



WELCOME TO CRIME CITY!

Ever wonder why there are so many dead bodies everywhere?

We see the stories on TV — little girls blasted on front porches during AK spraydowns, the young men lying in vacant lots with bullets in their chests or slumped over steering wheels with slugs in their heads.

Perhaps you live near some of those crime scenes. Perhaps, like me, you've forced a HUD-farming slumlord out of your condo association, then gone into a hoodlum lair with a shovel to dig out crack bongs, 9mm dum-dums for close-up work with the Glock, and enough 7.62mm armor-piercing ball to keep that trusty Avtomat Kalashnikova-47 chattering through clip after clip. Up close, it's nasty.

So where are the cops? They show up later, when the bodies are assuming room temperature, to tag toes, zip bags, spread tape and ask "whodunnit" of the neighbors, who, most of the time, don't talk to The Man — ever. They have reasons.

That Jacksonville has become Murderville is, at first glance, incomprehensible. The city has one of the highest arrest and incarceration rates in the United States. Each year, Jacksonville's 1,700 sworn officers arrest, on average, 51,500 people. That's 141 per day. That's 11.7 percent of the *entire population* between 15 and 54 every single year.

WHY COPS CAN'T CATCH THE REAL BAD GUYS BY WES DENHAM

Over a 10-year period, an extraordinarily large percentage of Jacksonville residents have spent time behind locked doors, snoozing on steel beds and enjoying dinners of mystery meat with goo, and cornbread with or without the protein-boosting weevils, gratis from the taxpayers. No one has ever calculated this 10-year number. No one wants to.

When thinking about the murder rate, ignore the political pontificating about the ultimate causes of crime (poverty, rotten schools, broken families and drug and alcohol addiction). All cities suffer from these. Not all cities, however, have so many bullet-perforated corpses. What's different in Jacksonville? Two things:

- 1) What the cops are doing, which is arresting a huge number of petty offenders, and
- 2) What they're not doing, which is proactive policing to arrest career criminals.

What proactive policing is, what it looks like, and why it's not done in this town, is the subject of another story. But as an investigator for defense attorneys and an author of two books on criminal justice, I have a pretty good idea about the first cause: the mass arrests of petty offenders. In the course of my previous research, I spent nearly two years in jail interviewing hundreds of inmates. I was astounded at how few were professional criminals — that is, people who work full-time in criminal enterprise, make grown-up money and drive something other than a smoking heap. So if the managers who operate the drug trade and order most of Jacksonville's killings are not in jail, then who is? Too many of the following:

- Dopers and drunks. Duval County Jail Chief Tara Wildes estimates that about 80 percent of inmates are

arrested under the influence of Schedule I and Schedule II narcotics, usually mixed with alcohol. Drug users rarely benefit from jail. They are, however, easy to arrest. Two years ago, local headlines trumpeted a “Crime Crackdown” that occurred in a four-block area around my townhouse on First Street. Cops roared about with sirens whooping and stopped vehicles. They arrested 283 people, mostly for drug possession. They filled a floor of the jail with stoners and crackheads.

They didn’t catch any murderers.

- Shlubs. Dale Carson, a local defense attorney and co-author of my first book, has defended juveniles charged with the horrific crime of throwing pecans at a city bus! Local attorney Stephen Mosca complains of having to represent defendants charged with “walking on the street in the presence of a sidewalk.” In poor neighborhoods, but not affluent suburbs, police routinely arrest people for the crime of “riding a bicycle at night without a light.”

- Crazyies. It’s heartbreaking to interview florid, unmedicated psychotics. They twitch. They babble. They drool. They argue with gods and demons while snatching at imaginary flies. Other inmates torment them unmercifully. Without a horse dose of Ste-lazine, they don’t even know what planet they’re on. Jailing them is an outrage.

- Wild Things. In Florida, as in most states, disorderly conduct is interpreted broadly. For example, my friend Jason attends college while working full-time to finance his education. Jason, however, likes to party, and has been arrested three times for various flavors of disorderly conduct. (One of these busts occurred when he stepped over the property line of a house where a party was raging and onto an adjacent lawn.) In all three cases, charges were dropped. Nonetheless, Jason has a permanent arrest record. Not so many years ago, cops broke up loud parties and sent everyone home. Now they send everyone to jail.

Disorderly conduct laws are enforced lightly, if ever, in the tonier parts of town. I’ve attended wild parties at the Florida

Yacht Club and the Timuquana Country Club, with the tuxedoed scions of Jacksonville’s first families staggering about in their cups, and debutantes barfing into the palms, with nary a cop in sight.

- Paperwork Scofflaws. These are people who commit crimes not against people or property, but against government. At the top of the list are probation and parole violators, including those with positive drug tests, and those failing to send notices of changes of address and employment, or those with unexcused absences from mandated meetings, treatment, counseling, classes, etc.

A second, huge category of administrative offenses is composed of people driving with a suspended license or failing to pay multiple traffic and parking tickets. Obviously, government wants to collect its fees, keep its paperwork straight and force offenders on supervised release to comply with the terms of probation and parole, but is jail the way to punish these lapses?

Approximately one-third of Florida prison inmates are serving time for administrative offenses. The state already operates 137 prisons, more than two prisons for each county. It can no longer afford to build more with current budget deficits, yet the paperwork criminals keep coming.

Too many of these cases are ridiculous. I interviewed one inmate who was sentenced to two years hard time for failing to send a change-of-address notice after he got kicked out of his girlfriend’s trailer and started bunking with a buddy nearby. A probation officer, alerted to this dereliction, roared out to the boondocks to make an arrest. He decided, in the manner of TV cops, to smash down the door and charge in.

Unfortunately, he chose the trailer next door, which was occupied by a good ol’ boy relaxing in his lounge with a Budweiser in one hand and a double-barreled shotgun in the other. When the probation officer crashed through, the ol’ boy lowered the gun and growled these immortal words: “Hands up, shit-head. Wrong trailer!”

After an hour of groveling at gunpoint, the officer was rescued by the constabulary.



Petty arrests are the main reason the jail is overloaded. “The police make an enormous number of trivial arrests,” says former State Attorney Harry Shorstein, who is now in private practice.

WELCOME TO CRIME CITY



FILE PHOTO/WALTER COKER

Jacksonville Sheriff John Rutherford is big on outreach. He's constantly photographed linking arms with pastors, marching with Mad Dads and having heart-to-hearts with committees of the great and the good.

In due course, cops arrested the probationer. The guy was lucky he didn't get life.

• Victims of the Badger Game. Too many people are in jail based on verbal or written complaints, made by others, without evidence or corroboration. I myself was the target of such an outrage. One of my enemies mailed an anonymous letter to the sheriff stating that I had filed false police reports as part of some low but unspecified skullduggery prior to an election. For two weeks, I was pursued by a Det. Montgomery. My attorney (Dale Carson) finally put an end to these cop hijinks with the appropriate tongue-lashing.

Others are not so lucky. The same Mr. Anonymous complained to police that a friend of mine had caused him "mortal terror" by bumping him with his big belly at the condo mailbox! My friend had to defend himself in criminal court. Big bellies, are, admittedly, blunt instruments, but can criminal intent be inferred from wobbly breadbasket? Must the honorable judges of the Fourth Judicial Circuit hear such foolishness?

The weasels who level trumped-up charges rarely suffer consequences for siccing the cops on their enemies while they snicker in the background. Too bad. "Thou shalt not bear false witness against thy neighbor" is not only Florida law, it's also the Ninth Commandment, blasted onto the stones of Mt. Sinai.

Last time I checked, it's still on the books.

Jamming the Jails

How big a problem is arrest for petty offenses? Huge. "The police make an enormous number of trivial arrests," notes former State Attorney Harry Shorstein, now a defense attorney in private practice. Nationally, criminologists estimate that 30 percent of arrests are for minor offenses. Petty arrests are the main reason the jail and the prison farm are packed, and court calendars over-

loaded. Mass arrests for petty offenses have consequences, mostly bad:

1. They divert police away from high-crime areas and waste their time with trivialities. Carson points out that there are only five crimes citizens fear: murder, rape, night burglary, robbery and violent assault. The time cops spend arresting people who are disorderly or are small-time drug users is time not spent on the criminals who kill and maim.

2. They make a mockery of justice and trivialize the rights of the accused. I recently spent a morning in a hearing court that handled 175 cases in a day. That's an average of 164 seconds per case, assuming no breaks and judicial bladder control of epic proportion.

3. In American justice, there is no *de jure* pre-trial punishment. Sentencing is supposed to be meted out by judges, not cops, prosecutors and jailers. But in recent times, arrest and jail have become *de facto* pre-trial punishment. That's because defendants, even when acquitted or released when charges are dropped, have lifetime arrest records in the National Crime Information Center database maintained by the FBI. These records can never be sealed or expunged.

4. Mass arrests artificially jack up the crime rate. In Jacksonville, crime numbers are inflated because of common charging practices called "slice-and-dice" and "add-on." Here is the classic example, which occurs in every city every day, and has been depicted on the TV show "COPS" ad nauseam:

A cop makes traffic stop. He asks the driver, who is obviously stoned, "Hey, are there any narcotics in this vehicle? OK if I look around?" These are the famous "cop questions" you can't say no to. So the cop searches. He finds, to no one's surprise, some joints. In Florida, as in many states, one or two joints is a misdemeanor, a garbage bust.



COURTESY OF WES DENHAM

Jacksonville resident Wazim Barrett refused a car search by a Charlton County, Ga., deputy on April 25, asserting his rights under last week's Supreme Court decision *Arizona vs. Gant*. Barrett may be the first person in the United States to use the ruling to refuse an automobile search.

Next, however, the cop hollers, “WHY DID YOU LIE TO ME?” Maybe he puts his hands on the driver. These behaviors are unethical but legal, police practices called “inciters.” When the driver pushes the cop or runs like a rabbit, he gets tackled, shackled and hustled down to the local lock-up. The charges will now be possession of a controlled substance, resisting arrest, fleeing and eluding, lying to a law enforcement officer, and — drum roll — battery on an LEO.

This last one is a big-time felony. A single incident of a pothead panicking in the presence of police can be sliced-and-diced into multiple charges, many upgraded to felonies, with add-ons — like running on the street in the presence of a sidewalk — tossed on top like a cherry on a creamy-dreamy, prosecutorial sundae.

Battery on an LEO is reported on national statistics as a violent felony, which on paper jacks up a city's violent crime rate. The slice-and-dice earns cops brownie points for clearing five crimes, not one. Smart prosecutors will get the doper to plead on all five counts, giving them a 100 percent conviction rate. (Since nine out of 10 cases plead, every prosecutor starts with a rate of 90 percent.) Prosecutorial “conviction rates” are risible to insiders, but they impress the rubes on résumés and election brochures.

A Supreme Court decision last week may impact the ability of police to search vehicles. In *Arizona v Gant*, the court ruled that warrantless searches of vehicles “are per se unreasonable,” “subject only to a few specifically established and well-delineated exceptions.” Given that vehicle searches made during traffic stops are the single largest source of arrests, you might expect the decision to empty the Jacksonville jail. Carson says no.

“Legal rights have to be asserted to be realized,” he says. “Until vehicle searches are challenged, evidence suppressed and defendants freed, I don't expect cops to change their practices. Remember, police

can always claim that drivers consented to a search.” (For drivers, the court decision makes things simple. Next time police stop you and lay down the famous cop question, “You don't mind if I look around in your car now, do you?” there are two, clear answers:

“Yes, I do mind.”

“No, you can't search.”)

A famous inciter is used sometimes during traffic stops. Here's how it goes: A cop thrusts a ticket into your face then shouts, “Sign here!” without repeating the *required* language that a signature on a traffic ticket is *not* a guilty plea. In Florida, most traffic violations are civil matters. Failure to sign the citation is, however, a criminal offense. The inciter pushes your buttons to make you argue and refuse to sign the ticket, or even to run and push off and thus commit “violent” felonies. Since I drive a beat-up truck instead of the Lexus that God intended, I get the standard, not the deluxe, cop treatment. I was amused several years ago to have a cop work this inciter on me on the Arlington Expressway. When the bellowing stopped, I signed the ticket in silence.

Nice try, guy.

The Financial Vaporization of Women

Criminal justice is only partly paid by the taxpayers. Nobody ever discusses who pays the rest of the tab — the bail bonds, legal fees, court costs, jail costs, probation fees, and court-ordered classes, drug tests, counseling and rehab. These costs can range from \$5,000 to \$15,000 for even a minor conviction with a sentence of several years' probation. Most defendants are men. They can't pay the associated fees with the low-wage jobs they find on release, so the tab is picked up, for the most part, by the women in their lives. You see these women everywhere. They pack the courts and line up in the offices of bondsmen, attorneys and probation officers. Usually they're clutching

WELCOME TO CRIME CITY

checkbooks and credit cards. In my experience, two or more women become poor in order to assist one man through arrest, bond, trial, prison and the long years of probation or parole.

If I'm correct in saying that about 15,000 arrests per year in Jacksonville are for minor offenses (or would be without the slicing, dicing, add-ons and upcharges), it means that 30,000 or more women each year exhaust their savings and go without new homes or cars in order to help male relatives. Stopping this egregious exercise of police and prosecutorial power would become, overnight, the largest economic development incentive since the city consolidated. Thousands of new homes would be built; thousands of automobiles purchased. Realtors and car salesmen would weep for joy.

Are you reading this, Chamber of Commerce?

The Jacksonville Journey to Nowhere

Much of what're touted as justice initiatives in Jacksonville are community outreach programs with snappy names devised by the consultants who buy booths at police chief conventions and trade shows. Jacksonville Sheriff John Rutherford is big on outreach. He's constantly photographed linking arms with pastors, marching with Mad Dads, and having heart-to-hearts with committees of the great and the good.

For the female relatives of defendants, however, monetary outgo trumps community outreach every time. These hardworking, mostly black women, in their tens of thousands, hate and fear the police. No amount of "Kumbaya" around the committee table can change that.

Community outreach rings no bells in the killzones along Moncrief, Talleyrand and west Springfield. It passes unnoticed in the HUD-funded hellholes on the Westside.

Statutory Alternatives

Police don't have to arrest and jail people for misdemeanors. In Florida, they have statutory alternatives.

The first is a Notice to Appear. This is a summons, similar to a traffic ticket, that directs a petty offender to appear before a criminal judge to be tried and sentenced. It is widely used in rural counties that do not have massive jails and multiple courthouses. Cops stop offenders and issue the summons. These are input into the police and court system via onboard computers. The system can be upgraded to include a photo and a thumbprint. The suspect is now "in the system" — on the cheap without arrest and jail.

NTAs do not legalize crime. They do not alter charges. Misdemeanor defendants still appear before judges who can sentence them to jail, probation or diversion. What's different is that defendants and their families arrive in court without having been stripped of their assets by bond and jail fees.

The second alternative is Citizens Dispute Settlement, a mediation program run by the State Attorney's Office to allow people who complain about each other to resolve their issues before mediators. In Jacksonville, cops

generally don't use this. They simply haul people to the hoosegow.

The Empire of Crime and Punishment

Contrary to popular misconception, jails are not primarily places of punishment. They are pre-trial detention facilities that hold defendants who otherwise might flee or harm society. The purpose of holding them is to assure their appearance at hearings and trials. Until sentenced, inmates are "detainees," not convicts. That's why the Jacksonville jail is known formally as the John E. Goode Pre-Trial Detention (not Corrections) Facility.

Within days, most incarcerated petty offenders are bailed on recognizance, or released when charges are dropped, or bonded out by women. Most of them show up for hearings. So why are they being arrested and jailed in the first place?

It's the way things are.

The War on Crime is not winnable, but it is supremely fundable. With 2,700 sworn officers and non-uniformed personnel, the Jacksonville Sheriff's Office is one of the largest police forces on the East Coast. Sheriff Rutherford's budget, at around \$300 million annually, has grown 50 percent in five years, according to the Times-Union, and consumes one-third of Jacksonville's revenue. Among government administrators, who measure success by employee head-count and budget, our sheriff is a rock star.

But the criminal justice system is far larger than the JSO. Add in Jacksonville's state and federal courts with their staffs, Florida and U.S. probation departments, the Florida Department of Law Enforcement, FBI and federal law enforcement, private attorneys, public defenders, state attorneys, and the social workers, psychologists, doctors and therapists who, in their myriads, are funded in part by the probation and parole systems, and in part by defendant family fees. Soon you glimpse an Empire of Crime and Punishment that annually needs to process 51,500 slabs of human hamburger so all and sundry can get paid \$26K yearly, with bennies.

The higher the crime rate, the higher the funding. Money depends on "the stats," the crime statistics over which everyone in criminal justice obsesses. On paper, these numbers have the soothing certitude of fact. But on the streets, where the cops roll and the badboys run, those numbers are slipperier than a St. Johns River eel. Too often, they're based on drug-user busts sliced-and-diced into multiple felonies, or round-ups of babbling crazies and howling husbands, or arrests of drivers goaded by hoary inciters that, once in a blue moon, get performed for a middle-aged guy in a busted truck who wrote a book on the subject.

The whole system is stat-mad. The numbers are bureaucratic heroin, squeezed from prisoners rather than poppy paste. This crystal gets turned to cash.

Herewith, let's cut Sheriff Rutherford some slack, official and confidential. Our sheriff is entirely typical of big-city chiefs in his law enforcement practices, which

WELCOME TO CRIME CITY

are based, explicitly or implicitly, in an '80s policing doctrine called Zero Tolerance. The theory is that, by enforcing every law strictly, whether the infraction be graffiti-writing, tossing dice in public or drinking a beer on the sidewalk, crime will be reduced and neighborhoods improved. Sooner or later, every bad guy will be in prison.

Crime has gone down nationwide since the '80s, but whether this is due to Zero Tolerance, no one knows. Just as likely to have caused crime to decrease are the dramatic reduction in the number of males 18 to 24 due to birth control, the economic boom begun by Ronald Reagan's tax cuts, which created jobs for those willing to work, and the economic coercion of the

equivalent to that of a small cruise ship. When the debate was raging, Dale Carson and I appeared before the Jacksonville City Council. If police were to issue Notices to Appear to misdemeanor offenders, we told them, the criminal caseload would be reduced by a third.

Further, Jacksonville's present courthouse, and its satellite courts at the jail, on Beach Boulevard and on the Northside, could easily be staffed for a few hours at night to try misdemeanors, thus sparing employers hundreds of thousands of lost workdays, and defendants and their families an equal number of lost paydays. There was, we declared, no need for elaborate facilities, merely a change in police

Disorderly conduct laws are enforced lightly, if ever, in the tonier parts of town. I've attended wild parties with the tuxedoed scions of Jacksonville's first families staggering about in their cups and debutantes barfing into the palms, with nary a cop in sight.

Clinton welfare reforms, which forced jobs on those who weren't.

Zero Tolerance directs law enforcement toward petty offenders and away from the pros who run the drug business and order the hits that make Jacksonville's streets run red with blood. These guys drive street-legal vehicles, often rentals, so they are rarely stopped for traffic violations. They do their dirty work indoors. They simply are not available for arrest by cops patrolling in cars, or on motorcycles, or on horses, or on bikes, or flittering about in helicopters. The standard detective procedure of responding to crimes and investigating after the fact is likewise futile, because the bad guys you really want stay clear of crime scenes.

Jacksonville's police are reasonably well-trained and disciplined. They make tens of thousands of arrests for petty offenses, because that's what their standing orders currently require.

It shouldn't be this way. Cops are excellent judges of character, especially bad character. They easily distinguish between people who are drugged, angry, foolish or mentally ill, and those who are truly dangerous. That's why it's a tragedy that Jacksonville police are discouraged from exercising discretion for petty offenses. It's an outrage that they're encouraged to jack up charges beyond what arrests merit because this jukes the stats and juices The Machine.

And makes women poor, for life.

White Elephants

Most cities have white elephants. In Jacksonville, we have a People Mover that moves no people and a Convention Center where few wish to convene. By a miracle of political prudence, we were spared that ultimate, long-term unfunded liability, a domed stadium. We've enjoyed football in the sunshine and under the stars ever since.

The present political pachyderm is the new courthouse, which has a price tag

standing orders. Councilmembers, alas, were still dreaming about a legal Taj Mahal with their names acid-etched on the brass door plaque. They found our suggestions about as appetizing as a cockroach on angel food cake.

Myself? I'm fond of the old courthouse. I like the tired terrazzo, the bus terminal décor and the faint air of seediness that permeates the place like the whiff of a stale cigar. It's appropriate for a world of prisoners in chains, tough cops, fatso bailiffs and cheesy lawyers sniffing around for paying clients in the corridors while they chat up city hall fixers. I'm a staunch supporter of justice and its piquant ambience. I'm also old enough to remember when the courthouse had spittoons.

Striking the Empire Back

Do I think these suggestions will become deeds? Not soon. The narcotic attraction of power, politics, money and monuments is too strong. Nonetheless, such reforms are possible. They're standard practice everywhere *except* in municipalities with lots of courtrooms and cells.

Things could be different. Those working women could be buying new homes instead of new bail bonds and new lawyers. The city could deal with drug addiction and mental illness outside the criminal system. It could route the annoying, the obstreperous and the stupid into mediation. Freed from making bullshit busts, the cops might even find time to track down some potential killers before they pull the trigger.

Were such a day to come, Jacksonville would be less lethal, more prosperous, and more just. Judgment might run down as waters, and righteousness as a mighty stream.

Even here, in Crime City. □

Wes Denham is the author of "Arrested! What To Do When a Loved One's in Jail" and co-author of "Arrest-Proof Yourself."