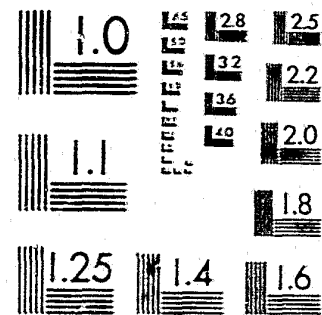


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National Institute of Justice  
United States Department of Justice  
Washington, D. C. 20531

DATE FILMED

7/27/81

U.S. Department of Justice  
National Institute of Justice  
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## POLICY BRIEFS

Action Guides for Legislators and Government Executives

*Based on research and program development projects of the National Institute of Justice*

### Career Criminal Programs

#### THE PROBLEM

Research has shown that a relatively small number of offenders are responsible for a disproportionate share of serious criminal acts. Despite this fact, repeat offenders or "career criminals" are frequently not targeted for special prosecutorial action. Without such attention, the habitual offender can benefit from the clogged court dockets, long delays, and inadequate prosecutorial resources that characterize many jurisdictions. The result:

- Dismissals and inappropriate charge reductions due to insufficient case preparation and dilution of case strength over time;
- Increased risk of pretrial recidivism as a result of long delays between indictment and trial;
- Decreased public confidence in a system that allows repeat offenders to escape swift and stringent punishment for their crimes.

#### CONTENTS OF THIS BRIEF

708703 presents information on the operation of Career Criminal Programs or Major Violator Units. established as separate prosecutorial units within the District Attorney's Office, these concentrate investigative and prosecutorial resources on the conviction of repeat offenders.

tions I-III describe the objectives, key features, and benefits of Career Criminal Programs.

tion IV describes the actions taken by the State of California to design and fund a state-rated Career Criminal Program.

tion V lists sample legislation and references to sources for additional information and stance.

## NATIONAL INSTITUTE OF JUSTICE

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September 1980

Prepared for the National Institute of Justice, U. S. Department of Justice by Abt Associates Inc., under contract number J-LEAA-013-78. Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the U. S. Department of Justice.

### I. INTRODUCTION

#### The Need to Focus Attention on the Career Criminal

In the mid-1970's, the Institute for Law and Social Research (INSLAW) conducted a major study for the National Institute of Justice that detailed the extent of the career criminal problem. INSLAW developed criminal profiles of over 45,000 persons arrested during a 56-month period for non-federal felonies or serious misdemeanors in the District of Columbia. Those persons who were arrested four or more times during that period constituted only 7 percent of all persons arrested. Yet, this group accounted for 24 percent of all arrests. Moreover, this study revealed that 26 percent of all felony cases involved defendants who were on pretrial release, probation or parole when they were arrested.<sup>1</sup>

Considering the burden on the criminal justice system created by the repeat offender, it is surprising that these offenders frequently are not targeted for special prosecutorial attention. A study of the District of Columbia prosecutor's office also conducted by INSLAW in 1973 and 1974 indicated that the prior criminal record of a defendant had no independent influence on the case-processing decisions made by prosecutors. Two factors emerged as important determinants of the decision to prosecute a case: (1) the nature of the crime, and (2) the strength of the evidence. No special effort was being made to prosecute the repeat offender.

#### The Initiation of the Career Criminal Program

In 1973 the National Advisory Commission on Criminal Justice Standards and Goals urged that prosecutors and the courts give priority to cases involving habitual offenders and professional criminals.<sup>2</sup> The goals of this policy were crime control and deterrence:

- Faster disposition of these cases could encourage imposition of higher bail and greater use of pretrial detention, thus reducing the defendant's opportunity to commit more crimes;
- Swifter prosecution and more severe punishment could operate as a deterrent, if only through the incapacitation of the repeat offenders themselves.

Citing the Commission's recommendation, the District Attorney for Bronx County, New York established the Major Offense Bureau in 1973 under a state block grant from the Law Enforcement Assistance Administration. This unit, devoted exclusively to the prosecution of serious crimes and career criminals, was subsequently designated an Exemplary Project by the National Institute of Justice.<sup>3</sup>

In 1975, the Adjudication Division of the Law Enforcement Assistance Administration launched the National Career Criminal Program with the establishment of programs in 11 cities. An additional eight cities received funding the following year, and growth of this program has continued to the present time (see Appendix for a listing of the jurisdictions that have received LEAA discretionary funds as of this writing). More recently, LEAA has given incentive funds to Connecticut, Florida and New York for statewide Career Criminal Programs. These funds support from four to 12 prosecutorial units and a state-level administrative office in those three states.

## II. KEY PROGRAM FEATURES

There is wide variation in the organization and policies of the various Career Criminal Programs that have been funded by LEAA. There are, however, central features that they share:

**Organization.** Most Career Criminal Programs are established as a separate bureau within the District Attorney's Office. A bureau chief, one or more assistant district attorneys, plus a full-time support staff, are assigned permanently to the unit. Assignment of more experienced attorneys to the bureau is a central feature of these programs.

**System of Prompt Notification.** A key feature of most programs is a system of direct police referral of potentially qualifying cases to the special unit. Additionally, a clerk may be stationed in the District Attorney's complaint room to notify the attorneys of potential cases.

**Intake Procedures.** Once cases have been referred to the special unit, an objective selection procedure is used to identify qualifying offenders. For example, many programs have developed a numerical rating form with precise scoring criteria for this purpose. Such a procedure standardizes the way in which similar cases are handled by the office. Three factors are usually weighed in determining whether an offender deserves career criminal prosecution: (1) the nature of the offense, (2) the defendant's criminal history, and (3) the strength of the case. To facilitate the identification of repeat offenders, many Career Criminal Programs have sought to develop better means of accessing federal, state and local criminal records.

**Vertical Prosecution.** The cornerstone of Career Criminal Programs is vertical prosecution, whereby one assistant district attorney has responsibility for a case from beginning to end. This policy eliminates unnecessary duplication of effort, reduces delay, and minimizes inconvenience to both witnesses and police.

**Limited Plea Bargaining.** Most Career Criminal Programs limit the scope of plea negotiations that will be undertaken. For example, the Major Offense Bureau in the Bronx will only allow defendants to plead guilty to the first or second count in the indictment; once trial begins, plea negotiations will not be reconvened. The San Diego Major Violator Unit, a project awarded exemplary status by NIJ in 1979, has a similar policy.<sup>4</sup> Prior to entering plea negotiations, the MVU attorneys determine what charges against the defendant best capture the nature of the offense and will result in a sentence that fits the crime. Once charges have been filed, the prosecutors typically seek conviction on the top felony counts and do not settle for pleas to lesser charges.

**Coordination with Law Enforcement.** To function successfully, a Career Criminal Program must develop a close working relationship with law enforcement agencies. One way in which police and prosecutors work together—direct police referral of cases to the career criminal unit—was cited previously. This coordination of effort typically extends to the investigative process as well. In San Diego, for example, local law enforcement agencies and MVU attorneys are in frequent contact regarding evidence collection and prosecutorial strategy. The MVU has at least one deputy district attorney available 24 hours a day to respond to police inquiries.

**Coordination with the Courts.** Many courts have installed a priority scheduling procedure to expedite the disposition of cases involving repeat offenders. When the courts are saddled with exceptionally heavy backlogs, it may be desirable for a Career Criminal Program to have separate trial sessions for litigation of its cases. There are two additional ways in which district attorneys can work with the judiciary in the handling of repeat offenders. First, at bail hearings, prosecutors can make the defendant's prior record known to the judge and urge that a high bail be set. Second, where permitted, attorneys can recommend to the courts that maximum sentences be given to the repeat offender upon conviction. This can be done by highlighting the offender's criminal history and emphasizing the possible applicability of sentence enhancement statutes.<sup>5</sup>

**Coordination with Corrections.** Some Career Criminal Programs have attempted to involve themselves in parole determinations. For example, the St. Louis, Missouri Major Violator Unit has instituted a procedure whereby the MVU routinely requests to be notified whenever career criminals become eligible for their first parole hearing. This request is forwarded to the State Board of Probation and Parole 75 days after a career criminal defendant is sentenced. Upon notification, the attorney who prosecuted the case attends the parole hearing to oppose the offender's early release.<sup>6</sup> Interviews conducted by Rand in 1978 with correctional administrators in 30 states showed that most administrators are receptive to prosecutor requests for notification regarding early release hearings.<sup>7</sup>

### III. BENEFITS OF THE CAREER CRIMINAL PROGRAM

#### Improvements in Prosecutorial Techniques

One measure of the effectiveness of Career Criminal Programs is the level of satisfaction expressed in existing programs by chief prosecutors and program directors. A survey of approximately 75 career criminal jurisdictions conducted in 1979 by the Institute for Law and Social Research (INSLAW) showed that 92 percent of chief prosecutors and 87 percent of program directors rated the program in their jurisdiction to be excellent or very good. Only 2 percent of the directors and none of the chief prosecutors found their program to be unsatisfactory.

These respondents were asked to report if installation of the Career Criminal Program had enhanced the quality of their prosecution of repeat offenders. Listed below is the percentage of respondents who cited improvements in each of several aspects of successful criminal prosecution:

- Case intake procedures (case screening)—83 percent;
- Case tracking and monitoring—69 percent;
- Victim/witness cooperation—69 percent;
- Internal investigative resources—66 percent;
- Conversion from horizontal to vertical prosecution—75 percent;
- Curtailment of case continuances—79 percent; and
- Relations with other components of the criminal justice system—50 percent.

Importantly, 76 percent of these chief prosecutors and program directors cited an improvement in attorney morale as a result of their Career Criminal Program. A full 62 percent said that the program had improved their public image.<sup>8</sup>

#### Improvements in Prosecutorial Effectiveness

Evaluation studies of Career Criminal Programs have focused on several standard measures of prosecutorial effectiveness:

- **Reduction in the amount of time required to prosecute a case.** Varying levels of success have been reported in achieving this goal. The California Career Criminal Prosecution Program reported no change in case processing time across its statewide system of 12 career criminal units.<sup>9</sup> In contrast, the Major Violators Project in Suffolk County, Massachusetts cited a 67 percent reduction in the average time required to process an offender from arrest to conviction.<sup>10</sup> Similarly, the Kalamazoo unit reported a 51 percent reduction, while units in New Orleans and Columbus, Ohio posted more modest reductions of 31 and 15 percent respectively.<sup>11</sup> A major reason for this variable success in reducing case processing time appears to be the prior ability of a District Attorney's Office to accomplish quick case disposition. For example, the Major Offense Bureau in the Bronx was able to show a dramatic reduction from the office's 400-day average processing time for all cases to a 97-day average for career criminal cases. In contrast, the San Diego District Attorney's Office has needed only about 100 days to move career criminal cases from arrest to final disposition, both before and after installation of its Major Violator Unit.
- **Reduction in the number of repeat offenders securing pretrial release.** Only two programs cite figures for this outcome measure. The Suffolk County unit reported that a 30 percent reduction in the number of career criminals being released on bail had been achieved,

primarily through the setting of higher bail. The average bail for repeat offenders increased threefold in California counties having career criminal units; the percentage of such offenders in custody at the time of trial increased from 79 percent to 82 percent.

- **Increase in the overall rate of conviction.** Increases in the overall conviction rate of repeat offenders have been uniformly modest. Often, such rates were already high before the program was instituted. For example, Suffolk County reported a conviction rate for career criminal cases of 87 percent prior to the creation of its Major Violator Project; this rate increased to 96 percent after the project was started. Other programs have reported increases ranging from 2 to 7 percent.
- **Increase in the rate of conviction for the most serious charge.** In contrast to the overall conviction rate, strength of conviction, as indicated by the rate of conviction for the most serious charge, has improved dramatically in jurisdictions with special prosecutorial units. Prior to the establishment of the California Career Criminal Prosecution Program, for example, only 60 percent of the prosecuted career criminals were convicted of the most serious charge against them. With the installment of those programs, this figure rose sharply to 81 percent. Within San Diego County alone this increase was from 41 percent during the baseline period to 76 percent after the special prosecution unit had been established. The Kalamazoo program saw an 18 percent increase in its conviction rate for the top-listed offense.
- **Reduction in the scope of plea negotiations.** Data on fulfillment of this objective are available from the California program. During the baseline period, only about 42 percent of all charges made against repeat offenders resulted in conviction; 51 percent were dropped by the prosecutors, in part as a result of plea negotiations. In contrast, establishment of the program saw the percentage of charges leading to conviction increase to 61 percent, with only 32 percent of the charges being dropped by the prosecuting attorneys. These data, coupled with the increase in convictions for the most serious charge, suggest that prosecutors have successfully reduced the scope of plea negotiations.
- **Increase in the rate of incarceration.** Nearly all Career Criminal Programs have reported increases in the percentage of career criminal prosecutions leading to incarceration of the offender. Across all 12 California programs, this rate jumped from 64 to 84 percent. The San Diego office, which already had a high rate at 87 percent, showed an increase of four percent. Kalamazoo also reported an increased incarceration rate, from 62 to 69 percent, as did Columbus, from 71 to 73 percent. According to the MITRE report, only the program in New Orleans reported a drop in the incarceration rate, from 75 to 70 percent.
- **Increase in the average length of sentence.** Reflecting their success in securing convictions on the top-listed charges and in reducing the scope of plea negotiations, most units have reported an increase in the average sentence meted out to convicted repeat offenders. For example, across all 12 of its programs, California reported an increase in the average sentence from 4 years, 6 months to 5 years, 5 months, excluding life sentences. The San Diego unit showed a more dramatic increase than the state as a whole, from an average of 4 years, 4 months to 8 years, 10 months. Suffolk County reported an increase in the minimum average sentence from 6 years, 11 months to 8 years, 5 months. More modest increases were reported by units in New Orleans and Columbus. None of these results is changed significantly if life sentences are included (life sentence computed at 30 years). It is apparent that the higher incarceration rates and longer sentences achieved by Career Criminal Programs may have a significant impact on corrections policy through their effect on the size and composition of the prison population. It should be noted, however, that Rand researchers have recently recommended against the introduction of special correctional programs for the career criminal.<sup>12</sup>

What factors predict the level of success that a program will have? First, an examination of the 12 California units suggests that those units focusing on only two crimes, such as burglary and robbery, show greater improvements than those concentrating on a wider range of felonies. Second, as noted above, less improvement is shown by units working out of offices that previously had enjoyed a fair amount of success in prosecuting repeat offenders.

In summary, Career Criminal Programs have been successful in enhancing the quality of prosecution of repeat offenders. As reported, chief prosecutors and program directors of most programs are able to cite several ways in which prosecutorial techniques have been improved. Furthermore, many units report an increase in the rate of conviction for the most serious charge lodged against repeat offenders, a reduced reliance on plea bargaining, a higher rate of convictions per prosecutions, a higher rate of incarceration, and an increase in the average length of sentence imposed on convicted offenders.

#### IV. AGENDA FOR ACTION: THE CALIFORNIA APPROACH

This section will outline the steps to be followed in creating a state-financed Career Criminal Program, citing as an example the California Career Criminal Prosecution Program created in 1977.

##### Determining Local Needs

In assessing the need for a Career Criminal Program in a given jurisdiction, planners should first assess the present ability of the District Attorney's Office to prosecute repeat offenders. What percentage of career criminals are being convicted on the most serious charge against them? To what extent are repeat offenders securing pretrial release? What is the average delay between arrest and case disposition for these offenders? What factors presently influence the decision to prosecute a given case? Does a defendant's prior record become quickly known to the prosecutor?

In essence, it must be determined if the increase in effectiveness that might be realized from the installation of a career criminal unit is worth the extra cost of the program. Existing programs should be studied to help predict the impact a new unit might reasonably be expected to have in a similar jurisdiction.

##### Responding to Issues of Concern

The strongest argument in support of a Career Criminal Program is its expected impact on the effectiveness of prosecution efforts against repeat offenders. But as with many criminal justice programs, Career Criminal Programs will raise certain concerns:

- *Does a program of targeted prosecution for recidivist offenders violate a defendant's rights to equal protection?* The Major Offense Bureau in Bronx County, New York faced a legal challenge on these grounds by the Legal Aid Society of the City of New York, but the case was dismissed. According to Congressional testimony given by George C. Smith, the National Chairman of the Career Criminal Committee of the National District Attorneys Association, appellate review of selective prosecution of career criminals had occurred in five states by May, 1978. All five courts noted that it is within the prosecutor's legal discretion to prosecute selectively defendants who are repeat offenders.<sup>13</sup> A more thorough review of this and other legal issues can be found in a recent INSLAW briefing paper.<sup>14</sup>
- *Does the accelerated prosecution of career criminals fail to allow the defendant sufficient time to prepare an adequate defense?* Two points can be raised in response to this question. First, those jurisdictions that do not have local rules or laws prohibiting or impeding full disclosure or open discovery have frequently adopted this practice in career criminal cases. Second, states with speedy trial statutes typically require a minimum period of time to elapse between the defendant's arraignment and trial or between the defendant's first appearance with defense counsel and trial. These requirements are designed to permit sufficient time for defense preparation despite the accelerated pace of prosecution created by speedy trial. Implementation of such requirements, with or without other speedy trial provisions, would be one response to this question about career criminal prosecution. The INSLAW briefing paper also discusses case law related to this potential legal challenge.
- *Is it fair for the co-defendants of career criminals to be prosecuted by a special prosecutorial unit when they would not otherwise be selected for career criminal prosecution?* Evidence on this point is presented by the California Career Criminal Prosecution Program in its 1980



report to the state legislature. A number of measures indicated that non-career criminal co-defendants handled by the special units do not suffer disadvantage in terms of the probability of their incarceration or the average length of their sentences. Additionally, the Bronx Major-Offenders Bureau reports that it is more flexible in its plea negotiations and is often more lenient in its sentence recommendations for such defendants.

- *Will setting aside special court sessions or giving priority to cases involving repeat offenders cause unwarranted delays in the processing of other cases?* Unless funds are made available for the appointment of new judges or for the construction of new facilities, other cases may be delayed as a result of this procedure. But this cost must be weighed against the benefits of the Career Criminal Program.
- *Will creation of such career criminal units lead to the formation of an "elite" within the District Attorney's Office?* The INSLAW survey of chief prosecutors and career criminal program directors cited before showed that only 16 percent believed that attorneys in such units were perceived to be "privileged" by their colleagues. Only 9 percent were concerned that these attorneys were becoming isolated from those in other bureaus.
- *Is it the case that by the time offenders have accumulated several adult arrests and convictions, they may be past their peak period of criminality?* A recent Rand study sponsored by the National Institute of Justice found that commission of criminal acts drops off sharply after the age of 30. This finding suggests that offenders below this age may be the best candidates for career criminal prosecution. To identify such an offender correctly, the prosecutor needs access to information on the offender's entire criminal history. In some cases, this would mean access not only to adult records, but to juvenile records as well. In many jurisdictions, however, information sharing between juvenile and adult courts has not become a routinized and accepted part of judicial procedure.<sup>15</sup>

#### Enacting Legislation

The California Career Criminal Act (Senate Bill 683, Chapter 1151 or 1977 Statutes) grants permission to county prosecutors to establish special prosecution programs for career criminals. There are several aspects of this legislation worthy of comment; the bill itself can be found in the Appendix to this Brief:

- Managerial responsibility for the Career Criminal Prosecution Program is vested in the state's Office of Criminal Justice Planning (OCJP). Funds appropriated for the program are administered and distributed by OCJP. This office also is charged with preparing and issuing guidelines for the District Attorney's Offices and with reporting annually to the state legislature on the operation and results obtained by the various career criminal units.
- The Act specifies minimal features of the career criminal program, including: (1) vertical prosecution; (2) assignment to the special units of highly qualified and experienced prosecuting attorneys; and (3) a reduction of caseload for the staff assigned to such units. It is the intent of the Act for a separate bureau or unit for career criminal prosecution to be established in the District Attorney's Offices.
- Criteria for selection of an individual for career criminal prosecution are listed. Essentially, these criteria focus on the number and type of crimes committed and the defendant's prior conviction record. While several felonies are listed as being worthy of targeted prosecution, the district attorneys are given discretion in which of those crimes they will pursue. Each office must strike a balance between the breadth of its definition of the career criminal and its available resources.

- Specific objectives of career criminal prosecution are listed; subsequent reports prepared for OCJP have highlighted the programs' progress in meeting those goals.
- Circumstances under which an attorney could exercise discretion in the prosecution of a career criminal are spelled out. It is clearly understood that the facts of a particular case may not warrant prosecution on the most serious charge.
- An appropriation is made from the state's General Fund to OCJP for the administration of the Act and the allocation of funds to selected District Attorney's Offices.

#### Implementation of the Legislation

It is instructive to examine how the Office of Criminal Justice Planning has implemented the Career Criminal Act.<sup>16</sup> As noted above, OCJP has responsibility for issuing guidelines, distributing funds, monitoring the day-to-day operation of the program, and submitting an annual evaluation report to the legislature.

- **Issuance of Guidelines.** The Executive Director of OCJP has the ultimate responsibility for preparing and issuing administrative guidelines for the Career Criminal Prosecution Program. This function is executed with the assistance of a Program Steering Committee composed largely of state prosecutors and law enforcement officials. Drafts of these guidelines are submitted for review to the Chairpersons of the Criminal Justice Committee of the State Assembly and the Senate Judiciary Committee.
- **Distribution of Funds.** Among the guidelines first issued by OCJP were project selection criteria for distribution of the funds appropriated by the legislature. Applications received from the various District Attorney's Offices were reviewed by the Program Steering Committee; recommendations made by that committee were based largely on the population of the various counties making application. Larger state appropriations made since 1977 have enabled OCJP to expand the list of counties having a career criminal unit. County population continues to be a major determinant of the funding those units receive.
- **Program Management.** The management of the Career Criminal Program is the responsibility of a staff coordinator working out of OCJP's offices in Sacramento. Management of the program is facilitated by monthly and quarterly reports submitted by each unit.
- **Program Evaluation.** The Program Steering Committee established an Evaluation/Legislative Report Sub-Committee to work with the OCJP staff in the design and implementation of an evaluation strategy. This sub-committee is composed of state prosecutors and law enforcement officials, as well as representatives from the Legislative Analyst's Office and other state agencies. Preparation of the annual report to the legislature typically has been contracted out to a criminal justice consulting firm.

## V. SOURCES FOR FURTHER INFORMATION AND ASSISTANCE

Provided in the Appendix is the California Career Criminal Act (Senate Bill 683, Chapter 1151 of 1977 Statutes), which is the enabling legislation for the state's Career Criminal Prosecution Program. No other state to date has passed such legislation.

The following written reports, referenced in the text of this Brief, can be consulted for more information on the organization, operation and evaluation of Career Criminal Programs:

1. Institute for Law and Social Research. *Curbing the Repeat Offender: A Strategy for Prosecutors*. Washington, DC: Law Enforcement Assistance Administration, U.S. Department of Justice, 1977.
2. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, DC: Government Printing Office, 1973.
3. McGillis, D. *The Major Offense Bureau: An Exemplary Project*. Washington, DC: National Institute of Justice, U.S. Department of Justice, 1977.
4. Whitcomb, D. *The Major Violator Unit: An Exemplary Project*. Washington, DC: National Institute of Justice, U.S. Department of Justice, in press.
5. Institute for Law and Social Research. *Career Criminal Briefing Paper No. 10: Prosecutor-Court Coordination* (Draft). Washington, DC: Institute for Law and Social Research, 1980.
6. Silverstein, E.S. *Case Study of the St. Louis City/County Major Violator Unit*. Cambridge, MA: Abt Associates, 1978.
7. Petersilia, J., and Lavin, M. *Targeting Career Criminals: A Developing Criminal Justice Strategy*. Santa Monica, CA: Rand Corporation, 1978.
8. Institute for Law and Social Research. *Attitudes Toward the Career Criminal Program: Highlights of a Survey Among Chief Prosecutors and Program Directors*. Washington, DC: Institute for Law and Social Research, 1979.
9. *California Career Criminal Prosecution Program: Second Annual Report to the Legislature*. Sacramento: Office of Criminal Justice Planning, 1980.
10. McDonnell, J.J. *Case Study of the Major Violator Project of Suffolk County, Massachusetts*. Cambridge, MA: Abt Associates, 1978.
11. Chelimsky, E., and Dahmann, J.S. *National Evaluation of the Career Criminal Program: Final Report*. Washington, DC: National Institute of Justice, U.S. Department of Justice, in press.
12. Petersilia, J., Honig, P., and Hubay, C. *The Prison Experiences of Career Criminals*. Santa Monica, CA: Rand Corporation, 1980.
13. U.S. Congress, Joint Economic Committee. *Urban Crime Policy: Hearing before the Subcommittee on Economic Growth and Stabilization*. 95th Congress, 2nd Session, May 17, 1978, pp. 29-37.
14. Institute for Law and Social Research. *Career Criminal Briefing Paper No. 6: Responses to Legal Challenges* (Draft). Washington, DC: Institute for Law and Social Research, 1979.
15. Peterson, M.A., Braker, H., & Polich, S. *Doing Crime*. Santa Monica, CA: Rand Corporation, 1980.
16. *California Career Criminal Prosecution Program: Preliminary Report to the Legislature*. Sacramento: Office of Criminal Justice Planning, 1979.

The following individuals are experienced in the planning and operation of Career Criminal Programs and can be contacted for further information or advice:

- Richard J. Neely  
San Diego Major Violator Unit  
Office of the District Attorney  
County of San Diego  
County Courthouse (C-16)  
220 W. Broadway  
San Diego, California 92101  
(714) 236-2388
- Sheri Struhl Roman  
Major Offense Bureau  
Office of the District Attorney  
Bronx County  
215 East 161st Street  
Bronx, New York 10451  
(212) 590-2000
- Charles M. Hollis  
Career Criminal Program Director  
Adjudication Division  
Law Enforcement Assistance Administration  
Washington, D.C. 20531  
(202) 724-7681
- James F. McMullin  
Institute for Law and Social Research  
1125 15th Street, N.W.  
Suite 600  
Washington, D.C. 20005  
(202) 828-8600

Information on California's statewide approach to career criminal program funding may be obtained from:

- Douglas R. Cunningham, Director  
Office of Criminal Justice Planning  
7171 Bowling Drive  
Sacramento, California 95823  
(916) 445-9156

Finally, the following jurisdictions have received discretionary funds from the Law Enforcement Assistance Administration for the establishment of Career Criminal Programs, according to LEAA's Adjudication Division:

### California

Los Angeles County  
San Diego County  
San Francisco City/County  
Ventura County

### Connecticut

New Haven

### Florida

Pinellas County (Clearwater)  
Duval County (Jacksonville)  
Dade County (Miami)

### Indiana

Marion County (Indianapolis)  
Lake County

### Kentucky

Louisville

### Louisiana

Baton Rouge Parish (Baton Rouge)  
Jefferson Parish (Gretna)  
Orleans Parish (New Orleans)

### Maryland

Montgomery County (Rockville)

### Massachusetts

Bristol County (New Bedford)  
Essex County (Salem)  
Middlesex County (Cambridge)  
Norfolk County (Dedham)  
Springfield County (Hampden)  
Suffolk County (Boston)

### Michigan

Wayne County (Detroit)  
Kalamazoo County (Kalamazoo)

**Minnesota**  
Minneapolis

**Missouri**  
Jackson County (Kansas City)  
St. Louis City/County

**Nevada**  
Clark County (Las Vegas)

**New Jersey**  
Hudson County  
Passaic County  
Camden County

**New Mexico**  
Albuquerque

**New York**  
Monroe County (Rochester)  
New York City (Manhattan)

**Ohio**  
Franklin County (Columbus)

**Oklahoma**  
Oklahoma County (Oklahoma City)

**Oregon**  
Lane County (Eugene)  
Multnomah County (Portland)

**Pennsylvania**  
Philadelphia

**Rhode Island**

**Tennessee**  
Davidson County (Nashville)  
Shelby County (Memphis)  
Knox County (Knoxville)

**Texas**  
Dallas County (Dallas)  
Harris County (Houston)  
Travis County (Austin)

**Utah**  
Salt Lake County (Salt Lake City)

**Virginia**  
Portsmouth

**Statewide or Multi-Jurisdiction Sites**  
Connecticut  
Florida  
New York

## **APPENDIX**

California Career Criminal Act  
(Senate Bill 683, Chapter 1151 of 1977 Statutes.)



An act to add and repeal Chapter 2.3 (commencing with Section 999b) to Title 6 of Part 2 of the Penal Code, relating to career criminals, and making an appropriation therefor.

(Approved by Governor September 29, 1977. Filed with Secretary of State September 29, 1977.)

LEGISLATIVE COUNSEL'S DIGEST

SB 683, Deukmejian. Career Criminals.

Existing law contains various provisions relating to the prosecution and sentencing of persons with prior felony convictions.

This bill would add provisions permitting prosecutors in each county to establish Career Criminal Prosecution Programs whereby enhanced prosecution procedures would apply to persons under arrest who have suffered previous convictions or are charged with multiple offenses, as specified.

The bill would appropriate \$1,500,000 for such purposes.

The provisions of the bill would remain operative only until January 1, 1982, and on such date would be repealed.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

Section 1. Chapter 2.3 (commencing with Section 999b) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2.3. CAREER CRIMINALS

999b. The Legislature hereby finds a substantial and disproportionate amount of serious crime is committed against the people of California by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals. In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute career criminals through organizational and operational techniques that have been proven effective in selected counties in this and other states.

999c. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for district attorneys' offices, designated the California Career Criminal Prosecution Program. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of such office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The executive director is authorized to allocate and award funds to counties in which career criminal prosecution units are established in substantial compliance with the policies and criteria set forth below in Sections 999d, 999e, 999f, and 999g.

(c) Such allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Career Criminal Prosecution Program, be made available to support the prosecution of felony cases.

(d) On or before April 1, 1978, and in consultation with the Attorney General, the executive director shall prepare and issue written program and administrative guidelines and procedures for the California Career Criminal Prosecution Program, consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures, a complete and final draft of them shall be submitted on or before March 1, 1978, to the chairpersons of the Criminal Justice Committee of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

(e) Annually, commencing October 1, 1978, the executive director shall prepare a report to the Legislature describing in detail the operation of the statewide program and the results obtained of career criminal prosecution units of district attorneys' offices receiving funds under this chapter and under comparable federally-financed awards.

999d. Career criminal prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Section 999e. Enhanced prosecution efforts and resources shall include, but not be limited to:

(a) "Vertical" prosecutorial representation, whereby the prosecutor who makes the initial filing or appearance in a career criminal case will perform all subsequent court appearances on that particular case through its conclusion, including the sentencing phase;

(b) Assignment of highly qualified investigators and prosecutors to career criminal cases; and

(c) Significant reduction of caseloads for investigators and prosecutors assigned to career criminal cases.

999e. (a) An individual shall be the subject of career criminal prosecution efforts who is under arrest for the commission or attempted commission of one or more of the following felonies: robbery, burglary, arson, any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code, receiving stolen property, grand theft and grand theft auto; and who is either being prosecuted for three or more separate offenses not arising out of the same transaction involving one or more of such felonies, or has suffered at least one conviction during the preceding 10 years for any felony listed in paragraph (1) of this subdivision, or at least two convictions during the preceding 10 years for any felony listed in paragraph (2) of this subdivision.

(1) Robbery by a person armed with a deadly or dangerous weapon, burglary of the first degree, arson as defined in Section 447a or 448a, forcible rape, sodomy or oral copulation committed with force, lewd or lascivious conduct committed upon a child, kidnapping as defined in Section 209, or murder.

(2) Grand theft, grand theft auto; receiving stolen property, robbery other than that described in paragraph (1) above, burglary of the second degree, kidnapping as defined in Section 207, assault with a deadly weapon, or any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code.

For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison.

(b) In applying the career criminal selection criteria set forth above, a district attorney may elect to limit career criminal prosecution efforts to persons arrested for any one or more of the felonies listed in subdivision (a) of this section if crime statistics demonstrate that the incidence of such one or more felonies presents a particularly serious problem in the county.

(c) In exercising the prosecutorial discretion granted by Section 999g, the district attorney shall consider the following: (1) the character, background, and prior criminal background of the defendant; and (2) the number and the seriousness of the offenses currently charged against the defendant.

999f. Subject to reasonable prosecutorial discretion, each district attorney's office establishing a career criminal prosecution unit and receiving state support under this chapter shall adopt and pursue the following policies for career criminal cases:

(a) A plea of guilty or a trial conviction will be sought on the most serious offense charged in the accusatory pleading against an individual meeting career criminal selection criteria.

(b) All reasonable prosecutorial efforts will be made to resist the pretrial release of a charged defendant meeting career criminal selection criteria.

(c) All reasonable prosecutorial efforts will be made to persuade the court to impose the most severe authorized sentence upon a person convicted after prosecution as a career criminal.

(d) All reasonable prosecutorial efforts will be made to reduce the time between arrest and disposition of charge against an individual meeting career criminal selection criteria.

(e) The prosecution shall not negotiate an agreement with a career criminal:

(1) That permits the defendant to plead guilty or nolo contendere to an offense lesser in degree or in kind than the most serious offense charged in the information or indictment;

(2) That the prosecution shall not oppose the defendant's request for a particular sentence if below the maximum; or

(3) That a specific sentence is the appropriate disposition of the case if below the maximum.

999g. The selection criteria set forth in Section 999e and the policies of Section 999f shall be adhered to for each career criminal case unless, in the reasonable exercise of prosecutor's discretion, one or more of the following circumstances are found to apply to a particular case:

(a) The facts or available evidence do not warrant prosecution on the most serious offense charged.

(b) Prosecution of the most serious offense charged, if successful, would not add to the severity of the maximum sentence otherwise applicable to the case.

(c) Departure from such policies with respect to a particular career criminal defendant would substantially improve the likelihood of successful prosecution of one or more other felony cases.

(d) Extraordinary circumstances require the departure from such policies in order to promote the general purposes and intent of this chapter.

999h. The characterization of a defendant as a "career criminal" as defined by this chapter may not be communicated to the trier of fact.

**SECTION 2.** The sum of one million five hundred thousand dollars (\$1,500,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning without regard to fiscal years for costs of administration of this act and for allocation by the Office of Criminal Justice Planning to district attorneys' offices and the Attorney General for the purposes of this act. It is the intent of the Legislature that any additional funding shall be requested in the annual Budget Act.

**SECTION 3.** This act shall remain operative only until January 1, 1982, and on such date is repealed.

**END**