Lecture 8: Systems of Social Control (Institutions)

Part I: Overview of "Systems of Social Control"

Part II: Rules

Part III: Systems of Social Control

Part IV: Functions of Social Control

Part I: Overview

- The main purpose of this lecture is to have a clear understanding of the components of "systems of social control" or "institutions" of social control.

- Although descriptive and filled with lots of jargon, this lecture provides an important framework for other sections of the course!

Conflict and Resolution

- In general, we have seen that conflict within and between groups is inevitable to various degrees.

- However, individuals and groups realize that conflict makes life difficult. War, marital conflict, terror, crime, and other types of disputes all lead people (and the groups they interact with) to seek a resolution to their conflict and emerging disputes.

Conflict and Resolution

- Human societies have different systems to resolve disputes. In today's lecture we will look at concepts of social control, and then some different types of controllers.

- In later sections we will actually look at the strategies and procedures that that these control types use.

Systems of Social Control (Institutions)

- **Rules**: definitions of behavior that **should** be followed.

- **Sanctions**: rewards and punishments

- **Enforcers** (Actors)

Part II: Rules

- Rules are definitions of behavior that **should** be followed.

- In other words, rules are **cultural** prescriptions about what people should do.

- As we will see, the existence of rules is proven when they are breached.

General Categories of Rules

<u>Laws</u>: Rules sanctioned by the State

<u>Societal norms</u>: Rules sanctioned by communities or citizens themselves who do not hold formal positions in the legal system

Example of Laws

- Homicide, Rape, Robbery

- Embezzlement, Theft

- Many behaviors violate our morals (e.g., not saving a drowning person) but are not violations of laws

Examples of Societal Rules (Norms)

- ATM lines

- Bathroom norms

- Eating etiquette

Types of Rules

- Rules, or prescriptions of behaviors that should be followed, can be categorized into primary and secondary rules.

Primary Rules (Substantive)

- Primary rules (substantive rules) specify socially unacceptable behavior such as stealing or adultery.

Secondary Rules

- Secondary rules (procedural, remedial, constitutive, and controller-selecting rules) are **higher-order rules** that specify the sanctions to be given to social control enforcers for failing to punish or reward individuals breaking primary rules. In addition, these rules define HOW social control enforcers should deal with disputes.

Secondary Rules and Punishment

- Recall how our lecture about evolutionary theory highlighted that punishment resolves social dilemmas IF people PUNISH and REWARD.

- One reason why people punish is because failing to do so can result in an infraction whereby a "free-riding" punisher is herself punished.

- Problem is resolved with "higher-order" rules.

Procedural Rules

- Once a person violates a primary rule (I.e., they steal), procedural rules specify how evidence is to be weighed and justice administered.

Remedial Rules

- Remedial rules are secondary rules that control the <u>enforcers themselves</u> by specifying the type of remedy to be used by other enforcers when punishments (or rewards) are deemed necessary.

Constitutive rules

- Constitutive rules are other important category of secondary rules that encourage participation and compliance among enforcers and provide the "glue" of the organization. The importance of these rules cannot be understated, especially in large-scale organizations such as *Sungusungu*, because these provide incentives for cooperation and reduce corruption and rent seeking.

Controller Selection Rules

- Controller selection rules specify which controllers (e.g., organizations or the Tanzanian state) should be chosen upon a breach of primary rules.

Part III: Systems of Social Control

# Categorizing Social Control by the Actors Involved

- We will think about social control from the perspective of disputants (and those around them who will enforce rules to resolve disputes and protect property).

Robert Ellickson's "System of Social Control"

Controller	Rules	Sanction	Combined System
First Party (actor)	Personal ethics	Self-sanction	Self-control
Second-party Control (person acted upon)	Contracts	Personal self-help (violent or non-violent)	Promisee-enforced contracts
Third Party control Social forces	Norms	Vicarious self-help	Informal control
Third Party control Organization	Organizational rules	Organizational enforcement	Organizational control (also informal)
Third Party control State	Law	State enforcement	Legal system (formal)

1.) First Party Control

- Humans learn all types of rules from an early age.

- When we break a rule, we sometimes punish ourselves with guilt and other negative feelings about ourselves.
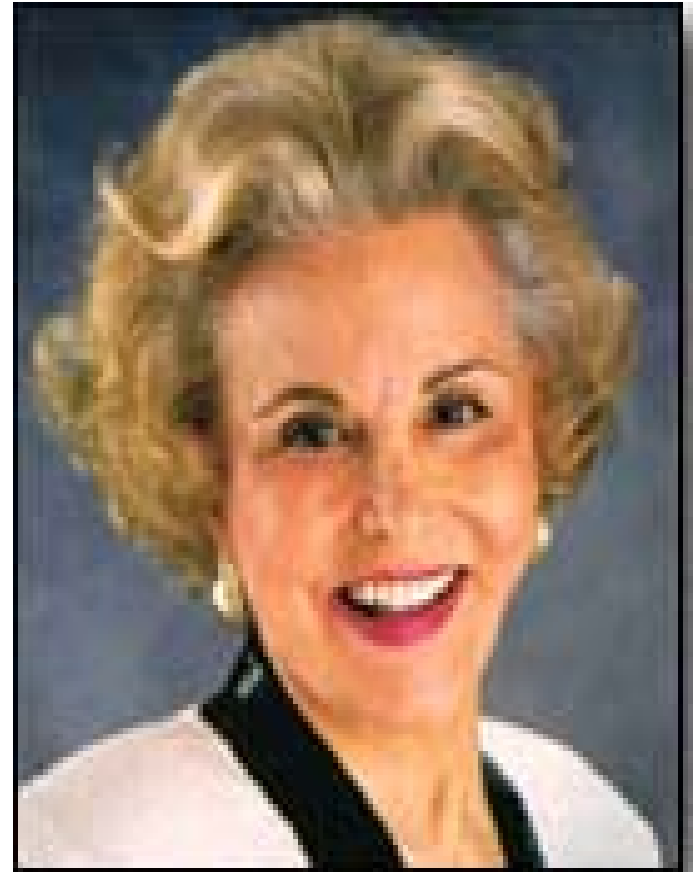
Ann Landers

Self-Control Theory from Criminology

- Individuals with high self-control will be "substantially less likely at all periods of life to engage in criminal acts."

- Low self-control thought to be established early on in life as a result of incomplete or ineffective <u>socialization</u>. This research related to the psychological research concerning sociopaths and other types of "opportunists"
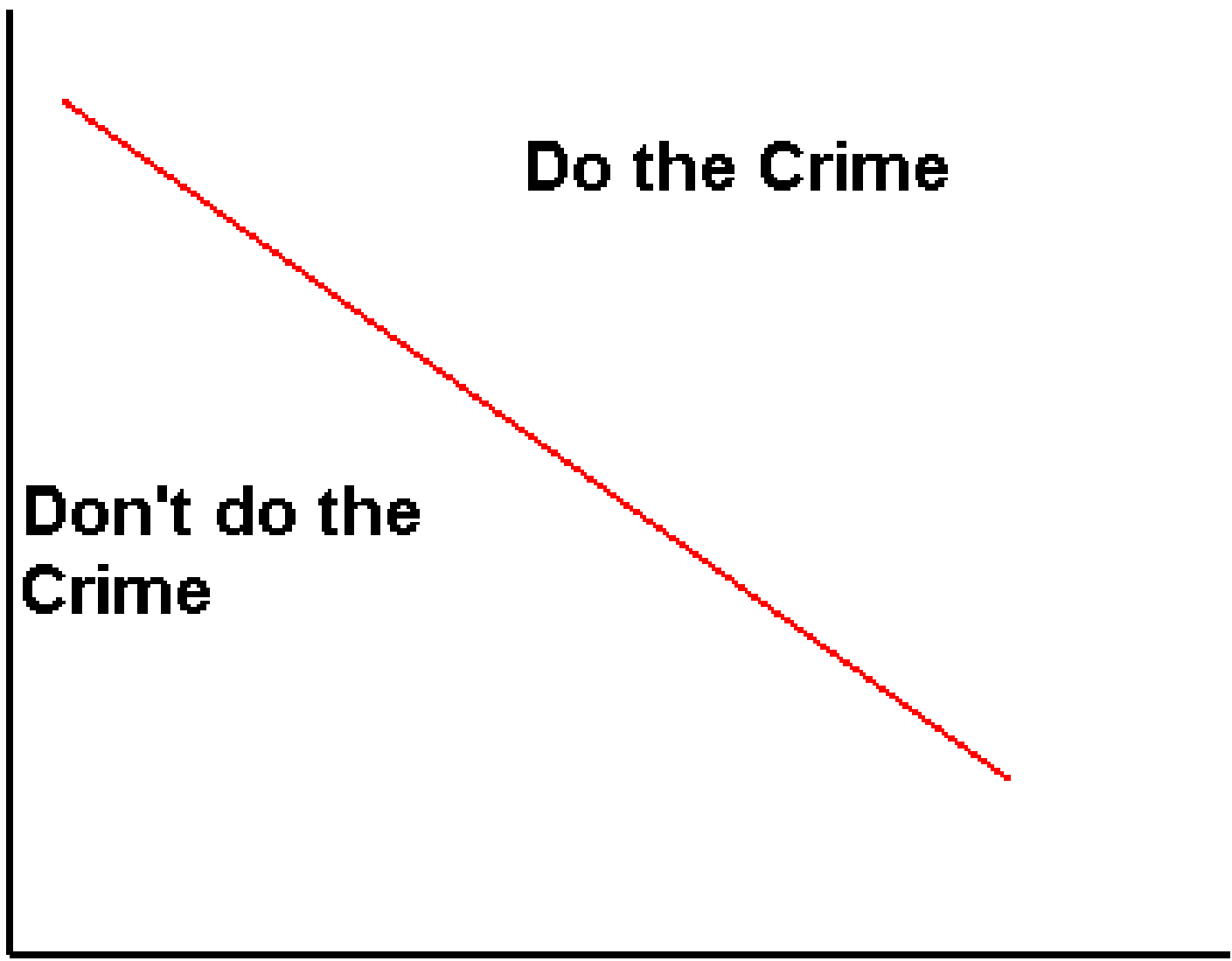
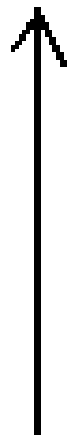# Importance of Individual Socialization

- <u>Impulsivity</u>: act without reflecting upon consequences.

- <u>Insensitivity</u>: individuals miscalculate or devalue the pain of guilt

- <u>Immediate gratification</u>: individual not able or willing to wait for rewards that are delayed (e.g., getting a good job after 7 years of hard work in school).

Do we all feel guilty? Sociopaths!

Self-concept: Invulnerable
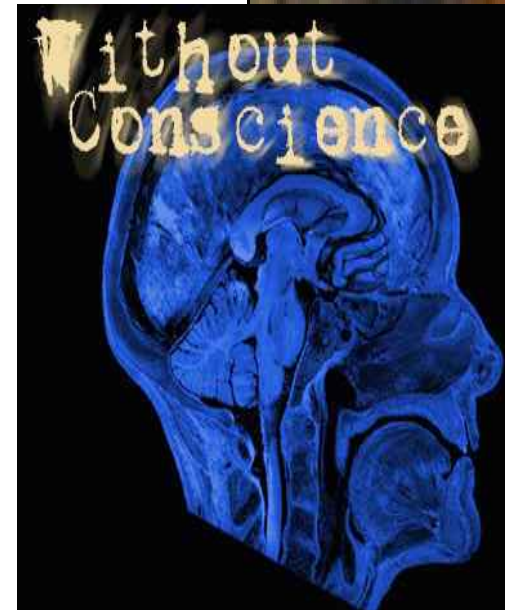
Superior

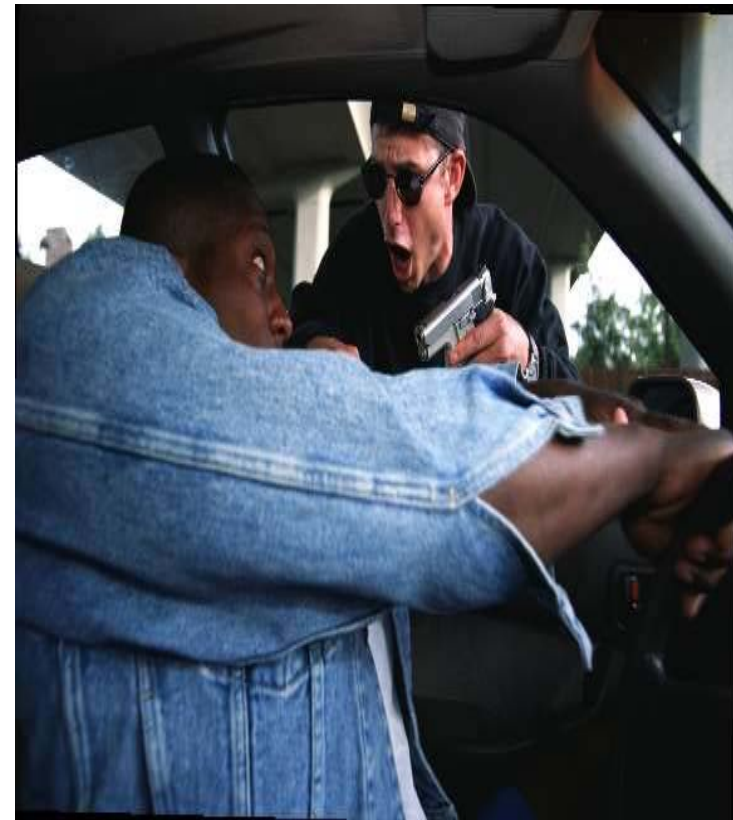Pre-emptive rights

Sees Others: Dupes/stupid

Inferior

Weak

Strategies: Manipulative
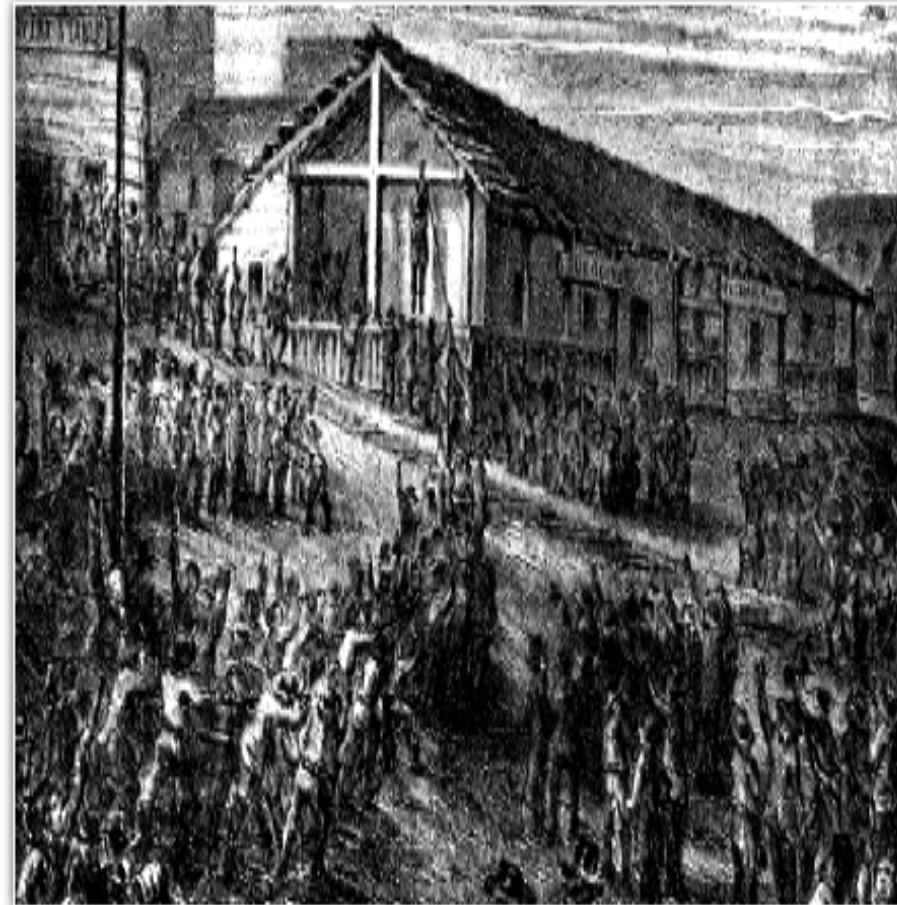
Violence

Without Conscience

2.) Second-party Control

- Occurs when individual who is experiencing conflict or victimization seeks to resolve the conflict themselves (without third-party intervention)

- Strategies can be both **violent** and non-violent.

3.) Third-party Social Control: Social Forces

- Different social units (e.g, neighborhoods, towns) can form rules, and sanction them using a number of direct and indirect methods.

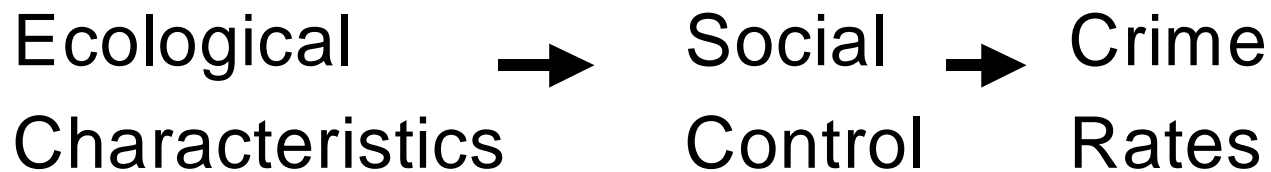# 3.) Third-party Social Control: Social Forces

- **Direct sanctions**: violence, community fines, ostracism from town or neighborhood.

- **Indirect sanctions**: community gossip and reputation

Review of Social Disorganization

- ## Macro (Neighborhood) level theory
  - Explains why certain neighborhoods have high crime rates

  Ecological → Social → Crime

  Characteristics   Control   Rates

- ## NOT an individual level theory
  - Avoid "Ecological Fallacy"

3.) Third-party Social Control: Social Forces (Families)

- Although not directly discussed in Ellickson, family units of different varieties play a very important role in socialization and dispute resolution.

- Families are often involved in the conflicts of their family members, and can sanction family or community "norms".


Al Bundy Site

4.) Third-party Social Control: Organizations

- People are members of different types of organizations.

- Examples: churches, universities, secular clubs, quilting clubs, gun clubs, hunting clubs, etc.

5.) Third-party Social Control: Government

- Third-parties resolve the dispute (the dispute is no longer a private matter between disputants and their peers).

- Adjudication (arbitration): Third-parties such as States have the *authority* to *mandate* a resolution to the dispute.

Components of Criminal Justice

The Criminal Justice System

Police — Courts — Corrections
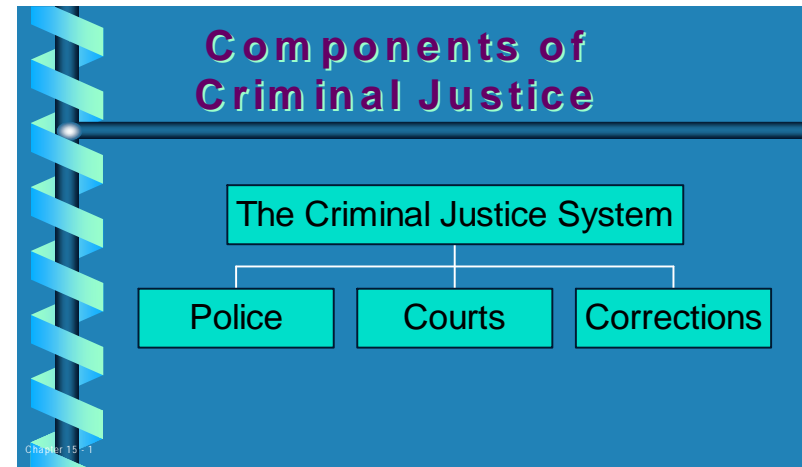
The Evolution of Social Control Systems

- Hunter-gatherers and other "simple" societies do not have central leadership roles, and thus rely on non-state social controls.

- Agricultural societies experienced more inequality, and more potential for crime. Thus, legal systems emerged with States.

Criminal and Tort Law

◆ **Both seek to control behavior.**

◆ **Both impose sanctions (punishments)**

◆ **Similar areas of legal action exist: e.g.,**

  ✔ personal assaults

  ✔ white-collar offenses like environmental pollution

Similarities

Criminal and Tort Law

Criminal	Tort
◆ A public offense	◆ A civil or private wrong
◆ Enforcement is state business	◆ Individuals bring action
◆ Punishment is often loss of liberties or sometimes death	◆ Sanction is normally monetary damages
◆ Fines go to the state	◆ Both parties can appeal
◆ State doesn't ordinarily appeal	◆ Individuals receives the compensation for harm done
◆ Proof beyond a reasonable doubt	◆ "Preponderance of the evidence" is required for a decision.

Differences

Burden of Proof

Civil Trial —
Preponderance of the Evidence

Criminal Trial —
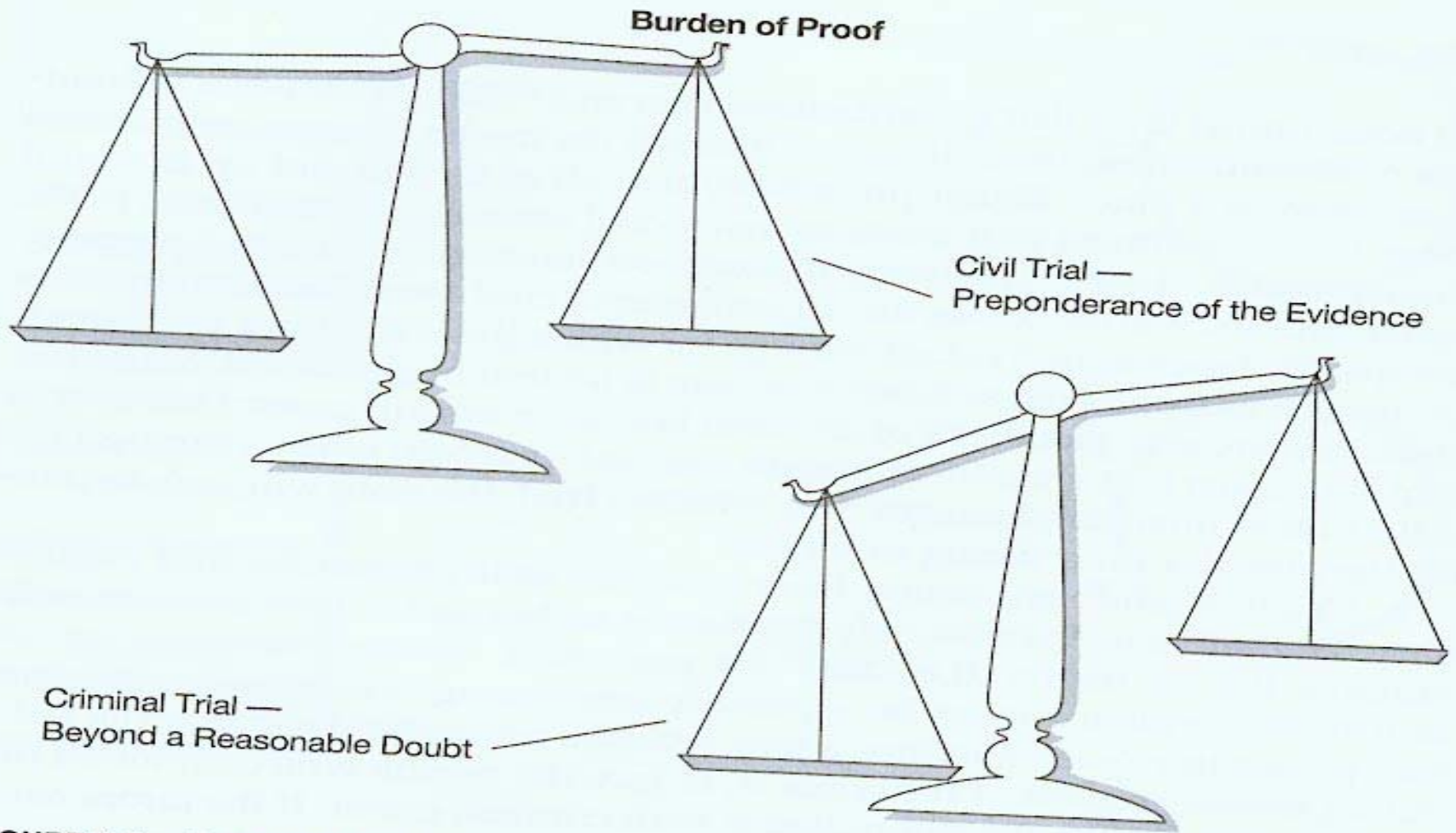Beyond a Reasonable Doubt

FIGURE 4–2:   Burden of Proof

OJ Simpson Found Guilty in Civil Court

Felony

More serious offenses

Punishable by death or imprisonment for more than a year in a state prison.

Misdemeanor

Less serious offenses

Punishable by incarceration for less than a year in a local jail or house of correction.

Mala in Se and Mala Prohibitum

- Mala in Se:

  "Natural laws" rooted in the core of Western values

  (assault, rape, murder)

- Mala Prohibitum

  Statutory crime: violations of laws that reflect current public opinion

  (drug use, unlicensed handguns)

Part IV. Issues related to State Third-Party Control

1.) Provides Different Types of Controllers to Disputants

3.) Expressing Public Opinion and Morality

4.) Deterring Crime and Violent Interpersonal Disputes

1.) Provides Different Types of Controllers to Disputants

- Law formalizes informal rules (norms) that control deviant behavior in society. Instead of homicide being a matter of the family, clan, or tribe, it becomes under the AUTHORITY of the state.

- Laws give authority to the state third-party enforcers to resolve disputes.

State Enforcement Can Discourage Revenge

- Second-party control often leads to violent dispute resolution.

- Law shifts the burden of retribution (vengeance) or dispute resolution from the victim to the State.

Lorena Bobbitt

However, when States fail to provide adequate services, second-party social control, or "self-help justice" is more important

2.) State Legal Systems can be Used to Express Public Opinion and Morality

- Using Mala prohibitum for legislation of laws to reflect changing social attitudes (e.g., use of marijuana, alcohol; gambling; prostitution).

- However, do the dominant groups in society with more power use the laws in their own interests? (example of vagrancy laws)

3.) Deterring Criminal Behavior (or preventing disputes)

- States attempt to limit interpersonal violence emerging from disputes, by making it a crime to harm others.

- States use sanctions as an disincentive to using violence.

- Can that state deter individuals from engaging in **expressive assault or homicide**?

Two Kinds of Homicide

- **Instrumental (felony-related)**

  Directed towards strangers and motivated by desire of offender to increase their economic position (e.g., homicide during robbery)

- **Expressive (argument-related)**

- Occurs between strangers and acquaintances to vent anger, remedy disputes, or coerce with force.

- More than half (about 70%) of all homicides are expressive or related to interpersonal disputes.

Deterrence Theory

- Primary purpose of punishment is **deterrence** rather than vengeance.

- Severity: Punishment must be just severe enough to overcome the gain from a crime. Punishment that is too severe is unjust, and punishment that is not server enough will not deter.

- Without proportionality, people will not be deterred from committing more serious crimes (e.g., if rape and murder both punished with death, a rapist would have little reason to refrain from killing the victim).

Deterrence: Celerity and Certainty

- <u>Celerity</u>: swiftness with which criminal sanctions are applied after the commission of crime.

- <u>Certainty</u>: probability of *apprehension* and *punishment* for a crime (e.g., "There is a 1% chance I will get caught, and if so, they would never throw me in jail")
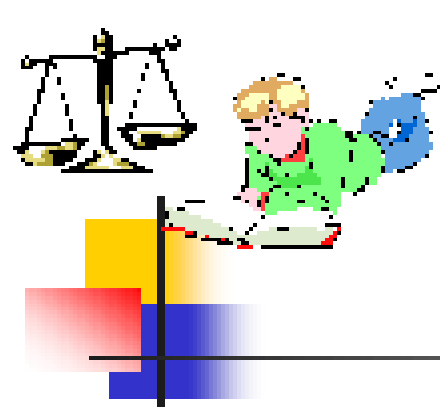
Deterrence

- **General Deterrence** Depends on fear of penalties; convincing potential offenders that the potential pain outweighs the potential benefits

- **Specific Deterrence** Focuses on the individual offender to convince him or her not to repeat their delinquent activity
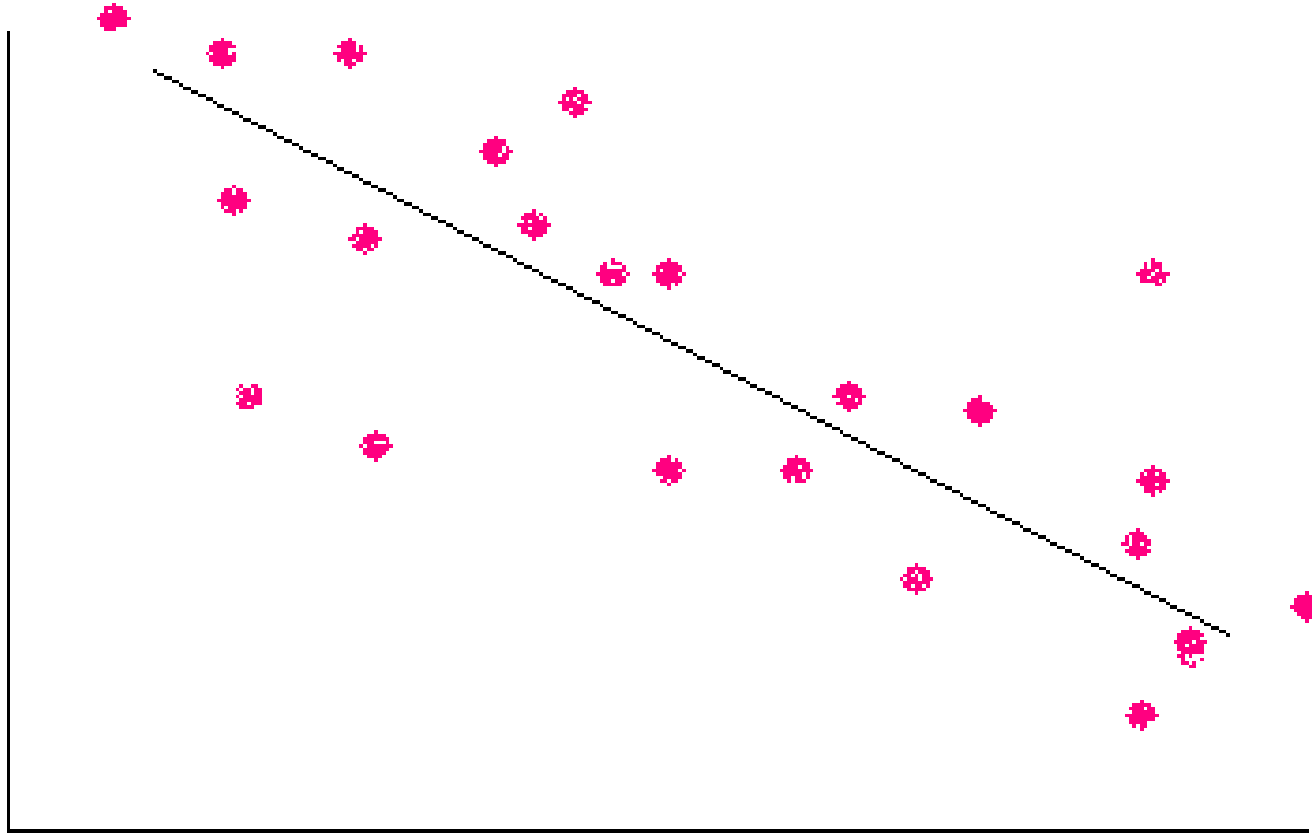
Deterrence Hypothesis

- Hypothesis: When the certainty, severity, and celerity of criminal sanctions are high in a population, criminal behavior will be low.

- Thus, the death penalty will deter people from "self-help" violence.

Empirical Evidence: Capital Punishment and Homicide

- <u>Immediate Impact Studies</u>: If capital punishment is effective, it should have greatest impact after a well publicized execution.

- <u>Comparative Research:</u> Compare areas (counties, states, countries) with respect to capital punishment laws and homicide rates.

- <u>Time Series Analysis</u>: Compare homicide rates and death penalty statutes through time.
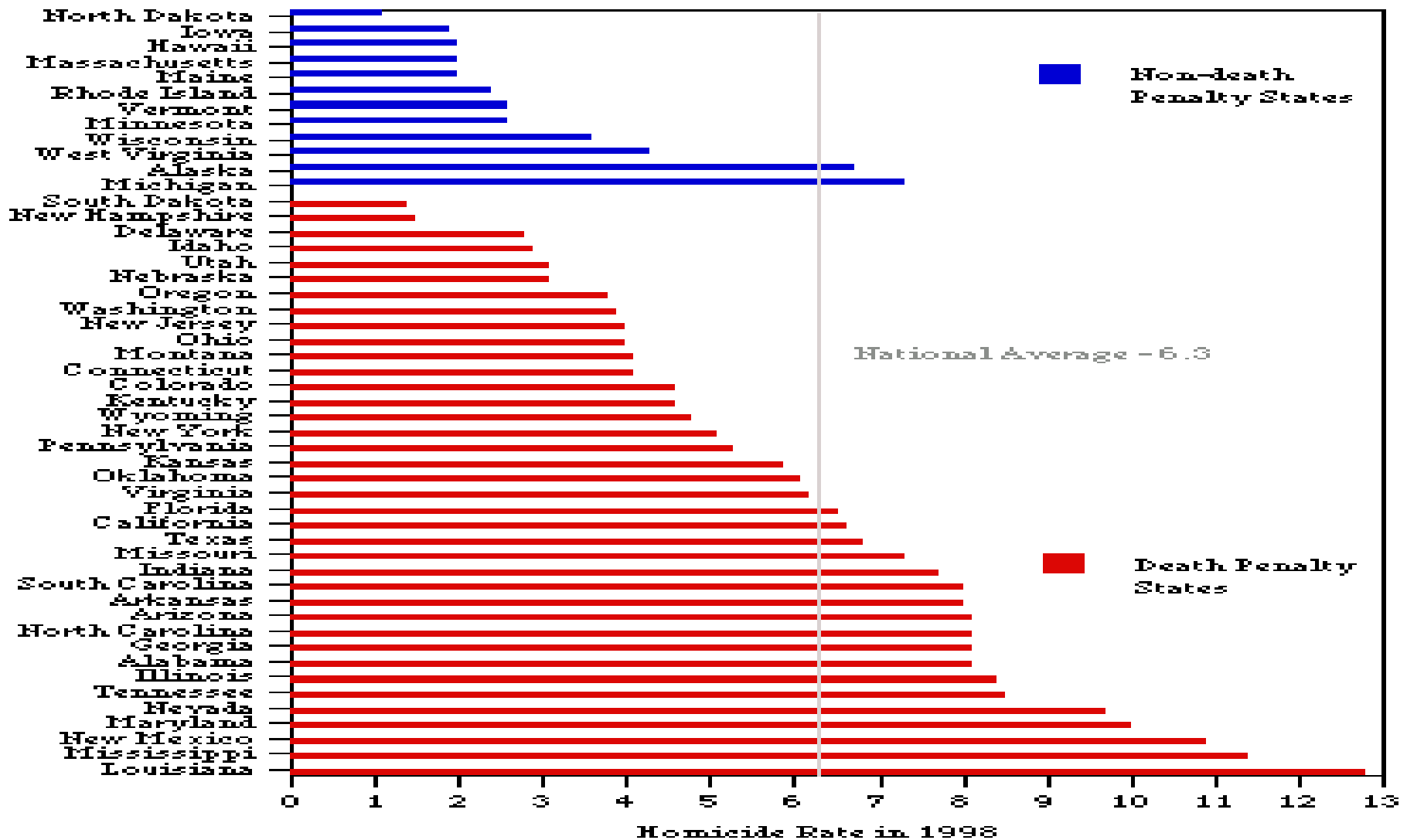
Immediate Impact Studies: **Brutalization Effect: Does Death Penalty Cause MORE homicides?**

Greater Annual Increase in California Homicide Rates for Years WITH executions.
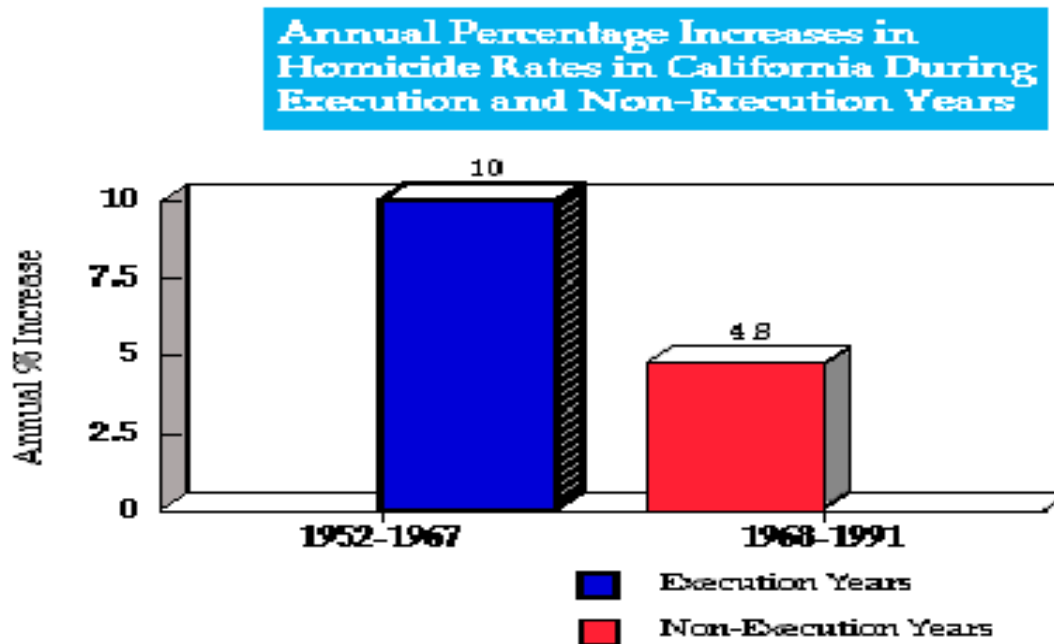
More homicides have been found ten days after a publicized execution in California (+ .25 per execution) and in Philadelphia (+ 1.6 per execution)

Homicide Rates in Death Penalty and Non-death Penalty States – 1998*

Non-death Penalty States

Death Penalty States

National Average –6.3

States (top to bottom):
North Dakota, Iowa, Hawaii, Massachusetts, Maine, Rhode Island, Vermont, Minnesota, Wisconsin, West Virginia, Alaska, Michigan, South Dakota, New Hampshire, Delaware, Idaho, Utah, Nebraska, Oregon, Washington, New Jersey, Ohio, Montana, Connecticut, Colorado, Kentucky, Wyoming, New York, Pennsylvania, Kansas, Oklahoma, Virginia, Florida, California, Texas, Missouri, Indiana, South Carolina, Arkansas, Arizona, North Carolina, Georgia, Alabama, Illinois, Tennessee, Nevada, Maryland, New Mexico, Mississippi, Louisiana

Homicide Rate in 1998

* DPIC Chart from statistics found in the FBI Uniform Crime Reports

Comparative Research

Comparative Research

- The 5 countries with the highest homicide rates that **do not** impose the death penalty average 21.6 murders per every 100,000 people,

- The 5 countries with the highest homicide rate that **do** impose the death penalty average 41.6 murders every 100,000 people.

Executions, 1930-2001
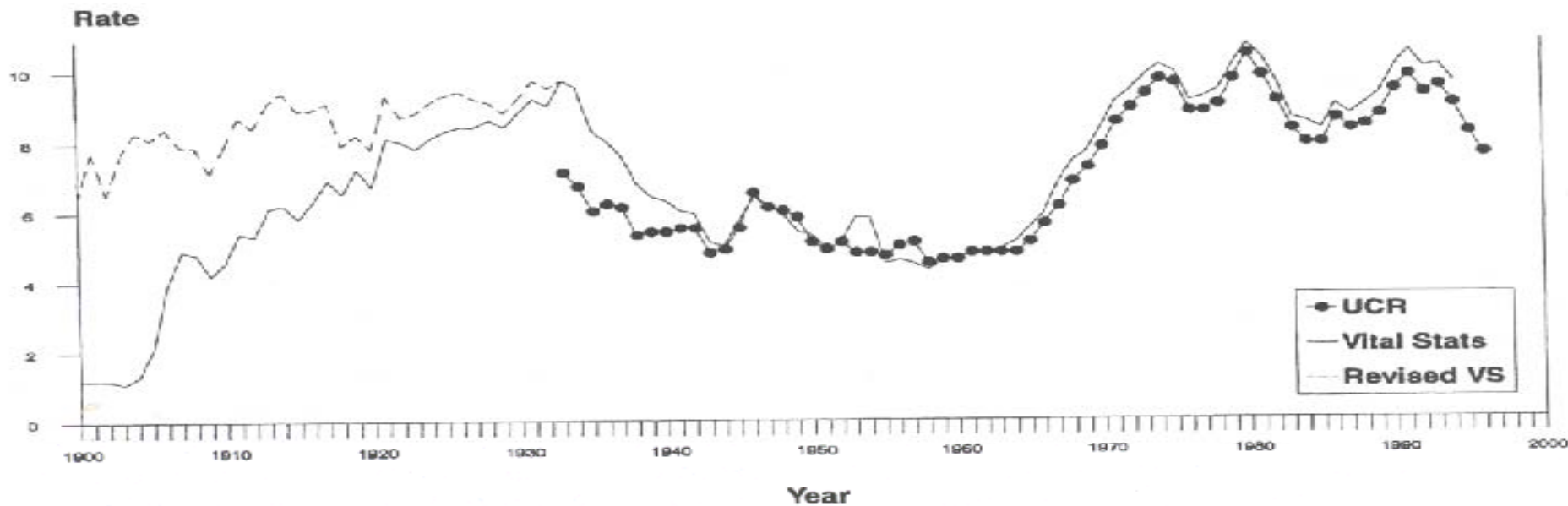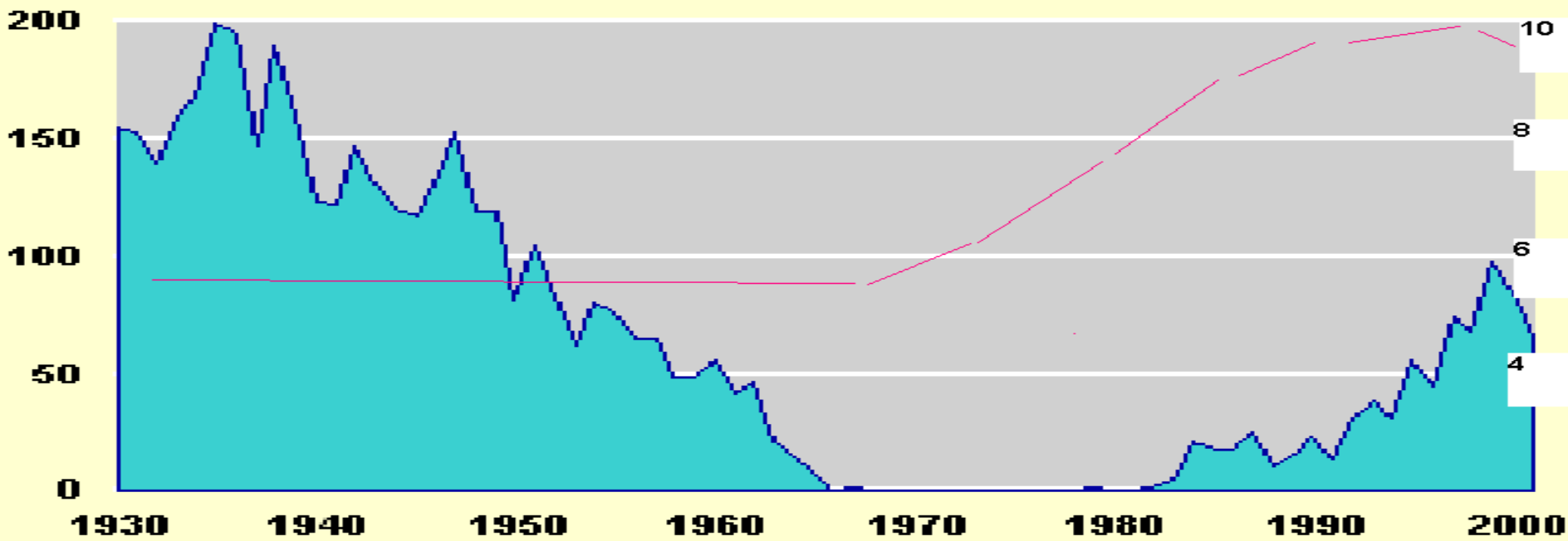
What do 67 leading criminologists believe about deterrence and capital punishment?

Over 80 % of these experts believe the existing research fails to support a deterrence justification for capital punishment.

Over 75% believe that increasing the frequency of executions, or decreasing the time spent on death row before execution, would not produce a general deterrent effects.

Are Criminal Sanctions More Effective Deterrents for other Types of Crimes

- Cable TV wire splitters.

- Drinking and driving.

- Dispute-related violence (domestic violence, "honor", "passion")

Scandinavian-type laws