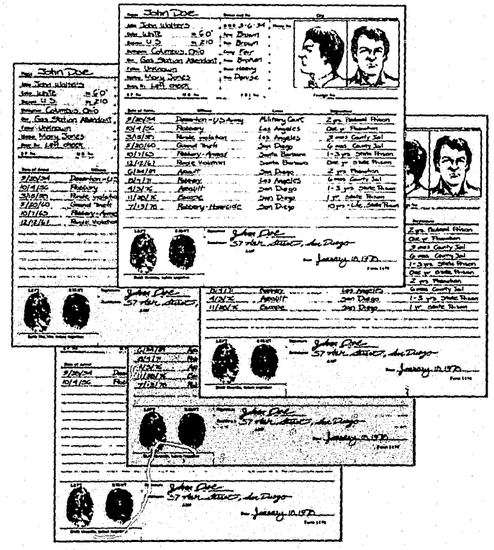
U. S. Department of Justice
National Institute of Justice

Career Criminal Program National Evaluation

Final Report



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Harry M. Bratt
Acting Director

Career Criminal Program National Evaluation

Final Report

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Harry M. Bratt, *Acting Director*

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ABSTRACT

The Career Criminal program is an LEAA-funded effort which provides resources to local prosecutors' offices to identify and rigorously prosecute serious, repeat offenders. The national evaluation of the program, conducted by The MITRE Corporation, includes in-depth analyses of four of the programs, those in: Orleans Parish, Louisiana; San Diego County, California; Franklin County, Ohio; and Kalamazoo County, Michigan. The four were selected from eleven candidate sites in the summer of 1976.

This report presents the final results of the Career Criminal program national evaluation. As such it examines:

- the development of the program concept and the assumptions underlying program effectiveness;
- the program processes themselves including the routine prosecutor practices which form the context for program implementation, the targeted prosecutorial practices instituted, and the target populations;
- extra-program processes in law enforcement and corrections which may aid or impinge upon the ability of the program to achieve its objectives;
- program effects on the performance of the criminal justice system; and
- the question of crime impact.

The research results are summarized and policy recommendations are presented.

PREFACE

This document is the final report resulting from a three year study of the operation and effects of special Career Criminal Prosecution Programs in four jurisdictions, funded by the Law Enforcement Assistance Administration's National Career Criminal program which includes over forty participating programs in addition to those examined in this research. The study was supported by the National Institute of Justice, Department of Justice, under Grant Number 76-NI-99-0092. The report should be of interest to both researchers and policymakers concerned with special prosecution programs and program evaluation in the criminal justice context. The study was carried out at The MITRE Corporation.

ACKNOWLEDGEMENTS

Many people in the criminal justice communities of Orleans Parish, San Diego County, Kalamazoo County and Franklin County helped us in conducting this evaluation: police officials, prosecutors and deputy prosecutors, defense attorneys, judician administrators, court and county clerks, and city and regional planners. They are too numerous to individually acknowledge here. Their contributions of valuable time and critical insights made our research experience not only an informed one, but also a professionally rewarding and a personally enjoyable one.

We would like to particularly thank the elected prosecutors of the four sites, the directors of their career criminal units and members of their administrative staffs, specifically: in San Diego: the Honorable Edwin L. Miller, District Attorney of San Diego; Mr. Richard Neely, Chief, Major Violators Unit; Mr. Douglas Quackenbush, Research Analyst, Major Violators Unit; in Orleans Parish: the Honorable Harry F. Connick, District Attorney of New Orleans, Mr. Timothy Cerniglia, Director of the Career Criminal Bureau; in Kalamazoo: the Honorable James J. Greggart, District Attorney of Kalamazoo County; Mr. Arvin Davis, Chief of the Career Criminal Unit; and in Franklin County: the Honorable George C. Smith, Franklin County Prosecuting Attorney; Mr. John Salenbeme, Chief of the Career Criminal Unit; Mr. William Curlis, Administrator of the Prosecuting Attorney's Office. These individuals and members of their staffs lent us every grace, service and accommodation for our research from its inception.

Among the colleagues and fellow researchers who have contributed their time and effort to this evaluation, we would especially like to acknowledge James L. Lacy, a coauthor of the process analysis whose thinking contributed substantially to the research, Ed Neham, a coauthor of the system performance analysis whose work was critical to the data collection and analyses central to the evaluation, Linda Sue Russell and Paul Tracy, whose work in the law enforcement and corrections analyses contributed to the project. Special thinks go to Charles R. Work for his interested and supportive contributions to the effort.

Finally, we would like to thank John Spevacek, Joel Garner and Frank Vaccarella of the National Institute of Justice for their support and guidance as program managers at various stages of the evaluation.

Our observations, interpretations of data, analyses and conclusions in this volume are, of course, wholly our own, and do not necessarily reflect the views or opinions of any person or agency that assisted us.

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The Career Criminal Program: Origins, Objectives and Assumptions

The Career Criminal program is a federal initiative sponsored by the Law Enforcement Assistance Administration to improve the administration of criminal justice by focusing prosecutorial resources on the serious repeat offender. The program provides funds and technical assistance to local prosecutors to identify so-called "career criminal" defendants--defendants who appear to have established a consistent, serious pattern of criminal behavior--and to give their cases special, more intensive prosecutorial attention. This attention is expected to result in more severe judicial penalties for repeat offenders than would be the case were they prosecuted in the routine fashion. Improvements in the ability of the system to convict and incapacitate that group of offenders assumed to be responsible for a disproportionate amount of criminal activity are expected to ultimately affect crime rates.

The overall objectives of the program are thus three:

- implement a set of activities which are directed toward an identifiable sub-population of defendants defined as career criminals,
- improve the performance of the criminal justice system with respect to this target group of career criminals, and thereby
- reduce crime through increased incapacitation.

The program focuses on prosecution because of its central and critical role in determining who is charged in the criminal courts and the extent to which charges are pursued. Substantial involvement by local agencies both in developing program activities and specifying local target populations has been fostered by the program since it was first announced in 1974. The simplicity of the basic idea behind the program (focus prosecutor efforts in the area where they will do the most good) combined with the flexibility permitted in local implementation has made the program a popular one among prosecutors. By mid-1975, ten programs had been funded and were in operation. By 1979, forty-five individual projects and three state-wide programs had been funded by LEAA national, discretionary, and action funds and an estimated 50 to 60 similar efforts were ongoing in local jurisdictions funded by local state and/or LEAA block funds, including two statewide projects. LEAA provided discretionary funds to selected sites on a two-year basis. Of the original ten programs, all are still ongoing with funding from other sources.

The Career Criminal program evolved from a combination of practitioners' experiences and research findings. The experiences of independent local initiatives in targeted prosecution indicated that a federally sponsored program was both workable and timely from a local perspective. Results of some criminal justice research suggested that the approach exemplified by the program had an empirical base for its expected impact on crime. Taken together, these aspects of the Career Criminal program offered an attractive alternative to prosecutors who were laboring under large caseloads caused by rising crime rates, permitting them to reorient their routine case handling procedures and target their efforts toward an important minority of their caseload with the help of the federal government.

The basic idea of "targeted prosecution" (that is, of focusing prosecutorial attention on high priority cases) is not a new one. The practices it encompasses have long been a part of American criminal jurisprudence. Targeted prosecution proceeds on the assumption that all criminal cases in which the prosecution files charges will be prosecuted with requisite proficiency and determination, but that some--because of the seriousness of the offense and/or the criminal background of the accused--warrant more continuous and comprehensive attention and a greater per-case commitment of prosecutorial resources than do the rest. The forms that this special attention takes (a cradled, comprehensively prepared and expedited prosecution) are neither new nor unfamiliar to criminal prosecution. With large caseloads, disparate talents and experience levels of deputy prosecutors, as well as enormously complex criminal justice structures and proceedings, this particular attention has simply become less feasible in many jurisdictions. Targeting is, in effect, more a matter of systematic priority-selection and resource allocation than one of special technique or technology.

Certain aspects of targeted prosecution (e.g., assigning experienced deputies, priority for trial and special attention to the prosecution and conviction of a minority of a prosecutor's caseload) have long been common in many jurisdictions. Defendants charged with certain crimes (homicide, kidnapping, forcible rape, and infamous offenses, for example) and persons with records of criminal convictions have historically, in many jurisdictions, received prosecutorial attention of far greater intensity than that accorded to other felons. While the cases of other defendants may plod slowly through the process of adjudication, it is not unusual for homicide cases, for example, to be assigned to the most experienced trial deputies, to be nurtured and expedited by the prosecution through the court process, and to be pursued to conviction with particular zeal and expenditure of resources.

In some jurisdictions, the targeting is reflected in the organization of the prosecutor's office. Since the 1930s, for example, the New York County District Attorney's Office has had a special bureau of senior assistants that exclusively and intensively prosecutes homicide cases from arrest through sentencing. In a number of jurisdictions, felonious sexual assaults are prosecuted by specially trained, specially staffed units.[1]

In whatever way it is organized, however, the targeting of resources and attention to a minority of the criminal caseload is invariably reactive: to a too-large caseload, to a fragmented and unevenly distributed criminal justice structure, to procedural hurdles in the criminal process, as well as to the frequent fact of professionally transient and relatively inexperienced prosecutor personnel. It is the singling-out of a small number of cases in order to do with them what cannot be done with the same intensity in all or most cases.

An early program initiative, in the District of Columbia in the late 1960s helped to shape and significantly contributed to the national level decision to launch a program development effort focused on career criminals. At that time, due to pressures of large caseloads in the U.S. Attorney's Office in the District of Columbia, misdemeanor cases, except in extreme situations, were managed in a somewhat uncertain fashion:

> In a typical misdemeanor case, the prosecutor would stand in the courtroom and he would be handed a case folder (if he were lucky), and trailing behind the case folder, hopefully, would be the witnesses and the police officer. So he was charged, in effect, with trying that case off the top of his head.... Approximately 95 percent of misdemeanors in that court system in the late 1960s were handled in this random, assembly-line haphazard fashion. Of course, the results were not happy results.[2]

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[1] Battelle Law & Justice Study Center, Forcible Rape: A National Survey of the Response by Prosecutors, 56 (Nov. 1975).

[2] Charles R. Work, Remarks on the Career Criminal Program From a Federal Perspective, in Eleanor Chelimsky, ed., Proceedings of a Symposium on the Institutionalization of Federal Programs at the Local Level, The MITRE Corporation, M78-80, Volume I, December 1978, page 94.

To help correct this situation, a Major Violators Unit was created to handle a small, select, universe of cases, cases in which the defendants had at the time multiple cases pending against them. By identifying these defendants and by using the knowledge concerning their multiple charges, it was expected that the prosecution could better manage its efforts to prosecute these individuals. This orientation toward improved management and a focusing of prosecutor attention on the defendant rather than on the individual case, became important concerns of the federal program.

The LEAA officially recognized the potential viability of targeted prosecution as a national strategy in 1974 with its selection of the Bronx Major Offense Bureau as an "exemplary project." Exemplary projects, in the terminology of the agency, are "outstanding local experiments of proven worth documented in sufficient operational detail that other interested agencies can adapt them for their own use." The Major Offense Bureau (MOB) is a special unit in the Bronx District Attorney's Office, dedicated to the prosecution of serious crimes and repeat offenders.

> 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.[3]

By virtue of its public endorsement by the LEAA, and because of its consequent visibility as an exemplary project and its hospitality in opening its doors to interested prosecutors, the Bronx MOB became the prototype for Career Criminal Programs in the national effort.

These local prosecutor initiatives (in Washington, D.C. and in the Bronx) were developed and demonstrated at the same time that the research community had begun to recognize the problems of repeat offenders and the inadequacy of the performance of the criminal justice system with respect to this group. The results of a study by Marvin Wolfgang of a cohort of juveniles showed that criminal activity appeared

[3]Daniel McGillis, An Exemplary Project: Major Offense Bureau, Bronx County District Attorney's Office, (Feb. 1977).

to be concentrated among a subpopulation of delinquents.[4] Further research in Washington, D.C. showed that a large and growing portion of the caseload of the criminal justice system was made up of individuals who had had repeated contact with the criminal justice system and that a relatively small proportion of defendants accounted for a sizable proportion of arrests and convictions made by the criminal justice system in the District of Columbia.[5] These research findings tended to confirm the belief that there existed a hard-core group of "career criminals" and that by focusing prosecutor attention on this group, crime might be affected. The contribution of these two sets of findings to the thinking involved in the development of the national Career Criminal program at the federal level has been formally recognized.[6]

Two aspects of the relationship between the development and the implementation of the program may warrant some discussion here. The first concerns the fit of the program concept to real-world milieus; the second involves the necessity and character of a federal role in what may seem an essentially local program.

A number of the conditions surrounding the operation of local programs under the national Career Criminal program have turned out to differ quite sharply from those which early "career criminal" efforts were designed to address. In the Bronx, for instance, at the time that the MOB was initiated, a two-year time delay was customary between felony indictment and trial. The efforts of the MOB were aimed toward directly improving processing time and offsetting other problems indirectly resulting from the time delay situation. Similar if not more pervasive difficulties plagued the U.S. Attorney's Office at the time their misdemeanant program was initiated. In this situation the Major Violators Unit represented the introduction of systematic management of a subset of the caseload within a context which could be characterized as having an almost total lack of management in the routine. But the local programs instituted under the auspices of LEAA's national effort address problems which are not often so severe as were the time delays in the Bronx, nor are the

[4]Marvin E. Wolfgang, Robert M. Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort, University of Chicago Press, 1972.

[5]Charles R. Work, Remarks on the Career Criminal Program From a Federal Perspective, in Eleanor Chelimsky, ed., Proceedings of a Symposium on the Institutionalization of Federal Programs at the Local Level, The MITRE Corporation, M78-80, Volume I, December 1978, p. 94.

[6]Ibid., p. 95.

changes instituted by the programs so drastic as those initiated in the District of Columbia. In the period between the late 1960's and the initiation of the national Career Criminal program, there was a great deal of interest among prosecutors in improved management. During that time a number of new management approaches involving systematic pretrial case screening were adopted by prosecutors across the country. Investment by prosecutors in management information systems during that period also became popular. Consequently, in many places, the introduction of the Career Criminal program did not represent a first introduction of management into an office. Rather, priority "career criminal" cases in a way different from, and presumably more effective than, the way the routine caseload is managed. The problems faced in the routine (whether they be time delay, as in the Bronx, or others) are those which may be affected by the case handling changes made for the targeted cases. Thus, many Career Criminal programs are being instituted in offices in which routine processing, while it may not be optimal, may be a far cry from that described above for misdemeanant cases in the District of Columbia in the late '60s.

Second, the concept may seem so natural and obvious that the question arises as to "why such a simple and beneficial idea had to wait for federal leadership to get it going?"[7] It should be noted, however, that while the program may well be simple in concept, it is not necessarily straightforward in execution. Prioritizing a criminal caseload in terms of characteristics of the defendant or of the offense events, rather than the evidence available in the case, is in many ways counter to the modus operandi of the prosecution whose incentives are to obtain quality convictions in as many cases as possible. In a sense, the Career Criminal program is suggesting that, no matter how good, or how poor, a case may appear, if it involves a "career criminal" it deserves extra attention by the prosecution--attention which would ordinarily be devoted to those cases with the greatest likelihood of successful results. Further, both the determination of which cases are worthy of special attention and the form that the special attention is to take, undefined in the concept, are left to local initiative; hence, carrying the program from concept to reality requires that a local jurisdiction assess its routine situation, its routine methods of case prosecution and its criminal caseload to ascertain which cases constitute the "career

[7] Solomon Kobrin, Discussion of the Career Criminal Program, in Eleanor Chelimsky, ed., Proceedings of a Symposium on the Institutionalization of Federal Programs at the Local Level, The MITRE Corporation, M78-80, Volume I, December 1978, p. 104.

criminal" cases and what changes in case handling are likely to improve prosecutorial performance with these cases. Some stimulus is thus required to move prosecutors to initiate these somewhat out-of-the-ordinary actions.

Moreover, with regard to the federal role, there is also the question of cost. Because focusing more attention on a subset of the criminal caseload would necessarily mean focusing less attention on other criminal cases, most prosecutors are hesitant to embark on such a route without additional support which would allow them to maintain the status quo with the majority of their caseload.

In its current implementation, the Career Criminal program is comprised essentially of two separate but interdependent concerns. The first major focus of the program is the career criminal target population. It is the intention of the program that the defendants targeted by program activities should be those individuals who are most likely in the future to commit a large number of criminal incidents and thus, for this reason, warrant special attention by the prosecution. Analysis of this issue involves an examination of available knowledge concerning the ideal target population of career criminals--the numbers of crimes they commit, and the potential benefits of their prosecution--with reference to the selection criteria of target populations in Career Criminal programs.

The second major focus of the program is targeted prosecution itself, that is, those strategies employed by prosecutors to improve the prosecution of their caseloads and the significance of those strategies as they have been implemented in the context of routine criminal case handling. Other important considerations here are the specific problems or limitations in routine prosecution which targeted prosecution activities expect to overcome, the effects of these activities on the performance of the criminal justice process and the possibility of adapting routine prosecution to take advantage of some of the more successful strategies with the regular caseload.

Finally, taken together, these program foci (improved, targeted prosecution concentrated on career criminals) are expected to lead to improved effectiveness of the criminal justice system with respect to crime. That is, to the extent that the criminal justice system can impact crime, it is the hope of this program that its effects will be seen in downward shifts of crime levels.

Chapter 2

The National Evaluation: Purpose and Research Design

Overview

The purpose of MITRE's national evaluation of the Career Criminal program is to define and examine the effects of targeted prosecution of "career criminals" through an intensive analysis of program processes and program effects in four jurisdictions. A number of factors contributed to the shape of our evaluation plan. The first was the state of knowledge concerning anticipated program effects at the time the program was developed and the evaluation designed. As discussed in Chapter 1, Career Criminal program planning was influenced both by local initiatives in career criminal prosecution and by research findings which suggested a large potential payoff for such initiatives. The bulk of the available empirical research spoke to the existence of a pool of recidivist offenders with repeated exposure to the criminal justice system who are consequently assumed to be responsible for a disproportionately large share of crime. At the time, little was known concerning the actual impact of program activities. LEAA's selection of the Bronx Major Offense Bureau (MOB) as an Exemplary Project was based on analysis of available data concerning the performance of the Bronx District Attorney's Office with selected MOB cases. This analysis demonstrated that cases accorded special prosecutorial attention were treated more severely than were cases handled in a routine manner. However, career criminal cases and routine cases differ in a number of respects besides the way in which they are prosecuted. What was lacking in this analysis, and therefore, what we consequently attempted to provide in the national evaluation, was an adequate basis for comparison from which one could determine whether, and to what extent, prosecutor performance with career criminal cases represents an improvement over what would have happened with such cases in the absence of any special program. The key evaluation or knowledge need was that of a baseline for evaluation.

Secondly, certain program characteristics were central to the approach taken in the evaluation plan. Given the single, unifying concept of the program--the focusing of prosecutor resources on the serious repeat offender--the logic of program activities and expecations was considered quite natural at both the federal and local levels and by both practitioners and researchers, thereby making it not only possible but reasonable to posit goals for the program generally. However, the substantial differences which exist among localities in the routine processing of criminal cases and the high degree of local involvement in defining critical features of

individual programs posed real difficulties for any attempt to aggregate data across sites. Individual jurisdictions have different target population definitions, different program activities (or "treatments") and different baseline performance levels. Given this jurisdictional variability, it appeared essential to examine and account for individual differences in conducting the national evaluation.

Finally, as is often the case, the program was already in place and operational in a number of jurisdictions at the time the evaluation was planned. Consequently, it was understood that the evaluation approach would have to be adapted to meet program constraints, rather than vice versa.

Research Design: Major Features

The research design for the national evaluation is based on intensive analysis of the form and the effects of career criminal prosecution in four local jurisdictions. A single methodology was developed and, with some adaptation, was applied to the analysis of the four programs. This repeated case study approach was selected because it allowed for a close and sensitive analysis of the realities of targeted prosecution as implemented in different criminal justice contexts while, at the same time, providing some comparability among the locally based analyses through the similarity maintained in the structure of these analyses. This is to say that the evaluation attempted to ask similar evaluation questions, formulated in the same way, of the four programs, in an effort to identify the range of likely program inputs and effects across the four.

The methodology guiding the analysis in each of the four sites is based upon a merging of process analysis of the program efforts in each site with a quasi-experimental analysis of program impact on the performance of the local criminal justice systems. The approach of combining process and outcome analyses is not typically found in program evaluation but it is an approach which offers some distinct advantages.

The type of process analysis used in the national evaluation is akin to that described by Suchman who, in 1967, saw the role of process evaluation as one of aiding in attribution and explanation. His sense was that:

> In the course of evaluating the success or failure of a program, a great deal can be learned about how and why a program works or does not work. Strictly speaking, this analysis of the process whereby a program produces the results it does is not an

> inherent part of evaluative research. An evaluation study may limit its data collection and analysis simply to determining whether or not a program is successful without examining the why's and wherefore's of this success or failure. However, an analysis of process can have both administrative and scientific significance, particularly where the evaluation indicates that a program is <u>not</u> working as expected.[8]

Such a concept of process analysis incorporates a substantive, formative view of the evaluation process. Suchman suggests that there may be four major dimensions to the conduct of a process analysis. These are: (1) the attributes of the program itself; (2) the population exposed to the program; (3) the situational context within which the program takes place; and (4) the different kinds of effects produced by the program.

This view of process analysis, which has been adopted in this evaluation, is characterized by Weiss and Rein (1970) as an effort to:

> identify the forces which shape the program, the nature of the opposition encountered, the reasons for success or failure, and the program's unanticipated consequences.... The issue is not, 'Does it work?' but 'What happened?'[9]

From this perspective, process analysis can be seen as serving four general functions. First, as a minimum, a process analysis allows the evaluator to determine <u>whether some treatment has been implemented</u>. Funds may have been transferred, personnel may have been hired, but until the program has begun offering services, clients have been served, or a real change in routine operations has been instituted, there is no treatment to evaluate. In the context of an experimental field test of a program, however, this can be extended to include a verification that a test situation exists.

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[8] E. A. Suchman, <u>Evaluative Research: Principles and Practice in Public Service and Social Action</u>, Russell Sage Foundation, New York, 1967, p. 66.

[9] R. S. Weiss and M. Rein, "The Evaluation of Broad Aim Programs: Experimental Design, Its Difficulties, and an Alternative" in <u>Administrative Science Quarterly</u> 15 (March) 1970; pp. 106-107.

> A well-planned and conscientiously executed process description seems a desirable feature in any program evaluation as a cross validation and as a critique of the measurement process and the experimental arrangements.[10]

Second, a process analysis addresses the issue of <u>what the treatment is and does.</u> This function of process analysis requires the development of an understanding of the treatment itself, what it involves, how much is provided, how often, under what conditions, with what expectations, and finally and most importantly, how the "treatment" condition differs from the "no-treatment" condition. It also involves an examination of the recipient population or organizations: who they are, how they were chosen, what we know about their other features which may help to explain their response to the treatment, what role the treatment plays within lives or operations and how both of these react or respond to the treatment. Finally, this function of process analysis is also concerned with the context in which the treatment has been offered or the program operated. Who is offering the treatment, under what constraints, in what setting? What is the attitude or policy of the delivering agency toward the program or treatment? What type of support does the program have? What features of the program setting have contributed to implementation?

Third, this understanding of the program, its operations and its context, will then allow for a <u>specification of those potential impacts which are appropriate for outcome analysis</u>. This process-related information and analysis permit an educated assessment of whether the planned or theoretically expected outcomes are still reasonable, given the way the program has materialized. It further allows for the identification of effects of the program other than those originally anticipated and for an understanding of how these relate to the expected outcomes. This would include intermediate effects or specific features of the local setting which may trigger desired outcomes and which may be critical to a successful program.

Finally, process analysis provides a <u>framework for interpreting and understanding program outcome results</u>. It furnishes

[10] Donald T. Campbell, "Qualitative Knowing in Action Research," Kurt Lewin Award Address, Society for the Psychological Study of Social Issues, 1974, p. 18.

an empirical and conceptual basis for elucidating possible reasons for program findings of success or failure and as such can be instrumental in drawing useful conclusions concerning policy direction and programmatic alternatives based on those program evaluation results. To the extent to which process analysis provides qualitative input to the evaluation process, it can also serve a cross-validation function for quantitative analysis results. A qualitative process evaluation thus asks whether the quantitative outcome results are reasonable in the context of a particular program and its environment, as these have emerged from the process analysis. This integration between the qualitative and quantitative, or between process and outcome, is the critical step for program evaluation, and one which is rarely taken.

> Among laboratory scientists themselves, this common-sense cross-validating is in continual use, and is a fundamental component in that identification and expectation amalgam which justifies their rejecting much of their meter readings as in error (due to faulty calibration, misconnections, or whatever). This cross-validation of the quantitative by the qualitative is today usually missing in the social sciences, or appears as hostile criticism, discussed below. In well-used scientific laboratories there emerges another fusion of the qualitative with the quantitative, in which mechanical, quantifying instruments become such familiar appendages they become incorporated into qualitative knowing, like the blind man's cane. Whether we will ever achieve this state in the social sciences is moot, but it will never emerge without an intense prior interaction of common sense and scientific knowing of the same problems.[11]

By utilizing the findings of a process analysis to guide and interpret the outcome analysis, it is thus commonly anticipated that a better and more general understanding of potential program effects can be achieved than would be possible from outcome analysis alone. In the present evaluation, program effects have been examined from this perspective. It was expected that, by delineating the logical linkages between program activities, changes in criminal justice performance and changes in crime, a framework could be established for developing an empirically based understanding of what happened in the four evaluation sites. This understanding would then serve

[11] Ibid., p. 12.

as the source for more general understanding of the program and its potential effects.

Methodology

The national evaluation of the Career Criminal program is based on in-depth evaluations of four career criminal sites selected from the pool of jurisdictions which had implemented Career Criminal programs at the time the evaluation was initiated.[12] The processes and effects of the Career Criminal program in each of these four jurisdictions are evaluated in terms of the assessment of three distinct, but sequentially linked programmatic concerns (see Figure 1 below):

(1) program activities;
(2) criminal justice system and performance; and
(3) crime levels.

As indicated in Figure 1, these three areas of focus are derived from the program and its anticipated effects.[13]

The first stage of the evaluation, the process analysis, has two specific purposes. First, it provides an extensive examination and description of the nature of criminal justice processing (from arrest to sentencing) in each jurisdiction including both routine handling of criminal cases and the specialized handling of career criminal cases. These analyses are designed to indicate the changes in criminal justice processing and operations involved in each jurisdiction's Career Criminal program; in our evaluation they served to provide a description of the program as a "treatment."[14]

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[12] J. Dahmann, E. Albright, L. Hardacre and L. Russell, Site Selection for the National-Level Evaluation of the Career Criminal Program, The MITRE Corporation, MTR-7346, September 1976.

[13] The analyses are presented in detail in E. Chelimsky, J. Dahmann, and J. Sasfy, The National-Level Evaluation of the Career Criminal Program: Concept and Plan, The MITRE Corporation, MTR-7355, May 1976.

[14] For a full report of the findings of this stage of the evaluation see: J. Dahmann and J. Lacy, Criminal Prosecution in Four Jurisdictions: Departures from Routine Processing in the Career Criminal Program, The MITRE Corporation, MTR-7550, June 1977, Targeted Prosecution: The Career Criminal Program, Orleans Parish, Louisiana, MTR-7551, June 1977, Targeted Prosecution: The Career Criminal Program, San Diego County, California, MTR-7552, June 1977, Targeted Prosecution: The Career Criminal Program, Franklin County (Columbus), Ohio, MTR-7553, June, 1977, Targeted Prosecution: The Career Criminal Program, Kalamazoo County, Michigan, MTR-7554, June 1977.

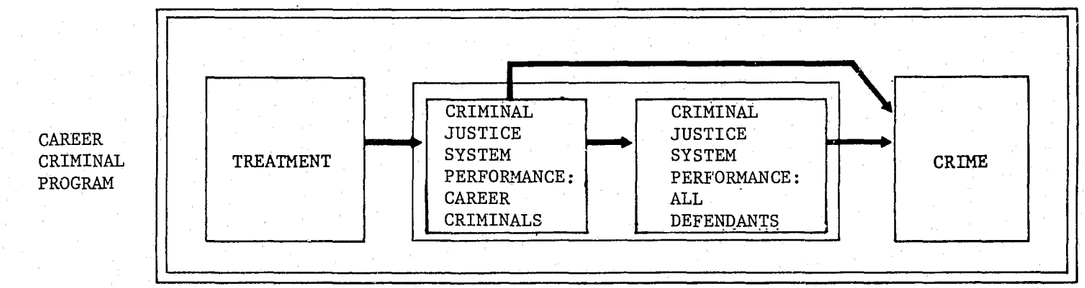

FIGURE 1
THE CAREER CRIMINAL PROGRAM
AND THE MITRE EVALUATION APPROACH

The second purpose of this assessment of program activities is to allow the specification of those criminal justice performance measures likely to be affected by these program activities. For instance, in a jurisdiction in which time delays in case processing are routinely a problem and activities of the Career Criminal program have been directed to improving the situation for career criminal cases (such as special court arrangements), 'time to disposition' would be a relevant measure of program impact. Thus the process analysis performed the important function in this evaluation of establishing the basis for logical linkages between program activities and system performance outcome measures.

The second stage of the evaluation entails the analysis of the specific measures of criminal justice system performance and the investigation of the hypothesized linkages between Career Criminal program activities and differences in those measures. While the program is designed to affect criminal justice performance for only one group of defendants--the career criminals--data are needed in this second stage on a set of measures for other groups as well, for comparison purposes. Data were therefore collected for four specific groups: (1) designated career criminals during the program treatment period (that is, cases and their defendants which were accorded special prosecutorial attention under the Career Criminal program); (2) non-career criminals during the treatment period (that is, other criminal cases prosecuted at the same time as the treatment career criminals but with routine case handling practices); (3) defendants from a baseline period who theoretically would have been designated career criminals (defendants who met local program eligibility criteria and would have been handled by the Career Criminal program had their cases been issued during the treatment period); and (4) baseline non-career criminals--criminal defendants from a baseline period who would not have been designated career criminals. Baseline groups were identified based on a review of materials maintained by the prosecutors' offices. Local prosecutor and court files served as the data sources for the development of a data base on defendant background characteristics and criminal histories, the processing of the case through the criminal justice system and case disposition and sentencing.

Analysis of the performance of the criminal justice system with these four groups thus allowed the evaluation to determine whether performance changed with respect to the career criminals prosecuted by the program.

The system performance analysis focuses on an examination of performance improvements in four areas: disposition (i.e., how a case is disposed, e.g., conviction, trial, etc.); strength of conviction (i.e., for all convictions, how close the final charges are

to the charges filed at case issuance); sentencing; and processing time. While each program was expected to have a somewhat different effect on some of these measures (processing time, for instance), the results of the first-stage process analysis allowed a common set of measures to be applied to the four programs. Differences in outcomes have been specifically examined in light of jurisdictional variations in both the routine and in program characteristics.

The third and final stage of the evaluation addresses the question of crime levels. Based on the assumption that system performance effects on incapacitation would be observed, the evaluation plan included a crime analysis in each jurisdiction for a several-year period prior to program implementation and for the first twelve to eighteen months of program operations. The results of this analysis, taken in conjunction with that of system performance, were expected to provide some suggestion of reasonable expectations for visible short-term impact on crime.

Chapter 3

Selection of the Four National Evaluation Sites

The first step in the evaluation process was to select the four sites which would constitute the focus of the analysis. The major purpose of site selection was to identify those four programs from among the eleven candidate already implemented program sites which appeared to offer the most promising context for assessing the impact of the Career Criminal program activities on prosecutorial performance and on crime. It was recognized from the outset that it was unlikely that any one of the ongoing Career Criminal programs would fit the needs of the evaluation in its entirety. For this reason it was felt that the site selection process should primarily serve to identify any major obstacles in the candidate sites which would preclude the implementation of some part of the evaluation plan or hamper the ability of the evaluation to address the central concerns of the program. Sites were sought which would allow for the implementation of the basic evaluation design with minor adjustments for site specific program or agency features.

A four-stage procedure was followed in conducting the site selection task. First, drawing upon information provided in grant applications and other program documentation, including status reports prepared by the local jurisdictions for the National Legal Data Center (LEAA's national-level data collector for the program), descriptions of the eleven candidate Career Criminal programs were prepared. Depending on the nature of the program data available in the status reports, much of the information included in these initial program descriptions reflected initial plans for programs rather than the programs as implemented. These program descriptions served as the initial data base for the site selection process.[15]

Stage two, the development of evaluability considerations, was begun concurrently with the preparation of the program descriptions. Because the goal of the site selection process was to insure that the programs selected as case study sites were amenable to evaluation in the manner prescribed, site selection considerations focused on those program and site characteristics which play a critical role in the execution of the evaluation methodology. These evaluability considerations, described below, provided the basis for the subsequent steps in the site selection process.

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[15] Initial Career Criminal Program Descriptions, The MITRE Corporation, WP-11766, August 1976.

Third, a preliminary assessment was made of the eleven candidate sites using the information presented in the initial program descriptions and evaluating that information in terms of the designated evaluability considerations. This preliminary assessment served to identify those sites which appeared to pose certain difficulties for the conduct of the national-level evaluation as well as those sites which appeared to be viable candidates for the case study analyses.

Finally, completing the four-stage process, the set of promising sites identified on the basis of the preliminary assessment were visited in order to verify the available program information and to gather additional data necessary to assess the amenability of these sites to the planned impact evaluation.

The specific considerations which guided site selection, then, are derived from requirements posed by the evaluation design. The factors considered in the site selection process are associated with those agency or program features which were anticipated to play an important role in the ability to implement the proposed evaluation design. Figure 2 below presents the nine evaluability considerations employed in site selection as they relate to various stages in the evaluation plan.[16]

As discussed earlier, the first stage of the evaluation was to involve a process analysis which would focus its attention on the development of functional descriptions of the case handling process before and during the program. A comparison of the routine prosecutorial practices with specialized career criminal activities was planned, to allow for the identification of those changes in case processing which were to have been instituted by the program. As such, the first purpose of this stage of the evaluation was the definition of the program treatment. If this were to be accomplished, it was necessary that the local implementing agencies have a precise definition of the inputs to the system involved in the program. Without a Clear Specification of the Treatment (Consideration #1) being applied by the program it would not be possible to attribute any observed changes to the program, to assess those changes as results of the program, or later, to replicate those results. Hence, a clearly specified program treatment (which would be exemplified by the creation of a new unit to conduct new tasks or old tasks using new procedures) was considered a necessity for the conduct of the evaluation.

[16] J. Dahmann, E. Albright, L. Hardacre and L. Russell, Site Selection for the National-Level Evaluation of the Career Criminal Program, The MITRE Corporation, MTR-7346, September 1976.

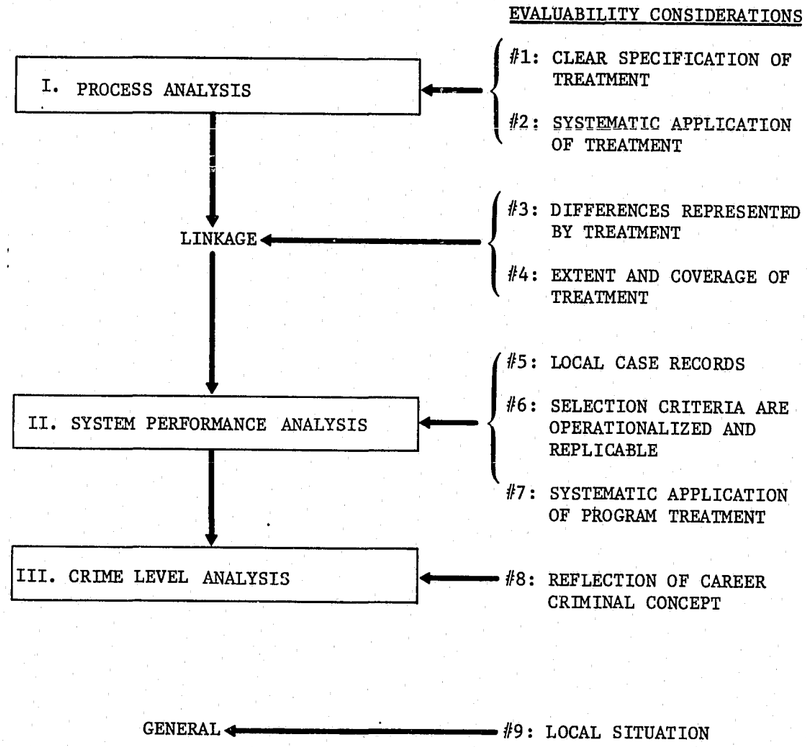

FIGURE 2
THE EVALUATION APPROACH AND EVALUABILITY CONSIDERATION ASSOCIATED WITH THE APPROACH

Further, it was felt to be important that the program treatment be applied in a relatively uniform fashion through the period of program operations. Changes in program activities or problems encountered in implementing these activities would have served to confound the evaluation analyses. Hence Consideration #2 refers to the Systematic Application of Program Treatment.

The first stage of the evaluation had an additional purpose: to provide a framework for the identification of changes in prosecutorial performance which can reasonably be linked to the program activities or treatment. This linkage between program activities and system performance measures is again critical for the attribution of outcome effects or results to program activities. Because the system performance analyses were to be based on comparison of career criminal and non-career criminal cases during baseline and treatment periods, it was essential that the program treatment inputs also be differentiated on this basis. That is, the analysis rests on the assumption that the program activities result in a different handling of career criminal cases during the treatment year than either non-career criminal cases during the program, or career criminal cases prior to the program. As such, the Processing Differences Represented by Program Treatment was included as Consideration #3.

Moreover, to insure the meaningfulness of the system performance analysis, the magnitude of the treatment had to be sufficient to reasonably expect that changes in system performance might be observed. While too little was known about any of the specific program activities involved in the Career Criminal program to assess a priori whether or not they were sufficient to produce the expected results (indeed, that was the purpose of the evaluation), it seemed logical to assume that the Extent and Coverage of the Program Treatment (Consideration #4) were related to the likelihood that the anticipated results might be observed. This says that a program which provides special attention to target cases earlier and at more points in the case handling process, and which handles a larger volume of cases, is more likely to produce the anticipated results.

The analyses planned for the system performance analysis were based upon a comparison of cases prior-to and during the Career Criminal program with both the baseline and treatment year case samples including career criminal and non-career criminal cases. It was therefore critical to the evaluation that the Local Case Records (Consideration #5) be sufficiently comprehensive and accessible to allow for the construction of the necessary data base.

The analyses of system performance required that the baseline sample of cases be partitioned into career criminals and non-career

criminals on a basis comparable to that employed by the program selection procedures. In order for this to be possible, it was necessary that the program's career criminal Selection Criteria be Operationalized and Replicable (Consideration #6). Unless the implementing agency had established objective criteria for the selection of career criminal cases, based upon information routinely available in case files, it would not be possible to accurately identify a comparable baseline career criminal population. For example, a criterion involving the amount of loss to the victim might have been impossible to replicate with earlier cases. In addition, it was desirable that the programs maintain a Systematic Application of the Selection Criteria (Consideration #7). A single change in selection criteria could have been handled in the evaluation by the construction of two baseline groups or the restriction of the analysis to one of the two career criminal populations; however, continuous shifts in selection procedures would have restricted the probability of constructing appropriate comparison samples and would have limited the ability of the evaluation to meaningfully address questions of crime level changes.

Crime level changes were to be examined in the final stage of the national-level evaluation. The larger Career Criminal program goal is the reduction of crime through the improved prosecution of the group of serious repeat offenders who are assumed to be responsible for a sizable proportion of crime. While predictors of this type of offender are not well established, career criminal selection criteria needed to represent an adequate Reflection of the Career Criminal Concept (Consideration #8), that is, these criteria had to focus on the criminal offender (prior criminal activity, personal characteristics) rather than solely on the nature of circumstances surrounding the current criminal event or the victim.

The final evaluability consideration was a general one relating to the Local Situation (Consideration #9) and its prospects for offering a promising context for the national evaluation. Because of the evaluation design structure, prior and current stability in local policy and organization was highly desirable. Further, it was crucial that local agency personnel be willing to participate in the evaluation. Given the time and effort involved in participating in a national evaluation, it seemed essential that a local agency be receptive to that evaluation and to its needs.

Assessing candidate sites in terms of these criteria necessarily involved varying degrees of subjective judgement and, in consequence, all the program assessments made are relative. As already discussed, it was not expected that any program would be found to be fully appropriate in all areas addressed by the evaluability considerations. Rather the considerations were expected to serve as guides to the

identification of those programs which offered the best opportunities for the acquisition of the evaluation information sought by the case studies.

The site selection process itself was conducted using a two-stage screening procedure. At the first screening point (the preliminary assessment stage), the eleven candidate programs were assessed based on available program documentation either prepared by the local jurisdictions and/or by the National Legal Data Center. The results of this assessment were used to divide the candidate programs into two groups: (1) those which presented immediately obvious obstacles to the conduct of the national-level evaluation and (2) those which appeared to be viable sites for the evaluation case studies. We then visited this second group of programs and a more in-depth assessment of their evaluability was conducted based on the on-site information.

Six sites (Boston, Dallas, Detroit, Houston, Indianapolis, and New York) were screened out at the preliminary assessment stage (see Figure 3 below), based upon potential difficulties for the implementation of the evaluation which were identified by the review of the available program documentation. The majority of the problems encountered for this set of programs rested with the criteria and procedures employed by the local programs to select cases for special treatment under the Career Criminal program. In several programs (Houston and Dallas), case selection was based on the subjective judgement of the screening attorney, making the replication of these procedures with a set of baseline cases (a critical feature of the evaluation design) a difficult matter. Other problems encountered in this regard were the inclusion of pending cases as a criterion for entry into the program (Boston, Detroit, Indianapolis) and the use of largely objective, replicable criteria for the identification of a pool of potential cases, followed by subjective selection of cases for treatment from this pool (Boston, New York and possibly Detroit). Further, two of the jurisdictions (Detroit and Indianapolis) were experiencing sufficient changes in their case processing systems independent of the Career Criminal program (either currently or during the baseline time period) to make it difficult to isolate or distinguish program impact from the effect of the other system changes. For these reasons, these six programs were eliminated at the initial screening stage of the site selection process.

The remaining five programs (Columbus, Kalamazoo, New Orleans, Salt Lake City, and San Diego) were further investigated through visits made to the local sites. The same set of evaluability considerations was utilized in this second stage of the screening procedure; however, greater emphasis was placed on assessing the feasibility of implementing the design with the data available locally.

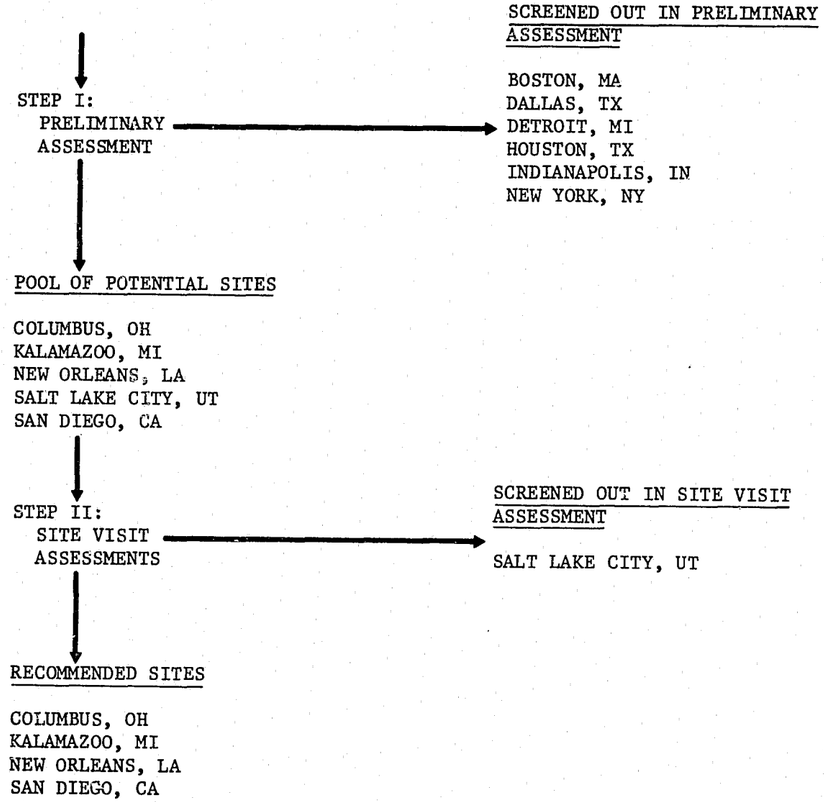

FIGURE 3
SITE SCREENING PROCESS

While some problems for the evaluation were identified in almost all of the sites visited, the most serious difficulties were encountered with the Salt Lake City program. The problems the evaluation would have faced in Salt Lake City involved both replication of the selection criteria and the availability of data resources for the assessment of program impact and would have precluded the implementation of the evaluation as designed. The problems identified in the remaining four sites were relatively minor and could for the most part be mediated through adjustments in the sample size and the treatment and baseline time periods, or through additional data collection. On this basis the four sites:

- Columbus, (Franklin County) Ohio
- Kalamazoo County, Michigan
- Orleans Parish (New Orleans), Louisiana
- San Diego County, California

were recommended, were approved by the National Institute and LEAA, and were subsequently included as case study sites for the national evaluation of the Career Criminal program.

SECTION II

PROGRAM PROCESSES

Chapter 4

Routine Processing in the Four Jurisdictions: The Context for Career Criminal Program Implementation[17]

Overview

As mentioned in the first chapter, one major assumption of the program is that, given additional resources, prosecutors will be able to provide special attention to a select subgroup of their defendant population. As a basis for understanding what special attention is in fact provided to target defendants and how this differentiates their treatment from the treatment of others, it is important to know the nature of the routine process of criminal justice administration in the sites implementing programs.

Stripped to its basics, criminal justice administration is a combination of structure, process and personnel, each shaping the others in subtle and occasionally critical ways. Law plays an important but not a consuming role. Criminal justice in practice responds to administrative convenience and necessity, historical and parochial conventions, and the influences of daily practices and working understandings at least as much as it does to legislative ukases and case law prescriptions.

In its bare essentials, the criminal justice process--its structural components, its procedures, its principal actors--differs little from jurisdiction to jurisdiction, from state to state.

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[17] The information presented in this section is derived from material presented in the following papers: J. S. Dahmann and J. L. Lacy, Targeted Prosecution: The Career Criminal, Orleans Parish, Louisiana, MTR 7551, The MITRE Corporation, June, 1977; J. S. Dahmann and J. L. Lacy, Targeted Prosecution: The Career Criminal, San Diego County, California, MTR 7552, The MITRE Corporation, June, 1977; J. S. Dahmann and J. L. Lacy, Targeted Prosecution: The Career Criminal, Franklin County (Columbus), Ohio, MTR 7553, The MITRE Corporation, June 1977; J. S. Dahmann, and J. L. Lacy, Targeted Prosecution: The Career Criminal, Kalamazoo County, Michigan, MTR 7554, The MITRE Corporation, June, 1977; and J. S. Dahmann and J. L. Lacy, Criminal Prosecution in Four Jurisdictions: Departures from Routine Processing in the Career Criminal Program, MTR-7550, The MITRE Corporation, June 1977.

The structure consists of one or more: police agencies, prosecuting agencies, courts with criminal jurisdiction, and local and state corrections agencies. Woven among them are: probation agencies pretrial release services and various arrangements for the provision of defense counsel for indigents.

The processing of a felony that is tried and convicted as a felony consists generally of ten basic steps:

(1) arrest, booking, and referral of the case for prosecution;

(2) the initial decision to formally charge (i.e., to invoke the criminal court process by the filing in court of criminal charges, usually in the form of an initial accusatory instrument);

(3) an initial appearance of the accused before a magistrate, at which, among other things, bail and other conditions of pretrial release are set;

(4) a preliminary hearing, the purpose of which is to determine whether there is probable cause to hold the defendant for felony trial;

(5) the filing of an accusatory instrument (an indictment or information) with the court having jurisdiction to hear and determine felony cases;

(6) arraignment of the accused on the charges in the accusatory instrument;

(7) filing and determination of pretrial motions;

(8) trial;

(9) a presentence investigation--prepared at the trial judge's discretion, or as required by statute or court rule--detailing the offender's background and the severity of the current offense; and

(10) the imposition of sentence.[18]

Personnel arrangements in criminal justice administration are, in every jurisdiction, an assortment of elective, appointive, and civil service offices and a mix of educational, professional, and training requirements for carrying out specific functions. Felony prosecutors, judges, and sheriffs are most often elected; police chiefs, chief probation officers, and court administrators are most often appointed. Police officers in municipal agencies are most often selected, promoted, and secured by civil service; assistant prosecutors in most states serve wholly at the pleasure of the elected prosecutor. Police officers in municipal agencies are most often formally trained for their work; assistant prosecutors and defense attorneys generally need only to be lawyers admitted to practice in the state; judges most often must merely have been members of the bar of the state for a minimum number of years.

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[18] In misdemeanor cases: (1) there is generally no right to a preliminary hearing (step 4); (2) there is rarely a possibility of indictment by grand jury (step 5); and (3) there is rarely the filing of more than one accusatory instrument, the one filed most often being that at the time of the defendant's initial appearance before a magistrate (step 3).

The difference between a felony and a misdemeanor is neither precise nor uniform among the states. A felony is generally any offense for which the defendant may be imprisoned in a state penitentiary, although even in states that have adopted this definition certain convicted felons may, by statute, be sentenced to local institutions. Another demarcation between the two degrees of offenses is length of imposable sentence: if more than one year, the offense is a felony; if less than one year, it is a misdemeanor. Again, there are exceptions. The most common are "high misdemeanors," or "superior court misdemeanors," which are punishable by terms exceeding one year.

Historically, misdemeanants have been the beneficiaries of fewer constitutionally protected rights than have been felons: denied trial by jury, or benefit of assigned counsel, for example. In recent years the United States Supreme Court has struck down a number of distinctions based solely on offense classification, adopting instead a distinction based on vulnerability to imprisonment. See, e.g., Baldwin v. New York, 399 U.S. 66 (1970) (right to a jury trial attaches to any crime punishable by more than six months' imprisonment, regardless of whether it is labeled a felony or misdemeanor) and Argersinger v. Hamlin, 407 U.S. 25 (1972) (right to counsel exists in any offense for which the defendant may be subjected to imprisonment).

Beyond these bare essentials, however, similarities among different jurisdictions in the practice of criminal justice are often elusive. The differences in organization and administration--from one place to another--can be dizzying and perplexing. Many of the differences--in structure, procedure, personnel arrangements--are superficial and merely idiosyncratic, with marginal influence on the conduct of the criminal justice process. Some, however, have more than a casual relationship with the ways in which criminal justice is administered and with the ways in which a national effort such as the Career Criminal program may take shape in different locales.

The four jurisdictions--Orleans Parish, San Diego County, Franklin County, and Kalamazoo County--administer criminal justice in some ways essentially similarly, in some respects notably differently. Key functions (law enforcement, prosecution, defense, adjudication) are organized differently in each place. The criminal justice process in practice behaves differently in some places. The roles and responsibilities of personnel and agencies are also, in a number of respects, different in each.

The four jurisdictions present some striking contrasts in the organization and dispersion of criminal justice functions and agencies. At one end of the spectrum is Orleans Parish, where each principal function (other than corrections) is performed by one agency with the same geographical jurisdiction as that of the others. At the other is Franklin County, with thirty-one police agencies, two prosecutors and two courts interacting in procedurally fractured relationships with each other. Sandwiched between them are San Diego and Kalamazoo Counties--markedly dissimilar in size but notably similar to each other in organizational features. Orleans Parish stands apart from the rest in that there is relatively little noncriminal business assigned to the Parish's key criminal justice agencies. In the other three jurisdictions, the agencies have varying levels of responsibility for civil and juvenile matters.

Law Enforcement

In Orleans Parish, the New Orleans Police Department is for all practical purposes the only local police agency that routinely makes arrests for state law offenses.[19] In San Diego County, there are ten

[19] There are, in addition to the New Orleans Police Department, four local law enforcement agencies (Harbor Police, Criminal Sheriff's Department, Park Police and Orleans Levy Board Police) but the enforcement jurisdiction of each is strictly limited to special-purpose areas. While the Parish has both a Criminal Sheriff's Department and a Civil Sheriff's Department, the former's law enforcement activities are confined wholly to offenses committed within courtrooms and the Parish Jail.

municipal agencies, the county Sheriff's Office, the University of California Police and an area command of the California Highway Patrol. All are full-time. The municipal agencies range in numbers of sworn personnel from 21 (Imperial Beach) to 965 (San Diego). Seven of Kalamazoo County's ten police agencies operate around the clock; three have abbreviated hours of operation. The agencies range in size from one full-time officer (Galesburg) to 157 (Kalamazoo Police Department). Franklin County's thirty-one police agencies are a mix of full-time and part-time; the largest (Columbus Police Department) has 1,144 sworn personnel.

Regardless of the number of distinct agencies, however, in each of the four jurisdictions, one or two agencies are decidedly dominant: in size, budget or arrest volume (see Table I, below). In Orleans Parish, the New Orleans Police Department makes over 98 percent of the arrests for state law offenses. In San Diego County the combined personnel of two agencies--the San Diego Police Department and the San Diego County Sheriff's Office--account for 75 percent of the total sworn police officers in the county. Between them, the two agencies make 72 percent of all felony arrests in the county. The same is the case in Kalamazoo County. The Kalamazoo Police Department and the Kalamazoo County Sheriff's Department comprise 70 percent of the county's full-time sworn officers and make 74 percent of the county's arrests for serious felonies. In Franklin County, one agency--the Columbus Police Department--predominates; it has 74 percent of the county's enforcement personnel and consumes 77 percent of the total law enforcement expenditures made in the county.

The dominant agencies in all four jurisdictions share many of the same characteristics. All have a rank structure formed along quasi-military lines (sergeant, lieutenant, etc.). In all, the rank hierarchy resembles a pyramid, with the majority of sworn personnel occupying the lowest rank (police officer, patrol officer, deputy sheriff). In all, some sworn personnel are designated as "detectives" or "investigators" for follow-up investigations of crimes to which uniformed patrol personnel are most often the initial police respondents.

The dominant agencies in all four jurisdictions also handle arrests in similar fashions. Patrol officers make most of the misdemeanor and felony arrests (on scene, near scene, as a result of a dispatch or of an identification made by witnesses or detectives). In felonies and serious misdemeanor arrests, the arrest is turned over to department investigators for post-arrest investigation (interrogation, fingerprinting, interviews of witnesses, identification parades) and preparation of the case for prosecution. It is the

TABLE 1

SELECTED CHARACTERISTICS OF
PRINCIPAL LAW ENFORCEMENT AGENCIES IN FOUR JURISDICTIONS

	AGENCIES	JURISDICTION	DISTRIBUTION OF SWORN PERSONNEL	DISTRIBUTION OF ARRESTS	RATIO OF FIRST LINE SUPERVISORS TO PATROL OFFICERS	BUDGET
SAN DIEGO COUNTY, CALIFORNIA (1976)	SAN DIEGO POLICE DEPARTMENT	CITY OF SAN DIEGO	965 (45%)	9,582 (56%)*	1 TO 6	N/A
	SAN DIEGO SHERIFF'S OFFICE	COUNTY OF SAN DIEGO	642 (30%)	2,668 (16%)*	1 TO 7.6	$ 19,566,409
	MUNICIPAL AGENCIES (9)	SELECTED MUNICIPALITIES	526 (25%)	4,750 (28%)*	N/A	N/A
KALAMAZOO COUNTY, MICHIGAN (1976)	KALAMAZOO POLICE DEPARTMENT	CITY OF KALAMAZOO	157 (41%)	2,552 (74%)	1 TO 7.7	$ 3,801,594
	KALAMAZOO SHERIFF'S DEPARTMENT	COUNTY OF KALAMAZOO	112 (30%)		1 TO 7.9	$ 2,800,000
	OTHER AGENCIES (8)	SELECTED AREAS WITHIN COUNTY	110 (29%)	885 (26%)	N/A	$ 2,611,145**
ORLEANS PARISH, LOUISIANA (1975)	NEW ORLEANS POLICE DEPARTMENT	PARISH OF NEW ORLEANS	1,445	>98%	N/A	$ 34,567,564
	HARBOR POLICE	WHARF AREA	N/A	<2%	N/A	N/A
	CRIMINAL SHERIFF'S DEPARTMENT	COURTROOMS, PARISH PRISON				
FRANKLIN COUNTY (COLUMBUS), OHIO (1974)	COLUMBUS POLICE DEPARTMENT	CITY OF COLUMBUS	1144 (74%)	N/A	1 TO 7	$ 22,080,141 (77%)
	FRANKLIN COUNTY SHERIFF'S DEPARTMENT	FRANKLIN COUNTY	90 (6%)	N/A	1 TO 5	$ 1,323,733 (5%)
	OTHER AGENCIES (29)	SELECTED AREAS WITHIN COUNTY	312 (20%)	N/A	N/A	$ 5,112,524*** (18%)

*1975 ARREST DATA FOR SAN DIEGO.

**FIGURE DOES NOT INCLUDE TWO OF THE SMALLER KALAMAZOO COUNTY DEPARTMENTS.

***FIGURE DOES NOT INCLUDE THREE OF FRANKLIN COUNTY'S SMALLER DEPARTMENTS.

investigating detective and not the uniformed arresting officer with whom the prosecution has most direct contacts in the early stages of the case's adjudication.[20]

Courts

While law enforcement does not differ substantially among the four jurisdictions, the court structures of the four are dissimilar in some noteworthy ways: among them, jurisdiction, power, and venue (see Table II below).[21]

First, the court process in Orleans Parish stands apart from that of the other three jurisdictions with three distinguishing features: (1) for criminal matters (state law felonies and misdemeanors)

[20] The dominant agencies do have organizational differences, with personnel deployments in varying combinations along geographic, crime-generic and crime-specific lines, and with detectives integrated in varying degrees into the command structure of patrol operations. The reader is referred to the volumes cited in footnote 17 above for detailed descriptions of law enforcement in the four jurisdictions, as well as to a sixth document: J. S. Dahmann, L. S. Russell and Paul Tracy, Law Enforcement Aspects of the Career Criminal Program: The Role of Law Enforcement Agencies in the Career Criminal Program as Observed in the Four National Evaluation Sites, MTR-79W00143, The MITRE Corporation, May 1979.

[21] Courts are primarily distinguished by three features: subject matter jurisdiction, power, and venue. The subject matter jurisdiction of a court concerns the nature and types of actions (e.g., civil, domestic relations, criminal; felony and misdemeanor) which the court is authorized (by statute or constitution) to take cognizance of, and in which it may compel parties to come before it, issue process, and judge. The power of a court concerns what actions the court can take in relation to the case of which it has subject matter jurisdiction. A municipal court may have some jurisdiction over a felony case, but its power may be limited to an arraignment and a preliminary examination of the felony, and it may not be empowered to dispose of the felony as a felony conviction (i.e., it may accept a guilty plea to a misdemeanor in a felony case, not one to a felony charge) or to sentence the defendant as a felon. The venue of a court is not strictly a matter of jurisdiction, although in daily practice it defines what might be considered the geographical jurisdiction of the court. Venue defines the court (or court subdivision) that is empowered to hear and determine cases (over which it has both subject matter jurisdiction and power) arising in a particular geographical area (e.g., city,

TABLE II

PRINCIPAL CHARACTERISTICS OF
TRIAL COURTS WITH CRIMINAL JURISDICTION IN FOUR JURISDICTIONS

JURISDICTION	AGENCIES	CIVIL JURISDICTION	CRIMINAL JURISDICTION	LOCATIONS	JUDICIAL PERSONNEL	NON JUDICIAL PERSONNEL	VENUE	TOTAL CASELOAD	CRIMINAL CASELOAD	BUDGET
San Diego County, California	Municipal Court	Cases involving $5,000 or less Small Claims ($500 and under)	Hear and determine misdemeanors Arraign and examine felonies	San Diego Judicial District	22 judges 1 commissioner	233	San Diego City	321,960 (70%)		$13,218,686 (1976-77)
				North County Judicial District	6 judges	61	North County	86,839 (19%)		
				El Cajon Judicial District	5 judges	52	East County	51,364 (11%)		
				South Bay Judicial District	4 judges	42	South Bay Area	*		
			Total		37 judges 1 commissioner	388	County	460,163	54,612 (12%)	
	Superior Court	Cases involving $5,000 or more Equity Domestic relations, probate, support and neglect	Felonies Juvenile Delinquency	San Diego	32 judges	185	County	Case Filings 1974-75		
				North County	3 juvenile court referees 3 judges			44,499	4,454 (10%)	$10,390,905 (1976-77)
		Intermediate Court of Appeal for Civil & Criminal Matters								
Kalamazoo County, Michigan	District Court	Matters involving $10,000 or less (other than equity) Small Claims up to $300	Hear and determine misdemeanors Arraign and examine felonies	Ninth District Court Division 9 - 1 Division 9 - 2	4 judges 1 judge	26 11	City of Kalamazoo City of Portage	N/A	N/A	$517,560 (1977)
				Eighth District Court	2 judges	12	Remainder of County			$205,026
	Circuit Court	Domestic relations matters Equity Civil claims exceeding $10,000	Hear and determine felonies	one	4 regular judges 1 special judge	N/A	Kalamazoo County	N/A	N/A	$742,710
		Appellate jurisdiction over District Courts within its venue								
Orleans Parish (New Orleans), Louisiana	Criminal District Court	None	Misdemeanors Felonies	one	10 judges 1 magistrate 3 commissioners	N/A	Orleans Parish	≈ 12,000	(100%)	N/A
Franklin County (Columbus), Ohio	Municipal Court	Matters involving $10,000 or less	Hear and determine misdemeanors Arraign and examine felonies	one	13 judges	98	Franklin County		Cases Filed Jun-Aug 1976 51,400 (6% felonies)	$1,289,707
	Court of Common Pleas	Matters involving $500 or more Juvenile and Domestic Relations Probate	Arraign and examine felonies	one	13 judges	67	Franklin County	Average Monthly Pending Caseload 5,530	826 (15%)	

*Not in existence during period for which dates are reported.

it consists of only one court: the Criminal District Court; (2) the Criminal District Court is exclusively a criminal court, with no jurisdiction of or responsibility for noncriminal matters; and (3) the appellate process for criminal cases is wholly distinct from that for civil cases, with a totally different appellate forum. In the other three jurisdictions: (1) the court process is bifurcated for criminal matters in one or more inferior courts (i.e., a court of general jurisdiction); (2) both inferior and superior courts have civil as well as criminal case responsibilities; and (3) both criminal and civil cases are appealed to the same forums by essentially the same routes.

Second, while the venue (i.e., the geographical jurisdiction) of the superior court is the same in all four places (county-wide or Parish-wide), the venues of inferior courts differ in the three jurisdictions that have them. In Franklin County there is one inferior court (the Municipal Court, thirteen judges) with county-wide venue in both civil and criminal matters. In Kalamazoo County, the inferior court is, for purposes of venue and administration, three district courts: one with geographical jurisdiction in the city of Kalamazoo (the Ninth District Court, Division One, four judges), one with venue in a neighboring city (the Ninth District Court, Division Two, one judge), one with jurisdiction of the rest of the county (Eighth District, two judges). San Diego County's inferior courts (the Municipal Court) are organized in four distinct judicial districts; each is separately constituted and administered; each has geographical jurisdiction restricted to a part of the county. The four San Diego Municipal Courts have twenty-two, six, five and four judges respectively.

Third, there are differences--among the three jurisdictions in which the same courts (both inferior and superior) have both civil and criminal jurisdiction--in terms of how civil and criminal matters are assigned to judicial personnel. In San Diego County's Municipal

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judicial district, county). Thus, for example, the Municipal Court of the North County Judicial District in San Diego County has: (1) subject matter jurisdiction of felonies and misdemeanors; (2) power to hear and determine misdemeanors and to conduct preliminary examinations of felonies; and (3) venue confined in routine cases to offenses that originate within the goegraphical confines of the judicial district. It is distinguished from the Municipal Court of a neighboring district solely in terms of venue; the jurisdiction and powers of the two are otherwise the same.

and Superior Courts, certain courtrooms (departments) are set aside exclusively for criminal matters; others, for civil and juvenile cases. In Kalamazoo County, civil and criminal cases are assigned to the same judges and courtrooms, and are dealt with alternatively at different times of the year. In Franklin County's Municipal Court, criminal cases are heard in a few reserved courtrooms on certain days of the week; in the county's Court of Common Pleas, civil and criminal cases are heard in alternative blocks of two or three weeks by the same judges in the same courtrooms.

Fourth, the management of the criminal caseload by the judiciary differs among the jurisdictions. San Diego County's courts are managed on a "master calendar" basis. Cases are, for the most part, not assigned to individual judges for the life of their adjudication. Instead, they are distributed to available judges on the day on which specific proceedings are scheduled. Thus, the judge who hears pretrial motions may not be the judge who tries the case. The remaining three jurisdictions assign cases mainly on an "individual calendar" basis. Early in its adjudication, each case is assigned to a judge who handles it for all purposes while it is in the court (inferior or superior) in which he sits.

Prosecution

Criminal prosecution is distinguished among the four jurisdictions in a number of respects.

First, there are differences in terms of role, function and structure. In both Orleans Parish and Kalamazoo County there is, in effect, only one agency responsible for the prosecution of state law felonies and misdemeanors. In Orleans Parish it is the New Orleans District Attorney's Office; in Kalamazoo it is the Prosecuting Attorney's Office.[22] Both offices also represent the state in all appeals: that is, from both interlocutory and final judgements.[23]

[22] In all four jurisdictions, the state attorney general's office has power to initiate, intervene in and supersede local prosecutions in certain circumstances. The power is, in practice, almost never used.

[23] An interlocutory judgment is an interim or provisional determination that is decisive on some part of an adjudication (e.g., a decision on a motion to suppress evidence) but that is not determinative of the entire adjudication. A final judgment (e.g., conviction and sentence, acquittal) decides the whole matter in controversy.

In San Diego County, on the other hand, prosecution is performed by one of three agencies, depending upon the seriousness and location of the offense, and on the phase in the criminal case's litigation.

The San Diego City Attorney's Office prosecutes all straight, state law misdemeanors arising within that city's limits and violations of that city's ordinances. It does not have jurisdiction of felonies.[24]

The San Diego District Attorney's Office is responsible for prosecution--from initial appearance before a magistrate through judgment--of all persons charged with felonies that occur within the county. The District Attorney's Office also prosecutes persons charged with state law misdemeanors arising within the county but outside the city limits of San Diego.

While the District Attorney's Office represents the state in appeals from interlocutory judgments, it does not handle appeals from final judgments. Appeals from final judgments in the county's Superior Court are handled exclusively by the California Department of Justice (the Office of the Attorney General).

Criminal prosecution is even more fragmented in Franklin County. The Columbus City Attorney's Office (formally the Columbus Department of Law) has exclusive responsibility for the prosecution of state law misdemeanors and city ordinance violations. The County Prosecuting Attorney's Office has criminal jurisdiction only for felonies. But, the county office does not prosecute most felonies from the beginning to the end of their adjudication. Instead, the City Attorney's Office prosecutes felonies in their preliminary stages in the county's inferior court (see preceding section). If the cases are bound over to the superior court, they then become the responsibility of the County Prosecuting Attorney's Office. In effect, most felonies are prosecuted at different stages in their adjudication by two independent prosecutorial agencies. Unlike the case in California, however, the Franklin County Prosecuting Attorney's Office represents the state in appeals from both interlocutory and final judgments rendered in the superior court (see Table III below).

Second, criminal prosecution is distinguished among the four jurisdictions in terms of the degree and types of noncriminal responsibilities of the prosecutor's office in each. The New Orleans

[24] Offenses arising within the City of San Diego that may, by statute, be prosecuted as either felonies or misdemeanors, are handled by the county District Attorney.

TABLE III

PRINCIPAL CHARACTERISTICS OF
MAJOR PROSECUTING AGENCIES IN FOUR JURISDICTIONS

	AGENCY	CIVIL JURISDICTION	CRIMINAL JURISDICTION	ATTORNEY PERSONNEL	NON-ATTORNEY PERSONNEL	VENUE	BUDGET	BRANCH OFFICES	CIVIL SERVICE
San Diego County, California	San Diego District Attorney's Office	Support of minors Enforcement of state, county, and city fair election laws	Felonies arising in the county Misdemeanors occurring in the county but outside the city Represents the state in all appeals from interlocutory judgements Juveniles Violations of county ordinances	119	265	County	(1976-77) $11,752,566	3 branches 6 locations	Yes
Kalamazoo County, Michigan	Prosecuting Attorney's Office	Provision of legal opinions upon request to county agencies Representation of petitioners in mental commitment proceedings Child support cases	All misdemeanor and felony state law offenses All appeals, from interlocutory and final judgments	16	17	County	(1976) 531,932	None	No
Orleans Parish (New Orleans), Louisiana	New Orleans District Attorney's Office	None	All Juveniles Offenses State law (misdemeanors and felonies) All appeals from judgements	65	128	Parish	(1975) 1,458,683	None	No
Franklin County (Columbus), Ohio	Columbus City Attorney	All civil matters for the city Land acquisition	All statutory misdemeanors Preliminary processing of felonies Traffic offenses occuring in the City of Columbus Traffic offenses outside of Columbus on a contract basis with municipality Cases which cannot be handled by mayor's court	30	N/A	City and County	(1974) 1,139,420	None	No
	County Prosecuting Attorney's Office	Represents townships and school board in suits brought against them Provides legal opinions to county agencies Defends county officials Represents county in tax-payers' suits Sits as a member of the County Budget Commission Variety of cities in tax foreclosures	Felonies and appeals from felony judgements Juveniles	45	52	County	(1975) 967,050	None	No

District Attorney's Office is the least encumbered with noncriminal responsibilities of the four; the two prosecutors' offices in Franklin County have the most extensive civil law responsibilities of the four jurisdictions.

The New Orleans District Attorney's Office has two responsibilities in addition to the criminal prosecution of adults: prosecution of the crimes and misconduct of juveniles and the investigation and prosecution (civil and criminal) of cases involving the failure to provide court-ordered child support.[25] The noncriminal duties of the San Diego District Attorney's Office are also limited: the prosecution of juveniles and support of minors and the enforcement and monitoring of state, county and local fair election laws.[26]

In Kalamazoo County, a broader range of noncriminal responsibilities is assigned to the prosecution. In addition to criminal prosecution, the Prosecuting Attorney's Office: (1) has statutorily mandated duties in domestic civil cases involving public assistance to dependent children;[27] (2) provides legal opinions, upon request, to all county agencies; and (3) represents petitioners in mental commitment proceedings at the Kalamazoo State Hospital.

In Franklin County, both the City Attorney's Office and the Prosecuting Attorney's Office have relatively extensive noncriminal business. The City Attorney's Office represents the city of Columbus in all civil proceedings, tax matters, and land acquisitions. The civil responsibilities of the county Prosecuting Attorney's Office are wide-ranging. The office: (1) represents all townships in the county and the county school board in suits brought against them; (2) provides, on request, legal opinions to most county departments and to the townships; (3) defends county officials in suits brought against them in their official capacities; (4) represents the county

25 All four states have adopted the Uniform Reciprocal Enforcement of Support Act (URESA), whereby each of their jurisdictions is committed to enforcing within its boundaries the support orders of courts in all other states that have adopted the act.

26 The enforcement of fair election laws entails rendering advisory opinions, reviewing campaign statements, receiving complaints and civil and criminal prosecution.

27 The office's child support responsibilities include: (1) nonsupport, paternity and URESA cases; and (2) reviewing and entering appearances in divorce cases where minor children are involved.

in taxpayers' suits; (5) sits as a member of the county budget commission; and (6) has a variety of duties in tax foreclosures.[28]

Third, the prosecuting agencies in the four jurisdictions vary significantly in size and budget. The San Diego District Attorney's Office is the largest, with 119 attorney and 265 non-attorney personnel and an annual budget in excess of $11 million. The Kalamazoo County Prosecuting Attorney's Office is the smallest, including 16 attorneys, 17 support personnel and a budget of under one-half million dollars.

Fourth, personnel arrangements in the prosecuting agencies differ in the four sites. In Orleans Parish and Franklin County, deputy prosecutors serve wholly at the pleasure of the elected prosecutor. In San Diego County, almost all deputies have civil service protection. In Kalamazoo County, deputy prosecutors are organized in a recognized collective bargaining unit: the Kalamazoo County Assistant Prosecuting Attorney's Association.

Fifth, the experience levels of deputies also differ among the jurisdictions. San Diego County deputy district attorneys are the most experienced, with an average of five and one-half years as prosecutors. Deputies in Orleans Parish are the least experienced, with an average office tenure of two years. Assistant district attorneys in Kalamazoo County have been on the job an average of just over three years; their counterparts in the Franklin County Prosecuting Attorney's Office have a mean of two and one-half years of office experience.

Sixth, the jurisdictions differ again in terms of the location of prosecutorial activities. In two of the jurisdictions--Orleans Parish and Franklin County--prosecution activities are centrally located. In both, the prosecutor's office and other key criminal justice agencies (police, courts, probation) are within relatively few city blocks of each other. In Kalamazoo County, one of the District Courts is located in a neighboring city (see preceding section), and deputy prosecutors must travel to it. In San Diego, the County's

[28] The office also has a list of other duties, many statutorily imposed, that are not directly related to budget or to civil and criminal litigation, among them: (1) approval of plans and specifications for equipment; (2) attendance at township trustee and clerks' meetings; and (3) attendance as legal advisor at meetings of some county agencies.

land mass (4200 square miles) and geographical dispersion of courts (see preceding section) have required the District Attorney's Office to create three branch offices in six locations, some of which are located more than sixty miles away from others.

Some features of criminal prosecution are the same in all four jurisdictions. In each, the prosecutor is publicly elected. In each, deputy prosecutors must be admitted to the practice of law in the state, and in each, most deputies joining the office are recent bar admissions. In none is there extensive, formal training of deputies before they begin to prosecute cases. In all, deputies begin with misdemeanor cases, juvenile matters or child support and, as they gain experience, graduate eventually to felony trials. In all four jurisdictions, deputies are for the most part assigned to courtrooms or to stages in the criminal process rather than to individual cases. In all four, the organization and deployment of attorney personnel is shaped in large measure by the organization and geographical dispersion of the court process.

The ten basic processing steps in the felony adjudication process (see pages 28-29 above) are a combination of sequential, in-court adjudicative events (arraignment, preliminary hearing, trial, etc.) and key out-of-court decisions and transactions (the police decision to invoke the court process, the prosecution's decision to charge, the presentence investigation) that provoke or preclude or are prerequisites to in-court events. At a number of the processing steps, the case may be moved forward to the next in the series or it may be disposed of or routed out of the felony adjudication process altogether. Dispositions may also be made between, or in lieu of, some of the basic steps in the process (e.g., a guilty plea entered before trial).

While the major case-processing events--arrest and booking; the prosecution's decision to charge; the defendant's initial appearance before a magistrate; preliminary hearing; the filing of an accusatory instrument; arraignment; motions; trial; presentence investigation; and sentencing--are similar in name among the four jurisdictions, they differ in some important respects in sequence and significance.

The prosecution's decision to charge, for example, considered to be one of the most critical decision-points in the criminal justice process, is made in different ways at different stages in the processes of the four jurisdictions, and with different results. In Kalamazoo and San Diego counties, the court process may not be invoked, and the arrested felon must be released, unless the prosecution decides to formally charge the accused with a crime. The prosecution's filing of charges itself invokes the criminal justice process. In contrast,

in Orleans Parish, the decision to charge is not made until after the felony case is in the court process, and has already been arraigned and examined by a magistrate. In Franklin County, it is difficult to pinpoint precisely where the charging decision is made; sometimes it is immediately before or at the grand jury presentation, after the case has been arraigned, examined and bound over to the felony (superior) court.

Moreover, within a given jurisdiction, there is more than one charging decision. The initial decision to charge (i.e., to file a criminal complaint in an inferior court) may be followed by a second (i.e., to file an accusatory instrument in the superior court) and a third (to unconditionally dismiss, on the prosecution's motion, charges it had previously filed or which had previously been filed without direct involvement of the prosecution).

The practical significance of similarly-named proceedings also differs among the four. The preliminary hearing in Orleans Parish has little case-dispositive consequence. In Franklin County, because of the bifurcation of felony prosecution across two distinct agencies, a dismissal of charges at the preliminary hearing is tantamount in most routine felonies to a final disposition.

While the major processing events can be listed, relatively few felony arrests proceed through all of them. There is considerable weeding-out of the felony caseload along the way in all four jurisdictions, but the weeding-out is done in different ways, at different stages, and with different consequences in each of the four. For instance, in three of the jurisdictions--Orleans Parish, Franklin County and Kalamazoo County--the arresting police agencies dispose, on their own authority, of few of their warrantless felony arrests by discharging the accused. If the arrest is to be disposed of because of legal or other insufficiencies, the disposition will most likely be made by the prosecution or the courts later in the process, not by the police. In San Diego County, on the other hand, police agencies dispose of over ten percent of all felony arrests without referral to the prosecution or courts; most of the dispositions are discharges of the accused because of insufficient evidence.

In Orleans Parish, the prosecution formally declines to charge in almost half of all felony and misdemeanor arrests, and the declination is itself a final disposition. In Franklin County, with limited exceptions, neither of the two prosecuting agencies (city attorney or county prosecuting attorney) formally declines to charge, on its own authority, in any felony arrest.

The criminal justice process, viewed across the boundaries of different states and jurisdictions, is much more difficult to

describe and examine--in its daily workings and its practical consequences--than is suggested by many commentators.[29] While the basic processing steps may appear to be simple and similar in different places, when the nuances, alternative procedures and the range of different dispositions at different stages in the process are factored in, they are in reality more unlike than similar, and more elusive than clear-cut.

Moreover, the process in daily operation works at different levels of visibility and formality at different stages. Trials and hearings may result in case dispositions, but so may less formal, less visible transactions (the charging decision or plea negotiations, for example). The type of disposition (e.g., conviction or discharge) may be essentially the same regardless of the manner in which it is produced, but the ways in which a case disposition may come about are equally important elements in understanding how the process works in one place, and how those workings differ from those of another place.

The Timeliness of Events

The points in time when adjudicative events must happen may be as important in many respects as the ways in which they happen.[30] Timeliness of trial and/or disposition is constitutionally-mandated, but in a notably imprecise fashion: "In all criminal prosecutions, the accused shall enjoy the right to a speedy...trial...."[31] The

[29] There is a notable tendency in much of the literature to "flatten-out" and minimize differences in the workings of the criminal process from place to place. F. Remington et al. Criminal Justice Administration, 1969, p. 11: "The full criminal justice process flows through various stages, past more or less clear-cut decision points, in a manner somewhat analogous to that described by a production chart of an industry or flowchart of a large governmental agency." See also, The President's Commission on Law Enforcement and Criminal Justice, The Challenge of Crime in a Free Society, 1967, p. 147: "Every village, town, county, city and state has its own criminal justice system, and there is a federal one as well. All of them operate somewhat alike. No two of them operate precisely alike."

[30] L. Katz, L. Litwin and R. Bamberger, Justice is the Crime, Pretrial Delay in Felony Cases, 1972: "Essential to the effective operation of the entire criminal justice system is the concept that criminal cases should be dispatched within a reasonable time."

[31] U. S. Constitution, Amendment VI.

President's Commission on Law Enforcement and Criminal Justice set, in 1967, a model timetable of trial within 81 days of arrest if the defendant is not in pre-trial custody, and within 71 days if he is.[32]

None of the four jurisdictions specifically requires trial in so short a time-frame. In Louisiana, there is no fixed-time, specific speedy trial requirement. In California, trial or disposition must be held within sixty days after the filing of an accusatory instrument in the superior court (there is no provision for the timing of trial in relationship to the time of arrest). In Ohio, felony trial or disposition must be held within 270 days after the arrest, with each day the defendant is in custody counted as three days, each day he is released counted as one day. In Michigan, trial is encouraged after a defendant has been incarcerated 180 days; upon application, he is to be released on his own recognizance if he has not been tried through no fault of his own (see Table IV below).

In the three jurisdictions with time-specific requirements mandating when trial or disposition must be held, delays caused by, participated in or consented to by the defendant toll the count.[33]

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[32] The President's Commission on Law Enforcement and the Administration of Justice, Task Force Report: The Courts 86-87 (1967). A time-frame of 60 days from arrest to the beginning of trial of a felony case is recommended in the National Advisory Commission on Criminal Justice Standards and Goals: Task Force on Courts 68 (1973).

[33] In Michigan, the count is further tolled by the existence of a number of factors that are not within the defendant's ability to influence. Excluded from the computation of 180 days of incarceration are periods of delay:

> (1)...resulting from other proceedings concerning the defendant, including but not limited to an examination and hearing on competency and the period to (sic) which he is not competent to stand trial, hearing on pretrial motions, interlocutory appeals and trial of other charges;
>
> (2)...resulting from a continuance granted at the request or with the consent of the defense counsel...;
>
> (3)...resulting from a continuance granted at the request of the prosecuting attorney, if:
>
> (a) the continuance is granted because of the unavailability of evidence material to the state's case, when the prosecuting attorney has exercised due diligence to obtain such evidence

TABLE IV

LEGALLY MANDATED TIMING OF PRINCIPAL ADJUDICATIVE EVENTS: FOUR JURISDICTIONS

	SAN DIEGO	KALAMAZOO	ORLEANS	FRANKLIN
PRELIMINARY HEARING				
- DEFENDANT IN CUSTODY	10 COURT DAYS AFTER INITIAL APPEARANCE	NO PROVISION	7 COURT DAYS AFTER INITIAL APPEARANCE	5 DAYS AFTER ARREST
- DEFENDANT RELEASED	NO PROVISION	NO PROVISION	2 WEEKS AFTER INITIAL APPEARANCE	14 DAYS AFTER ARREST
INDICTMENT/INFORMATION FILED				
- DEFENDANT IN CUSTODY	14 COURT DAYS OF THE BIND-OVER	NO PROVISION	NO PROVISION	60 DAYS OF FILING OF BIND-OVER
- DEFENDANT RELEASED				
TRIAL OR DISPOSITION				
- DEFENDANT IN CUSTODY	60 DAYS AFTER FILING ACCUSATORY INSTRUMENT IN SUPERIOR COURT	AFTER 180 DAYS OF INCARCERATION	NO PROVISION	90 DAYS AFTER ARREST*
- DEFENDANT RELEASED	SAME	NO PROVISION	NO PROVISION	270 DAYS AFTER ARREST*
DEFENDANT CONSENT TO OR PARTICIPATION IN DELAY TOLLS	YES	YES	N/A	YES

*TRIAL WITHIN 270 DAYS AFTER ARREST IN ALL CASES. EACH DAY INCARCERATED COUNTS AS THREE DAYS; EACH DAY RELEASED COUNTS AS ONE.

The Management of Prosecution

Some distinguishing features of the four prosecutors' offices have been noted earlier. Size is a conspicuous one. The San Diego County District Attorney's Office has over seven times the number of deputy prosecutors as does its counterpart in Kalamazoo County; the New Orleans District Attorney's Office has 50 percent more attorney personnel than the Franklin County Prosecuting Attorney's Office. (Table V, page 47.)

Overall office size is misleading, however, because the different offices have different mixes of non-criminal business to attend to. Including immediate division of chiefs and deputies assigned to career criminal cases (and excluding the prosecutor, the chief deputy, and attorneys working on juvenile and economic crime matters, appeals and civil law cases), the offices allocate between 40 percent (Franklin County) and 71 percent (Orleans Parish) of their deputies to criminal prosecution of adult defendants (see Table V below).

Organization and Case Assignment

For criminal prosecution, the four offices are more or less alike in one respect: a distinct organizational unit is responsible for the initial screening of cases and the initial decision to charge. The offices differ in some important respects in their organization of prosecutive functions after the initial charging decision has been made, however.

In two of the offices, both the initial decision and the choice of the "bottom-line" plea for later plea negotiations are, for all felony cases, centered in a distinct office unit. (Both decisions are made at the same time.) In Kalamazoo County, it is a two-deputy

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and there are reasonable grounds to believe that such evidence will be available at a later date;

(b) the continuance is granted for good cause shown..to allow the prosecuting attorney additional time to prepare the state's case;

(4)...when the defendant is joined for trial with the codefendant as to whom the time for trial has not run and there is good cause for not granting a severance...'

(5)...other periods of delay for good cause within the discretion of the court; (sic) however, docket congestion is not good cause for delay.
Michigan Superior Court: General Court Ruling 789.2

TABLE V

DEDICATION OF ATTORNEY PERSONNEL TO THE CRIMINAL PROSECUTION OF ADULTS: FOUR PROSECUTORS' OFFICES

	SAN DIEGO	KALAMAZOO	ORLEANS	FRANKLIN
TOTAL ATTORNEYS	119	16	65	45
ATTORNEYS IN CRIMINAL* PROSECUTION	77	10	46	18
	65%	63%	71%	40%

*INCLUDES CAREER CRIMINAL ATTORNEYS

unit: one of the deputies is a permanently assigned experienced prosecutor; the other is rotated into the assignment for a six-month term from the ranks of trial deputies. In Orleans Parish, the unit is composed of the more experienced deputies in the offices--on more or less permanent assignment to it--and is comprised of 15 deputies of an office total of 46 available for criminal prosecution. The Orleans unit is also responsible for making all grand jury presentations in death penalty cases.

In the Franklin County Prosecuting Attorney's Office, a three-deputy unit makes all presentations (other than of career criminal cases) to the grand jury, both in bound-over cases and in cases in which superseding indictments are sought. Because it presents all bound-over cases, its determination in these cases is largely restricted to a decision of what charges to seek. It determines whether to charge in those cases in which a police agency seeks the superseding indictment.

San Diego County's distinct charging unit operates in only one part of the county: the City of San Diego. A two-deputy unit (the unit assignment is rotated among superior court trial deputies on six-month terms), it determines whether and what to charge in felony arrests that are made within the city. Outside the city, the District Attorney's Office maintains three branch offices in six locations. In the branches, there is no distinct organizational unit responsible for the initial charging decision; the responsibility is rotated among individual branch office deputies.[34]

Neither San Diego's nor Franklin County's charging unit concerns itself with conditions of later plea negotiation.

After the initial charging decision has been made, the four offices organize and assign cases to their deputy personnel in three different ways. The organization differences produce different levels of continuity of case prosecution.

Of the four, New Orleans has the least number of office units and individual deputies handling a criminal case after charges have been filed.[35] After the charging decision has been made, the case

[34] The county includes approximately 4200 square miles. Some branch offices are as much as 60 miles away from others.

[35] Prior to the charging decision, an office deputy does represent the people at the defendant's initial appearance and preliminary hearing, but his tasks at the first are largely ministerial and at the second largely perfunctory, and neither proceeding has much case-dispositive consequence.

is assigned to the office's trial division, which is organized in ten teams of two deputies each, each team assigned for all purposes to one of the court's ten courtrooms. When the charges are filed with the court, the court allots the case to one of the ten courtrooms, which retains the case for all subsequent purposes. Consequently, assignment of deputies to a courtroom is, in effect, tantamount to assigning each team to an individual caseload allotted to that courtroom--to do everything with that caseload except determine the initial charge and the "bottom-line" plea.

In Kalamazoo and Franklin Counties, cases are assigned to the office's trial division after charging. But, while the case remains with the one organizational division for all post-charging prosecution, it does not remain with an individual deputy or a specific team of deputies. Instead, as adjudicative proceedings are scheduled by the court, the case is assigned to an available deputy for purposes of that proceeding. If the proceeding is continued or postponed, the case may well be assigned to another deputy at its rescheduled date. Continuity of prosecution through adjudication by one or two deputies is thus not the routine in these counties.

In San Diego County, continuity of individual deputy-individual case prosecution is impossible to accomplish in most felony cases. The size of the caseload, the geographical dispersion of courts and prosecution in the county, the organization of the courts and their internal processing of cases, combine to produce a particularly fractured case handling process by the prosecution.

The San Diego District Attorney's Office divisions that handle routine felony prosecutions are six:

(1) the Complaint Unit (two deputies) initiates felony charges in the City of San Diego;

(2) the Municipal Court Division (13 deputies) handles prosecution of felonies arising in the City of San Diego while they are processed in the inferior court;

(3) the Branch Office Division (30 deputies) initiates both felony and misdemeanor prosecutions outside the City of San Diego, prosecutes misdemeanors to disposition, prosecutes felonies while they are processed in the inferior court (in two branches) and to disposition (in one branch);

(4) the Special Operations Division (6 deputies) makes all presentations to the grand jury when superseding indictments are sought;

(5) the Appellate Division (8 deputies) represents the office in all pretrial motions as well as in appeals from adverse judgements on motions; and

(6) the Superior Court Division (26 deputies) handles all prosecution after the filing of an accusatory instrument in the Superior Court, except for pretrial motions.

Depending on where in the county the felony case originates, on whether certain defense rights are asserted or waived, and on how the case is prosecuted (indictment or information), the number of different deputies dealing with a routine felony in San Diego County at different times can be as many as ten.

Personnel

Deputy prosecutors are distinguished in the four offices principally by two characteristics: (1) age, office tenure and experience; and (2) conditions of employment.

The average deputy prosecutor in San Diego County is older and by far more tenured as a prosecutor than are his counterparts in the other three offices. His mean experience level in the office is 79.2 months, more than twice that of deputies in the other three (see Table VI below). The "youngest" and least experienced of the offices is that of New Orleans; its deputies average less than two years in office.

A similar distinction of San Diego from the rest concerns unit and division chiefs. They are older and are experienced by more than twice as much as their equivalents in the other three offices (Table VI). Franklin County's division chiefs are the least tenured of the four, with an average time as prosecutors of under four years.

The four offices differ in one other respect. In Orleans Parish and Franklin County, deputies are selected, promoted, paid and retained solely at the discretion of the elected prosecutor. In San Diego County, all deputies other than the chief deputy are recruited, promoted and retained through a combination of merit and county civil service requirements, and are paid according to a county salary schedule. In Kalamazoo County, deputies are recruited and retained wholly at the discretion of the elected prosecutor, but they are organized in a recognized collective bargaining unit (with no affiliations with other labor associations) for purposes of salary and grievance procedures.

TABLE VI

SELECTED PERSONNEL CHARACTERISTICS OF DEPUTY PROSECUTORS: FOUR OFFICES*

	SAN DIEGO	KALAMAZOO	ORLEANS	FRANKLIN
OVERALL OFFICE				
NUMBER OF DEPUTIES	74**	14	62***	39
AGE: AVERAGE	35	31.1	29	31.7
(RANGE)	(27-56)	(26-38)	(25-61)	(25-58)
MONTHS IN OFFICE:				
AVERAGE	79.2	37.3	23.8	31.8
(RANGE)	N/A	(3-84)	(8-173)	(0-65)
YEARS SINCE BAR ADMISSION	7	3.9	2	N/A****
UNITS & DIVISION CHIEFS				
NUMBER OF DEPUTIES	12	6	6***	8
AGE: AVERAGE	41	32.8	35.6	34.4
YEARS SINCE BAR ADMISSION	N/A	6.5	4.6	N/A

*PROSECUTOR AND CHIEF DEPUTY EXCLUDED.

**BASED ON 74 RESPONSES IN OFFICE SURVEY OF 116 DEPUTIES.

***INFORMATION UNAVAILABLE FOR THREE DIVISION CHIEFS AND ONE DEPUTY.

****N/A: NOT AVAILABLE

San Diego County's attorney personnel retention and promotion procedures appear to have some relationship to the age and tenure of deputies. No relationship between tenure and the different personnel practices of the other three offices is apparent.

Controls on Discretion

There are varying controls placed by each office on the discretion of individual deputies to charge or not charge, dispose without trial and at what level:

(1) In Franklin County, individual deputies have almost completely unfettered discretion to negotiate guilty pleas and enter nolle prosequi's.

(2) In Kalamazoo County and Orleans Parish, a separate office unit determines both the initial and the bottom-line charges. The same individual deputy makes both determinations at the same time.

(3) In San Diego County, a special unit makes the initial charging decision in some cases; the charging responsibility is dispersed among different deputies in the branch offices. The bottom-line plea is not determined at the time of charging. Instead, a panel of senior deputies meets weekly to review all felonies bound-over to the superior court to decide, among other things, on the least serious offense to which the office will agree to a guilty plea.

(4) The San Diego District Attorney's office also stations senior, supervisory deputies at points in the adjudicative process at which guilty pleas are most likely to be negotiated, and invests in those deputies greater discretion to dispose (i.e., without regard to the bottom-line) than in regular trial deputies.

(5) In Orleans, Kalamazoo and San Diego, the decision of a deputy in the special unit to file initial charges is not routinely reviewed; a decision to reject all police charges is, however, subject to automatic review by superiors.

(6) While, in Orleans, Kalamazoo and San Diego, the decision of whether to charge is guided in part by office policy and is subject in part to review, the decision of what to charge is not routinely reviewed.

The nexus between the charging decision and the decision to reduce or change charges in return for a guilty plea is of three different types in the four offices.

In Orleans Parish and Kalamazoo County, the same individual deputy makes both decisions on charge (i.e., the initial charge and the bottom-line plea), and makes both at the same time. (In Kalamazoo County, the deputy who sets the bottom-line may also be the deputy who later negotiates the plea with defense counsel.)

In San Diego County, the initial decision to charge may be made by any one of a number of deputies. In those felonies that survive preliminary examination in the inferior court, the bottom-line plea is set by a panel of senior deputies (unit and division chiefs) which meets weekly to review bound-over cases.

In Franklin County, the initial decision to charge is formally made by the grand jury under encouragement of the deputy who presents the case. The decision to dispose (by plea or nolle) is wholly that of the trial deputy to whom the case is later assigned.

Some Summary Observations

The foregoing sections suggest some summary observations about the administration of criminal justice in the four jurisdictions.

First, the structure of the criminal justice process is organized notably differently from place to place, with some different and, in some ways, predictable consequences for the conduct of criminal prosecution. The single agency/single function organization of criminal justice in Orleans Parish contrasts conspicuously with the different degrees of fractured, bifurcated agency structures of the other three.

A reasonable approximation of continuous, individual attorney prosecution of individual cases is possible in most cases in the structural compactness of New Orleans; it is virtually inconceivable in the majority of cases in the geographically dispersed, jurisdictionally-bifurcated, multi-agency and multi-division court system of San Diego County.

With a single agency prosecuting all felonies at all stages in their pre-appellate adjudication (as in three of the jurisdictions), it is possible for that agency to at least account for what happens to all felony cases, if not to influence their outcomes. In Franklin County, where felony prosecution is sequentially shared by two independent prosecuting agencies, the process is not only more difficult to examine, it is also far more difficult for a prosecutor's office to influence in its totality. For the Franklin

County prosecutor to target, for example, career criminal cases is to target a universe of felony cases that is approximately 28 percent less (because of inferior court prosecution beyond his ken) than the universe of felonies referred by police for felony prosecution.

Second, basic procedural components of criminal adjudication--while similarly named in different jurisdictions--are sometimes conducted quite differently with different consequences in different places. The preliminary hearing in Louisiana is quite distinct from the preliminary hearing in California and Michigan. In New Orleans, the hearing has no practical case-dispositive consequence. In San Diego, dismissals that result from it account for almost one-fourth of the final dispositions of felony prosecutions; in Kalamazoo County, for 16 percent.

The difference between an indictment and an information is much more than academic. In three of the four places the indictment can supersede all preliminary processing; it abrogates the defendant's otherwise right to the preliminary examination; it may accelerate the case's prosecution or (as in Franklin County) bring the case within the institutional cognizance of the felony prosecuting agency earlier than otherwise.

What judges can do at sentencing--and inferentially, what prosecutors can recommend that they do in sentencing certain offenders--is curtailed in different ways with different outcomes from place to place. In Louisiana, the prosecutor's use of statutory sentence enhancement provisions for repeat offenders greatly influences sentence determinations. Because of indeterminate sentencing in California, until July 1, 1977, the best the prosecution could do to influence sentence time was to recommend the imposition of sentences to run consecutively.

Third, the ways in which the criminal justice system process, as a whole, is administered influence the ways prosecution is managed. The courts' management of their caseloads has an impact on the ability of the prosecutor to prosecute and the means by which he does so. In Orleans Parish, where cases are early assigned for all purposes to one of a small number of courtrooms to which deputy prosecutors are also assigned for all purposes, some individual single-prosecutor/single-case continuity in prosecution is possible. (The offsetting disadvantage of having each judge's courtroom in charge of cases assigned to it may be, of course, disparities in policy and practice among courtrooms and no central management to keep the court functioning as a whole.) San Diego County's master calendaring (i.e., assigning cases to available judges on the days of scheduled proceedings rather than in advance for all adjudicative purposes) may increase the court's

case management efficiency, but--with its attendant logistical demands--it confounds the prosecution's ability to have individual deputies stay with individual cases. To have criminal cases scheduled in fixed time blocks in rotation with noncriminal cases in the same courtrooms (as in Kalamazoo and Franklin Counties) may diminish everyone's responsibility for the movement of the criminal docket and may hamper the ability of the prosecution to expedite the prosecution of some cases over others.

The point in the court process where the initial charging decision by the prosecution is located can affect both the visibility and the conduct of the decision and the practical utility of various court proceedings. In San Diego and Kalamazoo Counties, the preliminary examination is an examination of charges the prosecution has reviewed and has formally filed. In Orleans Parish it is an examination of police charges only, with no practical consequences in terms of whether or not the defendant will be filed against by the prosecution and will be held to answer. In Franklin County the preliminary hearing can be easily superseded by an intervening indictment (an accelerated charging) or it can be terminative of the prosecution (i.e., by dismissal), simply because it ends the responsibility of one prosecuting agency without invoking the cognizance of the second agency in the prosecuting sequence.

Fourth, "much of the criminal process is administrative rather than judicial,"[36] but the manners and points in the process in which cases are disposed of without full adjudication differ among the four places. A declination to charge by the prosecution avoids the court process entirely in San Diego and Kalamazoo Counties; in Orleans Parish it brings proceedings that are inconsequential in terms of disposition to a halt; in Franklin County, in the form of a grand jury no-bill, it terminates the adjudicative lives of cases that have already been examined in a forum in which they could earlier have been disposed (i.e., at the preliminary hearing).

The professed criteria at work in determining whether to charge differ among the four. The factors to be considered in agreeing to a guilty plea to a reduced charge differ. The management controls placed on both determinations differ.

At work at different points in prosecutorial decision-making in the different jurisdictions are distinguishable philosophies of criminal prosecution. In Kalamazoo County, for example, charges are

[36] The President's Commission On Law Enforcement and Administration of Justice, The Challenge of Crime In a Free Society, pp. 11, 147 (1967).

to be filed if a prima facie case exists and can be testified to; the guiding question is: can the case be brought to trial (distinguished from the question: can it be won at trial)? In San Diego County, on the other hand, a prima facie case is, of itself, not enough to prompt the filing of charges. Considerations of equity and office policy are also to be factored in: the guiding question is: should the case be brought to trial?

Fifth, the required timeliness of adjudicative events differs among the four places. In California, once an accusatory instrument is filed in the superior court, the defendant must be brought to trial (or his case must be otherwise disposed) within sixty days. In Louisiana, there is no time-specific requirement for when trial must occur. In Michigan, statutory requirements for speedy trial are weak, and given the many acceptable causes of delay, are marginal in practical significance.

Sixth, the prosecutor's offices in the four jurisdictions differ in range of duties, proportions of personnel dedicated to criminal prosecutions, age and experience levels of deputies, methods for case assignments, organization of functions, and controls on discretion.

In all four jurisdictions, it is apparent that there are some considerable obstacles to effect an intensive prosecution of most criminal cases.

Relatively few cases can be assigned to individual deputy prosecutors to handle from their initial charging through to their disposition. This individual-deputy/individual-case continuity is closer to being achieved in some jurisdictions than in others, but it is not a completely realized objective in any of the four.

Caseload sizes are considerably disproportionate to the prosecutorial resources available to deal with them. Comparisons of cases with available deputy resources across the four jurisdictions are not possible because in some (e.g., Franklin County) the deputies handle only felonies; in some (e.g., the other three) some or all of the same deputies who handle felonies also prosecute misdemeanors. As rough, imprecise and noncomparable measures, however:

(1) each of San Diego County's 77 deputies who are allocated to criminal prosecutions (both felony and misdemeanor) disposes of an average of 91 felonies each year;

(2) each of Kalamazoo County's 10 deputies who are assigned to criminal matters (both felony and misdemeanor) disposes of an annual average of 71 felonies;

(3) each of the Franklin County Prosecuting Attorney's Office deputies dedicated to criminal prosecution (of felonies only) disposes of 157 felony cases each year; and

(4) each of New Orleans' 46 deputies assigned to felony and misdemeanor prosecutions brings an average of 115 per year to disposition.

Experience levels of deputy prosecutors (measured by tenure in office) are, with the exception of San Diego County, not substantial: averaging less than two years in Orleans, less than three years in Franklin County, slightly more than three years in Kalamazoo.

While the criminal process can be reduced to ten basic proceeding steps for initial analysis, in practice it is maze-like, with myriad case processing routes, disposition types and disposition opportunities,[37] a "system" only in the loosest sense of the term, which at least one observer has characterized as literally having become perhaps "too complex for its practitioners."[38]

[37] However, Norval Morris and Gordon Hawkins have translated the term "criminal justice system" to mean nothing more than "...if you press something here, something else is likely to pop out quite unexpectedly over there." N. Morris and G. Hawkins, The Honest Politician's Guide to Crime Control (1969), University of Chicago Press, p. 90.

[38] M. Ash, On Witnesses: A Radical Critique of Criminal Court Procedures, 48, Notre Dame Lawyer, pp. 423-424 (1972).

Chapter 5

Who are the "Career Criminals"? Defining The Career Criminal Target Population

Current Research and Derived Policy Assumptions about Career Criminals

As discussed earlier, one major underlying assumption of the Career Criminal program is that there exists a subpopulation of criminal offenders who commit a disproportionate amount of criminal activity. The program further assumes that these career criminals come into contact with the criminal justice system and that it is possible to systematically identify them and give their cases special attention.

The programs examined here have all defined some subgroup within their total criminal caseload as career criminals. Using information available to the prosecution presumably at some point early in the life of a case, criteria have been established which signal the appearance in the courts of a career criminal. While all of the sites define their target population as serious recidivist offenders, beyond this general agreement there is considerable variation among the four in the specific selection criteria applied by each program. Using these definitions, cases issued by the prosecution or the court are systematically screened and those involving career criminals are accorded special prosecutorial attention. Hence, it appears to be quite feasible to act on the assumptions of the program. The question remains, however, to what degree the individuals identified are in fact "career criminals".

There is good empirical evidence to suggest that there may be a distinct subpopulation of repeat offenders[39] and further that this group of repeat offenders can be differentiated into two distinct types in terms of the degree and nature of their criminal involvement, with one group ("intensives") coming close to the definition of the idealized career criminal.[40] There is less evidence, however to suggest that it is possible to discriminate between career and non-career criminals with the kind of information routinely available to the criminal justice system.

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[39] Wolfgang, supra; Kristen M. Williams, The Scope and Prediction of Recidivism, PROMIS Research Publications No. 10 (Washington, D.C.: INSLAW, 1979).

[40] Petersilia, J. et. al., Criminal Careers of Habitual Felons, R-214420J, The Rand Corporation, August 1977.

Currently ongoing research[41] involving self-report interviews with incarcerated recidivist offenders is attempting to develop a typology of offenders which would include the "career criminal" among other types. This research is investigating a number of factors which could be useful in constructing such a typology including offenders' motives, attitudes and social background factors, as well as the kinds and amounts of crimes committed in the past, for use in identification of these potentially high priority defendants. While much of this work must be considered preliminary, available information provides some indications of, on the one hand, the potential importance of being able to discriminate among different types of offenders and, on the other, the difficulties of using certain information readily available to prosecutors to identify career criminal offenders.

> The intensive intermittent distinction between habitual offender types appears to have considerable policy significance. The intensives pursued their criminal activity with much more persistence and skill than did the intermittents, and they committed far more crimes. Yet they incurred the formal sanctions of the system (arrest, conviction, and incarceration) less frequently than did the intermittents. The intermittent offenders were five times more likely to be arrested for any one crime than the intensives. And, once arrested, they were more likely to be convicted or incarcerated.
>
> In controlling crime, the intensives are the offenders that sentencing and incarceration policies should try to reach. Current policies are unselective. It remains to be seen whether the intensive offender can be more clearly identified from official records and whether a more appropriate treatment can be devised. At this time we can only point out the danger of relying on a simple distinction of habitual offenders based solely on prior convictions. It glosses over significant differences between the intermittent offender, who appears to pose no more risk to the public than other types of offenders, and the intensive offender, who clearly poses a much greater threat.[42]

[41] Stambul, Harriet B. Doing Crime: A Survey of California Prison Inmates, WN-9933-00, The Rand Corporation, July 1977.

[42] Petersilia, et al., supra, p. 113.

The study findings further suggest that other information, gathered as part of the inmate interviews and reported by those inmates, provide better indicators of criminal involvement than do numbers and types of contacts with the criminal justice system:

> Not surprisingly, respondents' self-descriptions are markedly superior to conviction offense labels as a means for differentiating among offenders. Respondents who describe themselves in terms of different criminal identities report distinctive patterns of criminality. Further, the extent of respondents' self identification as criminals is strongly related to their criminal behavior. In particular, respondents who have multiple criminal identities report a wide range of crimes and intense activity in those crimes. Information such as this is of course not available to the criminal justice system in any systematic way.[43]

Other research has attempted to specifically examine the utility of information routinely available to the prosecution to identify recidivist offenders.[44] Using data covering a 56-month period in the District of Columbia, a recent study confirmed that a small proportion of arrested individuals account for a large proportion of adult arrests in the jurisdiction. Here, as opposed to the research discussed above, recidivism was defined in terms of contact with the criminal justice system (rearrest, reprosecution, reconviction). Using these definitions of recidivism, the study identified a number of characteristics of the offense and the offender which were associated with the likelihood of recidivism, including certain instant offenses:

> The association between current offense type and the likelihood of recidivism has implications for career criminal programs. The offenses that "career criminals" in the District of Columbia seem to be involved with are, in approximate order of importance: burglary, robbery, larceny (if not a first offender), misdemeanor drug offenses (if not a first offender), and assault. Targeting on other crimes such as homicide and sexual assault, may be appropriate for other reasons, but such a concentration for a "career criminal" program is not supported by this research.[45]

[43] Stambul, supra, p. 13.

[44] Williams, supra.

[45] Williams, ibid., p. VII-2.

Certain factors related to the defendant's prior criminal record were found to be significantly related to recidivism: "Number of previous arrests, whether arrested in the past five years, and number of convictions, were almost always important predictors of recidivism."[46] Since, in this study, predictions of recidivism are equated with future contacts with the criminal justice system, this finding could be quite consistent with the findings cited above from the inmate self-report study for intermittent offenders, who tend to be repeatedly caught and adjudicated for their criminal deeds. This study also found the use of criminal alias to be a good predictor of recidivism, a finding which appears to parallel to some degree the self-report interview finding of the utility of multiple criminal identities as an indicator of intense criminal involvement.

Both studies found the concept of the specialized offender who exclusively commits burglary or robbery, for instance, to be unsubstantiated. Few defendants admitted or were arrested for only one type of crime, even when the time period of recidivism was limited to a single year. Further, while felons showed a slight tendency to commit felonies and misdemeanants, misdemeanors, this was not a strong association:

> Many times the pattern seemed to be one of alternation between felonies and misdemeanors. This suggests that career criminal programs that target only on persons arrested for a felony may be missing many serious repeat offenders.[47]

The conclusion reached by this study sums up the current state-of-the-art with regard to the identification of serious criminals whose recidivism can be confidently predicted:

> Prosecution in major cities in the United States involves making many hard policy decisions about how to allocate resources. There are simply too many cases for all of them to receive concentrated attention. Choices about which ones should receive special attention have to be made based on a variety of criteria, one of which could be recidivism potential. Career criminal programs will not have an effect on future crime if the people who are targeted are in fact not likely to repeat. This report has described patterns of recidivism within one urban jurisdiction. While our ability to identify persons who truly are "career criminals" now exceeds random identification by a considerable degree, much work remains to be done.[48]

[46] Williams, ibid., p. VII-7.

[47] Williams, ibid., p. VII 2-3.

The Career Criminal as Defined in The LEAA Program and in The Four Jurisdictions of the National Evaluation

In all of the jurisdictions participating in the Career Criminal program, career criminal definitions and career criminal case selection, both of which are locally established, are generally based upon the criminal history of the defendant, the nature of the current offense, or some combination of the two.

Selection in some jurisdictions is fairly routine and is based on objective information regularly examined by the prosecutor's office (e.g., the defendant's prior criminal record or the current charges). In other sites, the selection process, while still objective, is more complex, requiring a more comprehensive case evaluation before a case is selected for career criminal treatment. In still other programs, selection is made on a case-by-case basis and remains largely in the discretion of an experienced assistant prosecutor. In all of the programs, the persons identified and selected as career criminals have already been arrested or are already otherwise subject to criminal prosecution at the time of selection.

In the four jurisdictions examined here, the different definitions of the career criminal in each place accord different levels of significance to the defendant's current charge(s), to his status at the time the current offense was committed (on parole, for example), and to his past criminal history. The type of current charge is critical to the definition of the career criminal in San Diego, for example, whereas in New Orleans, it is irrelevant to the definition.

The current charge defines both the pool of defendants from which career criminals are selected and (in two of the jurisdictions) may in and of itself qualify the defendant as a career criminal (see Table VII below). A career criminal is first--before other criteria are applied--a person currently charged:

[48] Williams, ibid., p. VII-11.

TABLE VII

SELECTION CRITERIA FOR CAREER CRIMINALS IN FOUR JURISDICTIONS

	SAN DIEGO	KALAMAZOO	ORLEANS	FRANKLIN
POOL FROM WHICH DRAWN: CURRENT CHARGES	ROBBERY AND ROBBERY-RELATED HOMICIDE ONLY	ANY FELONY, IF DEFENDANT MEETS ADDITIONAL CRITERIA; PART I OFFENSE, ONLY IF ONLY OTHER FACTOR IS FIVE PREVIOUS ARRESTS	ANY FELONY OR MISDEMEANOR	ANY FELONY
CURRENT CHARGE ALONE MAY QUALIFY	IF CHARGED WITH THREE OR MORE DISTINCT ROBBERIES	IF CHARGED WITH ROBBERY WITH FIREARM; FIRST DEGREE SEXUAL ASSAULT; DISTRIBUTION OF HEROIN OR COCAINE	NO	NO
STATUS AT TIME OF ARREST ALONE QUALIFIES	NO	IN ANY CURRENT FELONY IF ON PAROLE, BAIL, BOND, OR A FUGITIVE	NO	NO
PRIOR ARRESTS ALONE QUALIFY	NO	IF CHARGED WITH PART I OFFENSE AND FIVE PRIOR FELONY ARRESTS	FIVE PRIOR FELONY ARRESTS	NO
PRIOR CONVICTIONS THAT QUALIFY	ONE OR MORE ROBBERY OR ROBBERY-RELATED HOMICIDE(S); ONE OR MORE GRAND THEFT(S) FROM PERSON IF ANY OTHER RECORD OF CONVICTION	TWO, ANY FELONY	TWO, ANY FELONY	TWO, ANY FELONY; OR ONE FROM LIST OF SPECIFIC FELONY OFFENSES
OTHER QUALIFYING CRITERIA	*OPTIONAL SCORE OF 12 POINTS WILL QUALIFY IF OTHER CRITERIA NOT MET	*REQUIRED SCORE OF 110 POINTS AFTER OTHER QUALIFYING CRITERIA ARE MET	NONE	NONE

*SAN DIEGO AND KALAMAZOO UTILIZE SCORING PROCEDURES WHICH GIVE SELECTED CHARACTERISTICS OF THE CRIME EVENT AND OFFENDER WEIGHTED VALUES TO BE TOTALED IN SELECTING TARGET CASES.

(1) in Orleans Parish, with any felony or misdemeanor;

(2) in Franklin County, with any felony;[49]

(3) in Kalamazoo County, with a Part I felony offense[50] or with any felony--if the only other criterion he meets is a record of vive previous arrests; and

(4) in San Diego County, with robbery or robbery-related homicide.

Persons so charged must meet at least one additional criterion before being selected as career criminals with the following exceptions:

(1) in San Diego, if the defendant's current charges allege three or more distinct robberies committed at different times, these alone qualify him as a career criminal;

(2) in Kalamazoo County, if the current charge is actual delivery of a Class One controlled substance (e.g., heroin) or first degree sexual assault, the current charge alone makes the defendant a career criminal; and

(3) in Kalamazoo County, if the defendant is currently charged with robbery, and if a firearm was used in the commission of the robbery, the defendant is a career criminal on the basis of this criterion alone.

The defendant's status at the time of the commission of the offense can itself qualify the defendant as a career criminal in Kalamazoo County; in Orleans Parish and Franklin County it is not a factor; in San Diego it may, in combination with other criteria,

[49] This was true only for the first year of program operations. Since that time restrictions relating to the current charge have been imposed. The description here concerns the first year of program activity.

[50] That is, he is charged in Michigan law with: larceny (punishable by five years or more); breaking and entering; assault (as a felony); delivery of a Schedule One controlled substance (e.g., heroin); robbery; first degree criminal sexual assault; or homicide.

KALAMAZOO COUNTY PROSECUTOR'S OFFICE

INTAKE SCORING SHEET

DEFENDANT'S NAME _____ POLICE DEPT. _____

DATE _____ POLICE FILE NO. _____

REVIEWING APA _____ POLICE OFFICER _____

CRIME INFORMATION
(To be filled out by Officer)

A. VICTIM
☐ None
☐ Institution
☐ Other Person
☐ Law Officer
☐ Under 13 - Over 60
_____ ☐ Physically or Mentally Disabled

_____ B. VICTIM INJURY
☐ None
☐ Minor (No Treatment)
☐ Treatment Required
☐ One Hospitalized
☐ More Than One Hospitalized
_____ ☐ Loss Of Life

C. WEAPON AT CRIME
☐ None
☐ Other Dangerous Weapon
☐ Gun Carried
☐ Gun-Fired Shot
_____ ☐ Explosives

D. WEAPON AT ARREST (If Arrested 12 or more hours after crime)
☐ None
☐ Other Dangerous Weapon
☐ Gun Carried
☐ Gun-Fired Shot
_____ ☐ Explosives

E. ECONOMIC VALUE
☐ None
☐ $1-$100
☐ $101-$499
☐ $500 - $1,499
☐ $1,500 - $4,999
_____ ☐ $5,000 - Over

F. MULTIPLE OFFENSES
☐ None
☐ Confessed 1-9 Can't Charge
☐ Confessed 9-Over, Can't Charge
☐ Can Charge 2 Others or Less
_____ ☐ Can Charge 3 or More

G. CHARGE (As Issued This Case)
☐ Other _____
☐ Larceny (5 Yr. or Greater)
☐ Breaking & Entering
☐ Assaults (Felony)
☐ Delivery of Schedule 1 Narcotic
☐ Robbery
☐ Forcible Sex
_____ ☐ Homicide

_____ TOTAL CRIME SCORE

DEFENDANT'S INFORMATION

H. DRUG INVOLVEMENT
☐ None
☐ Defendant is known user
☐ Delivery - Other
_____ ☐ Delivery - Narcotics

(To be filled out by Prosecutor)
A. FELONY CONVICTIONS
☐ None
☐ One
☐ Two
☐ Three-Four
_____ ☐ Five or More

B. MISDEMEANOR CONVICTIONS
☐ None
☐ One
☐ Two-Four
☐ Five-Seven
_____ ☐ Eight or More

C. FELONY ARRESTS
☐ None
☐ One
☐ Two-Four
☐ Five-Nine
_____ ☐ Ten or More

D. STATUS
☐ Not Applicable
☐ Bail
☐ Probation
☐ Parole
_____ ☐ Escape

E. PENDING CASES
☐ None
☐ Misdemeanor - Other Locale
☐ Misdemeanor - Kalamazoo
☐ Felony - Other Locale
_____ ☐ Felony - Kalamazoo

TYPE OF INFORMATION _____

THRESHOLD MET _____

ACCEPTED ☐
REJECTED ☐

Reason _____

_____ TOTAL DEFENDANT SCORE

_____ TOTAL SCORE BY

FIGURE 4
FACTORS IN CASE-RANKING:
PROSECUTING ATTORNEY'S OFFICE

lead to career criminal designation, but not in and of itself (see Table VII). In Kalamazoo County, a defendant charged with any felony is designated a "career criminal" if any one of the following "status" criteria are met; at the time the offense was committed the defendant was:

(1) on parole;

(2) on Superior Court probation;

(3) a fugitive escaped from prison;

(4) on post-conviction bond; or

(5) on bail in another pending case.

Defendants who are eligible for career criminal designation because of the current charge (excluding those who are designated career criminals solely on the basis of the current charge or status at the time of the offense), must meet at least one additional criterion concerning criminal history before selection as career criminals.

In two of the programs, prior arrests alone may satisfy the additional criterion; in the other two, prior convictions are required (Table VII). In Orleans and Kalamazoo County, there need be only two previous felony convictions, regardless of felony charge.

In Franklin County, there need be only two felony convictions of any type or at least one conviction for one of fifteen listed offenses:

(1) aggravated murder;

(2) murder;

(3) voluntary manslaughter;

(4) involuntary manslaughter;

(5) rape;

(6) kidnapping;

(7) abduction;

(8) aggravated robbery;

(9) robbery;

(10) aggravated burglary;

(11) aggravated arson;

(12) arson;

(13) felonious assault;

(14) engaging in organized crime; or

(15) possession or distribution of narcotics or cocaine.

In San Diego County, the prior conviction(s) must be similar in nature to the current charge. One or more convictions of the following offenses satisfies the additional criterion for career criminal selection:

(1) robbery;

(2) robbery-related homicide; and

(3) grand theft from a person if the defendant has any other prior conviction of any offense.

The combination of (1) current charge and (2) prior criminal history alone and exclusively qualifies the defendant as a career criminal in Orleans Parish and Franklin County. In Kalamazoo County, defendants who qualify as career criminals because of current charge alone, status at the time of the offense alone, or current charge in combination with prior record, must additionally score 110 points or more on a case-seriousness ranking scheme (see Figure 4 below) to achieve eligibility for targeted prosecution.

In San Diego County, persons charged with robbery who do not have a qualifying record of convictions may nonetheless be designated as career criminals if enough of the following factors (each with a numerical weight) are presented in their backgrounds and/or in the current offense to give their cases an aggregate numerical weight of twelve. The factors are a mix of subjective assessments and officially recorded law enforcement information on past activity:

(1) the current offense has a violent nature (e.g., weapons used, injury to victim), (Score of 2);

(2) The defendant's past record reveals a progression to more violent and serious offenses, such as grand theft from a person and robbery (Score of 2);
(3) His previous record reveals the past commission of robberies but through plea bargaining the charges were reduced to lesser crimes (Score of 2);
(4) His prior record reveals the commission of a felony or felonies in addition to robbery, all of which were charged in the criminal complaint that was filed at the time, but a conviction of a felony other than robbery resulted (e.g., he was charged with robbery and rape and convicted of rape) (Score of 2);
(5) Reliable law enforcement sources substantiate that the defendant has in the past committed a robbery or robberies for which he was neither arrested nor prosecuted because of evidentiary problems (e.g., search and seizure or Miranda problems, an informant's identity cannot be revealed, the victim refuses to prosecute for fear of reprisal) (Score of 2);
(6) Reliable law enforcement sources substantiate that the defendant has repeatedly committed robberies in the past but has evaded apprehension (Score of 2);
(7) The defendant has previously been arrested, charged or convicted of a crime or crimes involving the fruits of a robbery (Score of 2);
(8) "Informational resources" and the circumstances of the instant case indicate that the robbery currently charged is the result of an earlier strategy with an accomplice (Score of 2);
(9) Kidnapping of the victim occurred in the robbery that is currently charged (Score of 2);
(10) The reviewing deputy's subjective judgment is that the offense and/or offender warrants special prosecutorial attention (Score of 2);
(11) The defendant's past record reveals one or more arrests for robbery and/or grand theft from a person (Score of 2 if one arrest; score of 3 if two or more arrests);
(12) At the time of a current arrest, the defendant:

(a) Was on parole or felony probation (Score of 3);
(b) Was wanted (Score of 2); or
(c) Was on bail in a pending felony case (Score of 2).

The career criminal, then, may be variously a person who is:

(1) charged in the instant case with a felony or misdemeanor who has five previous arrests (Orleans Parish);

(2) charged in the instant case with first degree sexual assault (Kalamazoo County), or three separate robberies (San Diego County) with no previous record of arrests or convictions;
(3) charged in the instant case with a felony committed while he was on bail, bond, probation, parole or a fugitive (Kalamazoo County).

Depending on the program, he may not have a "career" in the sense of a prior record of convictions; he may not (as in Kalamazoo and San Diego) necessarily have a prior record of arrests.

In summary, the target populations are selected in each of the four jurisdictions by the following criteria (see Table VIII below).

In San Diego County, the defendant must be charged in the instant case with a robbery or robbery-related homicide. He is a career criminal if: (1) he has at least one previous conviction for robbery or robbery-related homicide; (2) he has at least one conviction for grand theft from a person and has one other conviction; (3) in the instant case he is charged with the commission of three or more distinct robberies; or (4) on a weighted rating scheme based on official and unofficial information on criminal activity he otherwise qualifies.

In Orleans Parish, the defendant charged with a felony or a misdemeanor is a career criminal if he has two previous felony convictions or five prior felony arrests.

In Franklin County, the career criminal is a defendant who is charged with a felony and who has two previous convictions of any felony or one prior conviction of one of a list of specific felonies (see page 65 above).

In Kalamazoo County, a person is a career criminal if he is charged in the instant case with a felony and: (1) has two previous felony convictions; (2) was on probation, parole, bond or was a fugitive at the time of the offense; (3) is charged with one of three specific offenses in the instant case, and scores 110 on a numerically-weighted scheme that factors the gravamen of the current offense and the seriousness of the defendant's criminal background. He is also a career criminal if he is charged in the current case with a Part I offense and has five previous arrests and scores 110 on the case ranking scheme.

Beyond specific differences, the selection criteria of the four programs have three noteworthy features. First, San Diego's

TABLE VIII

CAREER CRIMINAL PROGRAM ELIGIBILITY CRITERIA: FOUR JURISDICTIONS

FRANKLIN COUNTY (COLUMBUS)	CURRENT FELONY CHARGE, AND TWO PRIOR FELONY CONVICTIONS OR ONE PRIOR CONVICTION FOR ONE OF FIFTEEN SELECTED SERIOUS FELONY OFFENSES
KALAMAZOO COUNTY	FOR CONSIDERATION: CURRENT FELONY CHARGE AND EITHER PRIOR CRIMINAL ACTIVITY (TWO CONVICTIONS, FIVE ARRESTS); BAIL STATUS; OR USE OF A FIREARM IN COMMISSION OF AN ARMED ROBBERY OR COMMISSION OF FIRST DEGREE SEXUAL ASSAULT OR DELIVERY OF NARCOTIC FOR SELECTION: WEIGHTED RATING SCHEME WHICH CONSIDERS TYPE OF VICTIM, VICTIM INJURY, WEAPON AT CRIME, WEAPON AT ARREST, ECONOMIC VALUE, MULTIPLE OFFENSES, CURRENT CHARGE, FELONY CONVICTIONS, MISDEMEANOR CONVICTIONS, FELONY ARRESTS, STATUS, PENDING CASES
ORLEANS PARISH	CURRENT CRIMINAL CHARGE (MISDEMEANOR OR FELONY) AND EITHER TWO PRIOR FELONY CONVICTIONS OR FIVE PRIOR FELONY ARRESTS
SAN DIEGO COUNTY	CURRENT ROBBERY OR ROBBERY-RELATED HOMICIDE CHARGE AND EITHER PRIOR CONVICTION FOR ROBBERY, ROBBERY-RELATED HOMICIDE OR GRAND THEFT FROM A PERSON (WITH ONE OTHER CONVICTION) OR CURRENT CHARGES INCLUDE THREE OR MORE SEPARATE AND DISTINCT ROBBERIES; OR CURRENT ROBBERY OR ROBBERY-RELATED HOMICIDE CHARGE AND WEIGHTED RATING SCHEME WHICH CONSIDERS A MIX OF SUBJECTIVE ASSESSMENTS AND OFFICIAL AND UNOFFICIAL INFORMATION ON PAST CRIMINAL ACTIVITY

targeting is crime-specific (career criminals must be charged with robbery in the instant case); Orleans Parish targets offenders without regard to current charge. Second, the considerations taken into account in the selection process differ among the four. In Orleans Parish and Franklin County, selection is based exclusively on frequency of prior contact with the criminal process; in Kalamazoo and San Diego counties, characteristics of the current offense also play a role in career criminal selection. Third, in both Kalamazoo and San Diego counties it is possible for a case to be accepted for targeted prosecution on the basis of the current offense alone, with the defendant having no prior record of criminal activity.

The intent of these four target population definitions involve a somewhat different subgroup of offenders in each jurisdiction. These career criminal target groups differ both among one another and in their relationship to the general criminal defendant population in their respective locations. While the research basis for the identification of career criminals is expanding, the current state of the art is such that it is not possible to say with any certainty how closely the group of individuals prosecuted by these programs represent the ideal career criminal group. They do however represent that subgroup of cases which in the view of the local prosecutor constitute his priority cases.

Summary Observations on Current Research and Practice

The research discussed earlier, in focusing on the career criminal concept, has outlined:

- an empirical basis for believing that a specific group of offenders is responsible for a disproportionate amount of crime;
- the importance of targeting those serious offenders likely to be repeaters; and
- some indications of which offenders (by crime-type or in terms of the intensive/intermittent dichotomy) have the greatest probability of recidivating.

More recent research has introduced age as another important criterion for identifying future recidivists,[51] pointing out that (1) offenders

[51] See, for example, Barbara Boland and James Q. Wilson, "Age, Crime and Punishment," in The Public Interest, Spring 1978.

tend to reduce their criminal activity with advancing years and that (2) using the criminal history as the essential tool for selection automatically results in targeting those older offenders who are least likely to recidivate, rather than those in mid-career (a fifteen- or sixteen-year-old delinquent, for example).

However, the evidence emerging from an examination of the selection criteria and definition processes used in the four evaluation sites of the Career Criminal program (and generalizable, to considerable degree, it would appear, across the program), is that, insofar as practice is concerned:

- there is currently no accepted practitioner or prosecutorial view of what a "career criminal" is (he may, for example, be a misdemeanant in New Orleans or a robber in San Diego, may have never been convicted of a previous crime, in Kalamazoo, or must have had at least one recorded conviction in Franklin County);
- objectivity in determining and applying selection criteria appears somewhat less common than the use of prosecutorial discretion (see Chapter 3); and finally,
- the ability of a practitioner to discriminate usefully between career and non-career criminals,--in terms either of future recidivism or of future crime-seriousness--awaits the development of information not currently available within the criminal justice system.

In sum, the gap between research and practice in the Career Criminal program remains substantial.

CONTINUED

1 OF 2

Chapter 6

Targeted Prosecution

One area of the program which can be separated out and considered independently, to some degree, from concerns specifically related to the career criminal target group is the set of actions and policies initiated by the prosecutor to enhance the prosecution of targeted cases, actions and policies which are directed at priority cases however their selection is defined. In this chapter, the specific activities implemented by the four jurisdictions are reviewed with particular attention focused on the process of identification of target cases and on the major components of specialized prosecution. As noted earlier, the four sites are united in the general goals and form of their programs, but there are major differences among the four in terms of their compositions and actions, which are important considerations in making any general program assessment.

The Career Criminal programs in the four jurisdictions were begun at different times in 1975 (see Table IX below). The LEAA funding support for each of the four is different, as are the numbers of deputy prosecutors dedicated to career criminal prosecution and the numbers of career criminal cases actually prosecuted.

Kalamazoo County has the smallest of the four programs with an initial LEAA grant of less than $75,000 supporting two attorneys who handle approximately one hundred cases a year. The Franklin County and San Diego County programs are substantially larger, each initially funded at about one-quarter of a million dollars. These two programs, staffed by five and six attorneys, respectively, handle yearly target caseloads ranging approximately from 200 to 250 cases. The New Orleans program is the largest of the four; the program attorney staff of 13 handles over 500 cases a year with over $400,000 in initial federal support. The New Orleans program is also the largest of the four in terms of the percentage of total office attorney personnel and percent of total caseload handled in the program. The Orleans program staff makes up twenty percent of the total office attorney staff and handles eleven percent of the office caseload (misdemeanor and felony combined). Kalamazoo's two career criminal attorneys constitute thirteen percent of that office's total attorney personnel and handle eleven percent

TABLE IX

CAREER CRIMINAL
PROGRAM CHARACTERISTICS IN FOUR JURISDICTIONS

JURISDICTION	1ST YEAR LEAA FUNDING AMOUNT	DATE OF PROGRAM INITIATION	ATTORNEY PERSONNEL NUMBER, PERCENT OF OFFICE PERSONNEL	PROGRAM CASELOAD TOTAL, PERCENT OF OFFICE CASELOAD
SAN DIEGO COUNTY, CALIFORNIA MAJOR VIOLATOR UNIT	$247,118	JULY 1975	6 (5%)	• 153 CASES ACCEPTED IN FIRST NINE MONTHS • 206/YEAR (ESTIMATED) • 3% OF OFFICE FELONY CASELOAD
ORLEANS PARISH, LOUISIANA CAREER CRIMINAL BUREAU	$421,484	MAY 1975	13 (20%)	• 284 CASES ACCEPTED IN FIRST 6 MONTHS • 586/YEAR (ESTIMATED) • 11% OF OFFICE CASELOAD (MISDEMEANOR AND FELONY)
KALAMAZOO COUNTY, MICHIGAN MAJOR VIOLATORS BUREAU	$ 74,548	OCTOBER 1975	2 (13%)	• 86 CASES ACCEPTED IN FIRST TEN MONTHS • 103/YEAR (ESTIMATED) • 11% OF OFFICE FELONY CASELOAD (ESTIMATED) • 4% OF OFFICE MISDEMEANOR AND FELONY CASELOAD
FRANKLIN COUNTY, OHIO CAREER CRIMINAL UNIT	$239,416	JULY 1975	5 (11%)	• 377 CASES ACCEPTED IN FIRST 18 MONTHS • 251/YEAR (ESTIMATED) • 7% OF OFFICE FELONY CASELOAD (ESTIMATED)

of the total felony caseload (four percent of the total combined felony and misdemeanor caseload). The Franklin County program handles seven percent of the office's caseload with eleven percent of its attorneys. The San Diego program is the smallest of the four as a proportion of overall office staffing and caseload; it prosecutes three percent of the total office caseload with five percent of the office attorney staff. (See Table V, page 49 above, for comparison with routine processing totals.)

Career Criminal Case Identification

In each of the four programs, a special unit has been created to prosecute defendants who are identified as career criminals. When and how, in the criminal process, the target cases are identified for referral to the special units differs among the four.

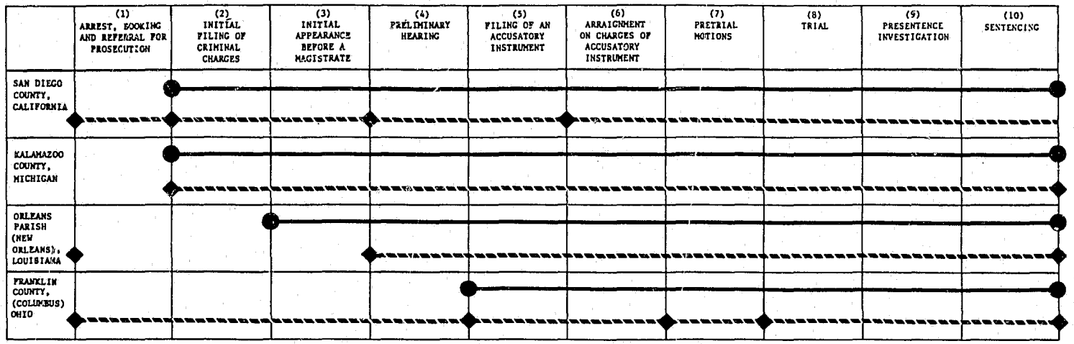
In critical measure, the ways in which target cases are identified are determined by the dynamics and flow of the routine criminal process in each jurisdiction. In offices which systematically review cases as they are initially referred for prosecution, it has been possible to build career criminal case identification into the routine process. Where systematic routine review does not occur, alternative procedures have been developed.

Case identification is perhaps the most critical step in targeted prosecution. The ability of the prosecution to identify target cases early dictates in large measure how much can be done differently with them.

There is substantial variation in the points at which a case may be identified as a career criminal case and special prosecutorial attention may be initiated (see Figure 4 below).

In Orleans Parish, there are two potential career criminal case identification points. The first, early in the process, is the identification of an eligible case at the time that the suspect is booked by the New Orleans Police Department. In New Orleans, the police department's on-line booking system is programmed to indicate when a suspect has the requisite criminal record to qualify for the program. This signals the police to notify the program deputy (on 24-hour call) that a potential career criminal case has been identified.

The case is immediately assigned to the special prosecution unit, and bypasses entirely the routine initial charging process. (During the first six months of the Orleans program, approximately thirteen percent of the cases handled by the program were identified in this way.)



● POINT AT WHICH THE FELONY PROSECUTOR ROUTINELY TAKES COGNIZANCE OF A FELONY CASE.

◆ POINT(S) AT WHICH CAREER CRIMINAL PROGRAM IDENTIFIES TARGET CASES.

FIGURE 5
INITIAL IDENTIFICATION OF CAREER CRIMINAL CASES IN THE FELONY ADJUDICATION PROCESS: FOUR JURISDICTIONS

The remaining 87 percent of the program's target caseload is identified at the time that the initial charging decision is routinely made. Deputies assigned to routine charging identify a case as a potential target and refer it to the special unit. The Career Criminal Unit does the initial charging (using general office criteria) and all subsequent prosecution.

In Kalamazoo, case identification and selection are also conducted at the time of the initial charging decision. Cases are referred immediately after charging to the deputies assigned to career criminal prosecutions.

In San Diego County, there are a number of potential career criminal case identification points. As in Kalamazoo, the intake (case issuance) attorneys in both the San Diego central and the branch offices identify and refer to the Career Criminal Unit cases which appear to qualify for prosecution by the unit.

In San Diego, police agencies have also been requested to identify target cases during the post-arrest investigation, and to refer them to the special prosecution unit rather than through the routine charging process. Unlike New Orleans (where a single law enforcement agency makes almost all arrests), however, there are thirteen law enforcement agencies in San Diego County. In some police agencies (notably the San Diego Police Department), identification of target cases by robbery detectives has been reasonably consistent. In others it has not. Cases which are not identified by the police prior to initial charging are to be "flagged" by the deputies doing initial charging, by the deputies handling preliminary hearings, and finally, if a case has eluded previous identification, by Superior Court Division deputies.

In Franklin County, career criminal cases are identified in one of three ways. First, as in San Diego and New Orleans, reliance has been placed on the arresting police agency to make the identification. All (31) police agencies have been informed of the program and of its case eligibility criteria. They have been asked to check local criminal histories in all felony arrests and to bring career criminal cases to the attention of the County Prosecuting Attorney's Office immediately after arrest. The significance of early police identification is particularly acute. It is the only practicable means by which the county office can take prompt jurisdiction of the career criminal case (through superseding indictment) and bypass the uncertainties of inferior court prosecution, of which it is not a part. The superseding indictment is the single means by which the office's special prosecution unit can gain early handling of the target case. The office estimates that about half of its targeted cases are identified and handled in this manner.

Second, in all felony arrests, the Franklin County Prosecuting Attorney's Office receives a copy of the defendant's criminal history from the FBI. Turnaround time from transmission by the arresting police agency to return from the FBI ranges from two to ten weeks. FBI returns are reviewed daily by the director of the offices's Career Criminal Unit. If the defendant, on the basis of his FBI record, meets program criteria, his case is sought out for assignment to the unit. Depending upon the time of this identification, the case may be still in the inferior court or may already be indicted, arraigned and awaiting trial, or may already have been tried.

The third identification means is fortuitous. Someone (officer in arresting agency, criminal trial division attorney) at some point in the case's processing discovers that the case meets program criteria and communicates this to the unit. Career criminal case identification thus varies among the four jurisdictions in a number of ways related to (1) the point(s) in the criminal justice process at which a target case may be identified; (2) the agency or individual critical to case identification at various points; (3) the relationship of career criminal case identification to the routine sequence of prosecutorial decisions; and (4) the certainty that an eligible case will be referred to the program at any potential identification point.

There are no comparable figures for the four sites upon which to base estimates of the probabilities that a career criminal case will be identified at any one of the potential points of case identification. Kalamazoo is the only jurisdiction which relies on a single point in case processing for target identification (initial charging). If potential targets are "missed" at initial charging, they may be later "captured" for referral to the Career Criminal prosecution unit by informal means, but there is no other formal screening and identification in the process.

In the other three offices, there is no single point at which career criminal cases are identified or "lost." In all three, the arresting police agency is relied upon with varying degrees of confidence to "flag" career criminals among the arrested population.

Special Prosecutorial Treatment of Career Criminal Cases

In each of the four jurisdictions a number of related actions have been undertaken by the felony prosecutor's office to provide special, improved attention to the prosecution of target cases. In general, these actions attempt to side-step certain case handling obstacles (such as dispersion of responsibility for the prosecution of a single case among numbers of different deputies) made necessary in routine prosecutions by mass case volume and limited personnel resources. The added resources of the LEAA-funded programs have been dedicated to approximating "vertical" prosecution of career

criminal cases: one deputy handling one case for all purposes. Conscious efforts have also been made to assign these presumably serious cases to the most experienced deputy prosecutor personnel, and to keep their individual caseloads relatively small. In each jurisdiction, a special unit for career criminal prosecution--a Major Violators Unit or its equivalent--has been formed. Deputies assigned to the unit handle career criminal cases from the time of their identification through to case disposition, performing the full range of prosecution actions (bail/bond recommendations, plea negotiation, trial, etc.). Because career criminal cases (as variously defined) are assumed to be more serious than others, the four programs stress as a matter of policy the incapacitation of career criminal defendants: both pretrial, through high bail recommendations, and post-conviction, through the recommendation of maximum sentences, or through the filing of habitual offender enhancement petitions.

While the four programs are similar in intent and have established many parallel mechanisms, there are some noteworthy differences among them in the ways they prosecute targeted cases. The actions taken in each office have been designed to improve the prosecution of career criminal cases over that of routine cases by doing things that are not feasible in the majority of prosecutions. Since there are substantial differences among the four jurisdictions both in their criminal justice environments and in their routine management of criminal prosecutions, these differences are reflected in the types, extent, and significance of career criminal prosecutorial treatment in the four.

The special treatment accorded career criminal cases in these four jurisdictions can be categorized in the following ways:

- changes in case handling;
- changes in resource allocation;
- changes in policies governing case disposition;
- attempts to influence timing;
- attempts to influence incapacitation.

The rationale behind each of these initiatives and the specific changes in each area which have been undertaken by the four jurisdictions are described and compared below.

Career Criminal Case Handling

In all four jurisdictions, a special unit has been established to prosecute career criminal cases. These units vary in size and caseload (Table IX, page 72) from thirteen attorneys handling more than an estimated 500 cases a year in Orleans Parish to two attorneys and 103 cases in Kalamazoo. In all four places, career criminal cases which would have routinely been handled by the regular office trial

attorneys are, under the program, assigned to this special unit at the time they are identified as eligible for the program. From the point of referral on, the special unit assumes full responsibility for career criminal case prosecution. The responsibilities and activities of the units vary with the point of identification of target cases.

In Orleans Parish, attorneys assigned to the Career Criminal Bureau are responsible for all stages in career criminal prosecution, including initial charging. In cases identified by the New Orleans Police Department, a career criminal attorney represents the case in Magistrate's Section proceedings; in the others, identified at the point of the routine decision to charge, the unit takes cognizance of the case from the charging decision onward. In Kalamazoo County, screening responsibility for career criminal cases rests with the unit which regularly screens arrests and initially charges. Once the decision to charge is reached, the case is referred to the Major Violators Bureau for all further prosecutorial action. Likewise, in some cases in San Diego, the regular screening (case issuance) attorneys make the initial charging decision and, if the case appears to meet program criteria, forward the case to the Major Violators Unit. Other cases, those which are identified by the police, are referred directly to the program, in which case program personnel make the initial charging decision. Once a case becomes the responsibility of the Major Violators Unit, the unit handles all subsequent prosecution with the exception of pretrial motions (which continue to be handled by the Office's Appellate Division).

In Franklin County, the range of Career Criminal Unit responsibilities is broader than in the other jurisdictions, reflecting the range in possible points of case identification. On the one hand, in cases referred to the program by the police, the unit is responsible for seeking immediate, superseding indictments and for all subsequent prosecution. On the other hand, cases identified later in their processing (e.g., after bind-over to the superior court, after indictment, after superior court arraignment) necessarily receive lesser intensities of attention.

In all four jurisdictions vertical prosecution plays a key role in program activities; that is once a case is referred to the special career criminal unit, it is assigned to an attorney (or small team of attorneys) who retains responsibility for the case from the point of assignment through to case disposition. This continuous case representation, both by unit and by attorney, is expected to realize an improvement over routine prosecution for two reasons. First, it is assumed that the attorney handling the case will become more informed about the case and its nuances if he handles it in various proceedings over a period of time than would be possible if he were responsible for only a single function, activity, or stage in its prosecution.

Second, it is expected that the accountability implicit in continuous individual-attorney-case representation will act as an incentive for more intensive and complete case preparation than is the likely situation when responsibility is diffused and different deputies handle bits and pieces of case adjudication at different stages of their prosecution. These anticipated improvements in processing are ultimately expected to lead to increased convictions and incarceration of targeted defendants.

It is possible, although often unrecognized, that the assumed benefits may be offset by certain potential counteracting effects. Deputies who specialize in one phase of case prosecution (pretrial motions, for instance) may be more current in the prevailing case law governing that phase than the deputy who must handle all stages of the prosecution. Cases which change hands at certain phases of their prosecution may benefit from the different perspectives of the several deputies handling the case in turn, and may avoid a narrow or limited view of the case that may accompany single attorney case representation. Finally, the improved morale of deputies who are assigned target cases may be offset by morale problems among their counterparts, who, because of the heavy caseload and limited resources of the office generally, must continue to operate on an assembly-line basis.

In all four jurisdictions, the single-attorney, vertical, continuous-case handling initiated in the Career Criminal prosecution program is a departure from routine procedures; in some jurisdictions, however, it is a more significant change than in others.

In San Diego the change is a substantial one. The office handles its caseload in an assembly-line fashion: the routine case, during the life of its adjudication, is processed by six office units and at least five different deputies. In the Career Criminal program, depending upon when in its processing it is identified as a target, a case may be handled by one unit, the Major Violator Unit, and by one attorney, assigned to that unit, throughout its adjudication.

In Kalamazoo and Franklin Counties, routine felony case handling by the felony prosecutor is less fragmented than is the norm in San Diego. In both places, the two office units which routinely handle felony cases (the case screening and trial units in Kalamazoo, the grand jury and criminal trial units in Franklin County) continue to handle certain case prosecution activities in the majority of career criminal cases. In both jurisdictions, however, disjuncture in routine case handling occurs once a case is assigned to the trial unit with the assignment and reassignment of cases to attorneys for various stages and events in the case prosecution. Under the Career Criminal program in both places, target cases are assigned to a program attorney for the full prosecution of the case through to disposition.

In Franklin County, single attorney continuous case representation has an added significance for those cases identified by the police and directly indicted in the Superior Court. These cases could have been subject to the greatest degree of fragmented processing found among the four jurisdictions: arrested by a small township police force, booked and detained by the Columbus Police Department, prosecuted by the City Attorney's Office (by one attorney at the initial appearance and another at the preliminary hearing), and then bound-over to the Superior Court and prosecuted by the County Prosecuting Attorney's Office (by one attorney in the grand jury unit and by numerous criminal trial attorneys). Under the program, the prosecution of a similar case would be handled from arrest to disposition by one attorney in the career criminal unit of the felony prosecutor's office.

In the New Orleans District Attorney's Office case prosecution is neither as fragmented at the organizational level as in San Diego nor as disjointed at the attorney assignment level as in Kalamazoo or Franklin County. In routine case prosecution, for all intents and purposes, continuous case representation is the rule rather than the exception. As such, the most significant feature of single attorney case representation in New Orleans is the merging of the functions of the decision-to-charge and the responsibility for subsequent case prosecution in the same attorney. In routine cases, the screening assistant reviews the case and decides whether and what to charge the defendant, and the trial attorney prepares, negotiates, and tries the case. In career criminal cases, the career criminal attorney who will try the case is also responsible for making the charging decision.

Changes in Resource Allocation

Each of the four jurisdictions, using the LEAA grants, places proportionately more resources on the prosecution of career criminal cases than on the routine caseload. In each jurisdiction, new deputies were hired and some of the office's more experienced attorneys were assigned to the special career criminal prosecution unit. The special unit has also been given a greater amount of support (interns, investigations) for the prosection of a smaller caseload per attorney than is the routine.

In three places, Franklin, Kalamazoo, and San Diego Counties, the attorneys selected to handle the targeted cases are on the average older than their counterparts (see Table X below). With the exception of Kalamazoo, career criminal attorneys have been working with the prosecutor's office for a longer period of time. However, there are substantial variations in how different the program attorneys are from the norm in each place, as well as important differences among the offices themselves.

TABLE X

ATTORNEY CHARACTERISTICS:
CAREER CRIMINAL ATTORNEYS VERSUS TOTAL DEPUTY PROSECUTORS*

	TOTAL DEPUTY PROSECUTORS			CAREER CRIMINAL		
	NUMBER	AGE (YEARS)	TENURE (MONTHS)	NUMBER	AGE (YEARS)	TENURE (MONTHS)
FRANKLIN COUNTY (COLUMBUS)	39	31.7	31.8	5	42.2	54.6
KALAMAZOO	14	31.1	37.3	2	36.0	33.0
ORLEANS PARISH	62**	29	23.8	13	29	26.6
SAN DIEGO	74***	35	79.2	6	42	104.4

*PROSECUTOR AND CHIEF DEPUTY EXCLUDED.

**INFORMATION UNAVAILABLE FOR THREE DIVISION CHIEFS AND ONE DEPUTY.

***DATA ARE BASED ON 74 RESPONSES TO A PERSONNEL SURVEY OF THE OFFICE ATTORNEY STAFF OF 116.

Orleans Parish on the one hand, has the youngest and shortest tenured attorney staff of the four, closely followed by Franklin County and Kalamazoo County. In all three, on the average, their attorneys are about thirty years old and have been working with the office for between two and three years. San Diego attorneys are older (35 years of age) on the average and much more experienced, having been with the office an average of six and a half years, reflecting the career orientation of the civil service assistant prosecutor in California.

The differences between the office averages and career criminal attorney staff are also the smallest in Orleans Parish, with no difference in average age and less than six months' difference in tenure between program and regular trial division staff. In Kalamazoo, the two career criminal attorneys are somewhat older than the other assistant prosecutors; however, they have had slightly less experience with the office. In Franklin County, career criminal attorneys are substantially older (10.5 years) than the regular attorney staff and they have an almost two year advantage in office experience over the average assistant prosecutor in the office. In San Diego, the office with the most experience among its regular attorney staff, career criminal attorneys are on the average seven years older and two and a half years more experienced than their non-career criminal counterparts. The average age of a San Diego career criminal attorney is 42, with an average tenure of over eight and a half years. This is approximately the same age as a Franklin County attorney but with almost double the office experience.

Caseload differences within and among offices are equally varied (Table XI , page 83). Two offices, Orleans Parish and Kalamazoo, handle both misdemeanors and felonies. Of the two, Kalamazoo has the higher felony/misdemeanor caseload-to-attorney ratio with a monthly overall office filing rate of over 44 cases per attorney and a monthly disposition rate of 33 cases per attorney. In Orleans Parish, 23 misdemeanor and felony cases per attorney are accepted each month and 21 are disposed.

While Kalamazoo total caseload (felony/misdemeanor combined) figures are the highest of the four, the Franklin County Prosecuting Attorney's Office, which handles only felonies, has a higher per attorney felony caseload than does Kalamazoo. In Franklin County, approximately 21 felony cases per trial attorney are accepted and disposed each month compared to 15.9 felony acceptances and 9.6 felony dispositions per Kalamazoo trial attorney.

The largest differences in attorney caseload between regular and career criminal attorneys are found in Franklin County and San Diego

TABLE XI

CAREER CRIMINAL AND NON-CAREER CRIMINAL AVERAGE
MONTHLY PER ATTORNEY FELONY CASELOADS ACCEPTED AND DISPOSED

	NON-CAREER CRIMINAL*	CAREER CRIMINAL
FRANKLIN COUNTY		
ACCEPTANCES	20	4.2
DISPOSITIONS	20.5	3.6
NUMBER OF ATTORNEYS	12	5
PERIOD**	CY 1976	JULY 1975 - DECEMBER 1976
KALAMAZOO COUNTY***		
ACCEPTANCES	15.9	4.3
DISPOSITIONS	9.6	3.0
NUMBER OF ATTORNEYS	5	2
PERIOD	JUNE-OCTOBER 1976	JANUARY-OCTOBER 1976
ORLEANS PARISH***		
ACCEPTANCES	23	6
DISPOSITIONS	21.1	6.4
NUMBER OF ATTORNEYS	23	9
PERIOD	JULY-DECEMBER 1976	JULY-DECEMBER 1976
SAN DIEGO COUNTY		
ACCEPTANCES	13.6	2.8
DISPOSITIONS	11.6	2.3
NUMBER OF ATTORNEYS	26	6
PERIOD	ACCEPTANCES: FY 75/76 DISPOSITIONS: CY 1976	SEPTEMBER 1975-JUNE 1976

*INCLUDED HERE IS ONLY THAT PORTION OF THE ATTORNEY PERSONNEL DIRECTLY IN THE HANDLING OF THE FELONY CRIMINAL CASELOAD.

**BECAUSE THESE FIGURES ARE DRAWN FROM AVAILABLE DOCUMENTATION, THE TIME PERIODS VARY FOR DIFFERENT ESTIMATES.

***FIGURES INCLUDE ONLY FELONIES, HOWEVER, THE TRIAL ATTORNEYS IN KALAMAZOO HANDLE BOTH MISDEMEANORS AND FELONIES.

where program attorneys carry a caseload which is about one-fifth that of their regular trial counterparts. While more than 20 felony cases per regular trial attorney are disposed each month in Franklin County, less than four career criminal cases per program attorney are disposed monthly. Monthly attorney disposition rates in San Diego are 11.6 for the Superior Court and 2.3 for the Career Criminal program, the lowest career criminal attorney disposition caseload of the four programs.

Caseload differences are somewhat smaller (with career criminal attorney caseloads around 30 percent of the regular trial attorney caseloads) but are still substantial in the other two jurisdictions. In Orleans Parish just over 21 cases per trial attorney are disposed each month compared to 6.4 monthly career criminal case dispositions per attorney. Finally, in Kalamazoo, the three target cases disposed per career criminal attorney each month are approximately one-third of the 9.6 per attorney monthly case disposition rate for the regular trial attorney staff.

Changes in Policies Governing Case Disposition

Three of the four jurisdictions have explicitly established policies concerning the disposition of career criminal cases.

In Kalamazoo, while disposition by guilty plea is intended to be controlled in routine felony adjudications by bottom-line plea-setting in the complaint unit at the time that the intital decision to charge is made, this is intended to be even more tightly controlled in career criminal prosecutions. The Major Violators Bureau is not expected to agree to a guilty plea to less than the original charge(s) in a case that it accepts.

In Orleans Parish, for career criminal cases, as with all criminal cases, the original charge(s) and the bottom-line plea are considered one and the same and the attorney responsible for disposing the case also establishes the initial charge(s). Here, as in other jurisdictions, emphasis is placed on disposition by trial.

In San Diego, the Major Violator Unit's policy in plea negotiations is more restrictive than that in routine felony prosecutions. Only pleas to top-count felony charges are to be agreed to, except in unusual cases. In multiple-count cases, only pleas to more than one count which include the top count are acceptable.

In Franklin County, while no formal control over career criminal case disposition has been established, a policy emphasizing a "tougher" prosecution stance on dispositions in lieu of trial has been a part of the program.

Attempts to Influence Timing

All four of the jurisdictions intend to dispose of their target cases in as expeditious a manner as possible. Certain of the program devices are expected to improve the processing time of career criminal cases. Activities of this sort include early case identification, early and more comprehensive case preparation, and single attorney continuous case representation. In two places, actions have been taken which explicitly attempt improvements in case processing time.

Neither San Diego nor Franklin County have program components specifically addressing the timing of case processing. One feature of the Franklin County program, however, may have an effect on the timing of disposition. This is a direct indictment of career criminal defendants identified by the police prior to lower court proceedings. In these cases not only is the possibility of a lower court dismissal of the case or a reduction and disposition of the charges at the misdemeanor level greatly reduced, but timing of case adjudication may also be impacted.

In Orleans Parish, career criminal cases are given priority in docketing in the District Court. This has been possible because of the continuity of attorney representation in each courtroom and because the New Orleans District Attorney is in effect an "insider" in the management of court activities responsible for setting the docket of the courts.

In Kalamazoo, as part of the Career Criminal program, in mid-September 1976, an additional "Fifth Circuit" Court was established as a "priority criminal court." It is funded almost wholly by the second-year LEAA career criminal prosecution grant award to the county. This is the only funded component of any of the four programs examined here which specifically targets improved case processing time. The grant pays for one judge, one court reporter, one bailiff-law clerk and one deputy clerk, plus contractual costs for the defense of indigents who are prosecuted in the court. The work of this court is limited entirely to criminal trials. In effect, it takes overflow cases from the other four Circuit Courts after pretrial motions and before the trial stage. It is selective about the caseload that it acquires, with priority given to career criminal prosecutions followed by cases in which the defendant is in custody, serious offenses (e.g., armed robbery), and "old" cases (i.e., cases that are still not disposed of after unduly long periods of time).

Attempts to Influence Incarceration

One objective of the Career Criminal program is to increase the likelihood of conviction and incarceration for career criminal

defendants. The range of activities discussed above is expected to contribute to this end. Three of the jurisdictions, however, have initiated a number of activities which are explicitly directed toward influencing the incarceration of the defendant both pre-trial and post-conviction.

In the three jurisdictions (Kalamazoo, New Orleans, San Diego) for those cases which have been identified as involving a career criminal by the time of the initial appearance in the inferior court, the prosecution appears and argues for the imposition of restrictive bail conditions. This occurs most regularly for Kalamazoo career criminal cases since most target cases are identified prior to this point. It is least regular in New Orleans where, in most cases, program intervention does not occur until the filing of the information.

In San Diego, career criminal attorneys are also encouraged to seek longer, firm imprisonment time for convicted career criminal defendants through recommendations for consecutive sentences. They communicate views on the offender and his case to both the probation officer conducting the presentence investigation and the Adult Parole Authority. In New Orleans, the District Attorney's office has designated an attorney to represent the office at parole board hearings involving career criminal defendants[52] to provide the board with information on the serious nature of the criminal history of the defendant and the priority accorded his case by the office.

[52] This practice currently includes all defendants prosecuted by the office.

Summary Observations

In summary, the process analysis performed in the four jurisdictions of the national evaluation established four major points (among others) with respect to the targeted prosecution of career criminals. These are:

(1) There existed a Career Criminal program in each jurisdiction with specific features differentiating it from regular or routine prosecution in that jurisdiction.

(2) Among the features characterizing the four programs in common were:

- similar goals and assumptions;
- increased resources focused on the career criminal caseload (including more experienced prosecutors and fewer cases per attorney);
- specific policies instituted with respect to the program (such as refusal to plea-bargain, emphasis on disposition by trial, and efforts to influence the incarceration of career criminals);
- dedicated mechanisms for program delivery such as special prosecutorial units and continuous case handling.

(3) The four programs nonetheless exhibited important differences in scope, focus and activity resulting from:

- the crime environment in each locality;
- the operational and organizational characteristics of the criminal justice system in each locality; and
- the consequently differential target populations, selection criteria and methods of identification of career criminal cases in each locality.

(4) Career Criminal program activities and funding offered considerable potential for improvement of various kinds in all four jurisdictions either through:

- the provision of resources (allowing more intensive prosecution, or the opportunity for a greater number of trials, for example); or through
- the introduction of activities specifically relevant to local problems (such as fragmented case handling or long processing delays).

General Applicability of Targeted Prosecution Acitvities

There is nothing inherent in the strategies for improved prosecution examined above which limits their application to "career criminals". In fact, it should be clear from the earlier discussion (see Chapter 5) concerning the definition of the career criminal that, even considering only the four evaluation sites, these strategies have been applied to a number of distinctly different target groups under the auspices of the Career Criminal program.

The extent to which the activities described here are feasible for the targeted prosecution of other priority types of cases or defendants (assuming that they can be effectively identified) is probably more dependent upon operational and organizational characteristics of a particular locality than on characteristics of the cases or defendants themselves. The extent to which the various strategies will be effective with different populations, however, remains to be empirically determined. The results of the system performance analysis (Chapter 9) present evidence concerning the impact of those actions taken by each of the four offices on the way in which the criminal justice process responds to those cases and defendants selected for priority treatment in each place.

SECTION III

Extra-Program Processes

Chapter 7

The Law Enforcement Role in the Four Programs

Although the Career Criminal program is a prosecution program, primarily concerned with the effective utilization of prosecutor resources in selected cases, career criminal prosecution depends, as does most routine prosecution, upon local law enforcement agencies for the identification of crime events, for the apprehension of suspects and for the collection of basic evidence and information surrounding criminal incidents. Moreover, the Career Criminal programs in a number of locations also look to law enforcement agencies for assistance in the identification of defendants or cases eligible for special prosecution under their programs, either because the prosecution lacks the capability to effectively identify these cases itself or on the assumption that identifying a potential case prior to the point of routine referral to the prosecutor's office will benefit the prosecution of the case.

In an effort (1) to determine how the major local law enforcement agencies in each of the four evaluation sites are supporting career criminal prosecution efforts, (2) to delineate the role that these efforts, as they have been realized, play in program operations and (3) to identify activities which could be undertaken in these sites to promote improved police-prosecutor handling of career criminals, a process analysis of the police-prosecutor interface with respect to the linkages between the two agencies as they affect the Career Criminal program was undertaken.[53]

As with the prosecution analysis, this examination was conducted on a case study basis. Not only is the overall criminal justice system structured and operated differently in each place, but each of the local career criminal prosecution units handles a different target population with different case handling procedures. The information used in this investigation was derived of locally compiled data sources (annual reports, project analyses, etc.) and on-site interviews with representatives of various units of the prosecution and law enforcement agencies in each jurisdiction. Given limitations on resources, given the difficulties of process examinations generally, and given also that each of the jurisdictions has one or two law enforcement agencies which predominate in workload, size and proportions of referrals to the local prosecution, this analysis has focused on the major police agency(ies) in each jurisdiction.

[53] J.S. Dahmann, L.S. Russell and Paul Tracy, Law Enforcement Aspects of the Career Criminal Program: The Role of Law Enforcement Agencies in the Career Criminal Program as Observed in the Four National Evaluation Sites, MTR79W00143, The Mitre Corporation, May, 1979.

In the first step of the research, an effort was made to describe the routine police processing (in each site) of an offense, from the time of the report of a crime incident and the identification of a suspect through to the referral of the arrest for prosecution and the adjudication of a resulting criminal case. This included a review of police patrol, investigation, apprehension and arrest activities as well as an examination of the police role in the prosecutor decision to charge and in case prosecution.

Using this description of routine processing as a framework, the police role in the operation of the Career Criminal program at each place was then examined. The identification of career criminal cases and the methods for and timing of the acquisition of the information required to make such identification were examined with particular attention to the police role in this process. Police investigation procedures as they affect career criminal cases were reviewed and methods for enhanced case investigation implemented by the programs were discussed. In those jurisdictions which have implemented separate Police Career Criminal programs or Integrated Criminal Apprehension Programs (ICAP), the activities of these units were examined and issues concerning the compatibility and utility of their programs to the current prosecutor Career Criminal units were addressed. Actions designed to improve coordination between police and prosecution as the adjudication of the career criminal case proceeds were also examined. The focus of each site analysis was an assessment of the current status of police support for the local Career Criminal program in terms of three questions:

- What has been done and what is the potential payoff of the current activity?
- What problems have been encountered with the current approach? What is the likely significance of these problems for other police career criminal activities in this place or in other jurisdictions?
- What actions have not been taken but which, given our understanding of the local career criminal prosecution program, appear to offer potential areas for the expansion of the police role in these situations?

The overriding conclusion of the analysis is that a general prescription for a police-prosecutor linkage in the handling of career criminals is not a suitable strategy. It is apparent that any law enforcement efforts expected to support a career criminal prosecution program should be tailored to the needs of the specific jurisdiction in question. This conclusion is supported by two basic findings.

First, some jurisdictions need assistance in the linkage area more than others. That is, the routine adjudication process in some instances is basically characterized by a referral system that already ensures a timely association between the police and the prosecutor such that special initiatives in this area are unnecessary. For example, the adjudication process in Kalamazoo, Michigan, prescribes that the prosecutor's office must authorize all arrest warrants either before or immediately after an actual arrest. This structural feature guarantees that the prosecutor's office will be accorded the opportunity of early participation in a felony case. On the other hand, the process in the other jurisdictions is such that the police can operate independently of the prosecutor to the extent that routine referral of cases for prosecution is almost always post-arrest and usually occurs after the passage of some time from the arrest.

Second, some jurisdictions are better suited structurally or organizationally to implement police-prosecutor linkage initiatives. That is, the structure of the routine adjudication process may have built-in impediments to a police-prosecutor cooperation in special cases. For example, the Franklin County court system maintains a bifurcated case processing system. Thus, all felony cases receive initial attention by a lower court before they are passed through to the trial court and, thus, to the attention of the County Prosecuting Attorney's Office. Consequently, lower court processing delays the special handling that could occur for career criminal defendants.

These factors suggest that the four jurisdictions have differential needs and opportunities for the implementation of a special police-prosecutor linkage in the processing of career criminals. The best proof of this assertion is the fact that no one strategy or activity was found to have been implemented in or appropriate to the four sites under examination in this analysis. Clearly, law enforcement support to career criminal prosecution must reflect an individualistic orientation with possible modification on a case-by-case basis as necessary.

A number of possible areas for police activity exist, which for the four jurisdictions, either have supported or could support career criminal prosecution in a meaningful way. These people activities include:

- identification and referral;
- generation of criminal history information;
- criminal investigation; and
- court liaison.

Identification and Referral

The early identification and referral of career criminal suspects is a crucial factor in the successful implementation of this program. Depending on the structure of the adjudication process, it can have a significant effect on the form of the program. In Franklin County it can lead to a direct indictment which bypasses lower court proceedings and brings the case to the immediate attention of the prosecuting attorney's office. In Orleans Parish early police identification results in contact between the arresting officer and a Career Criminal Bureau prosecutor rather than a regular screening attorney. Consequently, the prosecutor has the opportunity of interviewing witnesses and the suspect, often on-scene, as the basis for his decision concerning what to charge rather than relying on a report from the screening unit as is usually the case. In San Diego, career criminal identification by the police enhances the continuous case prosecution aspect of the program because cases are referred directly to the Major Violators Unit rather than through the normal screening process.

Naturally, these early identification efforts have not been universally successful. The greatest success appears to have occurred in San Diego where the crime-specific nature of career criminal prosecution has facilitated the early identification of eligible suspects by the robbery squad. To a lesser extent, Orleans Parish has been successful at early identification but a problem involving the programming of the police on-line booking system with an inappropriate operationalization of the prosecutor's career criminal definition has hindered the early identification process. In Franklin County and Kalamazoo County, early identification by the police appears to be the exception rather than the rule.

Generation of Criminal History Information

To a very great extent, early identification can be enhanced by police performance in a second support area: the generation of criminal history information. Each of the four Career Criminal programs utilizes criteria associated with a defendant's past criminal behavior. Thus, the timely request of FBI or other criminal history information and transmittal to the prosecution authorities can enhance career criminal processing in each of the jurisdictions.

However, police performance in this area appears to have been limited. That is, for each of the four sites, police-identified cases, through criminal history checks, represent a minority of the cases that are ultimately identified as warranting career criminal prosecution. Thus, most cases are targeted by prosecution personnel at some point during the referral or adjudication process. Therefore, a greater

police role in the generation and utilization of criminal history data remains an activity that potentially could have significant effects on the targeting and differential handling of serious repeat offenders.

Criminal Investigation

The third area of potential police support concerns criminal investigation. Although it was found for each of the sites that investigation of reported crimes did not differ in cases that involve career criminals, both Orleans Parish and San Diego have assigned police investigators to the career criminal unit in the prosecutor's office. Essentially, these investigators perform additional post-arrest investigation as required by the prosecution as well as coordination of paperwork, witnesses, evidence, and testimony related to career criminal cases. The association of these investigators with career criminal prosecutors in effect constitutes an extension of the continuous case representation strategy to include investigation as well as prosecution.

Court Liaison

The last strategy consists of court liaison officers. That is, it was found that, in Franklin County, police officers are regularly assigned to the courts to facilitate case processing. These officers handle the presentations for probable cause determination at the lower court level and grand jury indictment at the Court of Common Pleas. Thus, these liaison officers serve as the prinicipal mechanism for police input to case adjudication. The consequent relationship that develops between these officers and prosecutors has a decided advantage for case processing. In career criminal cases, these liaison staff can be called on to make grand jury presentations in a direct indictment and thus eliminate the delay stemming from lower court processing.

It is clear that the support areas discussed above can have distinct advantages for career criminal prosecution, depending upon the nature and structure of the routine adjudication process. However, these support activities are all restricted to the post-arrest stage; none of the law enforcement agencies studied currently engage in any pre-arrest types of activities, such as targeted surveillance or investigation in support of career criminal prosecution. Crime analysis efforts, on the other hand, were thought to represent a potential exception.

In the sites examined, however, these crime analysis efforts were found to be both early in the process of development and not readily pertinent to existing Career Criminal programs. That is, neither Franklin County nor Kalamazoo County have fully operational crime

analysis units that can impact the prosecution of career criminals through targeted patrol, investigation, etc. On the other hand, both Orleans Parish and San Diego crime analysis units have had little relevance to career criminal prosecution. The Orleans Parish unit focuses on two offenses, robbery and burglary, crimes that are not of special concern to the Career Criminal Bureau. Similarly, the San Diego police department has eschewed crime analysis data in favor of traditional investigative practices.

Thus, to the extent that crime analysis units are successful, they will be important for raising the level of police performance generally and in this way can contribute to career criminal prosecution. The greatest potential payoff is in the area of career criminal identification. For example, the San Diego crime analysis data base is comprised of arrest and incident data and, thus, these files could play a potential role in the scoring of possible career criminal cases. The files could be used to identify those suspects who do not have a prior record, but qualify for career criminal treatment on the basis of the current offense and past, unreported criminal activity.

However, if such cooperation is to occur, then more explicit connections will have to be built into programs to ensure that police actions and prosecutor activities in fact work together. The two jurisdictions discussed above that did have career criminal law enforcement components did not accomplish this necessary linkage to any great extent.

Moreover, it must be noted that the extent to which interagency initiatives in areas such as career criminal handling can actually be accomplished is largely dependent upon the development of incentives for the agencies to work together so as to increase the willingness of those agencies to cooperate with each other. This is especially problematic when the agencies are not generally predisposed to such cooperation. Thus, seemingly simple problems (such as, for example, a computer programming "error" in the New Orleans on-line booking system which triggers the identification of a different career criminal group than that targeted by the prosecutor) can pose inordinately large difficulties or impediments for efficient cooperation.

Despite these problems, it is clear that special prosecutor handling of career criminals has great potential for allowing significant police input. That is, by virtue of the continuous case preparation methods employed in prosecutor handling of career criminals, police-prosecutor interaction may be enhanced as the arresting/investigating officer can deal with one prosecutor throughout. This naturally results in a more simple coordination effort.

Similarly, when investigation is also included within a career criminal unit, this results essentially in a police-prosecutor team that controls the investigation and referral. This type of extension of the continuous case prosecution strategy should have an even greater likelihood of achieving the desired benefits than the prosecutor-only strategy.

In sum, the principal lesson learned from the analysis of law enforcement activities in four jurisdictions is that no one strategy to support career criminal prosecution was found to be universally appropriate. Each jurisdiction is confronted with peculiar needs and maintains an almost unique adjudication process. Consequently, special law enforcement operations must be developed in light of their differential needs and, most important, must be implemented in conjunction with the particular Career Criminal prosecution program they are designed to augment.

Chapter 8

The Correctional Response in the State Systems of the Four Jurisdictions

The current analysis of the Career Criminal program and its effects focuses on the prosecution of serious offenders. Sentencing is employed as the last processing step in this analysis and length of sentence is the last quantitative measure examined. The processing of career criminals does not, of course, end here, however. Offenders enter the correctional system as a result of routine or career criminal processing; decisions regarding correctional alternatives must be made, parole eligibility determined, parole decisions made, and so on. In short, the outputs of the Career Criminal program in terms of convicted and sentenced offenders, are necessarily the inputs for the correctional system.

There is little doubt that present and future increases in the number of serious offenders who are convicted and sentenced could create serious problems for corrections, given limited resources and facilities for incarcerated offenders. These problems, however, are unlikely to remain solely the province of corrections since, eventually, problems related to over-crowding, lack of correctional alternatives and facilities may, in turn, influence the adjudication of these offenders. Although the Career Criminal program is mainly a prosecution program, its effectiveness is influenced by corrections and thus the analysis of this component of the criminal justice system can provide a greater understanding of these effects and of the system's ability to achieve intended outcomes.

In order to provide an assessment, then, of the impact of career criminal prosecution on corrections and to explore as well some real and potential influences of corrections on the adjudication of criminals, an examination of the handling of serious offenders, including designated career criminals, in the four Career Criminal program sites was undertaken. This statewide examination of corrections for each of the four jurisdictions of the national evaluation was designed to address selected issues related to the correctional system response to the Career Criminal program.[54]

Our analysis focused on the current problems surrounding the incarceration of serious offenders, and the possible problems that

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[54] Tracy, Paul, Correctional System Aspects of the Career Criminal Program: An Examination of Correctional Handling of Serious Offenders in the Four Career Criminal Program Sites of the National Evaluation, The MITRE Corporation, MTR-79W00144, May 1979.

may ensue from the special prosecution of career criminals. Moreover, the potential of corrections to give convicted career criminals special treatment was also investigated. Implicit in this analysis is the belief that intensified prosecution of serious offenders will eventually affect correctional capabilities and resources, which, in many cases are already severely strained. Likewise, problems related to the capability to effectively incarcerate serious offenders could ultimately vitiate the intended impact of the targeted prosecution of of these offenders. This analysis was therefore specifically concerned with examining the reciprocal effects between the prosecution programs and their respective correctional systems. That is, offenders prosecuted through special programs may present specific problems for the correctional system in terms of particular handling needs and, in turn, correctional system problems such as overcrowding may affect the adjudication process for subsequent offenders prosecuted not only through special programs but also through routine procedures.

These concerns necessitated a focus on several aspects of the correctional systems. First, the system parameters (e.g., prison population, commitments, institutional capacity, resources, etc.) were examined (over time, whenever possible) to define the correctional environment. Second, the routine intake, custody, and release processes were investigated in light of their potential for specialized handling of career criminals. Last, the problems that either currently affect the correctional systems or appear likely to develop in the near future were documented.

Specific attention was focused on three major issues:

- the impact of targeted prosecution on the correctional system;
- the possible feedback effects of correctional system problems on the adjudication of serious offenders; and,
- the potential for specialized correctional system handling of career criminals across the four jurisdictions.

The Impact of Targeted Prosecution on the Correctional System

Based on this investigation it does not appear that the programs will have a significant effect on the prison population in their states. Each of the programs constitutes such a small proportion of the overall felony caseload that even a very high conviction rate will not have an appreciable impact on prison commitments. Further, with the exception of Orleans Parish, the prosecution programs are situated

in jurisdictions that have only minimal impact on the number of prison commitments statewide. However, in the event that Career Criminal prosecution programs are also instituted in the large urban areas of the four states, areas that usually contribute the majority of prison admissions, then it is conceivable that targeted prosecution of career criminals may have a significant effect on correctional system capacity. Naturally, this hypothesis is contingent on the finding that Career Criminal programs have differential success at incarcerating serious offenders as compared with routine felony prosecution. While this issue was beyond the scope of this corrections analysis it is addressed in MITRE's evaluation of the four prosecution programs (see Chapter 9 below).

Possible Feedback Effects of Correctional Problems on Adjudication

It also appears that, at present, correctional system effects on felony adjudication are minimal. With respect to prosecutorial decisions, available evidence would suggest that felony cases are pursued to the limit of available resources regardless of correctional system problems. Prosecutors interviewed all affirmed that felony adjudication, particularly for serious offenders, must be conducted without regard to conditions affecting other spheres of the criminal justice system.

For the most part, this result was also observed with respect to the impact of correctional problems on judicial decision-making. That is, judges (in Michigan and Louisiana) were affected by overcrowding in the state prisons but it was evident that such overcrowding did not have a drastic effect in the cases of serious offenders. For example, judges in Orleans Parish were often constrained, by overcrowding in the state prison, to send offenders to the Orleans Parish Prison. However, judges were willing to exercise this alternative placement only in cases where sentence length (usually up to five years) allowed such a choice to be meaningful. Thus, overcrowding did not affect the judicial decision to sentence an offender to a particular term of imprisonment but, rather, in some cases it did affect prison assignment. Similarly, judges in Michigan appear to be willing to exercise alternatives to incarceration for less serious offenders but sentencing choices for serious felons were made on the basis of case and criminal history particulars rather than correctional constraints.

Therefore, at present, correctional system conditions do not have a significant feedback effect on serious felony adjudication. It is likely, however, that ever-rising prison populations, particularly in the proportion of serious repeat offenders, together with the prison space shortages that confront many correctional systems, may influence the adjudication process in the future. Although this potential

feedback effect may not occur with respect to prosecutorial decisions, it may influence judicial decision-making. For example, judges might have to consider greater use of probation or other alternatives to incarceration for first offenders and those convicted of less serious felonies in order to make the best use of available prison space for the chronic offender and those convicted of serious crimes. It is likely that the nature and extent of these feedback effects constitute a significant topic for further investigation.

The Potential for Specialized Correctional System Handling of Career Criminals

With respect to the third issue, the handling of career criminals, the statewide analysis of correctional systems in Ohio, Michigan, Louisiana, and California essentially indicates that there is no attempt to utilize the prosecutorial label of career criminal. This situation characterizes the principal aspects of correctional system processing--intake, custody, and release--and the result may be attributed to several factors which range from non-awareness of the career criminal label to a systemic proscription of the use of such labels in correctional decisions. These and other explanatory factors are discussed below.

The simplest explanation for the current absence of specialized handling and treatment for career criminals is that many sectors of the four state corrections agencies are often unaware of either the operation of a special prosecution program for career criminals or the nature of the offender types that have been targeted. Specifically, it was found that correctional staff responsible for the intake and release processes did not know of the existence of the Career Criminal prosecution programs in their state.

Of greater significance, however, is the fact that even when corrections staff were generally aware of the special prosecution programs, they did not know whether any particular offender being committed to prison had been accorded targeted prosecution in a Career Criminal program. That is, in each of the four jurisdictions, neither the prosecution nor the courts utilize a mechanism to provide the corrections officials, who are responsible for intake, reception, classification, etc., with information identifying a specific offender as a career criminal. Consequently, these offenders remain undifferentiated from the other felons being committed to prison and thus they are processed and placed in the prison population through routine procedures.

The correctional systems' lack of awareness of the career criminal status of any particular offender, then, effectively precludes the

possibility of their being accorded, at the present time, differential handling, custody, and treatment in a systematic way.

It would appear, at first blush, that these identification deficiencies can be remedied. That is, the institution of a routine post-conviction correspondence between the prosecution and corrections would allow the prosecution to identify for the corrections system those offenders who had been prosecuted as career criminals. If this sort of communication were transmitted before the intake and classification process commenced, then career criminals could possibly receive differential handling.

Despite this rather straightforward solution, however, there appear to be other more substantial obstacles that operate against the implementation of special handling of career criminal program offenders. Some of these additional obstacles are only transitory and may themselves be remedied; others, however, are structural features of the correctional systems rather than temporary conditions.

First, some of the correctional systems are currently beset with such staff, resource, and space constraints that differential treatment of career criminal inmates is most problematic. For example, both Louisiana and Michigan are confronted by severe prison space shortages. These capacity problems have necessitated the housing of inmates in facilities not normally used for this purpose but for such activities as recreation, education, and vocational programs. Further, the ever increasing prison population has severely taxed routine treatment and rehabilitation services. In this light, it is presently inconceivable that special programs could be implemented for the small minority of inmates that comprise the career criminal segement of the inmate population. These problems are not permanent, however, and when conditions change there will be a better opportunity for developing special programs.

Second, each of the four state corrections systems already has a structural provision that routinely takes into account an offender's criminal history in terms of the seriousness and chronicity of past criminal behavior. The correctional perspective on career criminality is that such information should be regularly used in decision-making. It was found that each of the systems utilizes this information in determining the appropriate custody level for the inmate (e.g., maximum versus minimum security), his subsequent assignment to a particular prison facility, and his proposed treatment/rehabilitation program.

It appears, therefore, that the correctional systems already utilize a career criminal distinction, albeit one that is indigenous to corrections rather than to the prosecution, that is applied to all inmates on the basis of their current and past criminality. Thus, it

is unclear to what extent correctional systems should make use of the prosecutorial concept of career criminality and how this label could benefit correctional decisionmaking further than the corrections definition of career criminality.

Another factor concerning the relationship between the Career Criminal programs and statewide corrections would suggest that the prosecutorial label should not be used. That is, the targeted prosecution programs are essentially local concerns which are administered on a county or parish basis and, most important, these programs employ unique criteria with which to target career criminals for special prosecution. Corrections, on the other hand, is a statewide operation that must utilize criteria and decision rules that are applicable to all incoming offenders regardless of the particular county or parish in which they were prosecuted. Therefore, the correctional system recognition and utilization of a career criminal label, which originated for prosecution purposes in a particular county to provide a differential custody or treatment situation, could lead to an equity problem.

For example, the San Diego Career Criminal program targets the prosecution of offenders who have committed robbery, robbery-related homicide, or grand theft from a person. Problems of equity would arise if the correctional system were to treat these offenders differently from other inmates who were convicted for the same crimes and exhibit the same seriousness and chronicity of past criminal behavior but who were prosecuted in a county other than San Diego and, thus, were not accorded career criminal prosecution. This problem becomes even more acute with respect to the other jurisdictions (Ohio, Michigan, and Louisiana) where career criminal eligibility is determined solely on the basis of criminal history rather than offense specificity. It is conceivable that many prison inmates possess the necessary characteristics but escaped career criminal prosecution because they were prosecuted and convicted in a non-career criminal prosecution jurisdiction.

As the preceding factors would seem to indicate, there are some considerable problems concerning the possible integration of the prosecutorial and correctional handling of career criminals. These problems can best be understood as stemming from the fact that prosecution and corrections are independent criminal justice agencies with differential goals and consequent activities. That is, the singular goal of prosecution is to invoke the adjudication process for individuals who appear to be guilty of a violation of the criminal law. On the other hand, corrections has been given the responsibility not only to incarcerate convicted offenders for both punishment and societal protection but also to effect the rehabilitation of these offenders. These differences in goals suggest the possibility that the basis of

decisionmaking within each agency may not only be independent but also not congruent. The best example of this occurs in the case of career criminals.

The principal thrust of the Career Criminal program was the targeting of prosecutorial resources on the prosecution of a select group of offenders. The categorization and separation of the caseload for career criminal prosecution does not constitute a departure from the goals of this agency but, rather, may be considered as a natural and desirable prioritization of cases for processing. However, the correctional utilization of the prosecutorial label could constitute a significant and perhaps unwarranted departure from its instrumental activities. In other words, correctional decisionmaking must be based on factors indigenous to the correctional system such as custody and rehabilitation needs. Most important, the corrections system must of necessity utilize a uniform set of criteria or standards with which to evaluate inmates and subsequently guide and regulate their period of incarceration.

Thus, adoption of the prosecutorial label of career criminal by the correctional system may conflict with the already existing criteria for correctional evaluation and perhaps lead to a violation of the prescribed equity with which the system should handle all inmates.

It is clear, therefore, that a prosecution/corrections interface in career criminal handling is at present problematic. The evidence suggests that a general plan for such an interface is insufficient given the wide variety of career criminal definitions being used by both the prosecution and corrections. It may be that for a subset of career criminals the definitions of this offender class may converge and, thus, differential correctional processing/treatment may be possible. However, for the majority of so-called career criminals, the absence of definitional symmetry precludes an integrated prosecution/correctional treatment.

SECTION IV

PROGRAM EFFECTS

Chapter 9

Immediate Program Effects: Impact on Criminal Justice Processing in the Four Jurisdictions

Overview

The Career Criminal program activities as implemented in each local jurisdiction represent, for local personnel, improvements in the method and management of case prosecution over routine processing procedures in place in the local site. Because of jurisdictional differences in both routine and targeted prosecution practices, the impact of these improvements on the performance of the criminal justice system is expected to vary somewhat from site to site. Nonetheless there is a set of generally hypothesized outcomes in terms of criminal justice performance which can be posited and which have been examined for each of the jurisdictions.

Description of Research

Testing of these hypothesized effects in each of the four jurisdictions has been done based on a quantitative analysis of case processing in each jurisdiction. Changes in system performance in each jurisdiction are measured against a locally-defined baseline, representing an approximation of the performance of the system with target cases in the absence of the program in that jurisdiction. This means that a career criminal conviction rate of eighty-five percent, for example, may indicate program success in one site and not in another, depending on the baseline performance of the particular criminal justice system. Consequently, certain jurisdictions may have "greater opportunity for success" depending on the prior performance of the local system with the particular population of cases targeted by the local program. Further (and for the same reasons) quantitative system performance cannot be directly compared across the four sites, i.e., the focus of the analysis is not whether site A has achieved a higher conviction rate for career criminals than site B. Rather, comparative analyses focus on assessing the results obtained from the four case studies to ascertain how consistently expected results are observed (i.e., is the hypothesis that conviction rates are affected by career criminal prosecution supported by data from each of the four case studies?).

Hypothesized effects of the Career Criminal program have been examined in four general areas:

(1) Type and mode of disposition: It is generally hypothesized that devoting additional prosecutorial attention to

a subpopulation of the prosecution's caseload will have an effect on the way the cases of those targeted defendants are disposed. Namely, more convictions and fewer dismissals are expected as a result of the increased time and attention devoted to case preparation. More trials and fewer guilty pleas are hypothesized as a result of more stringent plea bargaining policies for targeted cases.

(2) Strength of Convictions: It is expected that devoting increased attention to the prosecution of selected defendants will lead to stronger convictions. Because more resources are available for evidence gathering and because continuity in prosecution will limit the likelihood that evidence or witnesses will be lost along the case prosecution process, in conjunction with more stringent plea bargaining policies, it is hypothesized that fewer charge reductions will occur, and that targeted defendants will be convicted on more serious charges.

(3) Sentencing: It is also generally hypothesized that the program will lead to longer sentences for targeted defendants both by improving the quality of evidence and case preparation (leading to a stronger conviction) and by providing a more comprehensive picture of the seriousness of the defendant.

(4) Timing: Finally, it is anticipated that by providing attorneys with a reduced caseload and continuous responsibility for a specific case, the overall time required for processing that case can be reduced.

The research design employed in the evaluation of the effects of the career criminal program in each jurisdiction is based upon a comparative analysis of the characteristics and outcomes of four cohorts of cases. Each cohort is defined in terms of two variables, criminal status and time period of case issuance. The general configuration of cases and time periods included in the analysis is shown in Figure 6 below.

Criminal status is determined according to the specific case selection criteria established for special prosecution by the career criminal program in each jurisdiction. Cases which meet the local criteria are career criminal cases (CC); those which do not are non-career criminal cases (NCC).

Reference time periods include a treatment period (T) defined as all or some portion of the first year of Career Criminal program operations and a baseline period (B), a comparable time span during the year preceding the treatment period.

TIME PERIOD OF CASE ISSUANCE		CRIMINAL STATUS	
		NON-CAREER CRIMINAL (NCC)	CAREER CRIMINAL (CC)
	BASELINE (B)	BNCC	BCC
	TREATMENT (T)	TNCC	TCC

FIGURE 6
FOUR COHORTS OF THE EVALUATION

The treatment period career criminal group (TCC) represents the cases issued during the treatment period and defendants named in those cases which received special attention under the program. Baseline career criminals (BCC), as a group, were "constructed" from cases issued during the baseline period and defendants named in those cases which would have been handled by the Career Criminal program had it been in operation during the baseline period. The two non-career criminal cohort groups (TNCC and BNCC) have been included for control purposes. Cross comparisons of the performance of the criminal justice system with these four cohorts form the basis for the analysis.

In applying this general research design to the program analysis in each site, certain factors differed from place to place due to differences among the programs; however, the same general procedures were followed in the methodologies of each of the four analyses.[55] The baseline and treatment periods varied from site to site (see Table XII below). In all sites, however, the treatment period represented all or some portion of the first year of local Career Criminal program operations with the baseline period representing a comparable period during the preceding year. Defendants named in cases issued during the treatment and baseline periods were included in the analysis. The universe of career criminal defendants was included in the data set; non-career criminals were sampled in three sites (New Orleans:

[55] See System Performance Analysis of the Career Criminal Program National Evaluation, The MITRE Corporation, MTR-80W00036, October 1979 for a full description of case selection procedures and analyses in the four evaluation sites.

TABLE XII

BASIC FEATURES OF THE EVALUATION DATA BASE COLLECTION

JURISDICTION	REFERENCE TIME PERIODS	INCLUDED PRIMARY CASE CRIME TYPES*									PRIMARY DEFENDANT-CASES				
		KID	SEX	ROB	DRU	BUR	ASL	LAR	FOR	WPN	BNCC	BCC	TNCC	TCC	TOTAL
Franklin County	Jan-Jun 1975(B)/1976(T)	X		X		X		X		X	233	111	276	80	700
Kalamazoo County	Jan-Oct 1975(B)/1976(T)		X	X	X	X	X				221	54	274	89	638
Orleans Parish	Jan-Apr 1975(B)/1976(T)			X	X	X		X	X		358	222	368	187	1135
San Diego County	Jul 73-Jun 74(B)/1975(T)			X		X					454	96	466	118	1134

*KID - Kidnapping
SEX - Sex Offense
ROB - Robbery
DRU - Drug Offense
BUR - Burglary
ASL - Assault
LAR - Larceny/Receiving Stolen Property
FOR - Forgery/Fraud
WPN - Weapons Offense

50 percent; Franklin County: 33 percent; San Diego: 50 percent). Inclusion was designed to insure to the extent possible that a similar mix of offense types was included across the four cohorts. The selection of specific crime types was determined for each site based on an analysis of charges issued in career criminal and non-career criminal cases in the treatment period. The analysis focuses on defendants as the unit of analysis because, in the view of the program personnel, the ultimate aim of the program is to convict and incapacitate the individual, using any or all cases pending against him in the courts. Data on defendants are also shown in Table XII

The data base for the analysis was developed from prosecutor (and in one site, court) records. The analysis was limited to data regularly and reliably maintained in official records and for some variables, such as prior criminal involvement, official rap sheets -- despite their recognized shortcomings -- had to be relied upon as the primary data source.[56]

Two types of analysis have been conducted for each site. The first is a descriptive analysis of the characteristics and handling of the four groups of cases and defendants included in the evaluation as defined by the two experimental variables, career criminal status and time period of case issuance viz., 1) treatment period career criminal, 2) treatment period non-career criminal, 3) baseline period career criminal and 4) baseline period non-career criminal. The second is a multivariate analysis of selected outcome variables to test the series of hypotheses concerning anticipated effects of special prosecution by the Career Criminal program.

The results of the descriptive analysis of the performance of the criminal justice system with the defendants included in the data set are presented for each site. Tabular information is provided concerning the performance of the four groups of defendants with respect to measures of four types of outcomes: mode of disposition, strength of conviction, sentencing, and timing. (See Table XIII, page 114.)

This descriptive information serves several purposes in the analysis. First, for the reader interested in program operations, this material provides tangible information concerning the activities and outcomes of routine and special operations of the local prosecutor's office with various types of cases and defendants. Second, at this level, the analysis also provides a basis for comparison across the four case study sites and as such may assist in explaining

[56] The document cited in Footnote 55 discusses the data collection process in each jurisdiction.

TABLE XIII
MAJOR IMPACT MEASURES

ANALYSIS AREA	OUTCOME MEASURE	OUTCOME MEASURE DEFINITION
Type and Mode of Disposition	Conviction	Defendants convicted by trial or by guilty plea to at least one charge
	Trial Disposition	Defendants tried on at least one charge
	Guilty Plea	Defendants pleading guilty on at least one charge as their worst disposition (i.e., no trial convictions)
	Dismissal	Defendants with at least one charge dismissed as their worst disposition (i.e., no trial convictions or guilty pleas)
	Nolle Prosequi	Defendants with all charges disposed by nolle prosequi
Strength of Conviction	Conviction to Most Serious Charge	Defendants convicted (by trial or guilty plea) to the most serious charge issued against them*
	Plea to Most Serious Charge	Defendants pleading guilty to most serious charge issued against them*
Sentencing	Incarceration	Defendants sentenced to confinement
	State Prison Commitment	Defendants sentenced to serve time in the State Prison
	Sentence Length	Minimum sentence imposed by court
Processing Time	Process Time	Time from arrest to final disposition

*Defined by legislated minimum penalty in San Diego County and the legislated maximum penalty in the other three jurisdictions.

why different program sites may experience different program effects. Finally, these descriptive figures present a first-cut indication of program effects. While they are not, in and of themselves, sufficient for making a determination of program impact, they are suggestive of areas which warrant further examination.

Multivariate analyses of this series of selected variables have also been conducted for each site to examine the hypothesized effects of the Career Criminal program on the performance of the criminal justice system in the context of other, possibly biasing factors. This multivariate analysis was included in an effort to ascertain whether there are alternative explanations for differences in outcomes--as they relate to differences between groups on variables other than those related to the program. Non-program differences may arise for a number of reasons. First, in the evaluation, the baseline career criminal group was identified through a matching procedure, a practice which is practical but which is also fallible. Second, inclusion in the career criminal group is based on crossing a threshold on some locally defined continuous scale, which in some localities involves multiple considerations. This allows for the possibility that defendants within each group--as defined by the scale cut-off point--may exhibit considerable variation on individual variables. If these individual variables are independently related to the outcomes and if the baseline and treatment career criminal cohorts exhibit different levels of these variables, biases may be introduced into the analysis results. This multivariate analysis has been conducted using Goodman's framework for loglinear analysis.[57] Loglinear analysis methods have been fruitfully employed by researchers in the analysis of data pertaining to criminal justice issues.[58] Specifically, loglinear analysis provides a method for analyzing qualitative (categorical) variables. As such, the method is well suited to the examination of the hypothesized effects of the Career Criminal program in which the dependent variables (i.e., case disposition) are categorical in nature. In analyses of data of this type, methods generally employed by evaluators--regression analysis and other forms of the general

[57] Goodman, Leo, "A Modified Multiple Regression Approach To the Analysis of Dichotomous Variables," American Sociological Review, 1972, Vol. 37 (February), pp. 28-46.

[58] For some examples see Lawrence E. Cohen and James R. Kleugel, "Determinants of Juvenile Court Dispositions: Ascriptive and Achieved Factors in Two Metropolitan Courts," American Sociological Review, 1978, Vol. 43 (April): pp. 162-176, and Peter J. Burke and Austin T. Turk, "Factors Affecting Post Arrest Disposition: A Model for Analysis." Social Problems, 22: pp. 313-21.

linear model--cannot be readily applied. Loglinear analysis serves the same function as the typically used methods and the strategy employed here in applying these methods is similar to that used in general methods of hypothesis testing.[59]

In the loglinear analyses, models were tested to examine the significance of career criminal treatment group status in predicting expected outcomes. Separate models were tested for each site for each outcome measure. Models incorporated several factors as predictors of outcomes including the experimental variables--criminal status (career criminal/non-career criminal) and time period (baseline/treatment) and control variables. A significant interaction between career criminal status, time period and the outcome measure in the context of the control variable was interpreted as an indicator of a significant program effect.

In the analyses of dispositions and strength of conviction, included control variables were defendant's age, race and prior record, processing time, whether multiple cases were pending against defendant and the charge severity of the most serious charges filed against the defendant. Control variables in the analyses of sentencing were defendant age, race, and prior involvement, presence of multiple cases and charge severity. Finally, in the timing analyses, control variables included charge severity, presence of multiple pending cases, type of disposition, and factors related to processing (ordering of a transcript, convening of a preliminary hearing). These control variables were selected because it has been suggested on theoretical or empirical grounds that they may be related to the outcome variables being examined and hence any differences between groups on these factors may introduce a bias into the analysis results. The results of the multivariate analysis generally showed that most differences between groups apparent in the descriptive analysis could not be accounted for by other differences among the groups and therefore appear to be attributable to the Career Criminal program. Those cases where apparent program effects do appear to be accounted for by other factors, which

[59] For a discussion of problems surrounding the use of linear regression techniques with categorical variables, see Eric A. Hanushek and John E. Jackson, "Models With Discrete Dependent Variables," in Statistical Methods for Social Scientists. New York: Academic Press, 1977. Briefly, regression analysis with dichotomous or polytomous dependent variables violates the assumption that the variances are homoskedastic which renders Ordinary Least Squares estimation biased, and suggests that the relationships will be non-linear, at least at the boundaries, because the dependent variable is bounded rather than unbounded continuous.

occurred only with respect to sentencing measures in New Orleans and Franklin County, will be discussed in the site by site descriptions which follow. A full description of the analysis procedures and results is available in a separate technical report.[60]

Analysis Results

The results of the analyses for the four evaluation sites are presented in Tables XIV to XVI. Displayed are measures of criminal justice system performance for the four cohorts of defendants (baseline non-career criminals: BNCC; baseline career criminals: BCC; treatment non-career criminals: TNCC; and treatment career criminals: TCC) for the four areas examined in the analysis (mode of disposition, strength of conviction, sentencing and processing time). The measures for the treatment career criminal cohort (TCC) represent estimates of the performance of the criminal justice system with respect to defendants whose cases were prosecuted by the Career Criminal program. Measures for the baseline career criminal cohort (BCC) represent an approximation of the way the system would have been expected to perform with career criminal defendants without any program intervention. Measures for the two non-career criminal cohorts (BNCC and TNCC) indicate the levels of routine performance of the system during the two time periods. (For three sites, the non-career criminal estimates shown reflect the error introduced by the sampling procedures used.) Differences between measures for the treatment career criminals and the baseline career criminals which are not reflected in the non-career criminal measures (i.e., which are not part of general system change from the baseline to treatment period) are considered indicative of program effects. In the discussion that follows, statements indicating that the system is performing differently for career criminals with the program "than would be expected" without the program refers to these cross comparisons--with "expectations" defined in terms of the performance of the system with the other three cohorts of defendants.

San Diego County

The results of the San Diego analyses (shown in Table XIV, page 120) are as follows:

- Type and mode of disposition: In San Diego, no significant differences for career criminal defendants were observed for any of the measures of dispositions. Career criminals handled

[60] J. S. Dahmann and E. A. Neham, System Performance Analysis of the Career Criminal Program National Evaluation, The MITRE Corporation, MTR-80W00036, October 1979.

TABLE XIV
SAN DIEGO COUNTY: SYSTEM PERFORMANCE RESULTS SUMMARY

ANALYSIS AREA	OUTCOME MEASURE	COHORTS: BNCC*	BCC	TNCC*	TCC
Type and Mode of Disposition	Conviction Rate Among Prosecutions (N=)	78.0 ± 2.6% (241)	89.5% (95)	75.7 ± 2.7% (247)	91.5% (117)
	Trial Rate Among Prosecutions (N=)	12.0 ± 1.9% (241)	23.2% (95)	14.2 ± 2.2% (247)	27.4% (117)
	Plea Rate Among Prosecutions (N=)	63.9 ± 3.0% (241)	66.3% (95)	57.9 ± 3.1% (247)	65.8% (117)
	Dismissal Rate Among Prosecutions (N=)	11.2 ± 1.9% (241)	1.1% (95)	16.6 ± 2.3% (247)	1.7% (117)
Strength of Conviction	Rate of Conviction to Most Serious Charge Among Convictions (N=)	28.7 ± 3.9% (188)	41.1% (85)	32.0 ± 4.2% (187)	75.7% (107)
	Rate of Plea to Most Serious Charge Among Pleas (N=)	16.9 ± 3.4% (154)	25.4% (63)	23.2 ± 3.6% (142)	68.8% (77)
Sentencing	Incarceration Rate Among Prosecutions (N=)	71.0 ± 3.5% (188)	87.4% (85)	65.6 ± 3.5% (247)	91.5% (117)
	Incarceration Rate Among Convictions (N=)	91.0 ± 2.4% (188)	95.3% (85)	86.6 ± 2.9% (187)	100% (107)
	State Prison Commitments Among Incarcerations (N=)	46.8 ± 4.5% (171)	77.1% (83)	44.4 ± 4.6% (162)	92.5% (107)
	Sentence Length (Life set to 30 yrs yrs.) (N=)	1.9 yrs. (171)	4.6 yrs. (81)	2.2 yrs. (162)	9.6 yrs. (107)
Processing Time	Mean Time to Disposition (N=)	95 days (246)	95 days (95)	83 days (251)	101 days (118)

*Includes sampling error bounds for 90 percent confidence limits.

by the San Diego Career Criminal program are just as likely to be convicted, to be tried, to plead guilty, or to have charges against them dismissed as were similar defendants prosecuted before the program. However, as shown in Table XV, conviction rates for career criminals before the program were quite high (approximately ninety percent), suggesting that the likelihood of the program initiating significant improvements in these measures may have been slight. Similarly, low baseline career criminal dismissal rates (approximately one percent) may not be subject to significant reduction. These high levels of system performance reflect the fact that the San Diego program (and consequently, the evaluation data set) includes only defendants charged with at least one robbery-related offense.

- Strength of Convictions: Improvements in the strength of convictions obtained for career criminals are demonstrated by increases in the rate of both convictions to the most serious charge (including both trial and plea convictions) and guilty pleas to the most serious charge (among plea dispositions). Here as in the other four sites, average penalty at intake, the base point for these measures, is stable across the baseline and treatment periods. Increases in these rates were observed for both career criminals and non-career criminals from the baseline to the treatment period. The increases for career criminals, however, were considerably larger than those for the non-career criminals and the differences between the groups were not accounted for by other variables in the multivariate analyses.

- Sentencing: The analysis results show that the likelihood of incarceration for career criminals prosecuted by the program is not significantly greater than that expected, based on the incarceration rates of the other defendants prosecuted. Once convicted, however, treatment career criminal sentencing is harsher than would have been expected. Treatment career criminals are sentenced to significantly longer incarceration times and are significantly more likely to be sentenced to state prison to serve those sentences. These results logically follow from the increases observed in the strength of treatment career criminal convictions. In California, under the indeterminate sentencing law which was in effect at the time for which this analysis was conducted, minimum sentences, the measure of sentence length used here, were linked directly to the charge of conviction. Hence, higher conviction charges will be accompanied by longer sentences. The results also show that criminal defendants (here, largely robbers) once convicted, have a high likelihood of being sentenced to incarceration with or without the program. Convicted treatment career criminals show a slightly greater likelihood of incarceration. This

statistically significant result, can, however, be largely accounted for by sampling fluctuation among non-career criminal measures.

- Processing Time: No improvements in processing time were observed.

Kalamazoo County

The results of the Kalamazoo analysis (as found in Table XV,, page 123) indicate the following:

- Type and Mode of Disposition: In Kalamazoo, as in San Diego, treatment career criminals show no significant differences from expected performance levels on any of the dispositional measures analyzed. There appears to be an upward shift in the conviction rate from the baseline to the treatment period for both career and non-career criminals but no changes unique to the treatment career criminals are observed.

- Strength of Convictions: As was also seen in the San Diego analysis results, improvements were observed in the strength of the convictions obtained for treatment career criminal defendants. Rates of conviction (trial and plea) to the most serious charge among convicted defendants and rates of pleas to the most serious charge among defendants pleading guilty increased for career criminals from the baseline to the treatment in the context of slight declines in these measures for non-career criminals.

- Sentencing: Few treatment career criminal differences in the sentencing area were observed. General increases in the incarceration rate for both career and non-career criminals were observed; these were not specific to treatment career criminals, however. While sentence lengths show no increase, it does appear that treatment career criminals are somewhat more likely to be sentenced to state prison in the treatment period than in the baseline period. The multivariate analyses suggest however that these differences in state prison commitment may be accounted for by differences in the offenses charged among the four cohorts.

- Processing Time: Major changes in processing time were observed. While before the program, career criminal cases were taking about one-third longer to process than non-career criminal cases, during the treatment period, career criminal processing time was shorter than that of non-career criminals. This is undoubtedly due in large part to the added court capacity provided by the program.

TABLE XV
KALAMAZOO COUNTY: SYSTEM PERFORMANCE RESULTS SUMMARY

ANALYSIS AREA	OUTCOME MEASURE	COHORT: BNCC*	BCC	TNCC*	TCC
Type and Mode of Disposition	Conviction Rate Among Prosecutions (N=)	65.3% (199)	66.6% (39)	72.6% (238)	73.4% (49)
	Trial Rate Among Prosecutions (N=)	11.5% (199)	30.7% (39)	11.3% (238)	24.4% (49)
	Plea Rate Among Prosecutions (N=)	54.7% (199)	48.7% (39)	62.6% (238)	55.1% (49)
	Dismissal Rate Among Prosecutions (N=)	22.1% (199)	5.1% (39)	13.8% (238)	6.1% (49)
	Nolle Prosequi Rate Among Prosecutions (N=)	9.0% (199)	10.2% (39)	8.8% (238)	10.2% (49)
Strength of Conviction	Rate of Conviction to Most Serious Charge Among Convictions (N=)	65.5% (110)	83.3% (24)	64.9% (154)	100.0% (34)
	Rate of Plea to Most Serious Charge Among Pleas (N=)	69.9% (94)	77.8% (18)	60.9% (133)	100% (25)
Sentencing	Incarceration Rate Among Prosecutions (N=)	35.6% (199)	61.5% (39)	42.0% (238)	69.3% (49)
	Incarceration Rate Among Convictions (N=)	54.6% (130)	92.3% (26)	57.8% (173)	94.4% (36)
	State Prison Commitments Among Incarcerations (N=)	59.1% (71)	79.1% (24)	51.0% (100)	97.0% (34)
	Sentence Length (Life set to 30 yrs) (N=)	2.2 yrs (89)	6.0 yrs (24)	2.3 yrs (100)	5.6 yrs (34)
Processing Time	Mean Time to Disposition	288 days	444 days	249 days	216 days

Orleans Parish

The analysis results for Orleans Parish (as shown in Table XVI, page 125) indicate the following:

- Mode of Disposition: As in the other sites, no program effects on any of the disposition measures were observed. The conviction and dismissal rates for career criminals and non-career criminals remained stable over the two periods. The trial rate tended to decline and the plea rate to increase between the two periods; again, career and non-career criminal cases appear to be equally affected.

- Strength of Conviction: Due to data problems, no assessment of strength of convictions could be made in this site.

- Sentencing: During the time from the baseline to the treatmnet periods the prison situation in Louisiana was experiencing difficulties due to severe overcrowding. This is reflected in the changes observed in the rates of incarceration between the two time periods. The likelihood of incarceration declined from the baseline to the treatment period for all criminal offenders. These declines were significantly less pronounced for treatment career criminals, however, a likely effect of the Career Criminal program. Likewise, while proportionally fewer treatment non-career criminals were sentenced to serve time in the state facility, the rate of state prison commitments for career criminals remained stable. These differences, however, appear to be accounted for by other differences between the groups (including types of offenses charged, the presence of multiple pending cases, defendant prior record, intake penalty). Similarly, apparent differences in sentence length can be accounted for by other factors (again including offense type, defendant prior record, pending cases). It appears that with decreasing rates of incarceration the more serious offenders have continued to be sentenced to confinement; as reflected in the longer sentence lengths for treatment career criminals.

- Processing Time: The time to disposition measure showed decreases for all defendants from the baseline to the treatment period, with no particular effects observed for treatment career criminals.

Franklin County

The Franklin County analysis results (Table XVII, page 126) suggest the following:

TABLE XVI
ORLEANS PARISH: SYSTEM PERFORMANCE RESULTS SUMMARY

ANALYSIS AREA	OUTCOME MEASURE	COHORT: BNCC*	BCC	TNCC*	TCC
Type and Mode of Disposition	Conviction Rate Among Prosecutions (N=)	75.2 ± 2.8% (318)	81.1% (187)	75.8 ± 2.8% (310)	83.7% (141)
	Trial Rate Among Prosecutions (N=)	24.2 ± 2.8% (318)	38.5% (187)	17.4 ± 2.5% (310)	24.1% (141)
	Plea Rate Among Prosecutions (N=)	57.9 ± 3.2% (318)	49.7% (187)	66.5 ± 3.1% (310)	63.4% (141)
	Dismissal/Nolle Rate Among Prosecutions (N=)	14.2 ± 2.3% (318)	10.7% (187)	15.2 ± 2.3% (310)	9.9% (141)
Sentencing	Incarceration Rate Among Prosecutions (N=)	60.4 ± 3.2% (318)	75.4% (188)	33.9 ± 3.1% (310)	70.2% (141)
	Incarceration Rate Among Convictions (N=)	80.3 ± 3.0% (239)	92.2% (153)	44.7 ± 3.8% (235)	83.9% (118)
	State Prison Commitments Among Incarcerations (N=)	50.9 ± 3.9% (222)	67.1% (143)	30.0 ± 3.6% (217)	67.5% (114)
	Sentence Length (Life set to 30 yrs.) (N=)	4.5 yrs (191)	8.0 yrs (140)	5.3 yrs (105)	9.8 yrs (99)
Processing Time	Mean Time to Disposition (N=)	146 days (318)	166 days (187)	96 days (310)	115 days (141)

*Includes sampling error bounds for 90 percent confidence limits.

TABLE XVII
FRANKLIN COUNTY: SYSTEM PERFORMANCE RESULTS SUMMARY

ANALYSIS AREA	OUTCOME MEASURE	COHORT: BNCC*	BCC	TNCC*	TCC
Type and Mode of Disposition	Conviction Rate Among Prosecutions (N=)	73.9 ± 3.7% (241)	73.9% (98)	73.0 ± 3.4% (289)	76.4% (87)
	Trial Rate Among Prosecutions (N=)	13.7 ± 2.9% (241)	17.3% (98)	9.7 ± 2.3% (289)	22.5% (89)
	Plea Rate Among Prosecutions (N=)	61.4 ± 4.1% (241)	57.1% (98)	65.1 ±3.7% (289)	53.9% (89)
	Dismissal Rate Among Prosecutions (N=)	8.7 ± 2.4% (241)	5.1% (98)	12.8 ± 2.6% (289)	6.7% (89)
	Nolle Prosequi Rate Among Prosecutions (N=)	6.6 ± 2.2% (241)	12.2% (98)	9.0 ± 2.3% (289)	13.5% (89)
Strength of Conviction	Rate of Conviction to Most Serious Charge Among Convictions (N=)	72.8 ± 4.7% (158)	81.1% (7[illegible])	59.9 ± 5.2% (157)	83.6% (61)
	Rate of Plea to Most Serious Charge Among Pleas (N=)	71.5 ± 5.2% (130)	7[illegible].9% (63)	58.7 ± 5.5% (138)	82.9% (48)
Sentencing	Incarceration Rate Among Prosecutions (N=)	69.7% ± 3.9% (241)	71.4% (98)	69.2 ± 3.6% (289)	73.0% (89)
	Incarceration Rate Among Convictions (N=)	94.4 ± 2.3% (178)	97.2% (72)	94.8 ± 2.0% (211)	95.6% (68)
	State Prison Commitments Among Incarcerations (N=)	84.5 ± 3.4% (168)	90.1% (70)	80.5 ± 3.7% (200)	86.1? (65)
	Sentence Length (Life set to 30 yrs) (N=)	1.3 yrs (170)	1.8 yrs. (80)	1.2 yrs (200)	2.9 yrs. (65)
Processing Time	Mean Time to Disposition	144 days	149 days	132 days	126 days

*Includes sampling error bounds for 90 percent confidence limits.

- Mode of Disposition: Again in Franklin County, as in the other sites, no program effects were observed. Despite some small shifts in the measures analyzed, no pattern of improvement for treatment career criminals was identified.

- Strength of Convictions: Changes in the strength of conviction were observed; however, these were not the changes expected from the program. While strength of conviction measures for the career criminals remained stable or increased slightly from the baseline to the treatment period, the measures for the non-career criminals declined. If it is assumed that the non-career criminal decreases would have been similarly observed for career criminals in the absence of the program, this may represent an effect of the program.

- Sentence Time: No significant program effects were observed in the sentencing area. Incarceration rates both among all defendants prosecuted and among convicted defendants remained constant from the baseline to the treatment period. State prison commitment rates declined slightly for both career and non-career criminals. Sentence lengths are slightly longer for treatment career criminals than would be expected. However, these differences are not observed when controlling for other factors (including offense type, multiple pending cases and intake practices).

- Processing Time: Improvements in processing time are generally observed from the baseline to the treatment period. However, these declines are not significantly greater for treatment career criminals.

Summary

The results of these analyses across the four sites can be summarized as follows:

- Mode of Disposition: The Career Criminal programs in these four jurisdictions do not appear to be having an impact on any of the dispositional measures examined. This is to say that criminal defendants prosecuted by the Career Criminal programs in these four sites are no more likely to be convicted, to be tried, to plead guilty or to have the charges against them dismissed, than would be expected given the performance of the local criminal justice systems with similar cases during a baseline period and with other non-career criminal cases.

- Strength of Conviction: In two jurisdictions, the strength of the convictions obtained by the local programs appear to have been affected by the program. Controlling for differences in intake penalty (there were none apparent), convicted treatment career criminals are more likely to be convicted to the most serious charge filed against them and treatment career criminals who plead guilty are more likely to plead to the most serious charge. In a third site, measures of the strength of career criminal convictions remained stable in the context of a decline in measures of the strength of convictions for non-career criminals. Due to data problems, no assessment of this area could be made in the fourth site.

- Sentencing: In none of the four sites was any program impact observed on the rate of incarceration among defendants prosecuted--a measure of the program incapacitation effect. In one site, however, program effects on several other sentencing measures were observed. In San Diego, once convicted, career criminal defendants were more likely to be incarcerated, were given longer sentences and were more likely to be sentenced to state prison. These effects appear to be logical results of the improvement in strength of career criminal convictions also observed here. In California under the indeterminate sentencing law which was in effect at the time these data were generated, minimum sentences were tied to the charges of conviction. Hence, accompanying the increases in the charges of conviction were improvements on the sentencing measures examined. In the other sites, while some small differences were observed, these differences appear to be attributable to factors other than the program.

- Processing Time: Processing time in one site, Kalamazoo, which had been experiencing time delay problems prior to the program, appears to have been affected by the program. In the other three sites, either time to disposition remained stable from the baseline to the treatment period, or general improvements, equally affecting career and non-career criminals, were observed.

Chapter 10

The Question of Crime Impact

The ultimate or long-term goal of the Career Criminal program is to reduce crime by incapaciting that subpopulation of criminal offenders responsible for a large portion of crime. The ability of the program to achieve such a goal and the feasibility for the evaluation to measure such achievement, are influenced by a number of factors.

In the first place, the offender group which is singled out and treated by the program must, in fact, represent those offenders most responsible for crime and most likely to recidivate. As discussed in Chapter 5, the state of the art is such that while it may be possible to identify more active criminals from less active ones, it is not yet clear how to identify the idealized career criminal offender envisioned by the program. It may be that the target populations identified by the programs in the evaluation sites were somewhat more active than the non-career criminals (or were so at least in the past). But whether the differences were large enough and the propensity to recidivate great enough to be capable of producing visible changes in crime is unclear.

Another factor is that crime level changes to be achieved through incapacitation are dependent on increases in conviction and incarceration rates. As discussed in Chapter 9, however, while the program is having significant effects in a number of other areas, no increases in the incarceration of career criminal defendants prosecuted were found. The changes observed in one site in the length of incarceration sentences may have some incapacitation effect, if different length sentences are actually served; the effect will not be observed, however, during the time period covered by this evaluation. Hence, any observed crime decreases attributable to the program would necessarily be due to deterrence rather than to incapacitation effects.

The original MITRE design for analyzing the crime level effects of the program involved the determination of three independent crime level estimates:

- the actual crime level;

- the predicted crime level, without the Career Criminal program; and

- the expected crimes to be "saved" through incapacitation via the Career Criminal program.

However, from the outset of the evaluation plan development, it was clear that the chain of assumptions leading from the program to the measurement of crime reduction was quite long, and, like all such chains, vulnerable to many possibilities of breakdown along the way. There were, in fact, many ways in which improvements in system performance could occur without necessarily also affecting crime. First, there is the usual question of weak thrusts and weak impacts. If the system identified and processed only a small number of offenders--offenders who would have been handled by routine procedures without the program--the repercuted effect on crime rates was not likely to be very large. Second, the offenders processed would need to be in mid-career, and not at the end of their criminal activities. Evidently, if career criminals were going to stop committing crimes anyway, one could not then count their uncommitted crimes as "saved" by the program. (As discussed earlier in Chapter 5, some research has found that juveniles are the offenders most likely to be involved in a continuing crime pattern; these, however, were not targeted by the Career Criminal programs which have tended to process--by virtue of their prior arrest and/or conviction selection criteria--individuals in their middle-to-late twenties.) Third, it was difficult to be certain that while career criminals might be undergoing focused and well-managed prosecution, Parole Boards might not be returning other career criminals to the specific jurisdictions whose crime rates were being measured. (MITRE tried but was unable to obtain data about the number and offense-types of criminals being returned by Parole Boards to the four sites of the Career Criminal evaluation.) Fourth, since the source of the supply of career criminals is outside the locus of the criminal justice system, it was not clear that the dynamics of the underworld economy would not move a steady supply of new offenders into the lucrative "jobs" vacated by convicted career criminals.

The issue here is the relatively small amount of control which prosecutors--acting either alone or in concert with the police and courts--can exercise on crime reduction. The evaluation found, for example (see Chapter 8 above) that corrections authorities in the involved states did not recognize the career criminal distinction (that is, they did not differentiate between career criminals and other prisoners). Their view was that to do so would involve intrinsic unfairness, since the program did not exist statewide, but only in one or two localities, and thus they would be treating convicted offenders from these localities according to standards not in existence for prisoners from other jurisdictions. A second issue, then (derived from that of prosecutorial control) is the relationship among the components of the criminal justice system. For the Career

Criminal program to improve its chances of success in impacting crime rates, given improved police, prosecutorial and court system performance, it needs to be coordinated closely with corrections authorities and probably must be instituted statewide in order to have a major impact. (California, based upon the experience of San Diego, has in fact moved to such institutionalization.)

As discussed in Chapter 9, the national evaluation found no evidence of increased conviction or incarceration rates in any of the four sites examined, so the question of crime impact cannot be posed for this evaluation. Had it been posed, however, at least two further factors of major importance would have been involved: the current ability to predict crime rates (the national evaluation expected to do this through the use of an interrupted time series design as found in Deutsch's empirical stochastic model[61]); and the current ability to measure crimes "saved" by the program (the model intended for use here,[62] which is based on the effects of incapacitation, includes variables related to prosecutorial performance, such as the probability of conviction having committed a crime, and the probability of incarceration having been convicted). While the utility of both of these types of models is not yet fully demonstrated, the measurement of the forecasting efficiency of the Deutsch model did suggest, however, that its predictive validity was greater than that associated with regression models which typically have only been able to describe average levels and general trends with any accuracy. The use of the Shinnar model, on the other hand, involves a number of problems based on the assumptions of the model (one notably dubious assumption, for example, is that the number of criminals and the lengths of criminal careers are unaffected by criminal justice system performance), and it suffers also from the fact that entirely different projections of benefits--or crimes "saved"--can be made for the same

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[61] Deutsch, Stuart J., "Stochastic Modeling and Analysis of Crime," Quarterly Report prepared for The National Institute of Law Enforcement and Criminal Justice, Grant #75-NI-99-0091.

[62] Shlomo Shinnar and Reuel Shinnar, "The Effects of the Criminal Justice System on the Control of Crime: A Quantitative Approach," Law and Society Review, Vol. 19, No. 4, Summer 1978; and Avi-Itzhak, Benjamin and Reuel Shinnar, "Qualitative Models in Crime Control," Journal of Criminal Justice, Vol. I, pp. 185-217, (1973).

situation depending upon the estimates for λ, the average crime rate per offender.[63]

A final factor is the problem of time, with regard to the measurement of crime impact. Although it is true that incapacitation effects of a program cannot be considered outside the presence of evidence attesting to increased rates of conviction/incarceration and longer confinements, there does exist the possibility of a deterrence effect, based on the existence of the program, the perception of the program held by criminals, and the hardening of attitudes about plea bargaining with habitual offenders, for which evidence has been supplied by this evaluation. Deterrence, however, must be measured over time and the timing of the current evaluation precluded such measurement. A follow-up assessment would be needed to ascertain whether or not there is evidence for a deterrence effect attributable to the program.

[63] Jacqueline Cohen, "The Incapacitative Effect of Imprisonment: A Critical Review of the Literature," pp. 187-243 in Blumstein, Cohen and Nagin (eds.) Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates. (National Academy of Science.)

SECTION V

FINDINGS, IMPLICATIONS, AND ISSUES OF EVALUATION USE

Chapter 11

Evaluation Findings and Implications

The findings of the evaluation and their implications can be conveniently summarized by returning to the series of assumptions which, as discussed in the introductory chapter of this paper, underlie the Career Criminal program.

The first set of assumptions concerns the career criminal target population itself: that such a subgroup exists, comes into contact with the criminal justice system and can be isolated for special handling. While this evaluation did not directly address the major questions relevant to the issue of who career criminals are and how they may be identified, the results of the evaluation nonetheless shed some light on what happens when these assumptions are accepted and local agencies are given the opportunity to define and identify for themselves their local career criminal populations.

First, the prosecutors in the four jurisdictions all enthusiastically endorsed the concept of isolating the most serious subpopulation of their criminal defendants for specialized attention. Second, however, beyond general support for targeting career criminals, there was considerable diversity among the four offices in how they defined their career criminal population. (This is, of course, quite unsurprising, given that defining the career criminal was, from the start, considered a local prerogative.) Offices typically used a common-sense approach to developing their definitions. None of the four was specifically concerned with any quantitative prediction of the likely future criminality of the population they had identified, a key element in translating targeted prosecution into crime effects. Rather, the offices either directed their attention solely toward past repeaters (New Orleans, Franklin County) or toward the most "serious" portion of their criminal defendant population (Kalamazoo, San Diego) as defined by a complex of factors identified by the prosecutorial staff, based on their experience with case prosecutions. None of the offices utilized information derived from research in other jurisdictions; indeed, at the time these programs were beginning, little research in this area was available. Even had it been available, however, it is not clear that it would have been used: most jurisdictions appeared to appreciate the opportunity to define for themselves, on a local basis, the characteristics of those defendants to receive special attention. It has in fact been suggested by local personnel that it was this flexibility in target population definition (as well as in program activity development) that made the Career Criminal program of interest to them in the first place. Allowing for local autonomy in defining the target population contributed to program acceptance, diffusion and institutionalization.

It should be emphasized that at the time the program was taking form, very little research had been completed on empirically defined characteristics of the target population. Since the initiation of the program, however, research into the nature and characteristics of the career criminal target population has been undertaken and is now ongoing. Given the importance of autonomy to local jurisdictions, as this research base grows, major efforts may be required to induce practitioners to incorporate research results into their local target population selection practices. While selection criteria based on prosecutor experience, or on straightforward measures of past criminal activity, are intuitively appealing and politically defensible, they may produce target populations which are far from ideal in terms of the consideration of future criminality--a population, for instance, in its late twenties, well past the peak period of criminal activity. Whether local prosecutors will be willing to shift their orientation and focus their attention on a population defined by more indirect and perhaps less intuitive (albeit more empirically predictive) measures of future criminality remains to be seen.

A second major assumption underlying the program involved the ability of the prosecutor to provide specialized prosecutorial attention to a selected target population of defendants. Unlike some other programs in law enforcement and criminal justice, the four Career Criminal programs studied in the national evaluation were admirably implemented. In all four jurisdictions, special career criminal units were created and career criminal cases were issued and prosecuted by these units well within the timetables anticipated within their grant applications. To some extent these four may represent a select subgroup of the programs since they were in fact selected for inclusion in the national evaluation based on the fact that they were fully operational. Nonetheless, general observation of the program as a whole suggests that in this regard they are more typical than not, and that implementation quality in the program has been very good.

There are a number of factors which may have contributed to this implementation success. First, the majority of the program activities are within the jurisdiction of a single agency--the prosecution--and can be administered through changes in internal office operations.[64]

[64] The Chief of the New Orleans Career Criminal Bureau, for example, explains the program's success in implementation and acceptance in these terms;

> It is one of the few programs that has been entrusted to a publicly elected official who has complete control of the program because it falls within the realm of a function--in this case, prosecution--for which he has sole and exclusive responsibility. This is not a governor who has to appoint a committee, or a number of publicly elected school board members. (See the remarks of Timothy Cerniglia, Proceedings of a Symposium on the Institutionalization of Federal Programs at the Local Level, supra, p. 101.)

The importance of this factor appears in its true perspective only when one considers the minimal progress made in improving coordination between the police and the prosecutor (except in those situations in which police investigators were administratively attached to the prosecutor's office, see Chapter 7, pages 95-97 above).

Again the autonomy given to the local prosecutors in designing the program's activities is an important consideration. To a large degree, individual prosecutors were given a free hand to develop a program of activities which would promote the identification and special handling of their targeted caseload. Each office was encouraged to examine its routine operations and identify those areas where it was felt that special attention could benefit case prosecution. In effect, prosecutors were given additional support to prosecute a high priority subgroup of cases in a manner that they felt appropriate, a manner which--were it not for high caseloads, limited resources, and other system constraints (e.g., court organization)--they might choose for their total caseload. Hence the program in effect provided prosecutors with the opportunity to improve their operations in a way they defined for themselves, an understandably appealing prospect.

In this context, each prosecutor's office implemented a set of activities which more or less differentiated the prosecutorial handling of target, career criminal cases, as a group, from the office's routine caseload. The activities implemented in the four programs--typically: continuous case handling by a single attorney or team of attorneys, reduced caseloads, increased investigative support, more stringent plea bargaining policies, efforts to increase incarceration and to reduce processing time--all focus on improving case prosecution once an arrest has been obtained and a decision to pursue the case has been reached. This set of activities reflects the range of alternative strategies readily available to prosecutors in the four jurisdictions and it is important to reiterate here that these career criminal program activities are not different in kind from what the prosecutors were already doing with their routine prosecutions. To a large extent, all represent an intensification of effort or organization, rather than any radical departure from the kinds of activities normally undertaken for routine prosecutions. This factor may help to explain the limited changes observed in selected measures of criminal justice system performance as a result of the program.

Inherent in the program design (and crucial to its logic) is the assumption that making changes in the method and management of the prosecution of a subgroup of criminal cases will result in changes in the performance of the criminal justice system with respect to these cases. In this evaluation, four areas of potential program effects on criminal justice system performance--mode and type of disposition, strength of conviction, sentencing, and processing time--were examined for the four evaluation sites.

The analysis results showed that few changes in disposition mode and type (conviction rates, plea rates, trial rates, dismissal rates) of career criminal defendants were associated with the Career Criminal programs analyzed. Improvement in the strength of career criminal convictions was observed in two jurisdictions, an improvement which was accompanied by the imposition of longer sentences for career criminals in one site. No increases in incapacitation rates were observed in any of the four sites; three of the four places were incapacitating career criminals at a high (ninety percent) rate before the program. Processing time showed an improvement in one jurisdiction with notable, preexisting time delay problems.

These specific findings suggest that, based on the experience in these four sites, increasing prosecutorial attention on a high-priority subset of the criminal caseload will not necessarily increase the conviction and incapacitation rates for those high priority cases. On the other hand, there is some evidence that the program can increase the strength of the convictions obtained, and that it can result in longer sentences being imposed, where particular constraints on the judiciary (tying sentence to charge) obtain (see below, page 139).

Expectations for system performance effects in the Career Criminal program were based on a number of assumptions concerning the current status and potential of prosecutorial efforts. First of all, the program concept presumes that, due to resource constraints, the prosecutor is not doing all that can be done to pursue career criminal cases and that there is room for improvement in the way the criminal justice system responds to these career criminal prosecutions.

The analysis results suggest, however, that in terms of system outcomes, this is not the case in several specific instances in the four evaluation sites. Most notable is the case of incarceration rates. A review of baseline incarceration rates for career criminals indicates that, with ninety percent or higher rates of incarceration for convicted career criminals in three of the four sites, these criminal justice systems may already be acting in as vigorous a manner as possible to respond to the seriousness of the defendants convicted in career

criminal cases. In places such as these, little program impact is likely and some pre-program analysis may be called for to suggest either more appropriate target populations (that is, offenders with a low probability of conviction and/or incarceration without the program treatment) or reduced expectations for effects in this area. Several other instances of high baseline performance (for example, high conviction rates for career criminals in San Diego) were also observed. For other jurisdictions, while the baseline levels of performance may not be notably high on an absolute scale, it is possible that these levels represent close to the maximum level of performance which can reasonably be expected from the criminal justice system in that place and that prosecutor initiative may be having little effect on these levels due to the context and constraints which bound his actions.

What this may be more generally indicating is that, contrary to expectations, more serious or career criminal cases are not being neglected by the criminal justice systems in these places. That these systems are already largely attuned to this type of case is further reflected in measures of system performance observed for career criminals as compared to their non-career criminal counterparts. These measures indicate that career criminals are not "falling through the cracks," at least no more than other defendants. In part, this may reflect the fact that the program in some places may be a formalization of prior informal policies in these offices.

These results may further indicate a certain logical inconsistency in the program concept. The type of target defendant was selected on a basis quite independent from the treatment to be provided by the program, without any assessment of whether or not the treatment was needed. In those circumstances where program effects are most notable (e.g., strength of convictions in San Diego, processing time in Kalamazoo) suggesting the program treatment addressed an existing local problem or need.

This raises questions regarding the second major assumption underlying the expected program impact on criminal justice system performance: that the prosecutor is in a position to effect the kinds of changes envisioned for the program. As the process analysis component of the evaluation demonstrated in all four sites (and as is the case generally), the prosecutor is embedded in a system bound by legislative and administrative regulation, a system to which he must react to the extent of his ability. In this sense, the Career Criminal program has provided prosecutors with resources to improve their ability to react to the demands of the system in terms of selected priority cases. What is in question is whether improving his ability to manage his target caseload can necessarily be expected to influence certain criminal justice system outcomes in this type of case.

Given the highly structured environment in which the prosecutor operates, it is understandable that the majority of the Career Criminal program activities have involved changes in the internal operations of the prosecutor's office, operations over which the prosecutor can exercise control, rather than involving the prosecutor's relationship with other agencies of the criminal justice system. The jurisdiction of the prosecutor, along with his current policies and management practices, defined the arena for program initiatives. In the four evaluation sites, program treatment was applied only to cases which would have been prosecuted by the local office whether or not the program had been undertaken. Further, in most circumstances in these four sites, program attention began at the point at which the prosecutor would have routinely taken cognizance of the criminal matter. Within this framework the programs attempted, by providing more time and support to the prosecutorial staff and by allowing for more continuity in staff involvement with individual cases, to improve the quality of career criminal case preparation and in some cases to exercise control over dispositional practices through policies limiting plea bargaining. In this context the evaluation examined the impact of these changes on criminal justice system performance.

Looking across the four sites, it appears that the greatest prosecutor leverage may be in affecting the strength of convictions. By providing the prosecutorial staff with time, resources and the ability to follow a case from intake to disposition, it becomes possible for the prosecution to realistically uphold a policy of "no plea bargaining." This suggests that an area which is open to policy attention is charging and plea bargaining. If the program evaluation results are any indication, more can be done here than has been done to date.

In terms of other areas of potential impact which depend on cooperation from other components or agencies of the criminal justice system -- in particular activities directed towards higher incarceration rates or more severe sentences, system outcomes on which increased incapacitation and consequent crime reduction depend -- it is unlikely that a prosecutorial locus of the program will be adequate. Without major specific and determined efforts to overcome the problems discussed above, therefore, it is probably unreasonable to expect crime reductions as a direct impact of this prosecutor's program.

Other impact measures, such as conviction rates, may be determined by factors outside the control of the prosecutor (availability of witnesses, strength of evidence); therefore, to enhance the prosecutor's ability to prepare and prosecute cases coming to his attention through routine channels may not be appropriate for effecting changes in this measure. This of course assumes that the office is currently operating at a level which allows it to take maximum advantage of the information and resources it has at hand.

Program effects on sentencing, among the four site results, appeared most clearly in that jurisdiction in which the strength of convictions was increased and in which sentence lengths are tied by law to the charges of conviction. In this place (San Diego, under the indeterminant sentencing system), increases in the strength of conviction were accompanied by longer sentence lengths, as would be intuitively expected. But in the other sites, where an independent judicial determination of minimum sentences is made, program effects were not clearly obtained, even in that site where increases in strength of conviction were observed. In some cases, slightly longer sentence lengths for career criminals appeared to be largely due to factors other than the program. The absence of a clear program effect on sentence lengths may be due to a number of factors including the possibility, suggested by other research,[65] that judges impose sentences based less upon the conviction charge than upon information pertaining to defendant characteristics and to the criminal act itself: information which is largely unaffected by prosecutorial efforts.

It is unclear to what extent these specific programs and the limited system performance results associated with them represent a realistic approximation of the kind of impact other prosecutorial efforts might have on alternative target populations in these sites. Whether more effort, a different configuration of project activities, or a different target population would lead to different results cannot be determined from this research. It is clear, however, that simply providing the prosecution with added resources with the expectation of direct effects on criminal justice system performance measures does not fully consider the complexities of that system and the limited role that the prosecution plays in its operations. More experimentation is needed on the part of prosecutors to examine innovative methods of prosecution for caseloads of different types. While prosecutors may express satisfaction with the current program, their views may reflect a fear that dissatisfaction may lead to less support rather than a view that their problems are solved. This evaluation experience suggests that prosecutors are receptive to certain types of participation and that more innovation in this area is possible.

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[65] Wilkins, Leslie T., Jack M. Kress, Don M. Gottfredson, Joseph C. Calpin, and Arthur M. Gelman. Sentencing Guidelines: Structuring Judicial Discretion. Washington, D.C.: February 1978.

Finally, the last assumption underlying the Career Criminal program links anticipated changes in criminal justice system performance to crime level effects through the increased incapacitation of serious repeat offenders. As the above discussion has shown, no increases in the incapacitation of career criminals were observed in the four sites analyzed. In the absence of the critical linking element of criminal justice system performance changes, crime level effects due to incapacitation cannot be demonstrated in these four jurisdictions. The significantly longer imposed sentence lengths observed in one jurisdiction may, if sentenced offenders do in fact serve longer sentences, translate into crime level effects. Such effects would not be observed until the release time of these offenders, however, a time removed from the period covered by this evaluation.

As discussed in Chapter 10, the expectation of measurable crime level effects of a program such as the Career Criminal program, which is internal to the criminal justice system, may not be reasonable given the scope and context of program activities. Even if improvements in system performance (i.e., increased incapacitation) had been observed, linking such changes to crime levels would have been difficult given the marginality of program treatment (program attention was provided to a relatively small group of criminal defendants who would have been subject to routine criminal prosecution without the program), the potential countervailing actions of the corrections subsystem, and the possible recruitment of new career criminals as the older serious offenders are removed from circulation. These problems of assessing the crime impact of a program with a limited thrust implemented in a complex environment are further compounded by analytical problems in measurement of crimes "saved."

It appears from this evaluation that for a program lodged in the prosecutor's office to impact crime rates, there are problems to be overcome which lie outside the control of the prosecutor. First, in the Career Criminal program, federal funding allowed the program to process only a limited number of offenders. Second, to achieve crime reduction outcomes, cooperation by the police, the judiciary and corrections are required for identification, sentencing and handling of the selected career criminal population. However, such cooperation seemed more often to be conspicuous by its absence than by its presence in our evaluation. Third, research suggests that juvenile populations commit the most crime and are most likely to recidivate, but juvenile crime is often outside the prosecutor's jurisdiction. Further, even in those cases where juvenile crime lies within the locus of prosecutorial control, there exist no certain methods for identifying an offender's recidivism potential. Fourth, independent judicial determination of sentences leaves the prosecutor with limited ability to influence that sentencing, as shown in all but one site of our evaluation, in which improvements in strength of conviction carried

automatic increases in length of sentence. Finally, autonomous Parole Boards can (and may be obliged to) release career criminal types of offenders as fast or faster than prosecutors can process them.

Chapter 12

Issues of Evaluation Use

Given the findings of this evaluation, the question then arises of their interpretation, implications and use for policymaking and for practice. The present chapter therefore examines some factors involved in the interpretation of the evaluation findings from a user's perspective, and some constraints which must be put upon both their interpretation and use, from the perspective of the research.

Interpreting the Evaluation

Whatever the process and outcomes of an evaluation, once the results are in, the evaluation will be judged according to a number of measures by its different users. In the first instance, its findings, recommendations and policy guidance may be accepted or rejected as much because of the ideology, political views, stakeholder affiliation or function of the user, as because of any merits or failures intrinsic in the evaluation.

The evaluation of an anti-crime program lodged within the prosecutor's office--such as the present evaluation--will evoke a different reaction, for example, from a user with a radical political perspective (who tends to see crime as the "inevitable incurred cost" of a capitalist economic system, and a cost which is irremediable without the overthrow of that system), a user with a liberal ideology (who may see increases in crime rates and crime-seriousness as the results of an inequitable society, and will therefore seek to improve equality and alleviate poverty--rather than increase processing severity--as measures likely to reduce crime), or a user with a conservative viewpoint (who may blame liberal "coddling of criminals" for rising crime rates and therefore thinks that appropriate punishment--swiftly, certainly and systematically applied--is the best remedy for reducing crime). This is to suggest that positive results for the Career Criminal program--which seeks harsher judicial punishment for serious repeat offenders--would be more likely to please conservatives than liberals or radicals, while negative results would tend to confirm the ideologies of radicals or liberals and disappoint conservatives. The point here is that the underlying philosophy of the user of an evaluation will always be likely to influence in some manner his or her interpretation and appreciation of the findings.

In the same way, if a user's political view stresses centralized federalism, he or she would tend to give less emphasis to the importance of local autonomy vis-a-vis other features of the program (such

as the choice of target population, selection criteria and program activities), would have fewer concerns about the dangers of "big government" with respect to the criminal justice system, and would probably see the lack of strict, careful and comprehensive national planning, direction and guidance as a major weakness of the program, rather than a strength. On the other hand, a political view stressing separated federalism might fear, above all, the emergence of a national police force or criminal justice system, would consider local autonomy a crucial ingredient of the program, would point to successful institutionalization as a result of such autonomy, and might consider the local practitioner's view that "the program reduces crime" or is "working" as proof of success, whatever the evaluation results.

Similarly, from a stakeholder perspective, allocational rivalry among agencies for funding might lead police or corrections agencies to look with disfavor upon any prosecutor's program, while prosecutors, who view themselves as underfunded--given escalating caseloads--would tend to favor a program which provides them with increased resources (all things being equal).

Finally, in terms of function, the congressional staff user will look to the evaluation to provide a clear answer as to whether to refund the program, expand it, modify it or try something new; the agency user will want knowledge of implementation quality and results, hoping especially for good results as a vindication both of agency policy and choice of program; the local practitioner will want evaluative (but also word-of-mouth, "peer network") information about program effects; the taxpayer and the GAO will want to know what the public got for its money; and finally, the Congress needs to find out how local constituencies feel about the program, at which point on the ideological or political spectrum the program is situated, and (in last place only) what the measurable effects may have been.

For an evaluation to be used properly, however (especially if it is to retain its power for policymaking), it is necessary not only to understand the results and their ramifications in specific ideological, functional or interest group contexts, but also to understand the limitations of the evaluation design, the consequent qualifications attached to its findings and the confidence with which they can be generalized and applied.

One researcher has noted that, although objectivity in a carefully and properly designed evaluation is not typically as great a problem as is generally alleged--because such an evaluation will produce data which are essentially unmanipulable--it is nonetheless the case that:

> the candid way to put it is that all of our designs and all of our evaluations are vulnerable to significant methodological criticism simply because it is not possible in the real world of programs and activities to attain a random assignment between program and control populations...There are all kinds of conditions that are largely out of the evaluator's control that introduce substantial ambiguity into the design or conduct of any evaluation...(However) the reason why design and methodology are so important is that nearly all of the programs that we are talking about are inherently controversial, social action programs. As such, in the political sphere, in the Congress, and in the public, they have both their protagonists and their detractors. That means that any evaluation of any of these programs, no matter what it finds--whether it finds the program effective or ineffective--is going to be attacked, not because the findings are distasteful, which may be the real reason, but on methodological grounds.[66]

It is, therefore, important for the evaluation's use to examine carefully and candidly the issues raised by its design, process and conduct. Further, whatever the importance of ideology, political stance, vested interest and function in determining the initial use of an evaluation, in the long run it will stand or fall on methodological grounds. The following discussion consequently seeks to describe and explain some of the more important choices which were made in planning and performing this evaluation and the consequences these may have for interpreting and using the results.

Using the Evaluation: Methodological Observations

1. Limitations of the Evaluation

Among the limitations of the present evaluation, there are three important ones which warrant some discussion. The first is the small number of sites which have been examined. In designing the research, a trade-off had to be made between conducting a broader-based, more superficial analysis and a more intense, comprehensive analysis of a few programs. The latter was chosen for a number of reasons.

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[66] Interview with John Evans, in the Proceedings of a Symposium on the Use of Evaluation by Federal Agencies, ed. Eleanor Chelimsky, The MITRE Corporation, March 1977, pp. 183 and 39.

Given the absence of any basis for comparison of program performance, a high priority for the evaluation was to establish such a baseline. But since regularly maintained program statistics concern only career criminal cases which have received special program attention, the development of statistics relevant to any baseline comparison group necessitated the development of an additional data base(s). The costs of data base development are such that only a limited number of sites could be included to keep the evaluation within established cost limits. Further the feasibility of developing a baseline for program performance is dependent upon certain characteristics of local programs, and only a few of the initial set of funded programs incorporated the necessary features. Consequently, even if funds had been available to extend the evaluation to a larger number of sites, it would not have been possible to do so.

The second type of limitation inherent in this analysis involves the methodology used to develop the necessary baseline for assessing changes in criminal justice processing for career criminal cases. Certain features of the design and execution of this analysis have limited what was examined and how; these limitations have certain consequences for the interpretation of the results. These should be understood by the reader in using and interpreting the analytical information presented elsewhere in the report.

First, the quantitative analysis is based on data maintained in prosecution and court files. Any inaccuracies in these source materials are carried over into the evaluative data set. Further, the data infrequently or inconsistently reported in these sources could not be included in the analysis. As a consequence, factors which may have a bearing on program impact may, for this reason, have been omitted from the analysis. Certain source materials, particularly rap sheets, are well known for missing-data problems. Because these same sources of information are used throughout the analysis, the inaccuracies may be less of a problem as far as internal consistency is concerned. However, their interpretation outside of internal comparative purposes should be subject to caution.

These materials, including rap sheets, have been used as the basis for the identification of the baseline career criminal set. To the extent that the office selection decisions have been restricted to similar materials during the treatment period, this simulated baseline selection process will produce a set of defendants and cases comparable to those handled by the program. If the case screeners--either because they recognize a defendant's name as appearing in another recent case or for some other reason--seek out additional information concerning a defendant which is then considered in the selection process, then differences between baseline and treatment groups may occur. The sites included in the national evaluation were

selected in part because their procedures and criteria for selection of career criminal cases lent themselves to this design. In situations in which questions arose as to whether a baseline case(s) would have been considered eligible, the general practice was to turn to the program people for their judgment. To offset the problems of mismatch to the extent possible, certain analytical procedures have been undertaken to statistically control for possible biasing factors which may be affecting the outcome measures independent of the program and which have not been adequately controlled through the baseline career criminal selection process. Nonetheless, it should be remembered that the method is essentially a matching procedure and cannot have the power that a random allocation design, had it been feasible, would have provided.

Finally, the evaluation was designed to examine the impact of local program activities as they were implemented in their entirety in each jurisdiction, an approach which was determined by the fact that programs included in the evaluation were well underway at the time the evaluation was undertaken. As such, the evaluation does not lend itself to specifying which among all the strategies included in a local program were important to program outcomes.

2. The Need for Further Replication

Although it appears that the infeasibility of a random allocation design is a problem not easily remediable in evaluating efforts like the Career Criminal program, the four-site limitation is a problem intrinsic only to this evaluation. That is, multiple replications of the evaluation can be executed in different jurisdictions. (Our evaluation methodology is available for general use and has already been shared with and used by the GAO and by California evaluators). Such replication would notably affect the level of confidence in program effects and the generalizability of the statements which can be made about them. As noted earlier, however, proper caution must be exercised in drawing conclusions based on four sites only, and caution again, as is normal, with respect to the quasi-experimental design, despite our use of multivariate analysis to test and control for sources of bias in the matched groups due to any incomparability of those groups.

A problem for replication, however, lies in the cost of the evaluation effort. In effect, our evaluation design, because of its attempt to develop reasonably adequate comparison group data, is somewhat expensive to execute properly, essentially because of problems involving data collection and analysis, but also because of computer costs, which were different and difficult to predict in each site. (For example, the computer analysis costs per case in our

evaluation ranged form about $8 in San Diego County to about $20 in Orleans Parish where major difficulties of duplication or double-counting were encountered in merging manually compiled and computer-based data sets.) Thus the question of evaluation replication hinges on the degree of priority accorded to prosecutorial programs, on the decision to allocate research funds to this area rather than to another, and on the evidence leading to a belief in the urgency of replication.

Other jurisdictions (New Jersey for one) have undertaken evaluations which utilize designs somewhat similar to this one, but which, largely because of cost considerations, omit one or more central design elements. (For New Jersey, no non-career criminals are included in their analysis.) While these evaluations are often useful at the local level, their design problems and the threats to validity they involve make them problemmatic from a knowledge perspective.

3. Possible "Immaturity" of the Career Criminal Programs

One question which may be raised is that of the possible "immaturity" of the Career Criminal programs examined by this evaluation and of the biasing effects which such immaturity might have on the results of the evaluation. In point of fact, however, the excellence of program implementation and the ability of local programs to achieve full operating levels quite rapidly, suggest that any maturation effect may be minimal. Further, none of the jurisdictions included in the evaluation suggested this possibility during the planning of the study or during discussion of the results. This is probably due to the fact that the analysis was based on defendants named in cases issued during the first year of the program, some of which were disposed sometime after the end of the first year. (This cohort approach was specifically selected over the other available alternative of examining cases disposed during this initial program operating period, an approach which would have involved certain biases--e.g., a ceiling on processing times, and underestimates of trial dispositions which generally have longer processing times.)

4. The Case Study Approach

As already pointed out the local variation both in the existing prosecutorial/justice systems and in the intervention activities already established in each site when planning for the MITRE evaluation began, appeared to preclude the possibility of meaningful aggregation of data across sites and to render the feasibility of developing a single, general prosecutorial model questionable. Moreover, the probable small size of the program thrust (given the program funding) meant that a programwide design would surely be insufficiently sensitive and overly broad. Further, resource and time constraints would have posed major problems for knowledge gain, had such a design been adopted.

Our plan for the national evaluation thus sought to incorporate an understanding both of program complexity and of the influence of the program setting on the interpretation of program impact within given resource constraints. Two features of the evaluation approach translate these concerns. First, a single basic research design was developed, which would be adapted and replicated (to the degree possible) with four local programs. The analytical case study approach adopted by the research would allow the achievements of each program to be measured in terms of the expectations for that particular program, based on the performance of the local criminal justice system with a selected baseline case sample. This reflected the belief that jurisdictional and programmatic variations identified in each of the four sites would contribute to the outcomes of the Career Criminal program in a particular setting, as well as to the form that those outcomes might take.

Our evaluation design also attempted to take a system-wide perspective of the program. This was based on the early recognition that while it is the prosecutor who operates the Career Criminal program, the prosecution is necessarily affected, and in some ways constrained by other components and agencies in the criminal justice community. The attempt was to develop, in each of the four sites, a clear understanding of what potential effect prosecutor initiatives, taken with respect to this program, might have on overall criminal justice performance, as well as to establish a basis of realistic expectations for program results.

To this end, a design was executed featuring four analytical case studies which proposed: (1) an assessment of the four sites in three phases (discussed earlier but repeated here for reader convenience)

- a process analysis examining and comparing routine and program activities;
- a system performance analysis examining before and after data for both career criminal groups and non-career criminal groups, with the latter serving as controls; and
- a crime impact analysis to be conducted on the basis of system performance results showing the possibility of crime impact over the evaluation time-period;

and (2) a process analysis of law enforcement and correctional relationships with the program.

The problem of available data for the baseline comparison groups was to be addressed via the site selection process: sites were to be chosen which would have adopted objective criteria for identifying career criminals so that matching groups could be constructed from the prosecutorial files.

The realism of expecting to construct these comparison groups was still unclear, however. The notion assumed, for example, that prosecutorial records would have been kept both systematically and adequately, that access to the records would be free and open, and that cooperation with the evaluation would be forthcoming and maintainable over the long term. Although it is true that all of these conditions were, in fact, eventually met, no one could have been sure at the outset that this would be the case. Given the importance for the evaluation, however, of establishing adequate comparison groups, it appeared that there was no real alternative to the pursuit of this effort, even though delays, difficulties, and costs which considerably exceeded projected estimates, marked the data collection and data analysis processes throughout the evaluation.

In sum, our evaluation design:

- emphasized the system performance aspects of the evaluation, making the study of crime impact dependent upon the demonstration of system effects (i.e., that higher conviction and incarceration rates, for example, had in fact furnished a reasonable basis for believing in increased incapacitation, and hence in crime impact);

- designed a process analysis methodology to help specify the performance outcome measures and to help explain changes observed in those measures; and

- utilized an approach which thus rejected the notions of:

  - aggregating data across disparate sites; or

  - superficially assessing a large number of sites; or

  - relying on grantee or other efforts for data collection important to the evaluation; or

  - establishing control or comparison sites (given resource constraints, the uncertainty of the crime impact examination, the fact that the other analyses were process- or program-specific, rather than site-specific and therefore did not require comparison sites, and the rapid spread of the program across the country which rendered contamination of any control sites a probability).

It is true that the case study approach limits generalizability because of the non-representativeness of the sites. The replication of the same analytical design in each site, however, does strengthen the results obtained across the four sites somewhat, as would further replication with similar findings in other sites.

5. The Representativeness of the Sites and the Generalizability of the Evaluation

Since our evaluation plan had to be designed long after the development and implementation of the program, since the selection of sites for the evaluation was uniquely based on the needs and criteria of that evaluation, and since there exists no single model for a prosecutor's office, role, or function, no claim should be made that these sites are representative of the entire Career Criminal program experience, or that these results are necessarily generalizable to other programs in other sites.

One area of possible concern is the lack of any large urban justice system figuring among the evaluated jurisdictions. Of those implemented local programs among which the evaluation originally had the possibility of choosing,[67] there were five large urban jurisdictions, all of which had to be eliminated because of:

- criteria permitting the selection of individuals as career criminals based on the current offense alone and the use of subjective judgment by the screener in the application of the criteria (Boston); this would have rendered the construction of a matched comparison group impossible;

[67] The 11 available candidates were: Boston (Suffolk County), Dallas, Detroit (Wayne County), New York, Columbus (Franklin County), Kalamazoo, New Orleans (Orleans Parish), San Diego and Salt Lake City (Salt Lake County), see Chapter 3 above.

- criteria which were objective in identifying potential career criminal cases, but subjective in selecting cases from this pool (Dallas); the problem for the evaluation was thus basically the same as in Boston;

- the existence of other changes within the court system likely to affect prosecutorial outcomes and which could be confounded with Career Criminal program effects (Detroit);

- the same problem as that of Dallas, discussed above, coupled with implementation difficulties and data problems (Houston); and

- the likely impossibility for the evaluation to define and measure impact, given the size and complexity of the court system, the large volume of cases handled and the very small proportion of the total prosecutorial caseload handled by the program (New York).

In addition, it would be hard to make the case that, had it been feasible to include one or more of these larger urban jurisdictions, their inclusion would have rendered the site sample representative. New York, of course, is always a special case because of its size, city-by-city comparability is always difficult to demonstrate, and it is not clear why the choice of one particular site over another would have made any difference. Given the need for feasibility in the evaluation, and given the fact that the original program site selection was not a random process, it would not have been useful to randomize the evaluation selection process within an already biased sample. True scientific generalizability, therefore, was never a realistic possibility.

Beyond this just how "typical" the four sites of our evaluation may be is not clear. At one point it was feared, for example, that two of the evaluation design requirements (that is, (1) the need for objective definition and selection criteria for identifying career criminals; and (2) the need to ensure the existence and availability of well-kept prosecutorial records) might automatically signify that the programs selected for evaluation would already have been so well managed that only small incremental outcome improvements could be expected.

It may be suggested that other sites, deemed unevaluable, may have benefited from the program in a way that the four sites examined did not; that is, that the procedures used to select sites, while necessary to insure a sound evaluation, had inherent in them some bias which is

reflected in the results. All the sites examined had reasonably good management practices in place at the time they introduced the program; they maintained the data necessary to assess program effectiveness; in short, they were among the "better" prosecutor's offices in the Country. Perhaps these were the offices that needed the program least, and this may therefore explain the limited impact observed in the evaluation results.

This is undoubtably true, at least in part. These offices focused their programs on caseloads they intuitively felt were of a high priority. It is quite possible that before the program these offices were equally sensitive to this type of case while they were able to only informally orient their attention to these cases. Their level of management and prior access to information may have contributed to their ability to informally address priorities which they formalized with the program. Less well-managed, less well informed offices, it may be argued, in the absence of information and well-defined internal management practices are not exercising this type of informal prioritization and thus for these offices the program would represent a bigger and more significant change in office practices and policies. Further the program would bring with it other improvements in information and management which would benefit the office as a whole. As was discussed earlier, site selection procedures specifically avoided this type of jurisdiction on the basis that it would be difficult to assess the impact of the program in the context of multiple, confounding changes. It may be argued that this procedure "throws the baby out with the bath water," that by selection many of the most important effects of the program have been missed.

In evaluating this argument several considerations are important. First, it is one thing to recognize that these evaluation results are based on a particular subset of prosecutors' offices and it is another to hypothesize about the possible program effects in other offices with different characteristics. Just as these results, in and of themselves, do not tell us that similar programs are likely to have the same impact in other places, neither do they indicate that they will not. The effect of such programs in other places with less well-specified management practices and with fewer information resources remains to be tested. On the one hand, it may be that these sites are the type which would benefit from the program. On the other hand, it is also possible that as in other programs, less progressive sites may already have been focusing on the target population to the extent possible, or may encounter, serious difficulties in program implementation,[68] precluding in this way, significant program impact.

[68] Chelimsky, E. and J. Sasfy, Improving the Criminal Processing of Misdemeanants, MTR-7682, The MITRE Corporation, January, 1978.

(Indeed, the latter was an important general consideration on the part of LEAA when selecting program sites.)

In terms of the suggestion that in these less progressive jurisdictions, attempts to implement a Career Criminal program may stimulate other, needed improvements in management and information systems, one has to return to the intent of the program. The program had from its outset a very well specified goal: to improve the prosecution of serious, repeat offenders. If certain locations have other difficulties or priorities or if they lack the prerequisites to undertake such a program, these needs should be recognized and if they are found to be important, they should be addressed in their own right. It does not seem either prudent or efficient to attempt to utilize a specialized program to initiate general improvements nor does it seem logical to evaluate the merits of a specialized program on a general basis.

The concern over the potential utility of the program to jurisdictions lacking certain program or evaluation prerequisites, raises another issue. It would appear that prosecutors' offices need assistance in general as well as specialized prosecution. These needs for information, for management assistance, not now a focus of attention should be considered for examination and possible future program initiatives.

Future Evaluation: The Need for More, Better and Earlier Evaluation Planning

As discussed earlier, important qualities of the Career Criminal program are:

- recognized relevance to local prosecutors' needs;
- inclusion within one component of the criminal justice system under the control of one authority;
- consequently sound, timely, and full implementation; and
- great and continuing appreciation and popularity, as shown by testimonials in its favor and by its wide and spreading institutionalization.

As also noted, however, there is a certain incoherence in the program's assumptions and goals, particularly with regard to the power of the prosecutor to attain objectives which are influenced by activities

situated outside his office: the sentencing and incapacitation of offenders, for example. To achieve these objectives would require the cooperation of the entire criminal justice system, but it is not simple "recalcitrance" on the part of other system components which has made that cooperation difficult to achieve. Police, judges and corrections personnel tend to have different functional goals and incentives from those of prosecutors. For example, one police aim is to clear crimes through arrests, and arrests are made by police to satisfy that aim on the basis of "probable cause", the normal way by which police link an individual to an offense. An aim of the prosecutor, on the other hand, is to secure a high conviction rate for the cases he takes, but in order to obtain a conviction, he must prove guilt "beyond a reasonable doubt," which is a much more exacting measure than "probable cause." Thus the need for evidence is a more stringent requirement for the prosecutor than for the police, such that some incentive may be needed for meaningful, long-term police cooperation in this area. (A measure of this problem was found in New Orleans--see the process analysis for Orleans Parish--where the prosecutor regularly dismisses about 50 percent of cases brought to him by the police.) Similarly, an aim of the judge is to "deliver justice"--vis-a-vis the defendant as well as the public--and he may well fail to share the prosecutor's view of a proper sentence. Finally, many state prisons are overcrowded and may be under federal court order to achieve better conditions for inmates; hence, corrections personnel can be expected to respond to that aim and to the other incentives which govern the correctional system, regardless of the prosecutor's views on incapacitation for career criminals. It is unlikely, therefore, that they would automatically cooperate with a program which gives them no particular special advantage unless the goals of that program happened to harmonize with their own. As discussed in Chapters 7, 8 and 11 above, however, this did not appear to be the case in the four Career Criminal programs analyzed.

It seems likely that pre-program evaluation planning and analysis might have uncovered this problem; unfortunately there was very little time for program and evaluation planning. Program development, as such, took place during some period between August 7 (date of the initial articulation of the Career Criminal program idea at the national level[69]) and December 18, 1974 (date when the program guidelines for the Career Criminal program was announced by LEAA): that

[69] Memorandum to William B. Saxbe, Attorney General, from Charles R. Work, 7 August 1974, Subject: Proposed Career Criminal Impact Program of the United States Department of Justice.

is, a period of less than four months. In addition, it took place without benefit of evaluation planning, since the National Institute was given the task of designing the evaluation only in December. The questions, then, of how feasible the program objectives might be, how they could or would be measured, how reasonable the expectations were in light of what was known, or whether or not there might be tensions or conflicts among the objectives, were never addressed before the program guidelines were issued.

It seems important, therefore, to point out here the crucial role of evaluation planning and the utility of setting aside the time necessary to perform some pre-program analysis, develop preliminary tests, and have the results in hand as a basis for launching a national program.

The problem is, however, that assumptions often fail to be challenged during program development, not because they are unchallengeable or because there is a desire not to challenge them but because the goal of the effort is centered less on improving the eventual quality of the program than on the pressing requirement to pass the first two hurdles of program development: that is, (1) getting the program approved (by the Congress, by agency heads or by local constituents), and (2) getting it "on-the-street" rapidly. These are not easy hurdles, of course, nor can they be ignored with impunity by agency personnel. The ability, in fact, to "market" programs is often the price of getting them funded at all. But it is here that this program development process comes into conflict not only with program quality but also with the needs of the evaluation, because once implementation has taken place, it becomes much more difficult to build in a meaningful evaluation component.

As discussed earlier, only about four months went into the Career Criminal program development, evaluation planning began only after the release of the program guidelines, and the evaluation research itself was not designed until well over a year later. There was neither time nor attention available to substantiate or test out some of the program assumptions and hypotheses.

A lesson learned, then, from this evaluation is that more time can usefully be spent on program and evaluation planning before the start of program implementation:

- to bring needed evidence to bear upon as yet unsubstantiated program theories;
- to provide logical support toward the determination of

  - reasonable program objectives, and
  - reasonable expectations regarding implementation prospects; and finally,
- to address necessary uncertainties in such a way as to allow (and prepare for) their reconsideration.

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