put into community based residential and non-residential programs, to secure facilities, where youth are placed into confinement. In Utah, detention comprises 31% of the Division of Youth Corrections' budget, community alternatives comprise

27%, secure facilities comprise 19%, and observation and assessment comprise 10% of the budget.

Youth corrections systems provide a wide array of programs to help Utah's youth.

Case Management--This program allows for monitoring of the young offenders, coordinates different treatment plans, and helps the offender through the court system. As of 1991, there were 20 case managers in Utah and an average daily population of 438 offenders. This service is provided at an average cost per youth of \$9.48 per day.

Secure Detention--This program provides secure confinement for the young offender pending adjudication or placement. In Utah, there are seven programs with a total capacity of 139 youth. Secure detention is provided at an average cost per bed of \$90.73 per day.

Multi-Use Facilities--These facilities provide a shorter term detention with 24-hour-a-day supervision and programming. There are three such programs in Utah with a total capacity of 12 secure beds and 18 shelter beds. These facilities are provided at an average cost per bed of \$74.12 per day.

Community Alternatives--The alternatives are community based programs that include group homes, foster care, alternative education, proctor care, clinical treatment, vocational training and career development. Currently there are 40 such programs on the contract list. The costs of some programs range from \$12.00 to \$120.00 per hour while others range from \$14.25 to \$120.00 per day.

The costs of public safety

Observation and Assessment--

These are 90-day residential programs providing assessment and treatment planning, intensive daily programming and supervised trial placements. There are three programs in Utah at an average cost per bed of \$101.75 per day.

| | |
|---------------------|----------|
| Instructor | \$17,933 |
| Food Costs | 4,658 |
| Dorm Costs | 5,406 |
| Night Class/Food | 1,500 |
| Books/Supplies | 2,512 |
| Emergency Vehicle | 6,400 |
| Firearms/Ammunition | 3,600 |
| Miscellaneous | 160 |

Secure Facilities--These facilities provide secure confinement, education, and treatment of the most seriously delinquent youth. There are three such programs in Utah, and the average cost per bed of \$134.31 per day makes this the most expensive youth corrections alternative.

The above information was provided by Utah's Peace Officer Standards and Training.

Instructors account for a large portion of the costs, as do food costs, dorm costs, and emergency vehicle operation/training.

Most individuals complete the P.O.S.T. program at the request of the agency for which they are employed. There is, however, a self-sponsored program for individuals who wish to complete the P.O.S.T. program for their own purposes. In this case, the individual pays tuition of \$2,100 without the dorm room and \$2,675 with the dorm room.

The self-sponsored students are blended in with state-sponsored students for eleven weeks of training. It is interesting to note, over the past months, the number of state-sponsored students has been increasing, which has reduced the number of self-sponsored students able to participate in the program.

Peace Officer Standards and Training (P.O.S.T.) provides peace officer training for state, county and local agencies.

P.O.S.T. provides an eleven week academy program to train individuals in peace officer skills and knowledge. Each program runs at a total cost of \$42,179. Usually seven sessions run over the course of the year for a total cost of over \$295,000.

An average of thirty-two students participate in each of the seven sessions. The cost of each session can be broken down in the following manner:

A look at Salt Lake City/County police and jail service costs

The Salt Lake City Police Department spends a majority of its funds on traditional police activity.

In fiscal year 1992, the total budget of the Salt Lake City Police Department was over \$22 million. The following are percentage breakdowns of some significant items in the police budget:

| | |
|---------------------|-------|
| Police patrols | 39.5% |
| Investigations | 20.2 |
| Records | 11.0 |
| Traffic Enforcement | 8.7 |

As expected, police patrols account for a major portion of the criminal justice spending at the local level.

Standard costs of preparing recruits in Salt Lake City reveal a mix of training and outfitting.

Two of the most significant costs to the Salt Lake City Police Department are outfitting and training. A standard patrol car costs the department approximately \$28,000. In budgetary terms, that amount is spread across five years for a total of \$4,550 per year per car. Out of that amount, \$1,750 is set aside for vehicle fuel and maintenance.

It costs the department \$1,224 per recruit for processing responsibilities. This includes testing, background checks and other evaluative measures.

In addition to processing, the department outfits the individual officers at a cost of \$2,930 per officer. The uniform, including hat, shirt, pants, helmet and cleaning, costs the department \$320 per recruit. Handcuffs, vest, radio and weapon, cost the department \$2,250 per recruit. Officers' overtime pay for additional training costs the department \$360 per recruit.

Training for each individual officer is both extensive and expensive. From start to finish, the cost of training each recruit reaches an approximate total of \$19,246.

Once the recruit reaches the Salt Lake City Police Department, their final portion of training costs \$8,000, or approximately \$400 per recruit. This is not the end of the training, however. Recruits proceed through fourteen weeks of officer training. The officer training is counted as a patrol function; therefore, there is no additional cost. The new recruit receives a salary of \$30,330 per year, including benefits.

This information was provided by the Salt Lake City Police Department Fiscal Unit.

The Salt Lake County Jail spent nearly ten million dollars in fiscal year 1992.

The two most significant costs associated with running the Salt Lake County Jail are salaries and operations.

Sixty percent of the total \$9,678,100 jail budget went to salaries. Jail employees' salaries vary according to rank and duration of employment. For jailers who work on the different tiers of the county jail, salaries range from \$1,688 to \$2,376 per month.

At over three million dollars, operations account for one third of the county jail budget. Operations consists of items such as food, clothing, kitchen supplies, laundry, and medical supplies. Nearly one million dollars is contracted out for the mental health care of inmates. According to the county jail, inmates are housed in their facilities at an average cost of \$41.50 per day.

This information was provided by the Salt Lake County Jail.

Utah's court expenditures

The summary budget of the Utah court system reached fifty-four million dollars in fiscal year 1991.

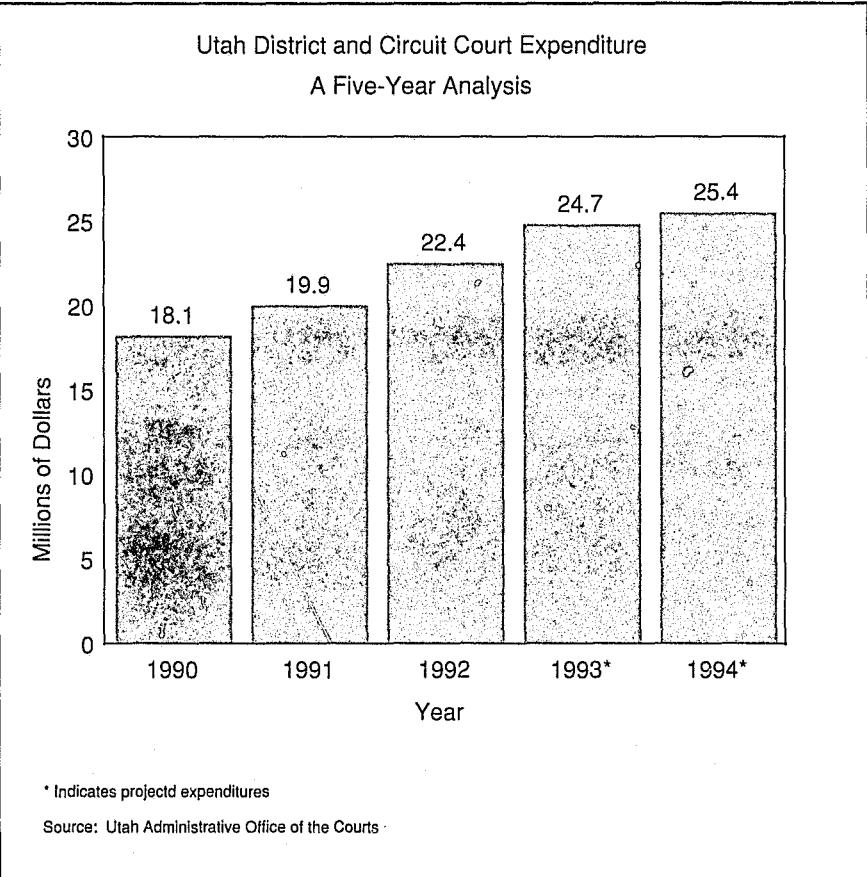
The judicial jurisdictions of the state court system are broken into eight districts. In 1991, 125 judges served in 150 justice courts in the state of Utah. The budget for the Utah court system in fiscal year 1991 can be defined in the following manner:

| | |
|----------------------|-------|
| Leases | 28.2% |
| Circuit Court | 20.8 |
| District Court | 17.5 |
| Juvenile Court | 16.8 |
| Data Processing | 4.8 |
| Administration | 3.4 |
| Court of Appeals | 2.6 |
| Supreme Court | 2.5 |
| Juror & Witness Fees | 1.8 |

More than half of the court's expenditures went to the circuit, district, and juvenile court systems.

Circuit Courts and District Court's paths diverge.

The Circuit court in the state of Utah is being eliminated over a period of five years. A five-year analysis shows the expenditures of the district and circuit courts in the state of Utah will increase significantly from 1990 to 1994.



Court consolidation nets cost savings for the state.

Based on projections of caseloads at the 1987 level, the costs of additional judges, court staff and capital may have cost the state over \$18 million. Instead, the Utah Legislature passed House Bill 436 which accomplishes reorganization and consolidation of the court system. The total cost of this court reorganization plan is approximately \$3 million. In comparing the two options, the state could realize a net savings of over \$15 million.

Correctional costs

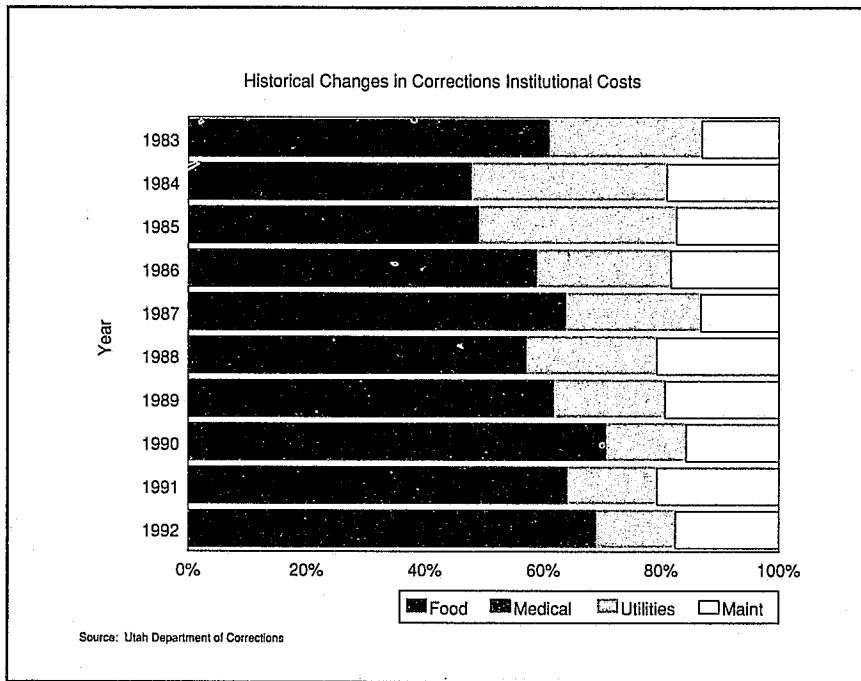
Institutional costs have shifted over the past decade.

According to 1990-1991 figures, the Department of Corrections spends nearly \$1.7 million per pay period, on approximately sixteen hundred employees.

In examining some elements of the Institutional Operations budget, there are changes in levels of spending among categories. From 1983 to 1992, food costs increased much more slowly than medical costs. In 1983, food costs accounted for one of the largest items of institutional costs but, by 1992, food costs were a distant second place. Medical costs in 1983 were one of the smaller items on the budget but, in 1992, medical costs commanded a large portion of the Institutional Operations budget.

The average cost per inmate day for each of these services shows medical costs highest, followed by food costs, maintenance, and utilities. The following gives us the actual breakdown:

| | |
|-------------|--------|
| Medical | \$6.90 |
| Food | 4.54 |
| Maintenance | 2.93 |
| Utilities | 2.21 |



Probation and parole costs

The average cost per day per inmate remained stable until 1991.

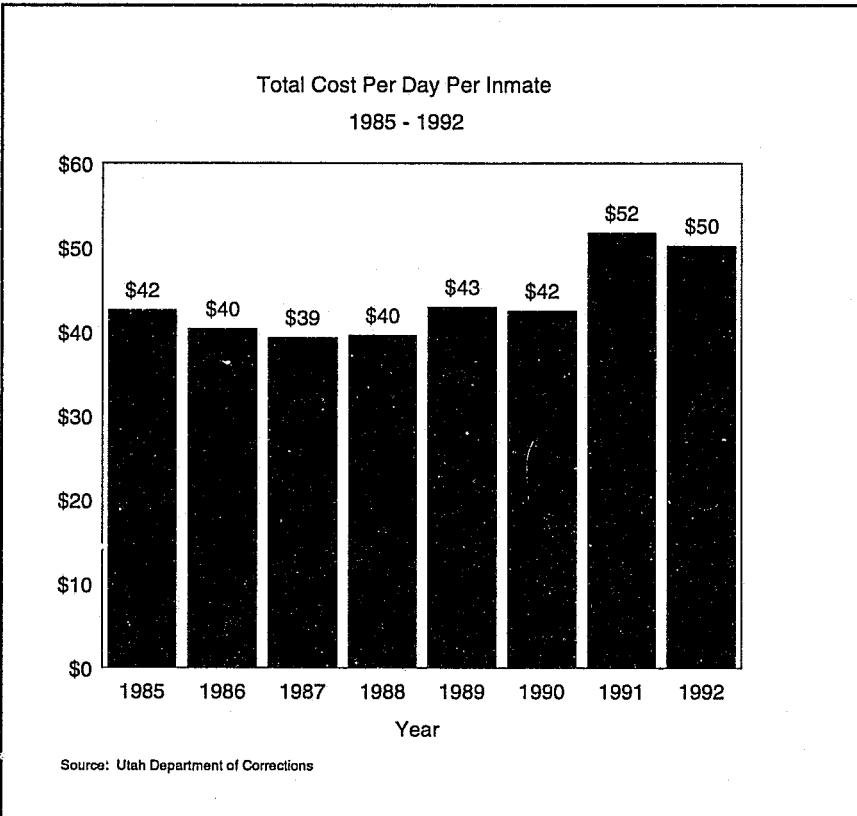
The average cost per day per inmate approximates \$50.16 in 1992. However, throughout most of the 1980s, this cost ranged from a low of \$39.22 to a high of \$42.49. The past two years have seen this number climb into the fifty dollar per inmate per day range. Part of this increase can be attributed to inmate population growth, rapidly increasing medical costs, and the opening of a new prison at Gunnison, Utah. The sharp increase in medical costs was discussed earlier. The inmate population doubled between 1985 and 1992.

Division of Field Operations expenditures reach \$20 million in 1992.

Though we have seen increases in the total budget of the Division of Field Operations, total cost per day per supervised individual has remained quite constant. In 1992, it cost an average of \$3.50 per day per individual supervised (felony probationers and parolees).

During the 1980s, this number ranged from a low of \$3.22 in 1985, to a high of \$4.11 in 1987.

In 1991, the Division of Field Operations had \$1.4 million allocated for programming and contractual agreements. As of June 30, 1991, the Division



supervised over eight thousand offenders, who can be accounted for in the following manner:

| | |
|-----------------------------|--------------|
| Felony probation | 4,047 |
| Parole | 1,881 |
| Class A misdemeanor. | 1,518 |
| Other offenders | 627 |

In summary, certain costs are increasing in the Utah criminal justice system while others are decreasing. As the emphasis of criminal justice changes with the attitudes of society, costs of programming/construction and personnel can shift.

Basic Sources:

Division of Youth Corrections
Annual Report: 1991. Utah
Department of Human Services.

Government Finances: 1989-
1990. U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census.

Sourcebook of Criminal Justice Statistics - 1991. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

Utah State Courts: 1992 Annual Report. Utah Judicial Council.

Chapter 8

Child Sexual Abuse

Child sexual abuse is a problem demanding national attention. This chapter assesses the situation by addressing the following questions:

What is the incidence of child sexual abuse?

To what extent is the incidence of child sexual abuse increasing or decreasing?

What are the characteristics of the victims? What are the characteristics of the perpetrators?

What happens to sexual abuse perpetrators in the law enforcement and judicial systems after abuse is reported?

What proportion of perpetrators are juveniles? What happens to juvenile perpetrators?

Child sexual abuse in the public forum

Child sexual abuse is high on the public agenda.

Concern over child abuse, and particularly child sexual abuse, is rapidly becoming a major national concern. In 1974, the United States Congress passed the Child Abuse and Neglect Prevention Act. Awareness in Utah was substantially heightened in the early 1980s as a series of children were reported missing and later were found brutally murdered after they had been sexually abused.

In 1983, the Utah Legislature passed what many felt were the most progressive and punitive mandatory sentencing laws in the nation regarding child sexual abuse. Since then there have been major initiatives regarding child sexual abuse in every legislative session. Advocacy groups have been active in many areas of the

state. Protective Services has been expanded and major efforts have gone into training staff. Most of the larger police agencies have units that specialize in investigating these types of cases. Some prosecutors have also been assigned to specialize in child sexual abuse cases. Guardian ad litem services are available in some locations. Victim/witness units have been created with a major purpose to support child victims through the criminal justice process. Considerable energy and money are being expended. There has been some backlash, particularly among many who purport to have been falsely accused of child sexual abuse, and those whose discretion has been removed.

In 1989, the Utah Commission on Criminal and Juvenile Justice and the Division of Family Services

recognized a need to make the process much more efficient by increasing the coordination between the various agencies and concerned parties. A large (30-member) task force was formed to encourage joint planning, communication, and coordination among the many people and agencies attempting to respond to child sexual abuse.

What is the incidence of child sexual abuse?

This is a difficult question to answer with confidence, since child sexual abuse is a hidden crime. Many in society refuse to acknowledge its existence. Others feel that what happens in a family setting is private and should not be discussed. Therapists, and particularly those who deal with multiple personality cases, frequently find that the abuse was so

Table 8.1: Summary of Studies of Incidence of Child Sexual Abuse

| Study | Year | Percent of Women | Percent of Men |
|--|-------------|-------------------------|-----------------------|
| Kinsey | 1953 | 24% Preadolescent | |
| Finkelhor | 1979 | 19% through age 16 | 9% through age 16 |
| Kercher | 1980 | 12% as children | 3% as children |
| Russell | 1983 | 38% through age 18 | |
| Finkelhor | 1984 | 15% through age 16 | 5% through age 16 |
| Committee on Sexual Offenses Against Children and Youth (Canada, 1984) | 1984 | 27% before age 16 | 15% before age 16 |

Incidence of child sexual abuse

traumatic to the victim that the abuse had been repressed from the conscious mind, only to be allowed back into consciousness many years later. Considering the many limitations, the best way to address this question seems to be through survey data. No such surveys have been conducted specifically applicable to the population of the State of Utah; however, there are studies related to the United States and Canada that should be suggestive of the problem here. These are summarized in **Table 1** on the previous page. All of the studies were based on retrospective self-reports of childhood experiences. Although these studies are not strictly comparable due to variations in definitions and research methodology, their findings suggest from 12 to 38 percent of all women, and from 3 to 15 percent of men report being subjected to some form of sexual abuse during childhood (taken from **When the Victim is a Child: Issues for Judges and Prosecutors**, Dept. of Justice, 1985).

Our society places considerable value upon the safety and well-being of children. The trauma and disruption to life which therapists and social scientists report that result from child sexual abuse, is an extremely serious problem in the eyes of society. There is also considerable evidence that those who are victimized tend to become offenders.

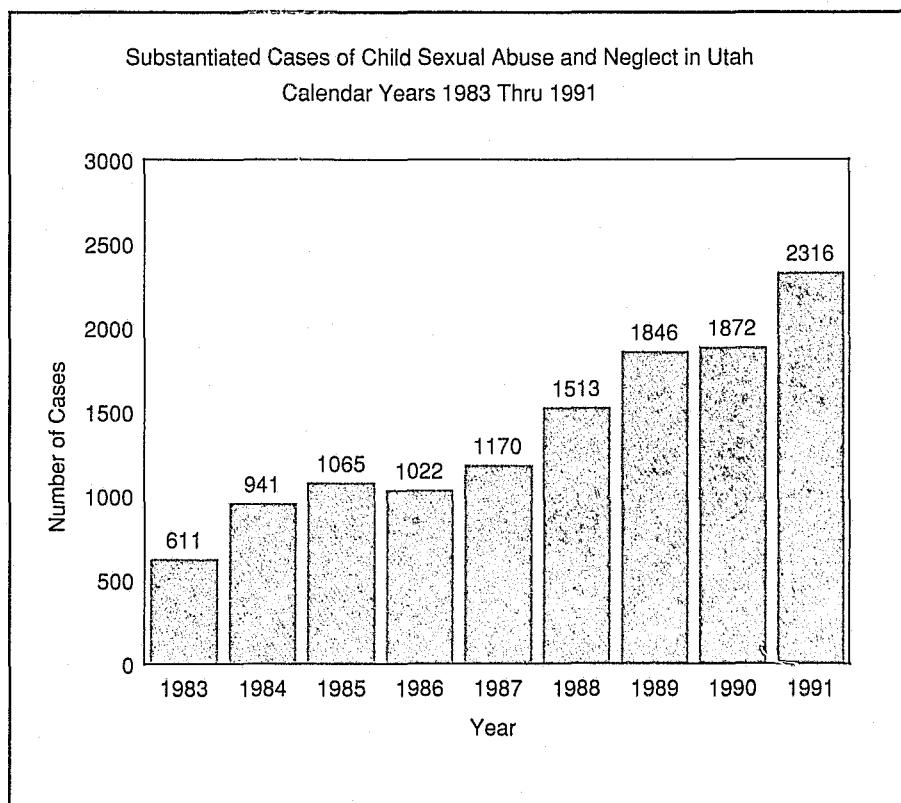
To what extent is the incidence of child sexual abuse increasing or decreasing?

The Division of Family Services is the agency with the responsibility for investigating reports of child abuse and neglect. Information gathered by the Division is stored in the Central Register for Child Abuse and Neglect, documenting the incidence of child abuse in the state. The following information is taken from the 1991 Annual Report of the Central Register for Child Abuse and Neglect. The central registry is now used only as an in-house management information system.

The number of allegations of child sexual abuse substantiated each

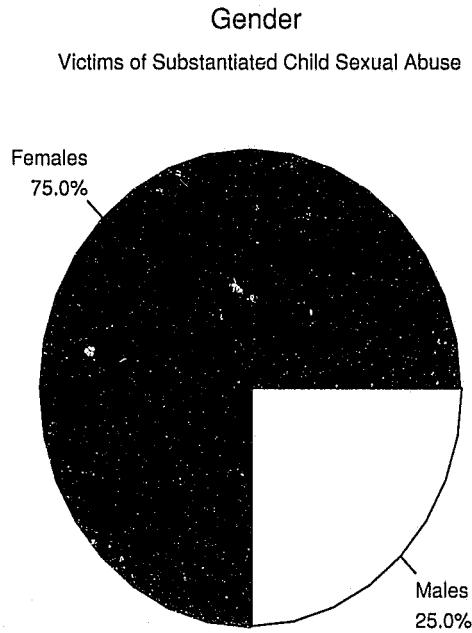
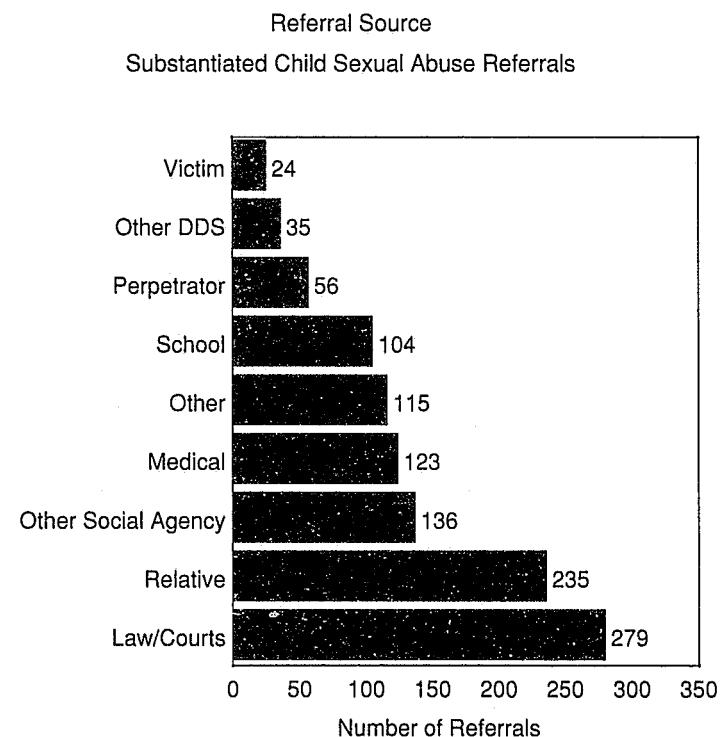
year by the Division of Family Services increased steadily through the 1980s. At least part of this rise in reporting is plausibly a result of increased awareness of the prevalence of child sexual abuse. Nevertheless, the growing numbers are significant. The following graph illustrates the climb in the number of substantiated cases of child sexual abuse and neglect. There was a small decline between 1985 and 1986, then a steady increase to a high of 2,316 in 1991.

Of the substantiated cases of abuse and neglect, the highest number of reports were of sexual abuse (1,846 reports) followed by physical abuse (1,607 reports) and physical neglect (1,526).



Characteristics of the victims

The adjacent graph categorizes the substantiated cases by who referred the case to the Division of Family Services. Twenty-four percent of the cases were referred by law enforcement or the courts, and 20 percent were reported by a relative of the victim.

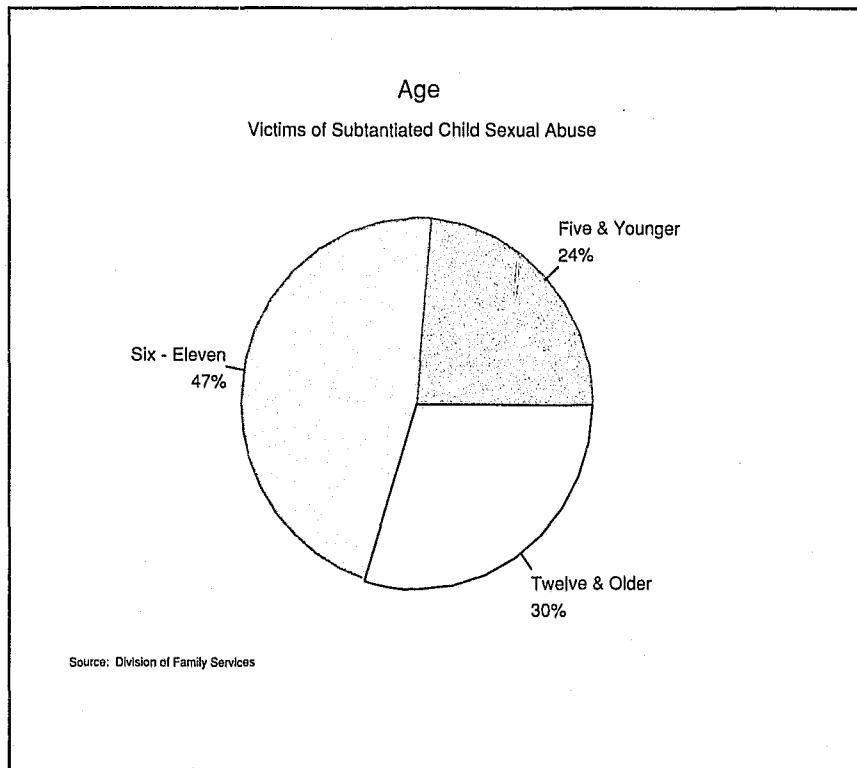


Most victims of child sexual abuse are women.

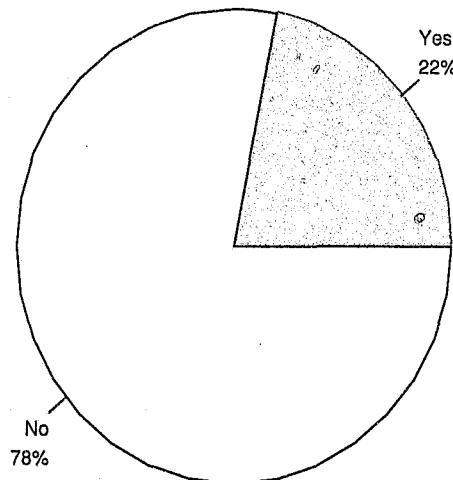
The victims of child sexual abuse reported to the Division of Family Services in 1988 were typically female. This graph shows there was a three to one, female to male, ratio for victims of child sexual abuse.

Nearly three-quarters of the child sex abuse victims were younger than 12 years old

Nearly half (47%) of the victims were between the ages of six and eleven. Thirty percent were 12 years old and older, and 24 percent were five years old or younger.



Prior Substantiated Referrals
Victims of Substantiated Child Sexual Abuse



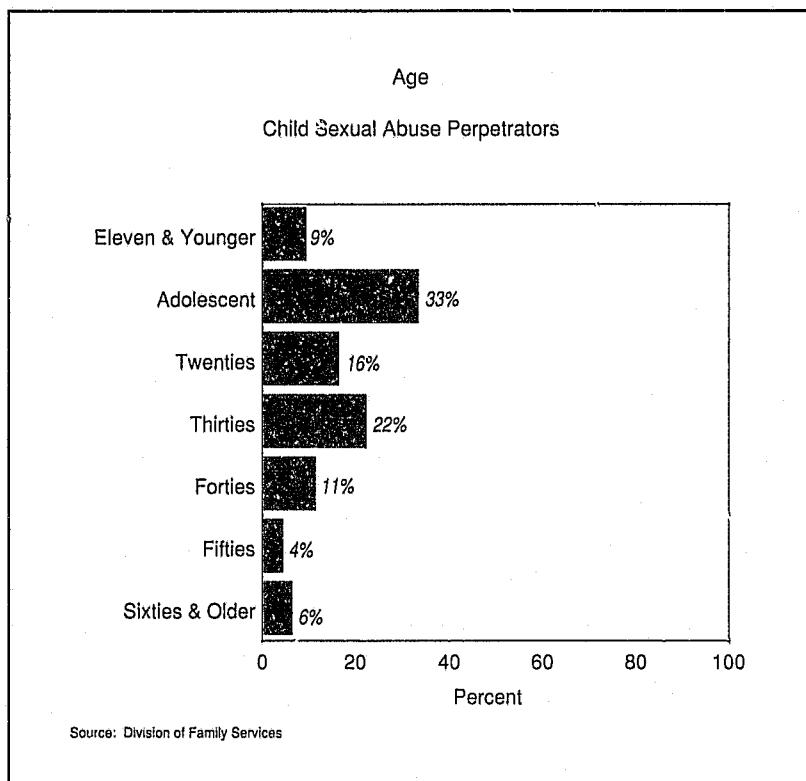
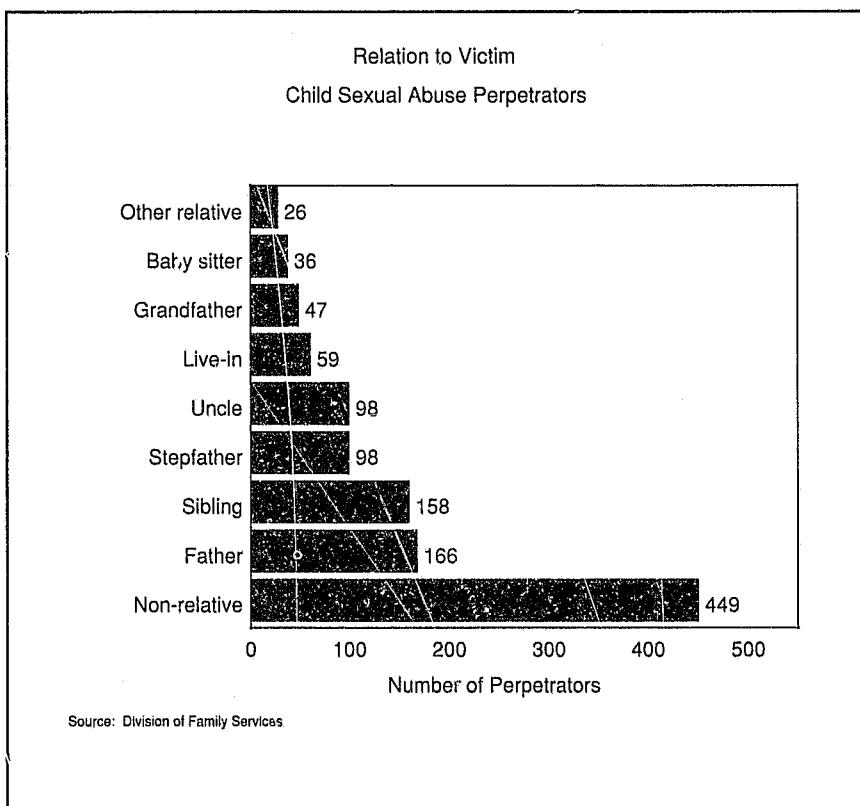
Source: Division of Family Services

Of the victims of child sexual abuse, 22 percent had *previously been victims of child sexual abuse* substantiated by the Division of Family Services.

Characteristics of the perpetrators

In most cases, the victim knows the perpetrator.

The adjacent graph shows what relation, if any, the perpetrator had to the victim of child sexual abuse. In 39 percent of the cases the perpetrator had no relation to the victim. Of those perpetrators related to the victims, 15 percent were fathers and 14 percent were siblings. Also significant were the stepfathers and uncles, each representing nine percent of the total number of cases.



Nearly half (42%) of the perpetrators were 19 years old or younger, with the largest group (33%) being between the ages of 12 and 19. The next largest category was the perpetrators in their thirties (22%), followed by those in their twenties (16%).

Criminal justice response to child sexual abuse

What happens to child sexual abuse perpetrators in the law enforcement and judicial systems after abuse is reported?

Utah law states that people who have reason to believe that child sexual abuse has occurred have a legal obligation to report to either law enforcement or the Division of Family Services. After receiving a report, the Division of Family Services is required to investigate in an attempt to determine whether or not abuse occurred. Essentially, substantiation consists of finding evidence to indicate that child sexual abuse has actually taken place. During 1989, 40 percent of the reports in Salt Lake County were substantiated. The major purpose of the investigation is to make determinations of what if any actions are needed to protect the child. The State Department of Human Services maintains a Register of Reported Child Abuse Cases which have been substantiated.

If child protective services substantiates a report, the case will typically be referred to law enforcement. Law enforcement has the responsibility for investigating the case, looking for evidence that can be used in court proceedings to accuse and criminally prosecute the perpetrator of the abuse. In this undertaking, the law enforcement investigator works closely with a prosecuting attorney. If the perpetrator is a juvenile, the case will be eval-

uated for the Juvenile Court. To gain a criminal conviction of an adult, the prosecutor must prove "beyond a reasonable doubt" both criminal intent and criminal action. *The relevant law enforcement agency for each randomly selected case was contacted either by visit or by phone to gather information regarding the disposition and disposition date of the case by law enforcement and prosecution agencies.*

Child sexual abuse cases are difficult cases for prosecutors. Sound physical evidence is frequently not available. If the perpetrator is a relative, the prospect of a child's testimony resulting in a conviction and lengthy prison term often creates difficulty for families in coping. The court system and process are not designed for children and are frequently very traumatic for them. Other things being equal, the child is often at a disadvantage because of age, lack of experience, and emotional immaturity. From the prosecutor's perspective, child sexual abuse cases are time consuming. As a result of the above reasons, many prosecutors want an "open and shut case" before proceeding with child sexual abuse prosecution. *Prosecutors' offices were also contacted by visit and telephone to gain additional information and to obtain disposition information. The information regarding the decision not to proceed with prosecution was particularly interesting.*

As a result of the quality of the case and the risk of mandatory minimum prison terms, many offenders are willing to plead guilty to a charge that does not require a mandatory minimum sentence. Since a guilty plea guarantees a conviction and cannot be appealed, the plea bargain saves a difficult trial for everyone. Prosecutors plea bargain most cases.

Utah study of child sexual abuse

Utah studies 100 randomly selected cases of child sexual abuse.

The purpose of this study was to document the case flow of 100 randomly selected substantiated cases of reported child sexual abuse. A substantiated case is one where a protective service worker has investigated the case and feels that there is reason to believe that child sexual abuse has actually occurred.

After identifying the 100 substantiated cases from the automated Child Abuse Registry kept by the Department of Human Services, an attempt was made to gather

information from the file folders kept in individual offices. Of the 100 cases, 60 were adult perpetrators and 40 were juveniles.

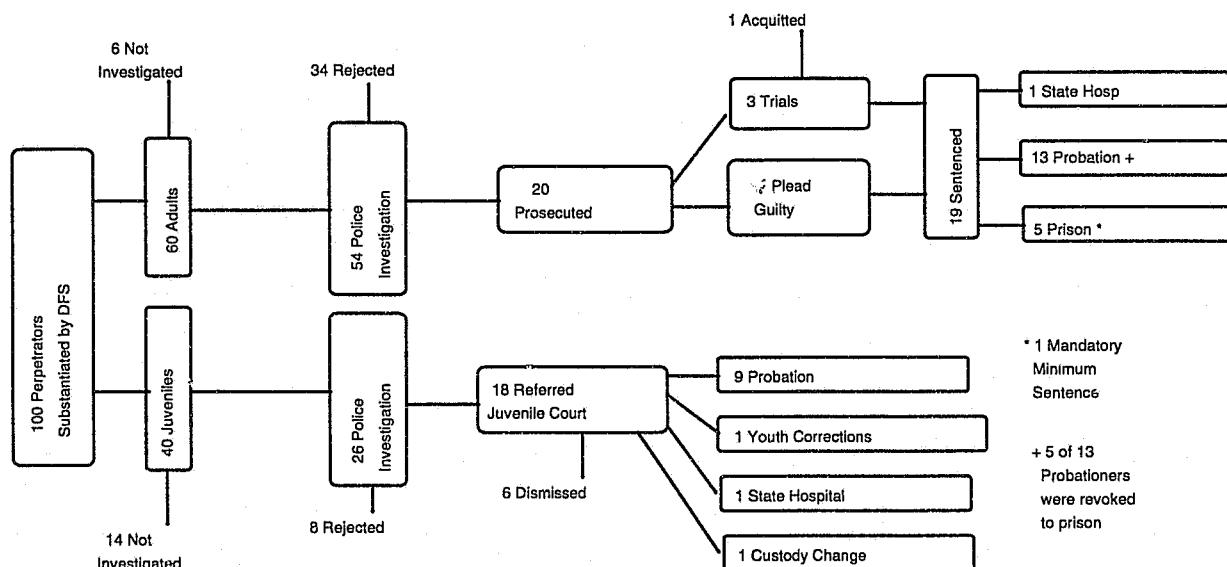
Tracking the Case Process for Adult Perpetrators:

Law Enforcement/Prosecution:
Of the 60 adult perpetrator cases where the files could be found, 54 were referred to law enforcement for formal investigation. The purpose of this investigation is to attempt to gather sufficient information to justify prosecution of the case. Thirty-four of the cases were rejected (see flow diagram). The most frequent reason for rejection (13 cases) was

that the prosecutor was unable to establish the elements of the crime. In eight additional cases, the victim or the victim's family refused to cooperate. The prosecutor rejected the case for unspecified reasons in seven cases and records were not available in three more. Three other cases were referred to other states and a diversion agreement was executed in another.

The fact that nearly two-thirds of the substantiated cases referred to law enforcement were not prosecuted may be a cause for substantial concern. Other questions that should be addressed include: Can more of the cases be successfully

*Child Sexual Abuse in Utah:
Case Flow For 100 Randomly Selected Substantiated Cases*



prosecuted? To what extent are other actions dealing with the problem of the offenders remaining free in society? What is being done to protect children in these cases? Is prosecution the best approach to deal with the problems these offenders present?

Prosecutors were very effective in getting convictions in the 20 cases where they pursued prosecution. Seventeen defendants plead guilty, two were found guilty in trials, and only one was acquitted.

The expectation based on the mandatory minimum sentence law is that all or most of the sentenced perpetrators will go to prison for the typical term of 10 years. The figure on the previous page shows that only five of the 21 convicted offenders were initially sentenced to prison, fourteen were placed on probation, and one was sent to the State Mental Hospital. Typically, this occurred as the result of a plea bargain to a lesser offense that did not carry the mandatory minimum term.

The fact that most convicted child sex abusers are not being sentenced to prison and are not receiving mandatory minimum terms raises many questions. Does the mandatory minimum term encourage plea bargaining and thereby increase the number of convictions? To what extent do the offenders who are granted probation recidivate? How effective are treatment programs for these types of offenders (both

in prison and in the community)? How much difference is there in the time offenders serve in prison who are sentenced to mandatory minimum terms and those sentenced to indeterminate terms?

Tracking the Cases For Juvenile Offenders

Of the 40 substantiated cases where the suspected perpetrator was a juvenile, eight of the cases were not referred to law enforcement for investigation and in three other cases the file could not be found. Of the 26 cases referred to law enforcement, eight were rejected by both law enforcement and the prosecutors. Of the eighteen cases considered by the Juvenile Court, six were dismissed, nine youthful offenders were placed on probation, one was referred to youth corrections, one was placed at the State Hospital, and one was given a custody change.

Emerging Issues:

The biggest concerns are still the unreported cases of child sexual abuse and how to encourage the victims to report.

A related and probably more important concern is ensuring that the response to reported child sexual abuse results in an improved situation where damage to the victim is not increased. This is often difficult to accomplish. Three pilot "children's justice

centers" have recently been established with this principal goal in mind.

There is also concern about the cost and benefit of long term confinement of sexual abuse offenders. Some feel that many of the offenders can be better treated and controlled in the community, after a short period of incarceration. This would require specialized resources.

Since many child sexual abuse offenders start offending as juveniles, this appears to be the best time to intervene. Efforts are underway to increase the resources available to address this problem.

Finally, there is some controversy around Utah's mandatory sentencing laws and those believing that offenders would be more likely to disclose victims and seek help if the laws were abolished.

Basic Sources:

Child Sexual Abuse Task Force Report. Utah Commission on Criminal and Juvenile Justice and the Utah Division of Family Services. May 1991.

The Division of Family Services Annual Report: 1991. State of Utah Department of Human Services. 1991.

When the Victim Is a Child. 1st Edition. U.S. Department of Justice, Office of Justice Programs. National Institute of Justice. 1985.

When the Victim Is a Child. 2nd Edition. U.S. Department of Justice, Office of Justice Programs. National Institute of Justice. 1992.

Chapter 9

Drugs and Crime

There is a close relationship between the use of alcohol and other drugs and many other types of crime. For this reason a chapter is included to address such questions as:

Why are some drugs legal and others illegal? Who decides?

How do Utah penalties for illegal drugs compare to federal penalties? Why are drug crimes seldom reported?

What federal agencies investigate drug law violations? What Utah agencies investigate drug law violations? What special problems does Utah have with drugs?

How many arrests are reported by Utah law enforcement agencies? What happens to offenders who have been arrested for drug law violations?

How often are assets of drug offenders seized?

What "fronts" other than criminal justice are part of the "war on drugs"? Are we winning the "war on drugs"?

What relationship is there between drugs and crime? How serious a problem is driving under the influence of alcohol?

What are the emerging concerns regarding drugs and crime?

Many agencies in Utah are concerned with drug abuse

We live in an age where drugs, including alcohol, play a major role. They are used to reduce pain and anxiety, to control depression, to speed people up and to slow them down, to enhance recreation, to kill microorganisms, to encourage the body to develop its own antibodies, and for a myriad of other purposes. The legitimate drug industry is a multi-billion dollar a year industry. In the United States the Federal Drug Administration (FDA) has been created to provide controls. A major concern of the FDA is safety. They are concerned with the purity and quality of drugs and their effects. A great many drugs are allowed to be sold "over the counter" without a physician's prescription in stores. Other drugs may be dispensed only with a prescription from a medical doctor. Drugs the FDA feels are unsafe or unproven, or where the disadvantages of availability outweigh the advantages, are not allowed to be sold in the United States.

Unfortunately, there are many people who want to circumvent the controls established by the Federal Drug Administration and use drugs illegally. The illegal drug business is also a multi-billion dollar a year business. The illegal use of drugs is governed by the federal Controlled Substances Act, which divides illegal substances into five separate categories (or schedules) depending on the nature, addictive properties, and medical usefulness of the

drug. There is controversy about drug classification. Some people with serious diseases complain that the Federal Drug Administration is too slow and conservative in approving new drugs for use. Others complain that because of social pressure, drugs such as alcohol and tobacco are not controlled. Others feel that substances such as marijuana should be decriminalized. The Act also provides penalties for unlawful manufacture, distribution, and dispensing of controlled substances. Utah statute (UCA 58-37) references the federal schedules, but has its own penalties. Currently, the federal penalties are generally more severe than the Utah penalties, which again causes controversy.

Investigation of Drug Offenses

Drug offenses differ from most other crimes because there is typically no specific victim to report the crime. As a result, drug crimes are seldom reported. Most arrests are the result of the investigative efforts of law enforcement. Often these investigations are very elaborate involving informants, undercover work, detailed examination of financial and other records, etc.. Law enforcement officers sometimes use video recordings, listening devices, night vision equipment, and various other "high tech" devices. Other times an arrest is the function of an observant police officer coupled with a considerable amount of good luck. In many

cases a crime laboratory is involved in analyzing suspected substances.

Many different agencies are concerned with drug abuse investigations. The Drug Enforcement Administration has been charged with the major drug control responsibilities at the federal level. However, the FBI, U.S. Attorney's Offices, and the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms are also frequently involved.

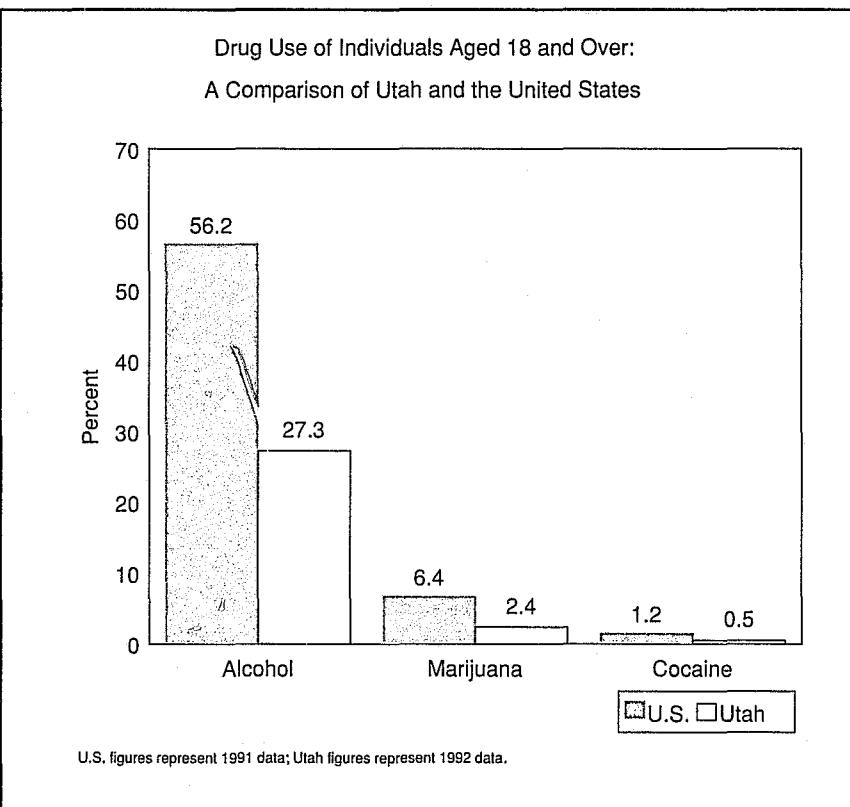
In Utah, the Department of Public Safety is involved through its Narcotics Enforcement Bureau, the Highway Patrol, the Division of Investigation, and the crime laboratories. The state Department of Commerce monitors pharmacies and chemical companies. Each sheriff's office and police department is also involved in investigations in their jurisdictions. Many agencies have overlapping jurisdiction, and their disputes over who was going to break the case have provided many entertaining movie scenes. In recent years, the agencies have started working together in multi-jurisdictional task forces to coordinate their resources.

Drug problems in Utah

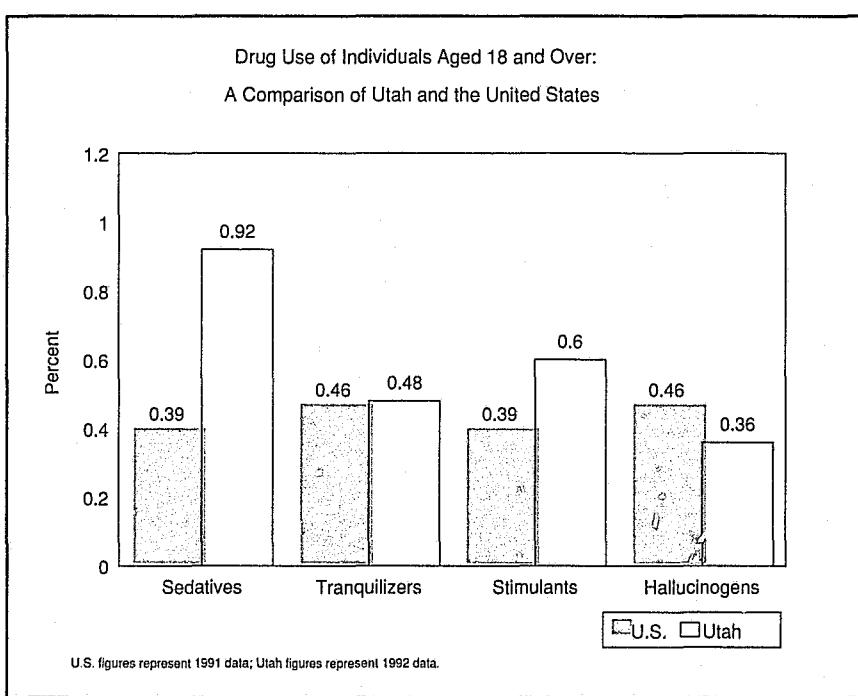
What special problems does Utah have with drugs?

Salt Lake City has been called "the crossroads of the west" because major east-west and north-south freeways cross here and because there is a major airline hub. These transportation routes are commonly used to transport illegal drugs. Utah law enforcement officers annually seize illegal drugs with a street value of many millions of dollars. In addition, Utah has many unmanned rural air strips that provide ideal places to fly in smuggled drugs.

Overall, Utahns use alcohol and most common illegal drugs at rates far lower than the national average. The adjacent graph shows comparison of Utah's rates of use in the last 30 days with those of the United States as a whole for alcohol, marijuana, and cocaine.



Utahns' abuse of some other drugs, however, appears more like national trends and in some cases even exceeds the national averages. The adjacent graph compares the rates of use within the last 30 days for sedatives, tranquilizers, stimulants, and hallucinogens.



Utah also has a number of chemical companies that manufacture and sell precursor chemicals that are used in the manufacture of illegal drugs. Until recently the law did not require that records be kept of those who purchased the chemicals. Now there should exist a paper trail to discourage the illegal use of these chemicals and to provide a means of investigating abuse.

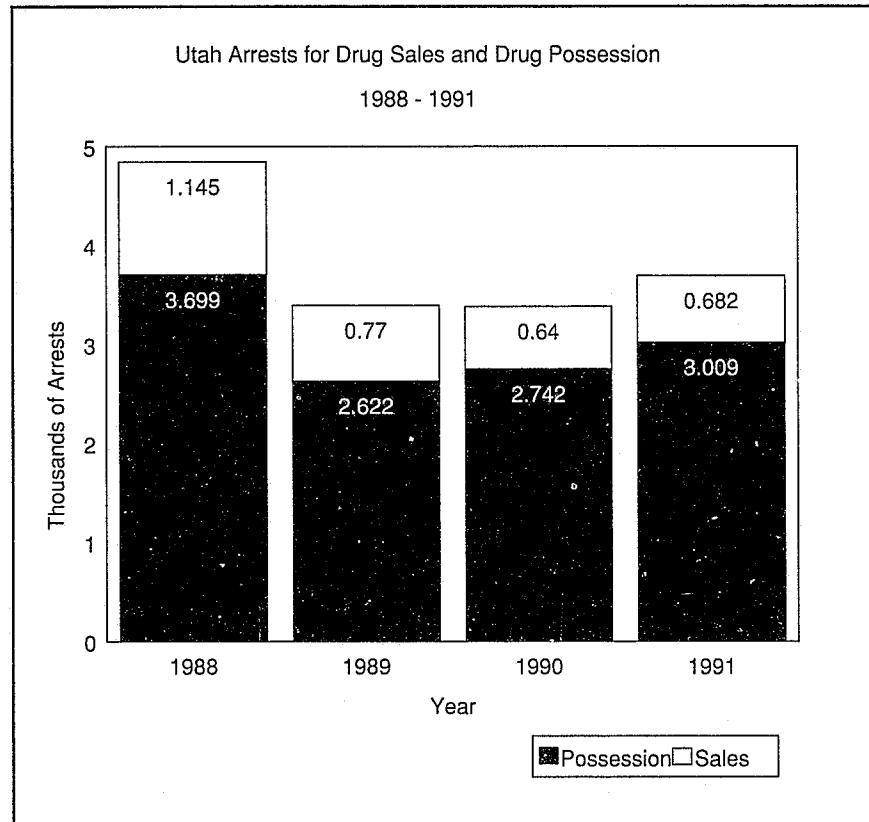
Drug arrests

How many drug arrests are reported by Utah law enforcement agencies?

The number of drug arrests in Utah over the last four years has ranged between 3,382 in 1990 and 4,844 in 1988. The adjacent chart shows the trends and what portion was for drug sales and what portion was for drug possession.

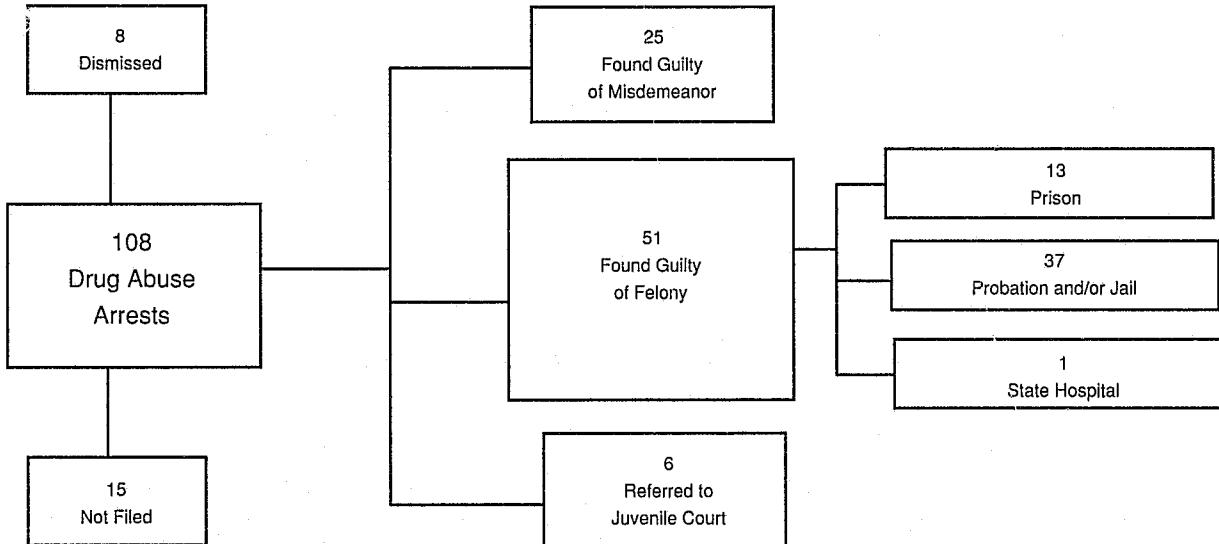
What happens to offenders who are arrested for drug law violations?

One hundred and eight arrests for violations of controlled substances laws made by the "Salt Lake Metro Narcotics Task Force" in 1989 were tracked. As shown in the chart below, most of the cases resulted in a conviction.



Flow of Drug Abuse Arrests

3 - Witness Problems/4 - Lack of Evidence

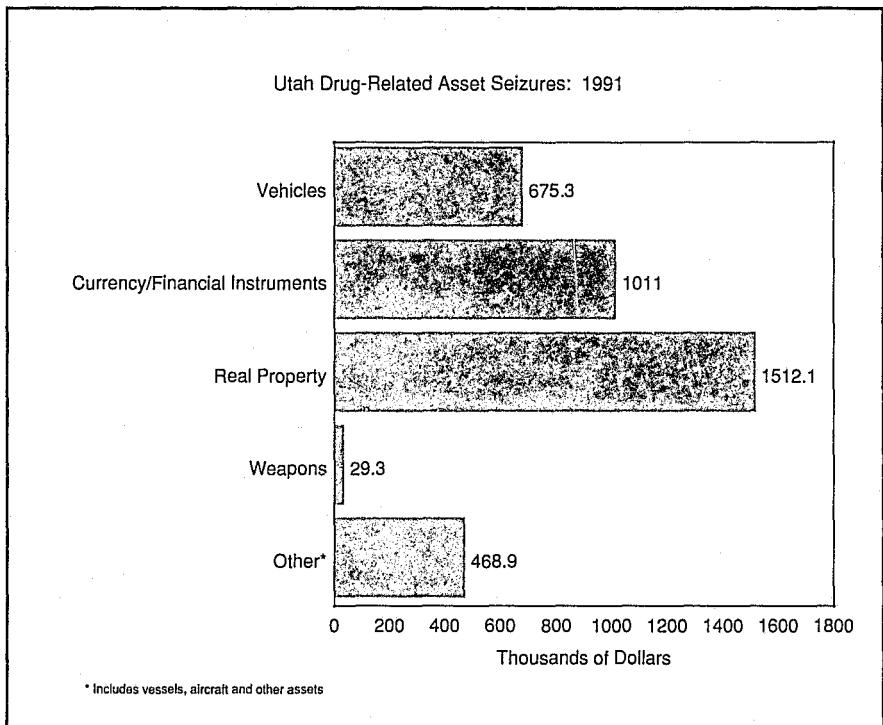


Asset seizure

The emphasis on the war on drugs has resulted in more drug offenders being sentenced to prison for longer terms. As a result of this, and several other factors, the prison population is growing rapidly.

How often are assets seized?

Both state and federal law encourage government to seize the assets of offenders who are involved in the drug trade. Assets such as homes, businesses, automobiles, and firearms may be seized if they were used to store or transport, manufacture or otherwise contribute to the drug business, or if they were purchased with drug money. In Utah last year, over four million dollars in assets were seized as shown in the adjacent graph. This does not include many millions of dollars worth of illegal drugs that were subsequently destroyed.



The "War on Drugs"

What fronts other than criminal justice are included in the "War on Drugs"?

The war on drugs is generally being fought on three fronts: prevention, treatment, and criminal justice. In Utah much of the prevention effort and funding is focused through the education system. Utah is a leader in substance abuse prevention. Much of the effort is by the Division of Substance Abuse, the State Office of Education, the Department of Health, and local substance abuse authorities which employ a statewide network of substance abuse prevention specialists. A state developed curriculum entitled "Prevention Dimensions," programs for youth at risk, and an annual life skills conference sponsored by the Utah Federation for Drug Free Youth are only a few examples of Utah's many outstanding prevention efforts.

The law enforcement community also contributes to Utah's prevention efforts through the D.A.R.E. (Drug Abuse Resistance Education) program. This program involves police officers teaching drug education in Utah's school classrooms as a supplement to Prevention Dimensions and other programs.

The public sector treatment effort is coordinated through the Department of Human Services Division of Substance Abuse. Funding passes through this Division to 13

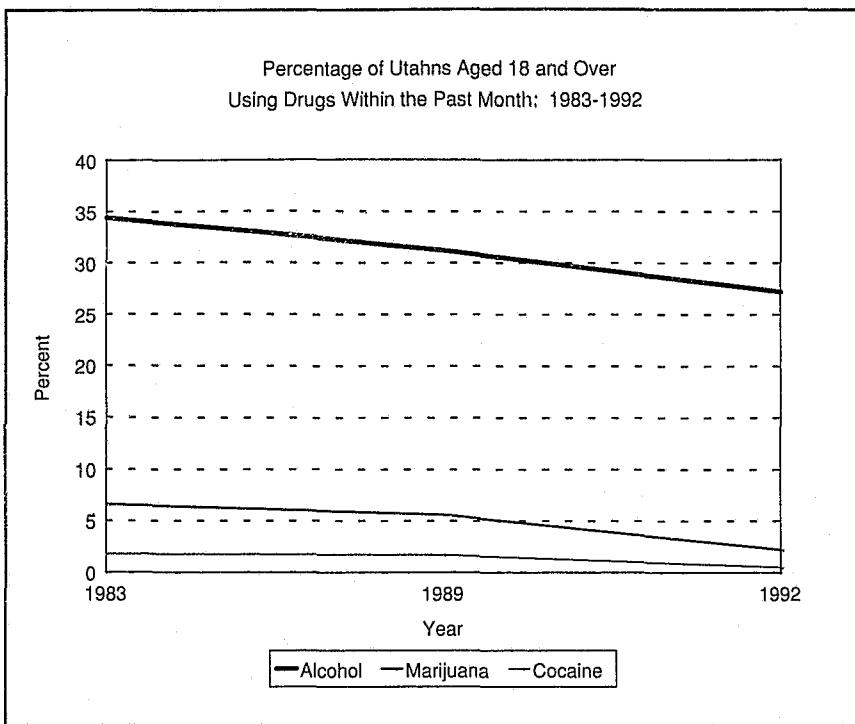
local substance abuse authorities throughout the state. Treatment services are provided through these local authority offices. Some money from fines, as well as a cigarette tax, help fund the treatment programs. Private sector treatment resources are also available through hospitals and other providers.

The three fronts for the war on drugs in the state are coordinated through the Utah Substance Abuse Coordinating Council (USACC). This Council has subcommittees on Prevention, Criminal Justice and Treatment; and hopes to add a fourth subcommittee on the Judiciary during the 1993 Legislative session. It is staffed through the Utah Commission on Criminal and Juvenile Justice.

Are we winning the war on drugs?

The answer to this question is rather controversial and has been the topic of heated debate between the president and the congress. School and household surveys throughout the nation and in Utah suggest that generally the use of street drugs is declining (see graph below).

It appears that drug use is becoming less popular for the casual user or experimenter. However, law enforcement officials and others are quick to point out that the problem is becoming more severe in the major cities and among gang members. The amount of violence associated with drugs and gangs also appears to be increasing.



What relationship is there between drug use and crime?

Of course it is a crime to use, manufacture, sell, or possess illegal drugs. In addition there is another important relationship. Street criminals typically are drug users. Many drug users turn to crime to finance their drug habits. Recent studies in many major cities in the United States have found that it is not unusual for 75% of those arrested to test positive for illegal drugs. Drug testing is not routinely done at time of arrest in Utah, but there is every reason to believe that drug use among Utah criminals is also a major problem.

Information from the Utah Department of Corrections suggests that some 80% of those in prison and a high percentage of those on probation have documented substance abuse problems. Offenders under correctional supervision are frequently tested to determine if they are currently using drugs. Abstinence is typically a condition of probation or parole. Those who continue drug use frequently find themselves back in prison or jail.

Driving Under the Influence of Alcohol

One of the most frequent and deadly crimes in Utah is driving under the influence of alcohol. During 1991, nearly 10,000 arrests were made for this offense.

Fortunately, the numbers have been declining, but there is still major cause for concern. In 1990 there were 60 people killed in alcohol-related accidents. This exceeds Utah's homicide rate of approximately 50 per year.

Emerging Issues

The biggest concern appears to be the continued expansion of the drug culture and associated violence and gangs. The illegal drug market provides the opportunity for big money to a group of people who would otherwise be economically disadvantaged because of their lack of education and job skills.

Another concern relates to the availability of treatment resources for those in correctional institutions. Many probation and parole agreements include "no alcohol and drug clauses" and the requirement that the offender submit to random drug testing. The majority of offenders have substance abuse problems. Still there is only limited drug treatment available for those under correctional supervision. This is a priority of the Utah Substance Abuse Coordinating Council. However, youth and women of childbearing age who use drugs are higher priorities.

There is conflict between those who would like to see penalties for substance abuse be more severe comparable to the federal penalties, and those who feel that

the money and resources would be better used by placing more emphasis on a supportive environment and treatment rather than locking more people up for longer periods of time.

Guidelines are needed to resolve conflicts about which agencies or units of government benefit when drug assets are seized. Of course, continuing to improve on the cooperation and coordination provided by the multidisciplinary task forces remains a very high priority.

Basic Sources:

1992 Annual Report to the Governor and the Legislature. Utah Substance Abuse Coordinating Council, Utah Commission on Criminal and Juvenile Justice. September 1992.

Drugs and Crime Facts, 1991. U.S. Department of Justice. Bureau of Justice Statistics. September 1992.

Drugs of Abuse. U.S. Department of Justice. Drug Enforcement Administration. 1989 Edition.

Facts: Substance Abuse Information for Utah and the Nation. Utah State Division of Substance Abuse. 1991.

Main Findings: Utah Household Survey on Substance Abuse: 1992. Dan Jones and Associates. 1992.

State Drug Resources: 1992 National Directory. U.S. Department of Justice. Bureau of Justice Statistics. May 1992.

Utah's 1993 Drug and Violent Crime Enforcement Control Plan. Utah Commission on Criminal and Juvenile Justice. December 1992.

Chapter 10

Technology and Innovation

Technology and innovation are important to criminal justice. This chapter briefly describes some of the more important advances and addresses such questions as:

Why is technology so important to criminal justice?

How are video and audio tapes used? How about night vision equipment and concealed microphones (bugs)?

How are drugs identified? Where does this take place? What new technology promises to replace fingerprints?

What tools are available to help secure prison perimeters?

How is electronic surveillance used to supervise offenders at home and at work?

What can a police officer learn from a license plate? What can a dispatcher learn from a "911" phone call?

What is AFIS? How is it helpful?

Why is it difficult to share criminal justice information?

What is NCIC? What can be learned from it?

How much federal grant money is provided to Utah's criminal justice system? What is it used for?

Criminal justice tools

Criminal justice, like the military, benefits in many ways from state-of-the-art technology and new ideas. In other ways it is very bound and limited by tradition and "turf issues". Some of the traditions, such as judges wearing robes, are rooted as far back as the beginnings of recorded history. Much of our case law and our fundamental legal system come from centuries old English common law and practice. Similarly our policing system with constables and sheriffs is an out-growth of our English heritage. Most criminal justice professionals' career paths are so tied to a seniority system that innovation comes painfully slow to criminal justice. Almost all judges come from the ranks of experienced trial lawyers who have become familiar and comfortable with courtroom tradition. Similarly, seniority plays a great role in the promotion of law enforcement officers and correctional staff. However, criminal justice is very progressive when it comes to technology.

Law Enforcement Tools:

Law enforcement is so limited by our constitutional guarantees regarding illegal search and seizure, due process, self-incrimination and the need to prove guilt beyond a reasonable doubt that it has come to rely quite heavily on special technology in fighting crime. Some of the more noteworthy technological tools will be mentioned.

Video and audio recordings provide an excellent means of documenting facts and presenting them in a legal setting. They are especially effective in undercover work and "sting operations" when the suspect is unaware they are being used. These can be supplemented by "night vision" devices so that suspects can be monitored unaware, at night. Similarly, "bugs" (small hidden microphones) are becoming very sophisticated, as are small radio transmitters that can be used as tracking devices. Much of this technology is used routinely in drug investigations.

An interesting and, in Utah, controversial technological advance, is photo radar. A traffic control radar gun is connected to a camera that takes a picture of speeding cars, catching both the license plate and the driver. A copy of the picture showing the speed being traveled is then sent to the owner of the vehicle along with a citation. Experience in Utah has resulted in fewer people speeding and fewer accidents, but that has been offset by negative public reaction to the way it has been used.

Crime laboratories use very sophisticated devices and techniques to analyze evidence related to crime. Much of the newer technology has been developed to assist in the "war on drugs". Equipment is available to quickly determine the chemical composition of most substances. Serology

has done much to allow identification through body fluids and recent progress in the study of DNA is starting to provide a means of identification more accurate than finger prints; one that can be utilized by studying a single cell from a hair or skin under a fingernail.

Correctional Advances:

Many of the tools utilized by law enforcement also have application in corrections. Corrections also makes use of new electronic monitoring devices to increase security in prisons. Devices that sense heat, movement, and pressure are being utilized to improve perimeter security. They are especially helpful in foggy weather and allow for a reduction in the number of staff needed to secure an institution.

Voice recognition is starting to be utilized in supervising offenders in the community. Conditions can be placed requiring them to be in specific places at specific times and these can be monitored by telephone voice recognition equipment. A system used even more often is called electronic monitoring. The typical application consists of the offender wearing a small electronic transmitter with very limited range. If the offender gets out of range of the receiver, it activates a telephone call to a central monitoring site. In other arrangements, the central site calls the receiver on

The computerization of the criminal justice system

the telephone to ensure that the offender is within range of the receiver. Through these mechanisms offenders are being supervised in their own homes

Computerization

The computer has certainly stimulated a great deal of change in criminal justice. The computer, with its tremendous capacity to rapidly store, process, and retrieve information has the capability to replace many staff functions. However, rather than reduce staff, the computer has dramatically increased capability (as well as staff) in criminal justice agencies. Two of the first activities to be automated were the records of motor vehicles and drivers licenses in the state. A police officer could relay a vehicle license plate number to a dispatcher who could readily enter it into a computer and tell the officer who owned the vehicle and what the driving record was for that individual.

Not long after, a computerized criminal history file was created. Then the dispatcher could also relay to the officer a record of any arrests a person might have. Ideally, that file should also have the disposition of arrests, but currently in Utah only about 50% of the dispositions are being entered.

In the early 1980's, substantial information started being entered into the computer on individuals

under correctional supervision. Some of this information is also available to law enforcement.

At the same time, local law enforcement agencies started to actively pursue computerization of their record systems. The largest agencies developed their own systems. The mid-size and smaller agencies mostly have dealt with private software vendors who specialize in law enforcement software. Now most agencies can quickly retrieve pertinent information regarding the people that they deal with and their addresses.

Now many jurisdictions have "911" telephone systems. When a call is received, some of the more sophisticated ones display the telephone number, name, and address of the telephone subscriber where the call was originated. They also show previous law enforcement calls, and may even chart the route for the nearest police car or emergency vehicle to respond to the call.

The state court system also automated its record system in the late 1980's, thus enhancing the capability of local jurisdictions to handle their records. A major problem with the court's system is that so much autonomy was given to local jurisdictions that it has been difficult to consolidate the information. The courts are currently working on a new system that hopefully will resolve these problems.

The most recently developed major system is AFIS (Automated Fingerprint Identification System). This allows fingerprints to be categorized on the computer which then rapidly searches for matches. This has resulted in many crimes being resolved where finger-prints were left as evidence. It has also sped up the process of processing fingerprints.

The greatest benefits, as well as the greatest problems associated with automation, come when information is shared. At the state level, we have attempted to share information among law enforcement, prosecution, corrections, and the courts, so that we can have a criminal history system complete with arrests, declinations, and dispositions. Currently, the system is only about half complete for felonies. It has been difficult for the agencies involved to become committed to common identifiers, compatible definitions, software, and hardware. This is especially the case since they often represent different branches of local and state government.

Another somewhat similar effort is the statewide warrants system where the courts enter persons that are wanted, and law enforcement enters arrests that resolve the warrants. The information flows quite nicely, but another set of problems occurs when one agency arrests a person wanted by another agency. The big question is if the

Federal funding of criminal justice

jurisdiction that wants a person is willing to pay the costs of transporting them back.

Other state efforts include the consolidation of incidence data regarding all the crimes that are reported in the state. Nearly \$350,000 in federal funds are being invested in this effort. A central state repository has been created for the data. Some law enforcement agencies are now capable of sending data to the repository, with many more soon to follow. Currently the process is in a test mode.

The juvenile justice system has some major advantages in terms of information sharing. Since all major arrests are referred to the state-operated juvenile court, which also handles probation, there is a common source for this data. The state Division of Youth Corrections also agreed to share the juvenile court information system. As a result it is easy to track juveniles from time of arrest through the court system and any correctional programs. Such a feat is much more difficult in the adult system.

Some of the most important sharing takes place between states. At the federal level the National Crime Information Center (NCIC) has been established. This allows the sharing of information about wanted criminals and stolen property, as well as missing persons across the nation.

A more recent development is the sharing of criminal history data between states. This is called the Interstate Identification Index (III or triple I). A number of states are now participating.

One of the most impressive efforts is the Western Identification Network (WIN) where many of the western states have formed a consortium to share a common system of automated fingerprint identification. There have been significant cost savings, but the biggest advantage is that many criminals are mobile and are identified from fingerprints in another state.

Although much has been accomplished in the automation of criminal justice records, the real promises of technology remain to be kept in terms of information sharing. Although some steps are being taken, it is very challenging in an environment where so many different branches of government are involved and one where technology is changing so rapidly that compatibility would result in obsolescence.

Federal Funds

Much of the innovation in criminal justice is encouraged by the availability of federal grants. Most research as well as model program development is sponsored by the federal government. Currently approximately six million dollars per year in federal

funds are distributed to Utah criminal justice agencies. Federal funds usually are for specific purposes and often have strings attached.

Anti-Drug Abuse Act

The majority of the funds (\$3.5 million) come from the Anti-drug Abuse Act. The main purpose of this funding is to assist criminal justice agencies in dealing with drug and violent crime. In Utah most of the money is used to encourage law enforcement agencies and prosecution to form "multi-jurisdictional task forces" to share manpower, specialized equipment, and intelligence information to better address these problems in a region of the state. Some of the money also goes to fund treatment programs for offenders. Federal law currently mandates that at least 5% of the money be set aside and used to improve criminal justice information systems and, particularly, computerized criminal history systems.

Victims of Crime Act (VOCA)

Approximately \$1.5 million come into Utah from the Victims of Crime Act. All of the VOCA money comes from a surcharge on federal criminal fines. Nearly one million dollars supplements the Utah surcharge money that is provided to cover the out-of-pocket expenses of victims of violent crime. The other half million dollars is passed through

to some 25 non-profit and government agencies to provide direct services to victims of crime. Many of these services are targeted to victims of domestic violence, sexual assault, and child sexual abuse.

Juvenile Justice and Delinquency Prevention Act

Approximately \$500,000 is awarded to the state from the Office of Juvenile Justice and Delinquency Prevention. The purpose of this funding is to improve the quality of juvenile justice. A major priority has been to get juveniles out of local jails where they would be housed with adult criminals. In Utah this has been accomplished. An emerging priority is to understand and reduce the racial disparity that exists in the criminal justice system. A state Juvenile Justice and Delinquency Prevention Board allocates most of the Utah funds to agencies of state and local government.

Bureau of Justice Statistics Funding (BJS)

The Department of Justice Bureau of Justice Statistics is responsible for gathering information relevant to criminal justice and disseminate it to policy makers and the public. Approximately \$50,000 each year is available to the Utah Commission on Criminal and Juvenile Justice to establish a criminal justice information clearinghouse to provide information to BJS, as

well as distribute, BJS information to policymakers in Utah. Funds are also currently available to "improve Utah's criminal history system". Over a three year period, \$350,000 has been available. Similarly, another \$350,000 has been made available over three years to establish Utah's part of a "National Incident Based Crime Reporting System". Most of this money has also been passed through to agencies of state and local government.

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