

AN EXEMPLARY PROJECT

# The Major Offense Bureau



County District Attorney's Office  
New York

Office of Technology Transfer  
National Institute of Law Enforcement and Criminal Justice  
Law Enforcement Assistance Administration  
U.S. Department of Justice

37810

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## **AN EXEMPLARY PROJECT**

**MAJOR OFFENSE BUREAU  
Bronx County District Attorney's Office  
New York**

**Daniel McGillis**

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National Institute of Law Enforcement  
and Criminal Justice  
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U.S. Department of Justice**

**February 1977**

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## FOREWORD

Because research findings suggest that a small group of offenders is responsible for large numbers of crimes, prosecutors have a special challenge in scheduling their workload. How can they best marshal their limited resources to ensure swift and certain justice for the habitual, serious offender?

The Bronx County District Attorney's response is a special unit organized to prosecute the most serious felony cases. The screening procedure of the Bronx Major Offense Bureau pinpoints those cases where the crime is particularly heinous or the alleged offender is a serious recidivist. Special attention is then focused on prosecution of these defendants as charged. Limited plea bargaining, full disclosure to defense counsel, immediate and thorough case preparation, and the assignment of a single assistant district attorney to handle a given case through all procedural stages - these policies are crucial to the Bureau's success.

Under LEAA's Career Criminal Program, 18 cities across the country are using an approach akin to the Major Offense Bureau. The results are promising: career criminal programs are helping to increase the conviction rate and decrease the time between arrest and trial.

The Bronx Major Offense Bureau has been named an Exemplary Project by the National Institute. For those who wish to consider similar efforts, this manual summarizes the Bronx experience.

Gerald M. Caplan, Director  
National Institute of Law Enforcement  
and Criminal Justice

November 1976

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## CHAPTER 1 INTRODUCTION

A recent study conducted by the Institute for Law and Social Research (and funded by LEAA's National Institute of Law Enforcement and Criminal Justice) has suggested that a relatively small number of offenders may be responsible for a disproportionate number of serious crimes. Surveying 72,610 Washington, D.C. Superior Court cases, INSLAW discovered that 7 percent of all persons arrested accounted for nearly 25 percent of these cases. In early 1973 the Bronx District Attorney's Office reached a similar conclusion and applied for LEAA funds to establish the Major Offense Bureau (MOB) a unit devoted exclusively to the prosecution of serious crimes and repeat offenders.

The MOB's target is the career criminal who, for many years, has manipulated the system. The customary two year delay in the Bronx between felony indictment and trial worked to the advantage of the experienced criminal defendant in a number of ways:

1. Judges are understandably reluctant to impose high bail and consequent long periods of detention on unconvicted defendants;
2. Low bail is easy bail to jump;
3. Time makes witnesses less available, less interested, and more forgetful, weakening the case when it comes to trial;
4. Each assistant district attorney who becomes involved in the case must rework the entire contents of the file, witnesses and victims are inconvenienced and perhaps alienated, and the strength of the case is diluted.

Clearly, the prosecutor facing heavy caseload pressures was no match for the patient defendant with time on his side. With the



creation of the MOB, however, time is now on the side of the prosecutor. By adopting a policy of selective prosecution and creating a separate trial bureau for major offense cases, the D.A.'s office has developed a fast track for more serious offenses and recidivist offenders. The objectives: to reduce delay in processing the cases of major offenders; to increase the certainty and severity of punishment; and to restore a measure of public confidence in the criminal justice system.

## 1.1 Overview of the Project

Five features define the MOB's approach to the prosecution of major offense cases:

- (1) The MOB is a separate bureau within the Bronx County District Attorney's Office that assigns full-time attorneys to the continuous prosecution of "career criminals." Nine assistant district attorneys -- experienced prosecutors with a penchant for long days and hard work -- are supervised and coordinated by a bureau chief and his deputy. These attorneys draw upon the services of a full-time non-legal staff, some of whom screen incoming cases for possible MOB prosecution and aid in investigation and trial preparation.
- (2) To identify its cases, MOB uses an objective case screening and evaluation system that considers not only the seriousness of the offense but the criminal history of the defendant. This system identifies, shortly after arrest, those cases which should be prosecuted by the MOB. Tangentially, the mechanism also aids in the assignment of other cases to other bureaus within the District Attorney's Office. The factors evaluated are the seriousness of the offense, the criminal record of the alleged offender, and the strength of the case -- based primarily on the facts and evidence available. The objective nature of this mechanism, obtained by scoring the same criteria in all cases, assures an integrity which might be sacrificed by uncontrolled selective prosecution. It also permits nonlegal personnel to manage initial case intake, freeing attorneys to concentrate on the preparation of their cases.

From July 1973 through June 1976, MOB accepted 842 indictments for the prosecution of 1,238 defendants. The majority of these cases were armed robbery and various classes of aggravated assault. The defendants were no strangers to the stationhouse and the courtroom: over half had two or more previous felony convictions. On previous charges their cases were probably handled under routine felony case procedures; as such, they were subject to the persistent delays that hinder the effective administration of justice in most urban courts. Now, as MOB cases, they are identified for what they are -- serious problems that demand top priority in allocating the time and resources of the prosecution.

- (3) MOB operates under a policy of full disclosure, reducing the time necessary for filing hearing discovery motions and avoiding the constitutional challenges that might otherwise be provoked by too rapid prosecution. It is the policy of the District Attorney's Office to disclose in full to the defense all information in the hands of the prosecuting attorney (with the obvious exception of witnesses' names and addresses). When a plea is offered, the defense attorney is invited to discuss all the evidence in the case.
- (4) MOB has established a clearly defined, limited plea bargaining policy. It is the policy of the District Attorney's Office to make a plea offer at the earliest possible moment. The scope of the plea bargaining is, however, strictly limited to the top count of the indictment or one count below.
- (5) Finally, MOB cases have access to separate trial sessions. Trial can be expected to begin within a period from 30 to 90 days because the Appellate Division of the State Supreme Court has set aside two trial sessions exclusively for the litigation of Major Offense Bureau cases.

## 1.2 Results

Improved case prosecution is the MOB's primary goal. The District Attorney's Office believes that crime can be deterred by increasing the swiftness of prosecution, the probability of conviction and the certainty of punishment.

- The MOB has a median time of 97 days from arrest to case disposition compared to a median time of 400 days for other bureaus within the D.A.'s office;
- The MOB has an overall conviction rate of 96 percent. Though not strictly comparable to MOB cases, a comparison group selected from the caseload of the D.A.'s Supreme Court Bureau has a rate of 84 percent. Similarly, the MOB has a conviction rate at trial of 92 percent, while the comparison group has a 52 percent rate of conviction at trial;
- 94 percent of MOB convictions result in sentences of incarceration as contrasted with 79 percent of the comparison group cases. In 1975 the MOB defendant's average maximum sentence was 10 years while the defendant from the comparison group had an average maximum of 3.5 years.

MOB's record in the courtroom is clearly hard to beat. More important, the contrasts between traditional procedure and MOB case handling reflect dramatic improvements in the administration of justice:

- Bail can be established realistically for the significantly shorter pre-trial waiting period;
- Court appearances for civilian witnesses and police officers are kept to a minimum;
- A policy of full disclosure encourages the acceptance of plea offers, while strict plea bargaining guidelines assure that sentences reflect the seriousness of the crime.

In short, the MOB approach clearly represents a practical means of identifying career criminal cases for special prosecutorial attention, telescoping the time from arrest to disposition for these

cases, and sustaining a high conviction rate. The following section provides a brief narrative of the MOB at work.

### 1.3 The MOB at Work

May 17, 1975, began as a routine night for a 45-year-old railroad clerk for the New York City Transit Authority. Assigned as a "floater" and working at different locations every week, Mr. M.'s duties on that night were to close off the toll booth areas to passengers at the elevated 161st Street and River Avenue station.

While completing his lock-up tasks, he was approached by a young girl, Rita T., who ostensibly wanted to purchase a token. When informed that the booths were closed, she suddenly hit Mr. M. with her handbag. In an instant and without warning, Jacob L., 26, came from the shadows and stabbed his defenseless victim in the stomach with a 7-inch knife. As quickly as they had appeared, the two disappeared, leaving Mr. M. bleeding on the platform.

Staggering downstairs to the street below, Mr. M. called for help. Fifty feet away, two police officers were engaged in conversation. As they heard the screams for help, Rita T. and Jacob L. emerged again from the shadows of the subway. Rita was now wielding the knife and again stabbed Mr. M. in the back. The startled police officers reacted quickly, and within seconds had both defendants under arrest.

Mr. M. was rushed to the hospital in critical condition with lacerations of the stomach, liver and other internal injuries. He was operated upon immediately.

Within an hour of the arrest, a MOB assistant district attorney was notified of the case by the police. Such notification was made in compliance with NYPD instructions for major felony cases. He responded to the call by immediately proceeding to the 44th Precinct. After reviewing the case, he accepted it for MOB prosecution.

Although both defendants refused to make statements, the case was prepared for speedy presentation to the Grand Jury. Physical evidence was secured and police statements were taken. Among the many steps taken by the MOB A.D.A. was arranging for the victim to be transported from the hospital to the Bronx Supreme Court-house to present his testimony before a Grand Jury panel.

On May 22, 1975, both defendants were indicted and charged with attempted murder in the second degree, assault in the first degree, and criminal possession of a weapon. Three days later the defendants were arraigned in Part 14, Bronx Supreme Court. The prosecution answered, "ready for trial."

One of the two defendants, Jacob L., had been the unfortunate beneficiary of the revolving door system of criminal justice. As a juvenile he was arrested and later released in the shooting death of a 14-year-old youth. Eight months later he was again arrested, as a delinquent, in the stabbing of another youth. This time he was placed on probation and released in his mother's custody.

In March, 1970, at age 20, Jacob L. was arrested in the beating death of his paramour's 18-month-old child. Subsequently, he pleaded guilty to a reduced charge of manslaughter in the first degree and was sentenced to a maximum of three and one-half years at Elmira Reception Center. He was paroled after 13 months. Within eight months of his release, he violated parole for an arrest and conviction on a robbery charge. Again he was sentenced to a maximum of three years in prison, running concurrently with his parole violation. In February of 1975, just three months before he stabbed the railroad clerk, Jacob L. was again paroled from the Green Haven Correctional Facility.

After a full trial on all the charges, it took a jury of twelve less than an hour to convict both defendants of attempted murder in the second degree and criminal possession of a weapon. Sentencing was set for February 10, 1976. On that day, after a pre-sentence hearing, Jacob L. was sentenced to 25 years to life under the rarely used Persistent Felon statute. Rita T. was sentenced to eight and one-third to 25 years in prison.

## 1.4 Guide to the Manual

To provide guidance to other communities interested in establishing and enforcing case priorities, this manual considers various developmental and operational aspects of the Bronx County Major Offense Bureau.

Chapter 2 traces the development of the MOB from concept to execution. It details the management and organization of the Bureau.

Chapter 3 explores the actual daily operations of the MOB. It considers all critical processing stages, including notification, screening, acceptance, case preparation, plea bargaining, trial, and disposition.

Chapter 4 notes the features of the MOB essential for successful replication and examines other prosecutorial programs aimed at the career criminal. This chapter also summarizes the legal issues commonly discussed in connection with selective prosecution efforts.

Chapter 5 discusses MOB results in terms of reduction in case processing time and certainty and severity of disposition. Also included is an outline of the costs associated with MOB operations.

Finally, Chapter 6 considers methods of data collection and evaluation that would provide a thorough assessment of "career criminal" prosecution programs.



## CHAPTER 2 PROJECT DEVELOPMENT AND ORGANIZATION

Bronx County, one of the boroughs of New York City, has, over the last ten years, achieved unwelcome notoriety as the classic example of an urban area being destroyed by crime and blight. During those years when the Bronx was populated primarily by the middle class and crime was just an ordinary problem, the traditional methods for operating an urban District Attorney's Office were followed. As the composition of the population shifted to the urban poor, and the crime rate escalated dramatically during the past decade, the prosecutor's office, with its available resources, could not deal with the rapidly increasing flow of cases. This chapter describes the process by which the Major Offense Bureau was created to respond to the need for establishing case priorities.

### 2.1 Development

When Bronx County District Attorney Mario Merola took office in January of 1973, a person who was arrested and indicted for a felony in Bronx County had to wait 24 months or more before his case could be litigated. This situation encouraged the imposition of extremely low bail, promoted a high incidence of bail jumping, and increased the probability that the serious offender might commit new crimes while awaiting disposition of outstanding charges. Moreover, the long delays substantially diminished effective prosecution of the case. Witness availability decreased as did accurate recall of events. Witnesses lost their interest in the case or became reluctant to become reinvolved after such long delays. Also the case became weakened as it was passed from one assistant district attorney to another, each forced to rework the contents of the file he received. Finally, in order to deal with tremendous caseload pressures, more than 90 percent of all matters were being disposed of by plea or dismissal.

The Bronx District Attorney believed that through proper intake control, comprehensive case preparation, full disclosure practices, and strict guidelines on plea bargaining determinations, the inconsistency between the punishment imposed for a felonious crime and the actual iniquity of the criminal and the crime would be diminished, and the system would finally begin to provide regular assurance of a speedy trial.

A policy of selective prosecution was adopted. Based upon the premise that a small percentage of all criminals committed a large percentage of all serious crimes, it was decided that a separate bureau within the District Attorney's Office should be created to prosecute major offenders. This was to be the Bronx County Major Offense Bureau, known as the MOB.

In order to secure the necessary money and manpower to initiate action against major offenders, the District Attorney applied for a grant from the Law Enforcement Assistance Administration shortly after taking office. An award of \$461,551 was made in April, 1973, to which was added \$312,556 in state and local matching funds. Three months of preparations followed. Bronx County District Attorney Mario Merola appointed Assistant District Attorney Paul Gentile to be Bureau Chief of the MOB. Detailed written descriptions of all phases of the project were prepared. Visits were made to Washington, D.C., and Detroit, Michigan, to observe pertinent district attorney office procedures, particularly case screening mechanisms. Visits were also made to Brooklyn and Manhattan where similar projects were underway. Internally, the primary start-up concerns included the selection of appropriate staff, the location of adequate office space, the development of a numerical case evaluation system, and the creation of necessary forms and procedures. Equally critical to the development process was the establishment of proper working relationships with all concerned police departments and the judiciary. At the conclusion of the three-month planning period, the MOB became operational on July 2, 1973. The following paragraphs describe in greater detail the steps that were taken to organize the MOB effort.

First, the MOB was organized and staffed. In addition to the MOB Bureau Chief, a Deputy Bureau Chief was appointed and five experienced assistant district attorneys were selected. These selections were based upon adequate (1-2 years) Supreme Court trial

experience (in the state of New York, the Supreme Court is the trial court with jurisdiction over all felonies), willingness to work weekends and nights, compatibility, and a strong motivation to excel.

The MOB Bureau Chief was given a free hand in selecting attorneys from the other bureaus within the District Attorney's Office. Although the MOB is a separate bureau and viewed as a rather elite group, there appears to be no animosity among personnel of the various bureaus. In many instances MOB attorneys provide valuable assistance to other bureaus by initially preparing cases which are ultimately assigned elsewhere. The existence of the MOB has fostered a friendly rivalry with other trial bureaus which has served to improve performance throughout the entire District Attorney's Office.

A nonlegal staff, consisting of one legal secretary, one administrative clerk, three senior clerks, one junior clerk, one process server, two senior typists, one detective investigator, and two trial preparation assistants were retained and trained. The hiring was conducted under applicable Civil Service rules. An efficient method of paper flow was developed and documented to aid in proper case and file management.

After the specification of space requirements, commitments for the allocation of the necessary space were secured. Because of the lack of room in the Supreme Court Building where the District Attorney's Office is located, a floor and partition plan was developed to renovate and maximize the use of existing facilities.

In June of 1973, the MOB engaged the services of the National Center for Prosecution Management, the research arm of the National District Attorneys' Association, to develop a case ranking system that would provide an objective basis for determining which cases were to be referred to MOB. As noted in a report to the Bronx County District Attorney, the National Center's primary goal was *"to take the rudimentary weighting system developed by the Assistant District Attorneys and, through rigorous statistical analysis, develop a statistically reliable system which would reflect the policy and priorities of the District Attorney. Since the case evaluation function would be performed by ranking clerks who were not trained legally, the system had to be designed so*



that the clerk could use it quickly and easily. Finally, the case evaluation system had to have the potential for application throughout the office when the screening function was expanded outside of the Major Offense Bureau. Additionally, the Center was charged with the design of case and trial preparation forms which could be used to support the office's operations."\*

"The National Center was chosen for this task because of its extensive experience in Washington, D.C., Denver, Colorado, Detroit, Michigan, and West Palm Beach, Florida. Mrs. Joan E. Jacoby, NCPM's Executive Director, had been instrumental in the initial development of the techniques used in these systems while directing the D.C. Government Office of Crime Analysis, which initiated the prototype system (FROMIS) for the Superior Court Division of the United States Attorney's Office in Washington."\*\*

The methods used by the National Center to develop the screening system are documented in Chapters V and VI of the Center's Report to the Bronx County District Attorney (Appendix A). Briefly, this process began with meetings with the District Attorney's Office to establish the factors that would influence a referral to MOB. These factors included both offense and offender-related information as well as evidentiary matters. A process of give and take between the District Attorney and the National Center resulted in the isolation of several critical variables and the assignment of appropriate weights that would accurately predict those cases that would meet the criteria for MOB prosecution. Data collected during the initial implementation of MOB was invaluable to this process. The District Attorney chose a case evaluation model (described further in Chapter 3) which is over-inclusive, alerting the MOB to borderline cases. Such over-inclusiveness was favored because it insured that no relevant cases were missed during the initial screening. Inappropriate cases were rejected and assigned elsewhere.

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\* Jacoby, Joan E., Report to the Bronx County District Attorney on the Case Evaluation System, November 30, 1974, National District Attorneys Association, Chicago, Illinois, pp. 99-100.

\*\* Ibid. p. 94.

According to the National Center, "the Bronx case evaluation system was the first attempt ever made to isolate and identify those factors which could be used to measure the evidentiary strength of a case. Such factors are powerful determinants in assessing the seriousness of the case for prosecution. Until the Bronx project, evidentiary strength had been measured merely by subjective assessment of the probability of winning. Since the assessment is subjective and dependent upon the experience of each different assistant assigned to intake review, a more consistent method was sought in this project in the form of objective and measurable data elements. If objective standards could be established, the utility and reliability of case evaluation systems for prosecution would be vastly expanded."\*

In addition to the development of an objective case screening mechanism, trial preparation forms were designed to aid the attorneys in preparing their cases. These forms are presented as Appendix C. They provide a convenient method of marshalling the evidence in a case covering the nature of the offense, facts concerning the defendant, and statements from civilian witnesses, police officers, and defendants. Physical evidence, identifications, grand jury action, and other relevant information is also noted.

Time was spent during the preparation period to elicit the cooperation of the New York City Police Department, the Housing Authority Police and the Transit Authority Police. The cooperation of these agencies was deemed essential because of the necessity for MOB to receive early notification of the arrest of a suspect who was a likely candidate for MOB prosecution. Such a system facilitates immediate case investigation and preparation. The positive response of all concerned police commands was apparent in the orders they drafted directing their personnel to make such notification under proper circumstances. These orders are contained in Appendix D. The police were persuaded that with their cooperation the MOB project could be a success and that a MOB success would be a police success as well. No longer would they be rearresting individuals they had recently encountered, often in dangerous situations, just weeks or even days before.

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\* Ibid, p. 100.

But early and complete case preparation might have no impact on pretrial delay without immediate availability of an adequate forum. Recognizing this, the District Attorney elicited the cooperation of the Administrative Judge of the Supreme Court. At first the judiciary was hesitant to set aside courtrooms solely for the hearing of MOB cases. They felt that cases should be handled as they appeared on the general calendar and that to give priority to MOB cases would be unfair to other defendants awaiting trial. But the argument that the MOB might well have a real impact on serious crime in the Bronx and the District Attorney's promise to keep the courtrooms full with thoroughly prepared cases was persuasive. On September 1, 1973, the Appellate Division of the State Supreme Court designated two trial parts (sessions) for the exclusive litigation of Major Offense Bureau cases. These trial parts were in addition to those that already existed for other Supreme Court cases. Thus, MOB cases were no longer subject to the calendar delays that faced other felony cases in the Bronx.

The District Attorney decided that policies of full disclosure to defense counsel and of limited plea bargaining would reduce delay and assure just dispositions. Early and complete case preparation placed the MOB in a strong plea bargaining position and helped persuade the courts to direct dilatory defendants to trial. The setting of bail was also an important concern of the MOB in its relationship with the judiciary. Especially important was the process of educating criminal court (lower court) judges to the activities of the MOB. Once aware that a MOB defendant would not languish in jail awaiting trial and that the prosecution's case would be a strong one, reluctance to set high bail would be reduced. Such education, however, would take time. It was therefore necessary that the Major Offense Bureau promptly establish a reputation for quality and speed.

In June of 1974, the MOB encountered its first legal challenge. The Legal Aid Society of the City of New York, the equivalent of a public defender agency in most jurisdictions, filed a suit in the nature of a Writ of Mandamus which sought to prevent a Justice of the Supreme Court of Bronx County from transferring an armed robbery case into a Major Offense Bureau part for trial. The suit alleged that the selective prosecution concept inherent in the MOB's operations was violative of the Constitutional rights of due process and equal protection guaranteed by the Fourteenth Amendment. After argument before the Court, the motion was dismissed. The MOB had weathered its first major confrontation with the defense bar.

The MOB, in its brief to the court, established three basic points: first, that the Legal Aid Society's historical position supporting the right to a speedy trial made their present argument hypocritical; second, that the implication that the MOB selected the judges before whom their cases were tried was demonstrably false (in fact, 16 different Justices had heard MOB cases); and third, that the petitioner's argument that justice was often too swift and that a defendant could get a fairer trial after two years was patently absurd. Subsequently the defendant entered a plea of guilty and was sent to prison. On appeal, his conviction was unanimously affirmed.

At the present time, the MOB is fully institutionalized within the Bronx County District Attorney's Office. It has earned the respect of the Bronx judiciary and the gratitude of the residents of the Bronx. It has received widespread publicity both in the press and on television. Perhaps most significantly, it has come to be feared by the criminal element. One MOB assistant district attorney discovered, through a close association with a defendant, that those incarcerated in jails and prisons throughout the state knew of the MOB and knew that MOB prosecution likely would result in a relatively swift conviction and relatively long sentence. Such awareness, the defendant told the A.D.A., was fast making its way to the streets through visits from prisoners' families and friends and through the prisoners themselves following their release on parole. Clearly, the MOB has made its presence felt.

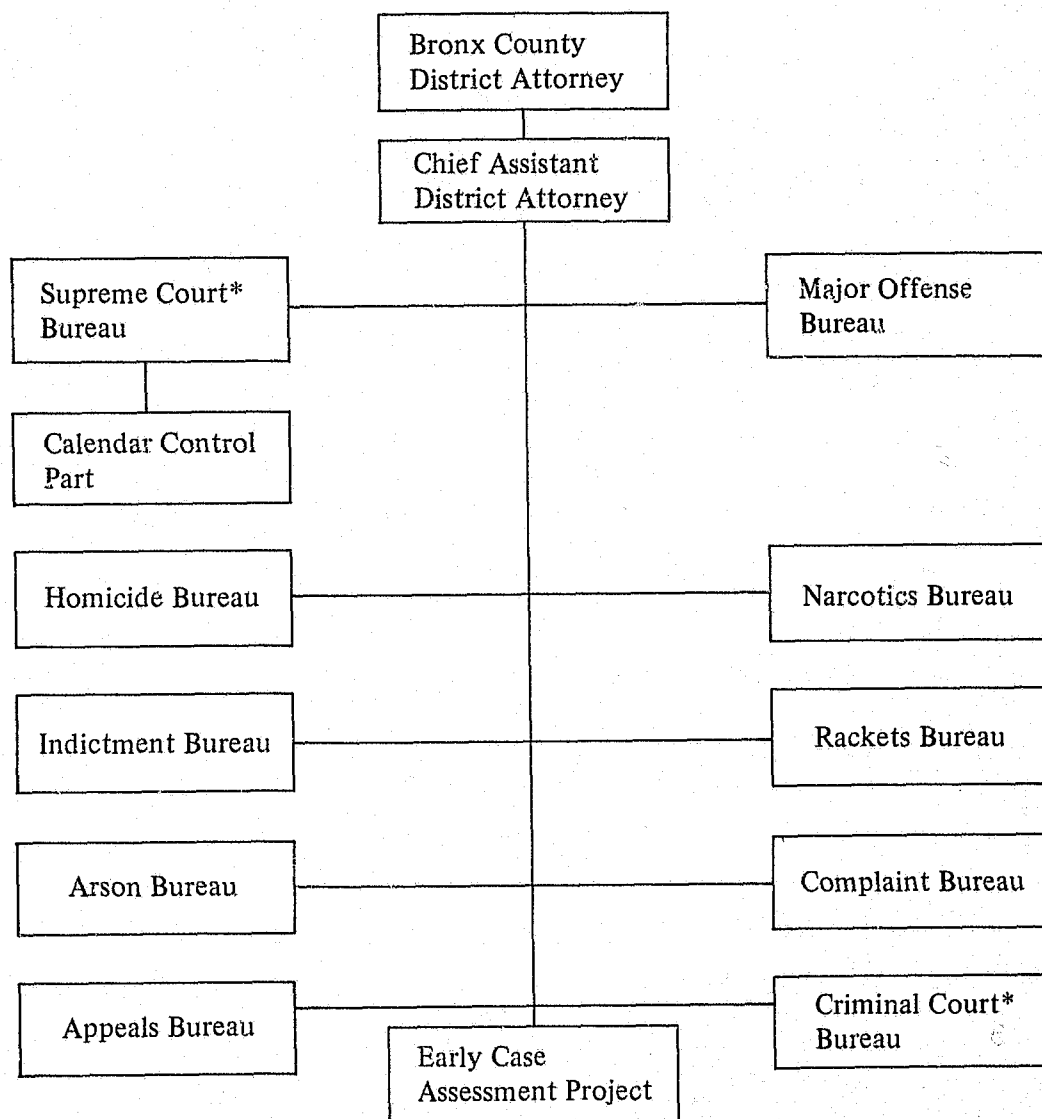
## 2.2 Organization

The organization of the MOB is simple and straightforward, as it is one of several bureaus functioning within the Bronx County District Attorney's Office. The overall structure of that office is diagrammed in Figure 1. Each of the ten separate bureaus is administered by a Bureau Chief and one or more Deputy Bureau Chiefs. The MOB has one Deputy Bureau Chief. In addition to the major bureaus, the D.A.'s Office also has staff assigned to the Supreme Court Calendar Control Part\* (a part reserved for nontrial matters, including arraignments, motions and hearings) and a special Early Case Assessment Project which works in conjunction with MOB's own early case screening program. In total, the Bronx County District Attorney's Office employs roughly 300 people. The internal structure of the MOB is illustrated in Figure 2.

\* "Part" refers to judicial session.

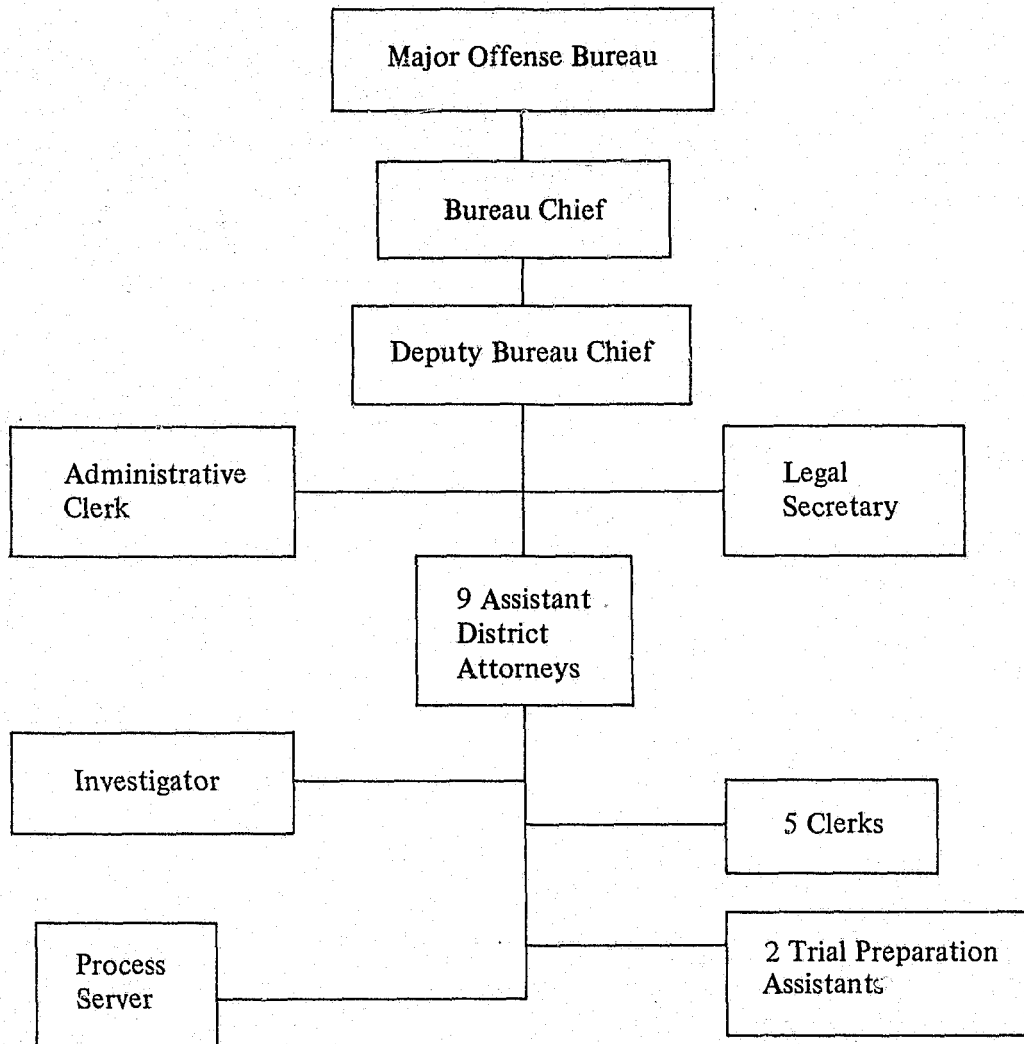


Figure 1 Bronx County District Attorney's Office



\* The judicial terminology used in New York is sufficiently unique to cause confusion. The reader should be mindful of the fact that the Supreme Court is not the highest court in New York but rather is a trial court of original jurisdiction. In many jurisdictions, its counterpart is Superior Court. New York's Criminal Court is roughly equivalent to many other jurisdictions' District Court.

**Figure 2 Major Offense Bureau**



MOB cases are assigned to one of ten assistant district attorneys. The Bureau Chief does not carry a caseload and concentrates his attention on supervising staff and providing assistance in the preparation and prosecution of more difficult cases. He also maintains liaison with the chiefs of the Supreme Court Bureau, Indictment Bureau, Criminal Court Bureau, and with the Criminal Court and Supreme Court. In addition, he reviews all ranking forms to determine whether cases have been appropriately or inappropriately selected for MOB prosecution. The Deputy Bureau Chief has been delegated the responsibility of supervising and scheduling felony duty (the term used for the A.D.A. scheduled to respond to police and ranking clerk notification of a potential MOB case).

Attorneys who serve with the Major Offense Bureau are selected by the Bureau Chief primarily from the Criminal Court Bureau and the Supreme Court Bureau, the main trial bureaus of the District Attorney's Office. The highly specialized nature of MOB efforts requires that the assistant district attorneys be relatively experienced attorneys. By and large an attorney will not be selected for MOB assignment unless he has served at least one and a half or two years in another bureau of the District Attorney's Office. The MOB Bureau Chief attempts to avoid "creaming" the best attorneys from other divisions in the staff selection process, but the District Attorney has given the MOB Bureau Chief a relatively free hand in selecting staff from other bureaus. As a result, the MOB attorneys generally tend to be among the most experienced attorneys in the District Attorney's Office.

Since the attorneys working in MOB are relatively experienced, there is no formal training program. New attorneys are oriented by the Bureau Chief and his deputy and are generally assigned some of the most difficult cases early in their tenure. The Bureau Chief believes that the strategy of assigning difficult cases to new attorneys helps acquaint them with the nuances of their jobs quickly and thoroughly. Since the MOB staff work together closely, and frequently (although informally) meet as a group, training is largely accomplished on the job by peers.

The MOB shares its investigator and process server with other bureaus within the D.A.'s Office. The administrative clerk and legal secretary handle all the clerical aspects of MOB operations ranging from the compilation of statistics to the typing of correspondence and motions. The five ranking clerks and the trial



preparation assistants are law students who aid the A.D.A.'s in conducting investigations and interviews.



### CHAPTER 3      OPERATIONS

The purpose of establishing a Major Offense Bureau was to provide a capable and objective method of isolating those instances in which special prosecutorial attention was warranted either to deal with a particularly vicious crime or a particularly vicious and recidivist defendant. The program would reflect my policies by minimizing inconsistencies in the treatment of similar cases, and by reducing the time required between arrest and final disposition.

The Major Offense Bureau, it must be emphasized, is a trial bureau. Each case is prepared in depth initially and with a view toward trial. The case is actually ready to be litigated at the time of arraignment. No Major Offense Bureau case has ever been adjourned at the request of an assistant district attorney, and such a request is not anticipated in the future.

It is precisely because of its reputation in litigation that the bureau has been able to obtain consistently high quality dispositions before and during its trials. In one case, the defendant himself interrupted the proceedings before a jury to enter a plea of guilty. On other occasions, defendants have pled guilty as the jury was empaneled. Of the hundreds of dispositions obtained by the bureau thus far, only two have been reversed on appeal.

-- Mario Merola  
Bronx County District  
Attorney

The major thrust of MOB is twofold. The first is to establish a means of identifying cases that require special prosecutorial attention because they involve a recidivist defendant or a particularly violent crime. The second is to facilitate the prosecutorial process in a way that will result in a high number of convictions and the imposition of sentences commensurate with the crime.

Once a case has been selected for MOB prosecution it is immediately investigated by a MOB A.D.A. The defendant is then arraigned in Criminal Court where bail is initially set. Within a short time the case is presented to the Grand Jury. If they indict the defendant he is then arraigned in Supreme Court and a trial date is set. Between arraignment and trial, plea bargaining occurs. If no agreement is reached, the defendant will stand trial. The A.D.A. is ready for trial at the time of arraignment in Supreme Court.

The following sections detail the various operational phases of the MOB. These are notification, screening, acceptance, case preparation, plea bargaining, trial and disposition. The final section of this chapter illustrates the MOB's operations with a short case study.

### 3.1 Notification

The early involvement of an assistant district attorney in the major offense case is critical to MOB's performance. Traditionally the complaint room of the Bronx District Attorney's Office was where an assistant prosecutor handled all initial charging decisions and reviewed the facts of each case with the witnesses and police officers. The assistant prosecutor would complete a folder on the case with a recommendation for referral to the Grand Jury, a diversionary program, or other appropriate action. Prior to MOB, the assistants who worked on complaint room duty lacked felony trial experience and were relatively new to the District Attorney's Office.



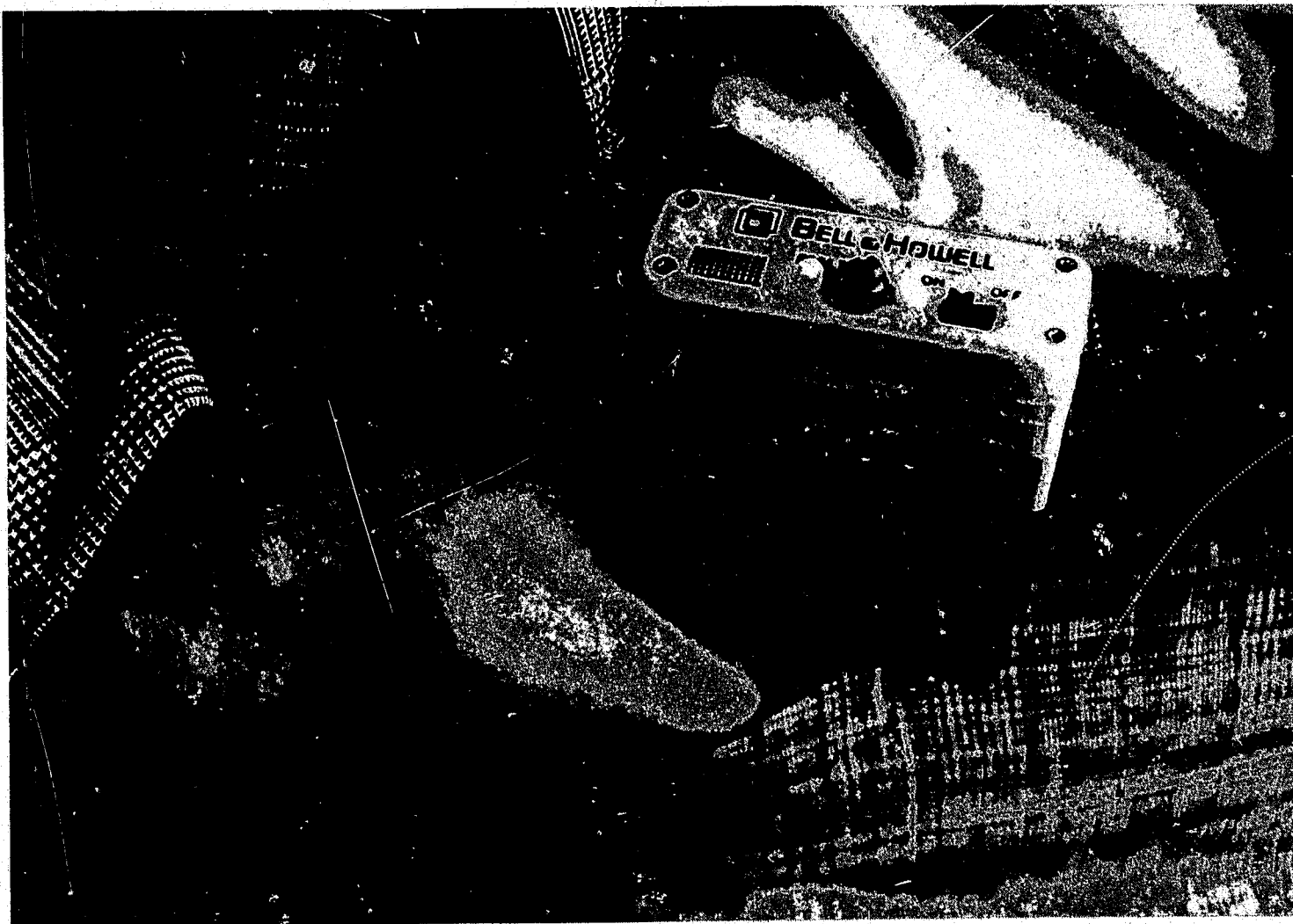
With the advent of the MOB and the Early Case Assessment Project of the District Attorney's Office,\* assistant prosecutors were replaced in the complaint room with clerks who provide 16-hour-a-day coverage, seven days a week. One assistant district attorney is also on-call 24 hours a day. The assistant carries an electronic "beeper" which is a signal receiver to insure that he can be immediately contacted by the clerks in the event any case is likely to be of MOB concern.

Assistant district attorneys assigned to MOB receive notification either from the MOB complaint room clerk or directly from the New York City Police Department, the Housing Authority Police, or the Transit Authority Police by way of an emergency phone number which hooks directly into the Office of the District Attorney. Notifications are made by the police shortly following the apprehension of a suspect, from the nearest precinct or from central booking. The arresting officer will telephone another officer stationed by an emergency notification phone. He will then either telephone the A.D.A. on felony duty at the District Attorney's Office or at home. If unable to reach the A.D.A. in this manner he will use the "beeper" phone. The circumstances that require immediate notification by police to the District Attorney's Office are the following:

- Robbery arrests when
  - defendant was armed with a firearm, or
  - assault occurred and the victim required hospitalization (other than treated and released), or victim received multiple wounds, or victim received numerous stitches, or
  - defendant has been identified as having committed a series of robberies.

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\* The Early Case Assessment Project (ECAP) is another special unit of the District Attorney's Office which concentrates on early case screening and assignment. The cooperation between MOB clerks who perform the initial screening function for MOB and ECAP clerks has evolved into a highly efficient screening process for all cases. Currently, both units utilize the MOB case evaluation worksheet in screening.



- Attempted murder or serious assault arrests when
  - victim is shot or has received multiple stab wounds which require hospitalization (other than treated and released), or
  - a police officer is the victim of a shooting or stabbing, NOT AN ATTEMPT.
  - DO NOT notify the District Attorney of assaults between members of the same household, family or commonlaw, UNLESS VICTIM IS LIKELY TO DIE.
- Burglary arrests when
  - committed in a dwelling and there is no prior relationship between the defendant and the complainant and the burglary is coupled with a sex crime, assault, or robbery, or
  - when the defendant has been identified as having committed a series of burglaries from dwellings.
- Arson arrests when
  - a fire of considerable proportion results in the serious physical injury of an inhabitant, or
  - there is considerable damage to a building.
- Kidnapping arrests when
  - committed for sexual, monetary or political reasons and the persons are unknown to each other.
- Rape or sodomy arrests when
  - force or threat of force is used and the parties are unknown to each other.
- Child abuse arrests when
  - a child under seven (7) years of age is tortured or receives serious physical injuries.

Clerks also periodically telephone the Police Department Emergency Notification Unit--a special police unit designed to quickly screen and access cases for referral--in the event the individual officer failed to notify the District Attorney's Office. By and large, however, the most common form of notification for MOB cases

occurs when the arresting officer simply brings the witnesses to the complaint room of the Criminal Court so that a complaint can be drawn by the regular assistant district attorney on duty. In the complaint room the MOB clerk completes a MOB case evaluation form and, if appropriate, alerts the on-duty MOB assistant district attorney.

Since the beginning of MOB, the case evaluation procedure has been performed on all cases referred to the District Attorney's Office. MOB, in concert with the Early Case Assessment Project, attempts to insure that the referral of cases to each of the 10 bureaus of the District Attorney's Office is consistent and timely.

### 3.2 Screening and Acceptance

The screening approach employed by the MOB and devised by the National Center for Prosecution Management attempts to remove the element of subjective evaluation in selecting cases for special prosecutorial attention. As the National Center has reported, *"Many prosecutors have come to realize that selective prosecution is essential as a management tool in offices handling a large volume of cases where manpower and other resources are strained or limited. The concept can help the prosecutor ensure that his priorities and policies are pursued in the enforcement of law."*

*"Until more recently, most cases were referred to special bureaus according to type of crime or the characteristics of the offender. (For example, in the Bronx there exists the Homicide and Narcotics Bureaus.) With the advent of statistical scaling techniques and their modification for application to the prosecutor's operations, the prosecutor is freed from the traditional referral by offense type and can start to examine the caseload and work load in his office in terms of the case's urgency for prosecution--independent of crime type."*

*"Case evaluation systems independent of crime type were first used in the U.S. Attorney's Office, Superior Court Division, Washington, D.C., when they were developed as part of the PROMIS system in 1970. The design, creation and implementation of the PROMIS system was a major step forward in providing the prosecutor with tools*

and techniques which would permit him to rise above the limitations of simple offense criteria for the selective prosecution process. The case weighting systems derived for PROMIS and modified for the Bronx District Attorney's Office were essentially similar in that they attempted to measure (1) the seriousness of the offense --based primarily on the extent of personal injury and property loss or damage; (2) the seriousness of the defendant--based primarily on his prior arrest and/or conviction records, the density of the frequency of arrests and his community stability; and (3) the strength of the case--based primarily on the facts and evidence available.

"Case evaluation systems are management and operational tools. They identify, on a uniform and consistent basis, the gross characteristics of the work load in the office and rank the work load in order of importance to the prosecutor. Case evaluation systems will never replace the individual case preparation and trial expertise of the individual prosecutor. Their value lies in identifying quickly and consistently, serious cases for special prosecutorial attention. They do not assure guilt or innocence, they do not discriminate, except in order of seriousness. How the systems are used depends on the response of the individual prosecutor and his policies to the needs of his office and his community."\*

In the Bronx, a Major Offense Bureau clerk utilizes the Case Evaluation worksheet, exhibited on the following page, in deriving a ranking score on each case. Points are accumulated given the nature of the case, the nature of the defendant, and the weight of the supporting evidence. If the felony committed is a Class A felony (punishable by life imprisonment) or a Class B felony (punishable by up to 25 years imprisonment) a total case score of 20 points is needed in order to trigger a phone call to an assistant district attorney. Regardless of the number of points derived on the case, immediate referrals are made to the MOB assistant district attorney in cases which involve forcible sexual offenses between unrelated parties, arson where there is substantial damage or high potential for injury, child abuse involving children seven years or age or under, and cases involving multiple robberies or burglaries. The MOB initially accepts all major felonies which meet its criteria, with the exception of homicide, arson, and narcotics cases, for which special bureaus have been created.

\* Ibid pp. 98-99.

# BRONX CASE EVALUATION

DOCKET NO. \_\_\_\_\_ INDICTMENT NO. \_\_\_\_\_

PEOPLE v. \_\_\_\_\_ CHARGE \_\_\_\_\_ DATE \_\_\_\_\_

Please record those points which apply to your case. (Where there are multiple defendants, compute a base on the defendant with the most serious offense(s).)

## A. NATURE OF CASE

	check if applicable	pts.
<b>VICTIM</b>		
one or more persons	<input type="checkbox"/>	2.0
<b>VICTIM INJURY</b>		
received minor injury	<input type="checkbox"/>	2.4
treated and released	<input type="checkbox"/>	3.0
hospitalized	<input type="checkbox"/>	4.2
<b>INTIMIDATION</b>		
one or more persons	<input type="checkbox"/>	1.3
<b>WEAPON</b>		
defendant armed	<input type="checkbox"/>	7.4
defendant fired shot or carried gun, or carried explosives	<input type="checkbox"/>	15.7
<b>STOLEN PROPERTY</b>		
any value	<input type="checkbox"/>	7.5
<b>PRIOR RELATIONSHIP</b>		
victim and defendant - same family	<input type="checkbox"/>	-2.8
<b>ARREST</b>		
at scene	<input type="checkbox"/>	4.6
within 24 hours	<input type="checkbox"/>	2.9
<b>EVIDENCE</b>		
admission or statement	<input type="checkbox"/>	1.4
additional witnesses	<input type="checkbox"/>	3.1
<b>IDENTIFICATION</b>		
line-up	<input type="checkbox"/>	3.3
<b>TOTAL CASE SCORE</b>		_____

## B. NATURE OF DEFENDANT

<b>FELONY CONVICTIONS</b>		
one	<input type="checkbox"/>	9.7
more than one	<input type="checkbox"/>	18.7
<b>MISDEMEANOR CONVICTIONS</b>		
one	<input type="checkbox"/>	3.6
more than one	<input type="checkbox"/>	8.3
<b>PRIOR ARRESTS - SAME CHARGE</b>		
one	<input type="checkbox"/>	4.5
more than	<input type="checkbox"/>	7.2
<b>PRIOR ARRESTS</b>		
one	<input type="checkbox"/>	2.2
more than one	<input type="checkbox"/>	4.2
<b>PRIOR ARREST-WEAPONS TOP CHARGE</b>		
more than one	<input type="checkbox"/>	6.4
<b>STATUS WHEN ARRESTED</b>		
state parole	<input type="checkbox"/>	7.1
wanted	<input type="checkbox"/>	4.2
<b>TOTAL DEFENDANT SCORE</b>		_____

## C. REFER TO M.O.B. IF ANY OF THE FOLLOWING CONDITIONS APPLY:

(check those applicable-offense is most serious charge)

- ☐ FORCIBLE SEXUAL OFFENSES BETWEEN UNRELATED PARTIES
- ☐ ARSON WITH SUBSTANTIAL DAMAGE OR HIGH POTENTIAL FOR INJURY
- ☐ CHILD ABUSE, CHILD SEVEN OR UNDER
- ☐ MULTIPLE ROBBERIES OR BURGLARIES

## D. SUMMARY INFORMATION

### NO. OF VICTIMS \_\_\_\_\_

- ☐ received minor injury
- ☐ treated and hospitalized
- ☐ hospitalized and/or permanent injury
- ☐ law officer
- ☐ attempted murder of officer

### WEAPON

- ☐ gun
- ☐ knife
- ☐ bomb or explosive
- ☐ other \_\_\_\_\_

### BURGLARY

- ☐ night-time
- ☐ evidence of forcible entry
- ☐ Church, School, Public Bldg.
- ☐ no. of premises burglarized \_\_\_\_\_

### VALUE OF STOLEN PROPERTY

	recovered	not
<input type="checkbox"/> under \$250	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> \$250 to \$1499	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> \$1500 to \$25,000	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> over \$25,000	<input type="checkbox"/>	<input type="checkbox"/>

### PRIOR RELATIONSHIP

- ☐ other family
- ☐ neighbor
- ☐ friend
- ☐ acquaintance
- ☐ other

### IDENTIFICATION

- ☐ photograph
- ☐ on or nearby scene
- ☐ other
- ☐ no. of persons making I.D. \_\_\_\_\_
- ☐ time delay of I.D. \_\_\_\_\_

### SUPPORTING EVIDENCE

- ☐ crime observed by police officer
- ☐ fingerprints recovered

## E. DISTRICT ATTORNEY'S EVALUATION

TOTAL SCORE \_\_\_\_\_

RANKING CLERK \_\_\_\_\_

A.D.A. NOTICED yes ☐ no ☐

ACTION BY A.D.A.:

- ☐ accepted ☐ furthered
- ☐ rejected ☐ referred to M.O.B.

reasons: \_\_\_\_\_

**WORK CASE EVALUATION**

**DEFENDANT**

**CHARGE**

**DATE**

**LOCATION**

**AGENCY**

**INVESTIGATOR**

**WEAPON**

**STOLEN PROPERTY**

**PRIOR RELATIONSHIP**

**ARREST**

**EVIDENCE**

**IDENTIFICATION**

**TOTAL CASE SCORE**

**B. NATURE OF DEFENDANT**

**FELONY CONVICTIONS**

**MISDEMEANOR CONVICTIONS**

**PRIOR ARRESTS - SAME CHARGE**

**PRIOR ARRESTS**

**PRIOR ARREST WEAPONS TOP CHARGE**

**STATUS WHEN ARRESTED**

**TOTAL DEFENDANT SCORE**

**BY SUBMITTER AND APPROVING**

**FILE THE WORK CASE**

**WEAPON**

**BURGLARY**

**VALUE OF STOLEN PROPERTY**

**PRIOR RELATIONS**

**IDENTIFICATION**

**TOTAL RANKING**

**ACTION BY**

**REMARKS**

The ranking clerk is often unable to fill out the defendant score immediately because of the approximately ten-hour delay in receiving a suspect's criminal record from the New York State Identification Division located at Albany. When obtained, this information is added to the case evaluation sheet either by the ranking clerk or by the Bureau Chief. A defendant score of 15 points will qualify the case for MOB prosecution.

All case evaluation ranking sheets are reviewed within twenty-four hours by the Bureau Chief. This enables him to monitor the work of the ranking clerk and review the decision of an A.D.A. to accept or reject a case for MOB prosecution. Generally, MOB accepts cases initially that are ultimately assigned elsewhere, rather than rejecting a case summarily, which it later decides to accept. Since one of the assets of MOB operations is the immediate investigation of cases, deferral of the final acceptance/rejection decision and continued preparation of the case serves to prevent any MOB cases from not being properly and swiftly prepared. The by-product of this effort, a thoroughly prepared case ultimately assigned elsewhere, is then a benefit which accrues to another trial bureau of the D.A.'s Office.

### 3.3 Case Preparation

Once the MOB assistant district attorney on call has been notified of the occurrence of a serious crime he makes contact with the duty clerk. After a quick determination of the appropriateness of the case for MOB (based on the results of the case evaluation), the attorney contacts a special stenographer (who is also on-call 24 hours a day). The stenographer and the attorney immediately go to the central booking station in the Bronx to interview officers, to insure that all evidence has been legally obtained and is complete, to direct laboratory tests or photographs, to direct line-ups, and to interview the defendant and each witness. The defendant, of course, has the opportunity to request that a defense attorney be present. Trial preparation forms used in this process are presented in Appendix C.

During these initial interviews all witnesses are immediately served with Grand Jury subpoenas and a schedule for appearance is established. Arrangements are often made so that MOB cases can be heard



by a Grand Jury within 24 hours of arrest. Seventy-two hours is the outside limit. In non-MOB cases, it usually takes about one month to reach the Grand Jury.

Once all witnesses and police officers have been interviewed, the assistant meets with the defendant and asks if a statement can be taken. Because a number of these interviews have resulted in confessions, the MOB has also instituted a new procedure for videotape recording of defendant interviews. All defendants are made aware of their constitutional rights and given the opportunity to refuse recording the interview. Such videotaping often protects the prosecution from defense contentions of coercion.

The final case acceptance decision is not made until all the facts of the case have been recorded and a criminal record check has been performed. The following day, the assistant district attorney who conducted the initial interviews and the Bureau Chief determine whether to continue MOB prosecution of the case. If the case is pursued, the same attorney will handle the case through disposition.

If the case is accepted, the assistant district attorney proceeds from the central booking station to the Criminal Court, where he directs the filing process and the preliminary arraignment, which includes a bail recommendation. The same A.D.A. will also present the case to the Grand Jury. To increase the speed and efficiency of the indictment process, magnetic tape typewriters are used to prepare the formal indictment, which is then presented for signature and filed with the court. This procedure was instituted to reduce waiting time in the Grand Jury and to insure that the victim need only tell his story once and deal with only one assistant district attorney all the way through disposition.

Frequently a Grand Jury hearing can be held the same day the prosecutor files for a hearing appointment. The usual procedure, however, is to have the Grand Jury hearing within three days of arrest and the indictment drawn and handed up to the Supreme Court the same day the jury votes a true bill.

### 3.4 Plea Bargaining

Following indictment by a Grand Jury, a date is set for arraignment in Supreme Court. To expedite the case, the policy of the District Attorney's Office is to offer a plea at the earliest possible moment. Plea negotiations are an important part of the MOB approach. The offered plea is established at a conference between the assistant district attorney handling the case and the MOB Bureau Chief. Based on internal MOB guidelines, the offered plea is always either the top count of the indictment or one count below. Thus the scope of plea bargaining is severely limited, insuring that, even when accepting a plea, the defendant's record will accurately reflect the nature of his offense.

When the plea is offered, the defense attorney is invited to discuss all the evidence of the case. Consistent with full disclosure policy of the District Attorney, the conference allows the defense attorney access to all the information available to the prosecuting attorney. The only information that is not disclosed is the name and address of a witness. If, after one or two conferences, the defendant does not accept the plea, the judge sets a date for trial.\*

Once proceedings begin, the MOB District Attorney will not entertain defense overtures to reconvene plea negotiations. This fact is made clear at the original conference when the weight of the prosecution's case is made known. If the defendant does choose to "take his chances" with a jury, he is locked into his commitment and cannot reconsider based on the conduct of the trial (the usual defense tactic). He can, of course, plead guilty to the original charge at any time.

It should be noted that plea bargaining is not intended to punish a defendant who elects to stand trial. The offer of an opportunity to plead guilty to the original charge with a less than maximum sentence recommendation or to plead to one count below the origi-

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\* The rules of the First Judicial Department of the Appellate Division of the State of New York prohibit the trial of a case until thirty days after arraignment without the defendant's consent. Thus under the speediest of circumstances, the first five weeks of every case must be considered its period of gestation.

nal charge is more an attempt to conserve criminal justice system resources and reduce witness inconvenience. The MOB considers that all sentence recommendations, however derived, are within a range sufficient to deal with the degree of criminality manifested by the defendant's charge.

Tag-along defendants, those who would not have their cases tried by MOB but for the fact that their co-defendant is a serious recidivist, are given due consideration in sentence recommendations and generally receive short or suspended sentences. They are often allowed to plead guilty to a charge more than one count below the top count of the indictment. This is the one exception to an otherwise inflexible MOB rule.

### 3.5 Trial and Disposition

When the assistant district attorney answers "ready for trial" at arraignment in Supreme Court he is, in fact, prepared to try the case, requiring only time enough to assemble the witnesses. Usually, a MOB attorney will have prepared a case for trial within three days.

The actual trial and ultimate disposition of MOB cases do not differ much from those of other trial bureaus. Of course, MOB attorneys are generally more experienced and with the exception of the homicide and arson bureaus are dealing with more serious felonies than the other trial bureaus.

The one significant difference is that MOB has its own trial parts. When a MOB case is ready for trial it waits only upon other MOB cases. Thus MOB cases are fresher with consequently better testimony from witnesses. During the approximately three years of MOB's existence, seven different judges have sat regularly on the MOB trial parts.

MOB attorneys are beginning to face defense counsel who are specially assigned to handle the defense of a case accepted for MOB prosecution. The Legal Aid Society of New York has received funding to aid these attorneys in the preparation of their cases. Such

an equilibrium in the adversary process assures the integrity of the jury's finding of guilt or innocence. At the present time approximately 40 percent of MOB defendants are represented by the Legal Aid Society, while another 40 percent are defended by court-appointed attorneys. The remaining 20 percent are found not to be indigent and thus required to retain private counsel. The MOB, then, is essentially a trial bureau and not an investigative one. It handles cases arising from summary arrests, selects those appropriate for MOB prosecution, and diligently presents them to the court. Thus far, they have achieved a 96 percent conviction rate.

### 3.6 A MOB Case

A wave of arson occurring in the South Bronx persuaded the fire department to establish a new unit, the Arson Surveillance Squad, whose duties would be to investigate and deter fires of suspicious origin. This unit was comprised of seven Fire Marshalls, one of whom was Supervising Fire Marshall Eluterio G.

On July 7, 1975, a hot summer afternoon, Eluterio and his partner, Fire Marshall Thomas R., were on patrol in the East 140th Street area of the Bronx, a neighborhood which had seen more than its share of suspicious fires. They observed two men leaving a burnt-out building. Knowing such behavior was consistent with arsonous conduct, the Fire Marshalls ordered the men to halt. One man fled while the other remained. His name was Raphael L. L. was approached by Fire Marshall R. and was ordered back inside the structure so as not to cause a disturbance on the street. Once inside, and after being questioned by R., L. indicated he had a knife in his rear pocket. He was instructed to drop the knife but when R. went to retrieve it, L. drew a gun and placed it to R's head. He then disarmed the Fire Marshall and fled with his gun.

The Fire Marshalls, working with the New York City Police, conducted an investigation to determine the identity of this man. That investigation disclosed that they were looking for a man named "Ralphie" who often visited a certain residence on Walton Avenue in the Bronx.



On July 12, the Arson Surveillance Squad went to the residence in question. Two Marshalls remained in the street, two went to the roof, while R. and G. went to the apartment. They knocked on the door and announced themselves as police who were looking for "Ralphie." They were told to wait. A short time later a young woman admitted them to the apartment. They were told "Ralphie" was not in. They asked if they could look and were given permission. G. walked into a bedroom and opened the closet. Inside the closet was L., with a gun in his hand. He was told to come out of the closet. He refused. G. reached into the closet to remove him. L. fired twice. One of his bullets passed through G's chest cavity, severing his spine. As R. rushed into the room to aid his fallen partner, L. leaped from the closet, firing at R. and striking him in the mouth. L. fled to the roof of the building, leaving both Fire Marshalls in the Bronx tenement literally bleeding to death. On the roof, L. encountered two more Marshalls. A shootout ensued in which L. was wounded.

Both Marshalls spent months in hospitals, and both received permanent disabling injuries. R., a veteran of thirteen years service, was forced to retire. G.'s injury resulted in permanent paralysis of all bodily functions from the chest down.

L. was a 27-year-old who had learned how to manipulate the criminal justice system. He had been arrested 11 times since 1967, including five felonies. In 1968, he was arrested for burglary and grand larceny and pled guilty to petit larceny, receiving a probationary sentence. He had been indicted for sale of heroin but had jumped bail. Two years later when he was arrested, the case, due to its age, could no longer be reconstructed. He pled guilty to bail jumping and again received a probationary sentence. In 1974, he was charged with robbery, only to plead guilty to petit larceny and receive a nine-month sentence. During the course of these arrests, L. had used a number of different aliases.

The criminal justice system may well have encouraged rather than deterred L. in a course of consistent criminal conduct.

L. was indicted on July 15, 1976, three days following the shooting. After a thorough presentation of evidence by a MOB attorney, the Grand Jury indicted L. on two counts of attempted murder in the first degree, two counts of robbery in the first degree, and possession of a weapon.

Shortly after L.'s arrest on July 12 and at the direction of the MOB attorney handling the case, stenographic statements were taken of all witnesses. These statements assumed increasing importance as those witnesses, many of whom bore a relationship to L., changed their testimony during the course of the trial. The immediate notification of the MOB A.D.A. by the police, his quick response to the precinct where L. was being held, and his immediate and careful case investigation had resulted in the production of evidence that would otherwise have been later weakened.

The trial lasted five weeks. The jury deliberated six hours and returned verdicts of guilty on two counts of attempted murder in the first degree and on two counts of robbery in the first degree. L. was sentenced to two life sentences and two twenty-five year sentences. One of the twenty-five year sentences was to run consecutively with the life sentences. The MOB had ended L.'s life of crime.





## CHAPTER 4 REPLICATION ISSUES

Unquestionably, the Bureau received its strongest endorsement when WNBC-TV televised an editorial praising the speed and efficiency of the Major Offense Bureau. It concluded that all District Attorneys should have a similar program and if they did not, it was suggested that "the Legislature should make the program mandatory."

-- Mario Merola  
Bronx County District  
Attorney

Efforts have already begun around the country to replicate the Bronx Major Offense Bureau. In 1975 the Law Enforcement Assistance Administration began funding a large scale Career Criminal Program to establish units similar to the Major Offense Bureau in many of the country's major cities. In commenting on the value of the Bronx MOB as a model for other Career Criminal Program efforts, former U.S. Attorney General William Saxbe described the Major Offense Bureau as "a vast improvement over the best previous efforts of the over-burdened prosecution."\*

### 4.1 Key Project Features

A necessary first step in the development of a career criminal program is, of course, obtaining a clear commitment from the

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\* New York Journal of Crime and Justice, October 18, 1974, p. 2.  
"Bronx D.A.'s Major Offense Bureau Wins Praise from Attorney General Saxbe."

District Attorney to assign staff and resources to a special unit responsible for the identification and prosecution of the career criminal. A separate unit is required because staff need to investigate and prosecute career criminal cases intensively to be maximally effective. Careful case preparation of career criminal cases is likely to be weakened if staff are also required to prosecute other offenders. The existence of a separate unit can also be beneficial due to the high esprit de corps often characteristic of such units which can, in turn, heighten productivity. The symbolic value of a MOB in demonstrating to the criminal community the strong commitment on the part of the District Attorney's Office to prosecute career criminals is also important.

Once a decision has been made to establish a career criminal program within a prosecutor's office, further decisions are required regarding the unit's organization, procedures, and policies. Based upon observations of the Bronx MOB and other programs, a number of recommendations can be made. The key program features to be considered are:

- objective case screening;
- access to the courts;
- one attorney - one case;
- restricted plea bargaining;
- open discovery.

### Objective Case Screening

Preferably, case screening systems should involve the use of objective rating forms to rank all incoming cases. The decision regarding which types of cases should be rated is, of course, up to the individual prosecutor's office. Some offices have chosen to define the potential pool of cases to include virtually all serious felonies while others have limited their screening to one type of felony (e.g., robbery). The value of objective rating forms is that the prosecutor's office can systematically decide which cases to pursue in light of office policy and thus increase consistency in case prosecution. A by-product of the use of these forms is that paralegal assistants can do the necessary ranking, freeing attorneys to prepare their cases. The final decision to prosecute, even in a system using case screening forms, remains with the District Attorney. The ranking scores derived from

screening forms only indicate which cases are likely candidates for prosecution. Initially, reasons for choosing specific cases should be noted to assist in the refinement of ranking procedures.

The Bronx MOB screening form weights the seriousness of the offense, the prior record of the defendant, and the strength of the evidence to develop a ranking score. A similar combination of factors would be useful in any case screening system.

### **Access to the Courts**

The value of the MOB's ability to proceed swiftly to trial is hard to overestimate. No matter how comprehensive, complete, and well-reasoned the case preparation, if the assistant district attorney meets with substantial delays and backlog difficulties in scheduling a trial, a large part of the Career Criminal Program's impact could be eliminated. Although many jurisdictions may not find it necessary or possible to establish separate trial sessions in a manner similar to the Bronx, most jurisdictions should be able to establish a priority scheduling procedure with the courts. The development of efficient working relationships with the court is crucial if a career criminal program is to be successful. The ability to secure the cooperation of the courts will rely, in part, on the District Attorney's reputation and his ability to make the advantages of a major offense bureau apparent.

### **One Attorney - One Case**

The use of vertical prosecution techniques in which a single assistant district attorney is assigned to a case from its initiation to its final disposition is highly recommended. This procedure reduces wasteful duplication of effort which occurs when different attorneys prosecute different stages of a case. It enables the attorney to prepare the case in depth, and to investigate the case over an extended period of time. It also reduces the inconvenience to both police and civilian witnesses. This procedure also ensures that cases will not disappear into the cracks of the criminal justice system.

### **Restricted Plea Bargaining**

Limited plea bargaining policies are strongly recommended. But this must be coupled with strong case preparation and reduction in the length of time from arraignment to trial. The Bronx MOB rarely reduced a charge by more than one count. Some career criminal programs have eliminated plea bargaining with only token exceptions.

### **Open Discovery**

The policy of open discovery of the Bronx District Attorney's Office has also proven useful. This policy not only prevents the defense attorney from introducing stalling tactics by way of prolonged discovery motions, but also circumvents any constitutional challenges that might be raised relative to the adequacy of the defendant's ability to prepare for trial. Since the Career Criminal Program prosecutor's case is often very strong, open discovery can also tend to persuade a defendant to plead guilty in the face of the overwhelming evidence against him.

All of these program features are clearly replicable. Most of the procedures noted are matters of policy under the control of the District Attorney (e.g., case screening procedures, vertical prosecution strategies, limited plea bargaining, and open discovery). Efforts to hasten case scheduling require cooperative efforts with the courts, while efforts to insure quick case investigation require coordination with police departments. The proven value of major offense bureaus in improving the quality of prosecution of the career criminal should help in obtaining the cooperation of these agencies.

In short, the Bronx Major Offense Bureau is a highly replicable model for the development of projects which focus attention on the major offender. The project's potential for replicability has been demonstrated both in the broad applicability of the concept to the needs of prosecutor's offices throughout the country and in the use of the Bronx MOB as the prototype for the current LEAA Career Criminal Program. This program is discussed in the next section.

## 4.2 LEAA's Career Criminal Program

Nineteen career criminal projects have been funded by the Law Enforcement Assistance Administration. Eleven were funded in 1975 and the remaining eight were funded in 1976.\* The National Legal Data Center is conducting a nationwide study of the operations and impact of the career criminal projects. Appendix E provides a summary of the characteristics of the various career criminal projects. The projects range in funding from approximately \$100,000 to \$600,000 per year, have a staff range of two to ten full-time assistant district attorneys, and have an average caseload of roughly 200 to 600 per year.

Comparing the Bronx Major Offense Bureau to the other career criminal programs, a number of interesting comparisons are apparent.

### Separate Bureaus

Some of the programs have not established completely separate units which try only major violator cases. Attorneys in these programs carry caseload responsibilities in addition to their work in prosecuting the career criminal.

### Separate Trial Sessions

The Major Offense Bureau is apparently the only career criminal program to have separate trial sessions exclusively for the litigation of its cases.\*\* Many of the other programs have procedures to insure special case handling and to assist in reducing delay,

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The first eleven programs were developed in San Diego, Columbus, Boston, Manhattan, Detroit, Salt Lake City, Kalamazoo, Houston, New Orleans, Dallas, and Indianapolis.

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The District Attorney's Office in Louisville has received funding to set up a courtroom for the prosecution of career criminal cases but at present cases are being assigned for the most part in the same manner as all other cases. This is due to concerns over a challenge to the constitutionality of a separate courtroom, since jurors might be aware of the defendant's extensive criminal record simply by virtue of the fact that the defendant is being tried in the career criminal courtroom.

but none has totally separate court sessions. This critical difference is probably due, in part, to the severity of the major crime problem in the Bronx and the caseload requirements of the Bronx District Attorney's Office in relation to the other prosecutor's offices in the sample.

### **Vertical Prosecution**

Almost all of the programs have adopted the MOB strategy of vertical prosecution. A single assistant district attorney is assigned to handle all aspects of a single case from intake to final disposition.

### **Early Case Preparation**

Most of the programs have adopted early case preparation tactics similar to the Bronx MOB and have established notification mechanisms to enable the assistant district attorney to begin case investigation shortly after an arrest occurs. Many of these notification systems involve having a single assistant district attorney on call at all times to respond to case referrals from the police department.

### **Case Screening**

Objective case screening forms have been adopted by many of the career criminal programs; a number of programs have modeled their forms closely after the Bronx MOB forms.

### **Open Discovery**

Open discovery procedures have been adopted by many of the career criminal programs to facilitate case processing by eliminating discovery motions.

In addition to the monitoring work of the National Legal Data Center, an intensive evaluation of a small group of career criminal projects has been funded by the Office of Evaluation of the National Institute of Law Enforcement and Criminal Justice. These two research efforts will provide detailed information on the types of programs developed around the country and their impact on



the criminal justice system. A tentative summary of case processing statistics for the first eleven career criminal programs to be developed was presented recently in the National Legal Data Center's newsletter Verdict.<sup>\*</sup> The data apply to case processing by the programs in 1975 and indicate that the career criminal programs have had substantial success in replicating the record of the Major Offense Bureau. Specifically, the data demonstrate that the programs were (1) prosecuting defendants charged with serious offenses, (2) achieving an 89 percent conviction rate, (3) severely limiting plea bargaining so that 86 percent of all career criminal convictions were for the highest felony for which the defendant was originally charged, and (4) reducing the time required for case processing (however, only one jurisdiction's data on case processing time were reported). These analyses were based upon locally produced reports and limited manual analysis of case data forms submitted to the National Legal Data Center by the various projects. More detailed statistical summaries are currently being produced by the Center.

An additional LEAA funded approach to selective case prosecution is the Prosecutor's Management Information System (PROMIS). This system was initially developed by the U.S. District Attorney's Office of the District of Columbia, and provides a computer-based system for identifying and prioritizing important cases and assisting district attorneys in systematically allocating prosecutorial resources on a rational basis. The Institute for Law and Social Research (INSLAW) has developed an extensive series of briefing papers on the development and operation of the PROMIS system and replication of the system around the country is being encouraged through technical assistance offered by INSLAW free of charge. The PROMIS system is being used in some jurisdictions in conjunction with career criminal programs to selectively prosecute cases in line with the policies developed by a given district attorney's office.

To gather insights into the range of options available to district attorneys' offices which are developing new case screening systems, it is recommended that the reader obtain a copy of the National Institute of Law Enforcement and Criminal Justice's Prescriptive Package, The Prosecutor's Charging Decision, by Joan Jacoby (available from LEAA's National Criminal Justice Reference Service, January, 1977).

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<sup>\*</sup> The Verdict, February/March 1976. "Observations on Preliminary Data Analysis."



### 4.3 Legal Considerations

Because of our legal system's sensitivity to the rights of the accused, instances where a criminal defendant receives extraordinary consideration or treatment from prosecutorial or law enforcement personnel are often the focus of close judicial scrutiny. This, of course, would be relative to constitutional issues raised by defense objection either at trial or on appeal. That a successful challenge has not yet occurred in the Bronx despite allusions to the constitutional improprieties of the "special treatment" alleged by defense representatives, speaks to the improbable merit and weight of the arguments. However, in order to prevent this issue from becoming more conspicuous and meritorious by its absence, the possible areas of constitutional objections and arguments supporting the constitutionality of the program are summarized below.

Generally, these issues involve either due process or equal protection, and fall into one of the following three areas:

- *Would a program of accelerated prosecution be susceptible to a due process challenge on the ground that it might not allow sufficient time for preparation of an adequate defense?*  
Fundamental to the notion of due process is the right to obtain counsel and prepare a defense. There is no indication the MOB abridges this right. In fact, by adhering to the rules of the First Judicial Department of the Appellate Division of the State of New York--which require 30 days between arraignment and trial--this right is clearly protected. At the very least, it is not infringed by some inherent impropriety of MOB.
- *Is the procedure of exclusively assigning particular judges to MOB cases subject to due process challenge?*  
The nature of this challenge would rest in the inability of the judge to provide a fair trial to the defendant because of the judge's knowledge of the defendant's record. The more persuasive countervailing arguments are (1) the judge's conduct is preserved by the record and subject to

close scrutiny;\* (2) a major function of the bench is to weigh evidence (a judge often hears facts which he ultimately excludes because of their prejudicial value); and (3) this premise has been more broadly advanced on the issue of habitual criminal statutes. The controlling case, Spencer vs. State of Texas 385 U.S. 554 (1967), held constitutional a procedure whereby the defendant's prior criminal history becomes known (with instructions to disregard when considering guilt or innocence of the offense charged) to both the judge and jury.

- *Does a program of accelerated prosecution for recidivist offenders violate the defendant's right to equal prosecution?*

There does not appear to be any argument to sustain an objection under this heading. First, the defendant is not being subjected to any procedures or sentences that are not already statutorily mandated; second, this is not a case of selective enforcement, since those defendants not chosen for MOB consideration will ultimately be prosecuted in any event.

Undoubtedly the continued growth of LEAA's Career Criminal Program will precipitate further examination of these and other legal issues. The suit brought by the Legal Aid Society of the City of New York against MOB (as discussed in Chapter 2) may be only a signal of the objections which may be pursued by defense counsel in the future. Confrontations between career criminal programs and the defense bar are, however, likely to root MOB-like programs in exceptionally firm legal ground.

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\* In this regard, it can tangentially be noted that through the first three years of operations, only two MOB convictions have been reversed on appeal, a fact which speaks as much to the competence of the trial judge as it does to the D.A.'s preparation.

## CHAPTER 5 RESULTS AND COSTS

It's the only part of the system that is working. The police love it. They see results. They see a finished product.

-- Paul Gentile  
Major Offense Bureau Chief

The New York Daily News recently characterized the Bronx Major Offense Bureau as "the MOB that fights crime." Numerous other articles in newspapers and magazines have praised the MOB's striking success in prosecuting career criminals. This chapter explores the Major Offense Bureau's impact on the speed of case processing, the certainty of conviction, and the severity of punishment. Also considered is the reduction of crime as a result of improved prosecution of career criminals. The costs of operating the MOB are discussed at the end of this chapter.

### 5.1 Results

Improved case prosecution is the MOB's primary goal. The District Attorney's Office believes that crime can be deterred by increasing the swiftness of prosecution, the probability of conviction, and the certainty of punishment.

#### The Swiftness of Prosecution

Extremely long delays between arrest and case disposition have become a commonplace in America's urban courts. Case backlogs are ubiquitous and the court system in Bronx County has generated its share following the dramatic rise in crime in the 1960's.



The Major Offense Bureau has taken a variety of steps to reduce delay in the processing of career criminal cases to an absolute minimum consistent with the defendant's need to prepare an adequate case. These steps include:

- creation of separate trial sessions;
- early case preparation; and
- policy of full disclosure and limited plea bargaining.

All of these steps have had an impact on case processing time and have contributed to the MOB's enviable median time from arrest to case disposition of 97 days. This processing time compares to a median of 400 days for the remainder of the Bronx District Attorney's Office. Table 1 provides another indication of the effectiveness of the Major Offense Bureau in reducing case processing time. The "age" (from arrest to the time the table was compiled) of pending cases of the MOB is compared to the "age" of a group of comparison group cases. The comparison group is made up of cases that have been matched with MOB cases with the same date of offense, type and class of offense, and number of defendants involved in the case. Comparison group cases are selected monthly from the "regular" caseload files of other bureaus within the District Attorney's Office. The comparison group is clearly not strictly comparable to the MOB sample because the comparison cases were screened at intake and determined to be either (1) not serious enough or sound enough for MOB treatment, or (2) not involving a recidivist defendant who would qualify under the MOB's evaluation system as a career criminal. This source of bias is more grave in comparing MOB and comparison group conviction rates than in evaluating the effects of processing times, since the MOB case selection is more directly related to the probability of conviction than to delays in system handling.

The swift prosecution of cases characteristic of the Major Offense Bureau is particularly impressive in light of the fact that an unusual number of MOB cases obtain 60-day delays for psychiatric examinations. The MOB has had particular success in reducing delays from arrest to indictment. MOB reports that 99 percent of its indictments are returned by the Grand Jury and presented to the Supreme Court within three days of arrest, in contrast to the ordinary procedure (used in comparison cases) which takes as long as four weeks.

**Table 1      Length of Time from Arrest to Present  
for MOB and Comparison Cases on 3-31-76**

	<b>Major Offense Bureau</b>	<b>Comparison Group</b>
Less than 14 days	6	7
Over 14 days	10	9
Over 28 days	12	8
Over 42 days	12	9
Over 56 days	9	13
Over 70 days	5	5
Over 84 days	57	192

## The Probability of Conviction

The Major Offense Bureau has an overall conviction rate of 96 percent in contrast to the comparison group's conviction rate of 84 percent. Table 2 outlines the status of the 1051 MOB cases which had been processed as of June 30, 1976. Thirty of the cases had not been finally disposed of by the MOB due to the defendant's defaulting on court appearance, transfers to the family court, psychiatric commitments, and death of the defendant. Of the remaining 1020 defendants, 978 defendants (representing 694 indictments) were convicted. Of these, 578 were convicted of the top count of the indictment in contrast to only 62 of the comparison group defendants. None of the comparison group defendants had been convicted of a Class A felony and only 47 were convicted of Class B felonies.

As mentioned previously, the comparison group contrast must be viewed with caution. Strength of case is one of the factors used in the selection of MOB cases and a difference between MOB cases and others may simply mean that MOB has selected those most easily processed or most promptly convicted. The limitations of the MOB comparison group are a consequence of the perennial dilemma between full treatment of all eligible cases and ability to predict what would have happened in the absence of such treatment. Only by sacrificing some of its selectivity in screening cases for MOB prosecution could a reliable comparison group be constructed. Clearly, a comparison group of cases which were acceptable for MOB prosecution but were processed normally could in theory be developed. Since the project's primary concern is insuring that these major offenders be successfully prosecuted, and since the resources of MOB are necessary to insure this, the assignment of MOB cases outside the bureau for statistical purposes represents a compromise certain to meet resistance from the District Attorney, other bureaus, and the MOB itself.

The MOB has also had striking success in convicting defendants after trial. In its first three years of operation the MOB brought 256 defendants to trial\* in 191 cases. During trial, 111 defendants pleaded guilty to the charges, 125 were found guilty, 18

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One MOB case and three comparison cases were awaiting retrial and are not included in the totals. Mistrials were declared during their previous trials.

**Table 2      Disposition of MOB and Comparison Cases  
(7-1-73 through 6-30-76)**

	Major Offense Bureau	Comparison Group
1. Convictions		
Class A Felonies	4	0
Class B Felonies	509	47
Class C Felonies	323	144
Class D Felonies	116	283
Class E Felonies	23	203
Misdemeanors	3	28
Subtotal	<u>978</u>	<u>705</u>
2. Dismissals		
By Grand Jury	2	38
By Court	3	34
By Prosecutor	20	15
Subtotal	<u>25</u>	<u>87</u>
3. Acquittals	18	47
4. Total (1,2,3)	1,021	839
5. Miscellaneous		
Transfer to Family Court	4	2
Psychiatric Commitment	2	4
Bench Warrant	21	81
Abated by Death	3	13
Subtotal	<u>30</u>	<u>100</u>
6. Total (1-5)	1,051	939
7. Cases Pending	197	
8. Total (1-7)	1,238	



were acquitted and two were dismissed by the court. Thus, the MOB has a conviction rate at trial of 92 percent. The comparison group, on the other hand, had only 112 defendants brought to trial during the same period, of which five pleaded guilty, 52 were found guilty, 47 were acquitted and eight were dismissed by the court. The comparison group conviction rate at trial was 52 percent.

Factors which contribute to the MOB's striking conviction rate include the following:

- reduced delay and consequent improvement of witness availability and testimony;
- the assignment of a single MOB attorney to handle a given case;
- early case notification;
- the experience of MOB attorneys;
- the new forms developed for MOB which increase the thoroughness and efficiency of case preparation; and
- the excellent conviction rate at trial with a consequent increase in the number of defendants who plead guilty prior to trial.

Data are not available regarding the amount of preparation given MOB cases as contrasted to comparison cases or regarding the other relevant factors. Clearly, the aggregate effect of MOB policies is outstanding, however.

### **Certainty of Punishment**

The MOB has markedly increased the certainty and severity of punishment. Ninety-four percent of MOB convictions result in sentences of incarceration as compared to 79 percent of comparison group cases. In 1975 the MOB obtained an average maximum sentence of ten years as contrasted to the comparison group average of three and one-half years. The court imposed a minimum sentence in 58 percent of Major Offense Bureau cases, but did so in only 21 percent of the comparison group's cases. The average minimum sentence imposed in MOB cases is 3.3 years, in contrast to an average of seven months in the comparison group. In sum, the minimum sentence imposed upon a defendant prosecuted by the Major Offense Bureau approximated the maximum imposed on those prosecuted in the comparison group.

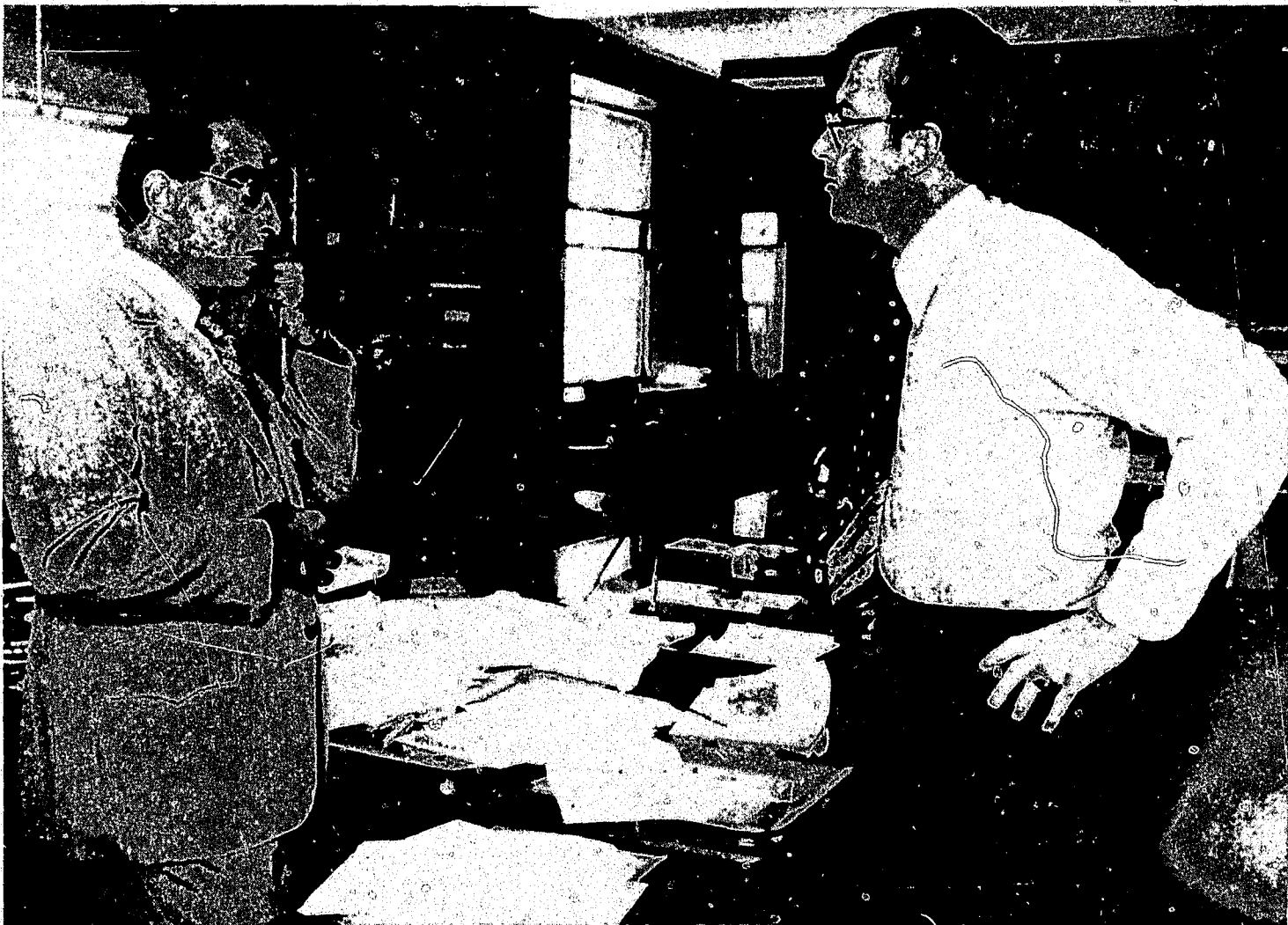


Table 3 provides a summary of the distribution of the various sentences for MOB cases. The MOB has clearly succeeded in securing sentences consistent with its goal of obtaining severe dispositions.

The success of the MOB in achieving high levels of certainty and severity of punishment can be attributed in large part to the MOB's plea bargaining policies. MOB prosecutors will only accept pleas to the highest count in the indictment or to one count below it. Over 90 percent of MOB's convictions adhered to this plea bargaining guideline with exceptions occurring in cases in which a co-defendant (tag-along defendant) did not have the substantial record of the defendant chosen for MOB prosecution. Eighty-nine percent of MOB convictions are for felonies punishable by 15 years of incarceration as compared to less than 20 percent of the comparison group convictions. The success of the plea bargaining policy can be attributed to the factors cited previously which increase the MOB's probability of conviction. The strong cases developed by the MOB prosecutors and the MOB's outstanding record of convictions at trial can be very persuasive in guiding plea negotiations. In many cases the only offer made to the defendant is that of a plea to the most serious charge. In these cases the major element for negotiation becomes one of sentencing recommendations. The prosecutor offers recommendations for reduced sentences in exchange for guilty pleas. Sentences imposed at trial are not viewed as harsher than they otherwise should be, rather the plea-negotiated sentence recommendations are viewed as being lighter than they should be, but still appropriate to deal with the degree of criminality involved.

### Impact on Crime

The overall crime rate in any area is determined by a wide range of factors such as economic conditions, community resistance to crime, police activity, etc. The Bronx Major Offense Bureau prosecutes only approximately ten percent of the caseload in Bronx County and cannot be expected to have a striking impact on the overall crime rate, particularly after only operating for a short period of time. An impact on specific crimes which would be likely to be committed by a small group of recidivists could be expected from the MOB, since its activities are likely to remove this group from the streets once apprehended. Supermarket robberies fit this criteria, and Bronx County D.A. Mario Merola recently described the likely impact of the MOB on supermarket robberies in the Bronx:

**Table 3      Distribution of Sentences for MOB Defendants  
(7-1-73 through 6-30-76)**

Maximum	Minimum	Number of Defendants
Life	15-25	5
25	12-1/2	23
25	8-1/3	15
22	11	1
21	7	2
20	10	6
20	6-2/3	1
18	9	2
18	6	6
18	0	1
16	8	2
16	4	1
15	7-1/2	22
15	5	43
15	4	2
15	3	1
15	0	5
14	7	12
14	4-2/3	1
13-1/2	4-1/2	1
13	6-1/2	1
12	6	23
12	4	19
12	3-1/2	1
12	3	1
12	0	6
10	5	34
10	3-1/2	1
10	3-1/3	35
10	3	3
10	2-1/2	2
10	2-1/3	2
10	0	32
9	4-1/2	9
9	3	15
9	2	2

Table 3 (continued)

Maximum	Minimum	Number of Defendants
9	0	8
8	4	14
8	2-2/3	7
8	2-1/2	1
8	0	15
7	3-1/2	10
7	2-1/3	16
7	2	2
7	0	22
6	3	9
6	2	5
6	0	10
5	2-1/2	4
5	0	44
4-1/2	2-1/4	1
4	2	7
4	0	20
3-1/2	0	1
3	1-1/2	1
3	1	3
3	0	18
1	0	3
1/2	0	1
Reformatory (4 Yr.)		10
Probation (5 Yr.)		38
Drug Abuse		1
Conditional Discharge		1

The County had been plagued with a rash of [supermarket] robberies over a long period of time. Stick-up teams were "hitting" supermarket after supermarket until they were caught. The crimes, moreover, were not the work of amateurs who selected locations on a casual basis. Each crime, on the contrary, was meticulously organized and executed with precision. It was clear that the criminals involved were hardened professionals who had made supermarket robbery a specialty.

Several groups of supermarket robbers were caught by the police and prosecuted by the MOB. The Bronx Robbery Squad reported recently that supermarket robberies in the Bronx declined from an average of thirty per month to less than five per month.

## 5.2 Costs

The Major Offense Bureau is a totally institutionalized division of the Bronx District Attorney's Office. In fiscal year 1975, the operating budget of the Office was slightly more than \$4 million. With the six grants the Office operates, the budget exceeds \$6 million. The MOB project is funded by the Criminal Justice Coordinating Council of New York City with LEAA monies distributed through the New York State Division of Criminal Justice Services (the SPA). Project funds are administered with those of the District Attorney's Office at the Bronx County level. From April 1973, through December 1976, MOB will have expended \$1,250,184 in federal funds, and \$389,859 in local matching cash, for a total expenditure of \$1,640,043.

Currently in the third grant cycle, the MOB grant budget allocations were the following:

<u>Grant Cycle</u>	<u>Federal Share</u>	<u>Local Match</u>	<u>Total</u>
1st (Roughly 18 months)	\$461,551	312,556	774,107
2nd (Roughly 15 months)	\$410,282	35,264	445,546
3rd (Roughly 12 months)	\$378,351	42,039	420,390

The annual operating cost of the project is estimated to be \$436,000. During the first year, MOB spent \$36,590 in one-time expenditures: consultant services of the National Center for Prosecution Management, file cabinets and office equipment, and the cost of space renovations necessary to house the MOB staff in the District Attorney's Office. Most important, however, the first year budget of \$775,107 allocated nearly \$300,000 to setting up the two trial parts which would be used exclusively for MOB cases. Although totally a local cash contribution, the cost of designating separate trial parts--an essential element of MOB's design--is a significant cost item related to the project's current operations and to the preparation of the initial grant application.

The bulk of all overhead expenses--including the costs of space, utilities, and certain expenditures--is absorbed by the regular budget of the District Attorney's Office. The MOB operating budget does not allocate funds directly for overhead or general and administrative expenses, and budgets only a small percentage of the funds for the rental of typewriters and office equipment, telephone, and the like. By-and-large, these items are "donated" by the D.A.'s Office.

Since witnesses are an important resource to the MOB, the MOB budget provides reimbursement to witnesses for meals and other minor expenses (e.g., transportation). In addition, since project staff are often required to travel (to interview witnesses, to conduct investigations, etc.), the budget allocates a small part of direct charges for the rental of a car. The largest single budget item, however, is staff salaries and staff benefits. In the first year budget, the labor category accounted for roughly 50 percent of the total budget (including the significant cost of two trial parts).

The major efficiency of the MOB should be realized in the project's ability to process major felony cases more quickly, with fewer delays, and with less frequent involvement of the police, courts, and judges in the process. In the Bronx, a Supreme Court appearance costs roughly \$150\* and a policeman-witness costs \$84 per

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\* According to a report of the Administrative Judge, New York City Judicial Department, the court cost of \$150 excludes the cost of the judge, prosecutor, and defense counsel and is determined on the basis of 10 cases per day, 200 calendar days, at a cost of \$300,000.





day (\$18,500 per year divided by 221 working days). For each day that a MOB case does not require a court appearance, a potential savings in court and police time may be realized. In an ordinary case, prior years indicate that roughly 30 court (nontrial) appearances are necessary. MOB reports that the average MOB case requires only 12 appearances. Theoretically, the fewer the number of appearances, the lower the total cost of processing MOB cases. However, since three judges have been assigned to two trial parts that deal exclusively with MOB cases, the relative number of appearances per case has less of a total cost savings implication because the court would be in operation in any event. The real savings, then, is not in actual dollar costs but in resources, the ability of D.A.'s, judges, police, and even defense attorneys to increase their workload capacity by decreasing the workload of individual cases.

MOB's ability to expedite the disposition of its cases also has immeasurable effects on the costs of detaining defendants, the costs associated with securing the cooperation of complainants and witnesses, and personnel costs in general case processing. Since comparable cost data are unavailable, the absolute efficiency of MOB remains undetermined. Clearly, however, a more speedy disposition of cases positively impacts expenditures and results in a number of cost efficiencies which are not available to normal case processing systems in other courts. The use of paralegal screening clerks, the assignment of cases to a single assistant prosecutor who stays on top of the case from arrest through disposition, and the use of the most experienced attorneys all contribute to the relative efficiency with which the office can operate.



## CHAPTER 6      EVALUATION

In the formative stages of any program, questions about program effectiveness are bound to be paramount. In the case of the Major Offense Bureau these can range from deciding the life or death of the project to the smallest details of fine-tuning the case screening procedure. For every question, data need to be collected reflecting the way in which the project handles its cases, the results of such handling, and the expected effect of any proposed change in project operation. Some methods of gathering information about both process and outcome aspects of the program are presented in this chapter.

### 6.1      Evaluating Prosecution Processes

The first practical question confronting an evaluation of a project such as a major offense bureau is whether the actually implemented project conforms to the ideal model on which it is based. The basic concept of major offense bureaus suggests three critical points at which to monitor conformity: case screening, processing time, and plea negotiation. Since each of these three is either wholly or partly under the bureau's control, they can be viewed as constituting not outcomes of the bureau's efforts, but means available to the bureau to be used in influencing such outcomes as probability of conviction, defendant time at liberty, and ultimately, the rate of serious offenses.

#### Evaluating Case Screening Processes

Screening systems differ greatly among the various career criminal programs now in operation. Some District Attorney's Offices employ objective case screening forms comparable to those used by the

Bronx Major Offense Bureau while others rely on more informal means of case selection. In any screening system, however, it is valuable to collect descriptive statistics to assist in case monitoring and to help determine if changes in the case screening system are required.

District Attorney's Offices which use standard case screening forms on which all potentially relevant cases (e.g., felonies) are ranked have a ready means to evaluate their screening operations. Statistics on the number of cases screened, the number meeting the criteria (either formal or informal) for initial consideration by the major offense bureau, and the number finally selected for prosecution can be compiled at intervals. Monitoring these data can provide information for correcting procedures during project operation. The criteria for initial screening and final selection can be systematically modified in light of the statistics to bring the screening operations in line with office policies and caseload requirements. Not only the numerical limits of the screening process, but also its qualitative implications are subject to examination through review of screening results. As it becomes evident that (a) some of the criteria are not serving their intended purpose for isolating suitable cases, or (b) additional criteria only subjectively incorporated should be given formal status, point items can be added, dropped, or revised. Correction of the screening process can draw both on direct observation of the kinds of cases screened in or out, and on the intuitive judgments of the screeners in both cases. The focus of the study should include both case attributes explicitly included in screening criteria and those not included but likely to be relevant.

Most career criminal programs are likely to incorporate safeguards in their screening operations to ensure that no cases meeting the office's criteria for career criminal prosecution are missed. For example, all potential cases may be reviewed by an assistant district attorney or the bureau chief after they have received initial review by a clerk or paralegal aide. Nevertheless, intermittently monitoring cases being processed by other bureaus of the District Attorney's Office is likely to be worthwhile to be sure that none of these cases should have been prosecuted by the major offense bureau. Evidence of cases "slipping through" the screening network can lead to modifications in screening procedures used by the bureau.

**CONTINUED**

**1 OF 2**



Career criminal programs which do not use standard case screening forms for case selection will clearly have greater difficulty in monitoring their screening activities than those which use such forms, but the need for mechanisms to ensure that screening procedures are working properly is accordingly more critical. Statistics should be gathered, at least on a sample basis, to allow objective determination of the kinds of cases being screened in and out. Programs employing informal case selection procedures should at a minimum maintain records on the number of cases brought to their attention (e.g., due to the defendant's record and/or the nature of the present offense), and the reasons for the selection of specific cases to be prosecuted by the career criminal program. The lack of ability to perform detailed analyses on the cases rejected makes informal case selection less desirable than the more formal methods in which all potential cases are screened on a common form. It is theoretically possible to establish at least some formal, objective criteria to embody any specifiable selection rule, and District Attorney's Offices that are in the process of establishing career criminal programs should give serious consideration to the use of formal screening forms designed to guarantee that the policies and priorities of the specific office are observed in implementation.

### **Evaluating Case Processing Time**

There is a presumption that by increasing the prosecutor's level of effort cases may be brought to trial and dispositioned faster under a major offense bureau than would otherwise be possible. In part this goal may be achieved simply by assigning such cases priority in court scheduling, a solution that shortens some delays while lengthening others. Because exogenous factors may influence trial delays, an explicit comparison group should be constructed to allow assessment of project impact on delay.

Records should be kept of the time involved in the processing of the various stages of prosecution (including the time between arrest and indictment, arraignment, various hearings, trial, and sentencing). These data can be analyzed and compared to control cases to determine if case processing is more rapid for career criminal cases and if so at what stages reductions in delay occur. This type of analysis can help to isolate the major sources of delay and can prompt steps to eliminate these delays. If specific steps to reduce delay have been implemented, data should also be collected relevant to these new procedures. For example, in the

Bronx District Attorney's Office a policy of full disclosure was instituted to eliminate delays caused by the filing and hearing of discovery motions. Measures of the delays due to these motions could have been collected prior to the policy and changes in motion practice could have been assessed after implementation of the policy to determine the impact of the new policy on delay.

If these records are to provide any information about the relative merits of major offense bureau processing as compared to some alternative, then data representing the alternative must also be collected on a control or comparison group. Data from this same control group will also serve for assessing project impacts in areas such as disposition and sentencing, and a single selection and data collection system suffices for all purposes. Selection of the control or comparison group will be discussed in some detail in this section. The same considerations and the same control or comparison group designs also apply to these other measures, to be discussed in Section 6.2.

The control group should ideally be made up of cases identical to those prosecuted by the career criminal program in every respect except that they are not prosecuted by the program. This type of ideal control group could be constructed simply by randomly selecting cases which meet all of the criteria for career criminal program prosecution. Cases not selected would make up the control group. This type of control group would enable one to isolate the impact of the career criminal program from the influence of selection procedures. Otherwise any difference between career criminal program cases and others may simply mean that the career criminal program has selected those cases most easily processed and promptly convicted.

As was discussed in Chapter 5, this type of ideal control group is not likely to be favored by prosecutors' offices. A career criminal program's primary goal is the successful prosecution of serious offenders, and the procedures used by such programs maximize the likelihood that the goal will be attained. The assignment of such cases outside of the career criminal program may reduce the likelihood of successful prosecution and would likely be strongly opposed by most District Attorneys and career criminal programs.



Given the problems with constructing an ideal randomly selected control group, compromise "quasi-experimental" control groups are likely to be selected by many projects. None of these control groups completely rule out the possibility that program findings are due to biases in case selection, but many of them can be of value in interpreting the results of career criminal programs. We list here some quasi-experimental designs which have been suggested or implemented in various career criminal programs, together with suggested modifications for improving the generalizability and reliability of the results:

I: Design. A sample of cases is matched as closely to the program cases as possible in terms of date of arrest, type and class of offense, number of defendants involved in the case, and any other factors which seem appropriate to the District Attorney's Office. These cases are to be randomly matched to the program cases in instances where more than one appropriate control case exists.

Problem. This type of control group is flawed because all of the cases have already been screened out of the career criminal program presumably due to limitations in the nature of the offense, the offender, or the available evidence. Comparisons regarding case processing time should be relatively valid using this type of control group since the selection factors are likely to be more closely related to likelihood of conviction than to delays in system handling. Any comparisons regarding conviction rates should be interpreted with caution.

Resolution. Matching fails because bureau cases are drawn from one extreme of the total distribution of cases. It is presumably most successful at the boundary, where rejected cases will most closely resemble accepted cases. It should be noted that this boundary is likely to be somewhat arbitrary, depending as it does both on project capacities and on the exact point assignment or judgmental ranking of cases, which at least in early project stages, is unlikely to have systematic empirical support.

This suggests that cases close to the boundary on either side be isolated for full randomized experimental treatment. Rather than a screening process which results only

in a yes/no decision, it is easy to imagine one in which the results can be "yes," "no," and "unsure." If truth be told, it is likely that any screening system in fact obeys such three-valued logic, with the uncertain category simply arbitrarily forced to resolution. All that is required for a fully valid experimental design is that this resolution take place randomly with data collection and analysis of both groups.

II. Design. Sample cases which were prosecuted prior to the establishment of the career criminal program and which would have qualified for career criminal prosecution had the program been operative.

Problem. This control sample provides a group of cases more comparable to the program cases in terms of characteristics of the offense and the offender than the above mentioned control but is less adequate in terms of measures of case processing time since considerable change in backlog occurs over time depending on crime levels and the resources available to the court. If strength of evidence at time of arrest is one of the screening factors, it may also be difficult to match controls on this factor after they have already been completely processed since records of how much evidence was available at the time of arrest are not likely to exist.

Resolution. There is no strictly rigorous way to convert this design to a true experiment. Two modifications can help in interpretation of results, however. First, exogenous changes in the system can be expected to impinge on nonproject cases as well as project cases (although perhaps to a different degree). One would therefore look for year-to-year consistency of nonproject cases as support for the contention that changes in project-like cases were indeed due to project efforts. Secondly, the difficulty of retrospectively applying screening criteria can be resolved at the expense of some loss of statistical power. Rather than treating the experimental group as exactly those cases selected for prosecution, one constructs as accurate a replica of the selection

process as is possible using data available in both retrospective and current periods. The experimental and comparison cases are then not those selected under the actual rule, which cannot be retrospectively replicated, but under the reconstructed rule, which can be applied equally in both periods.

III: Design. Sample cases that are initially accepted for prosecution by the career criminal program (e.g., by an assistant district attorney) but are later rejected by the bureau chief for one reason or another. This type of control group provides cases which are presumably quite similar to career criminal cases and is being used by the Houston Career Criminal Program as a quasi-control group.

Problem. The validity of this method depends on the credibility with which it can be argued that the chief's reasons for rejection are random. Politics and courtesy aside, this is still likely to be a difficult position to maintain unless there is very thorough documentation allowing the identification of those cases where the reason for rejection is unrelated to any possible process or outcome variables.

Resolution. It is unlikely that any version of this design can yield more than rough indications of program effect. It will assuredly never be rigorous.

IV: Design. Sample cases drawn from a nearby locality which does not have a career criminal program. Control cases could be matched with program cases on whatever dimensions seemed appropriate.

Problem. Numerous problems exist with this type of comparison due to differences between jurisdictions in court and prosecutor organization and practices, judicial administration, etc.

Resolution. As with the two preceding designs, there is no confident method for salvaging strictly reliable results from this method. At the very least the evaluator should verify (a) that the major cases in the two jurisdictions were similar before the project,

and (b) the experimental period. Careful mechanisms would also have to be established to make sure that the selection process is accurately replicated in the comparison jurisdiction.

### **Other Process Characteristics**

Since many career criminal programs attribute part of their improvement in conviction rate to the depth of case preparation characteristic of the programs, it may be useful to collect data on the amount of time each assistant district attorney devotes to various stages of case preparation and processing. Comparisons with comparable control group data could be of value in determining the value of the additional time for case preparation typically available to career criminal program prosecutors. A number of practical difficulties are likely to occur, however, in assessing this type of cause of increased conviction rates. First, the task of maintaining records of time spent on each case is likely to be difficult for many prosecutors since they often handle many matters simultaneously and may be required to work on aspects of a number of different cases in a single hour. This type of logging work activities by prosecutors was tried in the Bronx District Attorney's Office and discontinued due to the practical problems involved.

In addition, depth of case preparation may be only one factor influencing improvements in conviction rates. The use of experienced prosecutors, vertical prosecution of cases, reduced delays, earlier case preparation, etc., have all been discussed in the previous chapter as potential causes of increased conviction rates. It is difficult to disentangle the impact of these types of policies in career criminal programs since they are usually implemented as a package. Some attempts to examine statistically the impact of these factors can be carried out (e.g., correlating attorney experience with conviction rate within the career criminal program). Other factors such as the use of vertical prosecution strategies in which a single attorney handles a case from start to finish cannot be assessed independently of the program as a whole, because they are applied across the board to all cases.

## 6.2 Outcome Measures

In addition to monitoring the fidelity with which the major offenders design is followed by examining the process variables described above, the ultimate efficacy of the project in attaining its intended goals needs to be monitored by direct examination of these goals. The comparison group designs presented in Section 6.1 are equally appropriate to outcome measurement, and will not be repeated here. The two project outcomes most commonly cited are conviction probability and severity of sentence.

### Evaluating Changes in the Probability of Conviction

Data on case dispositions should be collected in detail including:

- the number of convictions;
- the charges on which the defendants were convicted;
- the extent of plea bargaining of charges;
- the number and causes of dismissals;
- the number of guilty pleas;
- the number of defendants found guilty or acquitted at trial;
- the number of defendants lost from the sample due to transfers to other courts, psychiatric commitments, defaults, etc.; and
- any other dispositional data which are relevant to a given jurisdiction.

In collecting data on case dispositions, records should be kept of the number of co-defendants on a single indictment, the number of separate indictments for a single individual, and the combined number of "defendant indictments"--i.e., the number of indictments associated with all defendants counting indictments for co-defendants as separate indictments. Analyses of conviction rates are typically carried out in terms of "defendant indictments" since they represent all of the charges on which the prosecutor is attempting to win conviction. If data are only kept in terms of defendant indictments, however, it is not possible to determine how many different individuals are represented in the conviction figures (since

a single individual can receive multiple indictments) or how many separate indictments are involved (since co-defendants can be charged on the same indictment).

### **Evaluating Changes in the Severity of Punishment**

Data on sentences of convicted defendants should be collected in detail. Analyses of sentencing data can include the types and lengths of sentences for defendants in terms of the defendant's offense, demographic characteristics, amount of plea bargaining, etc. At a minimum, the data should enable the evaluators to calculate the range and frequency of the various types of sentences and average minimum and maximum sentences. The proportion of defendants receiving minimum sentences should be noted in cases where minimums are optional. As in the case of conviction rates, differences between the program sentences and control group sentences may be due to a range of factors. Restrictions on plea bargaining should be studied intensively in career criminal programs, since these limitations are likely to account for many of the differences between program and control group sentences. In addition to comparing the average sentences for comparable offenses in the experimental and control groups, comparisons of the impact of plea bargaining upon sentencing might reveal that plea bargained charges in the program group still receive very harsh sentences when compared to controls who did not plea bargain a comparable initial charge.

If resources are available, a detailed study of the causes of plea bargains in the program and control groups would also be worthwhile to determine differences between the groups. Prosecutors could be asked to fill out a questionnaire dealing with the causes behind a given plea bargain including the prosecutor's degree of reluctance in granting the plea bargain, his prediction of the influence of the bargain on sentencing, a summary of the negotiations leading to the bargain, etc.

### **6.3 Evaluating Impact on Crime**

Most career criminal programs are likely to be based on the premise that increased speed of prosecution, certainty of conviction, or severity of punishment can lead to a reduction in crime. This

reduction would presumably occur both because potential offenders would be deterred due to the prospect of punishment, and because apprehended major offenders would be incapacitated both prior to trial and following conviction.

While possible effects on the crime rate are worth seeking, the difficulties inherent in the search make the chance of useful findings rather small. The evaluator should be aware of the limitations of studying crime data before proceeding. First, there are certain to be other activities in the same time and place with the goal of reducing the same kinds of offenses. If a reduction actually occurs, it may be impossible to determine whether it should be attributed to prosecution, other criminal justice programs, wholly external forces, or some combination of the three.

Second, cases selected for major offender prosecution are but a fraction of the total crime rate, and will thus influence--at least at first--only a restrictively defined class of crime rates. For such indirect mechanisms as deterrence and the incapacitating effect of longer sentences to have their impact will presumably require at least one year, and perhaps several. One cannot confidently assume that all other things are equal over that interval.

Third, the sensitivity of official crime rates to the ways in which police departments treat reported offenses has been well documented.

Rather than attempt to assess changes in overall crime rates, changes in the rates of specific crimes should be assessed. As was discussed in the previous chapter, specific crimes which involve small groups of "professional" criminals may be dramatically affected by a career criminal program. It was noted that the District Attorney's Office in the Bronx attributes a striking decrease in supermarket robberies to the actions of the Major Offense Bureau in successfully prosecuting a group of supermarket robbery specialists.

Since many problems exist in assessing changes in crime levels, an alternative approach might also be useful in evaluating the potential deterrent effect of career criminal programs--i.e., interviews with criminals regarding their awareness of and concern with being

prosecuted by the career criminal program. Any attempt to determine criminal attitudes regarding the career criminal program would, of course, have to be carefully designed to avoid problems with the reliability of responses. An interviewer in a three-piece suit with a lengthy questionnaire is likely to be less than optimal. With careful planning, however, it might be possible to gather limited data on the general awareness and perception of career criminal activities among a group of defendants or inmates. These data could never conclusively indicate a deterrent impact of a career criminal program, but they could be suggestive of such an impact.

#### 6.4 Evaluating Additional Impacts

In addition to having a potential impact on crime, career criminal programs have been predicted to have a number of other impacts. Mario Merola, Bronx County District Attorney, has asserted that one of the impacts of the MOB has been the restoration of public confidence in the criminal justice system. Mr. Merola cites numerous newspaper articles which have praised the Major Offense Bureau in support of his assertion. Other programs would be well advised to keep similar records of media coverage to determine public perception of the career criminal program. If resources are available a questionnaire could be distributed to a sample of citizens (or joined to another survey being conducted in the area) to determine the level of public awareness and attitudes toward career criminal program operations. Career criminal programs which operate effectively may be expected to reduce the public's negative image of the criminal justice system and steps to determine if this change occurs would be worthwhile.

Morale in the police department and other bureaus of the prosecutor's office can also be expected to improve following introduction of an effective career criminal program. Again, if resources are available a survey of attitude changes caused by the introduction of a career criminal program would be interesting and worthwhile. Morale improvements might be expected to be converted into measurable changes in productivity and/or effectiveness. For example, it is reported in the Bronx District Attorney's Office that prosecutors in bureaus outside of the Major Offense Bureau have begun to recommend more severe sentences and are tougher in plea bargaining since the development of the MOB. This changed approach is





thought to be due to the realization on the part of the prosecutors that it is possible to limit plea bargaining severely and to win long sentences. Collection of comparative data on plea bargaining practices before and after the implementation of a career criminal program can help to determine if the program's effect spreads to other branches of the District Attorney's Office. Similarly, police may be likely to expend greater effort in criminal investigations knowing that the case is likely to be won by the career criminal program. Measures of police attitudes could include questions dealing with the impact of the career criminal program upon police investigative and arrest practices.

## 6.5 Summary

A variety of approaches are available for the evaluation of career criminal programs. The National Legal Data Center is currently collecting detailed data on the LEAA funded career criminal programs and a contractor has been retained to conduct an intensive evaluation of a number of the programs. The results of this evaluation should provide new career criminal programs with an excellent model for the evaluation of their own program.

The basic options for career criminal program evaluation have been surveyed in this chapter. At a minimum, a career criminal program should assess the effectiveness of its screening procedures, the speed of case processing, the probability of conviction, and the certainty and severity of punishment for the cases selected to be prosecuted. Additional assessment of impact on crime statistics, plea bargaining practices, effort expended in case preparation, and public and criminal justice personnel attitudes, can be incorporated in intensive evaluations of career criminal programs.

## 6.6 Conclusion

This manual has explored the concept, development, organization, operations, results, and costs of the Bronx County Major Offense Bureau. It has also considered issues related to the MOB's possible replication in other communities and briefly examined the LEAA career criminal program.

The MOB, designated an exemplary project by LEAA, stands not as an answer to the massive crime problems faced by our nation, but as a proven method for prosecutors to deal more effectively with the career criminal. As such, it has not only made noteworthy achievements but received praise and support from the community in which it operates, the borough of the Bronx of the City of New York. The MOB welcomes inquiries and visits from all interested prosecutors and citizens.

## **APPENDICES**

- APPENDIX A: Selected Sections of a  
Report to the Bronx County District Attorney  
on the Case Evaluation System**
- APPENDIX B: Case Evaluation Form**
- APPENDIX C: Trial Preparation Forms**
- APPENDIX D: Police Orders**
- APPENDIX E: LEAA Career Criminal Program**



**APPENDIX A**

**SELECTED SECTIONS OF A  
REPORT TO THE BRONX COUNTY DISTRICT ATTORNEY ON  
THE CASE EVALUATION SYSTEM**

REPORT TO THE  
BRONX COUNTY DISTRICT ATTORNEY  
ON  
THE CASE EVALUATION SYSTEM

November 30, 1974

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(Note: Only those sections of the report pertaining to the actual development of the case evaluation system are reprinted here.)

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## V. Methodology and Work Statement

This section describes the methodology and tasks performed by the National Center for Prosecution Management with the cooperation and assistance of the Bronx District Attorney's Office to satisfy the following objectives:

1. To establish a case ranking system for management and operational control of the Bronx District Attorney's Office;
2. To identify, by utilizing the case ranking system, cases which are to be referred to the Major Offense Bureau for intensive review and speedy prosecution;
3. To modify existing forms or design new forms to assist in case and trial preparation.

The tasks were broken down into sequential steps to be followed by NCPM staff members, consultants and members of the staff of the Bronx District Attorney's Office. The following steps outline the procedures followed.

### Step 1: Development of Criteria and Policy for Case Referral Determination

This step involved meetings with representatives of the Bronx District Attorney's Office to specify the criteria and prosecution policy that was to be the basis for referral of a case to the Major Offense Bureau. Written policy of the office was reviewed and analyzed for potential use in the system.

### Step 2: Classify Reference Criteria

Criteria and policy identified and developed in Step 1 were classified into 3 areas, i.e., those relating to (1) the nature of the case, (2) defendant evaluation, and (3) evidentiary matters. Based on previous research, the experience of the Major Offense Bureau, and with the advice of staff and consultants, the preliminary data elements were selected within the classification system.

### Step 3: Initial Form Preparation

The form already in use with the original scoring system was adapted for this project. The elements considered important as a result of the data analysis were included in the expanded form. In order to permit the orderly operation of the Major Offense Bureau while this design and development effort was underway, it was decided that the test document (the form which would collect the information for the case ranking system), would be superimposed on the existing document. In this manner, the case ranking clerk could continue to rate cases without interruption while, at the same time, collecting the information necessary for this project. The data elements without point scores were added by the NCPM staff. The points on this form represent the subjective judgment of the Major Offense Bureau personnel.

### Step 4: Case Data Collection

Actual data collection was made from a sample of 300 cases sent to the Indictment Bureau over a period of approximately three weeks. It was assumed that this would constitute a representative enough sample to encompass the major proportion of serious felonies coming into the office. Not all of these 300 cases would be necessarily Major Offense Bureau material; nor were they expected to be. To ensure the adequacy of the Major Offense Bureau intake, all cases handled by the Major Offense Bureau since its inception were pulled and the data were collected for transmittal to NCPM.

### Step 5: Case Priority of Importance Determined

The Chief of the Major Offense Bureau each day received the case folders of the selected cases. He reviewed each case and ranked it in order of importance on the back of the form. Using a scale of 1-5 points, he rated each case in two areas: (1) how serious the offense was, and (2) how serious the offender was. His third score was based on whether the case should be referred to MOB.

#### Step 6: Coding, Keypunching and Verification

The case data were batched and transmitted to the Center for coding and transcription. Edit checks for completeness and consistency were developed by the Center and the systems analysis consultant at the University of Delaware. The forms were transmitted to the University of Delaware for keypunching, verification, coding, and processing on the computer.

#### Step 7: Computer Analysis

A preliminary analysis of the data collected was designed and implemented by the NCPM consultants. Using statistical techniques which involved such methodologies as multiple regression analysis and automatic interaction detection (AID), the statistically significant variables were identified. Weights were assigned where the multiple regression analysis was used. The results were analyzed by the Center staff for reasonableness and meaning. This resulted in further computer analysis until the "bugs" were worked out to the satisfaction of all parties.

#### Step 8: Review by Bronx District Attorney's Office Staff

The results of the preliminary analysis were presented to the Bronx District Attorney's Office staff. During the review, it was decided that the Office needed three separate scores, one for the offense, one for the defendant and the third for referral to the Major Offense Bureau. The separate scales were preferable because, in many instances, the police rap sheet was not available at intake and was obtained only at a later date. In this way, the seriousness of the crime and the strength of the evidence could be immediately evaluated and some determination could be made.

#### Step 9: Reanalysis of the Data

Based on the results of the meeting with the MOB Bureau Chief, the data were reanalyzed and the results of the analysis prepared for Major Offense Bureau review.

#### Step 10: Review by Bronx District Attorney's Office Staff

The results of the analysis were presented to the Bronx District Attorney's Office staff. At this time, particular attention was given to the deviant cases. Each was examined individually and the reasons for deviance ascertained for the final analysis.

#### Step 11: Final Analysis of the Data

Noting the results of the examination of deviant cases, appropriate corrections, edits and modifications were made to the data. A final computer analysis run identified the significant variables and assigned each an appropriate weight.

#### Step 12: Case Evaluation Form

The case evaluation form as finally constructed was designed to serve the many purposes of this program. It included the significant variables and the weights for measuring the seriousness of the offense; the significant variables and weight for measuring the seriousness of the defendant; and the interactions which were statistically significant in identifying the referral criteria to MOB. In addition, because the form was serving other informational purposes, room was left to collect any additional data desired by the prosecutor even though not statistically significant for the case ranking system. Finally, since the action of an Assistant District Attorney on a case was being recorded and used for statistical and management purposes, space on the form was retained and expanded to include other dispositions. The form was sent to the MOB for review and approval. With the exception of the deletion of the interactions from the form and the addition of desired information in the space left available, little was changed. The form was sent to the printer and is identified as BCDA Form 53 dated September, 1974.

#### Step 13: Forms Designs--Other

During the course of this project, the Center was given 3 forms currently being used by the Bronx District Attorney's Office and was asked to redesign and simplify them where possible. These forms were (1) Fact Sheet, (2) Defendant Form, and (3) Witness Form. It was requested that the Witness Form be divided into two forms: (1) a Citizen Witness Form and (2) a Police Witness Form.

During the course of the project, the NCPM redesigned the forms, reviewed them with the Bronx office staff and printed 10,000 for use.

#### Step 14: Procedures Manual

A procedures manual for the use of the Case Evaluation Form has been prepared for persons whose duty it is to complete the form and for Assistants who must review the form.

## VI. Analysis and Results of the Case Evaluation System

Prior to the participation by the National Center, the Major Offense Bureau had developed a form which assigned point scores to elements of a case in three major areas: (1) the nature of the case, (2) the defendant evaluation, and (3) the strength of the case. The points were assigned by the Chief of the Major Offense Bureau, based upon his subjective assessment and prosecutorial policy. One of the purposes of the statistical analysis performed by the Center was to examine the point scores previously set by MOB, to determine if they were statistically significant, and to modify the weights to reflect with statistical accuracy the policy of the District Attorney.

The second purpose of the analysis was to identify those cases to be referred to the Major Offense Bureau for review and action. In order to perform a statistical analysis, it was necessary to redesign the form used by MOB at the time. This gave the Center an opportunity to incorporate additional data elements which were considered as having potential significance in the evaluation of cases based upon past research and the experience of the Center and its consultants. Therefore, a new form entitled "The MOB Offense Evaluation Form" was designed and printed for MOB use. This form collected the basic information necessary for the statistical analysis of the scaling systems. It should be noted that the original point scores were maintained for operational purposes. The added data elements were not assigned weights. These would be generated after statistical analysis.

A sample of 300 cases was used to perform the analysis and to develop the scales. This sample was selected on a daily basis from all cases which were presented to the Indictment Bureau. For each case the Major Offense Bureau evaluation form was completed by a ranking clerk in the Criminal Court Complaint Room. The case was then forwarded to the Chief of the Major Offense Bureau. He reviewed each case and ranked it in terms of (1) seriousness of the offense, (2) the criminal record of the defendant, and (3) whether the cases should be referred to the Major Offense Bureau.

After his review, the MOB evaluation forms were sent to the Center, where they were transcribed and coded and forwarded to the University of Delaware for processing and analysis. The following describes the analysis, techniques and the results.

The data received from the coders were initially examined for consistency and completeness. A univariate analysis was then performed to derive the distribution of each of the 72 possible variables, and to determine if any inconsistent values were present in the data set. Some were found and were subsequently corrected.

Some additional problems were also uncovered. First, in cases where multiple defendants appeared only one set of individual or defendant data was supplied. In other cases the defendants were described separately for the same crime. Secondly, many of the scores used by the Bronx office for the various subtotals and totals were calculated incorrectly. An attempt was made to properly compute those scores since any clerical error would profoundly affect the operating system. Similar errors were found when the numbers of victims, persons intimidated and weapon data were scrutinized.

After stage one was completed, a total of 254 cases was available for statistical analysis. The next task was to predict urgency for prosecution using the crime score developed by the existing office system. If the weights assigned were correct and the effect was additive then a large portion of urgency would be explained by the score. A regression analysis determined that by using the original MOB scores only five percent of the variation in urgency could be explained by the crime score. In fact, no statistically reliable prediction of urgency could be made using the crime score as it was being computed. Similar results were found for the defendant and evidentiary sections of the form. There was one alternative explanation for the failure of the original scores to explain so little of the original variance: that is, the clerical process which produced these scores was so error prone that the scores were somewhat random. This alternative was not pursued in the analysis; it was noted.

The second step in the analysis was to determine whether the Sellin-Wolfgang weights were more appropriate. These were computed for each case and a second regression was run. The explained variation increased to seven percent, an improvement which was far from being operationally acceptable. At this point, a set of possible alternative explanations for the poor performance in predicting urgency was isolated:

1. The prosecutor randomly assigned urgency scores without regard to the variables measured here.
2. The model was highly interactive--meaning that nonadditive combinations of characteristics lead to high urgency.
3. An entirely new set of weights was required.

Discussions with the scoring prosecutor eliminated alternative one as a possible explanation. He clearly had a consistent manner of assigning urgency. An A.I.D. analysis indicated that while some interaction was present an additive model would probably suffice. Thus the search for alternative models for predicting the seriousness of a crime and defendant began. Since there were 72 different variables which could be introduced into the equations, a procedure was followed to select the variables which were most closely correlated to urgency. If two variables were highly correlated with one another and with the dependent variable, only one was used. Others were simply eliminated after reviewing factor analytic models, A.I.D. models, and subgroup regression models. In addition, decisions were made as to the appropriate form of the variable. Some which were originally continuous variables (i.e., victims ran from 1 to 6) were dichotomized into no victims and one or more victims since, according to the data, that best described the way the prosecutor seemed to evaluate the case. This process was followed for each and every variable of each model ensuring the best possible fit. The result was two models both predicting accurately 60 percent or more of the time. The improvement represented a quantum jump from the 5 percent figure obtained from the existent system.

The new equations were very simple to use since they were additive and all of the components were yes-no variables. That is, if a variable applied to the crime or individual, the appropriate score was added. If not, nothing was added. This had the effect also of eliminating at least 90 percent of the clerical error which was possible under the old system.



The final objective of the study was to develop a system for referring cases to the Major Offense Bureau. The dependent variables were dichotomous in this case with each indictment receiving a 1 if it was to be referred to the Major Offense Bureau and a 0 otherwise. A variety of models were tested which would aid the prosecutor in determining systematically whether a case should go to MOB or not. Both additive (regression) and interaction (A.I.D.) techniques were used. The first of the two models suggested for use was a combination of intuitive and systematic approaches. This model automatically excludes all cases except rape, attempted murder, robbery and assault. Only cases in these categories are ever referred to the Major Offense Bureau (based on the sample cases analyzed). The final decision, after this initial cut, depends on a combination of the crime, injury to the victim and previous record of the defendant. This system will accurately predict 90 percent of the time. A second model was also tested. In this system cases may be referred to MOB when the product of the first two equations (crime scores times criminal scores exceeds 1000). This assumes a maximum score of 2500 ( $50 \times 50$ ) for the worst crime and the worst criminal. This system predicts accurately approximately 75 percent of the time when rape cases are automatically assigned a value significant to send them to the Major Offense Bureau. This first model was recommended to the Bronx because of its more precise predictive power although it is somewhat more complex.

Table A shows the conditions for referral to MOB under the first model. This analysis demonstrated that the criteria for referral of cases to the Major Offense Bureau is actually based upon fourth and fifth order interactions rather than additions of simple first order effects.

Of particular interest in examining the interactions is the fact that the prosecutor judges cases in terms of the seriousness of the crime and the seriousness of the defendant's record. For less serious crimes, greater emphasis is placed on "how bad" the defendant is. For more serious crimes, less emphasis is placed on the defendant's prior record.

An example of this phenomenon is the assignment of weights to the four classes of robbery. The more serious robbery offense places less weight on the record of the defendant than does the least serious type of robbery.

TABLE A  
CRITERIA FOR REFERRAL TO MOB BASED ON AID ANALYSIS\*

- ☐ RAPE
  - ☐ ATTEMPTED MURDER and VICTIM HOSPITALIZED and DEFENDANT HAS PRIOR CONVICTIONS
  - ☐ ROBBERY
  - ☐ A) Victim hospitalized and defendant has prior convictions.
  - ☐ B) Victim treated and released and defendant has 3 or more convictions.
  - ☐ C) Defendant carried weapon and has prior felony conviction.
  - ☐ D) Defendant carried weapon and has prior arrest for violent crime.
  - ☐ ASSAULT if victim hospitalized and defendant has prior felony conviction.
- 

\*Rape cases are based on office policy, not as a result of AID analysis.

Table B presents a summary analysis of data items on the Major Offense Bureau form. The form which was used to collect the data for the analysis contained 72 data items. Forty-three had been originally weighted by the prosecutor prior to NCPM involvement. Twenty-nine items were added at the suggestion of the Center. After the analysis was performed, 23 data items received new weights and the other 49 were deleted as not significant for the scoring system. Thus the original 72 data items collected by the prosecutor were reduced to 23. In terms of the original system, a 56 percent reduction in data collection was obtained from the statistical analysis.

Table C identifies the items which were found to be statistically significant and added to the MOB form. It should be noted that items which detracted from the prosecutor's case showed up as a negative value in the analysis--a logical result which supports the soundness and validity of the statistical procedures. For example, the existence of exculpatory evidence weakens the cases and this is shown by the analysis as minus five points.

Table D identifies those items which are not statistically significant and which could be deleted from the MOB evaluation form. It should be noted that the majority of the items were offense-oriented or crime-specific: for example, burglary, arson and kidnapping. The Sellin-Wolfgang scale is not crime specific and focuses on the extent of injury, property loss and damage. Thus it is not surprising that the crime specific data would not be significant in this evaluation. The other items not statistically significant were basically items which determined the strength of the case, such as evidentiary matters. This is not to say that they were not important for case or trial preparation by the individual prosecutor; it merely means that they were not statistically significant.

Table E is a comparative analysis of the original and the revised rates for the selected data elements. While the original weights assigned intuitively by the prosecutor were in the right direction, many scores needed to be revised and refined. A number of weights were fairly accurate while the rest were rescaled. For example, the original form assigned 10 points to each victim hospitalized while the revised analysis showed a weight of 4.2. The original form assigned 10 points for a loaded weapon; the revised analysis gave 15.7 points, and included situations where a shot was fired,

TABLE B  
SUMMARY OF ANALYSIS  
Data Items on MOB Form

	Weighted	Not Weighted	Total
Number of Data Items	43	29	72
Number Receiving New Weights	19	4	23
Number Deleted as not Significant	24	25	49

TABLE C  
ITEMS ADDED TO CASE EVALUATION FORM  
AS STATISTICALLY SIGNIFICANT WITH WEIGHTS

<u>Items</u>	<u>Weights</u>
<u>Victim Injury</u>	
Received minor injury .....	2.4
Treated and released .....	3.0
<u>Identification--lineup</u> .....	3.3
<u>Exculpatory evidence present</u> .....	-5.0

TABLE D  
ITEMS NOT STATISTICALLY SIGNIFICANT  
ON MOB EVALUATION FORM

<u>Item</u>	<u>MOB Weights</u>
Victim Law Officer .....	2
Attempted murder of officer .....	10
<u>Weapon</u>	
Knife .....	5
Other .....	3
<u>Burglary</u>	
Night Time .....	10
Forcible entry .....	5
Church, school, public building .....	5
<u>Arson</u>	
Dwelling or public building .....	10
Person present .....	10
Extensive property damage .....	5
<u>Kidnapping</u> .....	10
Time of abduction if in excess of 12 hours .....	5
Ransom demanded .....	10
Victim under 12 years .....	5
Sexual abuse .....	5
<u>Weapon recovered</u> .....	5
At scene .....	3
From defendant .....	5
<u>Property recovered</u> .....	1
At scene .....	5
From defendant's person .....	10
Elsewhere, but connected to defendant .....	5

TABLE D  
ITEMS NOT STATISTICALLY SIGNIFICANT  
ON MOB EVALUATION FORM  
(cont'd)

<u>Item</u>	<u>MOB Weights</u>
Crime observed by police officer .....	5
Fingerprints recovered .....	10

TABLE E  
COMPARATIVE ANALYSIS OF ORIGINAL AND REVISED WEIGHTS

<u>MOB ORIGINAL</u>		<u>REVISED</u>
<u>Victim</u>		
No. of victims (each) ....	1	One or more victims . 2
Hospitalized .....	10	Hospitalized ..... 4.2
<u>Intimidation</u>		
No persons (each) .....	1	One or more persons . 1.3
<u>Weapon</u>		
Gun loaded .....	10	Fired shot, carried loaded gun or explosives ..... 15.7
<u>Value of Stolen Property</u>		
Under \$250 .....	1	Any value ..... 7.5
\$250 - \$1499 .....	2	
\$1500 - \$25,000 .....	3	
Over \$25,000 .....	10	
<u>Prior Relationship</u>		
Between defendant and victim .....	-5	Victim and defen- dant same family . -2.8
<u>Arrest</u>		
At scene .....	10	At scene ..... 4.6
Within 24 hours .....	3	Within 24 hours ..... 2.9
<u>Evidence</u>		
Admission or statement ...	5	Admission or state- ment ..... 1.4
Additional witnesses .....	5	Additional witnesses. 3.1



TABLE E  
COMPARATIVE ANALYSIS OF ORIGINAL AND REVISED WEIGHTS  
(Cont.)

<u>MOB ORIGINAL</u>		<u>REVISED</u>	
<u>Defendant</u>			
Felony conviction		Felony conviction	
(for each) .....	10	one .....	9.7
		more than one .....	18.7
Misdemeanor convictions		Misdemeanor convictions	
(for each) .....	5	one .....	3.6
		more than one .....	8.3
Prior arrests same as		Prior arrests same	
charged for each .....	5	as charged	
		one .....	4.5
		more than one .....	7.2
Prior arrests--weapons		Prior arrests--weapons	
top charge, for each ..	3	top charge, more	
		than one .....	6.4
Status when arrested		Status when arrested	
State parole .....	3	State parole .....	7.1
Wanted .....	1	Wanted .....	4.2

a loaded gun was carried or explosives were used. Prior relationships between the defendant and the victim were given a negative five on the original form and statistically showed negative 2.8. Arrest within 24 hours was given three points by the prosecutor originally; statistically it scaled 2.9. In all, the comparative evaluation supported the Center's basic assumption: a prosecutor knows how he ranks cases. Statistical analysis can properly quantify this intuitive process and eliminate the potential for arbitrary choices.

A proposed evaluation form was designed and sent to the Bronx District Attorney's Office reflecting the results of these statistical analyses. The Center recognized that the prosecutors in the Major Offense Bureau used and depended upon the evaluation forms, not just as a statistical tool, but as a ready reference for summarizing the facts of a case and the materials in the case jacket. The evaluation form, in effect, served a dual purpose. Because of this, the form was designed to contain not only the statistically significant data elements which were essential for the case evaluation system, but also space for the prosecutor to incorporate other items of information which were not statistically significant but were of importance to him.

The original draft reserved space for the Chief of the Major Offense Bureau to add supplemental information. After reviewing the draft, the Bronx office decided that it did not want to use the interactive model and selected the multiplicative model. They also recommended that the data element weighting the presence of "exculpatory evidence" be eliminated since the nonlegal ranking clerk would not be capable of making this evaluation. This item was eliminated as requested.

Finally, the Bronx form was designed so that the action of the Assistant District Attorney screening the cases could be reported in writing. This feature increases the management control of the Bronx District Attorney's Office and allows the form to serve as a vehicle for informing other components of the criminal justice system of the reasons why a decision was made.

ATTACHMENT  
RESULTS OF AID ANALYSIS

4(a) -- Results of AID\* Analysis to Identify MOB  
Referral Criteria

(Numbers Indicate Responses)

1. Is most serious charge a crime against person?

Yes (241) Continue

No (87) Reject

2. Is most serious charge rape?

Yes (26) MOB

Yes (attempted rape or sodomy) (6) Reject

No (209) Continue

3. Is most serious charge kidnap?

Yes (6) Reject

No (203) Continue

4. Is most serious charge attempted murder?

Yes (32) Q 4a

No (171) Continue Q 5

4a. Was victim hospitalized and did defendant have any  
previous conviction?

\*

Automatic Interaction Detection

Results 4a

		Hospitalized		
Prev Conv		Yes	No	Total
	Yes	2	8	10
	No	16	6	22
	Total	18	14	32

		Actual		
Predicted		1	2	
	1	2	0	
	2	2	28	

Yes to both (2) MOB  
No (30) Reject

5. Is most serious charge robbery?

Yes (88) go to Q 5a

Yes (attempted or 2nd) (14) Reject

No (69) Continue go to Q 6

5a. Was defendant hospitalized and any previous record?

Yes (6) MOB

No (82) Continue 5b

5b. Was defendant hospitalized or treated and released,  
and at least three convictions?

Yes (4) MOB

No (78) Continue 5c

5c. Did the defendant have a weapon and does he either  
have a felony conviction or arrest for violent crime?

Yes (17) MOB

No (61) Reject

~~6. Is most serious charge assault?~~

~~Yes (69) go to Q 6a~~

~~No (0)~~

6a. Was victim hospitalized and did defendant have weapon  
and does defendant have felony conviction?

Yes (8) MOB

No (61)

4(b) -- Summary of AID

<u>Reject</u>		<u>Error</u>	
		Type I	Type II
87	Not a crime against person .....	0	0
6	Attempted rape or sodomy .....	1	0
6	Kidnap .....	1	0
30	Not hosp. or no prev. conv. (att. murder) .....	2	0
14	Attempted robbery or 2nd degree..	1	0
61	Robbery criteria fail .....	2	0
61	Assault criteria fail .....	1	0
265			
<u>Accept</u>			
26	Rape .....	0	0
2	Attempted Murder .....	0	0
6	5a .....	0	2
4	5b .....	0	1
17	5c .....	0	11
8	6a .....	0	3
63			

4(c) -- Summary of Predictive Value of Criteria

Then the Actual Result is:

If Form  
Says:

	To MOB	Not to MOB	Total
To MOB	46	17 <sup>2</sup>	63
Not to MOB	8 <sup>1</sup>	257	265
Total	54	274	328

<sup>1</sup> Type I error

<sup>2</sup> Type II error



**APPENDIX B**

**CASE EVALUATION FORM**



# BRONX CASE EVALUATION

DOCKET NO. \_\_\_\_\_ INDICTMENT NO. \_\_\_\_\_

PEOPLE v. \_\_\_\_\_ CHARGE \_\_\_\_\_ DATE \_\_\_\_\_

Please record those points which apply to your case. Where there are multiple defendants, compute a base on the defendant with the most serious offense(s).

A. NATURE OF CASE	check if applicable	pts.
<b>VICTIM</b> one or more persons	<input type="checkbox"/>	2.0
<b>VICTIM INJURY</b> received minor injury	<input type="checkbox"/>	2.4
treated and released	<input type="checkbox"/>	3.0
hospitalized	<input type="checkbox"/>	4.2
<b>INTIMIDATION</b> one or more persons	<input type="checkbox"/>	1.3
<b>WEAPON</b> defendant armed	<input type="checkbox"/>	7.4
defendant fired shot or carried gun, or carried explosives	<input type="checkbox"/>	15.7
<b>STOLEN PROPERTY</b> any value	<input type="checkbox"/>	7.5
<b>PRIOR RELATIONSHIP</b> victim and defendant - same family	<input type="checkbox"/>	-2.8
<b>ARREST</b> at scene	<input type="checkbox"/>	4.6
within 24 hours	<input type="checkbox"/>	2.9
<b>EVIDENCE</b> admission or statement	<input type="checkbox"/>	1.4
additional witnesses	<input type="checkbox"/>	3.1
<b>IDENTIFICATION</b> line-up	<input type="checkbox"/>	3.3
<b>TOTAL CASE SCORE</b>	_____	_____

## B. NATURE OF DEFENDANT

<b>FELONY CONVICTIONS</b> one	<input type="checkbox"/>	9.7
more than one	<input type="checkbox"/>	18.7
<b>MISDEMEANOR CONVICTIONS</b> one	<input type="checkbox"/>	3.6
more than one	<input type="checkbox"/>	8.3
<b>PRIOR ARRESTS - SAME CHARGE</b> one	<input type="checkbox"/>	4.5
more than	<input type="checkbox"/>	7.2
<b>PRIOR ARRESTS</b> one	<input type="checkbox"/>	2.2
more than one	<input type="checkbox"/>	4.2
<b>PRIOR ARREST-WEAPONS TOP CHARGE</b> more than one	<input type="checkbox"/>	6.4
<b>STATUS WHEN ARRESTED</b> state parole	<input type="checkbox"/>	7.1
wanted	<input type="checkbox"/>	4.2
<b>TOTAL DEFENDANT SCORE</b>	_____	_____

## C. REFER TO M.O.B. IF ANY OF THE FOLLOWING CONDITIONS APPLY: (check those applicable-offense is most serious charge)

- ☐ FORCIBLE SEXUAL OFFENSES BETWEEN UNRELATED PARTIES
- ☐ ARSON WITH SUBSTANTIAL DAMAGE OR HIGH POTENTIAL FOR INJURY
- ☐ CHILD ABUSE, CHILD SEVEN OR UNDER
- ☐ MULTIPLE ROBBERIES OR BURGLARIES

## D. SUMMARY INFORMATION

- NO. OF VICTIMS** \_\_\_\_\_
- ☐ received minor injury
  - ☐ treated and hospitalized
  - ☐ hospitalized and/or permanent injury
  - ☐ law officer
  - ☐ attempted murder of officer

- WEAPON**
- ☐ gun
  - ☐ knife
  - ☐ bomb or explosive
  - ☐ other \_\_\_\_\_

- BURGLARY**
- ☐ night-time
  - ☐ evidence of forcible entry
  - ☐ Church, School, Public Bldg.
  - ☐ no. of premises burglarized \_\_\_\_\_

- | VALUE OF STOLEN PROPERTY                    | recovered                | not                      |
|---|--------------------------|--------------------------|
| <input type="checkbox"/> under \$250        | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> \$250 to \$1499    | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> \$1500 to \$25,000 | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> over \$25,000      | <input type="checkbox"/> | <input type="checkbox"/> |

- PRIOR RELATIONSHIP**
- ☐ other family
  - ☐ neighbor
  - ☐ friend
  - ☐ acquaintance
  - ☐ other

- IDENTIFICATION**
- ☐ photograph
  - ☐ on or nearby scene
  - ☐ other
  - ☐ no. of persons making I.D. \_\_\_\_\_
  - ☐ time delay of I.D. \_\_\_\_\_

- SUPPORTING EVIDENCE**
- ☐ crime observed by police officer
  - ☐ fingerprints recovered

## E. DISTRICT ATTORNEY'S EVALUATION

- TOTAL SCORE** \_\_\_\_\_
- RANKING CLERK** \_\_\_\_\_
- A.D.A. NOTICED**    yes ☐    no ☐
- ACTION BY A.D.A.:**
- ☐ accepted
  - ☐ furthered
  - ☐ rejected
  - ☐ referred to M.O.B.

**REASONS:** \_\_\_\_\_

## **APPENDIX C**

### **TRIAL PREPARATION FORMS**

<b>OFFICE OF THE DISTRICT ATTORNEY OF BRONX COUNTY, N.Y. FACT SHEET</b>				DATE:		DOCKET NUMBER:	
				ASST. D.A.		INDICTMENT NUMBER:	
<b>I. DEFENDANT(S)</b>							
NAME (LAST, FIRST, MIDDLE)				AGE	ADDRESS (INCLUDE APT. NO.)		PRED FELON
<b>II. CRIME FACTS</b>							
OFFENSE:		TIME	DATE	LOCATION (DETAILED)			
ARREST:		TIME	DATE	LOCATION (DETAILED)			
BASIS FOR ARREST							
<b>III. EVIDENCE</b>							
WEAPONS (OPERABLE?)		DESCRIBE		RECOVERED: WHERE/WHEN/WHO			
PROPERTY		DESCRIBE		RECOVERED: WHERE/WHEN/WHO			
STATEMENTS		TO WHOM		TIME/DATE/LOCATION		NATURE	
INJURIES SUSTAINED							
<b>IV. WITNESS</b>							
POLICE - IDENTIFY BY ARRESTING (A) - PARTNER (P) - EXPERT (E) - FIRST AT SCENE (F)							
NAME		SHIELD		COMMAND		ASSIGNMENT	
CITIZEN		NAME		AGE	ADDRESS (INCLUDE APT. NO.)		PHONE
<b>V. IDENTIFICATION FOR EACH WITNESS</b>							
NAME		TIME	DATE	TYPE	LOCATION		WADE PROBLEM(S)
<b>VI. CRIMINAL COURT</b>							
DATE AND PART		ASST. D.A.		JUDGE		DEFENSE ATTORNEY	
ADJ DATE AND PART		REPORTER		NOTICE 190, 710, MOB		BAIL REQ.	BAIL SET
<b>VII. GRAND JURY</b>							
ASST. D.A.		REPORTER		INTERPRETER		PANEL	DATES PRES.
EXHIBITS							VOTE
WITNESSES (DETAILS IF NOT LISTED IN IV)							SIGNED
DEPENDANT TESTIFY?		RELEASE G.J. MINUTES TO DEFENSE?		IF NO, WHY?			

BRONX D.A. OFFICE FORM MOB-2 1/74



<b>OFFICE OF THE DISTRICT ATTORNEY OF BRONX COUNTY, N.Y. CITIZEN WITNESS FORM</b>					DATE ASST. D.A.		DOCKET (INDICTMENT) NUMBER DEFENDANT(S)			
<b>I. WITNESS</b>										
NAME (LAST, FIRST, MIDDLE)				DOB MO/YR	SEX	HT	WT	RACE	LANGUAGE	INTERPRETER NEEDED? ( ) YES ( ) NO
ADDRESS (INCLUDE APT. NO.)				PHONE NO. RES: BUS:		HOW LONG?	ALTERNATE CONTACT NAME: ADDRESS: PHONE:			
MARITAL STATUS	LIST SPOUSE AND CHILDREN BY NAME AND AGE (IF ANY)					YEARS MARRIED	RESIDES WITH WHOM AND RELATIONSHIP			
<b>II. WORK STATUS</b>										
EMPLOYER'S NAME	ADDRESS		PHONE		NATURE OF WORK		HOW LONG?	SALARY (HR/DY/WK)		
IF UNEMPLOYED, LAST EMPLOYER'S NAME	ADDRESS		PHONE		NATURE OF WORK		HOW LONG?	SALARY (HR/DY/WK)		
IF WELFARE: CENTER NAME	ADDRESS		I.D. NO.		CASE WORKER		REC'D LAST	AMOUNT		
IF NO WELFARE, DESCRIBE MEANS OF SUPPORT:										
<b>III. PERSONAL DATA</b>										
LEVEL OF EDUCATION	MILITARY: BRANCH	YEARS	TYPE OF DISCHARGE		DECORATIONS		PRESENT STATUS			
NARCOTIC HISTORY: TYPE	DAILY USE AND COST	YEARS	SUPPORT METHOD		DRUG PROGRAMS (PAST AND PRESENT)					
PSYCHIATRIC HISTORY (DESCRIBE COMPLETELY)										
PHYSICAL HISTORY (DESCRIBE BRIEFLY)										
DEMEANOR AND CREDIBILITY PROBLEMS				MEMBER OF GANG OR NOTORIOUS GROUP		ALCOHOL CONSUMPTION DAY OF: INCIDENT      ID      INTERVIEW				
<b>III. CRIMINAL RECORD (ACCORDING TO WITNESS)</b>										
JUVENILE (UNDER 18) HISTORY					ADULT HISTORY					
NO. OF ARRESTS	CHARGES	INCARCERATION			NO. OF ARRESTS	CHARGES	INCARCERATION			
PRIOR RELATIONSHIP TO DEFENDANT AND/OR WITNESS(ES)										
STATEMENT OF WITNESS: RELATE IN DETAIL THE COMPLETE STATEMENT OF THE WITNESS AND INCLUDE THEREIN THE FOLLOWING: FACTS LEADING UP TO THE INCIDENT, TIME SEQUENCE, LOCATIONS, DESCRIPTIONS, LIGHTING CONDITIONS, DETAILS OF ALL OUT OF COURT IDENTIFICATIONS AND REACTION TO THE CRIME. INCLUDE ANY MAJOR PROBLEMS WITH THIS WITNESS.										

## STATEMENT OF WITNESS: (CONTINUED)



<b>OFFICE OF THE DISTRICT ATTORNEY OF BRONX COUNTY, N.Y. DEFENDANT FORM</b>		DATE:		CHARGE(S)		INDICTMENT NO.	
		ASST. D.A.				DOCKET NO.	
I. IDENTIFICATION							
DEFENDANT'S TRUE NAME (LAST, FIRST, MIDDLE)				DOB	HT	WT	RACE
				B**			
DEFENDANT'S STATED NAME OR ALIAS				MO	DAY	YR	NYS IIS**
				RESIDES WITH (NAME AND RELATIONSHIP)			
ADDRESS (INCLUDE APT. NO.)						PHONE NO.	HOW LONG
MARITAL STATUS LIST SPOUSE AND CHILDREN BY NAME AND AGE (IF ANY)						LANGUAGE	
						INTERPRETER NEEDED [ ] YES [ ] NO	
II. WORK STATUS							
EMPLOYER'S NAME	ADDRESS		PHONE	NATURE OF WORK	HOW LONG	SALARY:(HR/DY/WK)	
IF UNEMPLOYED LAST EMPLOYER'S NAME	ADDRESS		PHONE	NATURE OF WORK	HOW LONG	SALARY:(HR/DY/WK)	
IF WELFARE: CENTER NAME	ADDRESS		PHONE	CASE WORKER	REC'D LAST	AMOUNT	
IF NO WELFARE, DESCRIBE MEANS OF SUPPORT							
III. PERSONAL DATA							
LEVEL OF EDUCATION	MILITARY: BRANCH		YEARS	TYPE OF DISCHARGE	DECORATIONS	PRESENT STATUS	
NARCOTICS HISTORY TYPE:	DAILY USE AND COST		YEARS	SUPPORT METHOD	DRUG PROGRAMS (PAST AND PRESENT)		
PSYCHIATRIC HISTORY (DESCRIBE COMPLETELY)							
PHYSICAL HISTORY (DESCRIBE BRIEFLY)							
DEMEANOR:		(1) PHYSICAL	(2) SPEECH	(3) CREDIBILITY	MEMBER OF GANG OR NOTORIOUS ORGANIZATION		
IV. CRIMINAL HISTORY (ACCORDING TO DEFENDANT)							
JUVENILE (UNDER 16) HISTORY				ADULT HISTORY			
NO. OF ARRESTS	CHARGES	INCARCERATION		NO. OF ARRESTS	NO. CONVICTIONS	NO. TIMES SENT TO PRISON	NO. PLEAS NO. TRIALS
FOR EACH CASE (USE RAP SHEET A9 REFERENCE WHEN POSSIBLE)							
DATE	CHARGE	FACTS				DISPOSITION	
NUMBER	BAIL OR PAROLE	CHARGES		ATTORNEY(S)		COURTS	
PENDING CASES							
ON PROBATION: CHARGE		NAME OF PROBATION OFFICER		CHARGE	NAME OF PROB. OFFICER		
PRESENT				PAST			
V. THIS CASE							
TIME OF CRIME		TIME OF ARREST		UNDER INFLUENCE NARCOTICS			
ALCOHOL CONSUMPTION							
REACTION TO ARREST		VERBAL		PHYSICAL			
DEFENSE ALIBI		WHO		WHERE		WHEN	
ALIBI							



RELATIVE TO THE INCIDENT AVAILABLE THE DEFENDANT'S VERSION OF FACTS IN DETAIL. MUST INCLUDE THE FOLLOWING INFORMATION:

1. STATEMENTS TO WHOM WERE MADE (WHEN AND WHERE)
2. DEGREE OF KNOWLEDGE OF INCIDENT
3. RELATIONSHIP TO PHYSICAL EVIDENCE
4. WITNESS(ES) TO DEFENSE

**APPENDIX D**

**POLICE ORDERS**

January 3, 1974

To: Commanding Officers, All Precincts within Bronx Area

Subject: TELEPHONE NOTIFICATION TO DISTRICT ATTORNEY'S OFFICE

1. Effective 0800 hours, January 7, 1974, the Bronx District Attorney's Office will be notified of ARRESTS for certain "Serious Felonies" and Investigations and Arrests for Homicides. These notifications will be made by members of the service, by phone to the DA's Office, 588-9540 DIRECT.

2. When notified, an ADA assigned to the Homicide or Major Offense Bureau will respond to either the scene or the Precinct Station House to work cooperatively with the police for the most effective preparation of the case.

3. In order to insure the success of this program, the DA must be advised promptly of the facts of the case. Also, the crimes to which an ADA will respond must be limited. Therefore, for the purpose of this program, those crimes considered as "serious felonies" which will require notification to the DA's Office are:

ROBBERY ARRESTS when;

- a. defendant was armed with a firearm  
OR
- b. assault occurred and the victim required hospitalization (other than treated and released) or victim received multiple wounds or victim received numerous stitches  
OR
- c. defendant has been identified as having committed a series of robberies.

ATTEMPTED MURDER OR SERIOUS ASSAULT ARRESTS when;

- a. victim is shot or has received multiple stab wounds which require hospitalization (other than treated and released)  
OR
- b. a police officer is the victim of a shooting or stabbing,  
NOT AN ATTEMPT
- c. DO NOT notify the DA of assaults between members of the same household, family or commonlaw UNLESS VICTIM IS  
LIKELY TO DIE.

BURGLARY ARRESTS when;

- a. committed in a dwelling and  
there is no prior relationship between the defendant and the complainant and  
the burglary is coupled with a sex crime, assault, or robbery  
OR
- b. when the defendant has been identified as having committed a series of burglaries from dwellings.

ARSON ARRESTS when;

- a. a fire of considerable proportion results in the serious physical injury of an inhabitant, or
- b. there is considerable damage to a building.

KIDNAPPING ARRESTS when;

- a. committed for sexual, monetary, or political reasons and the parties are unknown to each other.

RAPE OR SODOMY ARRESTS when;

- a. force or threat of force is used and the parties are ~~unknown~~ to each other.

CHILD ABUSE ARRESTS when;

- a. a child under seven (7) years of age is tortured or receives serious physical injuries.

ANY ARREST when;

- a. there is considerable community or public interest in either the type of crime committed or the defendants.
- b. a prominent person is involved.
- c. there is a likelihood of extensive media coverage.
- d. defendant wishes to make a statement to DA relative to a Felony case.
- e. a police officer, under any circumstances, shoots another person.

HOMICIDE ARREST or INVESTIGATION (at discovery of body) when;

- a. the victim of a crime is likely to die or is dead.

NOTE: THE SUCCESSFUL PROSECUTION OF HOMICIDE CASES IS DEPENDENT UPON THE PROPER INITIAL ACTION TAKEN BY THE MEMBER FIRST ON THE SCENE. IT IS MOST IMPORTANT THAT THE CRIME SCENE BE PRESERVED. WHENEVER POSSIBLE, THE BODY SHOULD NOT BE MOVED NOR SHOULD PHYSICAL EVIDENCE BE DISTURBED. ALL WITNESSES SHOULD BE DETAINED. THEIR NAMES AND ADDRESSES SHOULD BE TAKEN AND THEY SHOULD NOT BE ALLOWED TO CONVERSE WITH EACH OTHER. THE RESULT OF PROPER INVESTIGATION PROCEDURES WILL BE A PRODUCTIVE INVESTIGATION WHICH

WILL LEAD TO THE SUCCESSFUL PROSECUTION OF THE CASE.

4. Each member of the service will be responsible for identifying those arrests and investigations which require notification to the DA's Office. Whenever possible, the officer making the arrest or first on the scene of a homicide will make notification by calling 588-9540, giving pertinent facts of the case (IT IS IMPORTANT TO REMEMBER THAT THIS PROCEDURE DOES NOT RELIEVE MEMBERS OF THE SERVICE OF THE RESPONSIBILITY OF MAKING ALL NOTIFICATIONS NOW REQUIRED BY DEPARTMENT DIRECTIVES; THIS PROCEDURE IS IN ADDITION TO ALL REQUIRED NOTIFICATIONS). When this is not possible, the member will transmit necessary information to the Station House Officer who will make the notification. In either case, such notification will be recorded in the command Telephone Record and notation in the remarks section of the Arrest Report will include notification time, ADA's name, and responding time.

5. Station House Officer will review all arrests to determine that the proper notifications have been made. He will assist members who cannot personally make notifications. Also, he will record DA notification in the Telephone Record.

6. Supervisor on patrol will also make certain that proper notifications are made.

7. Training Officers will include the content of this Order in their training programs. In addition, proper crime scene and investigative procedures will be reviewed.

8. Administrative Lieutenants will, in addition to monitoring the effectiveness of this program, ensure that a copy of this Order is placed at the desk for use by the S.H.O. Also cause telephone numbers, necessary to the project, to be displayed conspicuously at the desk.

9. Commanding Officers will advise the Bronx Area Commander of any followup action necessary to maximize the effectiveness of this program.

10. It must be realized that this program is one of many that will reshape the cooperative efforts of the various agencies within the criminal justice system. The positive approach that we the police take in this matter will be carried through the entire range of future common goal improvements of the justice system.

NOTE - PHONE NUMBERS READILY AVAILABLE.

TO OBTAIN INFORMATION ABOUT

PROCESSING AND BOOKING CALL CENTRAL BOOKING 292-1160

LEGAL INQUIRIES CALL BX. AREA LEGAL ADVISOR 294-4733 (24  
hours)

LEGAL INQUIRIES CALL LEGAL DIVISION 374-5400 (office hours)

FOR LEGAL DIVISION OTHER THAN OFFICE HRS CALL DEPARTMENT

RESERVE ATTORNEY VIA CURRENT SITUATIONS DESK 374-5580.

Anthony V. Bouza

Assistant Chief

NEW YORK CITY  
TRANSIT POLICE DEPARTMENT

Circular #1.6  
April 11, 1974

ARRESTS

NOTIFICATION TO DISTRICT ATTORNEY BRONX & KINGS COUNTIES

1. Effective forthwith, the Major Offense Bureau of the District Attorney's Office of Bronx and Kings Counties will be notified (24 hours a day-7 days a week) of arrests for certain "Serious Felonies" and Investigation of Homicides. Purpose of this notification is to insure greater success in ultimate handling and processing of the case.
2. Listed below are the arrest categories concerned:
  - a. All homicide cases (including investigations)
  - b. All cases in which the victim is in critical condition or extremely serious condition.
  - c. All cases in which a police officer is shot, or severely injured under unusual circumstances.
  - d. All cases in which a police officer shoots, injures seriously, or kills a perpetrator.
  - e. All cases in which police officers are arrested and charged with any crime or about to be charged with a crime.
  - f. All unusual crimes which may cause notoriety or publicity.
  - g. Robbery arrests when defendant was armed with a firearm.
  - h. All cases where the defendant has been identified as having committed a series of robberies.
  - i. Rape or Sodomy when force or threat of force is used and the parties are unknown to each other.
3. Upon notification an Assistant District Attorney will review the facts and make a determination whether or not he will respond on the above cases, take necessary statements and furnish necessary assistance to the investigating officer.
4. It shall be the responsibility of the Assignment Desk Sergeant of the Division concerned to contact the respective District Attorney's Office (24 hours a day, 7 days a week):

Kings County D.A. 643-5100 or 643-2614  
Bronx County D.A. 588-9540

Notification shall be recorded on Action Memo by personnel making call. The Area Duty Captain, through the Operations Lieutenant, shall insure that the appropriate District Attorney's Office has been notified.

5. Detective Division shall institute proper procedures for above notifications to the appropriate District Attorney's Office when a member of said division is so involved in one of the above categories.

6. This circular amends Chapter #3, paragraph 41.0, Manual of Procedure so that Bronx County is included and limits notification in both counties to specific felonies and investigations of crimes.

7. Superior officers shall instruct members of the force in the provisions of this directive until all are notified.

Robert H. Rapp



NEW YORK CITY HOUSING AUTHORITY  
POLICE DEPARTMENT

Memorandum #8

February 22, 1974

Subject: TELEPHONE NOTIFICATIONS TO THE BRONX COUNTY DISTRICT  
ATTORNEY'S OFFICE

1. Effective immediately, the Bronx District Attorney's Office will be notified of ARRESTS for certain "Serious Felonies" and all Investigations and Arrests for Homicides, that occur in Bronx County. These notifications will be made by Members of the Force, by phone to the D.A.'s Office, 588-9540 DIRECT, immediately upon apprehension for specified arrests or uncovering a possible Homicide.

2. When notified, an Assistant District Attorney assigned to the Homicide or Major Offense Bureau will respond to either the scene or the police facility, to work cooperatively with the police for the most effective preparation of the case.

3. In order to insure the success of the program, the District Attorney must be advised promptly of the facts of the case. Also, the crimes to which an Assistant District Attorney will respond must be limited. Therefore, for the purpose of this program, those crimes considered as "serious felonies" which will require notification to the District Attorney's Office are:

ROBBERY ARRESTS when;

- a. defendant was armed with a firearm  
OR
- b. assault occurred and the victim required hospitalization (other than treated and released) or  
victim received multiple wounds or  
victim received numerous stitches  
OR
- c. defendant has been identified as having committed a series of robberies.

ATTEMPTED MURDER OR SERIOUS ASSAULT ARRESTS when;

- a. victim is shot or has received multiple stab wounds which require hospitalization (other than treated and released)  
OR
- b. a police officer is the victim of a shooting or stabbing,  
NOT AN ATTEMPT
- c. DO NOT notify the DA of assaults between members of the same household, family or commonlaw UNLESS VICTIM IS  
LIKELY TO DIE.

BURGLARY ARRESTS when;

- a. committed in a dwelling and  
there is no prior relationship between the defendant and the complainant and  
the burglary is coupled with a sex crime, assault, or robbery  
OR
- b. when the defendant has been identified as having committed a series of burglaries from dwellings.

ARSON ARRESTS when;

- a. a fire of considerable proportion results in the serious physical injury of an inhabitant, or
- b. there is considerable damage to a building.

KIDNAPPING ARRESTS when;

- a. committed for sexual, monetary, or political reasons and the parties are unknown to each other.

RAPE OR SODOMY ARRESTS when;

- a. force or threat of force is used and the parties are unknown to each other.

CHILD ABUSE ARRESTS when;

- a. a child under seven (7) years of age is tortured or receives serious physical injuries.

ANY ARREST when;

- a. there is considerable community or public interest in either the type of crime committed or the defendants.
- b. a prominent person is involved.
- c. there is a likelihood of extensive media coverage.
- d. defendant wishes to make a statement to DA relative to a Felony case.
- e. a police officer, under any circumstances, shoots another person.

HOMICIDE ARREST or INVESTIGATION (at discovery of body) when;

- a. the victim of a crime is likely to die or is dead.

NOTE: THE SUCCESSFUL PROSECUTION OF HOMICIDE CASES IS DEPENDENT UPON THE PROPER INITIAL ACTION TAKEN BY THE MEMBER FIRST ON THE SCENE. IT IS MOST IMPORTANT THAT THE CRIME SCENE BE PRESERVED. WHENEVER POSSIBLE, THE BODY SHOULD NOT BE MOVED NOR SHOULD PHYSICAL EVIDENCE BE DISTURBED. ALL WITNESSES SHOULD BE DETAINED. THEIR NAMES AND ADDRESSES SHOULD BE TAKEN AND THEY SHOULD NOT BE ALLOWED TO CONVERSE WITH EACH OTHER. THE RESULT OF PROPER INVESTIGATION PROCEDURES WILL BE A PRODUCTIVE INVESTIGATION WHICH

WILL LEAD TO THE SUCCESSFUL PROSECUTION OF THE CASE.

4. Each member of the service will be responsible for identifying those arrests and investigations which require notification to the DA's Office. Whenever possible, the officer making the arrest or first on the scene of a homicide will make notification by calling 588-9540, giving pertinent facts of the case (IT IS IMPORTANT TO REMEMBER THAT THIS PROCEDURE DOES NOT RELIEVE MEMBERS OF THE SERVICE OF THE RESPONSIBILITY OF MAKING ALL NOTIFICATIONS NOW REQUIRED BY DEPARTMENT DIRECTIVES; THIS PROCEDURE IS IN ADDITION TO ALL REQUIRED NOTIFICATIONS). When this is not possible, the member will transmit necessary information to the Station House Officer who will make the notification. In either case, such notification will be recorded in the command Telephone Record and notation in the remarks section of the Arrest Report will include notification time, ADA's name, and responding time.

5. The Headquarters Desk supervisor shall review all arrests effected in the Bronx to determine that the proper notifications have been made. He will assist Members who cannot personally make notifications.

6. Patrol and Detective Superior Officers concerned shall instruct Members under their commands on the contents of this Order and insure that a copy of this Order is posted at every Bronx police facility.

7. In addition to prompt notification to the District Attorney's Office in all cases where a victim of a crime is likely to die or is dead, the Member of the Force first on the scene shall promptly notify the N.Y.C.P.D. Homicide Command, via the local precinct concerned.

8. Commanding Officers of the Patrol Bureau and the Detective Bureau shall institute followup procedures to insure that the requirements of this Order are complied with.

9. It must be realized that this program is one of many that will reshape the cooperative efforts of the various agencies within the criminal justice system. The positive approach that we the police take in this matter will be carried throughout the entire range of future common goal improvements of the justice system.

DANIEL J. DALY  
Chief of Housing Police

## **APPENDIX E**

### **LEAA CAREER CRIMINAL PROGRAM**

Project	Date	Organization	Criteria	Screening Process	Policies	Flow
Albuquerque PROD Priority Repeat Offenders Division	July 1976	Staff: 1 Director 2 ADAs 1 paralegal 2 secretaries 1 systems analyst Separate bureau.	To be selected, the defendant must have committed (1) a felony and currently have a felony court case pending, (2) a felony and be on appeal from a prior felony conviction, (3) a felony within one year of release from an institution or probation, (4) a serious crime and have a previous serious felony conviction (the definition of serious is intentionally loose to allow ADA's to prosecute offenders who are viewed as major problems to the community)	Police will screen the cases and paralegal staff will review them prior to case selection by the attorneys on the staff.	The unit will receive priority trial scheduling from the court but backlogs are not substantial in Albuquerque and the state of New Mexico has a six month rule resulting in the dismissal of cases not prosecuted in six months. The unit plans to strictly limit plea bargaining. Open discovery is practiced and vertical prosecution techniques are employed.	No data are available due to the recent origin of the unit.
Boston Major Violators	Sept. 75	Staff: 4 screening attorneys 6 trial attys 2 investigators Separate bureau; office and telephone are different than County D.A.'s.	Numerical system adapted from the Bronx; includes crime, defendant, and evidentiary considerations.	Screening attys stationed at police hqs. monitor cases as they come in and apply screening criteria.	Program eliminates the preliminary hearing stage. Therefore cases go from grand jury indictment to trial. Supposed to be done within 90 days. Practices open discovery.	Sept. 8, 1975-April 2, 1976, 135 defendants referred to bureau. Dispositions on 72 of those defendants: 40 guilty pleas, 5 jury trial convictions, 25 trial convictions, and 2 acquittals.
Columbus, Ohio Career Criminals	July 1975	Staff: 6 ADAs "Informal" bureau. These attorneys have responsibility first to cases which are screened for this program, but <u>not</u> exclusively. 2 yrs. trial experience required.	To be eligible, a case must either involve: 1. a violent crime (or threat of same); or 2. a defendant with <u>two</u> prior convictions.	Takes all cases that meet criteria, but may or may not get case immediately. Only initial screening is by police. If they don't alert DA's office, the case is picked up when office is mandatorily involved in process.	1. Skips preliminary hearing (if police notification). 2. One ADA handles case from start to finish.	225 cases 98% conviction Through March, 45 trials and 41 convictions.
Dallas Career Criminal Program	Oct. 75	Staff: 1 director 4 ADAs 1 investigator 2 paralegals 2 secretaries Operates as a support unit with most of its cases actually tried by prosecuting attorneys associated with the various felony courts. The program ADAs assist the other attorneys in the prosecution of the cases and occasionally try the cases themselves.	Stranger-to-stranger offenses are focused upon. Usually the defendants are required to have prior convictions but first offenders committing particularly serious offenses are also prosecuted by the unit.	All felonies are screened by ADAs assigned to the unit and decisions are made regarding whether the cases are appropriate for the unit.	Efforts have been made to obtain priority scheduling of trials. Plea bargaining is limited and persons committing their third felony offense are never plea bargained. The unit also conducts investigations when major offenders are being reviewed by the parole board, and parole is opposed if that seems appropriate.	100 cases, with estimated 99% conviction rate.

Project	Start-Up Date	Organization	Criteria	Screening Process	Policies	Flow
<u>Detroit</u> PROB Prosecutor's Repeated Offenders-Bureau	July 1975	Staff: 10 ADAs 2 investigators 1 director Operates as a separate bureau with ADAs having responsibility only to this project. Staff are among the most experienced in the DA's Office.	Informal process, with DAs making final decision on cases brought to attention because of defendant's record and/or nature of present offense.	Cases get to Bureau either by police referral or DA's warrant bureau referral; then bureau DAs pick from those forwarded to them informally.	1. No particular speedy trial program, but facilitated by another program that speeds cases for defendants who can't make bond (here, bond usually set very high). 2. Benefit is the fact that it gets the attention of a single DA and special resources in preparation.	550 cases 98 percent conviction (estimated)
Houston Career Criminal Program	July 1975	Staff: 1 director 3 ADAs 1 investigator 1 data clerk 2 paralegals 2 screening clerks Separate bureau. A police liaison unit assists the career criminal program in investigations.	To be eligible a case must involve (1) armed robbery and 1 prior felony conviction, (2) grand theft and 2 prior felony convictions, (3) rape and sexual abuse (1st degree), (4) certain forgery offenses, (5) assault by a stranger resulting in substantial injury, (6) other exceptional cases chosen at bureau's discretion.	Cases are initially referred by the police or paralegal staff and are subsequently screened by the ADAs and the project director.	No specific speedy trial program exists. Effort is made to reduce the number of continuances in cases.	450 cases 99 percent conviction (estimated)
<u>Indianapolis</u> Career Criminals	Oct. 1975	Staff: 2 screening attorneys 6 trial attorneys Separate bureau.	Two-tier system. First case must be either burglary, robbery, arson or violent assault. Then a point system which considers prior arrests/convictions, use of weapons, injury to victim and pending cases.	Alerted by Bureau's screening attorneys.	Early intervention leads to early case preparation, then priority on trial calendar.	28% of all felonies in office. 100 pending cases Dispositions: 13 guilty pleas as charged, 25 guilty by jury, 4 guilty by judge, 5 nolo contendere, and 3 not guilty.
<u>Kalamazoo</u> Career Criminals Priority Prosecution	Oct. 1975	Staff: 2 attorneys 1 legal intern Operates as separate bureau with exclusive responsibility.	10 Threshold Criteria (D=defendant): 2 felony convictions; 5 prior felony arrests and present charge is "part 1" crime; D=parolee; D=probationer; D=escapee; D=flee on post-conviction bond; D armed with gun and has felonies pending; actual delivery of heroin; rape. These are subject to secondary criteria by DAs; numerical system fashioned after Bronx, based on prior record.	Referral from warrant section.	DA intervenes in process earlier than usual (i.e., arraignment); open discovery; priority at all stages but no special mechanism.	Information not currently available.

Project	Start-Up Date	Organization	Criteria	Screening Process	Policies	Flow
Las Vegas Major Violator's Unit	Aug. 76	Staff: 1 director 2 ADAs 1 legal secretary 1 clerk typist 1 investigator 1 program analyst Separate bureau.	To be eligible the case must qualify on a point system with such factors as prior arrests, prior felony convictions, parole, etc. being weighed. The system is still being developed.	A clerk will screen all incoming felonies and the cases will be reviewed by attorneys. A control group of potential cases will be established.	Policies are currently being developed.	No data are available due to the recent origin of the unit.
Louisville Career Criminal Bureau	Aug. 76	Staff: 1 director 5 ADAs 1 administrator 3 secretaries 5 paralegals 1 screening attorney 1 investigator 1 police liaison Separate bureau.	Selection criteria are 5 prior felony arrests or 2 prior felony convictions with the current charge being for burglary, trafficking in narcotics, murder, kidnapping, etc. or a felony (punishable by capital punishment) and a propensity for serious crime, or parole or has pending charges.	The police and booking clerks will notify the unit of appropriate cases. Paralegals will check the defendant's record. ADAs will select cases to prosecute. System is currently being implemented and may be modified if necessary.	No special priority system for trial scheduling is planned, but defendants in pretrial detention will receive priority treatment. The program has a policy of no plea bargaining. Vertical prosecution techniques are used and early investigation of cases is encouraged.	No data are available due to the recent origin of the unit.
Manhattan Career Criminal Program	Nov. 75	Staff: 1 director 6 ADAs 4 paralegals 1 supervisory clerk 1 administrative associate 1 sr. typist 1 stenographer 1 technician 3 investigators The original grant calls for additional staff which have not as yet been added to the program. Separate bureau.	The unit concentrates on robbery, burglary and assault and has a point-system to evaluate the suspect's record which includes such factors as the number of prior convictions, prior arrests, pending cases, etc.	The D.A.'s Office has an early case assessment bureau which screens all cases and refers appropriate cases to the career criminal program. The DA's Office also has a major felony program which is assigned serious felony offenses committed by defendants who do not have extensive prior records. The police are also aware of the screening criteria and notify the career criminal program at times of relevant arrests.	An informal system for increasing the priority of career criminal cases exists with the cooperation of the court. Plea bargaining is very limited and very rarely involves more than one count below the original charge. Vertical prosecution techniques are used and efforts are made to become involved in investigations early.	104 closed cases, 99 percent conviction rate (estimated).
Memphis Major Violator's Unit	July 76	Staff: 1 director 5 ADAs 3 investigators 1 statistician 1 secretary Separate bureau.	Point system is used involving prior record, present offense, probationary status, etc. Discretionary points are also available if the ADA feels them appropriate for a case.	Policy notify the unit when appropriate offenses occur. Police determine the past record of the defendant.	Unit was responsible for the addition of a new courtroom in Memphis but abides by regular court assignment procedures in most respects due to concern with constitutional challenges. Office will plea bargain on sentences but not on charges. Vertical prosecution techniques are used and early investigation is encouraged.	No data are available due to the recent origin of the unit.

Project	Start-Up Date	Organization	Criteria	Screening Process	Policies	Flow
<u>Miami</u> Career Criminal Program	Feb. 76	Staff: 1 director 6 ADAs 4 secretaries 4 investigators Operates as a separate bureau with exclusive responsibility.	The unit focuses upon violent crimes and in- trusions into the home. Defendants also are re- quired to have a past record of felony arrests or convictions.	A screening clerk gathers data on the criminal record of all violent offenders and cases involving intru- sions into the home. The Chief Attorney and Deputy Chief Attorney of the program then review the cases to determine whether the career criminal pro- gram should prosecute them. The cases are assigned to ADAs who later eliminate the cases if they are jud- ged to be inappropriate following further in- vestigation.	No special trial sched- uling procedures are used other than routine efforts to insure speedy trial. Plea bargaining is conducted if it seems appropriate for the case. Vertical prose- cution techniques are used and full disclosure is practiced.	81 closed cases, 93.7 percent conviction rate.
<u>New Orleans</u> Career Criminal Bureau	May 75	Staff: 1 director 8 ADAs 1 paralegal 3 police inves- tigators 1 data collec- tor Separate bureau	Defendants must have 2 prior felony con- victions or 5 prior felony arrests.	Police screen cases with the aid of a com- puter program which indicates which defen- dants meet the career criminal bureau cri- teria. The DA's of- fice also doublechecks to be sure all appro- priate cases are as- signed to the unit.	The bureau does receive priority scheduling for trials and the DA's of- fice is empowered to set trial schedules. Vertical prosecution techniques are used. Plea bargaining is severely limited. Ef- forts are made to in- sure early investiga- tion of cases.	153 cases, 94 percent con- viction rate (estimated).
<u>Rhode Island</u> Major Violator's Unit	April 76	Staff: 1 director 1 assistant director 3 investigators 1 public info. officer 1 office mgr. 2 secretaries Separate bureau. Pro- secutes cases through- out the state of Rhode Island although the majority of the cases are likely to arise in Providence.	To be selected a case must involve (1) or- ganized crime, (2) robbery, burglary, rape, aggravated as- sault or weapons of- fenses, with the de- fendant having 2 prior felony convictions for the listed offenses or 5 prior felony arrests for the listed offen- ses or (3) the defen- dant is on parole or bail and commits one of the listed offen- ses.	Cases are screened by means of the PROMIS computer system. In- formation is sent to the computer at the time of charging and at the time of grand jury action and the various criteria are included in the com- puter printout.	Cases for prosecution are prioritized and the DA's Office currently is empowered to set the trial calendar. The court will begin trial setting shortly but has agreed to prioritize cases in line with sug- gestions from the pro- secutor's office. Ver- tical prosecution tech- niques are used. Open discovery procedures are used and plea bar- gaining is strictly limited so that sen- tences but not charges are plea bargained.	The unit is of recent origin and only limited data are available.



Project	Start-Up Date	Organization	Criteria	Screening Process	Policies	Flow
<u>Saint Louis</u> Major Violators Unit	Aug. 76	Staff: 2 trial attorneys 1 management coordinator 2 investigators	Eligible cases are homicide, robbery, burglary, felonious sex offenses, felonious major assault cases. The defendant must have one prior conviction for the same offense, or two convictions in the same category, or four felony convictions (of any type).	Screening is done when the police come in to apply for a warrant.	Vertical prosecution techniques are used. The unit intends to keep plea bargaining to a minimum; they will recommend a specific sentence to a judge. Open discovery procedures are used, as required under Missouri law. The unit's non-confined cases have priority over other non-confined cases in the system.	No data are available due to the recent origin of the unit.
<u>Salt Lake City</u> Career Criminal Program	July 75	Staff: 1 director 3 ADAs 1 investigator 1 secretary 1 data collector 1 screening clerk Operates as a separate bureau with exclusive responsibility.	Six categories are used for screening. (1) two or more convictions for serious felony offenses, (2) three or more convictions for any felony offenses, (3) five or more felony arrests, (4) two or more felony convictions in the last five years, (5) 2 or more open cases involving serious crimes, (6) release from a correctional institution in the last five years.	The screening division determines if a case meets the criteria for career criminal program prosecution. A computer search of the suspect's record is made by the screening division.	The unit does not have a mechanism for priority scheduling of trials other than that defendants in pretrial detention are given priority scheduling. The majority of career criminal program defendants are held in pretrial detention. The unit has a policy of no plea bargaining unless the evidence in the case weakens to the point that the initial charge is inappropriate. Vertical prosecution strategies are used, and early case preparation is stressed.	110 cases completed, 78 percent conviction rate (estimated).
<u>San Diego</u> Major Violator's Unit	July 75	Staff: 1 director 5 ADAs 1 research analyst 3 clerical Separate bureau with exclusive responsibility.	Focuses on homicide-related robbery. Offense must be serious, or defendant's record extensive, or both. Numerical system to weight the defendant's prior record and a number of additional discretionary points are available to the ADA when they seem appropriate.	Police robbery units have screening sheets and the police bring appropriate cases to the major violator's unit attention. Similarly the DA's Office screens cases when they are initiated. ADAs often screen cases over the phone in consultation with the police.	The unit does not have a system for increasing the scheduling priority of cases prosecuted by the unit. Vertical prosecution techniques are used, and one ADA is on call at all times to respond to calls regarding new cases. Plea bargaining is severely limited. Full disclosure is practiced.	113 cases, 97 percent conviction rate (estimated).

## EXEMPLARY PROJECTS REVIEW BOARD

Members of the Exemplary Projects Review Board in June 1976, when the Bronx Major Offense Bureau was selected, were the following:

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Division of Criminal Justice Services  
New York, New York

Paul Quinn, Director  
Division of Criminal Justice  
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Denver, Colorado

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Missouri Council on Criminal Justice  
Jefferson City, Missouri

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Model Program Development Division/OTT  
National Institute of Law Enforcement and Criminal Justice

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EXEMPLARY PROJECT: The Bronx Major Offense Bureau

To help LEAA better evaluate the usefulness of this document, the reader is requested to answer and return the following questions.

1. What is your general reaction to this document?

☐ Excellent      ☐ Average      ☐ Useless  
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2. To what extent do you see the document as being useful in terms of: (check one box on each line)

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Administering ongoing projects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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3. To what specific use, if any, have you put or do you plan to put this particular document?

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7. Have you contacted or do you plan to contact the project for further information?

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8. Check ONE item below which best describes your affiliation with law enforcement or criminal justice. If the item checked has an asterisk (\*), please also check the related level, i.e.,

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|  |   |  | <input type="checkbox"/> Court *                     |
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|  |   |  | <input type="checkbox"/> Legislative Agency *        |
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10. If you are not currently registered with NCJRS and would like to be placed on their mailing list, check here. ☐

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