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# How Effective Are Police? The Problem of Clearance Rates and Criminal Accountability

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# CRIMINAL ACCOUNTABILITY

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*In recent years, the national conversation in criminal justice has centered on police. Are police using excessive force? Should they be monitored more closely? Do technology and artificial intelligence improve policing? The implied core question across these national debates is whether police are effective at their jobs. Yet we have not explored how effective police are or determined how best to measure police effectiveness.*

*This Article endeavors to measure how effectively police perform at their core function—solving crime. The metric most commonly used to measure police effectiveness at crime-solving is a "clearance rate:" the proportion of reported crimes for which police arrest a person and refer them for prosecution. But clearance rates are inadequate for many reasons, including the fact that they are highly manipulable. This Article therefore provides a set of new metrics that have never been used systematically to study police effectiveness—referred to as "criminal accountability" metrics. Criminal accountability examines the full course of a crime to determine whether police detect and ultimately resolve committed crime. Taking into account the prevalence and the number of crimes police solve, the proportion of crimes solved in America is dramatically lower than we realize. Only with a clearer conversation, rooted in accurate data about the effectiveness of the American police system, can we attempt a path toward increased criminal accountability and public safety.*

## INTRODUCTION

We are accustomed to believing that people get caught for committing crimes.[1] If you commit murder and leave DNA behind, you are certain to get

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    1.  The exception to this belief is the Blackstone principle, which underlies a recognition that some guilty defendants will indeed go free. *See* 4 WILLIAM BLACKSTONE, COMMENTARIES 352. For an excellent argument that we should stop reciting Blackstone as a "mantra," see Daniel Epps, *The Consequences of Error in Criminal Justice*, 128 HARV. L. REV. 1065, 1072 (2015).

caught.[2] If you leave your fingerprints anywhere or are detected by a camera during a burglary, the police will come knocking at your door.[3] If you push your husband off a cliff to be with your lover, the detectives will eventually figure it out.[4] We assume or expect that police generally solve crimes, and the unsolved mystery is the exception. People express outrage when prosecutors are unable to convict an individual whom the public believes is guilty.[5] People are appalled when justice is not served or when the public determines that an individual who has harmed someone is not held accountable for those crimes.[6] Society

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2. *See generally* Natalie Ram, *Genetic Privacy After Carpenter*, 105 VA. L. REV. 1357, 1408 (2019) (noting that genealogy websites *23andMe* and *Ancestry* will share genetic information with law enforcement when "compelled by valid legal process[es]" or when required to "comply with a valid subpoena or a court-ordered request").

3. *See generally* Patrick Sawer, *Police Use Glove Prints to Catch Criminals*, THE TELEGRAPH (Dec. 13, 2008), https://www.telegraph.co.uk/news/uknews/law-and-order/3740688/Police-use-glove-prints-to-catch-criminals.html (noting that, in addition to using fingerprints as a means for catching criminals, forensic officers are beginning to compile thousands of prints from gloves, "allowing [officers] to match a set of prints from one crime to those found at the scene of another"). *See also* Clive Thompson, *The Myth of Fingerprints*, SMITHSONIAN MAG., (Apr. 2019), https://www.smithsonianmag.com/science-nature/myth-fingerprints-180971640 (recognizing the increased use of DNA evidence in investigating crimes). Even small and local police stations are utilizing DNA to "solve ho-hum burglaries." *Id.* Police send swabs to crime labs, where the DNA swabs are run through a "'rapid DNA' machine," and minutes later, a match to the DNA is produced. *Id. See generally* Andrew Guthrie Ferguson, *Predictive Policing Theory*, *in* THE CAMBRIDGE HANDBOOK OF POLICING IN THE U.S. 491, 491 (Tamara Rice Lave & Eric J. Miller eds., 2019) (discussing "how police can choose between prioritizing additional police presence, targeting environmental vulnerabilities, and/or establishing a community problem-solving approach as a different means of achieving crime reduction"). *But see* Todd S. Purdum, *Burglars: A Long Shot to Arrest*, N.Y. TIMES (Aug. 17, 1986), https://www.nytimes.com/1986/08/17/nyregion/burglars-fingerprints-a-long-shot-to-arrest.html (reporting that one experienced officer has "successfully identified 31 suspects in the 11 years he has been taking prints").

4. Jack Hannah, *Montana Newlywed Jordan Linn Graham Gets 30 Years in Husband's Murder*, CNN (Mar. 28, 2014, 6:14 AM), https://www.cnn.com/2014/03/27/justice/montana-newlywed-sentenced/index.html (discussing the case of Jordan Graham, a woman convicted of second-degree murder in December of 2013, after "admitting to luring her new husband . . . to Glacier National Park and pushing him off a cliff").

5. *See* Lizette Alvarez & Cara Buckley, *Zimmerman Is Acquitted in Trayvon Martin Killing*, N.Y. TIMES (July 13, 2013), https://www.nytimes.com/2013/07/14/us/george-zimmerman-verdict-trayvon-martin.html (discussing the public outrage following the not guilty verdict of George Zimmerman, whom the public believed to have been guilty of the murder of Trayvon Martin). *But see* Alia E. Dastagir, *Surprising No One: What Lori Loughlin and Michael Jackson Uproar Teaches Us About Denial*, USA TODAY (Mar. 18, 2019), https://www.usatoday.com/story/news/investigations/2019/03/14/lori-loughlin-college-admissions-michael-jackson-leaving-neverland-catholic-abuse-denial-outrage/3152770002 ("Catholics don't want to think their church protected pedophiles. Michael Jackson fans don't want to associate music that brought joy at weddings and school dances with accusations of child molestation. . . . White people don't want to believe that police protect them but abuse black people.").

6. Two prominent examples of this from both sides of the aisle include the public's reaction to allegations against Presidents Trump and Clinton. *See* Amber Phillips, *Why Are Politicians Essentially Shrugging at the Latest Sexual Assault Allegations Against Trump?*, THE WASH. POST (June 26, 2019), https://www.washingtonpost.com/politics/2019/06/26/why-are-politicians-essentially-shrugging-latest-sexual-assault-allegations-against-trump (quoting U.S. Senator Richard Durbin as saying, "There's so many allegations of sexual harassment and other things on this president. . . . I wouldn't dismiss it, but let's be honest, he's going to deny it and little is going to come of it"); Eyder Peralta, *A Brief History of Juanita Broaddrick, The Woman Accusing Bill Clinton of Rape*, NPR (Oct. 9, 2016), https://www.npr.org/2016/10/09/497291071/a-brief-history-of-juanita-broaddrick-the-woman-accusing-bill-clinton-of-rape (noting that, almost forty years ago, President Clinton was accused of raping Juanita Broaddrick, who alleged that "Hillary Clinton helped him cover it up").

generally assumes that when serious crimes are committed, justice is served.[7] In other words, the conventional wisdom is that police are generally effective at solving crimes. But do we know that they are?

Strangely, there has not been any challenge in the legal literature of this conventional wisdom, and there has been little discussion of police effectiveness. Much of the scholarly discussion of police has focused on racial bias,[8] self-defense doctrine,[9] monitoring police behavior and preventing

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7. *See* Rick Muir, *Great Expectations: What Do the Public Want from the Police?*, THE POLICE FOUND (Sept. 23, 2016), http://www.police-foundation.org.uk/2016/09/great-expectations-what-do-the-public-want-from-the-police ("The police are expected to prevent crime, to help those in immediate danger, to investigate offences, to catch criminals, to sustain public order and to protect people, particularly vulnerable people, from harm."). The exception to this general rule may be with rape. *See* Katharine K. Baker, *Once a Rapist? Motivational Evidence and Relevancy in Rape Law*, 110 HARV. L. REV. 563, 584 (1997) (recognizing that "because rape is a significantly underreported crime, the truth is that even if rape allegations could be easily made, most are not made at all") (footnotes omitted).

8. *See, e.g.,* Julian R. Murphy, *Is It Recording?—Racial Bias, Police Accountability, and the Body-Worn Camera Activation Policies of the Ten Largest Metropolitan Police Departments in the USA*, 9 COLUM. J. RACE & L. 141, 148–49 (2018) ("In the policing context, a paradigmatic example [of racial profiling] is the practice of some United States police departments in the 1980s and 1990s of purposefully targeting Black and Latinx people for drug-related investigation, a practice illuminated by the mention of race in police department training materials."); Paul J. Larkin, Jr. & David L. Rosenthal, *Flight, Race, and Terry Stops:* Commonwealth v. Warren, 16 GEO. J. L. & PUB. POL'Y 163, 205 (2018) ("Discrimination, both when it occurs and when it mistakenly appears to have occurred, exacerbates any police-citizen tensions that already exist within a community and dissuades the victims of crime in those neighborhoods from cooperating with the police."); Elias R. Feldman, *Strict Tort Liability for Police Misconduct*, 53 COLUM. J. L. & SOC. PROBS. 89, 100 (2019) ("It is also fair to assume policing's risk of wrongful harm falls disproportionately upon racial minorities given what is known about how unconscious racial biases affect police decision-making.").

9. *See, e.g.,* Rachel A. Harmon, *When Is Police Violence Justified?*, 102 NW. U. L. REV. 1119, 1174 (2008) ("In the context of policing, officers should be required to use their special training and skills to avoid force or minimize its harm. . . . [S]elf-defense training . . . is ever-present in evaluating whether a police officer's use of force is necessary.").

> One of the most politically polarizing types of cases involves police who claim self-defense in shooting an African American victim. . . . The litany of cases involving police officers who shot unarmed African Americans, claimed self-defense, and then were later acquitted, gives credence to a perception of bigotry among law enforcement and the legal system that often refuses to hold them accountable.

Aaron Goldstein, *Race, Reasonableness, and the Rule of Law*, 17 S. CAL. L. REV. 1189, 1195 (2003). Rachel A. Harmon, *The Problem of Policing*, 110 MICH. L. REV. 761, 804 n.174 (2012) ("State and federal civil and criminal suits are also subject to defenses, such as self-defense . . . which can set limits on police conduct.").

misconduct,[10] improving community and law enforcement relationships,[11] and artificial intelligence in policing.[12] The scholarly discussion has focused on *how* police are doing crime solving: With too much force? With the right monitoring? With proper technology? These discussions assume that police *are* solving crimes. The prior scholarship has also tackled police performance in specific arenas[13] but has not examined how to measure whether police are effective at their jobs.

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10.  *See, e.g.*, Benjamin Levin, *What's Wrong with Police Unions?*, 120 COLUM. L. REV. 1333, 1340–43 (discussing the role of police unions in monitoring police behavior); John Rappaport, *How Private Insurers Regulate Public Police*, 130 HARV. L. REV. 1539, 1595–1601 (2017) (discussing the role police liability insurance might play in preventing police misconduct); Seth Stoughton, *Police Body-Worn Cameras*, 96 N.C. L. REV. 1363, 1378–99 (2018) (discussing police use of body cameras as a means to monitor police behavior); Jocelyn Simonson, *Copwatching*, 104 CAL. L. REV. 391, 407–20 (2016) (suggesting that private organized groups can help monitor police behavior).

> In addition to the positive behavioral changes that police body cameras may bring, it is also apparent that police body cameras are more favorable than using mass, indiscriminate surveillance such as street cameras and audio detectors in public places—an option which stands on the other end of the spectrum of tools to record police behavior.

Joey Dhillon, *Police Body-Mounted Cameras: Balancing the Interests of Citizens and the State*, 25 S. CAL. REV. L. & SOC. JUST. 69, 74 (2015). *Considering Police Body Cameras*, 128 HARV. L. REV. 1794, 1799–1800 (2015) (explaining that the rise of police officers wearing body cameras may have been due to its "potential to expose officer misconduct and exonerate civilians whose actions have been falsely characterized by the police"); L. Song Richardson, *Police Racial Violence: Lessons from Social Psychology*, 83 FORDHAM L. REV. 2961 (2015) (discussing the phenomenon of police killing unarmed black men). *See generally* Rachel Harmon, *Promoting Civil Rights Through Proactive Policing Reform*, 62 STAN. L. REV. 1, 2 (2009) ("Countering the systemic causes of police misconduct requires doing more than punishing individual officers."); MICHAEL AVERY ET AL., POLICE MISCONDUCT AND LITIGATION 587–616 (3d ed. 2014); Mary D. Fan, *Justice Visualized: Courts and the Body Camera Revolution*, 50 U.C. DAVIS L. REV. 897, 907–08 (2017) (describing a police "[c]amera [c]ultural [r]evolution").

11.  *See, e.g.*, Anthony A. Braga, *Better Policing Can Improve Legitimacy and Reduce Mass Incarceration*, 129 HARV. L. REV. F. 233, 238–39 (2016) ("Developing close relationships with community members would help the police gather information about crime and disorder problems, understand the nature of these problems, and solve specific crimes."); Tracey L. Meares, *The Path Forward: Improving the Dynamics of Community-Police Relationships to Achieve Effective Law Enforcement Policies*, 117 COLUM. L. REV. 1355, 1365 (2017) (stating that trust and legitimacy were the most important areas in need of improvement, as the President's Task Force on 21st Century Policing pointed out to President Obama); Dan M. Kahan, *Reciprocity, Collective Action, and Community Policing*, 90 CAL. L. REV. 1513, 1527–30 (2002) (discussing new community police initiatives to improve public and police relationships); Rachel Abanonu, *De-Escalating Police-Citizen Encounters*, 27 S. CAL. REV. L. & SOC. JUST. 239, 241 (2018) (finding that "public awareness and education about constitutional rights during police encounters can reduce police-citizen confrontations"); Anthony V. Alfieri, *Race Prosecutors, Race Defenders*, 89 GEO. L.J. 2227, 2245 (2001) (noting that community outreach and police training assist in establishing "monitoring, compliance, and enforcement structures with the active participation of citizens of color").

12.  *See, e.g.*, Elizabeth Joh, *Automated Policing*, 15 OHIO ST. J. CRIM. L. 559 (2018) (discussing the challenges police face when using artificial intelligence). *See generally* ANDREW GURTHRIE FERGUSON, THE RISE OF BIG DATA POLICING 14–33 (2017).

13.  Prior literature has tackled clearance rates, unresolved crime in minority communities, and the lack of crime reporting:

• Clearance rates: *See, e.g.*, Stephen J. Schulhofer, *Miranda and Clearance Rates*, 91 NW. U. L. Rev. 278, 294 (1996); Paul G. Cassell & Richard Fowles, *Still Handcuffing the Cops? A Review of Fifty Years of Empirical Evidence of Miranda's Harmful Effects on Law Enforcement*, 97 B.U. L. REV. 685, 706–08 (2017) (discussing the effect of *Miranda* on clearance rates); Hyunseok Jang, Larry T. Hoover & Brian A. Lawton, *Effect of Broken Windows Enforcement on Clearance Rates*, 36 J. CRIM. JUST. 529, 536 (2008); Charles Wellford & James Cronin, *Clearing Up*

This Article takes this question on. It considers how to measure whether police are effective at solving crimes. It is truly a first step in the legal literature, and it generates more questions than answers. The Article's modest goal is to answer a question that remains largely neglected: What is the best way to determine police effectiveness? In answering this question, this Article reviews data on police effectiveness from the last fifty years.

Fundamentally, a police officer is charged with maintaining public order, detecting crime, and enforcing the law.[14] To determine whether police are successful at two principle functions—detecting crime and enforcing the law— we need to measure how effective police are at solving crime. The most commonly used measure of police effectiveness is clearance rates—the proportion of reported crime for which police arrest a person and refer them for prosecution.[15] In examining whether clearance rates are the appropriate

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*Homicide Clearance Rates*, 243 NAT'L INST. JUST. J. 2, 6–7 (2000); Graham C. Ousey & Matthew R. Lee, *To Know the Unknown: The Decline in Homicide Clearance Rates, 1980-2000*, 35 CRIM. JUST. REV. 141, 153 (2010).

• Unresolved crime: *See, e.g.*, JILL LEOVY, GHETTOSIDE: A TRUE STORY OF MURDER IN AMERICA 8–12 (2015) (describing that police's failure to solve black homicide has led to an increase in endemic violence); Deborah Tuerkheimer, *Criminal Justice and the Mattering of Lives*, 116 MICH. L. REV. 1145, 1153–54 (2018) (explaining that "race-based underenforcement" has led to a lower clearance rate for homicides involving a black victim than homicides involving a white victim).

• Lack of reporting: *See, e.g.*, Robert F. Kidd & Ellen F. Chayet, *Why Do Victims Fail to Report? The Psychology of Criminal Victimization*, 40 J. SOC. ISSUES 39, 39 (1984) ("[N]onreporting is the result of three factors acting singly or in concert: (a) victim fear, (b) feelings of helplessness and the perceived powerlessness of police, and (c) the threat of further victimization from authorities."); Heike Goudriaan, James P. Lynch & Paul Nieuwbeerta, *Reporting to the Police in Western Nations: A Theoretical Analysis of the Effects of Social Context*, 21 JUST. Q. 933, 955–69 (2004) (finding that the perceived competence of the police determines whether property crimes are reported); Heike Goudriaan, Karen Witterbrood & Paul Nieuwbeerta, *Neighbourhood Characteristics and Reporting Crime*, 46 BRIT. J. CRIMINOLOGY 719, 719–42 (2006); MARTIN GREENBERG & BARRY RUBACK, AFTER THE CRIME: VICTIM DECISION MAKING 99–100 (1992) (discussing findings of twenty studies involving more than 5,000 people and exploring the decision to report and the immediate aftermath of a victimization); Stephen Schnebly, *The Influence of Community-Oriented Policing on Crime-Reporting Behavior*, 25 JUST. Q. 223, 223–51 (2008).

   14.   Elizabeth E. Joh, *The Consequences of Automating and Deskilling the Police*, 67 UCLA L. REV. DISCOURSE 134, 138 (2019) ("To be sure, the police are tasked with enforcing the law, investigating crimes, and maintaining social order in sometimes unpredictable and violent situations."); *see also* JACK R. GREENE, THE ENCYCLOPEDIA OF POLICE SCIENCE 217–18 (3d ed. 2007); WILLARD OLIVER, COMMUNITY-ORIENTED POLICING: A SYSTEMATIC APPROACH TO POLICING 10–12 (4th ed. 2001) (explaining that policing functions boil down to enforcing the law and maintaining order); Matthew C. Waxman, *National Security Federalism in the Age of Terror*, 64 STAN. L. REV. 289, 304 (2012) (finding that "local police functions include preventing and investigating crime as well as maintaining order, patrolling, and providing services"); Harmon, *Promoting Civil Rights Through Proactive Policing Reform*, *supra* note 9, at 8 ("Instead, [police departments] exist to prevent crime, protect life, enforce law, and maintain order."); Orin S. Kerr, *An Economic Understanding of Search and Seizure Law*, 164 U. PA. L. REV. 591, 598 (2016) ("The modern approach to enforcing criminal laws is through investigations by police officers, detectives, and agents, who are government employees tasked with collecting evidence.").

   15.   A. KEITH BOTTOMLEY & KEN PEASE, CRIME AND PUNISHMENT 42–49 (1994). *See also* GREENE, *supra* note 14, at 182 (citations omitted):

   The clearance rate is used as a measure [of police effectiveness] for a variety of reasons. Most importantly, it provides direct assessment of the goal of 'crime management'—dealing with crime that has occurred and is reported. This measure also reflects the internal goals of police departments and investigators. As such, this measure is highly valued by practitioners.

measure of police performance, we start by asking: Should police performance be measured by how many people police arrest and turn over to prosecutors? If the key is solving crime, we may need more information to determine whether police are effective. Indeed, clearance rates disregard any of the following pieces of information: How many individuals are victims of a crime but failed to report it to police? How often do police arrest the right people? Which crimes are police most likely to make arrests for? How many police clearances result in a conviction? How many crimes did police not make arrests for but resolved in other ways? None of this information is tracked. And on top of that, a reported crime that does not result in an arrest is a failure by police as it lowers the clearance rate.

The questions left unanswered by clearance rates lead us to a new concept that this Article refers to as "criminal accountability." Criminal accountability examines the full course of a crime to determine whether police detect and solve a committed crime—whether by reporting, arresting, convicting, or resolving outside of the criminal justice system. The rate of criminal accountability provides a more comprehensive way to determine the effectiveness of police in the United States.

This Article makes two essential contributions, one empirical and one theoretical. First, it relies on independently analyzed national crime data from the last fifty years to establish empirically that police are ineffective at solving major crimes. It establishes through this analysis that police are much less effective than we might think at solving all major crimes and have not significantly improved in the last thirty years.[16] Second, this Article explores how to best determine whether police are doing a good job, examines the current approach, and considers if there is a better way to measure police effectiveness.

Part I begins with an introductory discussion of the primary approach to tracking police effectiveness—clearance rates. Part I.B defines clearance rates and explores their use as the current measure of police effectiveness. It demonstrates that a crime cleared does not necessarily indicate that the perpetrator has been caught or convicted. A cleared case can mean that a suspect is identified but is later released (thus, the crime is *not* solved), or that a suspect is arrested and then, due to faulty evidence, released, or that the crime *is* solved—but can mean any of the three without any clarity from simply

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Furthermore, clearance data has been systematically collected through the *Uniform Crime Reports* (UCR), permitting long-term trend analysis.

*Id.*; LARRY J. SIEGEL, CRIMINOLOGY: THE CORE 33–34 (7th ed. 2017); JAY ROBERT NASH, DICTIONARY OF CRIME 68 (1992). For a study of clearance rates and police effectiveness, see CHARLES WELLFORD & JAMES CRONIN, AN ANALYSIS OF VARIABLES AFFECTING THE CLEARANCE OF HOMICIDES: A MULTISTATE STUDY (1999). *See generally* WASHINGTON DC: JUSTICE RESEARCH AND STATISTICS ASSOCIATION.

16. *See infra* Appendix Tables 1–8 (showing arrest, clearance, and conviction rates in the last thirty years remaining stable). *But see infra* Figures 4 and 5 (discussing a reduction in crime rates, which may indicate that police have improved).

looking at the statistics.[17] Part I.C explores the challenges of clearance rates as a measure of police effectiveness. These include the reasons for clearance rate errors, including police motivations to exaggerate or misreport, clearance rates advantaging certain groups over others, and the central data points missing in clearance rates. These challenges are important in considering alternatives for measuring police performance. Part I.D introduces the concept of criminal accountability. Clearance rates do not account for the overwhelming number of crimes not reported to police, individuals who are apprehended but not turned over to prosecutors, or crimes resolved without arrest through alternative means. Criminal accountability considers all of these measures and determines police effectiveness in solving crimes.

Part II explores whether criminal accountability constitutes a better way to track police performance, using thirty to fifty years of national data to inform the discussion. Determining the rate of criminal accountability is a complicated endeavor. It includes accounting for the large swath of crimes not reported to police and also considers conviction, incarceration, and other crime resolution rates. Part II.A considers crime reporting more carefully and the discrepancy between "known crimes" and "reported crimes." In simpler terms, it demonstrates empirically the large number of crimes that occur that are not reported to police. Part II.B applies these more complete data metrics to the major crimes (murder, burglary, rape, robbery, etc.) and examines how effective police have been at solving these crimes in the last thirty years. The police effectiveness numbers are surprising and demonstrate that police are worse at solving crime than we may have thought. In uncovering these numbers, this Article does not intend to condemn police or even prosecutors, nor does it intend to recommend any particular remedy to increase reports, arrests, or convictions. There are important reasons why people are not reporting crimes to the police or that police are not arresting individuals, including police practice and strategy, police resource constraints, race and cultural issues, and police accountability. While all of these are (and should be) important considerations in criminal decisions, they are not dissected here. This Article simply reveals the data on police effectiveness for the major crimes and explains how best to measure police effectiveness.

Part III moves beyond the data to discuss the implications of a new measure of police. Part III.B provides insights that may improve the study of police effectiveness and in turn improve criminal accountability. One of these insights includes additional points of data that should be collected each year at local and national levels. It also discusses how we may consider the whole course of crime, improve police reporting rates, and consider arrest and conviction rates in a way that avoids siloing police and prosecutors. This new approach may reduce police incentives to fraudulently report arrest numbers or

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17.  *See* Greene, *supra* note 14, at 182–83.

misrepresent clearance rates. Finally, it addresses counterarguments regarding whether criminal accountability is an improvement to the current approach.

The observations in this Article about police effectiveness may be unsettling. One may not sleep soundly knowing that 97% of burglars, 88% of rapists, and over 50% of murderers get away with their crimes.[18] Indeed, we live in a world where, much more often than not, crimes go unsolved and unaccounted for. This Article operates under the assumption that providing this information will not exacerbate crime but instead motivate a critical conversation.[19]

## I. HOW TO MEASURE POLICE EFFECTIVENESS

To measure the effectiveness of police, we must narrow the police functions we are considering and define the terms used in this Article: "crime" and "solve." We ignore the police function of maintaining public order and focus on the function of preventing and solving crime. Though this could lead to a broader, more complicated, and controversial discussion, for the purposes of this Article, we are concerned with measuring the proportion of major crimes committed that are ultimately solved.[20] The definition of a crime may be ambiguous and involve some debate, but without entering the foray of these debates, this Article relies on the legal definition of a crime. A crime is behavior prohibited by law and subject to criminal sanction under political authority of the state.[21] This Article does not focus on all crime but relies on major crimes, with the presumption that there is little dispute about the need for police involvement in major crimes. The major crimes this Article considers are murder, rape, burglary, robbery, aggravated assault, larceny, and motor vehicle theft.[22]

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18. See *infra* Appendix Table 6 for true conviction rates.

19. Tom Tyler's research is reassuring on this point. TOM TYLER, WHY PEOPLE OBEY THE LAW 57–64 (2006) (finding that people obey the law because it is legitimate, not because they fear punishment).

20. AMERICAN BAR ASSOCIATION, STANDARDS ON URBAN POLICE FUNCTION 1–2.2 (1997), https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/cri mjust_standards_urbanpolice/ (articulating a classic conception of police responsibilities); *see also* HERMAN GOLDSTEIN, POLICING A FREE SOCIETY 21 (1990) ("Anyone attempting to construct a workable definition of the police role will typically come away with old images shattered and with a [newfound] appreciation for the intricacies of police work.").

21. For the purposes of this Article, I adopt the traditional legal definition of a crime. Ronald C. Kramer, *Defining the Concept of Crime: A Humanistic Perspective*, 12 J. SOC. & SOC. WELFARE 469, 470 (1985); Ronald C. Kramer, *The Debate Over the Definition of Crime: Paradigms, Value Judgments, and Criminological Work*, *in* ETHICS, PUBLIC POLICY, AND CRIMINAL JUSTICE 33, 55–57 (N. Browne & F. Elliston eds., 1982) (articulating the debate over the definition of crime).

22. Given that the scope of larceny can vary, larceny may not be a major crime. "The average dollar loss per burglary offense was $2,799 [in 2018]." FBI, CRIME IN THE UNITED STATES, 2018, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/burglary [hereinafter FBI, 2018] (burglary). "The average value of property taken during larceny-thefts was $1,153 per offense [in 2018]."

There are several ways to define solving a crime. One way is to consider a "clearance" a solving of a crime. Clearance involves police arresting an individual and turning them over to prosecution for a reported crime.[23] At this point, arguably, police have done all that they can do and all that is technically in their jurisdiction to do. However, clearance does not mean that police have found the true culprit, so for the purposes of this Article, a clearance is not solving a crime.[24] An acceptable definition for solving a crime could be when a defendant is convicted of a crime.[25] This way, the person who committed the crime is arguably held accountable. Another way to solve a crime would be what I refer to as "resolving a crime," or solving a case without a conviction through alternative means. That is to say, the police know who to hold accountable and hold that person accountable without a traditional conviction. This way to solve or resolve a crime will be discussed in Part I.C, which introduces criminal accountability. So, for purposes of this Article, solving a crime will mean a conviction or resolution by alternative means. I recognize that criminal conviction is not in the hands of police alone; criminal conviction is also impacted by prosecutors and other factors. However, for the purposes of determining whether police are effective and whether clearance rates are accurate, conviction rates must be compared to clearance and arrest rates.

Part I.A goes on to define the most commonly used data point currently used to measure police effectiveness: clearance rates. Part I.B discusses some of the problems with clearance rates as the primary measure of police effectiveness. And finally, Part I.C discusses an alternative measure for police effectiveness: criminal accountability.

## A. Defining Clearance Rates

Now that we have defined the terms used when discussing police effectiveness, we must consider how police effectiveness is measured. There are four key empirical measures of police performance. These are certainly not the best measures but the most common. These four main data points include:

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FBI, 2018, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/larceny-theft (larceny-theft).

23. Floyd Feeney, *Police Clearances: A Poor Way to Measure the Impact of* Miranda *on the Police*, 32 RUTGERS L.J. 1, 11–13 (2000).

24. Parts I.B and I.C give greater insight over why this is the case and deal with some problems with clearance rates.

25. There are sometimes doubts when a person is convicted of a crime as to whether they actually committed that crime as a legal conviction does not mean factual guilt. *See generally* D. Michael Risinger, *Innocents Convicted: An Empirically Justified Factual Wrongful Conviction Rate*, 97 J. CRIM. L. & CRIMINOLOGY 761 (2007).

(1) clearance rates; (2) reported crimes;[26] (3) number of arrests, stop and frisks, and fines; and (4) response time after a call.[27] The fourth measure, response time, is one that deals mostly with maintaining public order and responding to emergencies (some arguably criminal), but nonetheless we do not deal with it here. Similarly, we do not deal with stop and frisk measures, which more directly involve crime prevention.[28] We also do not deal with fines here, even though they have important implications for justice.[29] The other three measures of police performance—arrest rates, clearance rates, and reported crime rates—are critical to the empirical analysis in Part II. The Article turns first to defining the most common measure of police performance: clearance rates.

Clearance rates are a commonly used measure of police effectiveness.[30] As noted above, clearance rates typically refer to crimes reported to police which result in arrest of a suspect who is turned over for prosecution.[31] However, the term is not always defined this way. By some accounts, clearance rates are "[t]he percentage of crimes [solved by arrest] by a police department or a specific division of a police department."[32] Clearance rates are also sometimes referred to as the proportion of recorded offenses that have been "cleared-up."[33] For the purposes of this Article, the relevant definition of clearance rates is the one used by the Federal Bureau of Investigation. The FBI tracks clearance rates by the nation's police departments.

The official FBI definition of clearance rates includes offenses cleared by arrest or by exceptional means.[34] These are two distinct ways to clear a crime. The first (and what should be the most common way) is by arrest. To clear a crime by arrest, a crime must fulfill three specific conditions according to the

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26. Malcom K. Sparrow, *Measuring Performance in a Modern Police Organization*, NAT'L INST. JUST. 2 (Mar. 2015) (Police are most measured by "[r]eductions in the number of serious crimes reported, most commonly presented as local comparisons against an immediately preceding time period.").

27. ANTON MASLOV, MEASURING THE PERFORMANCE OF THE POLICE: THE PERSPECTIVE OF THE PUBLIC 1 (2015); Sparrow, *supra* note 26, at 2.

28. *See generally* Barry Friedman & Elizabeth Janszky, *Policing's Information Problem* (L. & Econ. Rsch. Paper Series, Working Paper No. 19-33, 2019) (arguing that we have not measured the impact policing practices have on individuals and need more information on the provision of public safety). Indeed, we should be careful because police overfocusing on their duty to solve crimes may cause a disconnect between police and public that could result in police becoming less effective at preventing crime. Debra Livingston, *Police Discretion and the Quality of Life in Public Places: Court, Communities, and the New Policing*, 97 Colum. L. Rev. 551, 631–32 (1997).

29. *See* Timbs v. Indiana, 139 S. Ct. 682, 686–91 (2019) (holding that excessive fines violate the Eighth Amendment).

30. Greene, *supra* note 14; *see also* DEAN J. CHAMPION, THE AMERICAN DICTIONARY OF CRIMINAL JUSTICE 46 (3d ed. 2005).

31. CHAMPION, *supra* note 30, at 46.

32. NASH, *supra* note 15, at 68; *see also* GREENE, *supra* note 14, at 182.

33. BOTTOMLEY & PEASE, *supra* note 15, at 42.

34. FBI, CRIME IN THE UNITED STATES, 2017 [hereinafter FBI, 2017], https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/clearances (clearances).

FBI: at least one person must be (1) arrested, (2) charged with the commission of the offense, and (3) turned over to the court for prosecution (whether following arrest, by court summons, or by police notice).[35] It is important to note that clearance rates are different from arrest rates, because to clear a crime, there must be an arrest, a charge, *and* turning over of the case to prosecution. This is not the only way to clear a crime, however.

According to the FBI, the second way police can clear a crime is by "exceptional means." Exceptional means is basically an exception to arrest that allows police to clear a crime. It is supposed to encompass situations when the police have done all they can do but cannot obtain a suspect, despite their best efforts.[36] For a law enforcement agency to clear a crime by exceptional means under FBI standards, the law enforcement agency must have done all of the following:

- Identified the offender.
- Gathered enough evidence to support an arrest, make a charge, and turn over the offender to the court for prosecution.
- Identified the offender's exact location so that the suspect could be taken into custody immediately.
- Encountered a circumstance outside the control of law enforcement that prohibits the agency from arresting, charging, and prosecuting the offender.[37]

Examples of exceptional means are where the offender is killed, "the victim[] refus[es] to cooperate . . . after the offender has been identified[,]" or the offender cannot be extradited from a foreign jurisdiction.[38] There are key differences between crimes cleared by arrest and those cleared by exceptional means.[39] Again, this should be the less common way to clear a crime and an exception to the primary method: arrest. However, as discussed in the next Subpart, this exception is exploited to inflate police clearance rates.

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35.  *Id.*

36.  *Id.* According to the FBI, crimes can be cleared by exceptional means when "elements beyond law enforcement's control prevent the agency from arresting and formally charging the offender." *Id.*

37.  *Id.*

38.  *Id.*

39.  John P. Jarvis & Wendy C. Regoeczi, *Homicides Clearances: An Analysis of Arrest Versus Exceptional Outcomes*, 13(2) HOMICIDE STUD. 174, 183–86 (2009). Jarvis and Regoeczi completed a study comparing arrest versus exceptional clearance outcomes that identified important implications for measuring clearance rates. The study used data from the FBI's National Incident-Based Reporting System (NIBRS) to "analyze all incidents of murder and nonnegligent manslaughter reported . . . between 1996 and 2002." *Id.* at 179. The NIBRS data was employed in a logistic regression analysis to examine the impact of independent variables, such as victim characteristics or weapon use, on the outcome variable of cases cleared by arrest or exceptionally cleared. *Id.* at 180–81. The study concluded that "a number of factors . . . influence the clearance categories differently," and "that exceptional clearances are not simply a residual category of clearance outcomes that may be either included or excluded at the discretion of the policing agency or the researcher." *Id.* at 183, 186.

## B. The Problems of Clearance Rates

Clearance rates, alone, are not an effective measure of police performance. They miss critical data points, as discussed more fully in the next Subpart.[40] Aside from the incompleteness of clearance rates, there are other problems with relying on clearance rates to measure police performance. This Subpart discusses the various problems with accuracy of clearance rates. First, clearance rates are not accurately measured from year to year. Second, they are not a useful measure of police performance and effectiveness unless they take into account the specific characteristics of the jurisdiction and crime under consideration. Third, clearance rates may lead police to overemphasize arrest rather than other ways to deal with crime or to focus on arrests of some crimes over others.[41] Finally, clearance rates can be manipulated by police or even fraudulently collected to distort the appearance of criminal activity in the jurisdiction.

Clearance rates are often not accurately measured from year to year.[42] Clearance rates are rarely comprehensive or accurate.[43] Some claim they are not useful data points.[44] Clearance rates can also be manipulated because of the ability of law enforcement officers to double count clearances and report clearance upon warrants for arrest.[45] Specifically, murders that occur in a prior year and are solved in the current year count toward the current year's clearance

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40. Clearance rates are difficult to measure accurately, so they may receive less emphasis. *See* Sparrow, *supra* note 26, at 18–19.

41. Even though we are dealing with major crimes and there is an argument that all of them should lead to arrest and conviction, there are some victims that are not interested in working with police toward that outcome, even with violent crimes. LYNN LANGTON ET AL., DEP'T OF JUST., VICTIMIZATIONS NOT REPORTED TO THE POLICE, 2006–2010, at 2 (Aug. 2012).

42. William Gregory Kennedy, The Impact of Police Agency Size on Crime Clearance Rates 56 (2009) (Ph.D. dissertation, Univ. N.C. at Charlotte) (https://pdfs.semanticscholar.org/ef68/be7e585cf7a0c83fec2b a2ed9249d93f4e79.pdf) ("[T]he use of clearance rates is not without issues and there have been several concerns about the validity of their use. A major concern is that clearance rates may not be very accurate. In many instances, clearance rates can be either artificially improved or they can be misleading[ly] low."); *see also* GREENE, *supra* note 14, at 182; Jeff Asher & Ben Horwitz, *The Missing Numbers in Preventing Murders*, N.Y. TIMES (Aug. 28, 2019), https://www.nytimes.com/2019/08/28/upshot/preventing-murders-missing-data .html.

43. Kennedy, *supra* note 42, at 56; GREENE, *supra* note 14, at 182; Asher & Horwitz, *supra* note 42.

44. This is because police forces employ different methods of measuring clearance rates. *See* MASLOV, *supra* note 27, at 10 (studying performance of police in the U.S., Canada, and Europe, and finding that, although clearance rates are a classic mechanism to measure police performance, "[they are] prone to definition and measurement errors, making cross-comparisons difficult").

45. Matthew Clarke, *U.S. Murder Clearance Rates Among Lowest in the World*, CRIM. LEGAL NEWS, Mar. 2018, at 22; *see also* Kevin Rector, *2017 Homicide Data Provide Insight into Baltimore's Gun Wars, Police Say*, THE BALT. SUN (Jan. 3, 2018), https://www.baltimoresun.com/news/crime/bs-md-ci-2017-homicide-data-breakdown-20180103-story.html (claiming that, in part, cases closed by exception and cases closed in previous years allowed the Baltimore Police Department to raise clearance rates from 30% in 2015 to over 50% in 2017). See *infra* note 83 for further evidence of Baltimore's clearance manipulation.

rate, which can skew numbers.[46] Also, in New Orleans, a warrant issued in one year and an arrest in the following year allow a murder to count as being "cleared twice."[47] Taking this discrepancy into account, the reported clearance rate for murder in New Orleans in 2016 was 41%, but should actually have been 29.9%.[48]

Clearance rates may lead to an overfocus on arrests and on certain crimes over others. Clearance rates may change in response to police departments "trying to create incentives for individual officers to control crime."[49] Using clearance rates as a job performance measure may actually encourage officers to value making more arrests, not necessarily solving crimes.[50] Police may also be incentivized to arrest an individual when other avenues of crime-solving may be more appropriate or lead to a better result. Prosecutors sometimes pressure police to arrest individuals in certain cases, adding to the problem. A police officer is less likely to work out restorative outcomes with victims and perpetrators if the officer is measured by the number of arrests in relation to the number of reports brought into the office.[51] Police may also focus on certain crimes to protect clearance numbers, when other crimes pose an equal threat to the public. For instance, police may be overfocused on gun violence resulting in death. However, victims report nonfatal gunfire incidents at significantly lower rates,[52] and less than a third of all shooting victims die.[53] If a police department solves only fatal shootings at a high percentage, a significant segment of gun violence cases will remain unsolved. While it is understandable that police emphasize fatal over nonfatal shootings, whether a shooting results in a death is largely a matter of chance.[54] Police may also prioritize murders

46.    Asher & Horwitz, *supra* note 42.

47.    Clarke, *supra* note 45, at 22.

48.    *Id.* "[T]he official murder clearance rate issued by the New Orleans police for 2016 is 41.0%, but the actual percentage of 2016 murders cleared is 29.9%, or 52 of the 174 murders that occurred in the city in 2016." *Id.*

49.    Richard H. McAdams, *The Political Economy of Entrapment,* 96 J. OF CRIM. LAW & CRIMINOLOGY 107, 132 (2005).

50.    *Id.* at 132–33. Indeed, the studies demonstrate that most crimes are not cleared and police do a lot unrelated to solving crimes. GREENE, *supra* note 14, at 183–84.

51.    *See* McAdams, *supra* note 48, at 132 (discussing arrest rates as a metric by which to judge police performance).

52.    *See* Jillian B. Carr & Jennifer L. Doleac, *The Geography, Incidence, and Underreporting of Gun Violence: New Evidence Using Shotspotter Data,* BROOKINGS INST., 1, 2 (Apr. 27, 2016), https://www.brookings.edu/wp-content/uploads/2016/07/Carr_Doleac_gunfire_underreporting.pdf.

53.    Jeff Asher, *Why Are Shootings Deadlier in Some Cities Than Others?,* FIVETHIRTYEIGHT (Feb. 21, 2017), https://fivethirtyeight.com/features/why-are-shootings-deadlier-in-some-cities-than-others.

54.    *Id.*

involving white victims and perpetrators; however, according to one study, 75% of unsolved murders involved African-American victims.[55]

In order to be useful, clearance rates may have to be adjusted based on jurisdictional and incident characteristics.[56] Without these adjustments, clearance rates alone are not a fair or appropriate measure of police effectiveness. For instance, one study of eighty-five law enforcement agencies considered variables such as police workload, firearm use, distant victim-offender relationship, and low visibility/exposure incident time.[57] The study concluded that raw homicide clearance rates do not accurately measure police performance because an increase in those incident and jurisdictional variables, especially those impeding collection of evidence or increasing workloads, may lower clearance rates despite being out of police control.[58] Clearance rates without adjustments based on jurisdictional and incident characteristics are incomplete measures of police performance.

Variations in how clearance rates are recorded by individual police departments make it difficult to compare agencies with each other.[59] Agencies also define arrest differently, making it even more problematic to track clearance rates between agencies.[60] Particular local practices are cited as offensive distortions of murder clearance rates. While in New Orleans, police consider a murder cleared when a suspect is identified and a warrant is issued for arrest, the FBI does not recognize issuing warrants as clearance of a crime.[61] Additionally, Columbus, Ohio reportedly used "warrant clearance" for homicides to improve numbers. Columbus had an official clearance rate for murders of 41% but an adjusted clearance rate of only 34% when taking into account warrant clearances.[62] These sorts of misrepresentations in reporting can make police departments appear to be solving more crimes than they actually are.

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55.  Asher & Horwitz, *supra* note 42 ("The Washington Post reviewed almost 55,000 murders in America's largest cities over the last decade. Nearly 26,000 of those murders were unsolved, and about 75 percent of the victims were African-Americans in these unsolved cases.").

56.  Aki Roberts, *Adjusting Rates of Homicide Clearance by Arrest for Investigation Difficulty: Modeling Incident- and Jurisdiction-Level Obstacles*, 19(3) HOMICIDE STUD. 273, 274 (2015). Roberts argues that adjusted homicide clearance rates better measure police agency performance than raw rates because the adjusted level accounts for jurisdictional and incident characteristics related to investigation of crimes. *Id.* at 293. The study "calculate[d] difficulty-adjusted homicide clearance measures and rates for 85 U.S. [law enforcement] agencies" to create "a multi-level logistic regression model that examines incident- and jurisdiction-level variables as predictors of homicide clearance." *Id.* at 279.

57.  *Id.* at 281–82.

58.  *Id.* at 292–94.

59.  GREENE, *supra* note 14, at 183.

60.  *Id.* at 183; LAWRENCE SHERMAN & BARRY GLICK, NAT'L. CRIM. JUST. REF. SERV., 2 POLICE FOUNDATION REPORTS: THE QUALITY OF POLICE ARREST STATISTICS 1, 2 (1984).

61.  Clarke, *supra* note 45, at 22.

62.  *Id.*

There is intense pressure in certain police departments to pad or even falsify clearance rate numbers—either internally or to the FBI. Even police funding is linked to crime clearance and could lead to both over-arresting and manipulation of rates.[63] In New Orleans, the police department reported a murder clearance rate of 15% to the FBI in 2012, but the department's internal records indicate a murder clearance rate of over 45% that year.[64] Another study indicated that the reported 94% clearance rate of the Tulare Police Department in California was incorrect, and that the number was closer to 70% in some years and 50% in other years.[65] Particular clearance rate numbers may be called into question due to the incentives that commanding officers or public officials may give to police officers. For example, officers from Biscayne Park in Miami, Florida admitted to targeting random individuals with charges in order to improve the department's clearance rate.[66] Commanding officers at the Biscayne Park Police Department allegedly told police officers to pin random blacks for open cases such as burglaries in order to close the cases and improve clearance rates.[67] One police chief in particular had a record of 29 out of 30 burglary cases solved during his tenure as chief, but 0 out of 19 cases solved the year following his departure.[68] Out of the burglary arrests documented, nearly all involved black males, and in some cases, the prosecution simply dropped the charges after the Biscayne police failed to cooperate.[69]

Similarly, in Los Angeles, police allegedly misclassified cases to manipulate clearance rates. The Los Angeles Police Department (LAPD) has had a number of high-ranking officers charged with purposefully misclassifying cases as less serious offenses in order to manipulate public outlook.[70] In particular, police underreported aggravated assaults in 2016 and 2017 by about 10% and

63.    A source indicated that this may be the case in Alabama and potentially other states, though it is difficult to verify without additional research. Comment from Jenny E. Carroll, Professor of Law, University of Alabama School of Law, to author (Mar. 2020) (on file with the author).

64.    Asher & Horwitz, *supra* note 42 (noting that a 2012 report from New Orleans to the FBI indicated a murder clearance rate of 15%, while the New Orleans Police Department actually cleared at least 45% of its murder cases that year).

65.    Eric Witzig, *Murder Clearance Rates Decline at Most Major Police Agencies*, MURDER ACCOUNTABILITY PROJECT 1, 3–4 (June 12, 2017), http://www.gutnviolence.issuelab.org/resources/27695/27695.pdf (reporting that a source close to the Tulare County Sheriff's Department indicated "that the data reported to the FBI were incorrect," and finding that, instead of a 94% clearance rate in the last decade, the county had "an average clearance rate of 70% for the last two and a half years and about a 50% clearance rate for the decade before that").

66.    Charles Rabin et al., *The Chief Wanted Perfect States, So Cops Were Told to Pin Crimes on Black People*, *Probe Found*, MIAMI HERALD (July 12, 2018), https://www.miamiherald.com/news/local/crime/article21364 7764.html.

67.    *Id.*

68.    *Id.*

69.    *Id.*

70.    Matt Hamilton, *LAPD Captain Accuses Department of Twisting Crime Statistics to Make City Seem Safer*, L.A. TIMES (Nov. 6, 2017), http://www.latimes.com/local/lanow/la-me-ln-lapd-crime-stats-claim-20171103-story.html.

misclassified them as less serious offenses.[71] Another report documented the LAPD's misclassification of nearly 1,200 violent crimes in a one-year span that ended in September 2013. The 2013 report found that if the LAPD correctly classified the numerous beatings, stabbings, and robberies as aggravated assaults, then the rates for aggravated assault would have been nearly 14% higher.[72] It turns out that the LAPD misclassified nearly 14,000 aggravated assaults as lesser offenses, effectively lowering the violent crime rate by 7% and the serious assault rate by 16% for the period of 2005 to fall of 2012.[73] Indeed, an LAPD internal audit in 2015 estimated a misclassification of over 25,000 crimes from 2008 to 2014.[74]

In yet more underreporting, it seems that Chicago has also majorly underreported violent crimes to skew perceptions of public safety.[75] In a twelve-month study from 2013, individuals "who were beaten, burned," or shot were "downgraded to more minor crimes . . . for. . . unclear reasons."[76] Some crimes actually disappeared from the police records.[77] During this period, Chicago experienced a "dramatic crime reduction," while the department also curiously lost many officers.[78] An independent city audit in 2012 found that the Chicago Police Department "undercounted aggravated assaults and batteries by more than 24 percent" during this period.[79] Indeed, police misreporting clearance rates can dramatically change public perceptions of police effectiveness.

Many agencies across the country also use the cleared-by-exceptional-means category to misrepresent clearance rates. Police departments can use exceptional means to report crimes in the cleared category because they are often not considered separately. The majority of police reporting systems (more than 60%) still do not require agencies to declare *how many* of their cases are

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71.   *Id.* (noting that Commanding Officer Carranza, who lodged the complaint, conducted an analysis that closely mirrored a report the *Los Angeles Times* wrote documenting massive misclassification of aggravated assaults).

72.   Ben Poston & Joel Rubin, *Times Investigation: LAPD Misclassified Nearly 1,200 Violent Crimes as Minor Offenses*, L.A. TIMES (Aug. 9, 2014), https://www.latimes.com/local/la-me-crimestats-lapd-20140810-story.html.

73.   Hamilton, *supra* note 70.

74.   Ben Poston & Joel Rubin, *LAPD Misclassified More than 25,000 Serious Crimes as Minor, Audit Finds*, L.A. TIMES (Dec. 5, 2015), https://www.latimes.com/local/crime/la-me-lapd-audit-20151206-story.html.

75.   David Bernstein & Noah Isackson, *The Truth About Chicago's Crime Rates*, CHI. MAG. (May 2014), https://www.latimes.com/local/la-me-crimestats-lapd-20140810-story.html.

76.   *Id.* Shockingly, the study "identified 10 people . . . who were beaten, burned, suffocated, or shot to death in 2013 and whose cases were reclassified as death investigations, downgraded to more minor crimes, or even closed as noncriminal incidents—all for illogical or, at best, unclear reasons." *Id.*

77.   *Id.* (explaining that Chicago's crime statistics were altered, as murders and "dozens of other crimes . . . were misclassified, downgraded to wrist-slap offenses, or made to vanish altogether").

78.   *Id.*

79.   *Id.*

cleared by exceptional means.[80] One study compared the FBI Uniform Crime Report (UCR) numbers with those of the FBI's National Incident-Based Reporting Systems (NIBRS), which does require law enforcement to disclose arrests and exceptional clearances separately, demonstrating overinflated clearance rate numbers.[81] A study compared rape data from 103 national police agencies to see whether clearance rates were accurate.[82] It compared how many rape cases were resolved by arrest or exceptional means against total rape counts and asked agencies to explain the difference. The study found that "[a]cross the country, dozens of law enforcement agencies are making it appear as though they have solved a significant share of their rape cases when they simply have closed them . . . ."[83] This is because the agencies declare cases as cleared through exceptional means "when they have enough evidence to make an arrest and know who and where the suspect is, but can't make an arrest for reasons outside their control."[84] Specifically, the study found that "[n]early half of the law enforcement agencies that provided records cleared more rapes through exceptional means than by actually arresting a suspect in 2016 . . . ."[85] Around a dozen police departments that gave reporting information included twice as many exceptional clearances than arrests, resulting in agencies reporting nearly three times as many solved rape cases as compared to actual arrests.[86] One extreme example was the Baltimore County Police Department, which reported a 70% clearance rate for rape cases in 2016 but only made

80. Mark Fahey, *How We Analyzed Rape Clearance Rates*, PROPUBLICA (Nov. 15, 2018), https://www.propublica.org/article/how-we-analyzed-rape-clearance-rates ("More than 60 percent of law enforcement agencies reporting to the UCR program still use the older summary system, which does not distinguish between the two types of clearance."). This article sought "to uncover the arrest and exceptional clearance rates previously hidden from the public by requesting data from police internal case management systems." *Id.*

81. *Id.* NIBRS aims to provide more detailed information about the incidents cleared by police. *See* FBI, NATIONAL INCIDENT-BASED REPORTING SYSTEM (NIBRS), https://www.fbi.gov/services/cjis/ucr/nibrs.

82. Fahey, *supra* note 80. Authors sent requests under state open-records law to 103 different agencies, 77 of which were summary UCR reporters and 26 were NIBRS reporters. Roughly 70 responses were received, though some responses were missing some data. Not all agencies were willing to communicate, but from those that did the study was able to

> identif[y] the fields that contained case dispositions, including those that aligned with arrests and exceptional clearances, and calculated clearance rates by dividing the total number of cases cleared by arrest and exceptional means in the data by the total number of what the FBI calls 'actual' rapes—reported rapes minus any unfounded cases.

*Id.*

83. Bernice Yeung et al., *When It Comes to Rape, Just Because a Case Is Cleared Doesn't Mean It's Solved*, PROPUBLICA (Nov. 15, 2018), https://www.propublica.org/article/when-it-comes-to-rape-just-because-a-case-is-cleared-does-not-mean-solved.

84. *Id.*

85. *Id.*

86. *Id.*

arrests about 30% of the time.[87] Rather than using exceptional means as a minor exception, some police departments are using it as a way to inflate clearance numbers.

In sum, clearance rates provide an imperfect measure of police effectiveness, as they are difficult to measure accurately and may be exaggerated. They may lead to police incentives to arrest individuals rather than deal with crimes in alternative ways. Rather than focusing on improving public safety, police may be motivated to make certain arrests over others to help clearance numbers. Police may also be motivated to make crimes appear solved when they are actually not.

A meaningful evaluation of police effectiveness will require attention to other measures. This is not to say that clearance rates are irrelevant. Although clearance rates may not provide a full picture, they do give us good insight into how much crime police solve. Other factors are also important in determining whether police are effective, as discussed in the next Subpart.

### C. *"Criminal Accountability": Police Effectiveness at Solving Crime*

The classic measures of police effectiveness are missing several data points. These classic measures include clearance rates, "reported crimes," and arrest rates.[88] A clearance rate is an important—albeit flawed—measure of police effectiveness. As previously discussed, clearance rates consider the proportion of crimes reported to police that are followed by an arrest and referral to prosecution.[89] Reported crimes consider how often people report crimes to police and are important in determining the level of public trust in police. Arrest rates are integral in determining clearance rates, as arrest is a prerequisite to clearance. To be clear, there is currently no national systematic way that all three of these data points are used to measure police performance.[90] These three measures will be introduced to measure police effectiveness along with four additional data points: known crimes, conviction rates, imprisonment rates, and crime resolution rates. This constitutes the first attempt at creating a criminal accountability measure that includes seven data points.

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87.  *Id.* As evidence of the possible negative effects of clearing rape incidents by exceptional means, the study cites an unfortunate incident involving a thirteen-year-old girl whose case was referred to and closed by the Baltimore County Police Department. The department closed her case by exceptional means despite police never interviewing the suspect or attempting to arrest him simply because the detective had not heard back from the girl. The suspect went on to be accused of raping another underage girl in Wisconsin. *Id.*

88.  *See* Sparrow, *supra* note 26, at 17–18.

89.  Crimes cleared by exceptional means are also part of this consideration. These should be a small number of crimes in which police are unable to make arrests for reasons out of their control. However, as we see in Part I.A, this is an exception that sometimes swallows the rule.

90.  *See* Jarvis & Regoeczi, *supra* note 39.

Acknowledging up front that there is no perfect measure to judge police, this Article undertakes the task of creating one that is better than the classic measure. The term criminal accountability refers to the overall measure of police effectiveness at solving crime. It attempts to consider the entire course of a crime and in doing so considers seven data points. It considers what happens before a crime is reported to police and after police clear a crime. Criminal accountability considers all of the data from the time a crime occurs (or is known to the public) to when a person is imprisoned or a crime is resolved in an alternative way. Currently, we are not recording, in any nationally coordinated way, the complete sequence of a crime. Police departments are typically not considering at all the following four data points: known crimes, conviction rates, imprisonment rates, and resolved crime rates. Two of these measures are new ones—known crimes and resolved crimes. The next Subparts consider each of the four measures in order.

### 1. Known Crimes

Many crimes that occur will never result in police reports. Simply put, the victim never reports the crime to police. These are what this Article refers to as "known crimes." These crimes are discovered because people admit in confidential surveys that they have been a victim of a particular crime in a given year but never report these crimes to police.[91] These national victims' surveys may provide a better measure of how many crimes are actually known to have occurred than the number of crimes reported to police.[92] These surveys demonstrate that quite a large percentage of crimes are not reported. The intricacies of this reporting are discussed in Part II.A. We acknowledge as well that some crimes may never be reported to anyone and remain unaccounted for.

When a crime is not reported, it is important for police to consider why it is not reported. The crimes reported to police are referred to as reported crimes.[93] There are many reasons why individuals may not report a crime to the

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91. *See* OFF. JUST. PROGRAMS, DEP'T OF JUST., DATA COLLECTION: NATIONAL CRIME VICTIMIZATION SURVEY (NCVS), https://www.bjs.gov/index.cfm?ty=dcdetail&iid=245.

92. While it is unclear whether NCVS or UCR numbers are more accurate, it may be assumed that NCVS numbers provide a more accurate picture of crime. *See* Marvin E. Wolfgang, *Uniform Crime Reports: A Critical Appraisal*, 111 U. PA. L. REV. 708, 715 (1963) ("Perhaps a more damaging and direct criticism of the UCR is the fact that the number of crimes recorded as 'known to the police' may be only a proportion of the crimes actually known to them.").

> While the goal of the NCVS and UCR data is to provide an accurate picture of violent and
> property crime in America, one needs to be mindful that they cover distinct subsets of crime. . . .
> NCVS counts of violent and property crime tend to be far higher than the UCR measures.

*See also* John J. Donohue, *Comey, Trump, and the Puzzling Pattern of Crime in 2015 and Beyond*, 117 COLUM. L. REV. 1297, 1304 (2017)

93. See *infra* Part II.A for a complete discussion of reported crimes.

police. The individual may: (1) fear that police will not address the problem; (2) feel police are ineffective;[94] (3) fear retribution, blaming, or charges by police for their own behavior; or (4) fear reporting a crime to police will somehow make their situation or even the perpetrator's situation worse.[95] The victim of a larceny, for instance, may not want the perpetrator of the crime to be arrested but may just want her iPhone back. A rape victim who was using drugs before the rape may not want to report the rape for fear that the police will file drug charges against him. A study of violent crime between 1994 and 2010 revealed that individuals who did not report their crimes to police dealt with them in three main ways. The majority of individuals (between 30%–40%) dealt with the crime independently, as they considered it a "personal matter."[96] Another 20% or so did not report the crime because the victim felt it was not important enough to report to police.[97] And finally, about 30%–40% of individuals did not report because they believed that police would not or could not help, feared reprisal, or feared getting the offender in trouble if they reported.[98] We acknowledge here that 100% reporting of crime to police is not our goal. Given that some people do not report to police because they chose to address crimes personally, it is possible that a portion of crimes may best be mediated or resolved individually without the assistance of police. Still, it is important to track the reasons people fail to report to police, particularly when individuals fail to report because they fear police will not help or fear that reporting will make their situation worse. The factors that go into why an individual does not report a crime are important; if police understood the reasons, they may be able to make improvements.

Police could potentially improve the way they handle crime or community perceptions to increase reporting rates. When the public perceives police as a part of the community, rather than an outside force, crime reporting becomes more natural.[99] When individuals trust that police follow fair processes, they are

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94.    A 2006–2010 study demonstrated that, when it came to burglary, motor vehicle theft, and theft, 36% of people did not report to the police because they believed that the police could not or would not help. LANGTON ET AL., *supra* note 41, at 4. Another 15% dealt with the crime in another way. *Id.*

95.    *See id.* at 1–3; *see also* GOLDSTEIN, *supra* note 20, at 30–31. Particularly in heavily policed, low-income communities, victims may worry about what happens when the police get involved, and this could be a major deterrent to reporting. This might have to do with police-community relationships, but it may also have to do with different understandings of the criminal system and its costs.

96.    LANGTON ET AL., *supra* note 41, at 2.

97.    *Id.*

98.    *Id.* The percentage of violent crime victimizations not reported, because the victim believed the police would not or could not help, doubled from 1994 to 2010. *Id.*

99.    *See* Tom R. Tyler, *From Harm Reduction to Community Engagement: Redefining the Goals of American Policing in the Twenty-First Century*, 111 NW. U. L. REV. 1537, 1549 (2017) ("[T]he police could use this discretion to lower the rates of investigatory contact with the public, particularly the large portions of the public not involved in serious criminal activity.").

much more likely to report crimes to police.[100] It is possible that changes in police practice and policy could lead to more trust and in turn result in people feeling more comfortable to report crimes.[101] A desire for restitution rather than arrest and punishment may also be a reason why people do not turn to police when a crime has been committed.[102] Police using discretion not to arrest may also improve reporting rates. Police should not be responsible for individuals' choices not to report crimes or for their refusal to help convict perpetrators. These situations should be accounted for. The focus of police should be on systematically improving reporting numbers, which will increase when there is more trust of police in a community. Improved police relationships should eventually lead to more crime reporting and higher criminal accountability overall.

Comparing known crime numbers with reported numbers helps validate the accuracy of police reporting. There have been instances where police report a crime in a way to make their community seem safer—by underrepresenting violent crime or classifying a serious crime as a minor one.[103] If we consider both reported crimes and known crimes, this can be mitigated because we can cross-check these crime reports to hold police accountable. Police may be less likely to underreport violent crime if they expect that known crimes will be considered alongside reported crimes. Police departments could also consider

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100. Tom Tyler's research demonstrates that when communities believe that police follow fair processes when exercising authority, individuals are more likely to cooperate with police. *See* Jason Sunshine & Tom Tyler, *The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing*, 37 L. & SOC'Y REV. 513, 519–36 (2003) (explaining that procedural justice is the term given to represent the community's perceptions of legitimacy, which is based primarily on concerns about the fairness of processes that police follow when exercising authority); *see also* Tom R. Tyler & Jeffrey Fagan, *Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities?*, 6 OHIO ST. J. CRIM. L. 231, 267 (2008) (interviewing individuals both before and after their personal experiences with police, and finding empirical evidence supporting their conclusion that "[c]ooperation increases not only when the public views the police as effective in controlling crime and maintaining social order, but also when citizens see the police as legitimate authorities").

101. *See* Anthony A. Braga & Desiree Dusseault, *Can Homicide Detectives Improve Homicide Clearance Rates?*, 64 CRIME & DELINQUENCY 283, 305–06 (2018) (showing how, with interventions, Boston's clearance rate improved between 10% and 20% over a few years); *see also* Anthony Williams, *Police Aren't Getting Better at Solving Murders*, BLOOMBERG CITYLAB (June 26, 2017), https://www.citylab.com/equity/2017/06/police-arent-getting-better-at-solving-murders/531642) (discussing Santa Ana's increase in homicide clearance from 28% in 1993 to 83% in 2012).

102. *See* R. Barry Ruback, *The Benefits and Costs of Economic Sanctions: Considering the Victim, the Offender, and Society*, 99 MINN. L. REV. 1779, 1791 (2015) ("[M]any scholars and practitioners alike support restitution because it forces offenders to confront the harms they caused victims, makes them responsible for correcting those harms, and gives them a sense of accomplishment when they have paid the restitution."). In that same line of thinking, there is research that suggests "victims prefer restitution from the offender overcompensation from the state because restitution means that the offender must acknowledge the harm that was inflicted." *Id.*; *see also* Stephen P. Garvey, *Punishment as Atonement*, 46 UCLA L. REV. 1801, 1846 (1999) ("Victims do indeed rightly desire . . . restitution for the harm they've suffered.").

103. *See* Poston & Rubin, *supra* note 72; Poston et al., *supra* note 74; Bernstein & Isackson, *supra* note 75. Underreports of violent crimes are less likely to happen if we expect to compare NCVS data with police reports.

all of the reasons individuals do not report crimes to the police and work hard to improve reporting numbers. Indeed, a victim is more likely to report a crime if she believes that police can and will address it.[104] Part II.B addresses the issue of reported versus known crimes in more detail. For now, it is sufficient to simply acknowledge that known crimes are an important indicator of police effectiveness.

### 2. *Conviction Rates*

A key aspect of measuring police effectiveness is tracking national rates of conviction. While police are certainly not to be held singularly accountable for conviction rates, they are a key piece of data for measuring police effectiveness. In order to determine if arrest rates are accurate, it is best to simultaneously consider conviction rates. As demonstrated in Part I.C, many police departments have manipulated and fraudulently reported higher clearance numbers than are accurate.[105] Police cannot manipulate convictions in quite the same way because a person is either convicted of a crime or not. It is not like clearance where police can use the exceptional means exception,[106] double count clearances for a given year,[107] or claim that arrest warrants are equal to clearance.[108] A conviction is something that only happens once for a particular crime. Certainly police have less to do with conviction than prosecutors,[109] but it is important to know how many police arrests lead to convictions.

There are two reasons to track convictions as a measure of police performance. First, if police are pressured to arrest more individuals to increase clearance rate numbers, the conviction rate in a jurisdiction will likely be much lower than what is typical.[110] If this is the case, it will be an indication that a police department should evaluate arresting practices and policies to investigate properly before an arrest. It can also indicate that the department is under too much pressure from leadership to arrest individuals and that the department

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104. *See* LANGTON ET AL., *supra* note 41, at 8.

105. *See supra* notes 70–79 (discussing Los Angeles and Chicago police departments).

106. This can be a major loophole for police to clear crimes that are not actually resolved. *See* Fahey, *supra* note 80.

107. *See* Clarke, *supra* note 45. It is not possible to double count clearance rates if police have to reconcile arrest, clearance, and conviction rates.

108. *See* BOTTOMLEY & PEASE, *supra* note 15; FBI 2017, *supra* note 34.

109. Prosecutors' decisions and behavior are integral to criminal justice. For a broader discussion of how prosecutors fit in criminal justice decision-making, see Shima B. Baughman, *Subconstitutional Checks*, 92 NOTRE DAME L. REV. 1071, 1108–21 (2017).

110. And yet there are also plenty of other reasons that conviction rates may vary by jurisdiction. For instance, some jurisdictions require a guilty plea for diversion, and others do not. *See* Shaila Dwan & Andrew W. Lehren, *No Money, No Mercy: After a Crime, The Price of a Second Chance*, N.Y. TIMES (Dec. 12, 2016), https://www.nytimes.com/2016/12/12/us/crime-criminal-justice-reform-diversion.html. Some prosecutors' offices are more committed to convictions than others.

may be over-arresting or not as careful in arresting the right individuals. Police are not provided the best incentives when they fail to consider conviction rates. When conviction (rather than clearance) is the goal, police concerns for Fourth Amendment compliance are improved, especially in drug cases. [111] Focusing on arrest, clearance, *and* conviction may reduce the current incentive in some police departments to arrest random individuals just to improve clearance.[112] Also, as with clearance rates, it is important to consider unique jurisdictional characteristics—like workload or incident time—to ensure that police are judged fairly on all of these measures.[113]

Second, wrongful convictions can result if police arrest without proper evidence and prosecutors continue to convict based on the same flawed evidence. The enormous pressure on police to arrest individuals—particularly after a violent crime—can lead to wrongful convictions.[114] It is important to remember that crime is difficult to solve. Police are working hard and yet are not solving most crimes.[115] With this realization, there should be a decreased emphasis on arrest and clearance to mitigate bad police incentives that result in convicting the wrong people. The appropriate measurement should be to convict a higher percentage of the individuals arrested and cleared so that clearance is not the end goal. This is not to say that prosecutors should convict all of the people police arrest or that they should increase arrest rates or even conviction rates. However, in judging police, it is important to consider the percentage of defendants convicted as compared to those arrested and cleared. This percentage should be higher where police are careful in arresting the right people.

### 3. Imprisonment Rates

Imprisonment rates are also important in tracking overall criminal accountability. Imprisonment rates have very little to do with police effectiveness; however, in order to meaningfully track criminal accountability, the final metric must be imprisonment. A smaller percentage of people who are

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111.   *See* JEROME H. SKOLNICK, JUSTICE WITHOUT TRIAL: LAW ENFORCEMENT IN DEMOCRATIC SOCIETY 253 (4th ed. 2011).

112.   For discussions of arrests for the sake of improving clearance, including the Biscayne and Tulare police departments, see GREENE, *supra* note 14; *see also* Roberts, *supra* note 56; SHERMAN & GLICK, *supra* note 60.

113.   *See* Rabin, *supra* note 66. Police are not incentivized to conduct careful searches when they fail to consider conviction rates. When conviction (rather than clearance) is the goal, police concerns for Fourth Amendment compliance are improved. *See* Jerome H. Skolnick, JUSTICE WITHOUT TRIAL: LAW ENFORCEMENT IN DEMOCRATIC SOCIETY 253 (4th ed. 2011) (stating that Fourth Amendment compliance is improved when both conviction and clearance are considered, especially in drug cases).

114.   Jennifer E. Lauren, *Still Convicting the Innocent*, 90 TEX. L. REV. 1473, 1492–94 (2012).

115.   *See infra* Part II.B.

convicted are imprisoned.[116] In order to track the full course of a crime, it is important to consider how many people end up imprisoned for each major crime. This is the end of criminal accountability. I acknowledge here that police have very little to do with whether a convicted person ends up with a prison sentence. However, the number of people we imprison and for what crimes we imprison them are important considerations in guiding broader public conversations on who police should be arresting or holding accountable for crimes. Further, whether people are imprisoned after they are convicted may in some cases demonstrate the unnecessary nature of their convictions. This may be contestable, but arguably, if a person did not need to serve prison time, what purpose did it serve for them to be convicted of a crime? Or arrested? Could police have dealt with the crime in an alternative way that did not result in a formal record? One could certainly also argue that imprisonment often serves no deterrent or retributive aim,[117] and thus using it as often as we do is equally unnecessary.[118] Imprisonment numbers are key data points in criminal accountability, though less directly relevant to police effectiveness.

### 4. Crime Resolution Rates

A potentially important data point to track is an alternative way to solve crimes, or "crime resolution rates." As discussed above, this Article defines police effectiveness as crimes solved by conviction or by "resolution in an alternative way." Criminal accountability does not require an arrest, and if police are able to find the perpetrator and either mediate the dispute, send the perpetrator for drug or mental health treatment, or otherwise settle the issue between the perpetrator and victim, the case should be considered resolved.[119] Police officers maintain discretion to resolve crimes in various ways,[120] but this

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116. *See infra* Figure 4.

117. This is a topic I will leave until another day. *See* MICHAEL H. TONRY, WHY PUNISH? HOW MUCH?: A READER ON PUNISHMENT 29 (2011):

> For [Kant, Hegel, and Bentham], proportionality in punishment was essential in a just system of punishment. Kant and Hegel famously insisted that punishments be apportioned to the degree of the offender's wrongdoing. Bentham's insistence on proportionality is less well known. His proportionality principles[] [were] based on the premise that no more punishment should be imposed than is absolutely necessary. . . .

118. *See generally* ALEX KARAKATSANIS, UNUSUAL CRUELTY: THE COMPLICITY OF LAWYERS IN THE CRIMINAL INJUSTICE SYSTEM (2019).

119. Tyler, *supra* note 99, at 1549 ("[Police] can use diversionary approaches, such as directing people toward counseling or support services and avoiding arrests whenever possible. Instead of arresting a mentally ill person, for example, the police can take them to a mental health clinic.").

120. Rachel A. Harmon, *Why Arrest?*, 115 MICH. L. REV. 307, 346 (2016) (finding that "police officer[s] can often prevent someone from continuing a crime by removing him from the scene of the incident briefly rather than by an arrest"); Tyler, *supra* note 99, at 1549 ("[P]olice have huge amounts of discretion over how they handle low-level crimes."); Christopher Cooper, *Training Patrol Officers to Mediate Disputes*, 69 FBI L. ENFORCEMENT BULL. 7, 7 (2000) (noting that the use of mediation can "drastically reduce repeat calls for

is just not measured in any meaningful way. For data tracking purposes, there could be a category of "cases resolved" that measures all cases "resolved without arrest" and potentially subcategories of crimes "resolved by mediation or restitution" or "resolved through treatment." This way, cases in which criminal accountability is achieved are accounted for—even if there was no arrest. This Article does not provide a comprehensive list of ways police can resolve crimes; it instead leaves this task to the creativity of particular police departments and their individual community needs. A broader national agreement on these categories is important for data tracking purposes.[121] The only unifying theme of crimes resolved is that they are *not* resolved with arrest.[122]

Many police departments have had success in resolving crimes using methods that do not involve arrest and punishment.[123] Communities are better able to solve crimes when police are trusted members.[124] As such, it is important in measuring police performance to track police ability to resolve such crimes. If police are not arresting certain individuals after a report, it is possible they are doing so to comply with a victim's wishes or because the officer is using other methods to prevent future crime and appease both parties. Police certainly exercise discretion and do not arrest all individuals who violate the law.[125] This should be understood and accounted for—and to say it in another way—police should not be penalized in measures of performance for instances in which they resolve crimes without an arrest.[126] None of these considerations are currently accounted for in police performance.

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service"). Further, evidence reveals that mediation "represents a substantive, not superficial, treatment of interpersonal disputes." *Id.*

     121.    Potentially, the FBI, through the UCR, could ask local police for rates of criminal resolution (without arrest).

     122.    There are certainly cases that may start with an arrest that police later resolve without clearance or conviction. These numbers should also be tracked separately.

     123.    *See, e.g.,* Aaron Chalfin & Justin McCrary, *Criminal Deterrence: A Review of the Literature,* 55 J. ECON. LITERATURE 5, 19–23 (2017) (recognizing that the traditional approach by police after a crime was committed was to arrest and punish, but there is a new trend towards a "proactive approach.") More recently, police are seeking out alternatives to punishment—alternatives that can prevent crime from occurring in the first place. The goal is to lower crime by increasing communities' economic and social vitality. *Id.; see also* Fahey, *supra* note 82.

     124.    Tyler, *supra* note 99, at 1559:

> For example, officers become more appreciative [that] . . . in high-crime neighborhoods, almost all of the residents are not involved in criminal activity. When officers deal primarily with a neighborhood because they are responding to calls, they view the people in the neighborhood as those who either need help or cause problems. They have little everyday contact with people who are law-abiding and would potentially be willing to help the police.

     125.    GOLDSTEIN, *supra* note 20, at 23 (discussing a study revealing that police "exercised a great deal of discretion in deciding whether or not to arrest and prosecute in situations in which there was ample evidence that a criminal law had been violated").

     126.    *See* Fahey, *supra* note 80.

By considering the entire cycle of a crime—from occurrence until imprisonment or a different resolution—it is possible to deemphasize arrest and clearance as the only way to solve a crime. A resolved case can be one where a perpetrator receives treatment, a warning, or both parties agree to a restitutionary punishment. When the only way to solve a crime is clearance or conviction, police initiatives to resolve crimes in alternative ways are not considered appropriately. If the focus is not simply on clearance, but also on improving reporting rates and crime resolution rates, police may be incentivized to think more broadly about how to earn community trust to improve reporting and resolve crimes rather than simply arresting more people.[127]

In sum, tracking criminal accountability numbers may help create a more comprehensive measure of police effectiveness and avoid some of the temptations to manipulate numbers that exist when examining clearance rates alone. First, considering criminal victimizations not reported to police helps us understand the number of crimes police never hear about and thus are unable to address. Second, conviction rates at the state and federal level show that an even smaller percentage of crimes that make up clearance rate numbers end in convictions and give us a better understanding of how effective the police work was leading to arrest. Imprisonment rates provide further insight on how many offenders are ultimately held accountable. Finally, resolved crime rates track and give credit to police for considering alternative ways to solve crimes. Collecting national data and considering all relevant data points are critical to get an accurate picture of crime trends, the relationship of communities with police, and how effective police are at solving crime.[128] However, it is also important to remember in tracking this data that individual police departments have unique challenges that may make it difficult for them to solve crimes.[129] For this reason, comparing police departments against themselves over time may be the best way to track police performance. Even with careful measurements, criminal resolution numbers may be subject to manipulation or fraud.[130]

## II. MEASURING CRIMINAL ACCOUNTABILITY

This Part undertakes the first attempt to empirically measure criminal accountability. The extent to which we currently measure criminal accountability is limited. It is important to acknowledge at the outset that this measure of criminal accountability is incomplete for several reasons. First, there

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127. *See* MASLOV, *supra* note 27, at 2; Kennedy, *supra* note 42, at 56–57.

128. A uniform way to track between departments on the seven data points discussed here is needed to get an accurate picture of crime and the effectiveness of police. *See supra* notes 49–54 and accompanying text.

129. Considering unique police department factors is important. *See supra* notes 40–42.

130. These could be compared to crime victims resolution numbers for cross-verification. *See, e.g.,* LANGTON ET AL., *supra* note 41, at 9.

is no national data on crimes resolved without arrest, which is a key datapoint in measuring police performance.[131] Second, there is no data on conviction and imprisonment rates after 2006.[132] Until 2006, even though these numbers were not tracked together to measure police performance, we at least had national data on known crimes, reported crimes, arrest rates, clearance rates, conviction rates, and imprisonment rates.[133] Unfortunately, post-2006 we lack data on conviction rates and imprisonment rates. This confounds our ability to effectively measure police performance. The first step to criminal accountability is making sure all seven data points are tracked each year on a national level: known crime, reported crime, arrest rates, clearance rates, conviction rates, imprisonment rates, and crime resolution rates.

This empirical analysis begins with the question: What percentage of crimes are reported to police? Part II.A considers crime reporting more carefully and explores the discrepancy between known crimes and reported crimes. In simple terms, it empirically demonstrates the large number of crimes that occur that are not reported to police. This analysis covers almost fifty years of data. The large number of unreported crimes is significant to consider in measuring police effectiveness. Part II.B then delves into the numbers to see how effective police are and have been for the last thirty years. It explores major crimes and how often they occur (known crimes), how often they are reported (reported crimes), and how often they are followed by arrest or conviction.[134] Known crimes will inform measurement of arrest rates, clearance rates, and conviction rates in Part II.B.[135] We operate under the assumption that known crimes get us closer to determining true criminal accountability, that is to say, what percentage of the time police are able to solve crimes. Considering all of these measures helps provide a more comprehensive account of police effectiveness.

The first Subpart further articulates the case for why the full sequence of a crime needs to be considered—particularly known crimes. Without considering all of the crimes committed and comparing them to police reports, we may miss up to half of the crimes committed.

## A. Reported and Known Crimes

One of the classic metrics used to determine police effectiveness is reported crime. Where there are higher crime rates in a given neighborhood, there is a

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131.   See *supra* notes 81 and 100–101 for discussions of alternative ways to resolve crimes.

132.   *See* BUREAU OF JUST. STATS., DATA COLLECTION: NATIONAL JUDICIAL REPORTING PROGRAM (NJRP), https://www.bjs.gov/index.cfm?ty=dcdetail&iid=241.

133.   *Id.*

134.   Although crime resolution by alternative means is also considered a key data measure in criminal accountability, we currently do not have these numbers; therefore, this data measure is not tracked here.

135.   These are referred to below in Part II.B 2, 4, 6, and 7 as true arrest, true clearance, true conviction, and true accountability rates.

presumption that the police are less effective. This reasoning is probably heavily flawed, but I will not address that here. Police departments focus more on reducing reports of serious crimes than on any other data measure.[136] Police consider a low reported rate of serious crime as a positive measure, one that shows that police are controlling crime.[137] This may not be the case, however. Indeed, reported crime numbers are missing a large category of known crimes—crimes that occur but are simply not reported. Indeed, a jurisdiction with low crime rates may actually be a lot more dangerous than it appears because of high levels of known crimes.

There are two data sources used to obtain information on reported crimes. Reported crimes are defined for the purposes of this Article as those where an individual visits a police station and files a formal report. These crimes are reported to individual police departments and then collected by the FBI each year in the Uniform Crime Reports (UCR). The UCR includes information collected by the FBI about violent crime offenses (murder and nonnegligent manslaughter, rape, robbery, and aggravated assault) and property crime offenses (burglary, larceny-theft, motor vehicle theft, and arson).[138] The UCR tracks reported crimes, clearance rates, and arrests.[139] Another source for reported crimes is the National Criminal Victimization Survey (NCVS). The NCVS is a self-reported survey that the Bureau of Justice Statistics administers to determine crimes that are reported and not reported to police.[140] The survey asks individuals about the number and type of crimes they experienced during the previous six months, and the crimes are classified by year.[141] The NCVS collects information on nonfatal crimes including rape, robbery, aggravated assault, larceny, and household property crimes (burglary and motor-vehicle theft).[142] Each victimization, according to the survey, represents one person or

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136. Sparrow, *supra* note 26, at 2 ("[R]eductions in the number of serious crime reports tend[] to dominate many departments' internal and external claims of success, being the closest thing available to a genuine crime-control outcome measure.").

137. *Id.*

138. FBI, 2018 (Sept. 2019), https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/about- (About CIUS).

139. *Id.*

140. BUREAU JUST. STATS., CRIMINAL VICTIMIZATION IN THE U.S.: 1973-78 TRENDS iii (Dec. 1980), https://www.bjs.gov/content/pub/pdf/cvus78t.pdf ("This report presents information on trends in crime rates from 1973 through 1978, using data obtained from the National Crime Survey. . . . Since its inception in 1972, the National Crime Survey has been conducted for the Department of Justice by the U.S. Bureau of the Census."); RACHEL E. MORGAN & BARBARA A. OUDEKERK, DEP'T OF JUST., CRIMINAL VICTIMIZATION, 2018 2 (Sept. 2019), https://www.bjs.gov/content/pub/pdf/cv18.pdf.

141. MORGAN & OUDEKERK, *supra* note 140, at 2 ("Crimes are classified by the year of survey and not by the year of the crime."); BUREAU JUST. STATS., DEP'T OF JUST., DATA COLLECTION: NATIONAL CRIME VICTIMIZATION SURVEY (NCVS), https://www.bjs.gov/index.cfm?ty=dcdetail&iid=245 ("Each year, data are obtained from a nationally representative sample of about 240,000 interviews on criminal victimization, involving 160,000 unique persons in about 95,000 households. Persons are interviewed on the frequency, characteristics, and consequences of criminal victimization in the United States.").

142. BUREAU OF JUST. STATS., *supra* note 141.

one household affected by a crime, so that each household is counted as having a single victim.[143] The NCVS has reported victimization data from 1972[144] until the latest survey in 2018.[145] Both of these sources provide information on crimes reported to police. The numbers from the UCR and the NCVS are often close but not an exact match,[146] demonstrating the importance of checking definitions in a particular year and being careful in relying on exact numbers.[147] The UCR and the NCVS also collect data on different crimes. For example, the NCVS violent crime classifications include rape or sexual assault,[148] robbery, aggravated assault, and simple assault.[149] The UCR violent crime figures include the offenses of murder, rape,[150] robbery, and aggravated assault.[151] These different definitions provide a challenge, but we can still directly compare the UCR and the NCVS reported crimes for robbery and aggravated assault and use both data sources to check each other.

A known crime is one where a crime occurs but is not reported to police. These crimes are tracked yearly by the NCVS.[152] It is important to consider known crimes carefully in determining how they affect police effectiveness. The only yearly national source for known crimes is the NCVS as the UCR does not track this information.

Known crime numbers—like any reporting numbers—come with an important caveat. The NCVS estimates are not perfect, as individuals may misrepresent information in reports. As indicated above, known crime numbers differ meaningfully from reported crime numbers. These numbers have to be considered carefully because, arguably on the one hand, some may not admit

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143. MORGAN & OUDEKERK, *supra* note 140, at 21.

144. BUREAU OF JUST. STATS., *supra* note 140, at iii.

145. MORGAN & OUDEKERK, *supra* note 140.

146. The definition of rape has changed dramatically over the years. See Appendix and notes 7, 81, and 83 for some comparisons.

147. There are many reasons why UCR and NCVS reporting numbers may not match in a given year. The definitions of crimes differ slightly between the FBI (UCR) and the Bureau of Justice Statistics (NCVS). MORGAN & OUDEKERK, *supra* note 140, at 7. These definitions have also changed over time. The NCVS also changed its method of collection in 2006 and 2016, so it is hard to compare crime estimates from year to year. *See* BUREAU OF JUST. STATS., *supra* note 140. However, 2006 is also the latest year for state conviction data, so it is used to get a general sense of criminal accountability over the years. The actual numbers of victimizations reported have varied through the years, and the survey itself has been redesigned multiple times since its conception. *See, e.g.*, LISA BASTIAN, DEP'T OF JUST. CRIMINAL VICTIMIZATION, 1993 6 (May 1995), https://www.bjs.gov/content/pub/pdf/Cv93.pdf; MICHAEL RAND & SHANNAN CATALANO, CRIMINAL VICTIMIZATION, 2006 7–11 (Dec. 2007), https://www.bjs.gov/content/pub/pdf/cv06.pdf.

148. MORGAN & OUDEKERK, *supra* note 140, at 1–2.

149. *Id.* at 4; *infra* Table 1.

150. FBI, 2018, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/clearances (note murder, rape).

151. FBI, 2018, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/clearances (note robbery, aggravated assault).

152. *See, e.g.*, JENNIFER L. TRUMAN & RACHEL E. MORGAN, DEP'T OF JUST., CRIMINAL VICTIMIZATIONS, 2015 4 (revised Mar. 2018), https://www.bjs.gov/content/pub/pdf/cv15.pdf.

crimes even to the NCVS. Therefore, such crimes may not ever be accounted for, and the total crime numbers could actually be a lot higher. On the other hand, someone can report a crime to the NCVS that has no basis in fact without any of the repercussions that may exist when falsely reporting a crime to police.[153] This Article therefore uses NCVS numbers with the assumption that there is a percentage of false reports and that some individuals who were victims of crimes never report such crimes to anyone, including the NCVS. There is no way to prove how many false reports, exaggerated reports, or nonreports exist in known crime numbers or whether they may balance each other out or skew numbers in one direction or another. While NCVS numbers are far from perfect, they may be the best source for national data on how many crimes occur each year in America.

Reported crimes only capture a small portion of crimes that occur each year. Typically, "[o]nly about half of the violent crimes and a third of the property crimes that occur in the United States each year are reported to police."[154] According to the most recent NCVS report in 2018, individuals only reported 42.6% of violent victimizations and only 34.1% of property crime victimizations to police.[155] Underreporting is a larger problem for rape as compared to other violent crimes. From current research, victims claim they do not report because they do not believe that it will be responded to appropriately or that anything will be done about it.[156] This is especially the case with sexual assault,[157] but the principles apply to other crimes.

In the last fifty years, only about half of violent crimes were reported to police.[158] Figure 1 represents reporting to police of violent victimizations in the

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153. See *supra* note 147 for a comparison of NCVS and UCR numbers.

154. John Gramlich, *Most Violent and Property Crimes in the U.S. Go Unsolved*, PEW RSCH. CTR. (Mar. 1, 2017), https://www.pewresearch.org/fact-tank/2017/03/01/most-violent-and-property-crimes-in-the-u-s-go-unsolved (noting that "among violent crimes, just a third of rapes and sexual assaults were reported to police in 2015").

155. MORGAN & OUDEKERK, *supra* note 140, at 8 tbl.5. It may be interesting to note that serious violent crime is reported to the police 49.9% of the time. Serious violent crime does not include simple assault. *Id.* at 3.

156. Gramlich, *supra* note 154.

157. Carter Sherman, *One Violent Crime in the U.S. Keeps Trending Up While Others Drop: Rape*, VICE (Sept. 30, 2019), https://www.vice.com/en_us/article/a35nde/one-violent-crime-in-the-us-keeps-trending-up-while-others-drop-rape. The Bureau of Justice Statistics released its National Crime Victimization survey which estimated 734,630 people had been raped or sexually assaulted in 2018. *Id.* A spokesperson for the National Sexual Violence Resource Center stated:

> We have to keep in mind the criminal court system is a reflection of the communities that it operates in. It's real easy to sit on the outside and say the police need to do better or the prosecutors need to do better but ultimately they can't and they won't if we don't all do better. They need to believe that a jury in that community will convict.

*Id. See also supra* Subpart I.C.1.

158. It would be more accurate to create a discount rate for police reporting. There is a good percentage of people who do not report to police for personal reasons, not because they believe police are ineffective or will not help the situation. All of these reporting numbers should be discounted for each of the

last forty-four years according to NCVS reports.[159] It demonstrates that in most years, less than half of overall violent crime is reported to the police. Individuals report robberies and aggravated assaults between 50% to 70% of the time. There is a lot more fluctuation with rape; it ranges from 25% to nearly 60% reporting in some years. In 2018, the most recent year the NCVS provides data,[160] roughly half of all *serious* violent crimes—rape, aggravated assault, and robbery—were reported to police.[161] Overall, about half of violent crimes are reported to police.



Figure 1 - Percentage of Violent Victimizations Reported to Police 1973-2018 (NCVS)
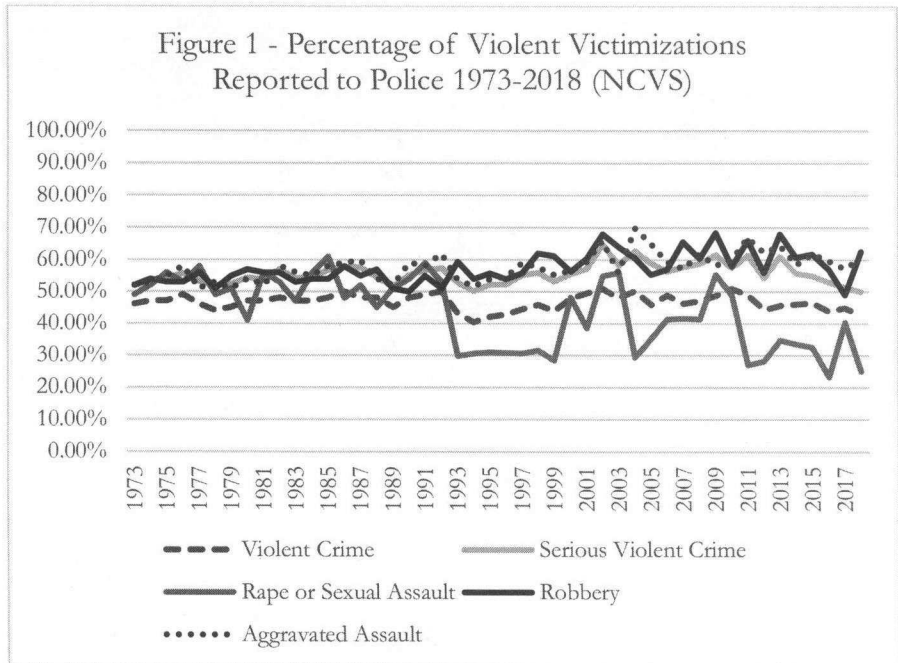
Reporting numbers are not better for property crimes. Figure 2 demonstrates that in the last fifty years less than 40% of property crimes were reported to police.[162] The NCVS property data demonstrates a remarkable degree of consistency over the years, with notable drops in reporting of property crimes in 1992 and 2010. Some of these changes in reporting numbers

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years discussed for a more accurate determination of police effectiveness. Police effectiveness is only implicated when people do not report to police for nonpersonal reasons. However, surveys are not perfect, and "personal reasons" can involve a lack of trust in police. *See generally* LANGTON ET AL., *supra* note 41, at 2 (discussing the reasons people do not report serious crimes to police).

159.  See *infra* Appendix Figure 1 for sources.

160.  MORGAN & OUDEKERK, *supra* note 140, at 8 tbl.5.

161.  *Id.*

162.  See *infra* Figure 2 and Appendix Figure 1 n.97 for sources.

may be due to changes in definitions over the years.[163] People are most likely to report motor vehicle theft as they have 70%–80% reporting rates. Larcenies are least likely to be reported to police, ranging between 20%–30% reported to police. Overall, nearly 30%–40% of property crimes are reported to police.

Comparing known crimes (from the NCVS) and reported crimes (from the UCR) helps us determine whether people are turning to police and why they may not be.[164] If we know how many crimes are not reported to police and that certain types of crimes are reported less than others, we can determine how to address the underlying issues with police. Also, examining the dips in reporting for certain types of crime is helpful in targeting improvement in reporting. For instance, national police saw a dip in reporting of motor vehicle theft from 2014 (83%) to 2015 (69%).[165] If this was not caused by definitional changes (*e.g.*, including snowmobiles with motor vehicles in one year and not in the next), then police can know that there may be gaps they can address within their communities. It may also be helpful for police to examine why only about 50%– 60% of burglaries are reported to police nationally. Would it improve community safety or trust in the police to know about the remaining burglaries? Why are these individuals not turning to police with these crimes? Understanding why people are not reporting crimes is critical to improving police effectiveness. Police departments typically do not consider known crimes but considering these numbers and why people are not reporting might improve reporting rates.

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163. See Appendix and notes 34, 82, and 140 for discussions on differences in motor vehicle theft definitions.

164. Similar Figures considering FBI reported offenses and NCVS known crimes (Figure 2 and Figure 3) are reported in the Appendix.

165. TRUMAN & MORGAN, *supra* note 152, at 4, 6 tbl.4. The differences in reporting were partly due to different definitions by the UCR and NCVS. *Id.* at 4; *see also* RACHEL E. MORGAN & GRACE KENA, DEP'T OF JUST., CRIMINAL VICTIMIZATIONS, 2016 7 tbl.4 (revised Oct. 2018), https://www.bjs.gov/content/pub/pdf/cv16.pdf.

Figure 2 - Percentage of Property Victimization Reported to Police 1973-2018 (NCVS)
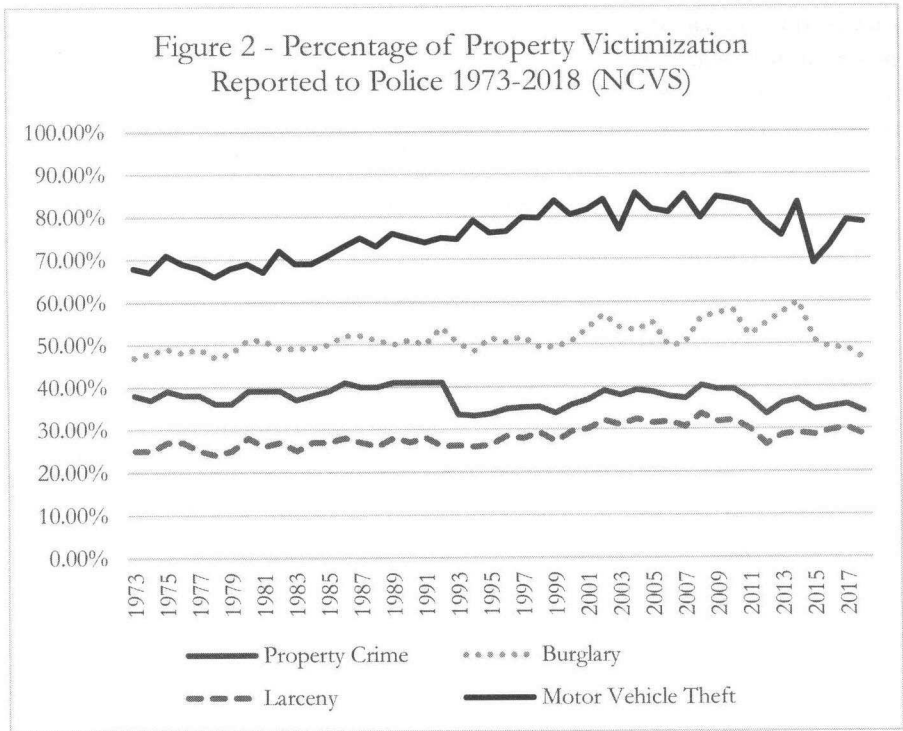
The overall reporting numbers in the last thirty years show that in most years, less than half of crimes that occur are reported to police. Figure 3 below demonstrates overall crime reporting rates in the last thirty years using NCVS and UCR data.[166] The Appendix includes data for individual reporting numbers by year for selected years in the last thirty years.[167] One of the biggest fluctuations in reporting numbers over the years may be as a result of changes in the definition and reporting of rape. In 1990, 78.73% of rapes/sexual assaults were reported, while in 2018 only 17.32% were reported.[168] Part of the reason for such a low percentage reported in 2018 may be due to a drastic increase in the number of victimizations reported in the NCVS. In 2018, 734,630 victimizations were reported compared to 284,350 in 2014 and 393,980 in 2017.[169] Either there were dramatically more sexual assaults in 2018, or the

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166. In general, percentages were calculated as follows: FBI Number of Offenses Reported / NCVS Number Known = Percent Reported. See *infra* Appendix Table 4 for sources and calculations, starting at note 65.

167. See *infra* Appendix Tables 1–3 for data on years 1990, 2006, and 2018. Tables for 1995, 1998, 2004, 2009, and 2014 are on file with the author.

168. *See infra* Table 1.

169. MORGAN & OUDEKERK, *supra* note 140, 4 tbl.1, 6 tbl.4. The NCVS did not give an explanation for the sudden increase in 2018. In addition, while the number of rape/sexual assault offenses reported according to the FBI usually ranged from 70,000 to 80,000, in 2014 the number reported jumped to 99,765

"#MeToo" movement and policing initiatives seem to have influenced the willingness of individuals to both report sexual assault to police and in NCVS surveys.[170] The major fluctuations in rape reporting demonstrate that cultural shifts in relation to crime may affect reporting. Again, if police departments considered known and reported crimes, they would be able to track dips in crime reporting and attempt to improve them.



Figure 3 - Percent of Victimizations Reported to Police (FBI)
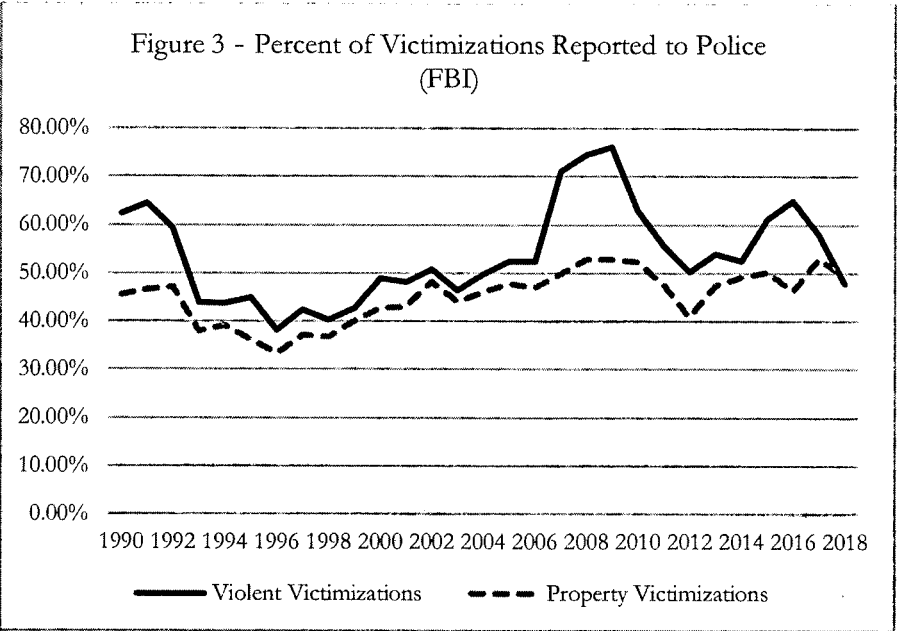
To get a more detailed look at where reporting problems lie, it is helpful to look at individual crime reporting over the last thirty years. Table 1 below demonstrates the percentage of major crimes reported to the police over a sample of years from 1990 to 2018. From 1990 to 2018, the total percent of crimes reported for this collection of crimes ranged from 47.21% in 1990 to 49.04% in 2018. The percentage of crimes reported to police has remained consistently below 50% for the last thirty years. Slight changes can result due to

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and then jumped in 2018 again to 127,258. FBI, 2018 tbl.25, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/tables/table-25. However, these increases were not as large as the changes in the numbers reported to the NCVS, meaning the percent reported decreased overall. The change in definition over time may be a reason for these changes in numbers, rather than an actual increase in the number of rapes/sexual assaults committed.

170.  *See* Deborah Tuerkheimer, *Underenforcement As Unequal Protection*, 57 B.C. L. REV. 1287, 1329–30 (2016) (noting that, after new police policies and procedures were implemented, "[m]ore rape victims were apparently disclosing the crime to police and choosing to pursue their complaint" (footnotes omitted)); Karen Oehme et. al., *A Deficiency in Addressing Campus Sexual Assault: The Lack of Women Law Enforcement Officers*, 38 HARV. J. L. & GENDER 337, 357 (2015) ("[L]arge-scale studies indicate that the presence of women law enforcement officers actually increases the number of reported sexual assault cases.").

dips or spikes in reporting, but overall, reporting of crime rarely reached above 50% in the selected years between 1990 to 2018. Overall reporting numbers, except for 2009, demonstrate a less than 50% reporting rate for all crimes and much less than 50% in 1998 and 1995. Murder is not included in this analysis because the NCVS does not gather data on murder, and it is assumed that the murder reporting rate to police agencies matches the known number of murders.

| Table 1 – Percent of Crimes Reported to Police[171] | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 1990 | 1995 | 1998 | 2004 | 2006 | 2009 | 2014 | 2018 |
| Total | 47.21% | 37.22% | 37.15% | 46.44% | 47.69% | 54.88% | 49.59% | 49.04% |
| Rape and Sexual Assault | 78.73% | 24.25% | 21.37% | 31.65% | 29.54% | 60.57% | 35.09% | 17.32% |
| Robbery | 55.60% | 44.00% | 39.59% | 53.47% | 54.08% | 65.97% | 44.84% | 45.49% |
| Aggravated Assault | 65.9% | 49.31% | 44.41% | 51.36% | 56.15% | 85.08% | 61.78% | 70.44% |
| Larceny-Theft | 38.49% | 30.94% | 31.81% | 40.63% | 40.70% | 47.46% | 45.08% | 46.59% |
| Burglary | 59.71% | 45.97% | 44.14% | 51.62% | 55.26% | 62.45% | 52.57% | 42.75% |
| Motor-Vehicle Theft | 83.14% | 78.73% | 86.51% | 101.45% | 109.13% | 97.06% | 119.72% | 131.24% |

So far, we have learned that the number of known crimes is much higher than the number of reported crimes—often double.[172] In other words, over the last thirty-year period, individuals are not reporting half of the crimes that are occurring. For violent crime, reporting to police has fluctuated dramatically over the years for rape and fluctuated in smaller amounts for other types of violent crime. For property crimes, reporting rates have been between 30% and 40% in most years. Given the low reporting rates, it may not be accurate to base clearance and conviction numbers on just the proportion of crimes reported. People often do not report crimes largely because they fear that police either cannot help or will respond inappropriately to a situation.[173] It is possible for police to improve reporting numbers by improving trust of the community. If police use discretion not to arrest in some instances, reporting may increase,

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171. In general, percentages were calculated as follows: FBI Number of Offenses Reported / NCVS Number Known = Percent Reported. See *infra* Appendix Table 4 for sources and calculations, starting at note 65.

172. See Figures 1–3, Table 1, and Appendix for further support.

173. *See supra* notes 94–104.

and police may be able to better assist individuals in these communities. If police improve in solving crimes, this could also improve reporting. The point is, if the public perceives that police might be able to solve the crime or respond appropriately, they may be more likely to report a crime. If we want a full picture of how effective police are at their jobs, we need to determine whether individuals in the community trust police enough to report major crimes to them. Known crimes are critical in this determination. This Article acknowledges that police do not have ultimate control over known crimes— and never will—but we also find this a useful measure to examine whether police can improve over time. Presumably, the more crimes police know about, the more crimes they may be able to solve. As such, in order to have a comprehensive look at policing, we must take into account as many crimes as are committed in all of the data points. This is why the next Subpart carefully reviews the crime numbers—with true rates considering the known crimes rather than just the reported crimes.

## B. *True Criminal Accountability Rates*

To understand what percentage of offenders police are able to arrest, clear, convict, and hold accountable, we need to first understand the important consideration missing from all of the standard calculations. For instance, the standard way to evaluate arrest rates considers the number of crimes reported to the police and the arrests based on those reports. The standard way to consider clearance of a crime is by comparing reported crimes to police with the number of individuals arrested and turned over for prosecution or cleared by exceptional means. Similarly, conviction rates typically consider the number of crimes reported to police compared to the number convicted for that particular crime. This is the standard way to calculate the major data metrics. All of the standard calculations are determined by starting with reported crimes.

Instead, this Article argues that to determine true criminal accountability— or how effective police are at solving crime—we should begin with known crimes. The reasons why people are not reporting crimes to the police are important ones. Just looking at the range of rapes reported to police and to the NCVS in the last thirty years will demonstrate this; individuals are much more likely to report rape to police and to victims surveys depending on the climate toward victims in that particular year.[174] A large portion of individuals do not report to police because they fear reprisal or that police cannot address the crime.[175] It is possible that known crime numbers could be more accurate than UCR reporting numbers because the NCVS collects numbers without any

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174.   See *supra* notes 169–170 and supporting text for further discussion of the changes in reporting due to the #MeToo movement.

175.   See *supra* notes 94–104 for further discussion.

identifying information and without any potential repercussions upon report. These numbers have always been higher than UCR numbers. It is well known that over the years many crimes are reported to the NCVS that are not reported to police.[176] In considering police effectiveness, the NCVS numbers are most likely a more accurate count of total crime.[177]

Even before we get to any calculations of these crimes, it is important to recognize that the total crime picture is unknown and is likely bleaker than it may seem. Many offenses are not even tallied in the crime data. These crimes are among the ones we know about: identity theft, sexual exploitation, ransomware attacks, drug purchases over the dark web, human trafficking for sex or labor, revenge porn, credit card fraud, and child exploitation.[178] To many observers, motor vehicle theft and burglary may seem like relics that have been replaced with a modern era of crime that takes place exclusively on the internet. While it may be the case that crimes have changed, unfortunately these new crimes are not fully captured in law enforcement's reporting system. Thus, an observer may be surprised to discover that not only do police lack a handle on traditional crime, but they are often even worse at solving digital crime. The lack of systematic national tracking for digital crimes may be part of the problem.[179] A police department focused on keeping clearance rates high may not focus on digital crimes that are not tracked nationally. It is also difficult to keep track of cybercrimes because they can become easily outdated and change quickly. Nonetheless, it is important in the next sections of this Subpart to keep in mind that we are not moving towards a full picture of crime because so many newer crimes are not accounted for. The clearance rate and accountability rates for identity theft, credit card fraud, and revenge porn, for instance, will be much worse than those for larceny and rape, which are considered below. These crimes are not considered here due to a lack of data but are vital to consider given the serious costs of these crimes to society and the individual victims.[180]

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176.   *See supra* notes 93–104.

177.   Consider the caveat for known crime numbers. *See supra* notes 152–153 and accompanying text.

178.   Al Baker, *An 'Iceberg' of Unseen Crimes: Many Cyber Offenses Go Unreported*, N.Y. TIMES (Feb. 5, 2018), https://www.nytimes.com/2018/02/05/nyregion/cyber-crimes-unreported.html.

179.   *See id.*

180.   Mary Anne Franks, *"Revenge Porn" Reform: A View from the Front Lines*, 69 FLA. L. REV. 1251, 1261–64 (2017) (describing harm from revenge porn with privacy implications, impact on employment and identity, significant emotional distress and suicidal thoughts, and harassment); Jennifer Lynch, *Identity Theft in Cyberspace: Crime Control Methods and Their Effectiveness in Combating Phishing Attacks*, 20 BERKELEY TECH. L.J. 259, 263–64 (2005):

> [Identity theft] [l]osses average $10,200 per identity theft case for businesses and $1,180 for consumers; however, these costs fail to depict the full scope of the problem. In addition to monetary losses, victims report suffering non-monetary harm including emotional distress from feeling personally violated by the theft, being harassed by creditors and collection agencies for debts they did not incur, being turned down for a loan or new account, or even being arrested for crimes committed by someone else in their name (footnotes omitted).

However, to get a baseline of police effectiveness, we will consider the traditional major crimes.

The remainder of this Subpart calculates "standard" and "true" rates for arrest, clearance, and conviction rates. Standard rates rely on reported crimes, and true rates rely on known crimes. Standard rates are demonstrated for comparison purposes in Parts II.C.1 (arrest), II.C.3 (clearance), and II.C.5 (conviction). The known crimes will help calculate the "true rates" in Parts II.C.2 (arrest), II.C.4 (clearance), and II.C.6 (conviction). Given the caveats above, it is important to recognize that true arrest and true conviction numbers may not actually represent the number of crimes committed but arguably come closer than the number reported to police.[181] The known crimes are also the basis of the overall criminal accountability numbers reported in Part II.C.7. Criminal accountability encompasses all of the important data measures that will help us judge the effectiveness of police—number of crimes known, reported, true arrest rates, true clearance rates, true conviction rates, and, when there is data for it, crimes resolved without arrest. The criminal accountability numbers below take us through almost the entire course of a crime starting at arrest and following until conviction.[182]

### 1. Standard Arrest Rates

Standard arrest rates consider the number of arrests based on the number of crimes reported to police (FBI UCR numbers).[183] For example, in 1990, police arrested individuals for 15.98% of all reported crimes.[184] For 1995 and 1998, the total standard percent arrested went up to 24.49%[185] and 25.72%,

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Daniel J. Solove & Danielle Keats Citron, *Risk and Anxiety: A Theory of Data-Breach Harms*, 96 TEX. L. REV. 737, 756 (2018) (discussing the compelling harms resulting from data breaches); Chris Jay Hoofnagle, *Identity Theft: Making the Known Unknowns Known*, 21 HARV. J.L. & TECH. 97, 102–03 (2007) (echoing reputational harm and emotional distress).

181. See *supra* notes 103–110 for further discussion.

182. Arguably, this Part does not provide full criminal accountability numbers. Part III.B traces all the way to imprisonment for full criminal accountability. *See infra* Figure 4.

183. Calculation: Standard Percent Arrested = FBI Number Arrested / FBI Number Reported. According to the FBI Report:

> The FBI's Uniform Crime Reporting (UCR) Program counts one arrest for each separate instance in which a person is arrested, cited, or summoned for an offense . . . . Because a person may be arrested multiple times during a year, the UCR arrest figures do not reflect the number of individuals who have been arrested; rather, the arrest data show the number of times that persons are arrested, as reported by law enforcement agencies to the UCR Program.

FBI, 2018 (Fall 2019), https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/persons-arrested.

184. See *infra* Appendix Table 1 – 1990 (Part I) for sources and calculations. The same calculation method is used for all years.

185. FBI, CRIME IN THE UNITED STATES, 1995 199 tbl.25, https://ucr.fbi.gov/crime-in-the-u.s/1995/95sec3.pdf [hereinafter FBI, 1995] (Crime Index Offenses Cleared); FBI, 1995 208 tbl.29, https://ucr.fbi.gov/crime-in-the-u.s/1995/95sec4.pdf (Persons Arrested).

respectively.[186] In 2004 and 2006, the total standard percent arrested was 21.98%[187] and 21.16%, respectively.[188] In 2009, the total percent arrested went up slightly to 24.52%,[189] and in 2014, it was 23.76%.[190] In 2018, the standard percent arrested overall was 21.55%.[191] Overall, standard arrest rates in the last thirty years range from a low of 15% in 1990 to about 20%–25% in most years.[192] This is certainly a revelation to most people who would have never thought that, on a good year, police only make arrests in 25% of the reported cases. The next Subpart considers true arrest rates that consider the arrests of known crimes, not just reported crimes.

### 2. True Arrest Rates

The true arrest rates below consider the known crimes compared to the arrest rates for those crimes.[193] These numbers will demonstrate that police are solving even less crimes than we may have thought in the last Part. In fact, overall, a 10% arrest rate is typical for the major crimes combined—murder, rape/sexual assault, robbery, aggravated assault, larceny-theft, burglary, and motor vehicle theft.

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186. FBI, CRIME IN THE UNITED STATES, 1998 201 tbl.25, https://ucr.fbi.gov/crime-in-the-u.s/1998/98sec3.pdf [hereinafter FBI, 1998] (Crime Index Offenses Cleared); FBI, 1998 210 tbl.29, https://ucr.fbi.gov/crime-in-the-u.s/1998/98sec4.pdf (Persons Arrested).

187. FBI, CRIME IN THE UNITED STATES, 2004 tbl.25, https://www2.fbi.gov/ucr/cius_04/offenses_cleared/table_25.html [hereinafter FBI, 2004] (Percent of Offenses Cleared by Arrest or Exceptional Means); FBI, 2004 tbl.29 (updated Feb. 17, 2006), https://www2.fbi.gov/ucr/cius_04/persons_arrested/table_29.html (Estimated Number of Arrests).

188. See *infra* Appendix Table 2 – 2006 (Part I) for sources.

189. FBI, CRIME IN THE UNITED STATES, 2009 tbl.25, https://www2.fbi.gov/ucr/cius2009/data/table_25.html [hereinafter FBI, 2009] (Percent of Offenses Cleared by Arrest or Exceptional Means); FBI, 2009 tbl.25, https://www2.fbi.gov/ucr/cius2009/data/table_29.html (Estimated Number of Arrests).

190. *See* FBI, CRIME IN THE UNITED STATES, 2014 tbl.25, https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-25 [hereinafter FBI, 2014]; FBI, 2014 tbl.29, https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-29.

191. *See infra* Appendix Table 3 – 2018 (Part I).

192. See *infra* Appendix Table 1 – 1990, Table 2 – 2006, and Table 3 – 2018 for standard percentages. Full charts for 1995, 1998, 2004, 2009, and 2014 are on file with the author.

193. Note that murder has the same percent arrested for standard and true because there is no NCVS Known Total for murder.

| Table 2 – Percent of Crimes Known Where Police Make Arrest (True Percent Arrested)[194] | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 1990 | 1995 | 1998 | 2004 | 2006 | 2009 | 2014 | 2018 |
| Total | 7.54% | 9.12% | 9.55% | 10.21% | 10.09% | 13.46% | 11.78% | 10.57% |
| Murder and Non-Negligent Manslaughter | 78.06% | 115.86% | 132.86% | 98.57% | 89.88% | 93.78% | 82.08% | 80.95% |
| Rape and Sexual Assault | 23.77% | 10.18% | 9.34% | 10.19% | 9.01% | 17.00% | 7.39% | 3.43% |
| Robbery | 11.86% | 15.05% | 13.63% | 17.68% | 17.65% | 23.74% | 14.21% | 15.38% |
| Aggravated Assault | 23.55% | 30.19% | 30.27% | 30.88% | 33.06% | 51.16% | 34.13% | 37.41% |
| Larceny-Theft | 6.01% | 6.95% | 7.38% | 8.05% | 7.57% | 11.40% | 10.53% | 8.59% |
| Burglary | 6.63% | 8.01% | 8.16% | 8.19% | 8.61% | 9.55% | 7.95% | 6.77% |
| Motor Vehicle Theft | 8.56% | 11.60% | 13.24% | 13.89% | 13.86% | 11.12% | 12.80% | 17.16% |

Overall, the true percent arrested stayed in the 10% range largely between 1990 to 2018. Even with some fluctuations of crimes known through surveys, police still made similar proportions of arrests from year to year. For instance, while the number of arrests has remained consistently in the 20,000 to 30,000 range for rape/sexual assault, the number of victimizations reported to NCVS has fluctuated.[195] In 1990, there were an estimated 130,260 rapes committed.[196] In 2009 and 2014, there were 125,920 and 284,350, respectively.[197] But in 2018, there were more than double that—an estimated 734,630 rapes/sexual assaults committed.[198] While the numbers of arrests remained consistent, the estimated number of rapes/sexual assaults has skyrocketed, meaning the percent arrested

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194. *See infra* Appendix Table 5 for detailed sources and calculations. In general, percentages were calculated by taking FBI Number of Estimated Arrests / NCVS Total Crime = % of Crimes Known Where Police Make Arrest.

195. *See infra* Tables 1–3.

196. *See infra* Appendix Table 1 – 1990 (Part I).

197. JENNIFER L. TRUMAN, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2010 tbl.1 (Sept. 2011), https://www.bjs.gov/content/pub/pdf/cv10.pdf; JENNIFER L. TRUMAN & LYNN LANGTON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2014 tbls. 1 & 3 (Sept. 2015), https://www.bjs.gov/content/pub/pdf/cv14.pdf.

198. *See infra* Appendix Table 3 – 2018 (Part I).

has actually fallen for this crime.[199] The example of sexual assault simply demonstrates the importance of considering known crimes, and considering crimes individually in measuring police performance. In just looking at overall true arrest numbers, it would appear that police have remained consistent in their arrest rates. Yet, considering individual crimes, it looks like police only arrested 3% of known rapes in 2018 but arrested 23% in 1990. The number of crimes known and reported for individual crimes are both important in measuring how effective police are at solving crimes.

### 3. Standard Clearance Rate

The typical method of determining the number of crimes cleared by police is through using the UCR numbers.[200] Under the UCR, the FBI will only count an offense as cleared for statistical purposes if it is either cleared by arrest or by exceptional means.[201] The FBI finds the percentage of crimes cleared by arrest or exceptional means by dividing the number of offenses cleared by the number of offenses reported.[202] So, of offenses reported, an estimate of the percent of criminals that are not cleared by arrest or exceptional means may provide an initial estimate of the percent of offenders who go free.[203]

Turning to standard clearance rates in 1990, the overall percent cleared was 21.25%.[204] In 1995 and 1998, the standard clearance rates were similar at

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199. It is possible that the #MeToo movement has been partially responsible for this recent development, either in increasing the likelihood that these crimes are properly categorized or in increasing the likelihood that individuals feel comfortable reporting such crimes. Also of note is that robbery experienced a general trend upward in the percent of arrest from 11.86% in 1990 to 15.38% in 2018. Aggravated assault jumped from 23.55% in 1990, to 51.16% in 2009, and ended at 37.41% in 2018. Larceny-theft mostly stayed the same over the period of 1990–2018. The percent arrested for larceny went from 6.01% in 1990 up to 11.4% in 2009, then back down to 8.59% in 2018. Burglary stayed the same over the years from 6.63% in 1990 to 6.77% in 2018. Finally, arrests for motor vehicle theft rose steadily from 8.56% in 1990, to 13.89% in 2004, to 17.16% in 2018. See *infra* Appendix Table 5 – True Percent Arrested for detailed sources and calculations.

200. See FBI, 2018, *supra* note 138.

201. FBI, 2018, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/clearances (Clearance).

202. FBI, 2018 tbl.25, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-25/table-25.xls/@@template-layout-view?override-view=data-declaration (data declaration).

203. This can be calculated by subtracting the "percent cleared" from 100% to give us "percent not cleared."

204. It was 67.20% for murder, 51.80% for rape/sexual assault, 24.30% for robbery, 56.50% for aggravated assault, 20.30% for larceny-theft, 13.50% for burglary, and 13.90% for motor vehicle theft. See *infra* Appendix Table 1 – 1990 (Part II) as an example of how to calculate overall standard clearance rates. Individual clearance rates come straight from the FBI Tables for 2006 and 2018 and are also in the Appendix, and 1995, 1998, 2004, 2009, and 2014 Tables are on file with the author. See also BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1992 450 tbl.4.19, https://bjs.gov/content/pub/pdf/scjs92.pdf.

21.17%[205] and 21.32%, respectively.[206] In 2004 and 2006, the overall standard percentages cleared were 19.94%[207] and 19.26%, respectively.[208] In 2009 and 2014, the overall percentages cleared were 22.04%[209] and 23.61%, respectively.[210] The overall standard clearance rate, comparing total crimes reported to police with clearance rates in 2018, is 21.64%, meaning 78.36% of crimes are not cleared.[211] It is interesting to note here that standard clearance rates are very similar to standard arrest rates—all between 20% to 25%. Simply put, police cleared almost as many crimes as they arrested in most years.[212] However, the true clearance rates are lower, as discussed in the next Subpart.

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205.    See *infra* Appendix Table 1 – 1990 (Part II) as an example of how to calculate overall standard clearance rates. Individual clearance rates come straight from the FBI. *See* FBI, 1995, *supra* note 185, at tbl.25. Turning to individual crimes, 64.80% of murders, 51.10% of rape/sexual assault, 24.70% of robberies, 55.70% of aggravated assault, 19.60% of larceny-theft, 13.40% of burglary, and 14.10% of motor vehicle theft were cleared.

206.    See *infra* Appendix Table 1 – 1990 (Part II) as an example of how to calculate overall standard clearance rates. Individual clearance rates come straight from the FBI. FBI, 1998, *supra* note 186, at tbl.25. For murder, clearance was 68.70%. Rape/sexual assault was 49.90%. Robbery was 28.40%. Aggravated assault was 58.50%. Larceny-theft was 19.20%. Burglary was 13.60%. Motor vehicle theft was 14.20%.

207.    See *infra* Appendix Table 1 – 1990 (Part II) as an example of how to calculate overall standard clearance rates. Individual clearance rates come straight from the FBI. FBI, 2004, *supra* note 187, at tbl.25. For murder, clearance was 62.60%. Rape/sexual assault was 41.80%. Robbery was 26.20%. Aggravated assault was 55.60%. Larceny-theft was 18.30%. Burglary was 12.90%. And motor vehicle theft was 13.00%.

208.    See *infra* Appendix Table 2 – 2006 (Part II) for overall calculation. *See also* FBI, CRIME IN THE UNITED STATES, 2006 tbl.2, https://www2.fbi.gov/ucr/cius2006/data/table_25.html [hereinafter FBI, 2006]. Focusing on individual crimes, clearance was 60.70% for murder, 40.90% for rape/sexual assault, 25.20% for robbery, 54% for aggravated assault, 17.40% for burglary, 12.60% for larceny-theft, and 12.60% for motor vehicle theft.

209.    See *infra* Appendix Table 1 – 1990 (Part II) as an example of how to calculate overall standard clearance rates. Individual clearance rates come straight from the FBI. *See* FBI, 2009, *supra* note 189, at tbl.25. Murder was 66.60%. Rape/sexual assault was 41.20%. Robbery was 28.20%. Aggravated assault was 56.80%. Larceny-theft was 21.50%. Burglary was 12.50%. Motor vehicle theft was 12.40%.

210.    See *infra* Appendix Table 1 – 1990 (Part II) as an example of how to calculate overall standard clearance rates. Individual clearance rates come straight from the FBI. FBI, 2014, *supra* note 190, at tbl.25. The percent cleared for murder was 64.50%. It was 38.63% for rape/sexual assault, 29.60% for robbery, 56.30% for aggravated assault, 23% for larceny-theft, 13.60% for burglary, and 12.80% for motor vehicle theft.

211.    See *infra* Appendix Table 3 – 2018 (Part II) for overall calculation. For 2018, it would mean: 37.7% of murder and nonnegligent manslaughter offenders go free; 66.6% of rape offenders go free; 69.6% of robbery offenders go free; 47.5% of aggravated assault offenders go free; 86.1% of burglary offenders go free; 81.1% of larceny offenders go free; and 86.2% of motor vehicle theft offenders go free. (Calculation: % NOT Cleared = 100% - FBI % Cleared).

212.    This could be due to misreported clearance due to improper definitions, misrepresentation, or faulty counting. *See supra* Part I.B.

### 4.  *True Clearance Rates*

Here we examine true clearance rates—a potentially more accurate measure of clearance rates that considers known crimes.[213] To calculate true clearance rates, we consider the NCVS known crimes with the number of crimes cleared according to the FBI.[214] True clearance rates presumably consider a large swath of crimes that could be reported to police but are not. Starting in 1990, the overall true percent of crimes cleared was 10.03%.[215] In 1998, the true percent cleared was 7.92%.[216] For 2004 and 2006, the overall true percent cleared was 9.26%[217] and 9.19%, respectively.[218] For 2009, police improved clearance to 12.10% of overall crimes,[219] and in 2014, it was 11.71%.[220] Finally, in 2018 the overall true percent cleared went back down to 10.61%.[221] Overall, true clearance rates in the last thirty years remained around 10%.

Comparing standard clearance rates to true clearance rates demonstrates a disparity. In 2018, the overall standard percent cleared was 21.64%, while the

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213.  See *infra* Appendix Table 1 – 1990 (Part II) as an example of how to calculate true clearance rates for other years. Tables for 2006 and 2018 are also in the Appendix, and 1995, 1998, 2004, 2009, and 2014 tables are on file with the author.

214.  See *infra* Appendix Table 1 – 1990 (Part II) and *supra* note 18 as an example. The Number Cleared is calculated by taking Percent Cleared by Arrest (as a decimal). FBI Reported Crimes = Number of Crimes Cleared. The True Clearance Rate is calculated by Number of Crimes Cleared / NCVS Known Crimes. Note, for murder, the standard and true percent cleared are the same since NCVS does not measure murder.

215.  See *infra* Appendix Table 1 – 1990 (Part II) for sources and calculations. For individual crimes, the true percent cleared was 64.8% for murder, 12.39% for rape, 10.87% for robbery, 27.47% for aggravated assault, 6.06% for larceny-theft, 6.16% for burglary, and 11.10% for motor vehicle theft.

216.  See DEP'T OF JUST., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1998 STATISTICAL TABLES 2 tbl.1, https://www.bjs.gov/content/pub/pdf/cvus98.pdf; FBI, 1998, *supra* note 186, at tbl.25. True clearance rates were 68.70% for murder, 10.66% for rape, 11.24% for robbery, 25.98% for aggravated assault, 6.11% for larceny-theft, 6.00% for burglary, and 12.28% for motor vehicle theft.

217.  See FBI, 2004, *supra* note 187, at tbl.25. Individual crimes were 62.6% for murder, 13.23% for rape, 14.01% for robbery, 28.55% for aggravated assault, 7.44% for larceny-theft, 6.66% for burglary, and 13.19% for motor vehicle theft. The true percent cleared for motor vehicle theft was higher than the standard percent cleared in 2004, 2006, 2014, and 2018 because the number reported to police was higher than the NCVS number known. We are not sure why people reported fewer crimes to the NCVS than to the police. But see *infra* Appendix Table 4 nn.69–72 for possible explanations due to differences in definition.

218.  See FBI, 2006, *supra* note 208, at tbl.25 and *infra* Appendix Table 2 – 2006 (Part II) for sources and calculations. Looking at 2006 individual crimes, murder was 60.7%, rape was 12.08%, robbery was 13.63%, aggravated assault was 30.32%, larceny-theft was 7.08%, burglary was 6.96%, and motor vehicle theft was 13.75%.

219.  See TRUMAN & RAND, *supra* note 197; FBI, 2009, *supra* note 189, at tbl.25. For individual crimes, the true percent cleared was 66.60% for murder, 24.96% for rape, 18.6% for robbery, 48.32% for aggravated assault, 10.20% for larceny-theft, 7.81% for burglary, and 12.04% for motor vehicle theft.

220.  See TRUMAN & LANGTON, *supra* note 197; FBI, 2014, *supra* note 190, at tbl.25. For individual crimes, 64.5% of murders, 13.55% of rapes, 13.27% of robberies, 34.78% of aggravated assaults, 10.37% of larceny-thefts, 7.15% of burglaries, and 15.32% of motor vehicle thefts were cleared.

221.  See FBI, 2018, *supra* note 169, at tbl.25 and *infra* Appendix Table 3 – 2018 (Part II) for sources and calculations. Breaking that down by individual crimes, the percent cleared for each was 62.30% for murder, 5.79% for rape, 13.83% for robbery, 36.98% for aggravated assault, 8.81% for larceny-theft, 5.94% for burglary, and 18.11% for motor vehicle theft.

overall true percent cleared was 10.61%.[222] Considering a few individual crimes, the standard percent cleared was 30.4% for robbery, while the true clearance was 13.83%.[223] For burglary in 2018, the standard clearance rate was 13.9%, and the true rate was 5.94%.[224] These numbers demonstrate that police are clearing less crimes when we consider the number of crimes that are not reported to police. Although we certainly do not hold police accountable to clear crimes they do not know about, we could determine whether police can increase reporting for these crimes. Considering true clearance also helps to provide a more accurate perspective of the total crimes solved by police.

To step out of the weeds for a minute, the standard clearance rates for violent crimes in general are around 45% from 1995 to 2018.[225] And for property crimes, standard clearance rates are typically between 15%–20%.[226] For instance, in 2018, the average standard clearance rate for property crimes was 17.5% (excluding arson).[227] These numbers are much lower than the public might expect, as discussed further below.

This next Subpart addresses conviction rates. Going beyond clearance to conviction, as discussed above, is a more accurate measure of how good the initial arrests police made were and whether the police gathered appropriate witnesses and information during the arrests. These two measures—standard conviction rates and true conviction rates—are actually both more comprehensive than considering clearance rates alone for measuring police effectiveness.

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222. *See infra* Appendix Table 3 – 2018 (Part II).

223. *See infra* Appendix Table 3 – 2018 (Part II).

224. *See infra* Appendix Table 3 – 2018 (Part II). Of the number of burglaries reported to the police in 2006, 12.6% were cleared according to standard clearance, which means 246,478 burglaries were cleared. *See* FBI, 2006, *supra* note 208, at tbl.25. Calculation: 0.126 (FBI – Table 25, Clearance Rate) x 1,956,175 (FBI – Table 25, Known Offenses) = 246,478.05 (Number Cleared). Even though the reported clearance rate for burglaries for 2006 was 12.6%, due to the fact that there were many who did not even report their crimes to the police (and we only know about them from crime victims' surveys), in actuality, only 6.96% of the burglaries were truly cleared by police. *See id.*; RAND & CATALANO, *supra* note 147, at 3, 5. Calculation: 246,478.05 (Number Cleared) / 3,539,769 (NCVS – Table 2, Number of Victimizations) = 6.96% or 7%.

225. *See* FBI, 1995, *supra* note 185, at tbl.25; FBI, 2018, *supra* note 169, at tbl.25 (It increased from 45.4% in 1995 to only 45.5% in 2018.). For example, percent of violent crimes cleared are as follows: in 2004, 46.3%; 2009, 47.1%; 2014, 47.4%; and 2018, 45.5%. *See also* FBI, 2004, supra note 187, at tbl.25; FBI, 2009, *supra* note 189, at tbl.25; FBI, 2014, *supra* note 190, at tbl.25; FBI, 2018, *supra* note 169, at tbl.25.

226. For example, percent of property crimes cleared are as follows: in 2004, 16.5%; 2009, 18.6%; 2014, 20.2%; and 2018, 17.6%. *See* FBI, 2004, *supra* note 187, at tbl.25; FBI, 2009, *supra* note 189, at tbl.25; FBI, 2014, *supra* note 190, at tbl.25; FBI, 2018, *supra* note 169, at tbl.25. Note, the FBI includes arson in overall property crime calculations, but the effect is small. *See infra* Appendix Table 1 – 1990 (Part I).

227. The FBI, which includes arson, has the percent of property crimes cleared at 17.6%. *See* FBI, 2018, *supra* note 169, at tbl.25. Excluding arson, the average standard clearance rate is calculated at 17.51%.

### 5.   Standard Conviction Rates

"Standard conviction rates" take the number of convictions (state and federal)[228] and divide them by the number of crimes reported to the FBI (UCR numbers). This is the standard way to measure the percentage of individuals who are convicted of crimes. It goes beyond the standard measure of clearance rates (comparing reported crime to offenses cleared) because it considers reported crime and conviction rates. We only have conviction numbers up to 2006.[229]

For standard conviction rates, we start with reported numbers and compare them with conviction numbers. In 1990, the standard percent convicted for murder was 47.05%.[230] For other crimes, it was 17.72% for rape, 7.63% for robbery, 5.15% for aggravated assault, 1.19% for larceny-theft, 3.57% for burglary, and 1.30% for motor vehicle theft.[231] In 1998, the conviction numbers were 72.56% for murder, 42.64% for rape, 11.54% for robbery, 9.6% for aggravated assault, 1.68% for larceny-theft, 4.92% for burglary, and 1.48% for motor vehicle theft.[232] And for 2004, the standard percent convicted for crimes was 62.88% for murder, 13.14% for rape, 6.53% for robbery, 6.69% for aggravated assault, 0.70% for larceny-theft, 2.61% for burglary, and 1.59% for motor vehicle theft.[233]

Standard conviction rates for 2006 may provide an estimate on the percentage of crimes solved by police. In 2006, there were 14,948 reported

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228.   The estimated percent of crimes where someone was held responsible can be calculated using conviction data. The National Judicial Reporting Program (NJRP) provides estimates for the number of felony convictions in state courts. The NJRP collected data on felony sentencing from a nationally representative sample of state courts in 300 counties. The NJRP collected data biannually from 1986 to 2006. The Federal Justice Statistics Program (FJSP) reports the number convicted of a felony in U.S. district courts each year. *See* DEP'T OF JUST., DATA COLLECTION: FEDERAL JUSTICE STATISTICS PROGRAM (FJSP) (2018), https://www.bjs.gov/index.cfm?ty=dcdetail&iid=262#Documentation; DEP'T OF JUST., FEDERAL JUSTICE STATISTICS, 2006, https://www.bjs.gov/content/pub/html/fjsst/2006/fjs06st.pdf. Adding these numbers together gives the estimated number of felony convictions in both state and federal court. Taking the estimated number convicted for the crime and dividing by the estimated number of total crimes committed results in the estimated percent of crimes where there was a conviction. See *infra* Appendix Tables 1 (Parts I–III), 2 (Parts I–III), and 6 for calculations along with the data sources.

229.   The last year the NJRP produced data on state court convictions was 2006. *See Data Collection: National Judicial Reporting Program (NJRP)*, BUREAU OF JUST. STATS. (2006), https://www.bjs.gov/index.cfm?ty=dcdetail&iid=241 (last visited Sept. 15, 2020).

230.   See *infra* Appendix Table 1 – 1990 (Part III) for sources and calculations.

231.   *See infra* Appendix Table 1 – 1990 (Part III).

232.   See *infra* Appendix Table 1 – 1990 (Parts I–III) as an example for calculations. See *infra* Appendix Table 1, note 2 for a list of tables on file with the author.

233.   See *infra* Appendix Table 1 – 1990 as an example for calculations. See *infra* Appendix Table 1, note 2 for list of tables on file with the author. The true percent convicted for motor vehicle theft was higher in 2004 and 2006 than the standard percent convicted because the number reported to police was higher than the NCVS number known. We are not sure why people reported fewer crimes to the NCVS than to the police, but see *infra* Appendix Table 4 and accompanying notes 69–72 for possible explanations.

murders, and of those, 8,845 people were convicted (federal and state),[234] so that is a total of 59% of murders resulting in a conviction.[235] So, said differently, 41% of murderers got away with murder.[236] For other crimes, it is a lot worse. If there were a total of 760,753 reported aggravated assaults in 2006 and 101,108 aggravated assault convictions,[237] that means that only 13% of individuals who committed assault were held responsible. In other words, 87% of people who committed aggravated assault were not convicted.[238] Similarly, in 2006 for burglary, 1,956,175 burglaries were reported to the FBI, and there were only 99,964 convictions in the same year.[239] So only 5% of burglars were held accountable and 95% got away with burglary.[240] For rape, there were 80,440 reported and 33,618 convictions, meaning the standard percent convicted was 42%, and 58% of rapists got away.[241] And finally, with robbery, in 2006 there were 384,844 reported robbery offenses and 43,059 convictions for robberies;[242] therefore, 11% of people were held accountable for robbery and 89% got away with it.[243] We cannot get too attached to these numbers because they only include the reported crimes and therefore do not consider other known crimes (as reported to NCVS). However, it is a measure to consider as possibly the lower range of actual crimes if the truth in crime numbers is somewhere between the numbers reported to police and those reported to NCVS.

### 6. True Conviction Rates

The true conviction measure takes the number of convictions (state and federal) and divides them by the number of known crimes, or NCVS's estimated number of total crimes. It considers both conviction rates (which are better measures than arrest or clearance rates) and known crimes reported to NCVS rather than those reported to police, which are presumably more comprehensive.

Table 3 below demonstrates the percentage of crimes in a sample of years where an individual was held accountable. For instance, in 1990, the estimated

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234. See *infra* Appendix Table 2 – 2006 (Part III) for sources and calculations.

235. *See infra* Appendix Table 2 – 2006 (Part III).

236. 100% - 59% = 41%.

237. *See* FBI, 2006, *supra* note 208, at tbl.25; *infra* Appendix Table 2 – 2006 (Part III).

238. *See infra* Appendix Table 2 – 2006 (Part III). With assault, it may be that police are resolving these crimes in other ways, and we do not have evidence of this. This is why we need to better track criminal resolution that does not end in an arrest or conviction.

239. *See* FBI, 2006, *supra* note 208 (Part III); *infra* Appendix Table 2 – 2006 (Part III).

240. *See* FBI, 2006, *supra* note 208, at tbl.25; *infra* Appendix Table 2 – 2006 (Part III).

241. *See* FBI, 2006, *supra* note 208, at tbl.25; *infra* Appendix Table 2 – 2006 (Part III).

242. *See* FBI, 2006, *supra* note 208, at tbl.25; *infra* Appendix Table 2 – 2006 (Part III).

243. *See* FBI, 2006, *supra* note 208, at tbl.25; *infra* Appendix Table 2 – 2006 (Part III).

percent of crimes where police convicted an individual was 47.05% of the time for murder, 13.95% for rape, 4.24% for robbery, 3.39% for aggravated assault, 0.46% for larceny-theft, 2.13% for burglary, and 1.08% for motor vehicle theft.[244] That is to say, murderers escaped police 52.95% of the time, and burglars escaped 97.87% of the time. These are dramatically low numbers of individuals convicted for very basic felony offenses. Keep in mind that the numbers for internet and misdemeanor offenses are presumably much worse.[245]

In considering the overall true conviction rate, there is a very small number of convictions in the sample years considered. These numbers consider the total number of known crimes in the particular year—including murder, rape, aggravated assault, burglary, robbery, larceny, and motor vehicle theft— compared to the number of convictions. These numbers are largely skewed because theft offenses are rarely solved (particularly larceny, robbery, burglary, and motor vehicle theft). The true conviction rate was 1.24% in 1990,[246] 1.35% in 1998,[247] 1.81% in 2004,[248] and 1.95% in 2006.[249] That is to say that the conviction rate for the major crimes in these sample years is less than 2% per year. Table 3 provides a visual comparison of true conviction rates for a sample of years from 1990 to 2006.

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244.  See *infra* Appendix Table 1 – 1990 (Part III) for sources and calculations.

245.  *See* FBI, 1995, *supra* note 185, at tbl.25; FBI, 1998, *supra* note 186, at tbl.25; FBI, 2004, *supra* note 187, at tbl.25; FBI, 2006, *supra* note 208, at tbl.25; FBI, 2009, *supra* note 189, at tbl.25; FBI, 2014, *supra* note 190, at tbl.25; FBI, 2018, *supra* note 169, at tbl.25.

246.  *See infra* Appendix Table 6. See *infra* Appendix Table 1 – 1990 (Part III) for sources and calculations.

247.  *See infra* Appendix Table 6. See *infra* Appendix Table 1 – 1990 (Part III) for sources and calculations. See note 2 on the Table for a list of tables on file with the author.

248.  *See infra* Appendix Table 6.

249.  *See infra* Appendix Table 6; *infra* Appendix Table 2 – 2006 (Part III).

| Table 3 – True Conviction Comparison (Considering NCVS Known Crime and FBI Conviction Rates)[250] | | | | |
|---|---|---|---|---|
| | 1990 | 1998 | 2004 | 2006[251] |
| Total | 1.24% | 1.35% | 1.81% | 1.95% |
| Murder and Non-Negligent Manslaughter | 47.05% | 72.56% | 62.88% | 59.17% |
| Rape and Sexual Assault | 13.95% | 9.11% | 13.14% | 12.34% |
| Robbery | 4.24% | 4.57% | 6.53% | 6.05% |
| Aggravated Assault | 3.39% | 4.26% | 6.69% | 7.46% |
| Larceny-Theft | 0.46% | 0.53% | 0.7% | 0.75% |
| Burglary | 2.13% | 2.17% | 2.61% | 2.82% |
| Motor Vehicle Theft | 1.08% | 1.28% | 1.59% | 1.88% |

Overall, there are two important points to consider with true conviction numbers. First, prosecutors (in collaboration with police) are convicting individuals only about 2% of the time for serious crimes.[252] Second, murder is the priority with the highest conviction rates at up to 72% in some years but down to only 47% in other years. Convictions for larceny, motor vehicle theft, and burglary are the lowest, and signify that these are the crimes most difficult (or of lowest priority) for police to solve.

The next Part puts the data from the previous six Parts together to measure criminal accountability, or the effectiveness of police in solving crime.

### 7. Criminal Accountability

Criminal accountability is the comprehensive term that encompasses all of the important data measures used to judge the effectiveness of police—number of crimes known, reported, true arrest rates, true clearance rates, true conviction rates, and, when there is data for it, crimes resolved. These criminal accountability numbers take us through the entire course of a crime, starting at known crimes and ending at conviction or resolution without arrest. The tables in this Part put together the data from the previous six Parts to give perspective on how effective police are at solving crimes. The one piece of data that is missing in these numbers is a category of crimes resolved without arrest. Ideally,

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250. *See infra* Appendix Table 1 – 1990 (Parts I–III) and Appendix Table 2 – 2006 (Parts I–III) for sources and calculations.

251. The last year that NJRP produced data on state court convictions was 2006. *See* DEP'T OF JUST., *supra* note 229.

252. Again, this is probably even lower because these crimes do not consider serious internet crimes.

to track criminal accountability, police departments will track all crimes resolved in an alternative way so that these are also accounted for—this way, a success is not necessarily only clearance or conviction, but any resolution.

The criminal accountability data in this Part gathers information for the major crimes to help put into perspective how effective police are. Table 4 expresses the full criminal accountability data for 2006.[253] A few examples are illuminating. In 2006, according to the FBI, there were 384,844 robberies reported to police.[254] But NCVS estimated that there was actually a total of 711,570 robberies, meaning that about 306,687 robberies were not reported to police.[255] Of the total number of known robberies, 43.1% were not reported to the police.[256] Of the number of robberies reported to the police, only 25.2% of those were cleared, which means the number cleared was 96,980 robberies.[257] However, due to the fact that there were many who did not even report their crimes to the police, in actuality, only 13.63% of the total number of robberies were actually cleared by police.[258] And, of those robberies cleared in 2006, only 6.05% of all robberies were resolved by conviction.[259] Or, to think of it another way, more than 93% of robbers in the U.S. got away with their crime in true criminal accountability numbers.[260]

The picture is equally bleak when we consider burglaries and murders in 2006. Of the total number of 3.54 million burglaries in 2006, 1.78 million were not reported to the police, which was more than 50% of burglaries.[261] During

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253. This criminal accountability chart with full references is *infra* Appendix Table 7. The Appendix includes criminal accountability charts for 1990, 2006, and 2018. *See infra* Appendix Tables 1, 2, & 3. Full criminal accountability data including conviction information for 1998 is on file with the author. There is no conviction data for 2018, so it is not a full criminal accountability chart. *See infra* Appendix Table 3 - 2018 (Parts I–II).

254. FBI, 2006, *supra* note 208, at tbl.25.

255. RAND & CATALANO, *supra* note 247, at 3 tbl.2; FBI, 2006, *supra* note 208, at tbl.26. Calculation: (.569)(NCVS – Table 8, % Reported to Police) x 711,570 (NCVS – Table 2, Number of Victimizations) = 404,883 (number of robberies reported to police); 711,570 (NCVS – Table 2, Number of Victimizations) – 404,883 (number of robberies reported to police) = 306,687 (estimated number of robberies not reported to police).

256. This is according to NCVS reporting numbers, not FBI reporting numbers. RAND & CATALANO, *supra* note 147, at 5 tbl.8. Calculation: 100% - 56.9 (% reported to police) = 43.1% (estimated % not reported to police).

257. *See infra* Appendix Table 2 - 2006 (Part II).

258. *See infra* Appendix Table 2 - 2006 (Part II).

259. *See infra* Appendix Table 2 - 2006 (Part III).

260. *See infra* Appendix Table 2 - 2006 (Part III). Calculation: 100% - 6.05% = 93.93% or 94% (estimated % held responsible).

261. *See* RAND & CATALANO, *supra* note 147, at 3, 5 tbls.2 & 8. Calculation: 3,539,760 (NCVS – Table 2, Number of Victimizations) – 1,755,720.96 (number of burglaries reported to police) = 1,784,048.04 (estimated number of burglaries not reported to police). Then we take 1,784,048.04 (estimated number of burglaries not reported to police) / 3,539,760 (NCVS – Table 2, Number of Victimizations) = 50.4% (estimated percent of burglaries not reported to the police).

that year, 6.96% of burglaries were cleared by police.[262] And, of those burglaries cleared, only 2.82% of people who were burglarized had their perpetrator held responsible by conviction.[263] That is to say, more than 97% of burglars in the U.S. got away with their crime when considering the criminal accountability numbers. In 2006, 14,948 people were murdered in the United States.[264] The number of people arrested for murder in 2006 was 13,435.[265] Police cleared 9,073 murders in 2006.[266] There were 8,845 convictions for murder in state and federal court,[267] meaning 59.17% of murderers were held responsible.[268] So, in other words, in 2006, police never captured 40.83% of murderers.[269] The full criminal accountability chart for 2006 is illustrated in Table 4 below.[270]

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262. *See infra* Appendix Table 2 - 2006 (Part II).

263. *See infra* Appendix Table 2 - 2006 (Part III). By way of comparison, the federal conviction rate is much higher, especially for violent crime. In 2012, the federal overall conviction rate was 93%. DEP'T OF JUST., UNITED STATES ATTORNEYS' ANNUAL STATISTICAL REPORT 8 (Oct. 28, 2013), https://www.justice.gov/sites/default/files/usao/legacy/2013/10/28/12statrpt.pdf. This has gone up federally from 75% to 85% between 1972 and 1992. Sara Sun Beale, *Federalizing Crime: Assessing the Impact on the Federal Courts*, 543 ANNALS OF THE AM, ACAD. OF POL. & SOC. SCI. 39, 50 (1996).

264. See *infra* Appendix Table 2 - 2006 (Part I) for sources and calculations.

265. See *infra* Appendix Table 2 - 2006 (Part I) for sources and calculations.

266. See *infra* Appendix Table 2 - 2006 (Part II) for sources and calculations. According to the Murder Accountability Project, the number of murders cleared is slightly higher at 9. MURDER ACCOUNTABILITY PROJECT, UNIFORM CRIME TABLE FOR HOMICIDES 1965–2018 (2019), http://www.murderdata.org/p/blog-page.html (last accessed Feb 16, 2020).

267. See *infra* Appendix Table 2 - 2006 (Part III) for sources and calculations.

268. See *infra* Appendix Table 2 - 2006 (Part III) for sources and calculations.

269. See *infra* Appendix Table 2 - 2006 (Part III) for sources and calculations. Calculation: 100% - 59.17% = 40. 83%.

270. See citations and explanations of all calculations in this chart *infra* Appendix Table 2 - 2006 (Parts I–III).

| Table 4 - Criminal Accountability - 2006 | | | | | |
|---|---|---|---|---|---|
| Types of Offenses | (a) Number Known | (b) Percent Reported (FBI) (% of col. a) | (c) True Percent Arrested (% of col. a) | (d) True Percent Cleared (% of col. a) | (e) True Percent Convicted (% of col. a) |
| Total | 21,162,438 | 47.69% | 10.09% | 9.19% | 1.95% |
| Murder and Non-Negligent Manslaughter | NA | NA | 89.88% | 60.70% | 59.17% |
| Rape and Sexual Assault | 272,350 | 29.54% | 9.01% | 12.08% | 12.34% |
| Robbery | 711,570 | 54.08% | 17.65% | 13.63% | 6.05% |
| Aggravated Assault | 1,354,750 | 56.15% | 33.06% | 30.32% | 7.46% |
| Larceny-Theft | 14,275,150 | 40.70% | 7.57% | 7.08% | 0.75% |
| Burglary | 3,539,760 | 55.26% | 8.61% | 6.96% | 2.82% |
| Motor-Vehicle Theft | 993,910 | 109.13% | 13.86% | 13.75% | 1.88% |

Overall, the criminal accountability numbers teach us a few things. First, for most of the major crimes there are more known crimes (NCVS) than crimes reported to police (UCR). Indeed, this reiterates what was illustrated in Part II.A, that less than half of crimes are reported to police. An exception to this is motor vehicle theft. More people report motor vehicle theft to police than to NCVS victims' surveys. This demonstrates the importance of having both numbers in order to understand why people report some crimes to police more than others. Second, it is also important to track crimes resolved without arrest. An example of motor vehicle theft is fitting here. Even though police are able to convict individuals for motor vehicle theft in only 1.88% of cases, the cases resolved are much higher. The Department of Transportation estimates that 59% of stolen cars are recovered each year.[271] Police play a major role in these efforts, which may be why reporting for motor vehicle theft is disproportionately high.[272] But clearance rates and conviction rates do not take these efforts into account and, in this instance, make the overall crime picture look worse than it is. And finally, the overall criminal accountability picture is much worse than we might have thought. There are less than 7% conviction rates for all crimes besides murder and rape, and a less than 2% true conviction

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271. DEP'T OF TRANSP., VEHICLE THEFT PROTECTION, www.nhtsa.gov (last accessed Feb. 16, 2020). DEP'T OF TRANSP., VEHICLE THEFT PREVENTION, https://www.nhtsa.gov/road-safety/vehicle-theft-prevention#37641 (last accessed Aug. 18, 2020) (see "Safety Facts" box for statistic and source).

272. *Id.* It is over 100% due to definitional differences between the FBI and NCVS. See *infra* Appendix Table 2 – 2006 (Part I) note 37 for further details.

rate overall. Potentially, tracking crimes resolved without arrest may improve this picture for other crimes. Some crimes may also be resolved after arrest but not with conviction. These must also be accounted for. In sum, it is important to simply understand how low criminal accountability numbers are. The neglect of these numbers and the potential path forward, as well as counterarguments, are addressed in the next Part.

## III. THE PATH FORWARD FOR CRIMINAL ACCOUNTABILITY

We learn from the data in the last Part that for all major crimes, criminal accountability is low—and crimes are often not solved either by arrest, clearance, or later conviction. Police apprehend very few of the individuals who commit crimes. This Part is about what needs to change in order for us to measure criminal accountability more effectively and ultimately improve police performance. Part III.A delves into the neglect of criminal accountability and explores how this has been ignored by scholars and media. Criminal commentary has neglected discussion of low clearance and conviction rates and low criminal accountability. It also demonstrates, with Figures 4 and 5, the low criminal accountability in America with a "crime funnel." Part III.B addresses the areas of potential reform in tracking police effectiveness and counterarguments against potential changes.

### A.   The Neglect of Crime Accountability

Scholars and commentators have been largely silent on how few crimes are addressed by police. It is understandable that there has not been a discussion of low criminal accountability, but there is also a similar neglect in discussion of police clearance rates in the scholarly literature and media.[273] There is very little focus on the low rate of clearance or conviction for crimes nationally.[274]

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[273].   Clearance rate articles have focused on the decrease in clearance rates over time, without discussion on what low clearance rates mean for police effectiveness or how they affect public safety. *But see* German Lopez, *There's a Nearly 40 Percent Chance You'll Get Away with Murder in America*, VOX (Sept. 24, 2018), https://www.vox.com/2018/9/24/17896034/murder-crime-clearance-fbi-report (explaining that police should do more and dedicate more resources to solving crimes rather than focusing on preventative measures).

[274].   While very few commentators have noticed low clearance rates, German Lopez noted bleakly in 2017, "If you murder someone in America, there's a nearly 40 percent chance you'll get away with it." *Id.*; *see also* Anthony Williams, *Police Aren't Getting Better at Solving Murders: Why is the Clearance Rate in U.S. Cities so Low?*, CITYLAB (Jun. 26, 2017), https://www.citylab.com/equity/2017/06/police-arent-getting-better-at-solving-murders/531642/ (lamenting that U.S. law enforcement "is the worst in the Western world at solving crimes" and citing clearance rate statistics like one-eighth of burglaries leading to arrest, or only one-third for rape, and two-thirds for murder); Martin Kaste, *Open Cases: Why One-Third of Murders In America Go Unresolved*, NPR (March 30, 2015), https://www.npr.org/2015/03/30/395069137/open-cases-why-one-third-of-murders-in-america-go-unresolved ("If you're murdered in America, there's a 1 in 3 chance that the police won't identify your killer.").

For instance, The National Academies of Sciences recently published a 326-page report on policing.[275] Clearance rates are mentioned exactly once in the body of the report—and only in passing.[276] There is a field of scholarship dedicated to addressing the rights of victims of crime. Yet, this growing victims' rights movement has not addressed low clearance or conviction rates at all, or the large group of individuals affected by unsolved crimes.[277] Proportionately, there are many more cases—more than double with some crimes—where the victims never even contact police to get help. When you consider the number of victims who never reach resolution (conviction or otherwise), in 2006,

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275. NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, PPOACTIVE POLICING: EFFECTS ON CRIME AND COMMUNITIES (David Weisburd & Malay K. Majamundar eds., 2018).

276. *Id.* at 63.

277. The Victims' Rights Movement speaks to the (vital) rights of the small percentage of victims who enter the criminal system. *See generally* Douglas E. Beloof, *Constitutional Implications of Crime Victims as Participants*, 88 CORNELL L. REV. 282, 283 (2003) (addressing the constitutional complications that come into play when victims are granted rights during criminal trials); Jayne W. Barnard, *Allocution for Victims of Economic Crimes*, 77 NOTRE DAME L. REV. 39, 74 (2001) (discussing the complexity of involving victims of economic crimes in receiving restitution); Susan Bandes, *Victim Standing*, 1999 UTAH L. REV. 331, 337 (1999) (addressing the complexity of victims entering a criminal proceeding built for prosecution and defendant); Josephine Gittler, *Expanding the Role of the Victim in a Criminal Action: An Overview of Issues and Problems*, 11 PEPP. L. REV. 117, 121–23 (1984) (detailing the accomplishments of the Victims' Rights Movement and advocating for victims to play a more active role in criminal trials beyond being a witness); Dena M. Gromet et al., *A Victim-Centered Approach to Justice? Victim Satisfaction Effect on Third-Party Punishments*, 36 L. & HUM. BEHAV. 375, 377–87 (2012) (examining studies of victim and third-party satisfaction with restorative justice processes); Arthur Lurigio, *Are all Victims Alike? The Adverse, Generalized, and Differential Impact of Crime*, 33 CRIME AND DELINQ. 452, 453 (1987) (studying the differences between victims and non-victims when it comes to psychological, behavioral, and attitudinal health); Vik Kanwar, *Capital Punishment as "Closure": The Limits of a Victim-Centered Jurisprudence*, 27 N.Y.U. REV. L. & SOC. CHANGE 215, 215–16 (2002) (arguing that a death penalty sentence fails to provide closure to a victim's family and may even be more damaging); Ellen M. Bublick, *Citizen No-Duty Rules: Rape Victims and Comparative Fault*, 99 COLUM. L. REV. 1413, 1413 (1999) (explaining that citizen entitlements should be considered by courts as a compelling factor when considering defenses to rape victim comparative fault equations); Lynne N. Henderson, *The Wrongs of Victim's Rights*, 37 STAN. L. REV. 937, 938 (1985) (examining the impact that victims' rights procedures have had on the criminal process and the potential impact of such rights on the goals of the justice system, such as crime prevention); Robert C. Davis & Barbara E. Smith, *The Effects of Victim Impact Statements on Sentencing Decisions: A Test in an Urban Setting*, 11 JUST. Q. 453, 453 (1994) (examining the impact of victim statement on the sentences of offenders and trying to determine if that impact has resulted in sentences more in line with the harm committed or not); Jongyeon Tark & Gary Kleck, *Resisting Crime: The Effects of Victim Action on the Outcomes of Crimes*, 42 CRIMINOLOGY 861, 861 (2004) (assessing the impacts on crimes and outcomes of various types of victim self-protection); Douglas E. Beloof, *Weighing Crime Victims' Interests in Judicially Crafted Criminal Procedure*, 56 CATH. U. L. REV. 1135, 1136 (2007) (detailing the manner in which victims' rights are being incorporated into the judicial process and the challenges they present).

20,749,770 victims (around 98.05%)[278] received no resolution.[279] Yet none of the victims' rights scholarship discusses the lack of criminal accountability; only a few articles deal with the phenomenon of underreporting or under-prosecution,[280] and the majority of the literature focuses on the rare case in which a crime victim is served through the justice system.[281]

The amount of attention the media gives to crime clearance rates constitutes a drop in the bucket compared to other criminal justice topics. For instance, in the last ten years, there have been 8,000 articles in international newspapers discussing mass incarceration and 29 articles discussing police clearance rates.[282] There is very little attention on how low clearance and conviction rates are and what this means for police and society.

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278. See *infra* Appendix Table 2 - 2006 (Part III) for citations and sources, including the true percent convicted. *See* RAND & CATALANO, *supra* note 147 at 3 tbl.2. Calculation: 100%-1.95% = 98.05% (percent of victims who had no resolution/estimated percent not convicted). 21,162,438 was the number of known crimes, so 20,749,770 is the estimated number of crimes where no one was held responsible – victims that had no resolution). For information on State numbers, see Sean Rosenmerkel et al., BUREAU OF JUST. STATS., FELONY SENTENCES IN STATE COURTS, 2006 3 tbl.1.1 (Dec. 2009). For information on federal numbers, see Mark A. Motivans, BUREAU OF JUST. STATS., FEDERAL JUSTICE STATISTICS, 2006 tbl.4.2 (May 2009), https://www.bjs.gov/content/pub/html/fjsst/2006/fjs06st.pdf.

279. A large caveat here is that we have no record of crimes resolved without resolution. We know a large number of motor vehicle thefts are resolved (i.e., the cars are returned) even though there is no accountability for the crime (no arrest or conviction). This is important to consider with these numbers. It is possible that some crimes were resolved independently without the help of police. *See* LANGTON ET AL., *supra* note 41106, at 4 tbl.1 (noting that sometimes up to 40% of individuals resolve crimes without the help of police).

280. Though no legal scholars have focused on the lack of criminal accountability as a problem in our criminal justice system, a few scholars have noted the problem of underreporting and have noted that victims should have rights before charges are filed. *See* In Re: Petition for Appointment of Prosecutor Pro Tempore, No. 2018-0839, 2018 WL 6015550, at *1–2 (Utah Oct. 16, 2018) (advocating for the appointment of a special prosecutor by the Supreme Court in order to pursue victim-initiated prosecutions for sexual assault victims who have seen very low rates of prosecution); Paul G. Cassell et al., *Crime Victims' Rights During Criminal Investigations? Applying the Crime Victims' Rights Act Before Criminal Charges are Filed*, 104 J. CRIM. L. & CRIMINOLOGY 59, 59 (2014) (advocating for victims to have CVRA rights during investigations before charges are filed); Abraham S. Goldstein, *Defining the Role of the Victim in Criminal Prosecution*, 52 MISS. L. REV. 515, 515–518 (1982) (arguing that much of the phenomenon of underreporting has to do with the victims perceived or actual separation from the criminal justice process); Paul Marcus & Tara L. McMahon, *Limiting Disclosure of Rape Victims' Identities*, 64 SO. CAL. L. REV. 1019, 1050 (1991) (arguing that, often, the underreporting of rape and sexual assault is because of the lack of privacy that victims experience related to this already invasive crime after reporting and charging); *see also* Paul H. Robinson & John M. Darley, *Utility of Desert*, 91 NW. U. L. REV. 453, 461 tbl.1 (1997).

281. Often the Victims' Rights Movement remains focused on rights relevant after charging such as trial rights and sentencing rights. *See* Margaret Garvin & Douglas E. Beloof, *Crime Victim Agency: Independent Lawyers for Sexual Assault Victims*, 13 OHIO ST. J. CRIM. L. 67 (2015) (presenting a case for victim's rights such as right to counsel, right to a speedy trial, right to discovery, right to make a victim impact statement before trial, and a right to be informed of release or probation); Douglas E. Beloof & Paul Cassell, *The Crime Victim's Right to Attend the Trial: The Reascendant National Consensus*, 9 LEWIS & CLARK L. REV. 481, 482–83 (2005).

282. An international search of all newspapers worldwide in Lexis-Nexis from Sept. 2009 to Sept. 2019 shows that "overcrowded jail" returned 8,964 articles; "overcrowded prison" 1,361 articles; "mass incarceration" 9,479 articles; "police clearance" 2,756 articles; "crime clearance rates" 89 articles; and "police clearance rate" 29 articles. And in the U.S., a similar newspaper search demonstrates the underemphasis on clearance is even more stark: "overcrowded jail" 689 articles; "overcrowded prison" 1,171 articles; "mass

Criminal accountability has been ignored in the literature, except for some mention of the crime "funnel." The closest reference to the lack of criminal accountability is reference to a crime "funnel" or "sieve."[283] The idea of a crime funnel is that many crimes enter at the outset with a police report and very few are resolved with a defendant being arrested, then convicted, then imprisoned.[284] The crime funnel is different from the criminal accountability numbers here in that it starts from a police report and tracks a crime to imprisonment. By ignoring known crimes, it misses up-to-half of the crimes committed.[285] Even with the existence and very brief mention of the crime funnel, the implications of it for police effectiveness or criminal policy have not been explored or discussed.[286]

The crime funnels in Figures 4 and 5 demonstrate the consistently low rates of criminal accountability and show that crime has gone down in America over the last thirty years. Overall, many more people are victims of crime than report to the police. A small fraction of police reports result in arrest, and a small portion of those end in a conviction. Figure 4 below illustrates the criminal

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incarceration" 2,857 articles; "crime clearance rate" 26 articles; "police clearance" 12 articles; and "police clearance rate" 1 article. Certainly, this search could have missed articles, but the broader point likely stands.

283.   For an especially thorough example of a crime funnel, *see* ELISE HANSELL ET AL., THE CRIME FUNNEL, ROSE INSTITUTE OF STATE AND LOCAL GOV. (2016); Robinson, *supra* note 280.

284.   Brian Forst, BUREAU OF JUST. STATS., IMPROVING POLICE EFFECTIVENESS AND TRANSPARENCY: NATIONAL INFORMATION NEEDS ON LAW ENFORCEMENT 2 (2008), https://www.bjs.gov/content/pub/pdf/bjsworkshop.pdf:

> Most of us are familiar with elaborate diagrams of the criminal justice "funnel" depicting the channeling of crimes through the criminal justice system. But when numbers are attached to the diagram, it becomes clear that this is more of a sieve than a funnel. About 8 to 10 million felonies are reported to the police each year, and the National Crime Victimization Survey (NCVS) tells us that about as many go unreported.

285.   See *supra* Part II.A for discussion of known crimes.

286.   One notable exception is Brian Forst, who remarks:

> So we have something like 15 to 20 million felony victimizations annually in the United States, and fewer than 1 million of these cases end in conviction. The police are precisely in the middle of this extraordinarily leaky sieve. Yet, we have little by way of reliable empirical evidence on the relationships between police operations, tactics, and policies on the one hand, and the leakages at each stage, on the other—from victimization to reporting to recording to arrest to conviction—which the police could conceivably do much more to close.

Forst, *supra* note 284. He also remarks:

> In today's world of information and the ready availability of statistical tools to analyze it, one can only marvel at how little we know about what the police could do to raise the rate at which victimizations end in conviction from well below 10% to perhaps 20% or more. We rarely bother even to consider the prospect. It seems somehow negligent that we have failed to seize opportunities to learn what the police can do at each stage to reduce the enormous social costs associated with this vast, largely ignored sequence of justice lapses between crimes and convictions. BJS can help by providing statistical indicators of lapses at each of these stages, and its data sets can be exploited creatively for another purpose: to permit in-depth research about what works to reduce the leakages.

*Id.* (footnote omitted).

accountability rates for 2006 and 2018,[287] or a more complete "crime funnel." The general trend was the same for both years. Though, one positive note is that there is much less known crime and reported crime in 2018, so even victims' reports demonstrate that crime has gone down in America.[288] There are many more crimes committed than reported, arrested, or cleared—and much fewer convicted or imprisoned.[289] These do not consider any alternatives to resolving crime besides conviction and imprisonment; however, these are important data points that police should consider. It is also significant to emphasize here that Figure 4 is incomplete because we stopped tracking national data of conviction and imprisonment rates after 2006.[290] In order to consider the full cycle of a crime, it is vital to have these data points.



Figure 4 - Criminal Accountability 2006 and 2018
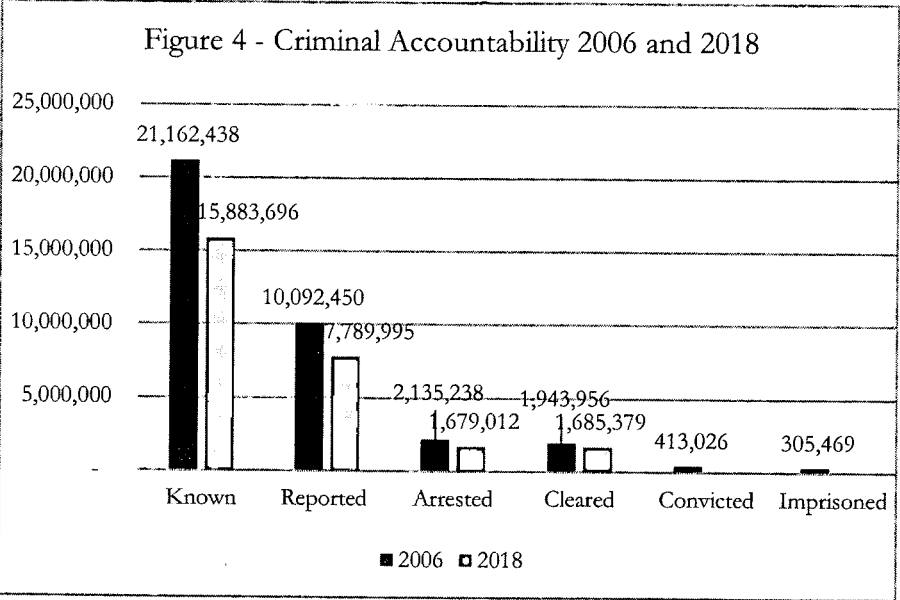
Figure 5 below considers criminal accountability from 1990 to 2006, demonstrating a similar pattern to Figure 4.[291] This Figure confirms, even with known crimes, that crime has decreased in America in the last thirty years.[292]

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287. See *infra* Appendix Table 2 – 2006 and Table 3 – 2018 for sources and calculations.

288. See *infra* Figure 4, Appendix Table 2 – 2006, and Table 3 – 2018 for sources and calculations.

289. Note that we do not have the conviction or imprisonment data for 2018.

290. The last year that BJS tracked the data relevant for incarceration, prison, and conviction rates nationally was 2006. *See* BUREAU OF JUST. STATS., FELONY SENTENCES IN STATE COURTS, 2006 5 tbl.1.2.1, http://www.bjs.gov/content/pub/pdf/fssc06st.pdf.

291. See *infra* Appendix Table 1 – 1990 (Part I and III) and Table 2 – 2006 (Parts I and III) for sources and calculations. See Appendix Table 1 – 1990, note 2 for a list of tables on file with the author.

292. This could mean that police are more effective at *preventing* crime than *solving* crime, but more study is necessary on this issue.

The Figure also demonstrates that at every stage in the life of a crime, police and then prosecutors lose the ability to help victims.



Figure 5 - Criminal Accountability 1990-2006
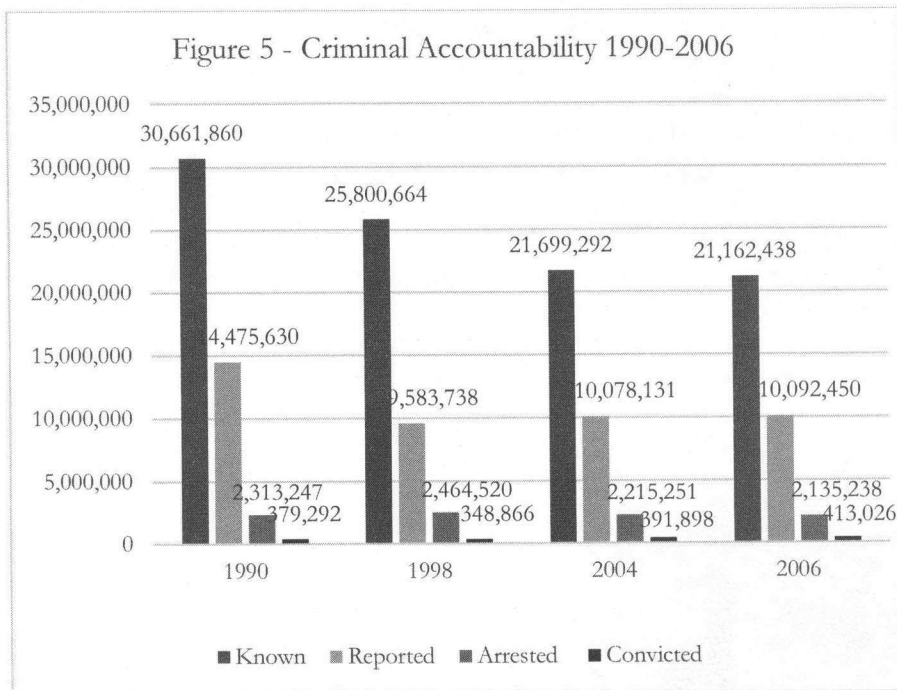
It will be difficult to improve police effectiveness if we continue to neglect criminal accountability. The next Subpart provides some thoughts on police effectiveness and considers the challenges to tracking and improving criminal accountability.

### B. Thoughts and Counterthoughts on Police Effectiveness

Now that we know that police are not very effective at solving crime,[293] several questions remain. Some of these questions we pose and leave for another day. We also discuss some potential reforms and counterarguments against reform.

At the outset, it is important to acknowledge the criticism of including known crime numbers in measuring police effectiveness. Perhaps it is unfair to judge police based on known crimes because they may not be able to improve these numbers, or clearance numbers, because of a lack of trust in their

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293. Only half of crimes are typically reported to police, and of those known, police clear about 10% overall and then convict less than 2%. These numbers are very rough estimates based on numbers in Part II, and do not consider cases that are resolved without arrest—which would hopefully demonstrate police resolve many cases without arrest or conviction.

neighborhood. Arguably, improving trust and legitimacy can take many years or may be impossible in some neighborhoods. Yet, the research demonstrates that police may be able to improve reporting without substantially improving clearance or conviction rates. Indeed, research demonstrates that a police department's response to a crime report and an individual's perception of how police will respond to their report may be more important to reporting rates than whether police can actually solve a crime.[294] The studies show that, to improve reporting, police must improve relationships with the communities they serve.[295] Indeed, several other countries have less disparity between reporting and known crime rates, so this is something that could theoretically improve in the U.S.[296] Police may be able to improve reporting without necessarily solving more crimes.

So, with that caveat, *what* would make police more effective? Certainly, we need more research on this point. But the suggestions below are an important first step to consider. These are improvements that can be made without encroachments on civil liberties or increased surveillance that may threaten privacy rights.[297]

First, police departments and the federal government need to track national conviction and imprisonment rates.[298] This first step is simple but absolutely

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294.    In some ways, low criminal accountability can be a self-perpetuating problem. Police are not effective at solving crimes, and therefore people feel like it is not worthwhile to report a crime to the police. Indeed, one study shows that the ability of police to solve crime is directly linked to how good officers are at solving crime and how well police interact with the public. *See* Kristina Murphy & Julie Barkworth, *Victim Willingness to Report Crime to Police: Does Procedural Justice or Outcome Matter Most?*, 9 VICTIMS & OFFENDERS: AN INT'L J. OF EVIDENCE-BASED RES., POL'Y & PRAC. 178, 194 (Apr. 1, 2014). See *supra* notes 100–01 for discussion of Tom Tyler's research on this point. Low criminal accountability may not be critical to reducing crime rates. It is unclear whether solving more murders deters future murders. The conventional wisdom might predict that higher clearance rates would mean fewer future murders. However, one analysis of clearance rates in 2015 and 2016 showed no correlation between murder clearances and future murders. Asher & Horwitz, *supra* note 42 (analyzing FBI's Uniform Crime Reports for 2015 and 2016). In Charlotte, North Carolina, murder rates actually increased with an increase in clearance rates. Asher & Horwitz, *supra* note 42.

295.    Bret D. Asbury, *Anti-Snitching Norms and Community Loyalty*, 89 OR. L. REV. 1257, 1311 (2011) ("Experiments in community policing over the past three decades have shown that community attitudes toward police officers can change pervasively in a short period of time."); Jamie Masten, *"Ain't No Snitches Ridin' Wit' Us": How Deception in the Fourth Amendment Triggered the Stop Snitching Movement*, 70 OHIO ST. L.J. 705, 755 (2009) ("Trust is paramount in any relationship, and this notion is no different when applied to the intricate interplay between the public and the police.").

296.    SWEDISH NATIONAL COUNCIL OF CRIME PREVENTION, THE CLEARANCE RATE IN SWEDEN AND IN OTHER COUNTRIES 8 (2015), https://www.bra.se/bra-in-english/home/publications/archive/publications/2015-06-10-the-clearance-rate-in-sweden-and-in-other-countries.html (noting that in Sweden, known crime rates and reporting rates are similar).

297.    Elizabeth E. Joh, *Policing by Numbers: Big Data and the Fourth Amendment*, 89 WASH. L. REV. 35, 38 (2014) (encouraging the drawing of 4th Amendment lines with growth of big data policing); Elizabeth E. Joh, *Reclaiming 'Abandoned' DNA: The Fourth Amendment and Genetic Privacy*, 100 Nw. L. REV. 857, 882–83 (2006) (discussing the problem of loss of rights with abandoned DNA).

298.    Rachel Harmon makes a compelling case that we should track police data more carefully. Rachel Harmon, *Why Do We (Still) Lack Data On Policing?*, 96 MARQ. L. REV. 1119, 1124 (2012) ("If data about crime rates and the costs and benefits of policing practices are crucial to voters, they are equally important to police

critical. As a part of better criminal accountability, the federal government must track data for national convictions and imprisonment numbers. The Bureau of Justice Statistics stopped tracking national conviction and imprisonment data in 2006, which makes it very difficult to determine the full course of a crime.[299] Pressure on the federal government to restore this program will allow us to consider criminal accountability nationally.

Second, providing knowledge about how low criminal accountability generally is—and how ineffective police are—could help improve policing. This may be the major contribution of this Article, providing a national review of police effectiveness for major crimes. The information in this Article is surprising and may spark change. If police are compared to other emergency services of fire and ambulance, it would be like the fire department only responding to two out of ten fires that are reported and only putting out the fire in two out of every 100 fires. The general public has no idea how ineffective police are at solving crime. Police may be more likely to focus on improving reporting numbers, for instance, if this were a national or state focus. Some countries have higher rates of reporting because they allow police reports for serious crimes via telephone or internet.[300] We could experiment with such tactics if the rate of low accountability were a national concern.

One counterargument to providing this information broadly is that it may incentivize more people to commit crimes. Is it possible that knowing how little criminal accountability there is leads to chaos and lawlessness rather than police reform? Will people be incentivized to commit more crimes because of how many people get away with it? There is a risk in informing the public about low accountability or demonstrating how easy it is to get away with crime. Given that these threats already exist, many criminals often do not act rationally, and the costs of crime are so great,[301] the risk may be worth it.

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chiefs and other high-ranking department officials who develop and implement law enforcement strategies and procedures.").

299.   The FBI should also compare NCVS data on reported crime with reports to police departments and provide information so that police departments can have easy access to this information.

300.   SWEDISH NATIONAL COUNCIL OF CRIME PREVENTION, *supra* note 296, at 11 (providing an example of high reporting numbers in Sweden and noting that individuals can file police reports in person, via telephone, and on the internet); SWEDISH NATIONAL COUNCIL OF CRIME PREVENTION, *supra* note 296, at 12 (noting that Norway allows reporting at the police station or on the internet); SWEDISH NATIONAL COUNCIL OF CRIME PREVENTION, *supra* note 296, at 14 (noting that Denmark allows reporting at the police station, at the scene of the crime, and via telephone or internet); SWEDISH NATIONAL COUNCIL OF CRIME PREVENTION, *supra* note 296, at 20 (noting that England and Wales allow reporting at the police station and via telephone or internet). *But see* SWEDISH NATIONAL COUNCIL OF CRIME PREVENTION, *supra* note 296, at 16–17, 19 (noting that Germany and the Netherlands only allow reporting at the scene of the crime, at a police station, and less commonly on the telephone and internet, and mostly for minor crimes). Like Germany, jurisdictions in the U.S. only allow online reporting of crimes for less serious crimes. *See, e.g., File a Police Report Online*, D.C. GOV'T, https://mpdc.dc.gov/service/file-police-report-online (last accessed Feb. 17, 2020) (noting that online reporting is allowed for minor thefts and lost property).

301.   *See, e.g.,* Shima B. Baughman, *Costs of Pretrial Detention*, 97 B.U. L. REV. 1, 9 (2017) (discussing the tangible and intangible costs of major crimes including murder, rape, robbery, aggravated assault).

Indeed, this information could lead to important discussions within communities about how resources should be allocated to police. Some jurisdictions may experiment with providing more police resources to improve crime reporting, and others may allocate resources towards crime resolution without arrest. Still, others might focus on improving arrest and conviction numbers for violent crimes to improve safety. An integral part of tracking criminal accountability may include prioritizing crimes that are important to the community. If a police department's arrest rates in a given year include 50% drug offenses and 10% violent crimes, a community may provide input and refocus the police on areas they are most troubled by. Experimenting to improve police effectiveness would be possible when police departments are aware of the crimes occurring in their neighborhoods. An overall understanding of how low accountability rates are in general could pressure police to refocus their efforts to resolve the most harmful crimes in their particular communities.

Third, we must track the full course of a crime and consider whether police are effective—nationally and locally. Crimes must be followed all the way from incidence to victim report, police report, arrest, clearance, conviction or resolution in another way, and imprisonment. Simply put, the criminal accountability charts provided as samples in this Article should become a staple in every jurisdiction (with added columns for alternative ways to resolve crimes).

The first point of police effectiveness occurs when an individual decides whether to report a crime to police. If police focused on improving this metric, it could improve their effectiveness in helping solve crimes. Though, there is an argument that focusing on known crimes is not a better measure of police effectiveness than reporting. First, one may argue that what I refer to as true clearance or true conviction is not any truer than the standard method of measuring these rates. There is error in any reporting of crime—whether by NCVS or FBI. There are potential fraud problems with NCVS or FBI reports, and arguably this is worse for NCVS given that it is a self-reported survey where no evidence is required.[302] Filing a police report requires evidence and signing statements and may be a more reliable source. However, on the other side, if the NCVS reports are accurate, more than half of the most serious crimes are not reported to police.[303] Is it possible that over fifteen million people are fabricating crimes in NCVS reports each year? Anything is possible, but given the massive scope of known crimes, it seems wise to at least consider them. If we could consistently track the reasons people are not reporting to police and study this locally, we could get a targeted answer as to how to improve reporting

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302. See *supra* Part I.B and Part II for further discussion of this counterargument.
303. See *infra* Appendix Table 4 for more detailed reporting for each crime and for various years.

rates.[304] Police could study NCVS data on victim reporting for their particular county to see where they could improve reporting numbers. Indeed, tracking crimes from incidence to reporting is likely to help improve police effectiveness over the current system.

Police must know their particular jurisdictions and compare known crimes with reporting rates and the various ways cases are resolved. This will take local coordination with the FBI and NCVS, which can be difficult.[305] This may seem like a chicken and egg problem but measuring police effectiveness starting at known crimes will help motivate police departments to track this metric. If police are not aware of crimes occurring in their jurisdiction that are not reported to police, they will never improve reporting rates or gain trust in the community. Gaining trust in the community can in turn improve clearance rates. This will further improve police legitimacy and perceptions of fairness.[306] This may be circular but improving in any one category can improve the others. Knowing all of the criminal accountability data is the first step.

Tracking police effectiveness from incidence of crime to conviction or case resolution avoids some incentives to falsely arrest or misrepresent clearance numbers. With the current focus on clearance rates, police can arrest suspects to improve clearance numbers, or rely on faulty evidence that does not result in a conviction, with little measurable effect on their performance. This system, as discussed in Part I.C, has led to many police departments falsifying or double counting clearance and arrest numbers and unfairly counting too many crimes as cleared by exceptional means. Motivating police to focus on case resolution rather than clearance helps police to create the best cases possible for prosecutors or to resolve the cases in other ways. The current silo effect, where police are accountable only to the point of clearance and prosecutors are accountable until conviction/imprisonment, is not helping police effectiveness.[307] Having police accountable for the entire criminal cycle—from occurrence to imprisonment—is the only way to avoid the current compartmentalism of police and prosecutors. For instance, a police department

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304.   NCVS tracks the reasons people do not report to police, but these numbers are best studied by police departments as they apply to local jurisdictions. Currently, police are not focused on tracking these known crimes or improving reporting rates.

305.   Obtaining data from local jurisdictions is extremely difficult. *See, e.g.,* Sam Bass Warner, *Crimes Known to the Police—an Index of Crime?*, 45 HARV. L. REV. 307, 309 (1931) ("These statistics are not obtained by the United States Department of Justice by virtue of state or federal laws requiring city police departments to send in such figures, but merely as the voluntary offering of the chiefs of police of various cities.").

306.   *See* Sunshine & Tyler, *supra* note 100.

307.   Kate Levine, *Who Shouldn't Prosecute the Police,* 101 IOWA L. REV. 1447, 1465 (2016) ("Police officers investigate and arrest suspects, often without any input from the prosecutors who will eventually try the case."); Daniel Richman, *Prosecutors and Their Agents, Agents and Their Prosecutors*, 103 COLUM. L. REV. 749, 758 (2003) (describing the relationship of federal prosecutors and police as a "bilateral monopoly"); STEPHANOS BIBAS, THE MACHINERY OF CRIMINAL JUSTICE 32 (2012) ("Police decide whom, where, and what to investigate; whether and whom to arrest or issue citations; and whether and which charges to file. Sometimes they even decide whether to refer a case to federal or state prosecutors.").

would have less incentive to arrest individuals on faulty evidence or clear a case by exceptional means when they are accountable in resolving cases rather than simply clearing them. This could have incidental positive impacts such that police might think twice before arresting and imprisoning individuals if they have an option to safely resolve a case without arrest. Police can track whether any community initiatives improve reporting or case resolution rates. Simply by tracking case resolution on par with arrest and conviction numbers allows police to change their focus (to restitution rather than conviction for instance) without being penalized by the data. Right now, not arresting a person for a reported crime is a failure, and police act accordingly. Criminal accountability certainly does not require police involvement in terms of arrest.

In all of the suggested proposals above, there is a reliance on tracking data and numbers—of crimes known, reported, arrested, convicted, and resolved. Anytime there is a focus on numbers, there is a concern that behavior shifts in order to improve perceptions of crime. Prior experience demonstrates that when police departments focus excessively on clearance rates, it has led to incentives to inaccurately report numbers, or worse yet, falsely arrest people.[308] It is possible that false reporting would increase with a greater understanding of how low criminal accountability is nationwide. There is an argument that the temptation to fraudulently report arrests would increase if there was more of a focus on clearance rates. Even with these issues receiving limited attention, there have been reports of select police departments misrepresenting these numbers.[309] Indeed, there will always be a desire for police departments to protect local reputations by keeping crime-rate statistics low and clearance rates high.[310] At the same time, we know that if additional time and resources are dedicated to solving cases, the probability of an arrest increases.[311] How do we place an appropriate amount of attention on the fact that so few crimes are solved without creating improper police incentives to over-arrest or fraudulently report numbers? The approach recommended here focuses on many numbers—besides clearance—as criminal accountability tracks known crimes to cases resolved. The hope is that, by tracking the entire cycle of a crime (seven datapoints), we will be able to track police effectiveness without having

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308. See *supra* Part I.B for further discussion.

309. See *supra* Part I.B for further discussion.

310. Donald R. Cressey, *The State of Criminal Statistics*, 3 NAT'L PROBATION & PAROLE ASS'N J. 230, 232 (1957) ("Police have an obligation to protect the reputation of their cities, and when this cannot be done efficiently under existing legal and administrative machinery it is sometimes accomplished statistically.").

311. GREENE, *supra* note 15, at 184; *see* Steven G. Brandl & James Frank, *The Relationship Between Evidence, Detective Effort and the Disposition of Burglary and Robbery Investigations*, 13 AM. J. OF POLICE 149, 163 (1994). For similar findings for homicide, see Charles Wellford & James Cronin, *An Analysis of Variables Affecting the Clearance of Homicides: A Multistate Study, Justice Research and Statistics Association*, 243 NATIONAL INST. JUST. J. (Apr. 2000), https://www.ncjrs.gov/pdffiles1/jr000243b.pdf. (finding that the numbers of detectives assigned and the time taken to arrive at the scene and follow up on witnesses impacted clearance rates).

a *single metric* that police are punished for not improving. Police cannot increase clearance numbers falsely because conviction rates will be unnaturally low. Indeed, inflating numbers in one category will create problems in another category and will be harder to achieve. Police have to constantly improve reporting of crimes by improving their relationships with the community. The hope is that the full picture will result in several other data points (known crimes/conviction/case resolution) that will help improve police effectiveness without incentivizing misrepresentation of one category.

Tracking the entire cycle of the crime will also allow police to "solve" or resolve crimes without arrest. Police currently clear a case only by arresting someone and turning them over to prosecution or by showing the presence of exceptional means. We know that police use discretion in making arrests and arrest only a small amount of the time. Currently, police departments do not track cases that are resolved without an arrest, and this can reflect negatively against a police department if a police officer decides not to arrest. Police should be able to track other crimes and report when they resolve cases by alternative means. These case resolution numbers are one way to incentivize police to openly report the cases they solve without resorting to arrest. This acknowledges that police can use mediation, restitution, referral to treatment, or other methods to address a crime.[312] The next step is settling on a measure to determine how effective police are at resolving crimes. Indirect measures including community and victim surveys and independent studies have been used successfully and may be an approach to consider.[313] If we stop measuring police simply by clearance rates, we may incentivize them to arrest and convict only when necessary and use creativity to resolve crimes. Careful tracking of all criminal accountability numbers—known crimes, reporting to police, arrest rates, clearance, conviction, imprisonment, and crimes resolved at a local and national level—is an important first step.

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312. See *supra* note 131 for further discussion.

313. MASLOV, *supra* note 27, at 2:

> Some indirect measures of police performance include surveys, direct observations of social behaviour, situational studies and independent testing. Measurements of police performance through public opinion polling include: 1) general questions on satisfaction with police and 2) specific questions on police performance. The general questions on satisfaction with police asked on surveys is supposed to be the simplest and quickest way to measure the overall level of satisfaction of citizens with the police. It is important to ask these types of questions because: a) they provide a quick indicator for the overall support for police among citizens; b) they carry implications for the support constituents give to police work; and c) a decrease in the perceived legitimacy of the police could potentially lead to non-compliance with the authority of the police and increased crime rates (citation omitted).

A few departments now use citizen satisfaction surveys on a regular basis, but most do not. MASLOV, *supra* note 27, at 2.

CONCLUSION

How effective are police at solving crime? It turns out, unfortunately, not very effective.[314] This is the first major contribution of this Article, providing a national review of police effectiveness for major crimes. People turn to police when they are victims of serious crime only about half the time, and much less often for some crimes.[315] Of the crimes we know about, police are able to arrest individuals on average about 10% of the time for major crimes committed, and convict individuals less than 2% of the time.[316] That is to say, police bring less than 2% of criminal defendants to criminal accountability for major crimes. The ranges of criminal accountability vary with the seriousness of the crime, with murder having the highest rate of accountability. At police's best, in some years, 40 to 52% of murderers are getting away with their crimes.[317] With rape, individuals are getting away with it up to 90% of the time.[318] And property crimes are much worse with burglars getting away with it 97% of the time, robbers 94%, and those who commit larceny 99% of the time.[319] This lack of police effectiveness means people are getting away with serious crime, and victims are suffering as a result.

This lack of criminal accountability can have devastating effects on victims and their families. Just the sheer number of victims of crime revealed in this Article should give us pause. In 2006, for instance, 20.7 million victims (98% of all victims)[320] received no resolution for the crimes they endured.[321]

Low criminal accountability can also lead to a lack of public security and can threaten law and order.[322] This is certainly a concern of mine in revealing the crime accountability rates in this Article. Now that the public is aware of how easy it is to get away with crime, are they going to accept the dangerous invitation to perpetrate crime with the promise of going unnoticed? Although an attack on the conventional wisdom that police are largely effective in crime solving might be viewed by some as a dangerous invitation to criminals to attempt more criminality with the promise of going unnoticed, the reality is that

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314. Police may certainly be effective at maintaining order and preventing crime, but these were not measured here.

315. See *supra* Part II.B for further discussion.

316. See *supra* Part II.A for further discussion.

317. See *infra* Appendix Table 6 for sources and calculations. This considers the percentage of murders that do not result in a conviction.

318. See *infra* Appendix Table 6 for sources.and calculations.

319. See *infra* Appendix Table 6 for sources and calculations.

320. *See infra* Appendix Table 1 – 1990 (Part III) (exact calculation is 98.05% of victims and 20,749,770 million victims).

321. *See infra* Appendix Table 2 – 2006 (Part III) (exact calculation is 98.05% of victims and 20,749,770 million victims).

322. *See* Sparrow, *supra* note 26, at 20–21.

these threats already exist, and continuing to ignore them is not good law or good policy.

So, how can we improve police effectiveness? The solution is better tracking throughout the full course of a crime—starting at reporting. First, scholars and policymakers need to have critical conversations about the rates of low criminal accountability in the U.S. and our overall failure at measuring police effectiveness. Criminal accountability helps us track and consider the full picture of crime. The full accounting of police data, as demonstrated above, is disturbing, but considering these numbers is the first step in improving the effectiveness of police. Second, police departments should individually study why reporting rates are so low and explore ways to increase trust in the police. It is possible that the punitive nature of some police departments may prevent many from turning to police because they do not want to ruin the lives and future job prospects of their family or friends.[323] Third, the federal government should work with local governments to create uniform national recording of all crime metrics[324] and uniform definitions of all points of criminal accountability—including clearance and crime resolution rates.[325] This includes tracking the entire cycle of a crime from when a crime is known through case resolution—with all seven datapoints recorded for each jurisdiction. With a focus on case resolution that does not involve arrest, police may focus on obtaining results for victims that do not necessarily involve conviction and punishment. Tracking the entire course of a crime helps us to better track police performance in hopes of one day improving police performance.

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323. See *supra* Part I.C.4 for further discussion.

324.   This includes recording of the entire cycle of crime—known, reported, arrests, clearance, convictions, and case resolutions with uniform definitions of each category.

325.   *See supra* Part I.C.4.

## APPENDIX[1]

| Table 1—1990[2] (Part I) | | | | | | |
|---|---|---|---|---|---|---|
| Type of Offense | (a) Number Known[3] | (b) Number of Offenses Reported[4] | (c) Percent Reported[5] (% of col. a) | (d) Number Arrested[6] | (e) Standard Percent Arrested[7] (% of col. b) | (f) True Percent Arrested[8] (% of col. a) |
| Total | 30,661,860[9] | 14,475,630 | 47.21% | 2,313,247 | 15.98% | 7.54% |
| Murder and Nonnegligent Manslaughter[10] | N/A | 23,440 | N/A | 18,298 | 78.06% | 78.06% |
| Rape/Sexual Assault[11] | 130,260 | 102,560 | 78.73% | 30,966 | 30.19% | 23.77% |
| Robbery | 1,149,710 | 639,270 | 55.60% | 136,300 | 21.32% | 11.86% |
| Aggravated Assault | 1,600,670 | 1,054,860 | 65.90% | 376,917 | 35.73% | 23.55% |
| Larceny-Theft | 20,642,500 | 7,945,700 | 38.49% | 1,241,236 | 15.62% | 6.01% |
| Burglary | 5,147,740 | 3,073,900 | 59.71% | 341,192 | 11.10% | 6.63% |
| Motor Vehicle Theft | 1,967,540 | 1,635,900 | 83.14% | 168,338 | 10.29% | 8.56% |

| Table 1—1990[12] (Part II) | | | | | |
|---|---|---|---|---|---|
| Type of Offense | (a) Number Known[13] | (b) Number of Offenses Reported[14] | (g) Number Cleared[15] (col. h * col. b) | (h) Standard Percent Cleared[16] | (i) True Percent Cleared[17] (% of col. a) |
| Total | 30,661,860[18] | 14,475,630 | 3,075,559.97 | 21.25% | 10.03% |
| Murder and Nonnegligent Manslaughter[19] | N/A | 23,440 | 15,751.68 | 67.20% | 67.20% |
| Rape/Sexual Assault[20] | 130,260 | 102,560 | 53,126.08 | 51.80% | 40.78% |
| Robbery | 1,149,710 | 639,270 | 155,342.61 | 24.30% | 13.51% |
| Aggravated Assault | 1,600,670 | 1,054,860 | 595,995.90 | 56.50% | 37.23% |
| Larceny-Theft | 20,642,500 | 7,945,700 | 1,612,977.10 | 20.30% | 7.81% |
| Burglary | 5,147,740 | 3,073,900 | 414,976.50 | 13.50% | 8.06% |
| Motor Vehicle Theft | 1,967,540 | 1,635,900 | 227,390.10 | 13.90% | 11.56% |

| Table 1—1990[21] (Part III) | | | | | |
|---|---|---|---|---|---|
| Type of Offense | (a) Number Known[22] | (b) Number of Offenses Reported[23] | (j) Number Convicted[24] | (k) Standard Percent Convicted[25] (% of col b) | (l) True Percent Convicted[26] (% of col. a) |
| Total | 30,661,860[27] | 14,475,630 | 379,292 | 2.62% | 1.24% |
| Murder and Nonnegligent Manslaughter[28] | N/A | 23,440 | 11,028 | 47.05% | 47.05% |
| Rape/Sexual Assault[29] | 130,260 | 102,560 | 18,173 | 17.72% | 13.95% |
| Robbery | 1,149,710 | 639,270 | 48,783 | 7.63% | 4.24% |
| Aggravated Assault | 1,600,670 | 1,054,860 | 54,316[30] | 5.15% | 3.39% |
| Larceny-Theft | 20,642,500 | 7,945,700 | 94,738 | 1.19% | 0.46% |
| Burglary | 5,147,740 | 3,073,900 | 109,849 | 3.57% | 2.13% |
| Motor Vehicle Theft | 1,967,540 | 1,635,900 | 21,340 | 1.30% | 1.08% |

| Table 2—2006 (Part I) | | | | | | |
|---|---|---|---|---|---|---|
| Type of Offense | (a) Number Known[31] | (b) Number of Offenses Reported[32] | (c) Percent Reported (% of col. a) | (d) Number Arrested[33] | (e) Standard Percent Arrested (% of col. b) | (f) True Percent Arrested (% of col. a) |
| Total | 21,162,438[34] | 10,092,450 | 47.69% | 2,135,238 | 21.16% | 10.09% |
| Murder and Nonnegligent Manslaughter[35] | N/A | 14,948 | N/A | 13,435 | 89.88% | 89.88% |
| Rape/Sexual Assault[36] | 272,350 | 80,440 | 29.54% | 24,535 | 30.50% | 9.01% |
| Robbery | 711,570 | 384,844 | 54.08% | 125,605 | 32.64% | 17.65% |
| Aggravated Assault | 1,354,750 | 760,753 | 56.15% | 447,948 | 58.88% | 33.06% |
| Larceny-Theft | 14,275,150 | 5,810,638 | 40.70% | 1,081,157 | 18.61% | 7.57% |
| Burglary | 3,539,760 | 1,956,175 | 55.26% | 304,801 | 15.58% | 8.61% |
| Motor Vehicle Theft | 993,910 | 1,084,652 | 109.13%[37] | 137,757 | 12.70% | 13.86% |

| Table 2—2006 (Part II) | | | | | |
|---|---|---|---|---|---|
| Type of Offense | (a) Number Known[38] | (b) Number of Offenses Reported[39] | (g) Number Cleared (col. h * col. b) | (h) Standard Percent Cleared[40] | (i) True Percent Cleared (% of col. a) |
| Total | 21,162,438[41] | 10,092,450 | 1,943,955.92 | 19.26% | 9.19% |
| Murder and Nonnegligent Manslaughter[42] | N/A | 14,948 | 9,073.44 | 60.70% | 60.70% |
| Rape/Sexual Assault[43] | 272,350 | 80,440 | 32,899.96 | 40.90% | 12.08% |
| Robbery | 711,570 | 384,844 | 96,980.69 | 25.20% | 13.63% |
| Aggravated Assault | 1,354,750 | 760,753 | 410,806.62 | 54.00% | 30.32% |
| Larceny-Theft | 14,275,150 | 5,810,638 | 1,011,051.01 | 17.40% | 7.08% |
| Burglary | 3,539,760 | 1,956,175 | 246,478.05 | 12.60% | 6.96% |
| Motor Vehicle Theft | 993,910 | 1,084,652 | 136,666.15 | 12.60% | 13.75% |

| Table 2—2006 (Part III) | | | | | |
|---|---|---|---|---|---|
| Type of Offense | (a) Number Known[44] | (b) Number of Offenses Reported[45] | (j) Number Convicted[46] | (k) Standard Percent Convicted (% of col. b) | (l) True Percent Convicted (% of col. a) |
| Total | 21,162,438[47] | 10,092,450 | 413,026 | 4.09% | 1.95% |
| Murder and Nonnegligent Manslaughter[48] | N/A | 14,948 | 8,845 | 59.17% | 59.17% |
| Rape/Sexual Assault[49] | 272,350 | 80,440 | 33,618 | 41.79% | 12.34% |
| Robbery | 711,570 | 384,844 | 43,059 | 11.19% | 6.05% |
| Aggravated Assault | 1,354,750 | 760,753 | 101,108 | 13.29% | 7.46% |
| Larceny-Theft | 14,275,150 | 5,810,638 | 107,738 | 1.85% | 0.75% |
| Burglary | 3,539,760 | 1,956,175 | 99,964 | 5.11% | 2.82% |
| Motor Vehicle Theft | 993,910 | 1,084,652 | 18,694 | 1.72% | 1.88% |

| Table 3—2018 (Part I) | | | | | | |
|---|---|---|---|---|---|---|
| Type of Offense | (a) Number Known[50] | (b) Number of Offenses Reported[51] | (c) Percent Reported (% of col. a) | (d) Number Arrested[52] | (e) Standard Percent Arrested (% of col. b) | (f) True Percent Arrested (% of col. a) |
| Total | 15,883,396[53] | 7,789,995 | 49.04% | 1,679,012 | 21.55% | 10.57% |
| Murder and Nonnegligent Manslaughter[54] | N/A | 14,786 | N/A | 11,970 | 80.95% | 80.95% |
| Rape/Sexual Assault[55] | 734,630[56] | 127,258 | 17.32% | 25,205 | 19.81% | 3.43% |
| Robbery | 573,100 | 260,709 | 45.49% | 88,128 | 33.80% | 15.38% |
| Aggravated Assault | 1,058,040 | 745,238 | 70.44% | 395,800 | 53.11% | 37.41% |
| Larceny-Theft | 10,329,210 | 4,812,405 | 46.59% | 887,622 | 18.44% | 8.59% |
| Burglary | 2,639,620 | 1,128,351 | 42.75% | 178,611 | 15.83% | 6.77% |
| Motor Vehicle Theft | 534,010 | 701,248 | 131.32%[57] | 91,676 | 13.07% | 17.17% |

| Table 3—2018 (Part II) | | | | | |
|---|---|---|---|---|---|
| Type of Offense | (a) Number Known[58] | (b) Number of Offenses Reported[59] | (g) Number Cleared (col. h * col. b) | (h) Standard Percent Cleared[60] | (i) True Percent Cleared (% of col. a) |
| Total | 15,883,396 [61] | 7,789,995 | 1,685,378.89 | 21.64% | 10.61% |
| Murder and Nonnegligent Manslaughter[62] | N/A | 14,786 | 9,211.68 | 62.30% | 62.30% |
| Rape/Sexual Assault[63] | 734,630[64] | 127,258 | 42,504.17 | 33.40% | 5.79% |
| Robbery | 573,100 | 260,709 | 79,255.54 | 30.40% | 13.83% |
| Aggravated Assault | 1,058,040 | 745,238 | 391,249.95 | 52.50% | 36.98% |
| Larceny-Theft | 10,329,210 | 4,812,405 | 909,544.55 | 18.90% | 8.81% |
| Burglary | 2,639,620 | 1,128,351 | 156,840.79 | 13.90% | 5.94% |
| Motor Vehicle Theft | 534,010 | 701,248 | 96,772.22 | 13.80% | 18.12% |

| Table 4—Percent of Crimes Reported to Police (FBI/NCVS)[65] | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 1990 | 1995 | 1998 | 2004 | 2006 | 2009 | 2014 | 2018 |
| Total | 47.21% | 37.22% [66] | 37.15% | 46.44% | 47.69% | 54.88% | 49.59% | 49.04% |
| Murder and Nonnegligent Manslaughter [67] | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| Rape/Sexual Assault[68] | 78.73% | 24.25% | 21.37% | 31.65% | 29.54% | 60.57% | 35.09% | 17.32% |
| Robbery | 55.60% | 44.00% | 39.59% | 53.47% | 54.08% | 65.97% | 44.84% | 45.49% |
| Aggravated Assault | 65.90% | 49.31% | 44.41% | 51.36% | 56.15% | 85.08% | 61.78% | 70.44% |
| Larceny-Theft | 38.49% | 30.94% | 31.81% | 40.63% | 40.70% | 47.46% | 45.08% | 46.59% |
| Burglary | 59.71% | 45.97% | 44.14% | 51.62% | 55.26% | 62.45% | 52.57% | 42.75% |
| Motor Vehicle Theft | 83.14% | 78.73% | 86.51% | 101.45% [69] | 109.13% [70] | 97.06% | 119.72% [71] | 131.24% [72] |

| Table 5—Percent of Crimes Known Where Police Make Arrests (True Percent Arrested)[73] | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 1990 | 1995 | 1998 | 2004 | 2006 | 2009 | 2014 | 2018 |
| Total | 7.54% | 9.12% | 9.55% | 10.21% | 10.09% | 13.46% | 11.78% | 10.57% |
| Murder and Nonnegligent Manslaughter | 78.06% | 115.86% [74] | 132.86% [75] | 98.57% | 89.88% | 93.78% | 82.08% | 80.95% |
| Rape/Sexual Assault | 23.77% [76] | 10.18% | 9.34% | 10.19% | 9.01% | 17.00% | 7.39% | 3.43% |
| Robbery | 11.86% | 15.05% | 13.63% | 17.68% | 17.65% | 23.74% | 14.21% | 15.38% |
| Aggravated Assault | 23.55% | 30.19% | 30.27% | 30.88% | 33.06% | 51.16% | 34.13% | 37.41% |
| Larceny-Theft | 6.01% | 6.95% | 7.38% | 8.05% | 7.57% | 11.40% | 10.53% | 8.59% |
| Burglary | 6.63% | 8.01% | 8.16% | 8.19% | 8.61% | 9.55% | 7.95% | 6.77% |
| Motor Vehicle Theft | 8.56% | 11.60% | 13.24% | 13.89% | 13.86% | 11.12% | 12.80% | 17.16% |

| Table 6—True Percent Convicted (% Held Responsible)[77] | | | | |
|---|---|---|---|
| | 1990 | 1998 | 2004 | 2006[78] |
| Total | 1.24% | 1.35% | 1.81% | 1.95% |
| Murder and Nonnegligent Manslaughter | 47.05% | 72.56% | 62.88% | 59.17% |
| Rape/Sexual Assault | 13.95% | 9.11% | 13.14% | 12.34% |
| Robbery | 4.24% | 4.57% | 6.53% | 6.05% |
| Aggravated Assault | 3.39% | 4.26% | 6.69% | 7.46% |
| Larceny-Theft | 0.46% | 0.53% | 0.70% | 0.75% |
| Burglary | 2.13% | 2.17% | 2.61% | 2.82% |
| Motor Vehicle Theft | 1.08% | 1.28% | 1.59% | 1.88% |

| Table 7—Criminal Accountability (FBI Reported), 2006 | | | | | |
|---|---|---|---|---|---|
| Type of Offense | (a) Number Known[79] | (b) Percent Reported (FBI)[80] (% of col. a) | (c) True Percent Arrested[81] (% of col. a) | (d) True Percent Cleared[82] (% of col. a) | (e) True Percent Convicted[83] (% of col. a) |
| Total | 21,162,438[84] | 47.69% | 10.09% | 9.19% | 1.95% |
| Murder and Nonnegligent Manslaughter[85] | N/A | N/A | 89.88% | 60.70% | 59.17% |
| Rape/Sexual Assault[86] | 272,350 | 29.54% | 9.01% | 12.08% | 12.34% |
| Robbery | 711,570 | 54.08% | 17.65% | 13.63% | 6.05% |
| Aggravated Assault | 1,354,750 | 56.15% | 33.06% | 30.32% | 7.46% |
| Larceny-Theft | 14,275,150 | 40.70% | 7.57% | 7.08% | 0.75% |
| Burglary | 3,539,760 | 55.26% | 8.61% | 6.96% | 2.82% |
| Motor Vehicle Theft | 993,910 | 109.13%[87] | 13.86% | 13.75% | 1.88% |

| Table 8—Criminal Accountability (NCVS Reporting), 2006 | | | | | |
|---|---|---|---|---|---|
| Type of Offense | (a) Number Known[88] | (b) Percent Reported (NCVS)[89] | (c) True Percent Arrested[90] (% of col. a) | (d) True Percent Cleared[91] (% of col. a) | (e) True Percent Convicted[92] (% of col. a) |
| Total | 21,162,438[93] | N/A | 10.09% | 9.19% | 1.95% |
| Serious Violent Crime | N/A | 56.43%[94] | N/A | N/A | N/A |
| Murder and Nonnegligent Manslaughter[95] | N/A | N/A | 89.88% | 60.70% | 59.17% |
| Rape/Sexual Assault[96] | 272,350 | 41.40% | 9.01% | 12.08% | 12.34% |
| Robbery | 711,570 | 56.90% | 17.65% | 13.63% | 6.05% |
| Aggravated Assault | 1,354,750 | 59.20% | 33.06% | 30.32% | 7.46% |
| Property Crime | N/A | 37.70% | N/A | N/A | N/A |
| Larceny-Theft | 14,275,150 | 31.70% | 7.57% | 7.08% | 0.75% |
| Burglary | 3,539,760 | 49.60% | 8.61% | 6.96% | 2.82% |
| Motor Vehicle Theft | 993,910 | 81.00% | 13.86% | 13.75% | 1.88% |



Figure 1 - Percentage of Violent Victimizations Reported to Police 1973-2018 (NCVS)

- - - Violent Crime    ▬▬▬ Serious Violent Crime    ▬▬▬ Rape or Sexual Assault    ▬▬▬ Robbery    •••••• Aggravated Assault
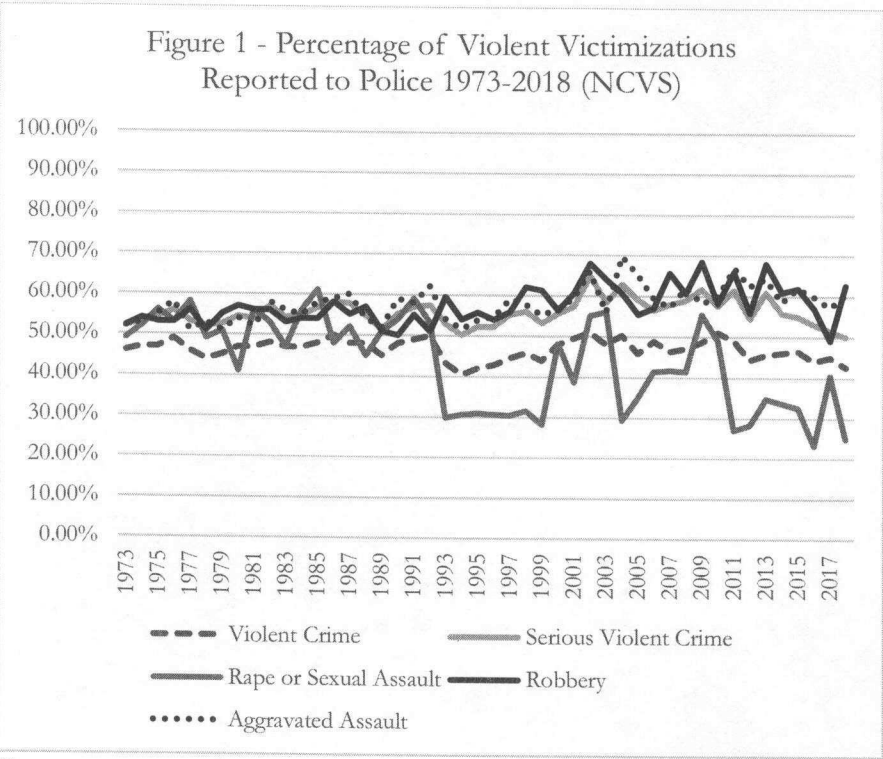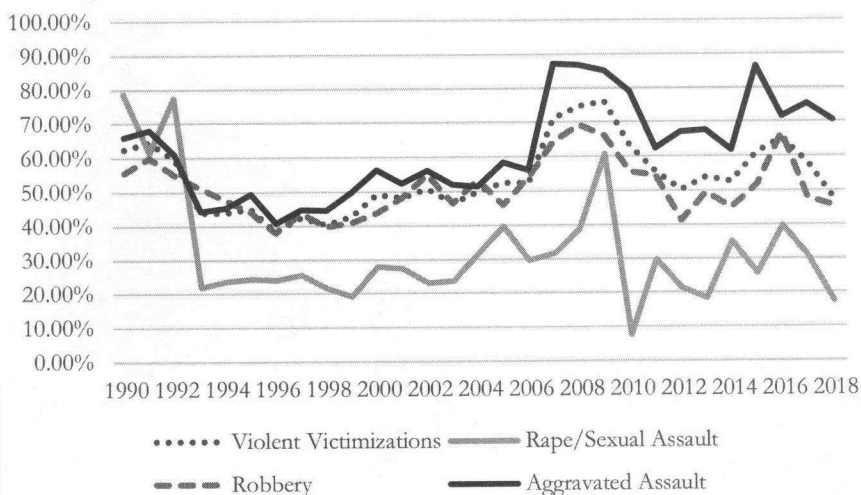
97

## Figure 2 - Percent of Violent Victimization Reported to Police (FBI)

Figure 2 - Percent of Violent Victimization Reported to Police (FBI)

•••••• Violent Victimizations        ▬▬▬ Rape/Sexual Assault

▬ ▬ ▬ Robbery                        ▬▬▬ Aggravated Assault

98

## Figure 3 - Percent of Property Victimizations Reported to Police (FBI)

Figure 3 - Percent of Property Victimizations Reported to Police (FBI)

▬▬▬ Property Victimizations  ▬ ▬ ▬ Larceny-Theft

•••••• Burglary              ▬▬▬ Motor Vehicle Theft
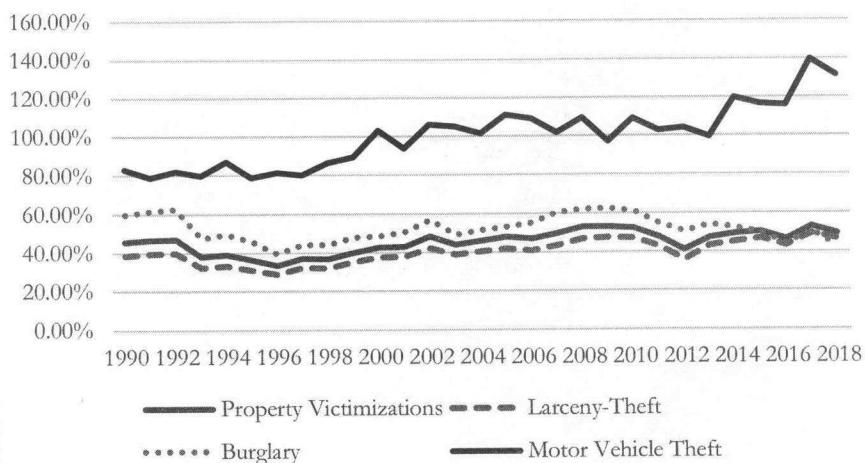
99

1. *See* U.S. Dep't of Just., Bureau of Just. Stats., *Data Collection: National Crime Victimization Survey (NCVS)*, BUREAU OF JUST. STATS. (last visited Sept. 11, 2020), https://www.bjs.gov/index.cfm?ty=dcdetail &iid=245. The NCVS changed its method of collection in 2006 and 2016, so it is hard to compare crime estimates from year to year. *Id.* However, 2006 is also the latest year for state conviction data, so it is used to get a general sense of criminal accountability over the years.

2. This chart is similar to that of Paul H. Robinson & John M. Darley, *The Utility of Desert*, 91 NW. U. L. REV. 453, 461 (1997). Changes include: "Aggravated Assault" rather than "Assault" and the calculations for the Aggravated Assault row and Larceny-Theft row. The 1990 Tables include examples of calculations in footnotes, while 2006 and 2018 do not because the same method is used for all. Tables for 1995, 1998, 2004, and 2014 are on file with author and available upon request.

3. *See* BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1990 16 tbl.1 (Feb. 1992), https://www.bjs.gov/content/pub/pdf/cvus90.pdf [hereinafter 1990 REPORT].

4. *See* BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1992 357 tbl.3.122 (1993), https://bjs.gov/content/pub/pdf/scjs92.pdf [hereinafter 1992 REPORT]. This paper mostly uses the number of offenses reported to police from the FBI's Uniform Crime Report, Offenses Known data for (b) Number of Offenses Reported, and (c) Percent Reported. The NCVS also has an estimated percent reported to police measure. It will be noted when the NCVS data is used.

5. Example of Calculation: Robbery: 639,270 (Bureau of Justice Statistics Number of Offenses Reported) / 1,149,710 (NCVS Number Known) = 55.6% (Percent Reported).

6. BUREAU OF JUST. STATS. SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1991 433 tbl.4.2 (1992), https://www.bjs.gov/content/pub/pdf/scjs91.pdf [hereinafter 1991 REPORT].

7. Example of Calculation: Robbery: 136,300 (Number Arrested) / 639,270 (Number of Offenses Reported) = 21.32% (Standard Percent Arrested).

Example of Calculation: Robbery: 136,300 (Bureau of Justice Statistics Number Arrested) / 1,149,710 (NCVS Number Known) = 11.9% (True Percent Arrested).

9. This number is the NCVS "Number Known" for Rape/Sexual Assault, Robbery, Aggravated Assault, Larceny-Theft, Burglary, and Motor Vehicle Theft added together, plus the "Number of Offenses Reported" for Murder because the NCVS does not measure murder.

10. The NCVS does not gather data for murder offenses. Murder percentages are calculated using "Number of Offenses Reported" rather than "Number Known."

11. Definitions: The following sources do not use the term "Sexual Assault." Results from 1990 may not be comparable to other years for the "Rape" offense.

• NCVS – Rape: "Carnal knowledge through the use of force or the threat of force, including attempts." 1990 REPORT, *supra* note 3, at 156 (used for Number Known).

• FBI (UCR) – Forcible Rape: "The carnal knowledge of a female forcibly and against her will. Include[s] . . . attempts . . . ." 1992 REPORT, *supra* note 4, at 711 (used for Number of Offenses Reported).

• FJS – Rape: "[R]ape, assault with intent to commit rape, and carnal knowledge of a female under 16 who is not one's wife." 1992 REPORT, *supra* note 4, at 740 (used for federal conviction data).

• NJRP – Rape: "Forcible intercourse (vaginal, anal, or oral) with a female or male. . . . Includes attempts." 1992 REPORT, *supra* note 4, at 742 (used for state conviction data).

12. *See supra* note 2.

13. *See* 1990 REPORT, *supra* note 3.

14. *See* 1992 REPORT, *supra* note 4.

15. Example of Calculation: Robbery: (.243) (Standard Percent Cleared) * 639,270 (Number of Offenses Reported) = 155,342.61 (Number Cleared).

16. *See* 1992 REPORT, *supra* note 4, at 450 tbl.4.19.

Calculation for Total: 3,075,559.97 (Number Cleared for all individual crimes added together) / 14,475,630 (Total Number of Offenses Reported) = 21.25% (Standard Percent Cleared).

17. Example of Calculation: Robbery: 155,342.61 (Number Cleared) / 1,149,710 (Number Known) = 13.51% (True Percent Cleared).

18. *See supra* note 9.

19. *See supra* note 10.

20. *See supra* note 11.

21. *See supra* note 2.

22. *See* 1990 REPORT, *supra* note 3.

23. *See* 1992 REPORT, *supra* note 4.

24. *See id.* at 486 tbl.5.15, 527 tbl.5.49.

25. Example of Calculation: Robbery: 48,783 (Number Convicted) / 639,270 (Number of Offenses Reported) = 7.63% (Standard Percent Convicted).

26. Example of Calculation: Robbery: 48,783 (Number Convicted) / 1,149,710 (Number Known) = 4.24% (True Percent Convicted).

27. *See supra* note 9.

28. *See supra* note 10.

29. *See supra* note 11.

30. *See* 1992 REPORT, *supra* note 4, at 486 tbl.5.15, 527 tbl.5.49. Table 5.15 is for federal convictions and uses the term "Assault." Table 5.49 is for state convictions and uses the term "Aggravated Assault."

31. MICHAEL RAND & SHANNAN CATALANO, CRIMINAL VICTIMIZATION, 2006 3 tbl.2 (Dec. 2007), https://www.bjs.gov/content/pub/pdf/cv06.pdf.

32. FBI, CRIME IN THE UNITED STATES, 2006 tbl.25 (Sept. 2007), https://www2.fbi.gov/ucr/cius 2006/data/table_25.html [hereinafter FBI, 2006]. This Article mostly uses the number of offenses reported to police from the FBI's Uniform Crime Report, Offenses Known data for (b) Number of Offenses Reported, and (c) Percent Reported. The NCVS also has an estimated percent reported to police measure. This Article will note when using the NCVS data.

33. *See id.* at tbl.29, https://www2.fbi.gov/ucr/cius2006/data/table_29.html.

34. *See supra* note 9.

35. *See supra* note 10.

36. Definitions:

• NCVS—Rape/Sexual Assault (combined into one victimization measure): Rape includes "[u]nlawful penetration of a person against the will of the victim." Sexual assault "[i]ncludes attacks or attempted attacks generally involving unwanted sexual contact between victim and offender, with or without force." *NCVS Victimization Analysis Tool (NVAT), Terms & Definitions,* BUREAU OF JUST. STATS. (Jan. 2019), https://www.bjs.gov/index.cfm?ty=nvat (last visited Sept. 11, 2020) (used for Number Known).

• FBI—Forcible Rape: "The carnal knowledge of a female forcibly and against her will. Assaults and attempts to commit rape by force or threat of force are also included." FBI, 2006, https://www2.fbi.gov/ucr/cius2006/offenses/violent_crime/forcible_rape.html (used for Number of Offenses Reported and Number Arrested).

• NJRP—Sexual Assault (includes rape and other sexual assault): Rape: "forcible intercourse . . . with a female or male." Other sexual assault: "(1) forcible or violent sexual acts not involving intercourse with an adult or minor, (2) nonforcible sexual acts with a minor (such as statutory rape or incest with a minor), and (3) nonforcible sexual acts with someone unable to give legal or factual consent because of mental or physical defect or intoxication . . . . [I]ncludes attempts." SEAN ROSENMERKEL ET AL., BUREAU OF JUST. STATS., FELONY SENTENCES IN STATE COURTS, 2006 33 (2009), https://www.bjs.gov/content/pub/pdf/fssc06st.pdf (used for state conviction data).

• FJSP—Sexual Abuse: "[R]ape, assault with intent to commit rape, and carnal knowledge of a female under age 16 who is not one's wife, within the territorial and special maritime jurisdictions of the U.S. Also includes cases of sexual abuse, including sexual abuse of a minor and cases of sexual abuse in federal prisons." BUREAU OF JUST. STATS., FEDERAL JUSTICE STATISTICS, 2006 22 (2009), https://www.bjs.gov/content/pub/html/fjsst/2006/fjs06st.pdf (used for federal conviction data).

37. Definitions:

• FBI—Motor Vehicle Theft: A motor vehicle "is a self-propelled vehicle which runs on land surfaces and not on rails. Examples of motor vehicles include sport utility vehicles, automobiles, trucks, buses, motorcycles, motor scooters, all-terrain vehicles, and snowmobiles." FBI, 2006, https://www2.fbi.gov/ucr/cius2006/offenses/property_crime/motor_vehicle_theft.html.

• NCVS—Motor Vehicle: "An automobile, truck, motorcycle, or any other motorized vehicle legally allowed on public roads and highways." *Terms & Definitions: Crime Type*, BUREAU OF JUST. STATS., https://www.bjs.gov/index.cfm?ty=tdtp&tid=3 (last visited Feb. 11, 2020).

The number of offenses reported to the UCR was higher than the number the NCVS estimated for offenses committed. This may be due to definitional differences between the FBI's UCR and the NCVS. All-terrain vehicles and snowmobiles are likely not counted by the NCVS and could account for the differences.

38. *See* RAND, *supra* note 31.

39. *See* FBI, 2006, *supra* note 32.

40. *See* FBI, 2006, *supra* note 32.

41. *See supra* note 9.

42. *See supra* note 10.

43. *See supra* note 36.

44. *See* RAND, *supra* note 31.

45. *See* FBI, 2006, *supra* note 32.

46. This number is calculated by adding together state and federal conviction data. *See* SEAN ROSENMERKEL ET AL., *supra* note 36, at 3 tbl.1.1 (used for state data); BUREAU OF JUST. STATS., *supra* note 36, at tbl.4.2 (used for federal conviction data).

47. *See supra* note 9.

48. *See supra* note 10.

49. *See supra* note 36.

50. *See* RACHEL E. MORGAN & BARBARA A. OUDEKERK, DEP'T OF JUST., CRIMINAL VICTIMIZATION, 2018 4 tbl.1, 5 tbl.3 (Sept. 2019), https://www.bjs.gov/content/pub/pdf/cv18.pdf.

51. *See* FBI, CRIME IN THE UNITED STATES, 2018 tbl.25, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/tables/table-25 [hereinafter FBI, 2018]. This Article mostly uses the number of offenses reported to police from the FBI's Uniform Crime Report, "Offenses Known" data for "(b) Number of Offenses Reported," and "(c) Percent Reported." The NCVS also has an estimated percent reported to police measure. This Article will note when the NCVS data is used.

52. FBI, 2018 tbl.29, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/tables/table-29.

53. *See supra* note 9.

54. *See supra* note 10.

55. Definitions:

• NCVS—Rape: "Coerced or forced sexual intercourse. Forced sexual intercourse means vaginal, anal, or oral penetration by the offender(s). This category could include incidents where the penetration was from a foreign object such as a bottle. It includes attempted rape, threatened rape, male and female victims, and both heterosexual and same-sex incidents." MORGAN & OUDEKERK, *supra* note 50, at 24.

• NCVS—Sexual assault: "A wide range of victimizations, separate from rape, attempted rape, or threatened rape. These crimes include attacks or threatened attacks involving unwanted sexual contact between the victim and offender. Sexual assaults may or may not involve force and include such things as grabbing or fondling." MORGAN & OUDEKERK, *supra* note 50, at 24.

• FBI—Revised definition of rape: "[P]enetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim." FBI, 2018, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/rape (used for Number of Offenses Known, Number Arrested).

56. Note a significant increase in the number of victimizations. Sometimes NCVS adjusts numbers when the next report comes out, but the 2019 report is not available yet.

57. The number of motor vehicle offenses reported to the UCR was higher than the number the NCVS estimated for offenses known. This may be due to two definitional differences between the FBI's UCR and the NCVS. The first one deals with the definition of the motor vehicle, and the second is whether the report is measuring the number of offenses, the number of households, or the number of victims. *See* FBI, 2018, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/motor-vehicle-theft; BUREAU OF JUST. STATS., *supra* note 37; *see also* Paul H. Robinson & John M. Darley, *The Utility of Desert*, 91 NW. U. L. REV. 453, 458–61 (1997).

Another explanation is that the difference is due to what is being measured. The FBI states that "motor vehicle theft is defined as the theft or attempted theft of a motor vehicle." FBI, 2018, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/motor-vehicle-theft. In contrast, the NCVS measures motor vehicle theft by "[n]umber . . . of property victimizations" (table 3), "[n]umber of households victimized" (table 18), and "[n]umber . . . of persons who were victims" (table 19—where "[t]his measure attributes a burglary to each person age 12 or older in the household. Completed motor-vehicle thefts were attributed to persons only when they were the reference person for their household or were age 12 or older and were related to the reference person." This appears to mean that if a car were stolen from a household where there were three people over the age of twelve, that would be three victims of motor vehicle theft). *See* MORGAN & OUDEKERK, *supra* note 50, at 5 tbl.3, 17 tbl.18, 18 tbl.19. In this Article's chart, we use the "number of property victimizations," which is the number of offenses that occur. That appears to be what the FBI is also measuring, but there is ambiguity that could account for the abnormal results.

58. *See* MORGAN & OUDEKERK, *supra* note 50.

59. *See* FBI, 2018, *supra* note 51.

60. *See* FBI, 2018, *supra* note 51.

61. *See supra* note 9.

62. *See supra* note 10.

63. *See* FBI, *supra* note 55.

64. *See supra* note 56.

65. In general, percentages were calculated as follows: (FBI Number of Offenses Reported / the NCVS Number Known) = Percent Reported. The footnotes to Tables 1–3 provide sources and calculations for 1990, 2006, and 2018. Tables for 1995, 1998, 2004, and 2014 are on file with the author and available upon request.

66. There was a large drop in "Percent Reported" from 1990 to 1995. There were large changes in the estimated number of rapes and sexual assaults and a higher number of thefts in 1995. That may account for the change. The change in the estimated number of rapes and sexual assaults is likely due to a change in definition. The 1990 NCVS did not measure rape and sexual assault together. *See* LISA D. BASTIAN, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1990 16 tbl.1 (1992), https://www.bjs.gov/content/pub/pdf/cvus90.pdf; see also CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1990 142 (1990), https://www.bjs.gov/content/pub/pdf/cvus90.pdf.

67. The NCVS does not account for estimated murders.

68. Rape/Sexual Assault is a difficult category to compare across time. The NCVS and FBI have changed their definitions, but at different times. There was also a jump in the estimated number known from 284,350 in 2014 to 734,630 in 2018. The NCVS did not give an explanation. *See supra* note 56; MORGAN & OUDEKERK, *supra* note 50, at 4 tbl.1.

69. The number of motor vehicle offenses reported to the UCR was higher than the number the NCVS estimated for offenses known. This may be due to a difference in definitions. See *supra* note 37 for additional explanation. *Compare* FBI, CRIME IN THE UNITED STATES, 2004 (2006), https://www2.fbi.gov/ucr/cius_04/offenses_reported/property_crime/motor_vehicle_theft.html (motor vehicle theft), with *Terms & Definitions: Crime Type*, *supra* note 37.

70. *See supra* note 37.

71. The number of motor vehicle offenses reported to the UCR was higher than the number the NCVS estimated for offenses known. This may be due to two definitional differences between the FBI's UCR and the NCVS. *See supra* note 37 for additional explanation. *Compare* FBI, CRIME IN THE UNITED STATES, 2014 (2014), https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/offenses-known-to-law-enforcement/motor-vehicle-theft [hereinafter FBI, 2014] (motor vehicle theft), *with Terms & Definitions: Crime Type*, *supra* note 37.

Another explanation is that the difference is due to what is being measured. The FBI states that "motor vehicle theft is defined as the theft or attempted theft of a motor vehicle." FBI, 2014, https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/offenses-known-to-law-enforcement/motor-vehicle-theft (motor vehicle theft). In contrast, the NCVS measures motor vehicle theft by "Property Victimization," JENNIFER L. TRUMAN & LYNN LANGTON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2013 3 tbl.3 (2014), https://www.bjs.gov/content/pub/pdf/cv13.pdf, and "Number of Victims" (which includes "number of households that experienced at least one victimization during the year for property crime"), *id.* at 5 tbl.4. In these charts, we use the "Property Victimization," which is the number of offenses that occur. That appears to be what the FBI is also measuring, but there is ambiguity that could account for the abnormal results.

72. *See supra* note 57.

73. *See supra* Tables 1–3 for 1990, 2006, and 2018 sources and calculations. Tables for 1995, 1998, 2004, and 2014 are on file with the author and available upon request.

74. A possible explanation for why the percent arrested is over 100% is that during the investigation, more than one person was arrested in connection for the murder or multiple people committed one murder.

75. *Supra* note 74.

76. 1990 numbers included only rape and attempted rape, not sexual assault. *See* LISA D. BASTIAN, *supra* note 66, at 16 tbl.1.

77. *See supra* Tables 1–3 for 1990 and 2006 sources and calculations. Tables for 1998 and 2004 on file with author and available upon request.

78. 2006 was the last year the NJRP produced data on state court convictions. *See Data Collection: National Judicial Reporting Program (NJRP)*, BUREAU OF JUST. STATS. (2006), https://www.bjs.gov/index.cfm?ty=dcdetail&iid=241 (last visited Sept. 15, 2020).

79. *See* RAND, *supra* note 31 for the citation to the FBI table that includes the Number Known for each offense.

80. *See supra* Table 2 – 2006 (Part I) and note 5.

81. *See supra* Table 2 – 2006 (Part I) and note 8.

82. *See supra* Table 2 – 2006 (Part II) and note 17.

83. *See supra* Table 2 – 2006 (Part III) and note 26.

84. *See supra* note 9.

85. *See supra* note 10.

86. *See supra* note 36.

87. *See supra* note 37.

88. *See* RAND & CATALANO, *supra* note 31.

89. *Id.* at 5 tbl.8.

90. *See supra* Table 2 – 2006 (Part I) and note 8.

91. *See supra* Table 2 – 2006 (Part II) and note 17.

92. *See supra* Table 2 – 2006 (Part III) and note 26.

93. *See supra* note 9.

94. This was calculated by taking the (NCVS Percent Reported) * (Number Known) = (Number Reported). The Number Reported for Rape & Sexual Assault, Robbery, and Aggravated Assault were added together and divided by their total Number Known. After 2009 NCVS began calculating percent reported to police for "[s]erious violent crime[s]" in their reports. *See* JENNIFER L. TRUMAN & MICHAEL R. RAND, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2009 1 tbl.1 (2010), https://www.bjs.gov/content/pub/pdf/cv09.pdf.

95. *See supra* note 10. The NCVS does not gather data for murder offenses. Murder percentages are calculated using "Number of Offenses Reported" rather than "Number Known." We use the UCR numbers for the denominator of our Murder percentages (true and standard) because the NCVS doesn't estimate the number of murder offenses committed.

96. *See* ROSENMERKEL ET AL., *supra* note 36.

Other sexual assault includes (1) forcible or violent sexual acts not involving intercourse with an adult or minor, (2) nonforcible sexual acts with a minor (such as

statutory rape or incest with a minor), and (3) nonforcible sexual acts with someone unable to give legal or factual consent because of mental or physical defect or intoxication. Other sexual assault includes attempts.

*Id.* at 33.

97. Calculation for Serious Violent Crime before 2009 (after 2009 reports include Serious Violent Crime measure): (NCVS % Reported * Total Known) = Number Reported. Add Number Reported for individual crimes together = Total Number Reported. Add Total Known for individual crimes together = Total Serious Violent Crime. Total Number Reported / Total Serious Violent Crime = % of Serious Violent Crime Reported to Police.

The same sources report violent and property crime for each year.

1973–92: *See* LISA D. BASTIAN BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES 1992 at 5 tbl.5 (1993), https://www.bjs.gov/content/pub/pdf/cv92.pdf. The percent reported for personal larceny without contact for those years is: 1973: 22%; 1974: 24%; 1975: 26%; 1976: 26%; 1977: 24%; 1978: 24%; 1979: 24%; 1980: 27%; 1981: 26%; 1982: 27%; 1983: 26%; 1984: 26%; 1985: 27%; 1986: 28%; 1987: 27%; 1988: 27%; 1989: 29%; 1990: 28%; 1991: 28%; 1992: 30%. LISA D. BASTIAN, *supra* note 66, at 5 tbl.5. *See* CRAIG A. PERKINS ET AL., BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1993 9 tbl.1 n.3 (1996), https://www.bjs.gov/content/pub/pdf cvus93.pdf (stating that in 1993 "Theft [under "Property crimes"] include[d] crimes previously classified as 'Personal larceny without contact' and 'Household larceny'"). Before 1993, personal larceny without contact was listed under "[c]rimes of theft." LISA D. BASTIAN, *supra* note 66, at 4 tbl.4. The reporting rates were very similar, but this Article just uses "Larceny" under "household crimes" for this Figure. Also,

[In 1993, the NCVS broadened] the scope of covered sexual incidents beyond the categories of rape and attempted rape. These include: sexual assault (other than rape)[,] verbal threats of rape or sexual assault[, and] unwanted sexual contact without force but involving threats or other harm to the victim. These new categories, broadened coverage, and more extensive questions on sexual victimizations have elicited information on about 3 to 4 times as many sexual crime victimizations as in the past.

*Id.* at 3.

1993–2000: *See* CALLIE MARIE RENNISON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION 2000, CHANGES 1999–2000 WITH TRENDS 1993–2000 10 tbl.7 (2001), https://www.bjs.gov/content/pub/pdf/cv00.pdf.

2001: *See* CALLIE RENNISON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION 2001 10 (2002), https://www.bjs.gov/content/pub/pdf/cv01.pdf.

2002, 2010: JENNIFER L. TRUMAN & MICHAEL PLANTY, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2011 8 tbl.8 (2012), https://www.bjs.gov/content/pub/pdf/cv11.pdf.

2003, 2011: JENNIFER L. TRUMAN ET AL., BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2012 4 tbl.4 (2013), https://www.bjs.gov/content/pub/pdf/cv12.pdf.

2004, 2012: *See* JENNIFER L. TRUMAN & LYNN LANGTON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2013 3 tbl.3 (2014), https://www.bjs.gov/content/pub/pdf/cv13.pdf.

2005, 2013: JENNIFER L. TRUMAN & LYNN LANGTON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2014 7 tbl.6 (2015), https://www.bjs.gov/content/pub/pdf/cv14.pdf.

2006: MICHAEL RAND & SHANNAN CATALANO, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2006 5 tbl.8 (2007), https://www.bjs.gov/content/pub/pdf/cv06.pdf.

2007: MICHAEL R. RAND, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2007 7 (2008), https://www.bjs.gov/content/pub/pdf/cv07.pdf.

2008: MICHAEL R. RAND, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2008 6 tbl.4 (2009), https://www.bjs.gov/content/pub/pdf/cv08.pdf.

2009: JENNIFER L. TRUMAN & MICHAEL R. RAND, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2009 8 tbl.11 (2010), https://www.bjs.gov/content/pub/pdf/cv09.pdf.

2014: JENNIFER L. TRUMAN & RACHEL E. MORGAN, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2015 6 tbl.4 (2016), https://www.bjs.gov/content/pub/pdf/cv15.pdf.

2015: RACHEL E. MORGAN & GRACE KENA, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2016: REVISED 7 tbl.4 (2018), https://www.bjs.gov/content/pub/pdf/cv16.pdf.

2016: RACHEL E. MORGAN & JENNIFER L. TRUMAN, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2017 7 tbl.6 (2018), https://www.bjs.gov/content/pub/pdf/cv17.pdf.

2017: *See* RACHEL E. MORGAN & BARBARA A. OUDEKERK, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2018 8 tbl.5 (2019), https://www.bjs.gov/content/pub/pdf/cv18.pdf.

2018: *Id.*

98. Example of Calculation: (Number Reported to FBI – Offenses Known) / (Number of Known Crimes – NCVS) = Estimated % Reported to Police.

1990: *See* LISA D. BASTIAN, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1990 16 tbl.1 (1992), https://www.bjs.gov/content/pub/pdf/cvus90.pdf; BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1995 324 tbl.3.109 (Kathleen Maguire & Ann L. Pastore eds., 1996), https://heinonline.org/HOL/P?h=hein.journals/socrijus1995&i=1.

1991: *See* JOAN M. JOHNSON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1991 16 tbl.1 (1992), https://www.bjs.gov/content/pub/pdf/cvus91.pdf; BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1995 324 tbl.3.109 (Kathleen Maguire & Ann L. Pastore eds., 1996), https://heinonline.org/HOL/P?h=hein.journals/socrijus1995&i=1.

1992: *See* LISA D. BASTIAN, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION 1992 3 tbl.2 (1993), https://www.bjs.gov/content/pub/pdf/cv92.pdf; BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1995 324 tbl.3.109 (Kathleen Maguire & Ann L. Pastore eds., 1996), https://heinonline.org/HOL/P?h=hein.journals/socrijus1995&i=1.

1993: *See* CRAIG A. PERKINS ET AL., BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1993 9 tbl.1 (1996), https://www.bjs.gov/content/pub/pdf/cvus93.pdf.

> [Starting in 1993, the] NCVS broaden[ed] the scope of covered sexual incidents beyond the categories of rape and attempted rape. These include sexual assault (other than rape)[,] verbal threats of rape or sexual assault[, and] unwanted sexual contact without force but involving threats or other harm to the victim. These new categories, broadened coverage, and more extensive questions on sexual victimizations have elicited information on about 3 to 4 times as many sexual crime victimizations as in the past.

*Id.* at 3; *see also* BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1995 324 tbl.3.109 (Kathleen Maguire & Ann L. Pastore eds., 1996), https://heinonline.org/HOL/P?h=hein.journals/socrijus 1995&i=1.

1994: *See* TINA DORSEY & JAYNE ROBINSON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1994 6 tbl.1 (1997), https://www.bjs.gov/content/pub/pdf/cvius94.pdf; BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1995 324 tbl.3.109 (Kathleen Maguire & Ann L. Pastore eds., 1996), https://heinonline.org/HOL/P?h=hein.journals/socrijus1995&i=1.

1995: *See* PATSY KLAUS & CATHY MASTON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1995 8 tbl.1 (2000), https://www.bjs.gov/content/pub/pdf/cvus95.pdf; FBI, CRIME IN THE UNITED STATES 1995, SECTION III – CRIME INDEX OFFENSES CLEARED 199 tbl.25 (1996), https://ucr.fbi.gov/crime-in-the-u.s/1995/95sec3.pdf.

1996, 1997: *See* MICHAEL RAND, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION 1997, CHANGES 1996-97 WITH TRENDS 1993-97 3 tbl.1, (1998), https://www.bjs.gov/content/pub/pdf/cv97.pdf; FBI, CRIME IN THE UNITED STATES 1996, SECTION III – CRIME INDEX OFFENSES CLEARED 205 tbl.25 (1997), https://ucr.fbi.gov/crime-in-the-u.s/1996/96sec3.pdf; FBI, CRIME IN THE UNITED STATES 1997, SECTION III – CRIME INDEX OFFENSES CLEARED 213 tbl.25 (1998), https://ucr.fbi.gov/crime-in-the-u.s/1997/97sec3.pdf.

1998: *See* BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1998 STATISTICAL TABLES 2 tbl.1 (2000), https://www.bjs.gov/content/pub/pdf/cvus98.pdf; FBI, CRIME IN THE UNITED STATES 1998, SECTION III – CRIME INDEX OFFENSES CLEARED 201 tbl.25 (1999), https://ucr.fbi.gov/crime-in-the-u.s/1998/98sec3.pdf.

1999, 2000: *See* CALLIE MARIE RENNISON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATIONS 2000, CHANGES WITH TRENDS 1999-2000 3 tbl.1 (2001), https://www.bjs.gov/content/pub/pdf/cv00.pdf; FBI, CRIME IN THE UNITED STATES 1999, SECTION III – CRIME INDEX OFFENSES CLEARED 203 tbl.25 (2000), https://ucr.fbi.gov/crime-in-the-u.s/1999/99sec3.pdf; FBI, CRIME IN THE UNITED STATES 2000, SECTION III – CRIME INDEX OFFENSES CLEARED 207 tbl.25 (2001), https://ucr.fbi.gov/crime-in-the-u.s/2000/00sec3.pdf.

2001: *See* CATHY MASTON & PATSY KLAUS, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 2001 STATISTICAL TABLES 14 tbl.1 (2003), https://www.bjs.gov/content/pub/pdf/ cvus01.pdf; FBI, CRIME IN THE UNITED STATES 2001, SECTION III – CRIME INDEX OFFENSES CLEARED 222 tbl.25 (2002), https://ucr.fbi.gov/crime-in-the-u.s/2001/01sec3.pdf.

2002, 2010: *See* JENNIFER L. TRUMAN & MICHAEL PLANTY, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2011 2 tbl.1 (2012), https://www.bjs.gov/content/pub/pdf/cv11.pdf; FBI, CRIME IN THE UNITED STATES 2002, SECTION III – CRIME INDEX OFFENSES CLEARED 223 tbl.25 (2003), https://ucr.fbi.gov/crime-in-the-u.s/2002/02sec3.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2010), https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl25.xls.

2003, 2011: *See* JENNIFER L. TRUMAN ET AL., BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2012 2 tbl.1 (2013), https://www.bjs.gov/content/pub/pdf/cv12.pdf; FBI, CRIME IN THE UNITED STATES 2003, SECTION III—OFFENSES CLEARED 257 tbl.25 (2004), https://ucr.fbi.gov/crime-in-the-u.s/2003/03sec3.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2011), https://ucr.fbi.gov/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table_25.

2004, 2012: *See* JENNIFER L. TRUMAN & LYNN LANGTON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2013 2 tbl.1 (2014), https://www.bjs.gov/content/pub/pdf/cv13.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2004), https://www2.fbi.gov/ucr/cius_04/offenses_cleared/table_25.html; FBI, CRIME IN THE UNITED STATES tbl.25 (2012), https://ucr.fbi.gov/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/25tabledatadecoverviewpdfs/table_25_percent_of_offenses_cleared_by_arrest_or_ exceptional_means_by_population_group_2012.xls.

2005, 2013: *See* JENNIFER L. TRUMAN & LYNN LANGTON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2014 2 tbl.1 (2015), https://www.bjs.gov/content/pub/pdf/cv14.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2005), https://www2.fbi.gov/ucr/05cius/data/table_25.html; FBI, CRIME IN THE UNITED STATES tbl.25 (2013), https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/table-25/table_25_percent_of-offenses_cleared_by_arrest_by_population_group_2013.xls.

2006: *See* MICHAEL RAND & SHANNAN CATALANO, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2006 3 tbl.2 (2007), https://www.bjs.gov/content/pub/pdf/cv06.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2006), https://www2.fbi.gov/ucr/cius2006/data/table_25.html.

2007: *See* MICHAEL R. RAND, BUREAU OF JUST. STATS., NATIONAL CRIME VICTIMIZATION SURVEY, CRIMINAL VICTIMIZATION, 2008 1 tbl.1 (2009), https://www.bjs.gov/content/pub/pdf/cv08.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2007), https://www2.fbi.gov/ucr/cius2007/data/table_25.html.

2008: *See* JENNIFER L. TRUMAN & MICHAEL R. RAND, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2009 1 tbl.1 (2010), https://www.bjs.gov/content/pub/pdf/cv09.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2008), https://www2.fbi.gov/ucr/cius2008/data/table_25.html.

2009: *See* JENNIFER L. TRUMAN, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2010 2 tbl.1 (2011), https://www.bjs.gov/content/pub/pdf/cv10.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2009), https://www2.fbi.gov/ucr/cius2009/data/table_25.html.

2014, 2015, 2016, 2017, 2018: *See* RACHEL E. MORGAN & BARBARA A. OUDEKERK, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2018 4 tbl.1 (2019), https://www.bjs.gov/content/pub/pdf/cv18.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2014), https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-25; FBI, CRIME IN THE UNITED STATES tbl.25 (2015), https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-25; FBI, CRIME IN THE UNITED STATES tbl.17 (2016), https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/tables/table-17; FBI, CRIME IN THE UNITED STATES tbl.25 (2017), https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/tables/table-25; FBI, CRIME IN THE UNITED STATES tbl.25 (2018), https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-25.

99. Example of Calculation: (Number Reported to FBI – Offenses Known) / (Number of Known Crimes – NCVS) = Estimated % Reported to Police.

1990: *See* LISA D. BASTIAN, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1990 16 tbl.1 (1992), https://www.bjs.gov/content/pub/pdf/cvus90.pdf; BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1995 324 tbl.3.109 (Kathleen Maguire & Ann L. Pastore eds., 1996), https://heinonline.org/HOL/P?h=hein.journals/socrijus1995&i=1.

1991: *See* JOAN M. JOHNSON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1991 16 tbl.1 (1992), https://www.bjs.gov/content/pub/pdf/cvus91.pdf; BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1995 324 tbl.3.109 (Kathleen Maguire & Ann L. Pastore eds., 1996), https://heinonline.org/HOL/P?h=hein.journals/socrijus1995&i=1.

1992: *See* LISA D. BASTIAN, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION 1992 3 tbl.2 (1993), https://www.bjs.gov/content/pub/pdf/cv92.pdf; BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1995 324 tbl.3.109 (Kathleen Maguire & Ann L. Pastore eds., 1996), https://heinonline.org/HOL/P?h=hein.journals/socrijus1995&i=1.

1993: *See* CRAIG A. PERKINS ET AL., BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1993 9 tbl.1 (1996), https://www.bjs.gov/content/pub/pdf/cvus93.pdf. "Theft includes crimes previously classified as 'Personal larceny without contact' and 'Household larceny.'" *Id.* at 9 tbl.1 n.3. *See* BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1995 324 tbl.3.109 (Kathleen Maguire & Ann L. Pastore eds., 1996), https://heinonline.org/HOL/P?h=hein.journals/socrijus 1995&i=1.

1994: *See* TINA DORSEY & JAYNE ROBINSON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1994 6 tbl.1 (1997), https://www.bjs.gov/content/pub/pdf/cvius94.pdf; BUREAU OF JUST. STATS., SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, 1995 324 tbl.3.109 (Kathleen Maguire & Ann L. Pastore eds., 1996), https://heinonline.org/HOL/P?h=hein.journals/socrijus1995&i=1.

1995: *See* PATSY KLAUS & CATHY MASTON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1995 8 tbl.1 (2000), https://www.bjs.gov/content/pub/pdf/cvus95.pdf; FBI, CRIME IN THE UNITED STATES 1995, SECTION III – CRIME INDEX OFFENSES CLEARED 199 tbl.25 (1996), https://ucr.fbi.gov/crime-in-the-u.s/1995/95sec3.pdf.

1996, 1997: *See* MICHAEL RAND, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION 1997, CHANGES 1996-97 WITH TRENDS 1993-97 3 tbl.1, (1998), https://www.bjs.gov/content/pub/pdf/cv97.pdf; FBI, CRIME IN THE UNITED STATES 1996, SECTION III – CRIME INDEX OFFENSES CLEARED 205 tbl.25 (1997), https://ucr.fbi.gov/crime-in-the-u.s/1996/96sec3.pdf; FBI, CRIME IN THE UNITED STATES 1997, SECTION III – CRIME INDEX OFFENSES CLEARED 213 tbl.25 (1998), https://ucr.fbi.gov/crime-in-the-u.s/1997/97sec3.pdf.

1998: *See* BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1998 STATISTICAL TABLES 2 tbl.1 (2000), https://www.bjs.gov/content/pub/pdf/cvus98.pdf; FBI, CRIME IN THE UNITED STATES 1998, SECTION III – CRIME INDEX OFFENSES CLEARED 201 tbl.25 (1999), https://ucr.fbi.gov/crime-in-the-u.s/1998/98sec3.pdf.

1999, 2000: *See* CALLIE MARIE RENNISON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATIONS 2000, CHANGES 1990-2000 WITH TRENDS 1993-2000 3 tbl.1 (2001), https://www.bjs.gov/content/pub/pdf /cv00.pdf; FBI, CRIME IN THE UNITED STATES 1999, SECTION III – CRIME INDEX OFFENSES CLEARED 203 tbl.25 (2000), https://ucr.fbi.gov/crime-in-the-u.s/1999/99sec3.pdf; FBI, CRIME IN THE UNITED STATES 2000, SECTION III – CRIME INDEX OFFENSES CLEARED 207 tbl.25 (2001), https://ucr.fbi.gov/crime-in-the-u.s/2000/00sec3.pdf.

2001: *See* CATHY MASTON & PATSY KLAUS, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION IN THE UNITED STATES, 2001 STATISTICAL TABLES 14 tbl.1 (2003), https://www.bjs.gov/content/pub/pdf/ cvus01.pdf; FBI, CRIME IN THE UNITED STATES 2001, SECTION III – CRIME INDEX OFFENSES CLEARED 222 tbl.25 (2002), https://ucr.fbi.gov/crime-in-the-u.s/2001/01sec3.pdf.

2002, 2010: *See* JENNIFER L. TRUMAN & MICHAEL PLANTY, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2011 2 tbl.1 (2012), https://www.bjs.gov/content/pub/pdf/cv11.pdf; FBI, CRIME IN THE UNITED STATES 2002, SECTION III – CRIME INDEX OFFENSES CLEARED 223 tbl.25 (2003), https://ucr.fbi.gov/crime-in-the-u.s/2002/02sec3.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2010), https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl25.xls.

2003, 2011: *See* JENNIFER L. TRUMAN ET AL., BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2012 2 tbl.1 (2013), https://www.bjs.gov/content/pub/pdf/cv12.pdf; FBI, CRIME IN THE UNITED STATES 2003, SECTION III—OFFENSES CLEARED 257 tbl.25 (2004), https://ucr.fbi.gov/crime-in-the-u.s/2003/03sec3.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2011), https://ucr.fbi.gov/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table_25.

2004, 2012: *See* JENNIFER L. TRUMAN & LYNN LANGTON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2013 2 tbl.1 (2014), https://www.bjs.gov/content/pub/pdf/cv13.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2004), https://www2.fbi.gov/ucr/cius_04/offenses_ cleared/table_25.html; FBI, CRIME IN THE UNITED STATES tbl.25 (2012), https://ucr.fbi.gov/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/25tabledatadecoverviewpdfs/table_25_percent_of_offenses_ cleared_by_arrest_or_exceptional_means_by_population_group_2012.xls.

2005, 2013: *See* JENNIFER L. TRUMAN & LYNN LANGTON, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2014 2 tbl.1 (2015), https://www.bjs.gov/content/pub/pdf/cv14.pdf; FBI, CRIME IN THE

UNITED STATES tbl.25 (2005), https://www2.fbi.gov/ucr/05cius/data/table_25.html; FBI, CRIME IN THE UNITED STATES tbl.25 (2013), https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/table-25/table_25_percent_of-offenses_cleared_by_arrest_by_population_group_2013.xls.

2006: *See* MICHAEL RAND & SHANNAN CATALANO, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2006 3 tbl.2 (2007), https://www.bjs.gov/content/pub/pdf/cv06.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2006), https://www2.fbi.gov/ucr/cius2006/data/table_25.html.

2007: *See* MICHAEL R. RAND, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2008 1 tbl.1 (2009), https://www.bjs.gov/content/pub/pdf/cv08.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2007), https://www2.fbi.gov/ucr/cius2007/data/table_25.html.

2008: *See* JENNIFER L. TRUMAN & MICHAEL R. RAND, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2009 1 tbl.1 (2010), https://www.bjs.gov/content/pub/pdf/cv09.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2008), https://www2.fbi.gov/ucr/cius2008/data/table_25.html.

2009: *See* JENNIFER L. TRUMAN, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2010 2 tbl.1 (2011), https://www.bjs.gov/content/pub/pdf/cv10.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2009), https://www2.fbi.gov/ucr/cius2009/data/table_25.html.

2014, 2015, 2016, 2017, 2018: 2017: *See* RACHEL E. MORGAN & BARBARA A. OUDEKERK, BUREAU OF JUST. STATS., CRIMINAL VICTIMIZATION, 2018 4 tbl.1 (2019), https://www.bjs.gov/content/pub/pdf/cv18.pdf; FBI, CRIME IN THE UNITED STATES tbl.25 (2014), https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-25; FBI, CRIME IN THE UNITED STATES tbl.25 (2015), https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-25; FBI, CRIME IN THE UNITED STATES tbl.17 (2016), https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/tables/table-17; FBI, CRIME IN THE UNITED STATES tbl.25 (2017), https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/tables/table-25; FBI, CRIME IN THE UNITED STATES tbl.25 (2018), https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-25.