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# Some Economic Aspects Of Crime In The United States

JOSEPH A. MARTELLARO\*

## INTRODUCTION

No question, criminal behavior and acts of crime are as old as mankind itself. But in recent years, crime has emerged as one of the major concerns among nations—particularly within the affluent countries which are highly industrialized and urbanized. Moreover, in the affluent societies, where economic and political democracy generally prevail, materialism is apotheosized, and individualism and incentive are often rewarded, those same values often are perverted to serve as strong motivating factors for individuals to engage in a gamut of criminal activities. In the aggregate, those unlawful activities have proven to be considerably costly to individuals and society-at-large.

Traditionally, in most Western societies, crime and criminal behavior were subjects left mostly for criminologists, psychiatrists, psychologists, and sociologists.<sup>1</sup> However, in recent years, crime and its attendant high social costs have gained the worldwide attention of economists as well. In the United States, it was especially after the tumultuous years of the 1960s that crime drew the serious attention of numerous American economists.<sup>2</sup> Today, economists have come to view crime as a matter of sufficient import to rank it among other major economic problems, e.g., economic instability, energy shortages, foreign trade deficits, inflation, national indebtedness, and unemployment. Clearly, that material gain through

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1. Highly respected publications by professionals other than economists date back at least three decades. See RICHARD A. CLOWARD & LLOYD OHLIN, *DELINQUENCY AND OPPORTUNITY: A THEORY OF DELINQUENT GANGS* (1960). See also DON C. GIBBONS, *SOCIETY, CRIME AND CRIMINAL BEHAVIOR* (1992); DON C. GIBBONS, *THE CRIMINOLOGICAL ENTERPRISES: THEORIES AND PERSPECTIVES* (1979); STUART A. SHEINGOLD, *THE POLITICS OF LAW AND ORDER* (1984); GEORGE VOLD & THOMAS J. BERNARD, *THEORETICAL CRIMINOLOGY* (1992).

2. Examples of such economists are Professors Thomas J. Hailstones, Frank Mastrianni, and Gary Becker, 1992 Nobel Prize winner in Economics who was recognized for his work on crime.

illegal activity is a motivating factor for those bent on crime is well recognized by economists. Furthermore, through their own disciplinary analysis of crime, economists have made and can continue to make major contributions to the reduction of crime by developing pragmatic policy-guidelines.

This Article will address the subject of criminal behavior according to an economist's findings, for it is probably best to leave the identification of most non-economic determinants of criminal conduct to the behavioral scientists. As expressed in this Article's title, only some select economic aspects of crime and criminal activity are addressed, especially those which are committed by person(s) on person(s) and person(s) against property.

### I. THE FEAR-FACTOR

Over recent years, public anxiety about crime has generated a national milieu of fear in many countries, including the United States. Especially during the period of 1967 to 1982, what this author has chosen to call the Fear-Factor, or *FF*, began to make its presence clearly felt in the United States, as is shown in the semi-tabular presentation below. The computation of the *FF* is based upon data available through a variety of sources. Respondents, who were polled, were basically asked a single question which was generally framed as follows: "Is there any area right around here—that is within a mile—where you would be afraid to walk alone at night?"<sup>3</sup>

<u>Year</u>	<u>Fear Factor, <i>FF</i><sup>a</sup></u>
1982	.48
1979	.42
1976	.45
1973	.41
1968	.35
1967	.31

<sup>a</sup> The *FF* ranges from 0 to 1.0; the value of 1 being the highest, representing 100 percent affirmative responses to the question posed by pollsters.

With the exception of 1979, the data clearly indicate a progressive,

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3. See SHEINGOLD, *supra* note 1. See also DEPARTMENT OF JUSTICE BUREAU OF STATISTICS, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 288 (1983) [hereinafter SOURCEBOOK]; The GALLUP REPORT, Number 200 (May 1982). The author has drawn upon the above sources and devised the Fear-Factor, expressed as a coefficient, as a means of measuring community fear.

dramatic increase in the Fear-Factor during the fifteen-year period. Based on more recent data available from a variety of sources, the fear-factor in recent years ranges somewhere between 0.51 to 0.53, depending upon the sources used.<sup>4</sup> Consequently and understandably, over recent decades, crime has also become a "hot" political issue.<sup>5</sup>

## II. CRIMINAL ACTIVITY

Crime is defined as an act which is in violation of a criminal statute; therefore, legislatively speaking, criminal law must exist or else no crime has been committed.<sup>6</sup> However, this author hastens to add that acts which are defined as criminal—and civil for that matter—may well differ from nation to nation, place to place, culture to culture, and from time to time. In short, the legal definition of what constitutes criminal activity, in no small way, often mirrors the basic values of a society, including its mores, traditions, and traits.<sup>7</sup>

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4. This author based the figures on his own preliminary estimates in an as yet unpublished paper.

5. Because public anxiety about crime has generated a national milieu of fear, crime has become a campaign issue (sometimes to the point of political exploitation) by American candidates for elective office at all levels of government. Especially since the 1970s, promises to get tough on criminal activities have been expressed profusely by candidates of both parties. As examples, the Richard M. Nixon-George McGovern campaign of 1972 and more recently the George Bush-Michael Dukakis campaign of 1988 with its special focus on the Willie Horton case were very crime oriented.

6. There are four elements of crime: (1) criminal intent, (2) public or social harm, (3) punitive sanctions (penal, fine, and/or both), and (4) proof of criminal conduct beyond reasonable doubt. A substantially different set of rules applies in the use of civil actions, e.g., breach of a contract or an injury (tort) without criminal intent.

7. Examples of such differences are as follows: enterprises restraining trade are deemed unlawful in the United States, while in Asia, Africa and Europe, cartels are quite acceptable. See WILLIAM BAUMOL & ALAN S. BLINDER, *ECONOMICS*, 294-95 (1994). Moreover, whereas during the American occupation of Japan, steps were taken to eliminate the *zaibatsu*, they not only re-emerged soon after the occupation, but a new and even more powerful enterprise group, the *keiretsu*, has come into being. And ironically relative to place and time, the strict prohibition of trade with foreigners during the Tokugawa Period (1603-1858) of Japan may be cited, particularly when one considers Japan's status of leadership in world trade today. On Japan, see TAKATOSHI ITO, *THE JAPANESE ECONOMY*, 8-12, 54 (1992). Again regarding the element of time, the Volstead Act (passed in the United States in 1919), which prohibited the sale of intoxicating liquors, was repealed in 1933 by the Congress of the United States.

In general, criminal acts originate from three sources: (1) organized crime, (2) gang activity, and (3) person(s) on person(s).<sup>8</sup> Furthermore and more specifically, crimes are divided into two categories: (1) those against persons, and (2) those against property. Included among the former are assault, battery, mayhem, and rape. Arson, burglary, and theft are typical of those falling within the latter category. In numerous instances some acts—especially, but not exclusively, crimes against a person—are often construed to be “consumption crimes,” for as hideous as some acts may be, they often are or bear resemblance to acts which serve as direct sources of satisfaction, or utility, for the offender. Typical examples are auto theft, battery, and rape.

In passing, it would be remiss not to make mention of what are often dubbed “victimless crimes,” such as hard-drug use, drunkenness, and prostitution. The implication of the term “victimless crime” is quite clear, namely that such acts are harmful—if at all—only to the actor; and therefore, no one is victimized.<sup>9</sup> As plausible as this may sound, numerous counter-arguments seem to bring to the surface the fallaciousness of that belief. Typical is the counter-argument that the damage of drug-use is not restricted to the user alone, but often strikes innocent persons, directly and indirectly. The burglarization of a home, the mugging of a street-walker, and the hold-up of a neighborhood retail shop are examples of the kinds of desperate measures taken by an addict in order to support his habit. Moreover, there are the psychic and material costs suffered by friends and relatives of the addicted party. Still another point made by those who deny the existence of “victimless crimes” is that society-at-large feels the negative spinoff effects of such crimes, such as higher insurance premiums, increased taxes in order to intensify law enforcement efforts, and still more taxes for the support of county and state facilities in order to provide care for those suffering from drug addiction.<sup>10</sup>

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8. ROBERT COOTER & THOMAS ULEN, *LAW AND ECONOMICS* 156 (1988).

9. For a lucid discourse on the subject of “victimless crime,” see THOMAS HAILSTONES & FRANK MASTRIANNI, *CONTEMPORARY ECONOMIC PROBLEMS AND ISSUES* 294-96 (1988).

10. There were an estimated 500,000 addicts in the United States by the mid-1980s. See E. H. Adams and N. J. Kozel, *Epidemiology of Drug Abuse: An Overview*, 234 *SCIENCE* 970 (1986). The financial burden placed on society in 1988 as a consequence of alcohol and drug abuse coupled with mental illness was estimated to be \$285 billion, and of that, drug abuse alone accounted for \$86 billion. Leonard S. Miller *et al.*, *Estimates of Economic Costs of Alcohol and Drug Abuse and Mental Illness*, 106 *PUBLIC HEALTH REPORTS* 280, 290 (1991).

Furthermore, to those who subscribe to the concept of "victimless crime," adversaries point at the relatively recent outbreak and spread of the HIV as ample evidence that prostitution and solicitation thereof are hardly "victimless crimes."<sup>11</sup> Furthermore, one should not overlook those unfortunate individuals who have been permanently injured or who have lost their lives in automobile accidents caused by drunken drivers.

It would be remiss not to mention still another crucial issue related to the marketing of hard drugs. After much discussion and debate in and outside the United States Congress relative to the desirability of the North American Free Trade Agreement (NAFTA), the bill was passed by the House of Representatives on November 17, 1993 and by the Senate three days later. President Bill Clinton signed the bill into law on December 8, 1993. A good share of the debate focused on several alleged negative economic issues, e.g., the fear of a permanent loss of American jobs to Mexico, the relocation of American industry to the south, and a deterioration of product quality.<sup>12</sup> Arguments supporting the NAFTA include the contention that jobs in the United States may be lost in the short-run, but they would increase considerably in the medium- and long-run; product availability would rise while prices would fall; also, the flow of illegal residents from Mexico to the United States would be stemmed.<sup>13</sup> Moreover, it was argued by supporters of the NAFTA that a North American common market was imperative in order for the member-nations to effectively compete in the world market, particularly in light of the economic strength of the European Community and the potential competitive threat of the formation of an Asian common market led by Japan.

However, although much attention has been given to the economic and political pros and cons of the NAFTA, insufficient public attention has centered on the vulnerability of the NAFTA (or any

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11. Granted that venereal diseases such as gonorrhea and syphilis resulted in economic and social costs, modern medicine provided remedial treatment in most cases. Conversely, the AIDS victim is consigned to death, at least until an effective serum is developed. Still another act often considered "victimless" by the actor is in-house theft occurring within a large firm. Perpetrators often perceive in-house theft to be a kind of "victimless crime," because they are unable to identify what appears to be a nebulous group of stockholders who own the firms' resources, and thus, they cannot discern any group which is harmed by their activity.

12. In the form of public statements, individuals such as Ross Perot and Lane Kirkland (CIO-AFL) advanced such opposing arguments.

13. Supporters of NAFTA publicly advanced these and similar arguments, among them Senators Robert Dole and Paul Simon.

other frontier-free market) to increased drug traffic. The very fact that drug traffickers would need only utilize several alternating key coastal points of penetration could well make the entire North American continent a drug market. Once penetration into a frontier-free market occurs, the points of penetration then become high-volume distribution centers. In short, common markets can become highly vulnerable to drug flow. Furthermore, the problems of interdiction would be immensely magnified, probably requiring, in the case of the NAFTA, the formation and training of a tri-nation law enforcement agency. The realities of massive drug-flow within a frontier-free market has been fully recognized by the member-nations of the European Community.<sup>14</sup>

### III. THE RISK FACTOR

In order to prevent the occurrence of criminal behavior, the like of which was described above, it is helpful to understand the economic rationale underlying the criminal activity. One who contemplates "pulling-off" a caper must attempt to reasonably estimate the Risk-Factor, *RF*, associated with each of his planned misdeeds, not only for different kinds of illegal acts but even acts which are classified in the same general category. Obviously, two burglaries committed in different neighborhoods at different times of day are not likely to involve the same amount of risk.

In a real sense, a perpetrator may be viewed as an "entrepreneur"—notwithstanding the illegality of his acts, rather not unlike any entrepreneur engaged in a lawful business activity, the violator of law believes in risk-taking. The degree of risk is a function of several determinants, specifically:

$$RF = f(S, T, L, P_p, D, A)$$

with *S* representing security, *T* is the target of opportunity chosen by the perpetrator, *L* being the location of a target, *P<sub>p</sub>* signifying the effectiveness of police protection, and *D*, standing for the time of day in which the crime is committed. Finally, *A* represents the characteristics unique to the perpetrator, i.e., his creativity, cun-

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14. This author expresses thanks to Rodolphe J.A. de Seife, Professor of Law at Northern Illinois University, who during an informal exchange of ideas on the subject addressed in this paragraph, offered some additional insights to those of this author.

ningness, intelligence, and acquired skills in plying his trade.<sup>15</sup>

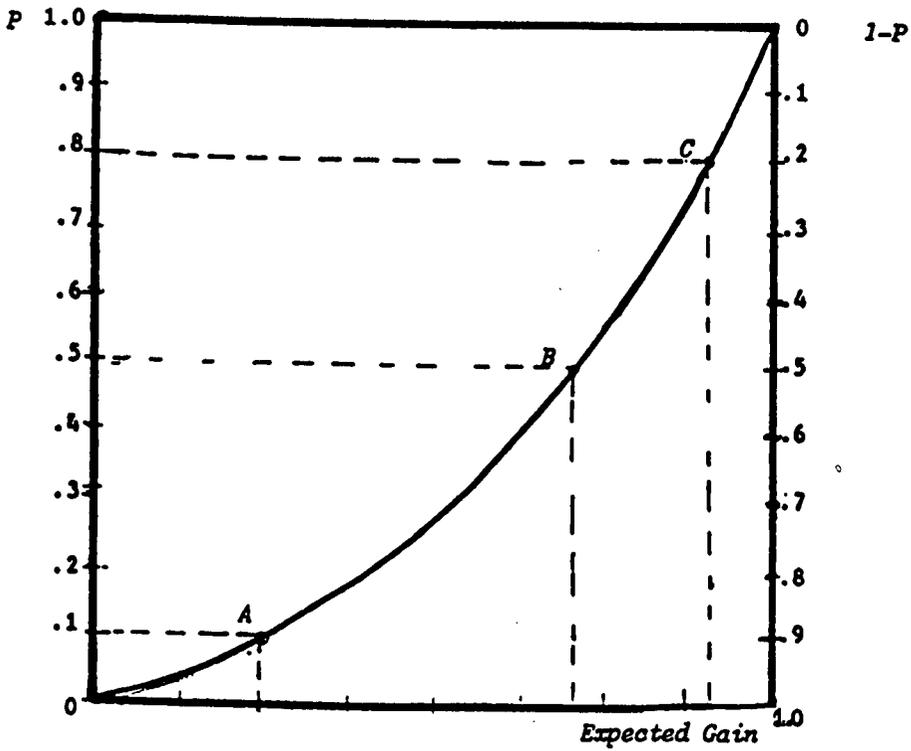
Security encompasses a host of self-protective precautionary measures, among which are private security guards, alarm systems, and lighting. Targets vary in kind and consequently in degree of risk; obviously, even those which are considered generic may differ. As an example, the absolute risk associated with holding-up a small retail shop such as a neighborhood convenience store is likely to be far less than a large supermarket. And as for location, again consider a planned hold-up; the relative risk generally becomes markedly and progressively greater in the case of holding up a small money exchange, as opposed to a suburban branch bank, vis-à-vis a large downtown bank, or say a finance office located on a large military base. Certainly, the strength in numbers, the quality of training, and the experience of local police departments has a bearing on the effectiveness of a force assigned to provide community protection. Finally, the rational criminal who plans a hold-up or burglary selects a time of day which minimizes the *RF*.

At this juncture, it may be desirable to illustrate the Risk Factor, *RF*, graphically. Figure 1 shows the relationship between the *RF* and the monetary return for a crime of material gain, such as armed robbery, burglary, embezzlement, and mugging.

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15. These determinants are not all-inclusive; there are others, of course, but those considered in the function are some of the most important. Moreover, the weight of each determinant can vary considerably depending upon the kind of crime planned.

Figure 1  
RISK FACTOR AND MONETARY RETURN



The ordinate on the left shows the degree of risk attendant to committing a certain crime, that is the chance of the perpetrator being caught, or  $P$ . Conversely, the ordinate on the right expresses the chance of the criminal escaping scot-free, or  $1-P$ . The  $x$  axis shows the expected financial gain should the perpetrator be successful in the commission of his act. Two extremes present themselves in Figure 1; the crime which offers the maximum gain is perceived to be one of 100.0 percent risk; therefore, a target of opportunity clearly rejected by a rational being. The crime completely free of risk offers no possible gain; therefore, it is also unacceptable. Furthermore, in viewing Figure 1—say points  $A$ ,  $B$ , and  $C$ —it is clear that the relationship between the chance of being caught,  $P$ , and the expected gain is direct; generally, the bigger the “prize,” the greater the risk of being caught, as illustrated by *Point C*. As shown by *Points A* and *B*, the risks are less but so are their respective gains. As examples, consider the degree of risk associated with burglarizing an urban apartment, an urban apartment building with a doorman, or an urban apartment equipped with an alarm system. Finally, in viewing the Risk Curve ( $RC$ ) plotted in Figure 1, it should be noted that the curve is quite elastic in the case of lower risk targets, but as the expected gains rise, it becomes increasingly inelastic as the  $RF$  rises.

## VI. OPPORTUNITY COSTS VERSUS EXPECTED GAINS

The rational criminal is one who weighs the benefits to be derived by committing one of a variety of crimes as against the opportunity costs he is likely to incur if caught and arrested during or after the commission of a particular caper. In short, opportunity costs in the case of a given crime are the penalties in the form of a fine and/or sentence which is (or are) likely to be imposed upon a guilty party by the criminal justice system. Therefore, it is logical to assume that in the process of planning, the intelligent law-breaker will first weigh the benefits to be derived from his criminal act as opposed to the opportunity costs. After having weighed benefits against opportunity costs, the rational criminal will select those activities for which the benefits exceed the possible costs by the greatest margin.

The expected pay-off,  $G$ , of a particular crime—say a burglary—can be expressed by mathematical formula, but first, there are some assumptions to be made. They are as follows:

1. That  $P$  represents the probability of a burglar being caught, and  $1-P$  must represent the probability of the perpetrator carrying off his caper scot-free, as stated above.
2. That the goods burglarized have a market value of \$30,000, but because they must be fenced at 50 percent discount, our

- burglar will be compensated \$15,000 for his booty. This discounted price appears as  $T$  in the equation.
3. That  $1-P$ , the chance of the perpetrator not being caught is 0.70; in other words, he estimates that there is only a 30 percent chance of being caught.
  4. That  $E$  equals the internal explicit expenses in carrying out his crime, that is the burglar's capital equipment: his black clothing, burglary tools used for breaking and entering, special tools, transportation costs, and electronic equipment to disarm a burglary alarm should one exist; value being \$1,000.
  5. That  $N$  represents internal implicit costs associated with the crime, i.e., the costs of being caught, prosecuted, convicted, and fined. If only fined,  $N$  is easily determined, but if convicted and sentenced for some long period, the internal implicit costs are more complex to compute. In a given case, let us, for the sake of demonstration, assign a cost of \$20,000 to  $N$ .<sup>16</sup>

In light of the foregoing, the following is formulated:

$$G \text{ (expected pay-off)} = (1-P)(T-E) + P(T-E-N) \quad (1)$$

It has already been established that the risk of our burglar being caught is 30 percent; therefore,  $P = 0.3$  and  $1-P = 0.7$ . Moreover, by substituting \$15,000 for  $T$ , \$1,000 for  $E$ , \$20,000 for  $N$  we have:

$$G = 0.7(\$15,000 - 1,000) + 0.3(\$15,000 - 1,000 - 20,000) \quad (2)$$

$$G = 9,800 - 1,800 \quad (3)$$

$$G = \$8,000 \quad (4)$$

$G$ , the expected gain of \$8,000, is probably sufficiently enticing for Mr. Burglar to carry-out his planned crime, for if not caught—and the odds are with him—a 26.66 % return on the actual market value of his booty is better than many legitimate entrepreneurs can earn on their investment of capital and time.

However, in the case of consumption crimes, it is far more difficult, if not impossible, to ascertain the value of  $G$ , for as stated earlier, these are mainly crimes of utility. The satisfaction derived by

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16. On the other hand and based on a supposition that a persuasive public defender is able to plea bargain for a \$1,000 fine and a ten day sentence in an already over-crowded county jail, the outcome can be quite different. Deprived of his trade and based on the average take of his past burglaries, let us assume that the criminal will lose \$200 daily. Therefore, lost income during his ten days in jail is \$2,000, but county support (room, board, and other provisions) for 10 days might be valued at \$1,000, thus  $N$  would equal \$1,000.

a rapist or one who commits aggravated battery—as hideous as those crimes are—is most accurately determined by the perpetrator. Therefore, in the case of crimes of utility, the degree of satisfaction derived by an offender can oftentimes be highly subjective on the part of one sitting in judgment.

#### V. THE COSTS OF CRIME

Although clearly running into billions of dollars, the costs of crime to individuals who are victimized can be difficult to ascertain. Clearly, the suffering of the victims plus the anguish and pain of friends and relatives are often immeasurable in dollars and cents, although juries do attempt to attach some monetary value to the pain and suffering of victims directly injured by crime.<sup>17</sup> Yet, the judgment of a jury is subjective, even when a jury scrupulously observes the limits of the law. This becomes quite clear through the process of appeal, when remedies which fall within the limits of the law are nevertheless considered excessive and are therefore reduced.<sup>18</sup>

There are also other factors which contribute to making the measurement of the economic costs of crime enigmatic. Firstly, there is sometimes great uncertainty as to what ought be included in order to estimate the monetary costs of crime. Secondly, the methodology to be employed in order to assess costs may often be challenging, for without question, given various kinds of crime, different approaches of measurement are often needed.<sup>19</sup> Thirdly, there are crimes committed which may go undiscovered for long periods of time, if ever detected. Therefore, they may escape cost determination. As an example, even in this modern age of sophisticated accounting and auditing techniques, we can not always be sure of the actual cost of losses through embezzlement, in-house or by some distant ingenious hacker. Not infrequently, embezzlement, in particular, is a crime which can go undetected for long periods of time. Fourthly, opportunity costs are often relevant, and they too are not always easy to assess. To what degree of accuracy can we measure the loss of a very valuable human resource suffered by society? Consider the case of the loss of life of a young, brilliant neuro-surgeon caused by another

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17. See *e.g.*, *Balzekes v. Looking Elk*, 627 N.E.2d 84 (Ill. App. 1993) (holding that jury award of \$600,000 for pain and suffering was properly awarded).

18. See *e.g.*, *Brown v. Williamson Tobacco Corp.*, 827 F.2d 1119 (7th Cir. 1987) (reducing a jury award to one dollar).

19. For further discussion regarding the problem of accurately estimating the costs of crime, see Patsy Klaus & Frederick Shenk, *The Economic Costs of Crime to Victims*, in DEPARTMENT OF JUSTICE STATISTICS SPECIAL REPORT 1 (Apr. 1984).

party's criminal negligence. How might we with a sense of complete or near certitude compute the present value of the victim's future income? And do not the same problems arise in the case of permanent disability or loss of life whether one be an auto mechanic, big-league baseball player, electronics technician, engineer, nurse, or teacher?

Despite myriad difficulties in estimating the economic loss suffered by those victimized by crime, there was a study conducted several years ago which helped to estimate such loss.<sup>20</sup> The data published in the study continues to be useful when contrasted to more recent data. Expressed in millions of current dollars, Table 1 shows the costs of various personal and household crimes committed for the years 1975, 1980, and 1981. The data clearly indicate that not only did the incidence of personal and household crime generally rise during the period of 1975 to 1981; but the costs suffered by those victimized progressively rose during the years the report covered.

Table 1<sup>21</sup>

PERSONAL AND HOUSEHOLD CRIMES; 1975, 1980, 1981  
(Loss Expressed in Millions of Dollars)

Kind of Crime and Year	Number	Total Loss
A. Personal Crime		
1981	16,371,000	2,782
1980	15,270,000	2,362
1975	16,378,500	1,531
B. Household Crime		
1981	15,431,300	8,129
1980	15,139,700	7,724
1975	14,328,900	4,037
C. TOTAL (A + B)		
1981	31,802,300	10,911
1980	30,409,700	10,086
1975	30,707,400	5,568

20. *Id.* at 1.

21. *Id.* at 3.

Relying on the methodology employed by Shenk and Klaus in their April 1984 study,<sup>22</sup> the U.S. Department of Justice was able to determine the cost of personal and household crime for later years. These appear in Table 2 along with other findings of the Bureau.

Table 2<sup>23</sup>

Incidence of Personal and Household Crime During Selected Years, 1986-91

(Loss Expressed in Millions of Dollars)

Year	Personal Crime		Household Crime		
	Number	Total Loss	Number	Total Loss	Total
1986	41.9	3,592	15.4	9,947	13,039
1988	44.7	4,338	15.8	12,326	16,664
1989	44.0	4,480 <sup>a</sup>	16.1	13,960 <sup>a</sup>	18,440
1990	42.7	4,575	15.4	14,641	19,216
1991	44.6	4,569	15.6	14,529	19,098

<sup>a</sup> Estimated by this author.

As is clearly indicated in Table 2, the incidence of personal and household crimes remained fairly constant during the 1986 to 1991 period, in both absolute and relative terms. Nevertheless, during the five-year period, both personal and household crime costs, individually and collectively, rose markedly. Moreover, when comparing the data in Tables 1 and 2, it becomes immediately clear that the incidence of personal crime more than doubled when comparing the 1975-81 period to that of 1986-91. A comparison of the number of household crimes committed over recent years, specifically 1986-1991, shows a considerable increase over the 1975-1981 period. Of further interest, 34.7% of all personal crimes in 1990 involved amounts of less than \$50.00 and 33.9% for amounts ranging from \$50.00 to \$249.00; in the case of household crime, 26.1% resulted in gains of less than

22. *Id.*

23. DEPARTMENT OF JUSTICE BUREAU OF STATISTICS, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 256-58 (1991). See also DEPARTMENT OF JUSTICE BUREAU OF STATISTICS, CRIMINAL VICTIMIZATION IN THE UNITED STATES (eds. 1986, 1988, 1991).

\$50.00, while 38.6% were for amounts ranging from \$50.00 to \$249.00.<sup>24</sup>

Although as indicated earlier, it is not always easy to measure with complete accuracy the costs of crime incurred by those individuals who are victimized, good statistics are available as to the cost-burden placed on the criminal justice system at various levels of government.<sup>25</sup> In short, this data represent the costs to society-at-large. Table 3 shows, for the fiscal year 1990, the expenditures of the justice system at the various levels of government.

As stated in the title of Table 3, only the *direct expenditures* of the various levels of government are presented. The grand total of the direct expenditures is \$74.3 billion. Some payments, such as intergovernmental expenditures (payments from one government to another), though available are not broken-out for the purpose of this study, principally because intergovernmental expenditures eventually appear as direct expenditures of the recipient-government. Therefore, excluding them does not in anyway invalidate the data.

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24. SOURCEBOOK, *supra* note 23, at 317.

25. SOURCEBOOK, *supra* note 23, at 2.

Table 3<sup>26</sup>

**DIRECT EXPENDITURES OF THE AMERICAN JUSTICE  
SYSTEM ACCORDING TO LEVEL OF GOVERNMENT,  
FISCAL YEAR 1990.  
(Expressed in Millions of Dollars)**

	Federal	State	County	Municipal	Total
A. Police Protection	4,020.5	4,714.5	5,478.2	17,591.8	31,805.0
B. Justice and Legal Services					
1. Courts only	1,553.2	3,165.3	3,677.2	911.2	9,306.9
2. Prosecution and Legal Services	1,518.1	6,296.1	1,609.3	1,076.6	5,500.1
3. Public Defense	<u>405.8</u>	<u>548.5</u>	<u>603.6</u>	<u>184.2</u>	<u>2,147.9</u>
Sub-Total (1, 2, 3)	3,477.1	5,009.9	5,890.1	2,172.0	16,549.1
C. Corrections	1,456.4	15,364.6	5,902.0	2,237.7	24,960.7
D. Other Justice Activities	<u>377.0</u>	<u>324.9</u>	<u>184.0</u>	<u>48.6</u>	<u>934.5</u>
TOTAL	9,331.0	25,413.9	17,454.3	22,050.1	74,249.3

As a matter of information, the \$74.3 billion of government expenditures includes almost \$4 billion of intergovernmental expenditures. Moreover and of significant interest, the total expenditures of \$74.3 billion represents an almost ninefold increase over 1970 and more than a fourfold increase over 1975.

Of interest, but not surprising, are the considerable expenditures made by governments below the federal level; of the total national expenditure of \$31.8 billion for police protection, some \$27.8 billion, or 87.4 percent, was absorbed by state and local governments. The burden of police protection mainly falls upon state and local governments. As one might well guess, the greatest burden of correction costs also falls on state and local governments, \$23.5 billion of the almost \$25.0 billion, or 94.0%. The costs incurred for justice and legal services by all levels of government are also considerable, an aggregate of \$16.55 billion. Of that, \$13.07 billion, or slightly less

26. SOURCEBOOK, *supra* note 23, at 2.

than 79.0%, was absorbed by state and local governmental bodies. This lends substantial credence to those professionals who call for administrative and procedural reforms in the American penal and judicial systems in order to effect economies.

#### CONCLUSION

Early in this Article, the subject of the Fear Factor, *FF*, was broached upon. Later in the Article, the costs of personal and household crimes over recent years were underscored, including the costs to those victimized and to society-at-large through the heavy burden placed upon the criminal justice system. The increasing incidence and attendant costs of crime in a large measure not only explains the rising *FF* by Americans who feel apprehensive of being victimized in and outside their homes but also accounts for the growing interest of professional economists in addressing the subject of crime.

And although scholars might justifiably attribute the commission of crime to social and environmental conditions, it can also be convincingly demonstrated that the rewards, especially monetary, can be sufficient to serve as a strong incentive for those who are criminally inclined—especially in affluent societies. In short, crime can and does pay well for the astute, calculating perpetrator who carefully organizes his mission, weighs the marginal benefits versus the marginal costs, and judiciously considers the Risk Factors (*RFs*) in the pursuit of his unlawful activities.

The question of victimless crimes is both thought provoking and intellectually vexing, for one can persuasively argue on both sides of the issue. However, the evidence emerging in recent years particularly in the case of alcohol consumption, drug addiction, and serious diseases—particularly HIV, which in no small way is spread through prostitution, seems to strengthen the case of those who contend that victimless crimes are almost or totally non-existent. Finally, the possible dangers of an establishment of the tri-nation common market in North America (NAFTA) cannot be ignored. As has been experienced by the European Community (EC), law enforcing agencies of the member nations must be vigilant against the inflow of drugs. Not only must national law enforcement agencies be alert to such unlawful traffic but some kind of tri-national law enforcement force might well be needed to work in cooperation with not only American, Canadian, and Mexican forces but with Interpol as well.