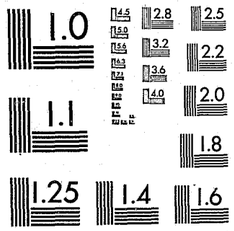

WORKSHOP PAPERS

CAREER CRIMINAL

SEPTEMBER 20-21, 1979

ALEXANDRIA, VIRGINIA

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SPECIAL NATIONAL WORKSHOP

United States Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement
and Criminal Justice

UNEDITED DRAFT

United States Department of Justice
Law Enforcement Assistance Administration
Henry S. Dogin, Administrator
National Institute of Law Enforcement
and Criminal Justice
Harry Bratt, Acting Director
Paul Cascarano, Assistant Director

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THE DEVELOPMENT OF THE CAREER CRIMINAL CONCEPT

by

James F. McMullin
Institute for Law and Social Research (INSLAW)

THE DEVELOPMENT OF THE CAREER
CRIMINAL CONCEPT

Identification of the Problem

One dozen years ago the President's Commission on Law Enforcement and Administration of Justice pointed to the repeat offender as "the hardcore of the crime problem."[1] And Professor James Q. Wilson of Harvard University has observed that because recidivists account for most of the serious crimes in our communities, "[w]hat we do with first offenders is probably far less important than what we do with habitual offenders."[2] Gradually, we have come to the realization that a relatively small number of offenders are responsible for a disproportionate share of the serious crimes which plague our communities.

Research Findings Provide Substantiation

The documentation of this problem which the research community has provided is surely disturbing.

Wolfgang's cohort study: Criminologist Marvin Wolfgang and his associates report that some 15 percent of the urban male population between the ages of 14 and 29 are chronic offenders (persons arrested at least six times) and that they are responsible for approximately 62 percent of serious crime.[3]

The Shinnars' New York State study: Based upon an analysis of New York State crime data, Reuel and Shlomo Shinnar concluded that fully 80 percent of solved crimes are committed by recidivists. Moreover, as to the 70 percent of crimes which are never solved, they observe that "the most likely possibility is that they are committed by the same group of recidivists...."[4]

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[1]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Crime and Its Impact -- An Assessment (Washington, D.C.: Government Printing Office, 1967), p. 79.

[2]James Q. Wilson, Thinking About Crime (New York: Basic Books, 1975), p. 199.

[3]Discussed in two papers by James J. Collins, Jr. "Chronic Offender Careers," paper presented at the American Society of Criminology Annual Meeting Tucson, Arizona, Nobember, 1976; "Offender Careers and Restraint: Probabilities and Policy Implications," report prepared for the Law Enforcement Assistance Administration, Washington, D.C., 1977.

[4]Reuel and Shlomo Shinnar, "The Effects of the Criminal Justice System on the Control of Crime: a Quantitative Approach," Law and Society Review, Summer, 1975, p. 597.

Rand prisoner interviews: A Rand career criminal study in California reported that 49 habitual offenders acknowledged committing more than 10,000 serious crimes -- an average of 200 each -- over a typical career length of about 20 years.[5]

INSLAW's PROMIS-based research:

A. Recidivism profile -- LEAA-sponsored research conducted by the Institute for Law and Social Research (INSLAW) developed a recidivism profile of 45,575 persons arrested for common law felonies and serious misdemeanors during the 56-month period ending September 1975. Seven percent of the persons arrested (each of whom was arrested on four or more separate occasions during the study period accounted for 24 percent of all arrests; 6 percent of all persons prosecuted (each of whom was prosecuted four or more times during the period) accounted for 20 percent of all prosecutions; 18 percent of all persons convicted (each convicted at least twice during the period) accounted for 35 percent of all convictions.[6]

Those who view repeated violent crime as a phenomenon peculiar to our American cities will be interested in the strikingly parallel finding disclosed in a recent study undertaken by the Japanese Ministry of Justice of offenders in Japan: 6.2 percent of those arrested accounted for 24.6 percent of the arrests.[7]

B. Crime on bail -- Other INSLAW research funded by LEAA demonstrated that, on February 1, 1976, 18 percent of 180 defendants under indictment in the United States District Court for the District of Columbia also had other criminal cases pending in the local court system (Superior Court of the District of Columbia).[8] INSLAW's study of crime on bail in the District of Columbia, which will be discussed in some detail later in the conference, found that 17 percent of all defendants arrested in 1974 had a case pending at the time of arrest, and 13 percent of the felony defendants who were released prior to

[5]Peter Greenwood et al., The Rand Habitual Offender Project: A Summary of Research Findings to Date (Santa Monica: The Rand Corporation, March 1978), p. 4.

[6]Kristen M. Williams, The Scope and Prediction of Recidivism (Washington, D.C.: INSLAW), forthcoming.

[7]Discussed in a paper by Minoru Shikita, Assistant Chief Prosecutor, Tokyo District Public Prosecutor's Office, "Review of the Criminal Justice Information Systems in Japan - With Particular Emphasis on the System of Personal Criminal Records Information," paper presented at the Fourth Search International Symposium Washington, D.C., May 1979.

[8]INSLAW, Curbing the Repeat Offender: A Strategy for Prosecutors (Washington, D.C.: 1977), p. 10.

trial were rearrested before disposition of the instant offense.[9] New research findings by the Lazar Institute, also to be covered later in the conference, show that these findings are not unique to one city.

C. The cross-city study -- Finally, INSLAW's cross-city comparison of felony case processing in 13 jurisdictions showed that, during the first six months of 1977, approximately 20 percent (on average) of the defendants had been arrested while on some form of conditional release (bail, probation, or parole) for prior unrelated crimes. Indeed, for auto theft, the percentage was as high as 33 percent in one jurisdiction.[10]

The Press: An inquiry similar to those above was conducted recently by one apart from the traditional research community, investigative reporter Mike Keller of the Honolulu, Hawaii Advertiser. In charting the criminal careers of 359 persons arrested in Honolulu for violent crimes in 1973, he found that 69 of those persons (19.2 percent of the sample) were responsible for more than 80 percent of the sample group's subsequent arrests for serious criminal offenses. Twenty of the 69 active repeat offenders were themselves charged with 95 felonies in 1978.[11]

Summarizing the Evidence

What the foregoing evidence, among other data, demonstrates is the disproportionately severe social harm being wrought by a relatively small number of offenders. Not only do they continue to increase the ranks of victims and thereby undermine our sense of community, but they also consistently consume significant portions of the resources of police, prosecutors, and courts, alike. Equally clear is that our conventional approach to criminal processing affords them too many opportunities to benefit from its shortcomings.

Another observation by Professor Wilson may be pertinent at this point: "Public entertainments in which the climax of the mystery story was the arrest of the guilty party bewildered me because, in the real world, an arrest rarely ends anything."[12] This is especially true in overburdened, urban court systems, where cases are handled on an assemby-line, mass production basis.

[9]Jeffrey A. Roth and Paul B. Wice, Pretrial Release and Misconduct in the District of Columbia (Washington, D.C.: INSLAW), forthcoming.

[10]Kathleen B. Brosi, A Cross-City Comparison of Felony Case Processing (Washington, D.C.: INSLAW, 1979), p. 164.

[11]Mike Keller, "Violent Crime in Hawaii," The Honolulu Advertiser, January 14, 1979, p. A1.

[12]Wilson, supra note 1, p. xii.

Historical Perspective: Frankfurter and Pound

The result in such instances does not depart substantially from what Felix Frankfurter and Roscoe Pound saw in analyzing criminal case processing in Cleveland in the 1920's: a "practical breakdown of the criminal justice machinery."[13] In fact, as early as 1922, the failure of the system in dealing with the repeat offender was summarized by these distinguished scholars, as follows:

> A system under which, in ten years, the same person can be before the courts from 10 to 18 times, largely on charges of robbery, burglary, and larceny, which make it clear that he is a habitual or professional offender, and can escape at least half of the time by discharge on preliminary examination, no bill, nolle, plea to lesser offense, or suspended sentence, with no records showing who is responsible, is nothing short of an inducement to professional crime.[14]

The Realities of Routine Case-Processing

What routine case processing can mean in operational terms has been explained by one prosecutor:

> ....we looked at a case the day the police officer brought it in and made a judgment on whether to prosecute; nobody looked at the case again until the day of the trial. Consequently, we were losing, through cracks in the system, over 40 percent of the cases.
>
> I don't mean losing them through jury verdicts of not guilty -- I mean losing because files were misplaced or because cases got continued so many times that witnesses failed to reappear or a judge ultimately dismissed the case.[15]

Career Criminals Accorded Routine Treatment

Moreover, as another INSLAW analysis suggests, prior to the implementation of a career criminal program in a prosecutor's office, the defendant's criminal history did not seem to have an independent effect on the level of prosecutory effort allocated to any given felony case.[16] Observations by

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[13] Felix Frankfurter and Roscoe Pound, Criminal Justice In Cleveland (Cleveland: Cleveland Foundation, 1922), p. vi.

[14] Ibid., p. 625.

[15] INSLAW, Special Litigation (Major Violators) Unit (Washington, D.C.: 1976), p. 2.

[16] INSLAW, Curbing the Repeat Offender: A Strategy for Prosecutors, supra note 8, p. 16; Brian Forst and Kathleen B. Brosi, "A Theoretical and Empirical Analysis of the Prosecutor," Journal of Legal Studies, vol. 6 (January 1977).

Sorrel Wildhorn and colleagues at the Rand Corporation reinforce the view that "routine processing" often excludes the notion of giving priority attention to the cases of repeat offenders.[17]

A United States Department of Justice survey of the priorities of federal prosecutors reached a similar conclusion.[18]

History Repeats Itself

One of the first major cross-city comparisons of criminal case processing was made in 1931 by the Wickersham Commission, which compiled statistics gathered manually by several different crime commissions.[19] During the 1920s and early 1930s, a number of communities became so alarmed about their crime problems that they commissioned these special studies of their criminal justice systems by distinguished scholars and civic leaders.

Felix Frankfurter and Roscoe Pound directed and edited the first of these studies. Their statistical analysis of the flow of about 5,000 arrests through the criminal justice system in the early 1920s revealed that the most common dispositions of arrests were refusal to prosecute and dismissals before trial. Several years later, in 1925, the Missouri Crime Survey, the first statewide crime study, found that most arrests were refused prosecution or dropped after filing with the court. After tracing the disposition of about 10,000 cases, the authors concluded that prosecutors were dropping large numbers of cases because of "the lack of cooperation of arresting officials in procuring the evidence" and because of the "lack of assistance which would enable the prosecutor to interview witnesses while the evidence is fresh and prevent absence of witnesses."[20]

The Wickersham Commission, the first national crime commission, was established in 1930. Its reports compared the flow of criminal cases through a number of urban jurisdictions, relying often on the special studies of

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[17] See Sorrel Wildhorn, et al., Indicators of Justice: Measuring the Performance of Prosecution, Defense and Court Agencies Involved in Felony Proceedings (Santa Monica: Rand, 1976), pp. 115, 161, 211.

[18] Justice Litigation Management, prepared by the Resource Management Service and Management Programs and Budget Staff, Office of Management and Finance, Department of Justice (January 1977).

[19] Other, more recent cross-jurisdictional studies include James Eisenstein and Herbert Jacob, Felony Justice (Boston: Little Brown, 1976); Wayne R. LaFave, Arrest: The Decision to Take a Suspect into Custody (Boston: Little Brown, 1965); Donald J. Newman, Conviction: The Determination of Guilt or Innocence Without Trial (Boston: Little Brown, 1966); and Thomas Church, Jr., et al., Justice Delayed, the Pace of Litigation in Urban Trial Courts (Williamsburg, Va.: National Center for State Courts, 1978).

[20] The Missouri Crime Survey (1926, reprinted ed., Montclair, N.J.: Patterson Smith, 1968), 156.

the 1920s. In New York City, Chicago, Cleveland, and St. Louis, over half of the felony cases were dropped after arrest, but before disposition by plea or trial. In New York City and Chicago, another 16 percent of the felony arrests were referred for misdemeanor prosecutions. (The outcomes of those misdemeanor cases were not reported.)

As the Commission pointed out, most cases were dropped by the prosecutor; very few were tried. Cleveland had the highest rate of trial -- 14 percent of arrests. In St. Louis, 8 percent of the arrests resulted in trial; in New York City, 6 percent; and in Chicago, 4 percent.[21]

There is a striking similarity between the Wickersham Commission statistics for the 1920s and PROMIS statistics for the first six months of 1977. In 1977, too, about half of the cases in the jurisdictions studied were dropped after arrest but before plea or trial. In fact, of 100 "typical" arrests brought to the Superior Court of the District of Columbia in 1974, only twenty-nine culminated in a conviction of any sort.[22] Even the principal reasons proffered for this substantial case attrition echo those causes noted in the 1920s: evidence deficiencies and witness problems.

The previously cited Missouri Crime Survey found that the major reasons for case dismissals were: lack of cooperation of arresting officials in procuring the evidence; a lack of assistance which would allow the prosecutor to interview witnesses while the evidence was fresh and prevent the absence of witnesses; and the lack of an adequate law library in the prosecutor's office.[23] Similarly, INSLAW's cross-city report found that in every jurisdiction, except Los Angeles, evidence-related insufficiencies and problems with witnesses accounted for more than half of those cases rejected at screening.[24] Thus, in fifty years the reasons related to case dismissal -- evidence and witness problems -- remain the major causes of case attrition.

Recent research by the Vera Institute of Justice and INSLAW revealed that cases involving close social relationships between the victim and defendant, particularly those involving spouses and persons with current or

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[21]National Commission on Law Observance and Enforcement, Wickersham Commission Reports (Washington, D.C.: Government Printing Office, 1931). Reprinted by Patterson Smith, Montclair, N.J., 1968.

[22]Brian Forst et al., What Happens After Arrest? (Washington, D.C.: INSLAW, 1977), p. 17.

[23]Supra note 20.

[24]Brosi, supra note 10, p. 16.

past involvement, often are dismissed because of witness-related problems.[25]

Application of Management Technique

That such disappointing outcomes have ensued is in accord with the observation of industrial consultant Peter F. Drucker:

> "(T)here is always a great deal more to be done than there are resources available to do it. The opportunities are always more plentiful than the means to realize them. There have to be priority decisions or nothing will get done . . .[26]

Implementation by a jurisdiction of the comprehensive career criminal program represents one of those "priority decisions" referred to by Drucker. That is, routine processing is recognized as inappropriate for cases involving habitual offenders, who are responsible for a disproportinately large share of criminal activity; instead, those cases merit priority attention and deserve the type of management that, because of limited resources, cannot be given to all cases.

In effect, the "cracks" in the system are being sealed insofar as the repeat offender is concerned. As Former Assistant Attorney General, now Pennsylvania Governor, Richard L. Thornburgh summarized the concept of career criminal programs:

> No longer will the career criminal case be assigned just by chance to the newest attorney in the office. No longer will he be able to drive a plea bargain with a prosecutor who is not aware of the danger he poses, or his past record, or who is simply too hard-pressed with too many other urgent matters to properly prepare and try the case. No longer can he anticipate endless postponement and rescheduling while witnesses drift away and the file becomes stale.
>
> In short, the career criminal can't 'beat the system' anymore, because there really is a system and it's ready for him.[27]

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[25]Vera Institute of Justice, Felony Arrests: Their Prosecution and Disposition in New York City's Courts (New York: 1977); Kristen M. Williams, The Role of the Victim in the Prosecution of Violent Crimes (Washington, D.C.: INSLAW, 1978).

[26]Peter F. Drucker, Managing for Results (New York: Harper & Row, 1964), p. 12.

[27]Richard L. Thornburgh, "A Professional Approach to the Career Criminal," LEAA Newsletter, June 1976, p. 2.

LEAA's Solution: The Comprehensive Career Criminal Program

The first formal indication that LEAA was considering development of a career criminal project came in a 13-page memo sent to Attorney General William B. Saxbe on August 7, 1974, by then Deputy Administrator Charles R. Work. He recommended that the Attorney General direct LEAA to design a program to deal with the problem of the dangerous, sometimes professional, career criminal. Citing research on the problem by Marvin E. Wolfgang, INSLAW, and others -- which reinforced his own observations while an Assistant U.S. Attorney -- Mr. Work explained that the recommended program rested on the belief that a substantial, indeed inordinate, amount of serious crime in America is committed by a relatively small number of career criminals.[28]

Attorney General Saxbe followed the recommendation, and the program was announced on September 24, 1974, by President Ford, in a speech to the International Association of Chiefs of Police. As subsequently stated by the President, the objectives of the program were (1) to provide quick identification of persons who repeatedly commit serious offenses, (2) to accord priority to their prosecution, and assure that if convicted, they receive approprite (prison) sentences.[29] The program focused on the prosecutor (1) because of the perception that his role, especially in the big cities, had evolved to the point that his administrative decision making determined to a greater extent than any other single factor the quality of justice in America's courts, and (2) because of the perception that the increase in crime resulted in a proliferation of cases that far outstripped the growth of prosecutory and court resources.[30]

Pioneering Efforts

Although a number of prosecutory efforts akin to the Career Criminal Program predated it -- for example, selective prosecution by federal organized crime task forces and such local efforts as the Major Offense Bureau of the Bronx County (New York) District Attorney's Office -- later designated as an Exemplary Project by LEAA -- the acknowledged model and primary catalyst for LEAA's program was the Major Violators Unit (MVU) located within the Superior Court Division of the U.S. Attorney's Office in the District of Columbia.[31] Headed in 1972 and 1973 by then Assistant U.S. Attorney Charles Work, the Division prosecuted local "street crime" cases.

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[28]See Charles R. Work, "The Career Criminal Program," statement before the Committee on the Judiciary, U.S. Senate, September 27, 1978.

[29]"White House Message on Crime," June 19, 1975.

[30]Charles R. Work, supra note 28.

[31]Ibid.; see also Curbing the Repeat Offender, supra note 16, p. 4.

The MVU was formed by Work and his colleagues because of the perceived need to give special attention to the prosecution of repeat offenders involved in serious misdemeanors. To help identify those offenders among the 60 to 75 misdemeanor cases scheduled for trial daily, the recently installed (January 1971) Prosecutor's Management Information System (PROMIS) was utilized. PROMIS is capable of identifying priority cases in terms of the seriousness of the offense and the criminal record of the accused.[32]

Constancy of Program Features

Although differences in procedural and substantive law and in the nature of the local crime problem preclude a standard format or operational pattern for a career criminal unit, several concepts or features have evolved that are common to most successful programs. The central tenet of the program remains to focus law enforcement and prosecutive resources to increase the probability of early identification, enhanced investigation, priority prosecution, conviction for most serious charge, and lengthy incarceration of individuals who have repeatedly demonstrated a propensity to commit violent crimes.

Looking at the Results

From May 1975 to January 1978, detailed statistics on each career criminal case were collected by 24 jurisdictions receiving LEAA discretionary funds (after January 1978, aggregate summary date were reported). During the 31-month period, according to recent LEAA Congressional testimony,[33] 6,641 defendants were prosecuted as career criminals. The conviction rate was 94.7 percent (defendant convictions divided by acquittals plus convictions). These convictions involved 10,409 crimes; 3,179 by trial, 7,230 by guilty pleas. Major offenses included robbery (3,074), burglary (2,149), rape (574), homicide (356), felonious assault (754), kidnapping (171), and grand larceny (790).

Of the 6,641 defendants, 89.4 percent were convicted on the most serious charge. Sentences averaged 15.4 years. Defendants had a total of 84,367 prior arrests and 38,710 prior convictions. Fifty-three percent were on conditional release -- parole, probation, pretrial release -- for another crime when they were arrested and designated career criminals.

A Time for Re-assessment

At this point in the steady maturing of the career criminal concept, it is important that we confer to examine the growing body of research and

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[32]Ibid.

[33]J. Robert Grimes, statement before the Subcommittee on Criminal Laws and Procedures, Committee of the Judiciary, U.S. Senate, September 27, 1978.

evaluation data. INSLAW, in a recent survey of prosecutor's offices, has identified some one hundred-seven career criminal operations. The MITRE Corporation has done a detailed evaluation of career criminal programs in four jurisdictions. And, most importantly, recent INSLAW research indicates that the selection process is perhaps the most important aspect of the program. Incapacitation may effect a notable reduction in crime only when the worst offenders are identified, prosecuted, convicted, and incarcerated. Efforts toward refining targeting methodology and selection criteria are continuing and increases in the predictive capabilities of existing models are expected.[34]

Conference Agenda

In the course of the next two days, we shall consider the latest information available on such topics as program objectives, selection criteria, prediction studies, age of offenders, prompt identification, program evaluation, the INSLAW survey, crime on bail, and the interactions between cooperating elements of the criminal justice system. It is imperative that from our time together there emerges a sense of how to enhance the performance not only of prosecutors' offices, but of the system as a whole, in responding to the problem posed by the career criminal. The results of this conference will inevitably be reflected in the kinds of research subsequently undertaken, the statistics gathered, and the program refinements implemented.

[34]Kristen M. Williams, Estimates of the Impact of Career Criminal Programs on Future Crime, unpublished paper dated February 23, 1979 (Washington, D.C.: INSLAW).

SELECTION CRITERIA FOR CAREER CRIMINAL PROGRAMS

by

Kristen M. Williams
Institute for Law and Social Research (INSLAW)

Selection Criteria for Career Criminal Programs

There are three important ways in which a career criminal program in a prosecutor's office could have an impact on crime within a community. Concentrating more criminal justice resources on the most active offenders, thereby convicting and incarcerating them, would reduce crime through incapacitation. While offenders were in jail or prison, they would not be committing crimes. A second method would be to increase the probability or length of prison sentences. This is also an incapacitation strategy, but it is not completely within the control of the prosecutor. Another way a career criminal program might influence crime is by deterring other offenders. When criminals learn that there is a special program to convict and incarcerate them, they might decide that committing crimes is not worth the risk. In this paper, we will be considering only the first method of crime reduction--selective incapacitation. The success of this strategy rests on the extent to which active criminals can be identified and then convicted. We will first discuss the importance of selection criteria and then present some results from recent research that suggest criteria that should be used in selection.

The Importance of Selection Criteria

One of the ways in which the importance of selection criteria can be illustrated is to simulate the potential crime reduction that might be achieved if a career criminal program were started in a jurisdiction. We were able to do this for the District of Columbia due to the availability of criminal history data over a period of years.[1] Similar analyses, focusing on sentencing, rather than prosecution, have been done by others.[2]

For the District of Columbia, we were able to address the following question: What would the impact on future arrests have been if there had been a career criminal program in the District of Columbia in 1972 and 1973? We were able to establish the criminal behavior of a representative group of offenders during this time period by tracing the criminal histories of 4,703 adult defendants arrested in the District of Columbia during the last two months of 1972 or the first two months of 1973. The prior arrests for the sample defendants were recorded back to January 1, 1971, and the subsequent arrests were assembled up to August 31, 1975. This provided a cohort of defendants whose criminal histories in the District of Columbia were known for a 56-month period when there was not a career criminal program. Time incarcerated for the 4,703 defendants was established for the period of time between the

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[1] For a technical description of this material, see Kristen M. Williams, "Estimates of the Impact of Career Criminal Programs on Future Crime" (Washington, D.C.: INSLAW, 1979).

[2] For example, see Joan Petersilia and Peter W. Greenwood, "Mandatory Prison Sentences: Their Projected Effects on Crime and Prison Populations," Journal of Criminal Law and Criminology, Vol. 69, No. 4, 1978, pp. 604-615.

initial arrest during the four-month period and August 31, 1975.[3]

By knowing the official criminal behavior (arrests, convictions, etc.) of the group of defendants and the time they were incarcerated, we were able to calculate "crime rates," or more precisely, the "arrest rate" for each of the defendants. These rates were computed as:

$$\frac{\text{Number of Arrests}}{\text{Time on the Street}}$$

It would have been ideal to know the actual criminal behavior of the cohort of defendants. Instead, we assumed that an individual's arrests are reflective of his actual crimes.

Using this information, we could calculate the reduction in arrests--which we are assuming to be reflective of the reduction in actual crimes--that could possibly have been achieved with a career criminal program. If a career criminal program had been able to convict some of the defendants who were not already convicted, what difference would this have made in the crime rate?

We allowed three characteristics of this hypothetical career criminal program to be varied. One issue is the size of the target group. How much more incapacitation can be achieved as the number of defendants processed by the career criminal program increases? We considered three possible sizes of the career criminal program: 5, 10, or 15 percent of the initial arrests.

A second important issue is who is chosen for the program. If the most active criminals were chosen, the incapacitative effect would be larger. We considered four alternatives. One is that the defendants who actually turn out to be the worst ones can be identified in advance. This is not a practical alternative, but it is included to put an upper bound on the possible crime reduction that could be achieved. It is the amount of crime that could be prevented if by revelation or clairvoyance we had perfect knowledge of who the worst offenders would be. One could never do any better than this figure, and it is unlikely that this figure could ever be achieved. A second alternative is that the defendants are chosen based on a score that measures their propensity to recidivate; the score was developed in a prior study, which we will describe in the second section of this paper. The third alternative is that the defendants are chosen based on the criteria for career criminal selection established by the Law Enforcement Assistance Administration. These criteria state that the defendant must have been arrested for one of the following felonies: homicide, assault, forcible sexual assault, robbery, or burglary. In addition, the defendant must also have at least one prior conviction. Because we only had conviction information for the two years prior to the arrest during our sample period, we could not choose defendants based

[3]Time incarcerated before trial was hand collected for anyone who was not released on his or her own recognizance at arraignment. If a sentence was given that involved prison, the defendant was assumed to serve the minimum sentence, since this is the common release time in the District of Columbia.

exactly on these criteria. However, we came as close as possible. For the 15 percent and 10 percent groups, we sampled persons who were arrested for one of the target offenses and who had an arrest record. For the 5 percent group, we chose all persons arrested for one of the target offenses who had a conviction in the past two years, and then sampled persons who were arrested for one of the target crimes and had an arrest record in order to obtain 5 percent of the arrestees.[4] The fourth alternative we considered, in order to have a control group, was that the defendants were chosen at random.

The third issue considered was the conviction rate that could be achieved with the cases assigned to the career criminal unit. Some of the cases that were statistically assigned to the hypothetical unit in our analysis were convictions anyway. Since we wanted to measure the increase in incapacitative effect, we only counted cases in which a conviction had not been obtained. We tested the effects of a 100 percent conviction rate for those not already convicted, a 67 percent conviction rate (close to the actual for D.C.'s career criminal program), and a 50 percent conviction rate.

While we varied these three parameters, there were others that we held constant. Since we could not know the charge on which somebody would have been convicted, if they were not convicted, we had to have a uniform sentencing scheme. Persons convicted were assumed to serve the minimum sentence (one-third of the maximum) on the most serious charge brought in the case.[5]

Table 1 shows the expected percentage reduction in adult arrests,[6] which were weighted by seriousness, under the four conditions mentioned above.[7] The results vary from 19 percent to 1 percent. Obviously, the higher the

[4]This technique was used because there were not enough persons who had a conviction in the past two years and an arrest for one of the target offenses.

[5]Since there would undoubtedly be charge reduction before conviction in some cases, and since many persons receive probation, this would tend to overestimate the sentence served. However, since some persons would serve more than the minimum sentence, this would tend to underestimate the sentence. Hopefully, these two effects would balance each other, leading to a reasonable estimate of actual time served. Insofar as career criminal programs might increase time served, our results would be underestimated.

[6]An estimate of the reduction in all arrests could be obtained by taking 85 percent of the figures in the table. Juvenile arrests are 15 percent of the total arrests.

[7]The percentages in the table are not the percentage reduction in arrests, weighted by seriousness, of the cohort; these percentages were higher. However, even if we could eliminate all crimes committed by recidivists, there would still be first offenders. Since 55 percent of the arrests are due to recidivists, the original figures were adjusted by this percentage.

Table 1.Possible Percentage Reduction in Serious Adult Arrests, According to Conviction Rate, Size of Target Group, and Method of Selection for Special Prosecution

Conviction Rate[a]	Size of Target Group											
	15%				10%				5%			
	Actual Worst	Score Selection[b]	LEAA Selection	Random Selection	Actual Worst	Score Selection[b]	LEAA Selection	Random Selection	Actual Worst	Score Selection[b]	LEAA Selection	Random Selection
100%	19	10	9	4	15	8	6	2	9	4	3	1
67%	12	7	6	3	9	6	4	1	6	3	2	1
50%	10	6	5	2	8	4	3	1	4	3	2	1

[a]Based on those cases for which a conviction had not been obtained.

[b]Calculated for felony defendants only.

conviction rate, the more crime reduction can be achieved. For example, if the size of the career criminal program is 10 percent of the case load of the office and the defendants are selected by a score, an 8 percent reduction in adult arrests is achieved if the conviction rate is 100 percent, whereas only a 4 percent reduction is achieved if the conviction rate is 50 percent. Increasing conviction rates is not easy, but it does seem to have a clear payoff in terms of its impact on crime reduction possibilities.

The criteria for selecting persons for the career criminal program also appear to be quite important. If we could improve our targeting procedures in order to incapacitate the worst recidivists, the effects appear to be fairly sizable.

Choosing the defendants based on the LEAA criteria or a predictive device appear to have approximately the same impact--one-half that of choosing the actual worst. However, these criteria both do considerably better than choosing defendants at random.

We did investigate whether it would be more effective to select recidivistic offenders regardless of whether they were arrested for felonies or misdemeanors. Although many persons arrested for misdemeanors do turn out to be among the very worst recidivists, it does seem to be more efficient to include only defendants arrested for a felony, since the maximum potential incarceration period for misdemeanants is only one year.

These results for the District of Columbia may not be representative of the results that would be achieved in other jurisdictions. Without further research, it is difficult to generalize the findings. It does appear that even though the District of Columbia did not have a career criminal program until after the study period, they were convicting recidivists at a higher rate than other offenders (Table 2). Incarceration, either pretrial or post-conviction, was already being used for 28 percent of the arrestees in the study group. Moreover, there is evidence that it was the most active recidivists who were incarcerated, certainly in part because the system consciously diverts first offenders. Another analysis of the same population in the District of Columbia indicates that past criminal history is considered in the bail decision.[8] Whether the effect is intentional or not, the system seems to be realizing a lot of its potential for incapacitation. Given this situation, any attempts to increase the incapacitative effect through increasing convictions would tend to be limited. However, this is an analysis of only the District of Columbia, and insofar as other jurisdictions are not realizing much of their incapacitative potential, there would be more room for a career criminal program to have an impact.

Developing Selection Criteria

In order to develop selection criteria that will enable a career criminal program to have an effect on future crime, research must be done on factors that predict recidivism. At this time, several recent studies,

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[8]Jeffrey A. Roth and Paul B. Wice, Pretrial Release and Misconduct in the District of Columbia (Washington, D.C.: INSLAW, 1979).

Table 2

Actual Conviction Rates in Panel Case
for the Worst Recidivists

Target Group	Conviction Rate in Panel Case	
	In Target Group	Not in Target Group
The Actual Worst 15%	35% (706)	28% (3,997)
The Actual Worst 10%	38% (471)	28% (4,232)
The Actual Worst 5%	46% (235)	28% (4,468)

completed in different geographical areas, have implications for selection criteria. Each of the studies has strengths and weaknesses, but together they seem to present a picture of career criminals that is relatively consistent.

There are four studies to be discussed here. One is the analysis discussed above.[9] The strength of this analysis is that it is based on adult arrestees, which is the relevant group that career criminal programs must select from, and it utilizes information readily available to a prosecutor at screening. Its major weaknesses are that information on the juvenile criminality of the adults and on their unofficial criminal behavior was not available. The second study was conducted in Honolulu by the Honolulu Advertiser in connection with social science researchers.[10] This study has the same strengths as the D.C. study, and has the added advantage of having had access to juvenile histories. The Rand corporation has conducted several studies that are relevant to the development of selection criteria based on California offenders.[11] The studies by Rand involve self-reports of criminality, rather than relying only on recorded criminality, and they have information on juvenile criminality as well. By only studying persons who are incarcerated, the Rand studies are limited to differentiating among persons who are all at the more serious end of the criminal spectrum. The final study we will mention is Lazar Institute's analysis of the bail decision, which has looked at the problem of pretrial crime.[12] The findings referred to here are based on California, Maryland and Kentucky arrestees. It is limited to the problem of pretrial crime.

What factors were associated with recidivism in more than one study?

Prior criminal contact with the criminal justice system is an important predictor of future contact. This was found to be true in all the studies. However, prior convictions do not seem to be very good predictors by themselves. Part of this is the interaction of age with criminality. By the time a person is old enough to have several prior convictions, he is old enough to have reduced his propensity toward crime. The D.C. study found

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[9] Kristen M. Williams, The Scope and Prediction of Recidivism (Washington, D.C.: INSLAW, in press).

[10] The articles were published in the Honolulu Advertiser, by Michael Keller and Gene Kassebaum, September 10 through September 20, 1978. They are currently being revised by Gene Kassebaum to appear in the academic literature.

[11] Joan Petersilia, Peter W. Greenwood, and Marvin Lavin, Criminal Careers of Habitual Felons (Santa Monica: RAND, 1977); Mark A. Peterson, Harriet Braiker and Suzanne M. Polich, Doing Crime: A Survey of California Prison Inmates (Santa Monica: RAND, in draft).

[12] Martin D. Sorin, Mary A. Toborg and David A. Pyne, The Outcomes of Pretrial Release: Preliminary Findings of the Phase II National Evaluation (Washington, D.C.: Lazar Institute, 1979).

that the recency of arrests made a difference. Each arrest in the past couple of years added to the likelihood of recidivism. The existence of a juvenile record was a very important predictor in the Rand studies and also in the Honolulu study. There are practical difficulties in incorporating a juvenile record into selection criteria, however, particularly in jurisdictions in which juvenile records are sealed. Nevertheless, it seems that adults with a juvenile arrest history are good candidates for career criminal programs.

Generally, property crimes seem to be better predictors of future criminality than violent crimes with no property motivation. The D.C. study found that of the persons arrested for all the different types of felonies, robbery and burglary defendants were most likely to be recidivistic in the future. The Honolulu study found robbery defendants to be the most frequent recidivists. The Rand studies also found property crimes to be more frequent among the criminals who were most active.

Unemployment, or the lack of a steady work history, was associated with recidivism in all four of the studies discussed here. In addition, the Lazar bail study found that being on public assistance was associated with pretrial crime.

Drug use and alcohol abuse were also factors found to be significantly associated with recidivism in several studies. Rand found both factors to be important, as did the Honolulu study. In D.C., only drug use was predictive of criminality.

The factor of age has recently received a lot more attention in the literature. In each of the studies younger persons were more active recidivists.[13]

Taken together, these studies suggest a profile of a "career criminal" as a young person in his late teens or early twenties, who is arrested for robbery or burglary, who has a juvenile record and who has compiled a long criminal history given only a few years on the street, who is unemployed, and who uses drugs.

[13]This topic is discussed in Barbara Boland's paper, "Fighting Crime: The Problem of Adolescents," prepared for this meeting.

NATIONAL EVALUATION

OF THE

CAREER CRIMINAL PROGRAM

SYSTEM PERFORMANCE ANALYSIS

by

Eleanor Chelimsky
The Mitre Corporation

NATIONAL EVALUATION	CAREER CRIMINAL PROGRAM

The Career Criminal Program was developed by the LEAA in 1974 to aid local jurisdictions in their fight against crime through the improved prosecution of serious, repeat offenders. The program provides funds to local prosecutors to identify defendants who appear to have established a consistent serious pattern of criminal behavior and who are assumed to be responsible for a sizable amount of criminal activity. Once identified, these career criminal defendants are given special prosecutorial attention to insure that their cases receive the priority that the nature of their criminal history would indicate is appropriate. This increased attention by the prosecutor is expected to result in more severe judicial penalities for career criminals than would have been the case had they been routinely handled by the prosecutor. Further, it is expected that the improved prosecution of career criminal cases will result in crime reductions through the increased incapitation of this group of offenders.

The National Institute of Law Enforcement and Criminal Justice awarded a grant to the MITRE Corporation in April 1976 to conduct the national evaluation of the Career Criminal Program. The plan was developed after the program had been underway for over a year and eleven local Career Criminal Programs had been funded and were in operation. Given that the various local program activities were not planned with evaluation considerations in mind, the national evaluation focused on four jurisdictions whose programs appeared to be compatible with evaluation requirements.

The Career Criminal Program was designed at the federal level to enable local prosecutors to modify their programs to suit the particular needs of their own communities. Thus, while the participating jurisdictions have common goals and a common funding source, there are significant differences among them in terms of the types of defendants designated as career criminals, their manner of selection, and the types of special prosecutorial treatment accorded these defendants.

Evaluation Plan

The evaluation plan included three types of analysis:

- Process Analysis
- System Performance Analysis
- Crime Level Analysis

PROCESS ANALYSIS - TO IDENTIFY THE CHANGES IN THE PROSECUTORIAL HANDLING OF CAREER CRIMINAL CASES ACTUALLY IMPLEMENTED BY LOCAL PROSECUTORS AND THOSE CRIMINAL JUSTICE SYSTEM PERFORMANCE MEASURES POTENTIALLY AFFECTED BY THESE PROGRAMS;

SYSTEM PERFORMANCE ANALYSIS -

TO ASCERTAIN WHAT EFFECTS CAREER CRIMINAL PROGRAMS HAVE ON THE PERFORMANCE OF CRIMINAL JUSTICE SYSTEMS;

CRIME LEVEL ANALYSIS -

TO EXAMINE CRIME LEVELS BEFORE AND DURING THE PROGRAM FOR CHANGES CONCURRENT WITH THE PROGRAM

National Evaluation	Career Criminal Program

Site Selection

Site selection for the national evaluation was conducted based on nine evaluability considerations:

Clear specification of the program treatment
Systematic application of the treatment
Differences represented by the treatment
Extent and coverage of the treatment
Local case record adequacy
Selection criteria operationalized and replicable
Systematic application of the selection criteria
Reflection of the career criminal concept
Local situation

Dahmann, J.S., et al, Site Selection for the National-Level Evaluation of the Career Criminal Program, MTR-7346, The MITRE Corporation, McLean, VA, September 1976.

National Evaluation	Career Criminal Program

Research Design

- Due to differences among sites in routine prosecution, in program activities and career criminal definitions, four analytical case studies were conducted.
- Career Criminals prosecuted by the program are compared with similar defendants during a baseline period along with non-career criminal defendants during both periods;
- Analysis focuses on defendant outcomes, incorporating any multiple pending cases against defendants into a single unit of analysis.
- Methods of analysis include frequency descriptions and multivariate analysis.

System Performance Analysis

The system performance analysis is based on a comparison of the characteristics and outcomes of four cohorts of defendants. Each cohort is defined in terms of two variables: criminal status and time period of case issuance.

Criminal status is determined according to the specific selection criteria established by each jurisdiction's career criminal program. Defendants meeting the local criteria are designated as career criminals (CC) and those who do not are non-career criminals (NCC).

Two time periods were used: the treatment period (T) was all or some portion of the first year of local program operations, and the baseline period (B) was the corresponding time-span one year prior to the treatment period.

The treatment period career criminal cohort (TCC) represents those defendants whose cases were issued during the treatment period, were designated as career criminals, and therefore received special prosecutorial treatment under the program. Cross-comparisons of selected impact measures between this and the other cohorts in each site form the basis of the system performance analysis, with the TNCC cohort acting as the control.

System Performance Analysis

Reference Period	Non-Career Criminal	Career Criminal
Baseline	BNCC	BCC
Treatment	TNCC	TCC

Evaluation Measures

Based on the process analysis, it was determined that the research design could be replicated in all four sites, using 12 major measures of impact.

Dahmann, J.S. and J.L. Lacy, Criminal Prosecution in Four Jurisdictions: Departures From Routine Processing in the Career Criminal Program, MTR-7550, The MITRE Corporation, McLean, VA, June 1977.
Dahmann, J.S. and J.L. Lacy, Targeted Prosecution: The Career Criminal-Orleans Parish, Louisiana, MTR-7551, The MITRE Corporation, McLean, VA, June 1977.
Dahmann, J.S. and J.L. Lacy, Targeted Prosecution: The Career Criminal-San Diego County, California, MTR-7552, The MITRE Corporation, McLean, VA, June 1977.
Dahmann, J.S. and J.L. Lacy, Targeted Prosecution: The Career Criminal-Franklin County (Columbus), Ohio, MTR-7553, The MITRE Corporation, McLean, VA, June 1977.
Dahmann, J.S. and J.L. Lacy, Targeted Prosecution: The Career Criminal-Kalamazoo County, Michigan, MTR-7554, The MITRE Corporation, McLean, VA, June 1977.

Selected Evaluation Measures

• Type and Mode of Disposition Measures:	Convictions
	Trials
	Pleas
	Dismissals
• Strength of Conviction Measures:	Conviction to Most Serious Charge Among All Prosecutions
	Conviction to Most Serious Charge Among All Convictions
	Conviction to Most Serious Charge Among Plea Dispositions
• Sentencing Measures:	Incarcerations Among All Prosecutions
	Incarcerations Among All Convictions
	Incarceration Time Among Those Incarcerated
	State Prison Commitments Among Those Convicted
• Timing Measures:	Time from Arrest to Disposition

NATIONAL EVALUATION	CAREER CRIMINAL PROGRAM

PRELIMINARY RESULTS

SAN DIEGO SYSTEM PERFORMANCE ANALYSIS

SAN DIEGO ANALYSIS	CAREER CRIMINAL PROGRAM

PRINCIPAL FEATURES OF THE SAN DIEGO CAREER CRIMINAL PROGRAM

- CRIME-SPECIFIC EMPHASIS ON ROBBERIES
- CAREER CRIMINAL DEFINITION CONSIDERS INSTANT OFFENSE CHARACTERISTICS AND CHARACTERISTICS OF DEFENDANT PRIOR RECORD.
- SPECIALIZED UNIT FOR CAREER CRIMINAL PROSECUTION, 6 ATTORNEYS, APPROXIMATE ANNUAL CASELOAD OF 150 CAREER CRIMINAL CASES
- INDIVIDUAL OR TEAM CONTINUOUS PROSECUTION FOR CAREER CRIMINAL CASES; ASSEMBLYLINE MANAGEMENT OF ROUTINE PROSECUTIONS
- TIGHTER MANAGEMENT CONTROL IN CAREER CRIMINAL PROSECUTIONS.

San Diego Analysis	The Data Set

- Data Sources: DA Case Jackets
  Card File
  Case Listings

- Baseline career criminal cases identified by MITRE through a review of robbery cases issued during baseline period.

- All career criminal cases were included in data set; 50% sample of non-career criminal cases was taken.

- Data were also compiled on other (non-robbery, earlier issue) cases involving selected defendants.

- Data were collected on MVU codefendants and a sample of burglary for descriptive purposes.

San Diego Analysis	Results Summary

Type and Mode of Disposition

No Program Effects were observed —
High Baseline and Treatment CC Conviction Rate

Strength of Conviction

Program Effects Observed:

- More Convictions to Most Serious Charge
- More Pleas to Most Serious Charge

Sentencing

Program Effects Observed:

- More State Prison Commitments
- Longer Sentence Lengths

High Baseline and Treatment Incarceration Rates

Timing

No Program Effects Observed

- Processing time for treatment CC is slightly longer than for Baseline CC, but difference is not statistically significant.

DEFENDANT DISPOSITION RATES

	BASELINE PERIOD		TREATMENT PERIOD	
	NCC	CC	NCC	CC
CONVICTION RATE (CONVICTIONS/PROSECUTIONS)	78.0± 2.6	89.5	75.7± 2.7	91.5
TRIAL RATE (TRIAL DISPOSITIONS/PROSECUTIONS)	12.0± 1.9	23.2	14.2± 2.2	27.4
PLEA RATE (GUILTY PLEAS/PROSECUTIONS)	63.9± 3.0	66.3	57.9± 3.1	65.8
DISMISSAL RATE (DISMISSALS/PROSECUTIONS)	11.2± 1.9	1.1	16.6± 2.3	1.7
(N=)	(241)	(95)	(247)	(117)

STRENGTH OF ROBBERY DEFENDANT CONVICTIONS

	BASELINE		TREATMENT	
	NCC	CC	NCC	CC
RATE OF CONVICTION TO THE MOST SERIOUS CHARGE AMONG CONVICTIONS (N=)	28.7± 3.9 (188)	41.1 (85)	32.0± 4.2 (187)	75.7 (107)
RATE OF CONVICTION TO THE MOST SERIOUS CHARGE AMONG PROSECUTIONS (N=)	22.4± 3.1 (241)	41.1 (95)	24.0± 3.6 (247)	75.7 (117)
RATE OF PLEAS TO THE MOST SERIOUS CHARGE AMONG PLEA DISPOSITIONS (N=)	16.9± 3.4 (154)	25.4 (63)	23.2± 3.6 (142)	68.8 (77)

Defendant Sentencing

		Baseline		Treatment	
		NCC	CC	NCC	CC
Incarceration Rate Among Convictions		91.0± 2.4	95.3	86.6± 2.9	100.
	(N=)	(188)	(85)	(187)	(107)
Incarceration Rate Among Prosecutions		71.0± 3.3	87.4	65.6± 3.5	91.5
	(N=)	(241)	(95)	(247)	(117)
State Prison Commitments Among Those Incarcerated		46.8± 4.5	77.1	44.4± 4.6	92.5
	(N=)	(171)	(83)	(162)	(107)

Average Sentence Time for Incarcerations

(In Years)

	Baseline		Treatment	
	NCC	CC	NCC	CC
Defendants				
Excluding Life Sentences	1.9	4.3	2.2	8.8
(N=)	(171)	(80)	(162)	(103)
Life Sentences = 30 Years	1.9	4.6	2.2	9.6
(N=)	(171)	(81)	(162)	(107)

TIMING

THE ANALYSIS RESULTS SUGGEST THAT MORE TIME WAS SPENT PROCESSING TREATMENT CAREER CRIMINALS THAN BASELINE CAREER CRIMINALS, ALTHOUGH THE DIFFERENCES OBSERVED APPEAR TO BE SMALL. THE MEAN TIME FOR ARREST TO DISPOSITION FOR THE FOUR COHORTS WAS AS FOLLOWS:

- BASELINE NON CAREER CRIMINALS 95 DAYS
- BASELINE CAREER CRIMINALS 95 DAYS
- TREATMENT NON CAREER CRIMINALS 83 DAYS
- TREATMENT CAREER CRIMINALS 101 DAYS

PRELIMINARY RESULTS

KALAMAZOO SYSTEM PERFORMANCE ANALYSIS

KALAMAZOO ANALYSIS	CAREER CRIMINAL PROGRAM

PRINCIPAL FEATURES OF THE KALAMAZOO CAREER CRIMINAL PROGRAM

- NO EXPLICIT CRIME SPECIFICITY
- CAREER CRIMINAL DEFINITION CONSIDERS INSTANT OFFENSE CHARACTERISTICS AND CHARACTERISTICS OF DEFENDANT PRIOR RECORD
- CAREER CRIMINAL UNIT, 2 ATTORNEYS, APPROXIMATE ANNUAL CASELOAD OF LESS THAN 100 CASES
- INDIVIDUAL ATTORNEY CONTINUOUS PROSECUTION FOR CAREER CRIMINAL CASES; TEAM PROSECUTION OF ROUTINE CASES
- ADDITIONAL COURT CREATED TO ADDRESS PROCESSING TIME PROBLEMS

KALAMAZOO ANALYSIS	THE DATA SET

- DATA SOURCES: DA CASE JACKETS
  CARD FILE
- BASELINE CAREER CRIMINAL CASES IDENTIFIED BY MITRE ASSISTED BY KALAMAZOO DA PERSONNEL THROUGH A REVIEW OF CASES ISSUED DURING BASELINE PERIOD USING KALAMAZOO CC SELECTION CRITERIA.
- DATA WERE COLLECTED ON ALL CASES INVOLVING ONE OF FIVE SELECTED OFFENSE TYPES: DRUGS, SEX, ASSAULT, BURGLARY AND ROBBERY.
- DATA WERE ALSO COMPILED ON OTHER (OFFENSE TYPE, EARLIER ISSUE) CASES INVOLVING SELECTED DEFENDANTS.
- ANALYSIS WAS SOMEWHAT HAMPERED BY SMALL NUMBERS OF CASES AND DEFENDANTS.

TYPE AND MODE OF DISPOSITION No Program Effects were observed

STRENGTH OF CONVICTION

Program Effects Observed:
- More Convictions to Most Serious Charge
- More Pleas to Most Serious Charge

SENTENCING

Program Effects Observed:
- More State Prison Commitments
- Longer Sentence Lengths

High Baseline and Treatment Incarceration Rates

TIMING

Program Effects Observed:
- Processing time for treatment CC is shorter than for baseline CC

DEFENDANT DISPOSITION RATES

	Baseline Period		Treatment Period	
	NCC	CC	MCC	CC
Conviction Rate (Convictions/Prosecutions)	65.3	66.6	72.6	73.4
Trial Rate (Trial Dispositions/Prosecutions)	11.5	30.7	11.3	24.4
Plea Rate (Guilty Pleas/Prosecutions)	54.7	48.7	62.6	55.1
Dismissal Rate (Dismissals/Prosecutions)	22.1	5.1	13.8	6.1
Nolle Rate (Nolles/Prosecutions)	9.0	10.2	8.8	10.2
(N=)	(199)	(39)	(239)	(49)

STRENGTH OF DEFENDANT CONVICTIONS

	BASELINE		TREATMENT	
	NCC	CC	NCC	CC
▶RATE OF CONVICTION TO THE MOST SERIOUS CHARGE AMONG CONVICTIONS	65.5	83.3	64.9	100.0
(N=)	(110)	(24)	(154)	(34)
▶RATE OF CONVICTION TO THE MOST SERIOUS CHARGE AMONG PROSECUTIONS	48.3	54.1	45.6	69.4
(N=)	(129)	(37)	(219)	(49)
▶RATE OF PLEAS TO THE MOST SERIOUS CHARGE AMONG PLEA DISPOSITIONS	69.9	77.8	60.9	100.0
(N=)	(94)	(18)	(133)	(25)

DEFENDANT SENTENCING

	BASELINE		TREATMENT	
	NCC	CC	NCC	CC
INCARCERATION RATE AMONG CONVICTIONS	54.6	92.3	57.8	94.4
(N=)	(130)	(26)	(173)	(36)
INCARCERATION RATE AMONG PROSECUTIONS	35.6	61.5	42.0	69.3
(N=)	(199)	(39)	(238)	(49)
▶STATE PRISON COMMITMENTS AMONG THOSE INCARCERATED	59.1	79.1	51.0	97.0
(N=)	(71)	(24)	(100)	(34)

AVERAGE SENTENCE TIME FOR INCARCERATIONS

(IN YEARS)

	BASELINE		TREATMENT	
	NCC	CC	NCC	CC
DEFENDANTS				
EXCLUDING LIFE SENTENCES	2.2	4.0	2.3	5.6
(N=)	(89)	(22)	(100)	(34)
LIFE SENTENCES = 30 YEARS	2.2	6.0	2.3	5.6
	(89)	(24)	(100)	(34)

TIMING

THE ANALYSIS RESULTS SHOW THAT TREATMENT CAREER CRIMINALS WERE PROCESSED MORE RAPIDLY THAN BASELINE CAREER CRIMINALS, IN THE CONTEXT OF IMPROVEMENTS IN PROCESSING TIME FOR NON-CAREER CRIMINALS. THE MEAN TIME FOR ARREST TO DISPOSITION FOR THE FOUR COHORTS WAS AS FOLLOWS:

- BASELINE NON CAREER CRIMINALS 288 DAYS
- BASELINE CAREER CRIMINALS 444 DAYS
- TREATMENT NON CAREER CRIMINALS 249 DAYS
- TREATMENT CAREER CRIMINALS 216 DAYS

NATIONAL EVALUATION	CAREER CRIMINAL PROGRAM

PRELIMINARY RESULTS

FRANKLIN COUNTY SYSTEM PERFORMANCE ANALYSIS

FRANKLIN COUNTY ANALYSIS	CAREER CRIMINAL PROGRAM

PRINCIPAL FEATURES OF THE FRANKLIN COUNTY CAREER CRIMINAL PROGRAM

- NO EXPLICIT CRIME SPECIFICITY, ONLY FELONY CASES PROSECUTED BY THE CAREER CRIMINAL PROGRAM
- CAREER CRIMINAL DEFINITION BASED SOLELY ON DEFENDANT PRIOR FELONY RECORD
- CAREER CRIMINAL UNIT, 5 ATTORNEYS, APPROXIMATE ANNUAL CASELOAD OF 250 CAREER CRIMINAL CASES
- BIFURCATED COURT AND PROSECUTION; PROGRAM LOCATED IN FELONY PROSECUTORS OFFICE
- CONTINUOUS INDIVIDUAL ATTORNEY PROSECUTION FROM BINDOVER TO DISPOSITION FOR CAREER CRIMINAL CASES; ROUTINE PROSECUTION CHARACTERIZED BY HIGH DEGREE OF ATTORNEY AUTONOMY AND FRAGMENTED CASE PROSECUTION AMONG INDIVIDUAL ATTORNEYS.

Franklin County Analysis	The Data Set

- Data Sources: DA Case Jackets - Criminal history information
  DA Card File - Pending cases
  Court Case Files - Case Processing information

- Baseline career criminal cases identified by MITRE using criminal history information/compiled by DA personnel through a review of cases issued during baseline period using Franklin County CC selection criteria.

- Data were collected on all cases involving one of several selected offense types: Robbery, Burglary, Kidnapping, Rape, Forgery, Weapons.

- Data were also compiled on other (offense type, earlier issue) cases involving selected defendants.

- All career criminal cases were included in the data set; 33% sample of non-career criminal cases was taken.

- Collection was somewhat hampered by need to work through DA assigned identification numbers of cases and defendants.

Franklin County Analysis	Results Summary

Type and Mode of Disposition	No Program Effects were observed
Strength of Conviction	No Program Effects Observed: No change was observed for CC; declines for NCC appear to be due to differences between baseline and treatment groups.
Sentencing	Possible Program Effects Observed: • Longer Sentence Lengths (Although differences may be due in large part to other factors) High Baseline and Treatment Incarceration Rates
Timing	No Program Effects were observed; both CC and NCC showed some improvement

Franklin County Analysis	Results Summary

Defendant Disposition Rates

	Baseline Period		Treatment Period	
	NCC	CC	NCC	CC
Conviction Rate (Convictions/Prosecutions)	73.9 ± 3.7	73.9	73.0 ± 3.4	76.4
Trial Rate (Trial Dispositions/Prosecutions)	13.7 ± 2.9	17.3	9.7 ± 2.3	22.5
Plea Rate (Guilty Pleas/Prosecutions)	61.4 ± 4.1	57.1	65.1 ± 3.7	53.9
Dismissal Rate (Dismissals/Prosecutions)	8.7 ± 2.4	5.1	12.8 ± 2.6	6.7
Nolle Rate (Nolles/Prosecutions)	6.6 ± 2.2	12.2	9.0 ± 2.3	13.5
(N=)	(241)	(98)	(289)	(89)

Franklin County Analysis	Results Summary

Strength of Defendant Convictions

	Baseline		Treatment	
	NCC	CC	NCC	CC
Rate of Conviction to the Most Serious Charge Among Convictions	72.8 ± 4.7	81.1	59.9 ± 5.2	83.6
(N=)	(158)	(74)	(157)	(61)
Rate of Conviction to the Most Serious Charge Among Prosecutions	52.8 ± 4.4	66.7	40.0 ± 4.2	62.2
(N=)	(218)	(90)	(235)	(82)
Rate of Pleas to the Most Serious Charge Among Plea Dispositions	71.5 ± 5.2	78.9	58.7 ± 5.5	82.9
(N=)	(130)	(63)	(138)	(48)

DEFENDANT SENTENCING

	BASELINE		TREATMENT	
	NCC	CC	NCC	CC
INCARCERATION RATE AMONG CONVICTIONS	94.4 ± 2.3	97.2	94.8 ± 2.0	95.6
(N=)	(178)	(72)	(211)	(68)
INCARCERATION RATE AMONG PROSECUTIONS	69.7 ± 3.9	71.4	69.2 ± 3.6	73.0
(N=)	(241)	(98)	(289)	(89)
STATE PRISON COMMITMENTS AMONG THOSE INCARCERATED	84.5 ± 3.4	90.1	80.5 ± 3.7	86.1
(N=)	(168)	(70)	(200)	(65)

AVERAGE SENTENCE TIME FOR INCARCERATIONS

(IN YEARS)

		BASELINE		TREATMENT	
		NCC	CC	NCC	CC
DEFENDANTS	(N=)	1.31	1.77	1.21	2.89
		(170)	(80)	(200)	(65)

TIMING

THE ANALYSIS RESULTS SHOW THAT PROCESSING TIME HAS DECREASED DURING THE TREATMENT PERIOD, FOR BOTH CC AND NCC. DECREASES WERE SOMEWHAT, BUT NOT SIGNIFICANTLY, GREATER FOR CCs. THE MEAN TIME FOR ARREST TO DISPOSITION FOR THE FOUR COHORTS WAS AS FOLLOWS:

- BASELINE NON CAREER CRIMINALS 144 DAYS
- BASELINE CAREER CRIMINALS 149 DAYS
- TREATMENT NON CAREER CRIMINALS 132 DAYS
- TREATMENT CAREER CRIMINALS 126 DAYS

PRELIMINARY RESULTS

NEW ORLEANS SYSTEM PERFORMANCE ANALYSIS

New Orleans Analysis	Career Criminal Program

Principal Features of the New Orleans Career Criminal Program

- No explicit crime specificity; instant case misdemeanants prosecuted by the program
- Career Criminal definition based solely on defendant prior felony record
- Career Criminal Unit 9 attorneys, approximate annual caseload of 500 career criminal cases
- Screening and prosecution of career criminal cases done by same attorney; continuous prosecution post-indictment for routine cases
- Tight management control in routine prosecutions

New Orleans Analysis	The Data Set

- Data Sources: DARTS (Automated Management Information System)
  DA Case Jackets
  Card File

- Defendants charged with at least one of the following offenses were included in data set:

  All robberies and burglary offenses, certain property theft and possession charges, forgery and selected drug charges.

- Baseline career criminal cases identified by MITRE through a review of cases issued during baseline period.

- All career criminal cases were included in data set; 50% sample of non-career criminal cases was taken.

- Data were also compiled on other (earlier or later issue) cases involving selected defendants.

New Orleans Analysis	Results Summary

Type and Mode of Disposition — No Program Effects Were Observed

Strength of Conviction — Due to data problems no analysis results currently available.

Sentencing — Program Effects Observed on Incarceration Rates for all Defendants Prosecuted

- Declines from baseline to treatment were observed, with significantly less decrease for CC.

Timing — No Program Effects Were Observed

Both CC and NCC processing times decreased from baseline to treatment period.

New Orleans Analysis	Results Summary

Defendant Disposition Rates

	Baseline Period		Treatment Period	
	NCC	CC	NCC	CC
Conviction Rate (Convictions/Prosecutions)	75.2 ± 2.8	81.8	75.8 ± 2.8	83.7
Trial Rate (Trial Dispositions/Prosecutions)	24.2 ± 2.8	38.5	17.4 ± 2.5	24.1
Plea Rate (Guilty Pleas/Prosecutions)	57.9 ± 3.2	49.7	66.5 ± 3.1	62.4
Dismissal Rate (Dismissals and Nolles/ Prosecutions)	14.2 ± 2.3	10.7	15.2 ± 2.3	9.9
(N=)	(318)	(187)	(310)	(141)

New Orleans Analysis	Results Summary

Defendant Sentencing

	Baseline		Treatment	
	NCC	CC	NCC	CC
Incarceration Rate Among Convictions	80.3 ± 3.0	92.2	44.7 ± 3.8	83.9
(N=)	(239)	(153)	(235)	(118)
Incarceration Rate Among Prosecutions	60.4 ± 3.2	75.4	33.9 ± 3.1	70.2
(N=)	(318)	(188)	(310)	(141)
State Prison Commitments Among Those Incarcerated	50.9 ± 3.9	67.1	30.0 ± 3.6	67.5
(N=)	(222)	(143)	(217)	(114)

New Orleans Analysis	Results Summary

Average Sentence Time for Incarcerations

(In Years)

	Baseline Period		Treatment Period	
	NCC	CC	NCC	CC
Mean Sentence Length (Excluding Life and Death Sentences)	3.7	7.5	4.0	8.5
(N=)	(185)	(137)	(100)	(93)
Mean Sentence Length (Life and Death Sentences Set to 30 years)	4.5	8.0	5.3	9.8
(N=)	(191)	(140)	(105)	(99)

New Orleans Analysis	Results Summary

Timing

The analysis results suggest that processing time has decreased from the baseline to the treatment period for both career criminals and non-career criminals. The mean time for arrest to disposition for the four cohorts was as follows:

- Baseline Non Career Criminals 146 days
- Baseline Career Criminals 166 days
- Treatment Non Career Criminals 96 days
- treatment Career Criminals 115 days

National Evaluation	Career Criminal Program

Summary Findings for the Four Evaluation Sites

- Disposition Rates were not significantly affected by the Career Criminal program in any of the four sites.
  - Conviction, plea, trial, dismissal rates showed no significant changes.
- Improvements were observed in the strength of convictions among those defendants convicted in two sites. In one site, these were accompanied by longer sentence lengths.
  - Increases were observed in rates of conviction to most serious charge and pleas to most serious charge in two sites.
- Improvements in strength of conviction were not directly observed in two sites. However, in one site, strength of conviction measures remained relatively constant for career criminals while they declined for non-career criminals across the same time periods. In the other site, strength of conviction measures could not be obtained.

SUMMARY FINDINGS FOR THE FOUR EVALUATION SITES (CONTINUED)

- NO INCREASES IN INCARCERATION RATES WERE OBSERVED.
  - IN THREE OF THE FOUR SITES HIGH RATES OF INCARCERATION (90% AND ABOVE) FOR CONVICTED CAREER CRIMINALS BEFORE THE PROGRAM MADE PROGRAM EFFECTS UNLIKELY. IN THE FOURTH SITE, PRISON OVERCROWDING PROBLEMS LED TO A DECLINE IN INCARCERATIONS FOR NON-CAREER CRIMINALS; IN THIS CONTEXT THE CAREER CRIMINAL INCARCERATION RATES APPEAR TO HAVE REMAINED STABLE. HOWEVER, INCREASED COMMITMENTS TO STATE PRISON WERE OBSERVED IN TWO SITES.

- ONE SITE SHOWED MARKED IMPROVEMENTS IN PROCESSING TIME FOR CAREER CRIMINAL CASES. NO SIGNIFICANT DIFFERENCES WERE OBSERVED IN THE OTHER THREE SITES.

INVESTMENT OF PROSECUTION RESOURCES IN CAREER CRIMINAL CASES

by

William Rhodes
Institute for Law and Social Research (INSLAW)

INVESTMENT OF PROSECUTION RESOURCES IN CAREER CRIMINAL CASES

Background

Justification for a career criminal program rests on several basic assumptions: (1) A small number of offenders (habitual criminals) account for a disproportionate amount of crime; if these offenders were imprisoned, crime could be significantly reduced. (2) Habitual criminals are distinguishable from "routine" offenders, who commit fewer and less serious offenses. (3) Once an habitual offender is identified, his case can be singled out for increased prosecutive effort. (4) This special handling enhances the probability of conviction, and perhaps also, the length of prison time received by the convicted offender.

Research reported in this paper initially concentrates on this third premise: career criminal units increase attorney time devoted to the handling of habitual offenders. Findings were drawn from a larger study deriving case weights for the prosecution of adult felony cases in Los Angeles, California. In that study, case weights were defined as the average amount of attorney time spent on a criminal case, holding constant the type of offense and disposition. Weights were calculated independently for both the career criminal unit and for routine handling. The methodology used in this study is detailed elsewhere; a summary is provided in the second section of this paper.[1] The third section of the paper presents the following:

(a) case weights for the prosecution of career criminal and non-career criminal cases;

(b) the distribution of attorney time, broken down by the activity with which the attorneys were engaged, for career criminal and non-career criminal cases; and

(c) the distribution of attorney time over the life of a typical case, both for career criminal and routine cases.

After this discussion of case weights and attorney time distribution, the report turns to the premise that career criminal units enhance the probability of conviction of habitual offenders. Since the study data were not originally collected with the intention of evaluating the career criminal unit, findings with respect to the effectiveness

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[1]William Rhodes, et al., "Case Weights for the Prosecution and Defense of Felony Cases in Los Angeles," in draft (INSLAW, 1979).

of career criminal resources are very speculative. However, findings are suggestive, and when accompanied by the case weights information, provide insight into the prosecution of habitual offenders.

Methodology

In order to derive the case weights, it was necessary to collect information on the amount of attorney time spent on prosecution; it was further anticipated that this time should be categorized by (a) the stage in the criminal justice process that the case had reached and (b) what the attorney was doing while he worked on the case. This information was collected in the first set of data: the time data.

Daily time data were collected from all deputy district attorneys who processed felony cases in four branch offices, as well as the main office of the Los Angeles District Attorney, over an approximately 70-day period. In addition, the study distinguished cases handled by the career criminal unit. Attorneys were instructed to fill out form DA-A (shown in Figure I) daily.

Looking at form DA-A, note that each deputy district attorney was asked to supply his name, a unique identification number, and the date the form was completed. Deputies were asked to supply (in the first column of the form) the name of the case upon which they were working and (in the third column) the complaint number of that case. Together with the date and attorney ID number, these data elements enabled us to match cases reported on the time form with the second data base: case attributes stored in PROMIS.

The second column was used to record the case status, defined as the point in the judicial proceeding reached by the case on which the attorney worked. Case status number 1 was used if the attorney worked on non-case related matter. Columns one and three were, of course, blank in such instances. For other case-related matter, the status indicates whether the case was being screened--(2) pre-complaint, (3) grand jury, and (4) filing process; had reached Municipal Court (5); had reached Superior Court--(6) pretrial and (7) trial; had reached sentencing--(8) probation and sentencing; had reached a probation violation hearing (9) or had reached appellate court (10). Status 11 and status 12 indicate that the attorney was working on multiple cases.

The fourth column of the form was used to record the attorney's activities, broadly defined to include time spent on court appearances, conferences, telephone calls, preparation, and other activities. These broad categories were subclassified into 45 narrowly defined subactivities, which together with the 12 status codes, provided 540 unique elements in a status-activity matrix, a summary of which is provided in the next section.

Also presented in the next section are case weights, that is, the average time spent by attorneys on criminal cases. Because of the way data were collected, it was necessary to develop a "model" to calculate

Figure I. DEPUTY DISTRICT ATTORNEY TIME AND ACTIVITY FORM (DA-A)

DEPUTY _____ # _____ DATE _____

STATUS
1. Not Case Related (no specific case)
2. Pre-complaint (potential case/ specific suspect)
3. Grand Jury Matter
4. Filing process
5. Municipal Court
6. Superior Court pre-trial
7. Superior Court-trial (up to sentencing)
8. Superior Court-probation & sentencing
9. Superior Court-probation violation & other post P&S
10. Appellate Court

COURT APPEARANCES
11. Arraignment
12. Preliminary Hrg
13. Motions
14. Trial-SOT/SOT(+)
15. Trial-Bench
16. Trial-Jury
17. Probation & Sentencing Hrg
18. Taking plea (guilty/ nolo)
19. Grand Jury-formal presentation
20. Probation Viol. Hrg
21. Diversion related
22. Other

CONFERENCES
31. Citizen
32. Witness
33. Police Officer/ Agent/Agency
34. Opposing Counsel
35. Judge
36. Intra-office
37. Other
38. Plea Negotiation

TELEPHONE
41. Citizen
42. Witness
43. Police Officer/ Agent/Agency
44. Opposing Counsel
45. Judge
46. Intra-Office
47. Other

PREPARATION
51. Points & Auth.(drafting)
52. Pleadings
53. Memoranda
54. Fact Investigation
55. Legal Research
56. Search Warrant (drafting)
57. Search Warrant (review)
58. Rejections
59. Other Prep.

OTHER ACTIVITI
61. Correspondence
62. Training
63. Travel
64. Administrative
65. Waiting for opposing Counse
66. Waiting for Court to reach matter
67. Waiting for Witne
68. Other (include special projects assignments)

☐ CENTRAL ☐ LONG BEACH
☐ POMONA ☐ CAREER CRIMINAL
☐ NORWALK ☐ ORGANIZED CRIME
☐ SEX'L ASSLT ☐ MAJOR FRAUDS

Case Name	Status	Complaint No.	Activity	Explanation (if necessary)	Time Hrs.	Time Mins.

these weights (see the main study for a discussion of the needs for such a model). Using this model, the following steps were involved in deriving these weights:

(a) Cases were selected only if the first charge was robbery or burglary.

(b) Chronological time[2] spent in Municipal Court was divided into ten equal time "slices." The average amount of attorney time spent in each slice was calculated. These ten slices were then added to determine the average time spent in Municipal Court.

(c) The above process was repeated for Superior Court. Thus, it was possible to speak of the average time spent both in Municipal Court and Superior Court.

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[2]By chronological time, we mean the time from filing to preliminary hearing (Municipal Court) and from Superior Court arraignment to trial (Superior Court).

(d) The average amount of attorney time spent on case screening and sentencing was also determined.

(e) The above four times--the averages for case screening, Municipal Court, Superior Court, and sentencing--were summed separately for cases ending in rejections, dismissals in Municipal Court, dismissals in Superior Court, guilty pleas, bench trials, and jury trials. These average times are reported in the next section as case weights.

Case Weights and Time Distribution

How does the amount of attorney time spent on the prosecution of habitual offenders compare with the routine prosecution of criminal cases? Table 1 presents case weights for robbery and burglary cases, two offenses of which the career criminal unit in Los Angeles handles a fairly large volume.

Because of the small number of career criminal cases observed, Table 1 reports a composite weight for career criminal cases; this composite includes robbery and burglary cases. It was possible to derive distinct case weights for the routine prosecution of robbery and burglary cases.

Regardless of the disposition, it is evident that attorneys devote more time to the cases of habitual offenders processed through the career criminal program than they do to the cases of other offenders processed through regular prosecution. For example, a guilty plea requires about 9 hours for a routine robbery case, and about 8 hours for a routine burglary. But for a career criminal case, a guilty plea requires nearly 60 hours. Jury trials are also more expensive when prosecuted by the career criminal unit. A routine robbery requires about 39 hours; a routine burglary, about 24 hours. A career criminal case, in contrast, costs close to 185 hours. Overall, it appears that conviction by the career criminal unit demands between five and seven times as many attorney hours as does conviction through normal prosecution.

How are those extra attorney hours spent? This is not the place for a detailed discussion of the distribution of attorney time across different activities. However, when the distribution of time was inspected, it was apparent that more time goes into the preparation of career criminal cases.

First, we saw above that more attorney time is devoted to career criminal cases. In addition, analysis showed that attorneys in the career criminal unit spent more of their time on case preparation. Aggregating the activity categories "conference," "telephone," and "preparation" into one general category called "preparation," we found that:

(a) In Municipal Court, 58 percent of the attorney time in the career criminal unit was spent on preparation, relative to 55 percent of the attorney time spent on routine processing in the central office.

Table 1. CASE WEIGHTS FOR ROBBERY AND BURGLARY

A. District Attorney Case Weights: County-wide, Exclusive of the Special Prosecution Units in Central Office

Case Type	Dismiss		Guilty Plea	SOT Acquittal*	Bench		Jury	
	Mun. Ct.	Sup. Ct.			Convict	Acquittal	Convict	Acquittal
Robbery	181	556	530	474**	591**	535	2363	2307
Burglary	193	264	465	432	798	765	1447	1414

B. District Attorney Case Weights: Special Units

	Dismiss		Guilty Plea	SOT Acquittal	Bench		Jury	
	Municipal Court	Superior Court			Convict	Acquittal	Convict	Acquittal
Career Criminal Robbery and Burglary	954***	1404*** (3)	3423 (16)	3290	****	****	11080*** (3)	10947***

*SOT: Standing on the transcript.
**Fewer than 5 observations in at least one of the time slices.
***Zero observations in at least one of the time slices.
****Too few observations to estimate.

(b) In Superior Court, pretrial, 76 percent of the career criminal attorney time was spent in preparation relative to 69 percent for the rest of the central office.

(c) In Superior Court, trial, the relative figures were 52 percent and 41 percent.

We also found that attorneys in the career criminal unit invest their time earlier in the life of a case. As Figure II illustrates, very little time is spent early in the life of a routine criminal case; instead, attorney time is concentrated at the preliminary hearing. This is in contrast to career criminal cases, for which the attorney investigates the case immediately following filing and continues his preparation throughout the case's life in Municipal Court. In Superior Court, the pattern is similar. Little time is spent during the first 30 to 60 days in the life of a routine criminal case. But for a career criminal case the attorney input is immediate and sustained throughout the case's life in Superior Court.

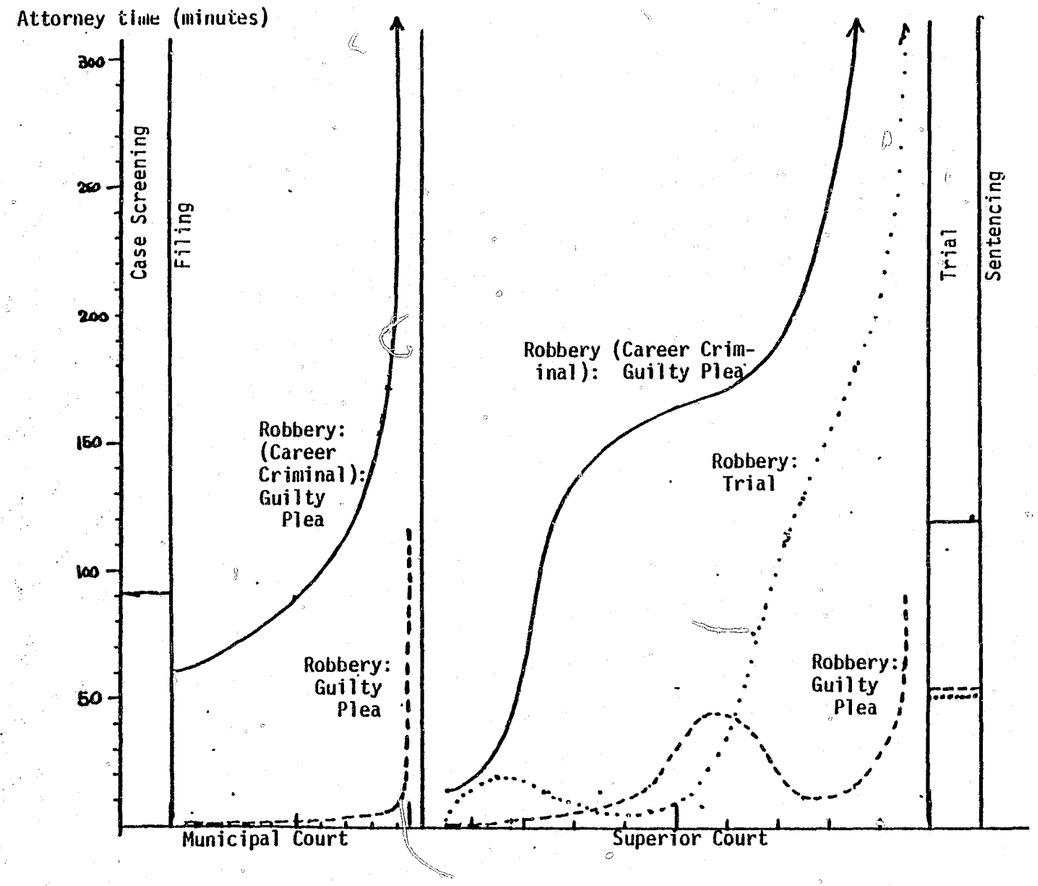
Taken together, these findings would seem to indicate that Los Angeles has been successful in channeling additional resources into the prosecution of career criminal cases. More resources are spent on habitual offenders. Of the resources that are spent, a greater proportion is devoted to case preparation. And resources are devoted earlier in the life of the cases of habitual offenders, and the commitment of resources is sustained through the life of these cases. The question remains open, of course, of whether the application of those resources improves the prosecution of cases.

Returns to Increasing Prosecutive Resources

As was stated above, it is extremely difficult to draw inferences concerning the effectiveness of the career criminal program. In this section of the report, a statistical technique called regression analysis is used to determine (a) whether the expenditure on career criminal cases increases the probability of conviction and (b) for convicted cases, whether prosecution by the career criminal unit is more likely than regular prosecution to secure a prison sentence. Of course, the probability of conviction, as well as the probability of a prison sentence, depends on more than the expenditure made on prosecution. Other factors, such as the seriousness of the offense and the quality of the evidence pointing toward conviction, are more relevant. We attempted to control for some of these factors by holding constant the following: (a) the type of defense counsel, (b) the number of charges, (c) the number and type of witnesses, and (d) elements of the offense, such as the amount of harm done to persons and the amount of property loss.

When these factors were held constant, the analysis demonstrated that the career criminal unit increased the resources spent on prosecution (even when the type of disposition was held constant). This is no

Figure II. EXPENDITURE OF TIME OVER THE LIFE OF CAREER CRIMINAL AND ROUTINE CASES



surprise given the findings from the previous section, which reported an increase in attorney time resulting from prosecution by the career criminal unit.

What is more surprising is that the career criminal unit did not have a statistically significant impact on the probability of conviction. One must be very cautious in drawing a firm conclusion about career criminal units based on this finding, however. Only 5 percent of the cases entering the analysis were career criminal cases. It is always difficult to predict when so few cases are available for analysis. Additionally, it is difficult to believe that the variables entering into the statistical analysis control accurately for the intrinsic convictability of a case. It could be that the career criminal cases were more difficult to prosecute relative to routine criminal cases, and thus, that attorneys from the career criminal unit actually bring marginal cases "up" to convictable standards. However, knowledgeable observers in Los Angeles have indicated that the opposite may be true, namely, that the career criminal unit actually accepts cases that have a good chance of conviction with or without special handling. Whatever the explanation, the findings failed to demonstrate a significant impact on convictability of the special handling afforded by the career criminal unit.

But what about the supplemental investment made on prosecution? Does additional investment not increase the probability of conviction? This is again a difficult question to answer. According to our statistical analysis, the probability of conviction actually decreases as the expenditure on a criminal case increases. Although counterintuitive at first, this finding has a ready explanation. First, the most difficult cases probably require the most expenditure; these are also the most likely to be difficult cases to convict. Second, trials are the most expensive for unlike guilty pleas (which are relatively cheap), trials sometimes result in acquittal. As a result, it is not unreasonable to expect a negative correlation between expenditure and conviction. Third, a quality defense may cause the prosecutor to increase his expenditure on any given case, with the effect of holding the probability of conviction constant, rather than increasing it. Given the data constraints of this study, it is impossible to judge the effectiveness of expenditures on the probability of conviction of career criminal cases.

Nor were we able to demonstrate that the career criminal program enhanced the sentence received by a convicted offender, or that expenditure in general enhanced the sentence. As before, it is necessary to be cautious about this conclusion.

Summary

It has been shown that career criminal cases consume five to seven times as many attorney hours as the prosecution of routine criminal matter. It has also been shown that the additional hours allow the

prosecutor to develop his case earlier in the case life, and also allow him to sustain his intensive involvement over the life of the case. Unfortunately, it was not possible to demonstrate that this increased effort had an impact on either the probability that a case resulted in conviction, nor the probability that the convicted offender received a prison sentence. However, data problems caused us to be quite hesitant to use these latter findings to judge the effectiveness of the prosecution of career criminals.

FIGHTING CRIME:
THE PROBLEM OF ADOLESCENTS

by

Barbara Boland
Institute for Law and Social Research (INSLAW)

FIGHTING CRIME: THE PROBLEM OF ADOLESCENTS

The most recent arrest statistics collected by the FBI indicate that close to half of police arrests for serious crimes involve persons 18 and younger; close to two-thirds, are of persons under 22.[1] These young persons, it is true, are much more likely to be arrested for stealing automobiles, burglarizing residences, and committing other sorts of thievery than for committing serious violent crimes against persons. But still, the involvement of juveniles and older adolescents in violent crime is far from trivial. Young men between the ages of 15 and 20 make up under 10 percent of the population, but they account for approximately 29 percent of the arrests for homicide and rape, 27 percent of the arrests for aggravated assaults, and 48 percent of the arrests for robbery.[2] Moreover, the problem of youthful violence appears to be getting worse. Among juveniles, the rate of arrest for violent crimes has been growing at a faster rate in recent years than arrests for property crimes. Between 1960 and 1975, the rate of juvenile arrests for violent crimes rose 231 percent, in contrast to a 165 percent increase in juvenile arrests for property crimes.[3]

There are few who doubt what these statistics suggest: adolescent crime is a serious problem. But the criminal justice system, as it now operates, is not organized to restrain active young offenders. The focus is, instead, on older, and often worn out, criminals. Studies now show that although individual crime rates fall with age, the severity of official sanctions rises. As a consequence, for many offenders significant punishment does not occur until they reach their middle twenties and are at or near the end of their criminal careers.

Age and Crime

Joan Petersilia and her colleagues at Rand, in their detailed study of the criminal careers of 50 habitual offenders, found that the most active period in criminal careers occurred roughly between the ages of 16 and 22. The greatest punishment, however, came at considerably later ages. Specifically, the offenders they studied (all were serving a second prison term for armed robbery in a California state prison) committed between 18 and 40 felonies--including drug sales--per year of "street time" between the ages of 16 and 22. Between the ages of 22 and 32, average offense rates fell to about 8 per year of time free. Conversely, the amount of time these offenders spent in jail increased from 30 percent between the ages of 16 and 22 to 80 percent between the ages of 22 and 32. The increasing time in prison occurred, in part, because judges gave increasingly stiffer sentences as the offenders' official records grew longer; but offenders were also more likely to be arrested and, when caught, convicted, as they grew older.[4]

Findings very similar to those of the Rand study have also been reported by James Collins in a re-analysis of data previously collected by Marvin Wolfgang on a large sample of offenders arrested in Philadelphia.

Collins looked only at the careers of those offenders, termed chronics, who had at least six contacts with the police. The "chronics" accounted for 18 percent of the persons who ever committed serious crimes, but 52 percent of the offenses. Although most of them had criminal careers that spanned a considerable number of years (at least 10), the rate at which they committed serious crimes against persons and property peaked at age 16. The greatest chance that the criminal justice system would apprehend, convict, and punish, on the other hand, did not occur until offenders were in their early 20s.[5]

That crime rates decline as young men grow older is an established criminological fact that practitioners have long acknowledged and scholars have sought to explain. What has not been generally known or systematically examined is why official sanctions are likely to be most lenient at a time when offenders are young and crime rates at a peak, but most severe when they are older and their behavior has begun to improve. To understand how this happens, it is necessary, first, to understand how the court system is organized to handle youthful adult offenders. Of overriding importance is the fact that youths and adults are handled by separate institutions of justice, each operating under a different philosophy and different legal codes, and frequently with different personnel and separate physical facilities. No formal mechanisms exist to coordinate the activities of these separate institutions. Informal relationships are sometimes openly hostile; most often lack of cooperation is lamented but ultimately ignored.

How the Two Systems Work

When juveniles start out on a criminal career, their crimes fall under the jurisdiction of the juvenile court. Since its beginning at the turn of the century, the juvenile court has not been viewed as, or was it intended to be, a formal court of law whose duty is to establish guilt and decide punishment. Rather, it has been looked upon as a special kind of social service agency whose motive is benevolence and whose goal is to help children, including large numbers who have not committed any crime. Thus, the procedures of the court have been intentionally non-adversarial, the terminology intentionally non-criminal, and its powers intentionally vast.

When a youth is brought before the juvenile court, he is neither tried nor convicted, nor may he plead guilty to a specific crime. Rather, at an informal hearing, where until recently he was not represented by counsel, he may make an "admission" or be "found delinquent." The judge is not supposed to punish "delinquents," but to devise appropriate "treatments," which may include "placement" in an institution. Although the juvenile court deals with both criminal and non-criminal delinquents (such as truants and runaways--the so-called status offenders), juvenile laws provide no guidance as to which kinds of offenders should or should not be institutionalized or for how long. It is entirely up to each judge to determine, according to his personal assessment of each child, whether it is the armed robbers or the truants who end up in prison.

In response to a series of Supreme Court decisions aimed at guaranteeing juveniles the rights of due process, beginning with In Re Gault in 1967, changes in juvenile proceedings, if not terminology, have begun to take place. Also, public and federal pressures on state legislatures have led to substantive changes in juvenile laws specifying distinctions between the way status and criminal delinquents may be treated. Still, fundamental differences in structure and procedure commonly exist between the juvenile and adult court, which, for juveniles, make the link between the seriousness of the crime and the gravity of the sanction far from certain.

One radical difference between the juvenile and criminal court that affects the outcomes of large numbers of cases is the way in which each decides who will and will not be prosecuted. When an adult is arrested, he is brought by the police to a prosecutor who reviews the facts surrounding the arrest to determine if the legal evidence warrants prosecution and, if so, what the charge should be. When a juvenile is arrested, he is not brought to a prosecutor, or even a lawyer, but is seen by a probation officer, who often works directly for the juvenile court. In making a decision as to how a case should be handled, the probation officer, like the prosecutor, is supposed to consider the facts of the particular case. But in addition, he is authorized to weigh the child's social and family background. Given both the legal and social factors, he may decide to drop or "adjust" the complaint or to file a petition, the juvenile court equivalent of prosecution. The decision to adjust rather than petition a case in juvenile court does not necessarily mean the facts are insufficient to support prosecution; it may mean that under the particular circumstances some kind of informal assistance, such as counseling or referral to a social agency, or no intervention at all, is thought to be a more appropriate disposition.

That probation officers, charged with a social mission, rather than prosecutors, charged with a legal responsibility, handle the crucial function of screening in the juvenile court is a matter of considerable significance. Prosecutors are lawyers who are charged with the enforcement of the law according to a set of predetermined legal rules. Probation officers are social workers whose primary task is to help people in trouble. They are less concerned with the legal technicalities of assessing guilt and convictability than with sizing up and dealing with "human situations." When questioned about their work, probation officers are likely to assert that decisions about what to do with individual delinquents cannot be made according to a given set of rules. Proper handling, according to probation personnel, requires intuition or "feel."[6]

Given the organizational structure of the juvenile court, it is not surprising that large numbers of cases fall out at probation intake, or that little relationship has been found between the type of handling and the seriousness of the offense. One national study of intake decisions found that roughly the same proportion (approximately two-thirds) of status offenses, misdemeanors, and felonies involving property were either dropped or adjusted at intake. Violent crimes against persons were somewhat less likely to be adjusted, but still only 50 percent resulted in a formal petition.[7] Another recent study in New York City reported that

the rate of adjustment for violent crimes (54 percent) was only slightly lower than the rate for property crimes.[8]

Even if a determination is made to file a petition, it does not necessarily mean that a formal sanction follows. In some instances, this is because of the same kinds of legal problems encountered in adult court. Key witnesses may at the last minute decide not to testify or for a variety of reasons cannot be located. New evidence may be discovered that indicates that the case should be dismissed on legal grounds. But also, the juvenile court judge or referee hearing the case has more options than his counterpart in the adult court. In many jurisdictions a judge may decide, regardless of the legal facts of the case, that a formal finding of delinquency is not in the best interest of the child, and at the judicial hearing, he may decide himself that the case should be "adjusted." If a "finding" results from the hearing, still the most common disposition is probation, a suspended sentence, or release (subject to future incarceration) rather than placement in a secure or community facility. How infrequently the latter occurs is illustrated by a Vera Institute study of juvenile violence in three counties around New York City: Fewer than 9 percent of violent juveniles "adjudicated delinquent" by the court were eventually "placed." They represented only 2 percent of the juveniles arrested for a crime of violence.[9]

Graduation to Adult Court

At age 18, when criminal offenders graduate from the juvenile to adult system of justice, one might expect to find a greater correspondence between the seriousness of criminal behavior and the seriousness of sanctions. Ultimately, this is the way the adult court operates. But, at least initially, offenders are likely to discover, as in juvenile court, that little happens when they are caught committing serious crimes. Again, witness and evidence problems can be significant factors, but that is only part of the explanation. An important fact to understand about the way the criminal court goes about its work is the effect that a prior criminal record has on who gets punished. Prior record has been found to be an important factor that enhances convictability (although it is not exactly clear how a prior record enters into the prosecutor's decisions[10]). And numerous studies of sentencing have found that one of the most important factors in predicting a sentence to prison is the existence or absence of a prior criminal record.[11]

The point is not that the court should not take prior criminal history into consideration, but that it now considers only the adult portion of it. Because of the separation of the juvenile and the adult court, in theory and in practice, no formal mechanisms exist for tracking an offender's entire career or for making sure that when he passes from one court to the other a record of his prior behavior goes with him. Confidentiality of juvenile records follows from one of the central tenets of the juvenile court that the crimes of juveniles, because of their immaturity, should not be considered criminal, and keeping juvenile records secret is thought to be one way to ensure that the aftereffects of juvenile crime are minimized. As far as the criminal justice system is

concerned, when an offender turns 18, even though he is at the peak of his criminal career, he is again a "first-time" offender.

The consequences for crime control of this discontinuity, however, are significant, as the figures in Table 1 illustrate. The figures show the annual rate at which criminals commit serious crimes--when they are free--by the age of the offender and the number of prior adult convictions. It is the youngest group of offenders, controlling for prior record, that has the highest offense rates. In fact, young offenders with fewer than two convictions have higher offense rates than most of the older offenders with two or more prior convictions. The result is that 80 percent of the crime is committed by offenders with fewer than two adult convictions. In general, most crime is committed by offenders who are young and who have not had time to acquire an extensive record of adult convictions.

Table 1

Offense Rates by Prior Record and Age

	Number of Adult Felony Convictions				
	0	1	2	3	4 or More
Offenders Age 18 - 25					
Number of offenders	847	434	139	32	19
Felonies/year/offender	4.5	5.5	10.5	15.0	17.5
Offenders Age 25 - 30					
Number of offenders	295	242	88	56	43
Felonies/year/offender	1.5	2.5	4.0	7.0	8.5
Offenders Age 30 and Over					
Number of offenders	561	337	210	147	219
Felonies/year/offender	0.5	1.0	2.0	2.5	5.0

Source: Federal Bureau of Investigation's computerized history file. The sample includes all adults arrested in the District of Columbia in 1973 for an index crime (except larceny) with at least one prior arrest. Offenders with at least one prior arrest represent 70 percent of all adults arrested. An average annual offense rate was computed for each offender by dividing all arrests (index or felony) before 1973 by the number of years between age 18 and age just prior to the 1973 sampling arrest, less time in prison. Each arrest was presumed to represent five crimes. A modified version of this table appeared originally in "Age, Crime and Punishment," Barbara Boland and James Q. Wilson, The Public Interest, Spring 1978.

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1 OF 2

If one looks at the criminal justice system from the point of view of the offender, official response to criminal behavior is at best nonsensical and at worst arbitrary and unjust. When as a young teenager, an offender begins a criminal career, his crimes are either ignored or penalties are imposed for trivial reasons. Later, at age 18, when theoretically in the eyes of the court he is a responsible adult, he can expect a break at least the first, and perhaps the second, time he is brought before the adult court. The fact that he has had considerable criminal experience and is now in the most productive stage of his criminal career is either not known or is considered a matter of little consequence. Ironically, it is only when an offender is near the end of his career and has begun to shift his energies from illegitimate to legitimate pursuits, sometime in his mid-twenties, that he discovers he may no longer commit crimes with impunity and that stiff prison sentences are likely for the same sorts of crimes that in the past were overlooked.

What the Prosecutor Can Do

No one expects that coming up with better ways to handle young offenders will be a simple problem. The current system, after all, has been in place for at least three-quarters of a century. That does not mean that immediate improvements are impossible. And, in the short term, the prosecutor more than any other public official may have the greatest impact. Juvenile court judges, it is true, are the central figures of the juvenile court and possess the greatest control over court proceedings. One might expect them, however, to resist reform and to fight to protect their broad powers of discretion. Judges (and probation officers) were, in fact, the most avid opponents of a recently enacted juvenile code in the State of Washington.[12] In the past, the prosecutor has played a minor role (or none at all) in the juvenile court, but in many jurisdictions he could play a more active role, especially in screening, than he does now. He could also, in the handling of criminal court cases, make greater use of juvenile records. Both are fundamental prerequisites to focusing court resources on the defendants who commit the most crime.

Traditionally, state statutes have been silent on the relationship of the prosecutor to the juvenile court, indicating neither what he can or cannot do. Given this lack of legislative guidance and the nonadversarial tradition of the juvenile court, typical practice has been for the prosecutor to play no role in screening and to represent the state at hearings only at the invitation of the judge. Since In Re Gault and the advent of juvenile right to counsel, the participation of the prosecutor in juvenile court hearings is presumed to have increased. Once a juvenile is represented by a defense attorney, without a prosecutor, it is the judge who must examine witnesses to ensure proper elicitation of the facts. Such a mixing of roles on the part of the judge raises the question of judicial impartiality. This, in the opinion of some, opens the way to constitutional challenge.

Although prosecutory participation may be increasing at juvenile court proceedings (and the juvenile court judge now has a greater

incentive to seek the prosecutor's cooperation), it is not clear that many prosecutors as yet have gained much influence over the crucial function of screening. A 1972 survey of 68 major cities found that in only 8 percent was the prosecutor authorized to file a petition, although in a somewhat greater number prosecutors actually prepared the petition or reviewed it for legal sufficiency.[13] A survey of juvenile court judges' perceptions of who had the greatest influence over screening found that, at least from the point of view of the judges, probation officers have a much greater influence than any other potential participant, including judges and prosecutors.[14] Review of recent legislative changes indicates that statutes typically do not specify prosecutory duties other than "representation" of the state at hearings.[15]

Two exceptions to this pattern are the recently enacted statutes in the States of Washington and Indiana. The legislatures in these states now grant the prosecutor the full range of authority he has in adult court. In both instances, the formal legislative grants of authority followed the informal actions of leading district attorneys.

In Indiana, in 1974, the newly elected district attorney for Marion County (Indianapolis) discovered that although nothing in Indiana statutes required his office to represent the state in juvenile court, several attorneys had always been assigned there by tradition. They did little more, however, than act as legal advisors to caseworkers. The district attorney explained to the juvenile court judge that his assistants were not required to be in the juvenile court, and that the minor role they played made it difficult to justify the allocation of scarce prosecutory resources. In order to maintain the prosecutor's participation, the judge was willing to work out a new system that vastly strengthened the role of the prosecutor. Under the new system, the prosecutor's office took charge of screening all arrests involving offenses that would be criminal if the juvenile were an adult, determined the nature of the charges, and prepared all cases for judicial hearings. The Indianapolis office was later used as a model by the state Prosecutors Coordinating Council in preparing a reform proposal that was ultimately adopted by the state legislature. The new law takes effect October 1, 1979, and gives district attorneys in Indiana virtually the same powers in juvenile court as they have always exercised in adult court.

The sequence of events in the State of Washington was quite similar. The former prosecuting attorney in King County (Seattle) believed that the seriousness of the juvenile crime problem dictated the need for vigorous prosecution in the juvenile court. And as in Indiana, even without statutory authority, he found he was able to assert the involvement of his office in the juvenile court process. Although the Seattle prosecutors did not take over the function of screening from caseworkers, they did, with the cooperation of the police, set up a system to monitor police referrals to probation caseworkers. The latter could, and the district attorney's office thought they frequently did, adjust cases involving serious crimes, like robbery, burglary, and rape, without anyone knowing about it. Under the new system, the district attorney was able to spot quickly, and then act on, serious cases in which nothing

happened. The office even began to act as an advocate at disposition hearings, recommending sentences based on guidelines they themselves developed. Their recommendations took into account the seriousness of the crime, prior record, and age. Once the position of the office in the juvenile court was established (after about four years), the office then instituted a juvenile career criminal program. In 1977, the Washington state legislature adopted perhaps the most sweeping juvenile law reform in the country. The major features of the reform are patterned after the efforts of the King County prosecutor's office.

Just as the prosecutor could play a more active role in the juvenile court, he could also make greater use of juvenile records in criminal court decisions than is now the practice. Although most state statutes prohibit public inspection of juvenile court records, they generally leave to the discretion of the juvenile court judge the decision as to whom and the circumstances under which records will be made available.

The Rand Corporation now has under way a study of the role juvenile records play in adult court processing, and we can expect in the near future to have more systematic information on the problem. In the meantime, to obtain some idea of the difficulties the adult court faces in obtaining juvenile records, we informally talked with prosecutors in a dozen large cities. Current practice does appear to be more a matter of local tradition than of state statute, and not surprisingly, a great deal of variation exists in both the availability and accuracy of the records. In several jurisdictions, court procedure fits the popular notion that juvenile records are impossible to obtain to the extent that they are destroyed. In one eastern city, the probation department, although not required by statute, every six months regularly destroys the records of all juvenile offenders who have had no offense during that period. (This is more frequently than most offenders--even some of the most active ones--are caught by the police.) In one or two other cities prosecutors complained that they did not trust the accuracy of the records or that it was impossible to tell from them the nature of the charge and if a finding of guilt was legally proper.

But most often, the story we heard was that it was possible to obtain records from the probation department when they were really needed, and that when requests for records are made the probation department cooperates as a matter of course. Records are not routinely obtained, for the simple reason that doing so is too much trouble. The probation department is often in a different building or in a different part of town, and neither the police nor assistant prosecutors believe they have the time to go get them or that the extra trouble is worth it. Only in cases in which the police happen to "know" an offender has a bad juvenile record and pass this on to the prosecutor, or for some reason the prosecutor is "suspicious" that he might not be dealing with a first-time offender, is the effort made to obtain the juvenile record.

NOTES

1. The Federal Bureau of Investigation, Uniform Crime Reports (1977).

2. Franklin Zimring, Confronting Youth Crime, a report of the Twentieth Century Fund (New York: Holmes & Meier, 1978): 35; and Uniform Crime Reports (1975). (The calculations assume all arrests for violent crimes are of males and thus are a rough but fairly accurate approximation.)

3. Paul A. Strasberg, Violent Delinquent (New York: Monarch, 1978): 16.

4. Joan Petersilia, et al., Criminal Careers of Habitual Felons (Santa Monica: Rand Corporation, 1977): 34-38.

5. James L. Collins, "Offender Careers and Restraint: Probabilities and Policy Implications," a report prepared for the Law Enforcement Assistance Administration (Washington, D.C., 1977).

6. "Probation: Problem Oriented - Problem Plagued," Office of Children's Services (New York, no date).

7. Mark Creekmore, "Case Processing: Intake, Adjudication, and Disposition," in Brought to Justice? Juveniles, the Courts, and the Law, ed. Robert D. Vinter and Rosemary C. Sarni (Ann Arbor: The University of Michigan, 1976).

8. Paul A. Strasberg, cited in "Juvenile Violence," Juvenile Justice Institute, New York State Division of Criminal Justice Services (May 1976): 90.

9. Strasberg, in ibid.: 96-98.

10. Brian E. Forst and Kathleen B. Brosi, "A Theoretical and Empirical Analysis of the Prosecutor," The Journal of Legal Studies 6, no. 1 (January 1977): 177-92.

11. See, for example, Vera Institute of Justice, Felony Arrests: Their Prosecution and Disposition in New York City's Courts (New York, 1977); and Leslie T. Wilkins, et al., Sentencing Guidelines: Structuring Judicial Discretion, Criminal Justice Research Center (Albany, New York, 1976).

12. Michael S. Serrill, "Police Write a New Law on Juvenile Crime," Police Magazine, September 1979.

13. "Prosecution in the Juvenile Courts: Guidelines for the Future," Center for Criminal Justice (Boston University School of Law,

1973), in Prosecution and Defense, a comparative analysis of standards and state practices (Washington, D.C.: Law Enforcement Assistance Administration).

14. See note 7 above.

15. Paul Piersma, et al., "The Juvenile Court: Current Problems, Legislative Proposals, and a Model Act," Saint Louis University Law Journal 20, no. 1 (1975): 12.

UPGRADING IDENTIFICATION PROCEDURES IN SUPPORT OF THE CAREER CRIMINAL PROGRAM

by

Frank J. Leahy, Jr.
Institute for Law and Social Research (INSLAW)

UPGRADING IDENTIFICATION PROCEDURES IN SUPPORT OF THE CAREER CRIMINAL PROGRAM

Obtaining "positive identification" of an arrested person is a prerequisite to inclusion of that person in a local career criminal project.

- Positive identification is the avenue to criminal history information--including arrests, dispositions, incarcerations, and release status, if applicable.

- Positive identification can only be assured by matching fingerprints with prints already on file in a local, state, or federal (FBI) identification agency. Once identified, the arrested person's criminal history can be retrieved.

- With criminal history information in hand, decisions can be made regarding inclusion of the arrestee in a career criminal program and whether bail or preventive detention should be sought. The speed with which these decisions are made is critical to an effectively functioning career criminal program.

The purpose of this briefing paper is to suggest ways to upgrade identification procedures in support of a career criminal program--in essence, what career criminal project managers can and should do to ensure timely access to positive identification and criminal history information.

The discussion that follows is divided into four sections. The first discusses the nature of the identification problem. The second describes some existing capabilities--how career criminal programs are taking advantage of local, state, and federal services to speed identification and the return of criminal history record information (CHRI). The third section discusses some longer range solutions--what is happening nationally that might support career criminal decision making in the future--and the fourth suggests the development of a plan to upgrade local identification services.

Research on Criminal Mobility and Namesearch Reliability

Whether a fingerprint can be matched quickly depends on whether the person in custody has been arrested previously and whether his or her fingerprints were taken and filed for future retrieval. Customarily, persons arrested for felonies are fingerprinted; one set of fingerprints is retained by the local police

department, a second is forwarded to a state bureau of identification for processing, and a third is sent to the FBI. In most instances, the receiving agency will classify the prints, search for a match, and if a match is found, update the arrestee's record and return an updated CHRI record or "rap sheet" to the forwarding agency.

Whether a rap sheet is returned will depend on a number of factors, including agency policies and procedures, work loads, and criminal mobility. If criminals were not mobile, then all fingerprints could be housed in the local law enforcement agency--police department or sheriff's office. If criminal mobility were largely in-state, then the central state repository (CSR) would contain all records. However, criminals cross both local and state lines. Hence, in the absence of technological breakthroughs (not to mention political and privacy considerations) that might make many thousands of such repositories obsolete at some time in the future, we need identification repositories at three levels of government.

Very little is known about the patterns or extent of criminal mobility, generally; even less is known about the mobility of career criminals. Research provides some insights on how to approach the identification problem, however.

Probability of Prior Arrest Record

Research conducted by INSLAW during a cost-benefit analysis of the national Computerized Criminal History (CCH) system addressed the issue of whether a given offender will or will not have a prior arrest record.[1] In the course of the study, 9,304 FBI Identification Division rap sheets were analyzed; data pertaining to the probability of an arrest record in the state of arrest or other states are summarized in Exhibit 1.

As shown in the exhibit, 47.2 percent of the arrestees had no prior arrest record in the state of current arrest--in essence they were first offenders in that state. But, of that total--13.4 percent had a record in another state and could have been identified at the FBI. Almost 53 percent of the arrestees could have been identified at the state level because they had previously been arrested in that state. Of that number, 9.3 percent (4.7 percent plus 4.6 percent) had records in other states, as well as in the state of current arrest. These findings demonstrate the value and importance of state and national fingerprint repositories in support of a career criminal project.

[1] Costs and Benefits of the Comprehensive Data Systems Program, 2 vols. (INSLAW, 1975).

Exhibit 1. PROBABILITY OF A PRIOR ARREST RECORD

	Record in Current State		Record in Other State(s)		
	No	Yes	One	Two or More	Total
Current Arrest	33.8%		7.4%	6.0%	47.2%
One or More Prior Arrests		52.8%	(4.7%)*	(4.6%)*	52.8%

N = 9,304

* Included in 52.8 percent.

Locale of Career Criminal Activities

In a study of career criminals, the Rand Corporation interviewed 49 habitual felons incarcerated in California prisons. On the basis of data collected from 41 respondents, Rand constructed profiles of criminal activity locale for three age groups--juvenile, young adult, and adult. The results are shown in Exhibit 2.

Exhibit 2. THE LOCALE OF CRIMINAL ACTIVITY FOR A GROUP OF CAREER CRIMINALS IN CALIFORNIA

Crime Locale	Juvenile	Young Adult	Adult
Immediate Neighborhood	41.5%	14.6%	22.0%
One City	31.7	24.4	29.3
Neighboring Cities	22.0	36.6	29.3
Statewide	2.4	9.8	7.2
Multistate	2.4	14.6	12.2
Total	100.0%	100.0%	100.0%

Source: Joan Petersilia, et al., Criminal Careers of Habitual Felons (Santa Monica, Calif.: Rand Corporation, 1977).

It is difficult to draw inferences from these data because of the small number of respondents and because California's size and geographical location make interstate crime less likely there than in such metropolitan areas as New York City, Chicago, Kansas City, St. Louis, or Washington, D.C. However, these are the only data we have that specifically concern career criminals.

The data reveal that criminals tend to concentrate their crime around a single city and its neighboring cities. Some variations occur by age, however. Juveniles tend to concentrate their criminal activity within one city, but as they pass into young adulthood, their activity spreads more into neighboring cities. During the later adult period, the activity becomes less widely dispersed geographically and shifts back into the one city and neighboring places. Statewide and multistate criminal activities tend to peak in the young adult crime career, as does multicity crime.

The Rand study highlights the need for state and national identification repositories in addition to local or metropolitan identification bureaus.

Identification Assistance from Automated Namesearch

A growing number of automated namesearch files exist at the local and state level, in addition to the FBI's National Crime Information Center (NCIC) and NCIC/CCH namesearch capabilities. Generally, namesearch capabilities are of two types. One is a want/warrant file, a listing of persons wanted by particular law enforcement agencies. The other provides access to an automated criminal history file. An on-line name inquiry, for example, produces a list of persons with the same name and/or similar sounding names; a decision is then usually required to select one name from the several displayed.[2] Once a name is selected, other identifying information about the person can usually be obtained; with the NCIC/CCH system (as well as with several state CCH systems), it is possible to retrieve a summary of the person's criminal history.

While a namesearch will <u>not</u> provide "positive identification," it can provide the quickest means to positive identification (i.e., locating a fingerprint card already on file for the person). A telephone call to the state repository could mean the return within a day of a photocopied fingerprint card and an up-to-date rap sheet on the subject's arrests within the state. A messenger might speed its return, depending on the distance to the repository's location.

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[2]Sex, race, and date of birth or other identifying numbers are usually required to augment the search.

Research conducted in New York State several years ago attests to the value of namesearch.[3] The research established the fact that, given a name in an automated data base, there was a 92 percent probability of locating that person at a future time. In essence, if a person was in the file, there was only an 8 percent error rate (this included persons who gave false identities or changed their names by marriage or other means).

Clearly, namesearch access to automated data bases can be very important to the acquisition of positive identity information, but a positive identification must be achieved through fingerprint comparison.

Some Existing Capabilities

During a Career Criminal Conference sponsored by the Law Enforcement Assistance Administration and hosted by INSLAW in Jacksonville, Florida, on February 8 and 9, 1979, representatives from several jurisdictions discussed their approach to the problem of obtaining identity and criminal history information.

Access to Local and Regional Namesearch and Criminal History Systems

In Jacksonville-Duval County (Florida), the Violent Criminal Division of Florida's Fourth Judicial Circuit has access to a countywide namesearch system. In addition, the consolidated city-county law enforcement agency (the Duval County Sheriff's Office) operates a single identification (fingerprint) system, which is located adjacent to the Office of the State Attorney for the Fourth Judicial Circuit. Jacksonville also has access to state namesearch and on-line criminal history summary information, as noted below. This means that within minutes the County can determine whether a person in custody has a criminal record locally or within the state.

In Los Angeles County, the Career Criminal unit has access to two data bases. One is operated by the Los Angeles County Sheriff's Office and is similar in many respects to the capability in Duval County. The Los Angeles District Attorney's PROMIS (Prosecutor's Management Information System) data base is the second source of information. All arrests presented to the District Attorney since 1977 are recorded in PROMIS, together with identity data, conviction data, and any pending charges against the person.

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[3]"Name Search Techniques," Project SEARCH Special Report no. 1 (December 1970).

Access to Statewide Namesearch and Criminal History Summary Information

The Florida Crime Information Center is a model for other states. The Florida system provides an on-line namesearch to want/warrant files and criminal histories maintained by the state and the FBI. A "hit" in either system provides access to the person's criminal history information. An inquiry prompts return of a "summary" of criminal history information in the files. The summary provides three types of information: personal identifiers; number of arrests, dismissals, convictions, acquittals, and pending charges, by offense type; and details of the last reported arrest. A sample summary record supplied by the Florida Department of Law Enforcement (FDLE) is shown as Exhibit 3.

EXHIBIT 3. SAMPLE SUMMARY CRIMINAL HISTORY RECORD

FLA SUMMARY/FDLE, TEST RECORD FLFDLE200 00000376 W M 11/30/14
506 133 GRY BLU SPC/HISTORY AUTOMATED,
SINGLE STATE OFFENDER FBI/140592B DLT/043074

AKA/TEST,RECORD/FDLE,RECORD
DOB/113015/031114

TOTAL ARREST 006 COUNTS	CONVICTIONS	ACQT/DISMISS/PEND	OFFENSE
2	2	0	HOMICIDE
3	1	0	BURGLARY
3	0	2	STOLEN PROPERTY
1	0	0	WEAPON OFFENSE
2	1	0	DANGEROUS DRUGS
5	3	1	ROBBERY

LAST REPORTED DATA – 043073 FL1234567 OCA/1234567890AB
01 2800 STOLEN PROPERTY ACQT/DISMIS
02 1200 ATTEMPT ROBBERY CONVICTED 002-COUNTS
03 3500 DANGEROUS DRUGS CONVICTED
CUST/FL1234567 A 043073 410-ESCAPED

END

Source: State of Florida, Department of Law Enforcement, Division of Criminal Justice Information Systems (September 1978).

In addition to its namesearch and on-line criminal history capacity, the Florida system can produce a full rap sheet of the criminal history summary displayed on the screen. The FDLE prints rap sheets off-line (at night) and sends them to requesting jurisdictions in the next day's mail.

States without on-line namesearch and criminal history summary information can often find other avenues to identity information. Inasmuch as Connecticut has no on-line namesearch and no on-line criminal history capability, New Haven's career criminal division has had to explore other sources of information. The principal source is the state repository, operated by the Connecticut State Police in Meriden--only 20 minutes from New Haven. If a person arrested in New Haven is otherwise unidentified or unknown, a telephone inquiry will be made to Meriden. The central state repository has been very cooperative in handling telephone inquiries and, in general, expediting service to the career criminal unit.

Expedited Handling of Career Criminal Inquiries at the FBI's Identification Division

The FBI is prepared to provide priority service through the mail to those career criminal units that indicate that the fingerprint submission involves a career criminal candidate. Participating agencies should print the words "CAREER CRIMINAL" in bold letters in the lower left corner of the envelope bearing the prints, preferably with a red "Magic Marker" or other similar marking device.

Other FBI capabilities include fingerprint facsimile transmission and telephone assistance. Fifty-nine police departments are equipped with facsimile transmission machines, which allow a local agency to communicate directly with the FBI. Within minutes a fingerprint card can be transmitted. The guidelines specify "amnesia victims, unknown deceased persons, and suspected fugitives" as subjects eligible for priority processing of fingerprints--said to be a 24-hour turnaround within the Bureau. If the prints fall within the FBI guidelines, an "expedite search" of the files will be made and a reply sent back by telephone or by mail. If the participating agency knows the subject's FBI number, that agency can call (202) 324-2222 weekdays from 8:00 am to 4:00 pm Eastern time; other times, the agency should call (202) 324-3362. Upon receipt of a call, the Identification Division will, in most instances, place a subject's identification record in the mail by the next day. The FBI's willingness to cooperate with career criminal units means that a tremendous resource can be tapped within hours or days rather than within weeks.

Nationwide Efforts to Upgrade Identification Services

Automated Fingerprint Identification

A number of states, including Arizona and Minnesota, have automated portions of their fingerprint operations using computer technology. In both instances, fingerprint classification schemes are used to expedite location of the matching in-file fingerprint card. Such systems appear to work well in states with small or medium processing volumes and file sizes.

For upwards of twelve years, the FBI has been developing an automated fingerprint identification system, called FINDER. If and when the technology is perfected and existing files converted, large metropolitan police departments and state bureaus of identification will be able to match prints against the national data base within minutes. Agencies would have to purchase equipment that would "digitize" a set of fingerprints; then matching could be conducted using either computers within the agency or a communication line to the FBI in Washington. It would be possible for the FBI to supply an up-to-date data base to, e.g., a large state bureau of identification. In this instance, that state could use its own resources and have immediate on-line access to the national repository as a backup.

The perfection of this technology is several years away, but it does represent the "ultimate" answer to positive identification. Nationwide namesearch capabilities, however, represent a more immediate support to identification services.

Nationwide Namesearch Services

The NCIC/CCH system, as conceived by Project SEARCH and the FBI, envisioned the creation of a "pointer" file in Washington. An inquiry to the file would point to the state or states that had detailed criminal history information for the person inquired about. For many reasons, NCIC/CCH has not yet succeeded in achieving this system objective; prospects are poor for its full implementation within the foreseeable future. NCIC/CCH does provide on-line access to information on persons who have been arrested for federal offenses and to a certain portion of the criminal histories of persons arrested in 13 participating states. (State participation is good in some states and not good in others; in general, the file as presently operated has marginal utility for agencies interested in speeding identification of a person in custody.)

In a parallel activity, the FBI's Identification Division has automated the criminal histories of all first offenders since July 1, 1974. The Automated Identification Division System (AIDS) currently produces computerized rap sheets and will ultimately provide the FBI with an automated namesearch capability for internal use. Although the AIDS namesearch file was

not designed for use outside the Bureau, such use should not be overlooked as one alternative for upgrading identification services nationwide.

In any event, the Federal government, including the Department of Justice and its two principally concerned component agencies--the FBI and the LEAA--need to explore how a nationwide namesearch file can be created and maintained. Career criminal projects could be enhanced by such a development.

What Can and Should be Done Locally to Upgrade Identification Services and Access to Criminal History Information

INSLAW addressed the problem of positive identification in its first Comprehensive Career Criminal Program Newsletter (Volume I, No. 1, February 1979). The article, in large part, outlined a plan to achieve rapid identification support. That article has been adapted here for use by local project managers.

The first step is to start locally--explore local capabilities. Visit with your local chief of police and his identification officer and determine local capabilities; then seek avenues for improvement. For example, many states will provide "expedite service" for local police agencies--both in making a name check in the state's identification bureau name file and in checking over the phone for the possibility of a "fingerprint match." Although a positive match cannot be made over the phone, enough information can be transmitted to and from the central state repository (CSR) to determine whether there is cause to believe that the person in custody has a record and is a candidate for career criminal treatment. Official confirmation can then be obtained by messenger or priority mail.

If the local police department will not or cannot cooperate for one reason or another, perhaps project personnel can emulate the New Haven experience and make direct contact with the central state repository.

The second step is to ensure that all CSR capabilities are being utilized. Investigate state capabilities; in all probability, CSR personnel will be more than willing to cooperate with a local career criminal unit.

As noted previously, Florida's Crime Information Center (FCIC) provides an on-line namesearch inquiry to its criminal history data base in Tallahassee. Besides Florida, on-line namesearch capability is said to be available in Colorado, Illinois, and New York, among other states. Namesearch access to a local, regional, or state criminal history file can be a very powerful tool if used wisely and well.

The third step is to use the FBI to best advantage. Mark all outgoing envelopes as noted above; use the U.S. Postal Service's "Express Mail," thus ensuring receipt at the FBI by noon of the next day. Determine whether the local police department has a facsimile transmission device for sending fingerprints to Washington; use the FBI telephone numbers listed above for expedite service. Determine elapsed time from submission to receipt; incorporate those times into an overall plan to upgrade identification activities. If the local police department is not tied to the FBI by facsimile transmission, explore those possibilities.

In sum, positive identification and prior criminal histories are critical to a career criminal unit. It is well worth the time and effort to explore state and local capabilities and to determine if FBI access by facsimile transmission is a possibility. Your local police chief and identification officer should be your first contacts.

CRIME DURING THE PRETRIAL PERIOD: A SPECIAL SUBSET OF THE CAREER CRIMINAL PROBLEM

by

Mary A. Toborg
The Lazar Institute

and

Brian Forst
Institute for Law and Social Research (INSLAW)

CRIME DURING THE PRETRIAL PERIOD: A SPECIAL SUBSET OF THE CAREER CRIMINAL PROBLEM

Background

Recently, there has been increasing national concern about pretrial release practices and their influence on subsequent crimes committed by defendants awaiting trial. In February of this year, former Attorney General Griffin Bell stated that the criminal justice system releases too many people who endanger the public and suggested that repeat offenders should be kept off the street. A similar sentiment was expressed that same month by Chief Justice Warren Burger, who indicated that a defendant's possible threat to the community could no longer be overlooked in setting bail, as is mandated by most national and state legislation.[1]

More recently, Senators Edward Kennedy and Birch Bayh have expressed concerns about pretrial release mechanisms. In a June speech on this topic, Senator Kennedy said that the current practices are "not working.... They fail to deal with the problem of crimes committed by defendants released on bail...(and) they pose an unnecessary threat to the safety of the community."[2] In a similar vein, Senator Bayh commented, "It should be evident to all of us that we are not enhancing the civil liberties of the 99 percent of our law-abiding citizens by allowing them to be preyed upon by career criminals who are out on bail."[3]

Similar concerns about release practices are shared by the general public. For example, in a 1978 public opinion survey, 37 percent of the respondents expressed a belief that it was a "serious problem which occurs often" for courts to grant bail to those previously convicted of a serious crime. This level of distress was reflected also in analyses of major population subgroups, by ethnicity, income, and self-described classifications of "liberal," "moderate," and "conservative." (The range by subgroup was from 33 percent to 42 percent of the respondents who considered the problem a serious one, occurring often.)[4]

Despite widespread concern about release practices and pretrial criminality, most of the laws governing release decisions have not permitted consideration of the possible "dangerousness" of the defendant. Historically, the legal basis of release decisions has been whether the defendant will appear for court, and conditions of release (bail, supervision, etc.) have been constrained to be the least restrictive ones preventing flight. Thus, a defendant who poses a poor risk of appearing for trial can have a variety of conditions imposed to increase the likelihood of appearing, but a defendant who poses a poor risk of being crime-free during the pretrial period cannot legally be subject to similar limitations designed to reduce the probability of crime.

This situation has been questioned by many persons, and a change which is often suggested is the legalization of "preventive detention." Such a policy, which exists in the District of Columbia, would permit detention of dangerous defendants. Opponents of preventive detention, however, note the

difficulties of predicting dangerousness and stress the fact that preventive detention may violate certain Constitutional principles regarding the treatment of defendants who have been accused of crimes, but not found guilty of them.

It is noteworthy that the legal interpretation surrounding one of these Constitutional principles--presumption of innocence--appears to be changing. In the 1951 case of Stack v. Boyle, the Supreme Court stated: "Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning." However, in a class action case decided this year (Bell v. Wolfish), the Court indicated that the presumption of innocence is important during a trial but "has no application to a determination of the rights of a pretrial detainee during confinement before his trial has even begun." While the impact of this ruling may depend largely on its application to subsequent cases, it would appear that preventive detention--or other matters relating to pretrial release or confinement--would not currently be viewed as violating the presumption of innocence.[5]

Although preventive detention to avert anticipated pretrial crime is not expressly legitimate for most defendants in most jurisdictions, there is some evidence that the bond system may function as a sub rosa form of preventive detention. The legal concept underlying the money bond system is that financial incentives are needed to assure the appearance in court of certain defendants. In practice, however, it appears that many judges set bonds that they think are beyond a defendant's means, if they consider the defendant "dangerous." For example, an analysis of indigent defendants arrested in New York City in 1971 found four variables that were significant predictors of bail amount:

- severity of charge facing the defendant;
- prior felony and misdemeanor records;
- whether the defendant was facing another charge; and
- whether the defendant was employed at the time of arrest.

None of these variables was significantly associated with the probability of failure to appear in court, but all except the last were associated with the probability of being arrested on a new charge while awaiting trial. The study concluded that bail was not being used to ensure appearance at the trial, but rather to detain defendants considered likely to be rearrested before trial.[6]

Although the setting of bail may be used as an attempt to achieve sub rosa preventive detention, the attempt may fail: if the bond amount can be raised, the defendant will be released. Thus, the bond system has been criticized as an ineffective means of protecting the community by those who believe that community protection considerations should influence release decisions, not just considerations relating to the possible flight of the defendant.[7]

To assess the most appropriate means of dealing with issues concerning pretrial criminality requires analysis of the nature of such criminality and the extent to which it might accurately be predicted at the time release decisions are made. This paper considers these topics, based primarily on two studies: the national evaluation of pretrial release, now being conducted by The Lazar Institute, and an analysis of pretrial release and misconduct in the District of Columbia, a project recently completed by the Institute for Law and Social Research (INSLAW).[8]

The following sections of this paper present:

- preliminary findings from the Lazar evaluation, primarily describing the extent and type of pretrial criminality occurring in eight jurisdictions studied in detail;
- results of INSLAW's analysis of Washington, D.C., primarily focusing on the study's attempts to predict pretrial criminality; and
- a discussion of possible remedies that have been suggested for reducing pretrial criminality.

National Evaluation of Pretrial Release (Lazar Study)

The national evaluation of pretrial release, funded by LEAA's National Institute of Law Enforcement and Criminal Justice, has several major components: a cross-sectional analysis of release decisions and outcomes in eight jurisdictions that have pretrial release programs, an experimental assessment of program impact in four sites, and an analysis of two communities without programs. The preliminary findings presented in this paper are based on the cross-sectional analysis of eight jurisdictions: Baltimore City, Maryland; Baltimore County, Maryland; Washington, D.C.; Dade County (Miami), Florida; Louisville, Kentucky; Pima County (Tucson), Arizona; Santa Cruz County, California; and Santa Clara County (San Jose), California.

In each site a random sample of defendants was selected for study and tracked through existing records from point of arrest until final case disposition. Where possible, the sample was selected over a twelve-month period during 1976-77 and included both felony and misdemeanor defendants. The combined sample for the eight sites is approximately 3,500 defendants, out of a universe of more than 140,000 defendants. The pretrial criminality analysis that follows is based only on released defendants, who comprise 85 percent (approximately 3,000 defendants) of the sample.

In the eight sites, 16 percent of the released defendants (476 out of 2,956) were rearrested while awaiting trial on the original charge, with the rates for individual jurisdictions ranging from 7.5 percent to 22.2 percent. Moreover, many defendants were arrested repeatedly while awaiting trial; approximately 30 percent of all rearrested defendants were rearrested more than once.

Assessment of the seriousness of this pretrial criminality requires consideration of the types of charges for which defendants were rearrested.[9]

Table 1, based on the classifications used in the FBI's Uniform Crime Reports, shows that 38 percent of all rearrests were for Part I offenses (criminal homicide, forcible rape, robbery, aggravated assault, burglary and theft), and 62 percent for Part II crimes.

Although the FBI's crime categorization assesses overall crime severity, it provides little insight about specific crime groupings of interest. For example, both Part I and II offenses include crimes against both persons and property. To analyze these types of crimes, the following offense categorization was used:

- crimes against persons (murder, nonnegligent manslaughter, forcible rape, robbery, aggravated assault, other assaults, arson);
- economic crimes (burglary, larceny, theft, forgery, fraud, embezzlement, stolen property);
- drug crimes (distribution or possession of narcotics or marijuana);
- crimes against public morality (prostitution, sex offenses other than forcible rape or prostitution, gambling, liquor law violations, drunkenness);
- crimes against public order (weapons, driving while intoxicated, disorderly conduct, vagrancy, minor local offenses); and
- other crimes.

On this basis, as shown in Table 1, most rearrests are for economic crimes (31 percent), followed by crimes against persons and public order (20 percent each).

A comparison of rearrest charges with the charges for the original arrest (see Table 1) shows that rearrests are for somewhat less serious charges. Forty-three percent of the rearrests involved defendants who had been charged originally with a Part I offense, while 38 percent of the rearrests themselves were for Part I offenses. In terms of the six-category crime classification, the major difference between original and rearrest charges is the smaller percentage of defendants rearrested for economic crimes (31 percent of the rearrest charges, as compared with 41 percent of the original charges for rearrested defendants).

Table 2 provides additional insight about the patterns of original versus rearrest charges. Eighty-seven of the rearrests involved defendants who had been charged originally with crimes against persons, but only 26 of those rearrests (30 percent) were for crimes against persons. For economic crimes, drug crimes and crimes against public morality, more than half the rearrests of defendants originally charged with one of these crimes were for crimes in the same category (51 percent for economic crimes, 56 percent for drug crimes, and 63 percent for crimes against public morality). The

TABLE 1

REARREST AND ORIGINAL CHARGES, BY TYPE OF OFFENSE

Type of Offense	Rearrest Charge		Original Charge	
	Number	Percent	Number	Percent
Part I	182	38%	205	43%
Part II	294	62%	271	57%
TOTAL	476	100%	476	100%
$x^2 = 2.3$ p=.14				
Crimes against Persons	96	20%	87	18%
Economic Crimes	147	31%	194	41%
Drug Crimes	51	11%	36	8%
Crimes against Public Morality	50	11%	48	10%
Crimes against Public Order	94	20%	89	19%
Other Crimes	38	8%	22	5%
TOTAL	476	100%	476	100%
$x^2 = 14.0$ p=.02				

TABLE 2

TYPE OF REARREST CHARGE VERSUS TYPE OF ORIGINAL CHARGE

Pretrial Arrest Category / Original Charge Category	Crimes Against Persons		Economic Crimes		Drug Crimes		Crimes Against Public Morality		Crimes Against Public Order		Other Crimes		TOTAL	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Crimes Against Persons	26	30%	19	21%	10	11%	4	5%	22	25%	6	7%	87	100%
Economic Crimes	43	22%	98	51%	13	7%	4	2%	19	10%	16	8%	194	100%
Drug Crimes	2	7%	4	12%	20	56%	2	5%	7	20%	1	1%	36	100%
Crimes Against Public Morality	3	7%	4	9%	1	3%	30	63%	4	9%	5	11%	46	100%
Crimes Against Public Order	15	17%	14	16%	6	6%	7	8%	39	44%	8	9%	89	100%
Other Crimes	6	29%	8	36%	1	6%	2	10%	3	13%	2	8%	22	100%
TOTAL	96	20%	147	31%	51	11%	50	11%	94	20%	38	8%	476	100%

x^2 (McNemar's)=28.5 df=15 p=.05

corresponding percentage for crimes against public order is 44 percent and for other crimes is 8 percent. Hence, for the defendants rearrested, the original charge is related to the subsequent charge for economic, drug, public morality and public order crimes much more than is the case for crimes against persons, the category of greatest concern to much of the public.

Table 3 shows the reactions of the court to pretrail arrests. The most common reaction was to set or increase bail, followed by no action. Only at the third pretrial arrest were there substantial increases in the extent of detention ordered and decreases in the extent to which no court action occurred.

Besides assessing the extent and type of crime committed by released defendants and the court's reactions to the rearrests, it is important to consider whether the characteristics of rearrested defendants differ significantly from those of defendants not rearrested. If such differences exist, it may be possible to identify "high-risk" defendants at the time of release and take various actions designed to lower this risk. Several major differences are discussed below, because of their possible importance to career criminal programs.

Table 4 shows that defendants rearrested during the pretrial period were originally charged with more serious crimes than defendants not rearrested: 42 percent of the rearrested group was originally charged with a Part I crime, as compared with 27 percent for other defendants. In addition, rearrested defendants had a much higher incidence of economic crimes (40 percent versus 23 percent) as their original charges and a much lower proportion of crimes against public order (19 percent versus 33 percent).

Rearrested defendants were also much more likely to have been involved with the criminal justice system at the time of the original arrest, as shown in Table 5. Thirty-six percent of the rearrested defendants were involved with the criminal justice system, as compared with 18 percent of the other defendants. Rearrested defendants also had more extensive prior records than other defendants. They averaged 5 prior arrests and 2.5 prior convictions, as compared with 3 and 1.2, respectively, for other defendants. They were also younger at the time of arrest (27 years on the average, as compared with 30 years for defendants not rearrested), and had been younger at the time of their first adult arrest (22 years on the average, as compared with 24 years for defendants not rearrested).

Other characteristics also distinguish the pretrial arrestees from defendants not rearrested while awaiting trial. For example, pretrial arrestees were more likely to be living alone or with their parents. They were also more likely to be unemployed and recipients of public assistance.

Besides considering the characteristics that distinguish pretrial arrestees from other defendants, it is important to assess the extent to which these characteristics can successfully predict pretrial criminality. Such prediction analyses are now in progress as part of the Lazar evaluation study. They employ a variety of techniques, including those previously

TABLE 3

REACTIONS OF THE COURT TO PRETRIAL ARRESTS

Action	First Pretrial Arrest	Second Pretrial Arrest	Third Pretrial Arrest
Detained	6%	3%	11%
Bond increased	13%	29%	41%
Bond set	28%	19%	22%
Other change	10%	10%	10%
No action	38%	39%	16%
TOTAL	100%	100%	100%
Number of cases	397	107	29

TABLE 4

ORIGINAL CHARGES FOR DEFENDANTS REARRESTED
VERSUS NOT REARRESTED DURING PRETRIAL PERIOD

ORIGINAL CHARGE	Defendants Rearrested		Defendants Not Rearrested	
	Number	Percent	Number	Percent
Part I	198	42%	664	27%
Part II	272	58%	1,819	73%
TOTAL	470	100%	2,484	100%
	x^2=44.5	p=0.00		
Crimes Against Persons	85	18%	426	17%
Economic Crimes	189	40%	569	23%
Drug Crimes	36	8%	310	13%
Crimes Against Public Morality	48	10%	223	9%
Crimes Against Public Order	90	19%	826	33%
Other	22	5%	129	5%
TOTAL	470	100%	2,484	100%
	x^2=79.9	p=0.00		

TABLE 5

CRIMINAL JUSTICE SYSTEM
STATUS AT TIME OF ORIGINAL ARREST

Criminal Justice System Status	Defendants Rearrested		Defendants Not Rearrested	
	Number	Percent	Number	Percent
On Pretrial Release	42	10%	120	5%
On Probation	58	14%	201	9%
On Parole	38	9%	50	2%
Other CJS Involvement (Including Combinations of Above)	15	3%	32	2%
No CJS Involvement	275	64%	1797	82%
TOTAL	428	100%	2200	100%

x^2= 87 p=.00

used in a detailed analysis conducted by INSLAW of the Washington, D.C., area, which we describe next.

Crime Prior to Trial in Washington, D.C. (INSLAW Study)

Washington, D.C., has occupied a special place in the development of bail policy in the United States, serving largely as a proving ground for bail reform. Congress enacted legislation in 1966, for example, directing judges in the District of Columbia to release all defendants on personal recognizance (ROR), except those viewed as high failure-to-appear risks. In support of this policy, Congress established the D.C. Bail Agency to collect and verify information that would assist judges in assessing those risks and to supervise defendants released prior to trial.

Then in 1970, Congress enacted legislation authorizing the U.S. Attorney for the District of Columbia (the local prosecutor with responsibility for "street" crimes) to recommend the jailing of defendents found to be likely prospects for recidivism prior to trial if released. Largely because this statute required that the U.S. Attorney divulge much of his evidence in the case, this "preventive detention" provision has rarely been used since its passage.

These laws appear to have had some substantial--though not in each instance intended--effects on the system. The rate of ROR for felony defendants had increased to 45 percent by 1974, a level that has greatly reduced the need for the bail bondsmen and that ensures greater equity for indigent defendants. For the approximately 20 percent of the defendants who were jailed, however, the use of high money bond appears to have supplanted the use of the preventive detention statute as a means of protecting the community without requiring that the prosecutor reveal the strength of the government's case.

One finding that is particularly relevant to this history of reform and confusion about the primary purpose of the bail is this: Among the felony defendants who were released prior to trial in 1974, the number rearrested prior to trial (14 percent)[10] was more than three times as large as the number who willfully failed to appear (4 percent). And 17 percent of all persons arrested had another case pending in the District of Columbia at the time of their arrest. Hence, at least in terms of sheer numbers, the crime on bail problem is not insignificant.

It is also evident that the judiciary has attempted to do something about this crime on bail problem by recognizing those defendants prone to recidivism and setting more stringent release conditions for them. The rearrest rate was substantially higher for defendants released following their posting of money bond (20 percent) than for those who received personal recognizance or third party custody (11.6 percent).[11]

It appears, however, that the rate of rearrest prior to trial could be reduced further without increasing either the jail populations or the rate of failure to appear. This can be seen, first, by noting that defendants in the more crime prone ages of 18-21 were substantially more likely to be released on personal recognizance or third party custody (67.1 percent) than those aged 22-30 (56.9 percent).[12]

The potential for improved bail decision making is more strongly indicated by a statistical analysis of three sets of factors: factors that influence the decision to set financial conditions for the defendant, factors that influence the risk of rearrest prior to trial for those who were released, and factors that influence the risk of failure to appear for those released. These results are shown in Table 6. While none of these three outcomes (release, rearrest, and FTA) can be predicted with a particularly high level of accuracy, it is quite clear that the prediction of the risks of rearrest and failure to appear is far better than random and better also than under current practice.

Note, for example, that if the defendant is a local resident, he is much more likely to be released without financial conditions, even though this factor is related to neither the risk of rearrest nor of failure to appear. That local residence is statistically related to the release decision is not surprising, since "community ties" generally has been viewed as an important predictor of the likelihood that the defendant will show up at trial; indeed, employment status, another aspect of community ties, is also taken into account in the bail decision process (in a manner, however, that is consistent with the goals of the bail decision). It is both enlightening and useful to see that a factor that has been viewed as important turns up, under scrutiny, to be statistically unimportant.

Local residence is not the only factor that creates some distance between what has been achieved and what has been achievable in the bail decision process in Washington, D.C. Another factor is drug use. If the defendant was known to be a user of illegal drugs, he was found to be more likely both to abscond and to be rearrested, but was not more likely to receive financial bond conditions. Furthermore, defendants who were charged with robbery, burglary, larceny, or other property crimes were more likely to be rearrested prior to trial but not more likely to be detained.

Hence, it is apparent that the rate of rearrest prior to trial could be significantly reduced, without increasing either jail populations or failure to appear rates in the District of Columbia, by replacing factors that do not matter (such as local residence) with those that do (such as drug use).

Further Remedies

While our ability to predict is likely always to be less than perfect, opportunities for improving the bail decision process through the use of readily available data and statistical tools for analyzing the data appear to be there for the taking. The problem of "crime on bail" is of sufficient concern[13] to warrant the exploitation of these and other such opportunities.

Another such opportunity involves the increased use of supervised release for defendants who present a high risk of misbehavior, but not quite high enough to warrant jailing. Such an approach could result in the supervision of many more defendants than would actually be rearrested in the absence of supervision. Thus, this might be a rather expensive response to

TABLE 6

COMPARISON OF VARIABLES EXPLAINING FINANCIAL CONDITIONS, FAILURE TO APPEAR, AND PRETRIAL REARREST

Explanatory Attribute	Behavior Being Explained: Use of Financial Bond	Failure to Appear	Pretrial Rearrest
Current Charge:			
Homicide	+	0	0
Assault	–	–	0
Drug violation	–	0	0
Sail violation	+	0	0
Sexual assault	0	–	0
Weapon violation	0	–	0
Robbery	0	0	+
Burglary	0	0	+
Larceny	0	0	+
Arson/Property destruction	0	0	+
Crime Severity:			
No weapon used	–	0	+
Defendant History:			
Nonappearance in pending case	+	0	0
Parole/Probation when arrested	+	0	0
No. pending cases	+	0	+
No. prior arrests/all crimes	+	0	0
No. prior arrests/crimes against persons	0	0	+
Arrested last 5 years?	+	0	0
No. arrests in preceding 12 months?	0	0	+
Defendant Descriptors:			
Local residence	–	0	0
Employed	–	–	–
Low income	–	0	0
Drug user	0	+	+
Caucasian	+	0	–
Older	0	0	–

Source: Jeffrey A. Roth and Paul B. Wice, *Pretrial Release and Misconduct in the District of Columbia*, PROMIS Research Publication no. 16 (INSLAW, forthcoming).

Note: The +, –, or 0 in each column indicates whether the attribute was found positively related, negatively related, or statistically unrelated to the probability of the event described by the column heading.

the pretrial crime problem. However, if pretrial crime were significantly reduced, the money might be considered well spent. Not only would the public be less victimized by crime; defendants would also be subject to less onerous conditions than posed by explicit preventive detention or high money bond.

A third approach would provide bail revocation and harsher sanctions for arrestees who are already involved with the criminal justice system. Thus, a defendant arrested during the pretrial period might be held in contempt of court for violating the prior release conditions, if probable cause were found that the defendant had committed the second offense. This general approach has been proposed by Senator Kennedy.[14]

Another possible remedy that has been proposed for the pretrial crime problem would provide for consecutive, rather than concurrent, sentences for defendants found guilty of a pretrial crime as well as the original release charge. This approach requires primarily a change in judicial sentencing practices (although a change in plea bargaining practices might also be involved).

A final suggestion for reducing pretrial criminality is to shorten the pretrial period, either by providing speedier trials for all defendants or by accelerating the trials of defendants who pose high risks of committing pretrial crimes. Prediction difficulties aside, this approach seems unlikely to reduce pretrial crime significantly. While the likelihood of rearrest seems to increase as time passes, data from the Lazar evaluation indicate that most rearrests occur fairly early in the release period. For example, in the eight-site sample, 16 percent of the rearrests occurred within one week of the original arrest, 45 percent within four weeks, and 67 percent within eight weeks. Thus, feasible "speedy trial" provisions would seem unlikely to reduce pretrial crime levels significantly.

In summary, there does not at this time appear to be a single "remedy" for the problem of pretrial criminality. The difficulties of accurately predicting pretrial crime and the fact that arrestees have been charged with crimes, but not found guilty of them, pose a variety of concerns for those seeking better ways to balance protection of the community and preservation of defendants' rights. This reality will affect the ability of Career Criminal Programs (and others as well) to respond effectively to the pretrial crime problem, at least in the near future. To the extent that opportunities do exist to enhance the bail process along the several fronts indicated, however, we would hope that these opportunities are not missed.

Footnotes

1. As quoted in The Pretrial Reporter, March 1979, p. 3.

2. Address of Senator Edward M. Kennedy to the National Governors Conference on Crime Control, June 1, 1979.

3. As quoted in The Pretrial Reporter, July 1979, p. 8.

4. Yankelovich, Skelly and White, Inc., The Public Image of Courts: A National Survey of the General Public, Judges, Lawyers and Community Leaders, Volume I, May 1978, pp. 184-87. This survey also ranked public confidence in state and local courts below that in many other major American institutions, including the medical profession, police, business and public schools.

5. Although the Court in this case was dealing explicitly with the conditions of confinement and not with the initial decision to confine prior to trial, the implications are clear. In order to find that no rights of the detainees had been violated, the Court rejected the standard adopted by the lower courts, which had ruled that only those conditions that are dictated by "compelling necessity" could be imposed on pretrial detainees. Instead, the Court held that only conditions amounting to punishment are proscribed; thus, the confinement itself is not punishment and the initial decision to confine or not should not be driven by considerations of the presumption of innocence.

6. William M. Landes, "Legality and Reality: Some Evidence on Criminal Procedure," Journal of Legal Studies, Volume III (2), June 1974, pp. 287-337.

7. The bond system has also been widely criticized as being inherently unfair to poor defendants, who may have difficulty raising bail amounts and thus remain in jail, while more affluent defendants facing similar charges secure release quickly.

8. Jeffrey A. Roth and Paul B. Wice, Pretrial Release and Misconduct in the District of Columbia (INSLAW 1979). This study was based largely on an analysis of data from the Prosecutor's Management Information System (PROMIS) and specially collected data on actual bail decisions and outcomes.

9. All of the analyses by charge in this paper consider only the most serious charge for arrests involving more than one charge.

10. Recall that the Lazar study found pretrial rearrest rates ranging from 7.5 percent to 22.2 percent for the eight sites studied, with an aggregate rate of 16 percent for all sites.

11. Risk of failure to appear (FTA) is also recognized. The FTA rate was lower for ROR defendants (3.9 percent) than for defendants released after posting money bonds (5.0 percent).

12. While older offenders tend to have longer criminal records, solely because of their age, study after study has found them to be less criminally active. See, for example, Marvin Wolfgang, "Crime in a Birth Cohort," Crime and Justice Annual (Chicago: Aldine, 1973), p. 115; Peter Greenwood, et al., The Rand Habitual Offender Project: A Summary of Research Findings to Date (Santa Monica, California: Rand, March 1978), p. 11; Kristen M. Williams, The Scope and Prediction of Recidivism (INSLAW 1979).

13. Preliminary results of a recent INSLAW survey designed by John Bartolomeo indicate that 22 percent of the prosecutors sampled regard the reduction of crime on bail to be "absolutely essential," with another 57 percent regarding it as "very important."

14. See Senator Edward M. Kennedy, "Bail Reform: A Pressing Need," New York Times, July 15, 1979, p. A23.

RESEARCH PAPERS

CAREER CRIMINAL

1. Research Base Establishing the Need for a Career Criminal Program
   Paper to be prepared by Jim McMillin, INSLAW

2. A Review of the Choice of Objectives for the Priority Prosecution Career Criminal Program (based on crime type or defendant characteristics or some combination thereof)
   Paper to be prepared by Pete Greenwood, RAND

3. To the Extent that Incapacitation is the Objective, How Can We Establish Criteria for Selecting Cases?
   Paper to be prepared by Christian Williams, INSLAW

4. Problems with the Existing Prediction Studies and Future Research Needs
   Paper to be prepared by Professor Leslie Wilkins

5. Link Between the Age of the Offender and Crime: Problems for the Juvenile Justice System
   Paper to be prepared by Barbara Bowland, INSLAW, Joan Petersillia, RAND

6. Problem of Obtaining Fast, Accurate and Complete Criminal Records in Support of the Career Criminal Program
   Paper to be prepared by Frank Leahy, INSLAW

7. Evaluation Studies of the Career Criminal Program
   Paper to be prepared by Eleanor Chelemsky, Mitre Corporation

8. Synopsis of GAO Evaluation
   Paper to be prepared by Alan Rogers, GAO

9. Use of Prosecutive Weighted Caseload Data in Evaluating the Career Criminal Program
   Paper to be prepared by Bill Rhodes, INSLAW

10. Results of a National Survey of Career Criminal Programs
    Paper to be prepared by John Bartolomeo, INSLAW

11. Crime on Bail: A Special Subset of the Career Criminal Problem
    Paper to be prepared by Brian Forst, INSLAW and Mary Toborg, LAZAR

12. Implications of Career Criminal Program for Other Parts of the Criminal Justice System
    Paper to be prepared by Peter Greenwood, RAND

TARGETING CAREER CRIMINALS: A DEVELOPING CRIMINAL JUSTICE STRATEGY

Joan Petersilia, Marvin Lavin

August 1978

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TARGETING CAREER CRIMINALS: A DEVELOPING CRIMINAL JUSTICE STRATEGY

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Marvin Lavin

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Criminal Justice Program
The Rand Corporation
Santa Monica, California 90406

Joan Petersilia, a criminologist with the Rand Corporation for five years, has worked principally on studies involving the police and career criminals. She co-authored the books The Criminal Investigation Process and Criminal Careers of Habitual Felons, and is currently the director of an LEAA project entitled, "A systemwide Approach to the Career Criminal."

Marvin Lavin is a Rand staff consultant and a member of the California Bar. Mr. Lavin is the author of a number of publications including Indicators of Justice: Measuring the Performance of Prosecution, Defense and Court Agencies; Disposition of Felony Arrests: The Effect of Prior Record; and Criminal Careers of Habitual Felons.

PREFACE

This paper presents mainly a state-of-the-art survey of present and contemplated programs that target the career criminal for special criminal justice efforts. It devotes attention to issues of linking these programs into an integrated structure. The information reported here was collected through telephone interviews, mail surveys, site visits, program reports, and retrieval of data filed in individual jurisdictions. This work is a component of a broad Rand research program funded by the NILECJ, Law Enforcement Assistance Administration and concerned with the career criminal.

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Within the offender population are criminals who persist in serious crime despite efforts by the criminal justice system to deter, apprehend, incapacitate, and rehabilitate them. A change of strategy in dealing with these offenders, prompted by the Law Enforcement Assistance Administration, has appeared. It is embodied in a variety of career criminal programs already undertaken or being planned by criminal justice agencies. The term career criminal itself has come to denote an offender whose currently charged offense and criminal history are deemed sufficiently serious to justify his being targeted for special "nullification" efforts by the criminal justice system.[1]

The need for career criminal programs has been underscored by a growing body of empirical evidence which indicates that:

- Recidivists, a minority of the offender population, are responsible for a disproportionate amount of the serious crime committed.[2]
- Recidivists sometimes avoid their just deserts after arrest as a result of, for example, delaying court proceedings (so that prosecution witnesses are lost, etc.); exploiting heavy court system caseloads to obtain lenient plea bargains; engaging in "judge shopping" to evade stringent sentencing, etc. Thus, the conviction and imprisonment of defendants with serious criminal records is far from certain.[3]

Frequently the recidivist's return to the streets and to a resumption of crime occurs so soon as to present a dismaying image of "revolving door" justice.

Some of these unsatisfactory outcomes result from inadequate resources or defective operations in the system; others, from a lack of clear policy direction. For example, some cases are dismissed or settled by a plea to a reduced charge because heavy workloads discourage the police from performing thorough follow-up investigations. Adequate trial preparation for all cases is usually precluded by excessive prosecutorial caseloads, so lenient plea settlements serve to relieve the caseload pressure and thereby to benefit some recidivist defendants. In some cases, serious convictions may be unattainable because of the loss of key witnesses (perhaps through poor handling) or by the absence or incompleteness of criminal records when needed in the proceedings. The sentence imposed is sometimes light because a judge perceives, despite the defendant's unfavorable criminal record, prospects of rehabilitation or because he is affected by indefensible prison conditions in the jurisdiction. And, of course, competent defense counsel

will seek to minimize the likelihood of conviction and stringent punishment at every opportunity the system provides.

CAREER CRIMINAL PROGRAMS: THEIR GENESIS

A national strategy toward remedying the criminal justice system's handling of recidivists took root in 1974 when LEAA began funding the Career Criminal Prosecution Program (CCP), which enabled prosecutors to devote special attention to defendants who had been charged with targeted crimes and/or who had serious criminal records. The initially supported jurisdictions, about 20 in number, formed special prosecution units designed to obtain for selected defendants a higher rate of conviction at a more serious charge level than would otherwise be realized by routine prosecution. By 1978 these specialized units had prosecuted over 7500 defendants. Data analyzed by the National Legal Data Center[4] reveal that 83 percent of these prosecutions produced a conviction; and that 91 percent of those convicted received a prison sentence, the minimum term of which averaged 12 years. Recently, more than 30 additional special prosecutorial units have been formed as a result of LEAA block grants and of local funding. Also, state planning agencies have begun to make funds available for these purposes -- in California, for example.[5]

The growth of career criminal prosecution programs reflects a belief that crime rates can be reduced by the more certain and the longer imprisonment of career criminals and by the resultant deterrence of other offenders. Also reflected is a view that these special prosecution units will impel an increased respect for, and improved morale within, the criminal justice system.

General acceptance of LEAA's Career Criminal Prosecution Program has called into question whether or not other sectors of the criminal justice system are focusing enough attention on the career criminal, i.e., are their efforts appropriately complementing those of the prosecutors? Consider, for example, the dependence of the special prosecution units on police support.[6] A unit's work is greatly facilitated by prompt notification by the police that an arrestee appears to meet career criminal prosecution criteria. Furthermore, the strength of the case against a career criminal hinges on the quality of police investigation, both initial and follow-up. Also, prosecutors generally rely on police channels to obtain local criminal history information, usually vital in career criminal cases. And beyond this support of the prosecutor, are the police devoting sufficient resources specifically to the apprehension of career criminals?

Similarly, are parole officers giving special attention to monitoring the activities of paroled career criminals and is their information being shared with other agencies? Does the corrections system give special handling to the imprisoned career criminal? And so on.

The Law Enforcement Assistance Administration is currently examining the notion of a comprehensive integrated career criminal program (CCCP) that would span the entire criminal justice system. It has sponsored a program of research by Rand on the desirability of this systemwide approach and its implications. Rand sought to:

- Describe present efforts in the police and the corrections/parole areas in dealing selectively with career criminals
- Ascertain the interactions occurring between career criminal prosecution units and other sectors of the criminal justice system
- Discern the potential linkages among existing or visualized career criminal programs in the police, prosecutor, and corrections/parole areas
- Clarify the justification for integrating all career criminal programs within a jurisdiction.

Rand's findings provide the substance for what follows.

CAREER CRIMINAL PROGRAMS: AN OVERVIEW OF THE STATE OF THE ART

It is useful to begin with an overview of the state of the art in career criminal programs systemwide. The authors' perception of the situation comes from a number of nationwide mail and telephone surveys, complemented by site visits and technical literature. The surveys covered nearly all jurisdictions with career criminal prosecution units; the police agencies in LEAA's Integrated Criminal Apprehension Program (ICAP) and Managing Criminal Investigations Program; directors of parole in most states; and correctional administrators in most states.

Concisely expressed, the state of career criminal programs is one of considerable imbalance among the sectors of the criminal justice system. In the prosecutorial area, long strides have been taken and are continuing. An ambitious beginning has been made in the police field, primarily within broader programs aimed at upgrading police operations. But only a few pioneering police departments have as yet made concrete achievements in dealing selectively with career criminals. In the corrections area and to a lesser extent in parole, there appear

to be pronounced crosscurrents of viewpoint as to whether or not a "hard-line" posture should be adopted toward any subset of the offender population and, in particular, toward career criminals, when the traditional approach has been to handle inmates as individuals. Corrections and parole agencies are somewhat reluctant to tailor their resources to offenders on the basis primarily of the seriousness of the latters' prior records. By contrast, police and prosecutorial agencies have tended always to distinguish offenders in these terms, so the transition to formal career criminal programs is more natural for them.

CAREER CRIMINAL PROGRAMS: THE PROSECUTION FUNCTION

The Career Criminal Program (CCP) by which LEAA funded roughly 20 career criminal prosecution units may be regarded as the cornerstone not only of a much larger prosecution program (which had grown to more than 50 units by 1978), but also of wider efforts against career criminals spanning other sectors of the criminal justice system. Although their evaluation is only now in progress,[7] the CCP units are widely regarded as accomplishing their central objective, namely: to assure a high probability of conviction of selected offenders, speedily and at a level of seriousness that justifies a substantial term of imprisonment. The evaluation should show, however, whether there have been real improvements in prosecutorial performance, or whether the impressive output statistics are simply an artifact of the special selection of defendants.

Career criminal prosecutions may vary in detail among different jurisdictions but the major elements of the program are almost always as follows:[8]

- The CCP unit is a separate component of the prosecutor's office manned by full-time, relatively experienced attorneys who provide vertical case representation, that is, the responsibility for prosecuting a case remains with a single designated attorney throughout the criminal proceedings. The vertical representation begins once a defendant has been selected for career criminal prosecution.
- Objective criteria -- which reflect the seriousness of the present charges, the criminal record of the arrestee, and the evidentiary strength of the present case -- are established beforehand to govern the designation of an arrestee as a career criminal for the purposes of selective prosecution.
- Formal and systematic case screening is conducted promptly after arrest. Application of the selection criteria and assessment of the evidence

sufficiency are the main factors in triggering a career criminal prosecution, but prosecutorial discretion remains in the screening process.
- Charging policy is stringent. Prior convictions, multiple offenses, and enhancement factors are fully reflected in the accusatory pleadings so that the gravity of the defendant's prior and present criminal conduct is accurately depicted.
- Discovery policy in most cases permits full disclosure to the defense, which tends to shorten proceedings and to simplify plea negotiations.
- Plea-negotiation policy is stringent. Defendants are required either to plead to counts that adequately reflect their actual criminal conduct and that justify appropriate incarceration; or to stand trial.
- A readiness-for-trial posture is maintained, and priority case scheduling is arranged.

Each career criminal program, whether developed by police or prosecutor, contains a unique set of criteria to identify targeted offenders. Career criminal prosecutorial criteria vary, for example, in the degree to which they are offense-specific. Some focus on one broad offense type, e.g., robbery and robbery-related homicide in San Diego; or burglary and burglary-related offenses in Santa Barbara. Others are concerned with all felony types, e.g., in New Orleans or Memphis. The remainder concentrate on a selection of offense types important to their communities, e.g., robbery, attempted murder or serious assault, dwelling burglary, arson, kidnapping, rape or sodomy, and child abuse in Bronx County, New York.

Career criminal prosecutorial criteria also differ in the weights (if any) assigned to various aspects of the defendant's criminal history, his presently charged offenses, and the strength of the case against him. In a majority of jurisdictions, a felony arrestee will qualify if his presently charged offense is of a specified type and his criminal record reflects prior convictions of a specified number and type. These criteria are strictly applied in some jurisdictions; in others, they are merely guides to the prosecutor's discretion in selecting cases for special efforts. The choice of career criminal criteria is an important step in the planning process for a career criminal program. Disparities in this choice among different jurisdictions are appropriate because of differences in local needs and concerns. Furthermore, changes in the criteria over time in a particular jurisdiction may be an appropriate response to accumulated experience.

The planning process should take account of how the choice of career criminal criteria affects the demand on police, prosecutorial, and correctional resources. An overly encompassing definition may create an excessive resource demand and thus defeat the objective of special handling of career criminals; an overly stringent definition may severely limit the benefits of the program. Thus the planners should analyze the prior-record characteristics of the local offender population and assess the selectiveness of alternative career criminal criteria. By hypothetically applying alternative definitions of a career criminal, a jurisdiction can estimate what percentage of the arrestees would be designated as career criminals. It is apparent that the demand on resources would depend strongly on the choice of definition.

Prosecutor-Police Interaction

The CCP unit does not operate independently; in fact, interactions between this unit and the police are substantial. The prosecutor relies on police agencies for the apprehension of a career criminal; for prompt notice that an arrestee may meet career criminal selection criteria; for a preliminary investigation that will adequately support his being charged; for a follow-up investigation that will adequately support his being convicted, and so on.

Our surveys of police and prosecution agencies disclosed very marked differences from jurisdiction to jurisdiction in the pattern of interactions in career criminal cases. In some, the formal differences in police-prosecutor interactions between career criminal and other types of felony cases are scant. The police give the prosecutor's needs in career criminal cases more diligent attention, but without significant changes in organization or procedures. In other jurisdictions, career criminal cases are distinguished by a "prosecutors go to the police" interaction. There are a number of versions of this arrangement, but they typically involve on-call prosecutors responding to police notice of a felony arrest that may qualify for selective prosecution. The prosecutors become immediately involved in the case -- guiding and screening the collection of evidence, conducting or supervising interviews, etc. In still other jurisdictions, a "police come to the prosecutors" interaction marks career criminal cases. This typically takes the form of police being assigned to the prosecutor's staff, primarily to conduct follow-up investigations in career criminal cases and to otherwise assist in preparation for trial. Alternatively, there may be a unit of police investigators which is dedicated to the prosecutor's needs but does not join his staff. Finally, in some jurisdictions the prosecutor relies on his own non-police investigators

once the initial police investigation has been made and the arrestee has been selected for career criminal prosecution.

The appropriate choice of linkages between police and prosecutor depends on many local factors. One, for example, is the number of police agencies that the career criminal prosecution unit serves: this number ranges from a single agency in some jurisdictions to more than fifty in others. The sizes of the police agencies involved are an important consideration; so, too, is their historical relationship to the prosecutor. Thus, as our surveys confirm, there is no single way of organizing police-prosecutor interactions in career criminal cases that can be said to be preferred over the alternatives. But, whichever way is chosen, it appears important to include information feedback channels so that prosecutorial failures to convict can serve for the improvement of future police-prosecutor interactions.

Finally, our surveys suggest that where the prosecutor becomes dissatisfied with police support, he tends to rely increasingly upon his staff investigators. This situation seems less likely to develop where police investigators have been assigned to the prosecutor's staff.

Interactions Between The Prosecutor And The Corrections/Parole System

The linkages between career criminal prosecution units and the corrections/parole system are currently very limited. For example, in some jurisdictions the prosecutor sends a letter to the department of corrections to notify them that a specified offender was prosecuted and convicted as a career criminal. This notice often requests that the prosecutor be informed when this inmate is considered for release on parole so that the prosecutor may argue against early release. Beyond such contacts at the onset of a career criminal's prison terms and at his release, interactions between the prosecutor and the corrections and parole agencies are uncommon. One prominent exception is that of a Memphis, Tennessee parole unit established to supervise parolees with extensive criminal records and linked directly to a CCP unit, which prosecutes a parolee if he commits a crime and which also handles parole revocation matters arising from his conduct.

CAREER CRIMINAL PROGRAMS: POLICE ROLES

How may police respond to the belief that career criminals commit a disproportionate amount of crime; and to the special prosecutorial efforts being mounted

against these offenders? Our surveys of prosecutors and police officials identified three avenues along which the police might proceed, namely, strengthening their assistance to the prosecutor on his active career criminal cases; applying specific apprehension efforts against suspected career criminals; and upgrading investigation and crime analysis activities that are intended to identify additional career criminal cases.

Assistance To The Prosecutor

A career criminal prosecution is initiated with a determination that an arrestee meets the criteria for special prosecution. Generally, the sooner this determination is made, the better -- so that, for example, the prosecutor can be promptly involved in the evidence processing and witness preparation. Early identification of a career criminal case entails the timely notification by the police that a prospective career criminal has been arrested and the immediate availability of at least his local criminal history (followed without undue delay by a complete prior record). Although about one-third of the prosecutors surveyed indicated that their police agencies had taken steps to speed up notification, most felt the need for further improvement. Prosecutorial dissatisfaction with the delays and incompleteness in being furnished criminal histories was widespread.

Once a career criminal prosecution has been undertaken by the special unit, the case involves more thorough and rapid preparation for trial than other felony matters. Police support is important in both the initial and follow-up investigations. Many departments (especially under LEAA's Integrated Criminal Apprehension Program) are upgrading the initial investigation performed by the responding patrol unit. A number of departments have assigned personnel to serve directly under the prosecutor in order to facilitate the follow-up investigation needed to strengthen the case against a career criminal. Where such assignments are not made, a liaison officer may be designated, through whom the prosecutor may communicate his suggestions and criticisms about police support in career criminal cases. When such support remains inadequate, there is a tendency for the prosecutor to intensify the use of his own investigators.

Special Apprehension Efforts

A growing number of police departments employ special offender lists as a means of targeting their apprehension efforts against career criminals. A special

offender file may be physically a segment of a known offender file wherein career criminals are designated on the basis of the seriousness of their arrest record. The information on an individual in the file -- typically his personal characteristics, previous M.O.'s, and fingerprints -- is a basis for matching against the M.O., witness descriptions, and latent prints obtained in an unsolved crime and thereby for identifying possible suspects. Depending upon the size of the community, the length of time the file has been in use, the entry criteria and other factors, a file of this nature might number several thousand offenders.

A few departments have developed more elaborate career criminal files that also contain information generated by field stops and other updating intelligence sources. Such files are customarily limited to a few hundred or fewer offenders who appear to be currently active in crime and who have serious criminal records.

Some departments use career criminal files as a basis for focusing patrol and investigation efforts. Patrol units are given "mug books" containing some or all of the offenders in the file to aid them in questioning witnesses to crimes and in identifying a suspect for field-stop purposes. Occasionally surveillance may be mounted against someone in the file who is particularly suspect.

The most proactive use of a career criminal file occurs when patrol units make "scheduled" field stops of selected individuals within the file in order to monitor them and to develop information for use in future investigations.

Police departments differ considerably in their willingness to use proactive methods against suspected career criminals. Some see them as invasions of privacy; others view them as natural extensions of routine police work.

Improved Investigations And Crime Analyses

Strengthening the investigative and crime analysis capabilities of the police, even though not specifically concentrated on career criminals, can have the effect of raising arrest rates in general and thereby increasing the likelihood that a career criminal will be identified as responsible for a crime or a series of crimes. The police departments within the ICAP program, more than 30 in number, are undertaking a wide span of self-improvements, for example: in their arrest and offense reports so that vital information is recorded in a usable format; in training patrol officers to perform better preliminary investigations; in conducting crime analyses that facilitate the prediction of future crime locations, the identification of crime series, the generation of suspect lists, etc. The extent

of these improvement efforts is related to the size of the department, the resources available, and experience with computerized information systems.

The Impact Of Special Police Programs On Career Criminals

Police officials generally agree as to the types of activity that give promise of improving their performance against career criminals, but there is little hard evidence of what the resulting benefits might be. In short, while the choice of police techniques and approaches described above is based on at least limited experience in their use, careful evaluation of the choices has not been performed.

Most current activity in this area is occurring in the police agencies with ICAP grants. Most individual programs have specific components that bear on the career criminal problem. But progress is uneven because the participating agencies are highly diverse and many are at an early stage in implementing the planned measures. A thorough evaluation of the impact on career criminals from an across-the-board improvement in arrest rates is needed.

CAREER CRIMINAL PROGRAMS: THE CORRECTIONS CONTEXT

In this study Rand sought to ascertain current corrections policies and practices in handling career criminals and to assess future needs for selective programs. To this end we conducted telephone interviews with correctional administrators in 30 states and analyzed a large body of data collected by the Bureau of the Census (under the aegis of LEAA) concerning state prison inmates nationwide.[9] As yet, the correctional response to specially prosecuted career criminals has been minimal, however. Few policies and little advanced thinking are directed to career criminal issues. This situation reflects the relatively insignificant intake of these offenders into prison populations, viz., only a few percent of the total intake since career criminal prosecutions began. Thus, to gain a perception of potential career criminal developments in the corrections context, it was necessary for us to tap information about similar offenders who had not been formally designated as career criminals, that is, about inmates regarded as "hard-core", "repeat", "long-term", or "habitual" offenders.

Correctional Decisionmaking About Career Criminals

One of the two major areas addressed by the telephone survey of prison administrators was correctional decisionmaking in handling the inmate, especially

the determinations of his custody rating and institutional placement, both at intake and as his term proceeds. We were particularly concerned with the role that criminal history plays in this decisionmaking, and how its influence interacts with age and institutional behavior.

According to the survey responses, criminal history carries more weight in the initial determination of custody rating and institutional placement than do the personal evaluation and testing performed at intake. A career criminal, whether or not formally labeled, is more likely to be given a higher custody rating and to be placed in a more secure institution than others at the time of prison entry. But as time passes, an inmate's prison conditions become considerably more governed by his behavior than by his criminal record. If career criminals could be distinguished by their institutional behavior, then prison administrators would more readily feel they deserved selective handling. But experience and studies provide no clear basis for concluding that career criminals are a distinguishable group in terms of institutional behavior. In particular, the effect of carrying a long sentence and of having had prior incarcerations is not predictable, although there are some indications that these two factors may imply better behavior (but there is contrary evidence, too).

The overwhelming consensus among the correctional administrators interviewed was that no special response in correctional decisionmaking is needed to deal with increasing numbers of specially prosecuted career criminals. Strong resistance was voiced to the notion of making correctional decisions on the basis of a prosecutorial career criminal label. These administrators favored individual inmate assessments as the foundation for decisions on all new inmates, including career criminals. And they believed that institutional behavior should take precedence over criminal record in later decisions.

Treatment Approaches For Career Criminals

The second major area covered by the correctional survey was treatment approacnes for career criminal inmates. There are currently few, if any, selective correctional programs dealing with the career criminal. Indeed, whether or not such selective correctional programs are appropriate is a central issue. To gain insights about the possible justification for career criminal treatment programs in the future, we look to current correctional practices toward the inmates regarded as hard-core offenders (i.e., those who have had several prior felony convictions and one or more prior prison terms).

The administrators' responses, which are consistent with the results of our analysis of the Census survey data summarized below, indicate that hard-core inmates participate in treatment programs similarly to other inmates. The inmate's wish to participate is of dominant importance; age, prior record, current commitment offense, length of sentence, etc., are not controlling. Where differential treatment occurs, it is for the most part related to time remaining to be served. Programs relevant to street survival are available toward the end of inmate sentences; hard-core inmates, when allowed admittance, gain entry closer to their release dates and for shorter periods of time than other inmates.

Correctional administrators recognize that specially prosecuted career criminals might warrant some selective handling while in prison -- for example, intake procedures could possibly be shorter; the responsible prosecutor should be notified of parole hearings; wider notification of law enforcement agencies should be made at release, etc. -- but they are uniformly opposed to developing special treatment programs for this class of convicted offenders, or to denying them access to programs because of their criminal history. This attitude rests in part on the belief that inmates should not be treated differently because they originate from a local jurisdiction that has a special prosecution unit and other similar inmates originate from communities without such a prosecution program. Nevertheless, the correctional administrators interviewed conceded that specially prosecuted career criminals are a novel concept to them. When they learn more about the characteristics of these offenders, their treatment needs, how they affect the prison population and the prison management, etc., their opposition to special treatment programs may soften.

The Census Survey Of State Prison Inmates

In 1974 the U.S. Bureau of the Census interviewed a scientific sample of about 10,000 inmates drawn from the estimated 190,000 inmates in state correctional facilities throughout the nation. The data gathered in this survey enable us to address the question of whether those inmates who resembled career criminals participated in treatment programs differently from other inmates. For this purpose we devised a representative definition of a career criminal as follows: his most serious commitment offense was aggravated assault, robbery, a sex crime, kidnapping, or homicide; and he had served more than one significant prior incarceration. About one-third of the sample of 10,000 inmates had these characteristics. The remainder of the sample were classified as moderate criminals (either a very

serious commitment offense or a very serious prior record, but not both) or minor criminals (all others). The later two classes also constituted about one-third each of the sample.

We inferred an inmate's needs for treatment in alcohol, drugs, employment, and education programs from his responses to certain questions asked in the Census interviews. In particular, an inmate who had been drinking heavily at the time of his commitment offense was deemed to need alcohol treatment; those who had ever used heroin on a daily basis, to need drug treatment; those who were unemployed at the time of their commitment offense, to need employment training; and those with less than a high school education, to need further education.

Our analysis showed that there were few significant differences among the three offender classes described above, in the percentages who needed treatment in the four specified areas. Career criminals more frequently needed alcohol treatment and educational programs than did minor criminals (40 and 38 percent for the former compared with 25 and 29 percent for the latter), but other comparisons revealed differences of five percent or less. Moreover, the percentage of those needing treatment who were actually participating in the relevant programs turned out as follows:

Percent Participating Among Inmates Needing Treatment In

Prior Record	Alcohol	Drugs	Employment	Education
Minor	16	19	23	24
Moderate	21	19	24	22
Career	19	19	28	24

Overall, 22 percent of inmates in need of a particular treatment actually receive such treatment. These and others of our results do not suggest that there is discriminatory participation in treatment programs that is related to career criminal characteristics.

In sum, the findings of both the analyses of the Census survey data and the interviews of the correctional administrators underscore that selective treatment of career criminals in the future corrections context would be a radical shift from current policies and practices. It appears that considerably more research

on career criminals is necessary before correctional changes might be justified.

CAREER CRIMINAL PROGRAMS: PAROLE SUPERVISION

Our nationwide survey of officials responsible for parole supervision disclosed that a number of parole agencies have begun to implement programs aimed at the selective handling of career criminals (without necessarily designating the subjects by that term). For the most part, these parole supervision developments are not related to the prosecution programs. Instead, their impetus comes from a greater awareness by parole officials that serious offenders comprise a growing proportion of the parolee population. This situation is consistent with the evidence that the proportion of inmates incarcerated for violent offenses has been increasing and that the latter inmates tend to be young and to have drug and gang involvements. We were told that parole agents oftentimes become fearful of the persons they supervise; so much so that some admit to skipping field visits out of concern that they may observe a situation that might cause the parolee to harm the agent. Furthermore, there is little evidence that parole agents are able to forestall a resumption of criminal activities by the serious-offender parolees, either by providing services or by maintaining the current levels of supervision. For such reasons some parole officials have concluded that career criminals require unique methods and degrees of parole intervention and control.

The parole system has always had a dual responsibility of providing both services and supervision. There is a growing concern among a number of parole departments about improving their supervision/surveillance operations. This concern stems from agents' frustration about what they perceive to be a negative concern about their safety; and from the lack of evidence that the services function has been effective in forestalling a return to crime. The changes being considered range from equipping parole agents with guns to enhance their protection on the one hand, to using a high-control approach that significantly intensifies the level of investigation and supervision of parolees on the other hand.

Specifically, our survey revealed a number of approaches to the supervision and surveillance of career criminals on parole. All constitute substantial departures from the traditional practice of having the casework for a specific parolee performed by a single parole agent within a particular parole office. They vary in the degree of emphasis given to the discovery of criminal activity by parolees and to the subsequent investigation that justifies their removal from

the community. Some involve cooperative arrangements among criminal justice agencies, even to the point of forming an inter-agency team. And all are characterized by an intensified level of supervision, in some instances provided by agents who specialize in this function.

At the same time that our survey showed a receptiveness among some parole units to treating high-risk parolees selectively by more supervision, surveillance, and investigation, it also revealed a concern among parole officials that an undue emphasis on parole supervision, even though limited to high-risk parolees, might produce a regretable downgrading of the parole services function. This concern tends to generate resistance to the changes described above.

Our study suggests that the parole system appears to be an appropriate context for advancing the concept of a systemwide approach to dealing with career criminals. Its officials seem sensitive to the dangers posed by these offenders and to the need for tailoring its functions to them. Effective parole supervision of career criminals entails close coordination with other agencies in the system, particularly in the exchange of information about specific offenders. By the same token, if various agencies in a jurisdiction were each pursuing offense-specific career criminal programs but with mismatches of offense types, all would be hindered.

CONCLUDING REMARKS

Our surveys indicate that efforts against career criminals are both broadening and intensifying in the criminal justice system, but somewhat unevenly. The belief reflected by these programs is that by targeting on and incapacitating the serious high-rate offender, the system can perceptibly reduce crime. The Law Enforcement Assistance Administration has had a central role in implementing the new strategy. Our study has sought to draw information together that will clarify the need for LEAA to seed further developments and, in particular, to facilitate the linking together of career criminal programs. In this paper we have noted various issues that appear to shape and limit activities aimed at career criminals by the various sectors of the system. For example, within police agencies there is a pivotal question of how proactive they should be against known career criminals on the streets; in prosecutors' offices there is the dilemma of balancing the breadth of the career criminal definition against the resources available for special prosecutions; in corrections systems there is the crucial matter of whether criminal history can be given precedence over institutional behavior in making determinations of how inmates are handled; and so on. We further noted

current inadequacies in the exchange of information about career criminals even among agencies within the same jurisdiction. And we emphasized the difficulties that arise in linking together programs that are differently crime-specific.

In concluding this paper, we shall not reiterate these aspects of the criminal justice state-of-the-art in dealing with career criminals, but instead focus on a pervasive issue which emerges from Rand's studies as the question that governs the potential effectiveness of overall efforts against career criminals. This issue is the capability of the system to make a timely (i.e., early in their careers) and reliable identification of serious high-rate offenders.

How can this type of offender be recognized once he has been apprehended for a criminal act? The seriousness of his official adult criminal record might sometimes suffice, but often it is only a weak indicator: arrests and convictions are likely to occur in but a small proportion of the crimes committed. Furthermore arrest and conviction rates tend to be age-dependent. It is entirely possible that by the time a persistent criminal accumulates a record that is serious enough to make him an obvious candidate for career criminal handling, he is on a sharp downswing in his criminal activity. We have learned that offenders past (say) the age of 30 years do not experience many arrests. Does this fact mean that their criminal activities have actually declined or that they have become more skillful in avoiding arrests?

Rand's findings -- which are consistent with those of others, e.g., Collins[10] and Boland and Wilson,[11] indicate that, among those who pursue a continuing career of crime, the onset of serious criminality occurs at approximately 14 years of age. Criminality then peaks in the early 20's, tends to decline until the early 30's, and finally drops sharply in a "maturing out" process. It has been observed that the age group of 14 to 21 years is characterized by a rate of 20 to 40 serious crimes per year; of 22 to 25 years, about 12 serious crimes per year; and of 26 to 30 years, about 7. Although there are differences among offense types in this dependence between age and commission rate, an early peak followed by a steady decline is typical.

Rand's research also indicates that while offense rates decline with the age of the offender, his arrest, conviction, and incarceration rates tend to increase. The rise in arrest rates with age implies that criminal experience may not be instrumental in the avoidance of arrest; nevertheless, arrest rates are hardly high at any age. The increase with age of conviction and incarceration rates

testifies that the criminal justice system is less inclined to offer alternatives to traditional criminal prosecution when the offender has already demonstrated his inability or unwillingness to modify his criminal behavior.

These results are consistent with our conjecture above that by the time an offender has accumulated several adult arrests and convictions, he may be past his peak period of criminality. Isolating this mature career criminal from the community (even for longer periods than was formerly the case) may produce a disappointingly slight impact on the community crime level. Yet it would be costly, unfair, and unreasonable to indiscriminately toughen criminal justice policies against all young felony arrestees because some lacked tell-tale adult records. What then are the avenues toward a more reliable identification of the serious, high-rate young adult offender?

Clearly, the system ought to know much more about the characteristics that, taken together, distinguish these young adult felony arrestees. Rand's studies have sought to bring these characteristics to light. Our data (presently limited to California offenders while geographically broader studies are pending) suggest that high-rate offenders as a class are markedly inclined to:

- Have committed serious crimes by the age of 14 years or younger
- Be heavily involved with drugs or with drugs and alcohol in combination
- Be motivated by "high times" and "excitement" more than by economic need and temper factors
- Injure a crime victim
- Operate over an area larger than a single neighborhood or city
- Be socially unstable (i.e., work less than half-time, change residence more than twice a year, remain unmarried)

More specifically, Rand's research points to the juvenile record of a serious young adult offender as the most reliable indicator that he is engaged in a high rate of criminal activity at the time of arrest. Unfortunately, the availability of complete juvenile records for adult criminal justice purposes is currently problematical: police, prosecutors, and judges are sometimes obstructed by a lack of juvenile records when needed, especially when information for another jurisdiction is involved. We believe that better use of juvenile records, for hard-core adult offenders only, is the crux of making timely identification of high-rate offenders, who commonly are young adults who have not built up a significant adult criminal record.[12] In this way the criminal

justice system may be able to overcome a serious shortcoming in dealing with the high-rate offender, namely a mismatch of crime and punishment, for the lowest imprisonment rate appears to occur at the time of peak criminality. If career criminal programs succeed only in bringing about the more lengthy imprisonment of the mature offender with an established adult criminal record, they are not likely to produce the effects on crime rates potentially realizable.

FOOTNOTES

1. For simplicity, we avoid the use of the terms major violator, major offender, hard-core offender, etc., which are sometimes used in place of the term career criminal.

2. See "Curbing the Repeat Offender: A Strategy for Prosecutors", Institute for Law and Social Research, Washington, D.C., 1975.

3. Rand analysis of an extensive file of 1973 California police and court data disclosed that 22 percent of the robbery arrestees with a prior prison record were convicted and sentenced to a new prison term; the corresponding result for burglary arrestees with a prior prison record was 7 percent.

4. The National Legal Data Center (Thousand Oaks, California), an LEAA grantee, is responsible for the collection and examination of operational data from CCP units.

5. Recently enacted is the Deukmejian Bill (SB 370) which appropriates $6 millions to provide for the formation of additional career criminal prosecution units in California over the next three years.

6. Detailed descriptions of the operation of career criminal prosecution units are given in Major Offense Bureau, Bronx County District Attorney's Office, New York, An Exemplary Project, Office of Technology Transfer, NILECJ, LEAA, U.S. Dept. of Justice, November 1976; Evaluation of the Suffolk County Major Violators Project, The New England Bureau for Criminal Justice Services, May 1977; and publications of the MITRE Corporation to be cited below.

7. The national-level evaluation is being conducted by the MITRE Corporation by means of in-depth case studies of four career criminal prosecution programs, namely: Orleans Parish, Louisiana; San Diego County, California; Franklin County, Ohio; and Kalamazoo County, Michigan. The first stage of the evaluation has been published in a series of five reports. The summary report is: J.S. Dahmann and J.L. Lacy, Criminal Prosecution in Four Jurisdictions: Departures from Routine Processing in the Career Criminal Program, METREK/MITRE, MITRE Technical Report 7550, June 1977.

8. Detailed and comprehensive descriptions of the operation of career criminal prosecution units are given in *Major Offense Bureau, Bronx County District Attorney's Office, New York,* An Exemplary Project, Office of Technology Transfer, NILECJ, LEAA, U.S. Department of Justice, November 1976; *Evaluation of the Suffolk County Major Violators Project,* The New England Bureau for Criminal Justice Services, May 1977; and the earlier-cited publications of the MITRE Corporation.

9. See National Criminal Justice Information and Statistics Service, Survey of Inmates of State Correctional Facilities - 1974 Advance Report, National Prisoner Statistics Special Report No. SD-NPS-SR-2, U.S. Dept. of Justice, March 1976; see also K. Brimmer and L. Williams, A Methodological Study: Survey of Inmates of State Correctional Facilities, U.S. Bureau of the Census, Draft, November 1975.

10. J. Collins, "Offender Careers and Restraint: Probabilities and Policy Implications," LEAA Project Report, January 1977.

11. B. Boland and J.Q. Wilson, "Age, Crime, and Punishment," The Public Interest, Spring 1978.

12. To illustrate the need to distinguish among adult "first offenders," an analysis performed by Rand of arrest data from Denver, Colorado showed that 45 percent of these adult arrestees had no prior adult record. But when juvenile records were examined, approximately one-quarter of the first offenders were found to have serious juvenile records involving five or more felony arrests. See J. Petersilia and P.W. Greenwood, Mandatory Prison Sentences: Their Projected Effects on Crime and Prison Populations, The Rand Corporation, P-6014, 1978

PROBLEMS WITH EXISTING PREDICTION STUDIES AND FUTURE RESEARCH NEEDS

By

Professor Leslie T. Wilkins
Criminal Justice
Simon Fraser University
Burnaby, B.C. Canada

United States Department of Justice
Law Enforcement Assistance Administration
Henry S. Dogin, Administrator
National Institute of Law Enforcement
and Criminal Justice
Harry Bratt, Acting Director
Paul Cascarano, Assistant Director

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PROBLEMS WITH EXISTING PREDICTION STUDIES AND FUTURE RESEARCH NEEDS.

Leslie T. Wilkins
(Professor: Criminal Justice
Simon Fraser University
Burnaby, B.C. Canada)

The "State of the Art".

1. Most decisions involve risk, and hence are subject to two kinds of error. Prognoses, estimates of future conditions and all probability statements are subject to errors of the same two kinds.

2. These two kinds of error apply, irrespective of the means by which the decisions or estimates are derived. Specifically, in the area of concern, neither clinical nor statistical methods of prognoses can avoid the two classes of error. In industrial decisions, these error classes are known as "producer" and "consumer" risk, and estimates of the magnitude of the two classes are often written into contracts. In criminological prognoses, there is a chance that the decision-maker will be in error in that : -

(1) the individual who is predicted to "fail" may in fact, "succeed"

or

(2) the individual who is predicted to "succeed" may in fact, "fail".

This will be true no matter how "success" or "failure are defined.

3. Conventionally, the first kind of error is termed "false positive", or "over-prediction". Over-prediction tends to increase as the proportion of individuals who fit the category "fail" or "succeed" becomes smaller -- as we move away from a 50:50 division.

4. It is important to realize that there is no way of avoiding false positives. Clinical methods are not usually able to estimate the magnitude of the error, whereas statistical methods do so. Clinical ignorance of the size of the error does not mean that it does not exist, nor that it is smaller than that applying to statistical prediction. Where comparisons have been made of the false positive rates, the clinical rates have been larger in almost all instances.

5. But, statistical prediction, at present produces a large proportion of false positives -- the proportion depending to some degree of the frequency of the phenomenon predicted. Some have suggested that, for this reason, predictive statements and decisions having a predictive base should be avoided in dealings with offenders. That is to say, reference should be made only to the past -- it is an improper consideration to think about what is likely to happen after the decision. This is the position taken by advocates of the JUST DESERTS theory. However, it may be that whereas prediction is believed to have been avoided, it is nonetheless involved, (in some way not yet understood) in the definitions of "culpability".

6. It seems safe to say that while individuals cannot validly be classified as "dangerous" or "not dangerous", their crimes can be so classified. The actions are in the past, and we can know the past with more precision than the future. Thus, it might be argued, thought should be concentrated upon definitions of those kinds of behaviours (NOT PERSONS) which require restraint. Of course, the person (who will continue into the unknown future) will be involved in any such restraining situation, but the logic underlying the disposition of the case would be independent of judgements about personality.

7. While any crime may be thought of, legally defined and discussed independently of any offender, in operational terms the actor cannot be separated from the act. Those research workers who have asked for ratings of the "seriousness" of offenses have set up a single dimension of acts devoid of actors: like shadows without substance a nebulous generalized actor may be assumed. More probably, raters will fit a stereotyped actor to each instance of crime in the sample of <u>acts</u>, and hence there will be an unknown sample of actors who have been matched to the acts, but matched by the imagination of the subjects making the ratings. Thus assessments of "seriousness" of <u>acts</u> may well be confounded with attributes of offenders as ascribed by raters, and the implications of this may be wide ranging.

8. For a variety of reasons the strategy of avoiding predictive inference may not be realistic, and, even if it were, it may not be desirable. If this is the position, it follows that it is necessary to face up to the problem of "false positives" and to consider what is ethical under conditions of uncertainty. Subjective certainty does not adequately replace probability in any rational analysis.

9. It is, of course, first necessary to estimate the magnitude and probable impact of the "false positive" prognoses, both upon individuals and the social and legal system. We may then consider whether precision can be increased and what other modifications should be made to enable us to deal with the unpleasant and unavoidable difficulties arising from imprecision of judgements and our problems of valid inference.

10. The present position is that, for every person correctly identified as "dangerous" (i.e. likely to commit another crime against the person), six others will possess the same predictive profile. This is the result

of most thorough, costly and intensive testing involving a large sample of young offenders.

Can Prediction Methods be improved?

11. It is highly probable that prediction methods could be improved to provide a precision considerably greater than that now obtainable. There are three areas where it would be necessary to invest effort: (a) the basic data, (b) methods of input of basic data to analytical systems, (c) the analytical systems. Of course, some aspects of this classification will present problems of interaction.

(a) the basic data

12. It seems probable that existing case papers (the basic source documents for information used in predictive studies) is not sufficiently accurate to withstand analyses by the more powerful methods. The information may be mixed with "noise" as well as redundancy. It may be worthwhile to explore the probable kinds of recording errors and the ways in which these influence later stages of prediction.

13. Some items of information may be predictive, but undesirable to be included in an analysis. Race may be one such item, but any characteristic which cannot be changed by the individual concerned may be equally suspect on ethical grounds. Legal and ethical considerations must outweigh considerations of efficiency, if, that is, any conflict arises.

14. To gain much improvement it may be necessary to obtain information which should not be collected because to do so would intrude upon the personal privacy of the individual concerned. Where offenses have been proved against an individual (prediction of recidivism), it may be

the data base. This would be easy and inexpensive to investigate by simulation methods.

18. Despite the fact that all methods of calculation are of about equally low predictive power, we do not know the relationship between the methods as they apply to individual cases. We know that the methods correlate, but not perfectly. Therefore, we know that there must be some proportion of cases predicted as "failures" by one method, but as "successes" by another. We can make some guesses as to the kinds of differences from mathematical theory, but a thorough examination of the matter seems to be called for as a matter of some urgency.

Other Issues of Prediction and Decision.

19. While recidivism of offenders has been predictable only within wide ranges of error, decisions by authorities in criminal justice (e.g. judges, parole officers, probation officers and boards) have been predictable at quite high levels of accuracy. Why decisions about offenders should be more predictable than decisions by offenders is unknown. Cross-analyses of data involving samples of these two classes of prediction have not been undertaken. Indeed, there has been little research directed specifically at methods of, or issues in prediction -- what is known has arisen mainly from studies which incidentally included some prediction methods.

20. It seems to be assumed by many authorities that "if we could only predict outcome with reasonable accuracy, we would know what to do". But it may be questionned as to whether decisions which would prove acceptable in a particular case would be facilitated in any way by improved prediction techniques. In the early days of prediction in criminology, it was

considered that some of the rights to preservation of personal information are diminished. This is a matter for jurisprudence to decide.

(b) Methods of input (Coding)

15. To date, all prediction systems have used data with a time fixed base: the files have been searched for information in one operation and these data have formed the input to the analyses. Dynamic procedures of data recording may well have potential for more efficient prediction. Where individuals are incarcerated (or in "mental hospitals") it is possible to obtain data on transitional states. But again, the cost of such data collection as well as probable ethical objections raise concerns other than the probable increments in predictability.

16. Some important information may be lost by the coding processes which tend to make implicit assumptions (e.g. A + B = B + A, where A preceeds B in time). Coding stage assumptions such as additivity, are not removed by analytical methods which avoid such assumptions.

(c) Analytical systems

17. Research has been directed towards refining the statistical methods of analysis, and work in other fields of application have provided new techniques. However, the results have been disappointing. There is little or no difference observed between the power of quite sophisticated methods (e.g. log odds: discriminant function), and very simple systems (e.g. points allocation as in the Guidelines of the United States Parole Commission: unit weights as used 50 years ago). It is possible that thisresult is due, in part, to the quality of data noted in (12) above. Simple methods are more resistant to "noise" in

thought that if parole boards had prediction tables, this would assist them in their decisions. But no boards made use of the available methods. The decisions made by parole boards were concerned with other issues than "mere prediction" of recidivism. (This has not been demonstrated in that the Federal Guidelines, while they include prediction, do so as the lesser of the two major factors considered).

21. Modern decision theory and related practical methods can assist in decision-making where the objectives are clearly stated. Prediction methods may be useful or even essential as a sub-set of the analytical techniques which are available and may lead to the development of more efficient (and ethical) decision rules and procedures. The major issue today is not HOW to make predictions (we know this, and we have good ideas as to how to improve present methods), but rather WHY to predict, and WHEN. If these questions can be addressed, then all we need is a level of investment necessary to coverthe research.

22. It may be desirable to carry out simulation of conditions for making decisions where predictive statements of various kinds and having varying probable error limits are provided to the decision-makers. Prediction techniques should not be seen as something which will stand up "on its own". The decision environment in which the methods of prediction are to be embedded is an essential element of the program of research and assessment which is now required.

23. But perhaps one question is of outstanding importance. Is prediction appropriately considered in the disposition of offenders? And this question is related to many sub-questions which might question the relationship between ethical concerns and probability or degrees of belief. Has JUST DESERTS disposed of prediction ? I think not.

END