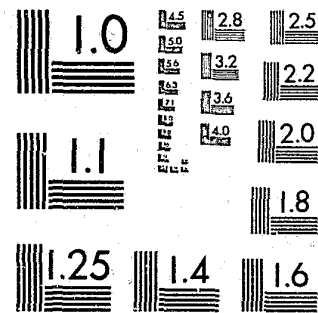


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AN EVALUATION OF OPERATION HARDCORE 91553

A PROSECUTORIAL RESPONSE TO  
VIOLENT GANG CRIMINALITY

Judith S. Dahmann

The MITRE Corporation  
September 1983

U.S. Department of Justice  
National Institute of Justice

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EXECUTIVE SUMMARY

Operation Hardcore is a specialized prosecution program operated by the Los Angeles District Attorney's Office designed to improve the prosecution of violent gang offenses. The program was instituted in response to rising levels of gang violence in Los Angeles. It began in 1979 and it is in operation today.

The concept underlying the Operation Hardcore program is based on a series of assumptions linking gang criminality and effective criminal prosecution:

1. Gang criminality is characterized by certain features which distinguished it from other types of crime.
2. These distinctive features pose particular problems for criminal prosecution of gang related cases.
3. These prosecutorial problems can be addressed through specific actions on the part of the criminal prosecutor.
4. These special prosecutorial actions will lead to improved prosecution of gang related cases and thus increased criminal sanctions to defendants in these cases.

The research described here considers these assumptions and presents empirical evidence which supports the expectations of improved prosecution of gang cases through the use of specialized prosecutorial practices.

In terms of distinguishing features of gang criminality and the problems posed by these features for criminal prosecution, there are three areas of particular importance.

The first is the collective nature of most gang criminality including the involvement of both multiple suspects and defendants in gang incidents and the juvenile/adult mix common among gang defendants. The criminal justice system is designed primarily to deal with individuals not groups. The collective nature of gang crime poses problems for prosecution in several ways:

1. Prosecutorial Strategy. The Criminal Justice System is oriented toward identifying the one individual responsible for the commission of an offense. It can be argued that given the collective nature of gang crimes, this is an inappropriate response in gang cases.
2. Legal Limitations. The law does not lend itself to the prosecution of a group of offenders for a single incident. Evidence required to support allegations of conspiracy or aiding and abetting is often difficult to obtain without special investigatory resources.
3. Logistical Problems. Given the assembly line methods of case handling found in most large prosecutors offices and the bifurcation of juvenile and adult adjudication, prosecution of multiple defendant cases involving both juveniles and adults faces particular problems.

Second are the witness problems commonly associated with prosecution of gang violence, including the reluctance of witnesses to participate and witness intimidation. These witness problems are the result of certain characteristics of gang cases:

1. Witnesses are often gang members themselves who for obvious reasons are not often willing witnesses.
2. Non gang members are also reticent to participate in a gang prosecution. Their homes, families and jobs are often located in areas controlled by gangs and thus are vulnerable to retaliatory action on the part of other gang members.

Third, prosecution of gang cases faces a major problem of the credibility of gang motives to juries. Gang subculture, gang values and the gang way of life are alien to most members of juries. In order to effectively present a gang case the prosecutor faces the task of credibly introducing the jury to a subculture, in some cases without prejudicing them against prosecution witnesses who may be gang members themselves.

In short, gang cases are a far cry from the ideal case for prosecution in which you have a single, clearly identified suspect perpetrating an offense against an innocent victim, in the presence of innocent cooperative witnesses. Gang cases typically involve a collective act of violence against an individual or gang who often look more like the gang suspects than the jurors. Further, the witnesses typically either resemble the suspects or at least share their distain for the criminal justice system - or out of fear of retribution - are unwilling to cooperate with the prosecution.

In order to address these problems in Los Angeles, a specialized, self contained unit devoted to the prosecution of incidents of gang violence was created. This unit, Operation Hardcore, sought to address the problems described above through the addition of resources, in the form of:

- o A highly motivated and qualified attorney staff,
- o Special investigative support attached directly to the Unit, and
- o Low caseloads for both attorneys and Unit investigators;

through changes in case management:

- o Early involvement in case preparation and investigation including preparation of search warrants,

- o Continuous or vertical prosecution with one Deputy handling the full range of prosecutorial functions for his cases from filing to disposition and sentencing,
- o Special attention to witness problems including using available witness relocation funds, providing witness protection, taking taped or sworn witness statements, prosecuting instances of witness intimidation, and
- o Prosecution of both juvenile and adult suspects by the same Deputy,

and through policy actions:

- o Working closely with law enforcement agencies,
- o Preparing written motions and points of authority early in cases,
- o Settling early or going to trial, and
- o Prosecuting both juveniles and adults and accessories as well as the "shooters".

Operation Hardcore Unit uses these resources and activities to address the problems prosecution faces with violent gang cases described above, namely:

- o Evidentiary and logistical problems due to the collective nature of gang criminal incidents;
- o Problems due to witness reluctance to participate and to witness intimidation by the gangs; and
- o Problems due to the alien nature of the gang life-style which threatens the credibility of gang evidence and motives to juries.

Of the three areas, Operation Hardcore addresses problems involving witnesses most directly. Witness problems are the most often cited difficulty with gang cases. Witnesses hesitate to become involved in

gang-related prosecutions for a number of reasons. Hardcore attorneys have the time to devote to their cases to assess the situations and motivations of witnesses and to deal with each individual as appropriate. Those who have been threatened or who are fearful can be relocated or protected. Those who are reluctant can be pinned down early and efforts can be made to hold them to their original statements. Taped interviews can be conducted and sworn statements can be taken, which can then be used throughout a case prosecution to aid in maintaining consistency in witness testimony.

The collective nature of gang criminality and the age composition of gang members poses logistical problems for prosecution. Multiple defendant cases are subject to severance and time delays simply due to the management problems associated with handling the case. These problems are further exacerbated when both juveniles and adults are involved in an incident and separate filings are made in different courts. The vertical approach to case handling of Hardcore cases coupled with the ability of Hardcore attorneys to prosecute juveniles as well as adults, directly addresses these problems. With his low caseloads, a Hardcore attorney can comprehensively oversee the entire processing of the case.

Evidentiary and legal problems are also associated with multiple defendant cases. In cases involving multiple suspects, a tendency among prosecutors is to file charges on only the central individual, given difficulties with legally holding the accompanying individuals accountable for their involvement. Charges of conspiracy or aiding and abetting require the prosecution to demonstrate associations among the group members as well as to show a commonly held motive.

The evidence needed to substantiate charges such as these require special police attention. Operation Hardcore has been able to work closely with local law enforcement agencies, and in particular law enforcement gang specialists, early in the investigation of gang cases to develop needed evidence. By specifying in search warrants material related to gang involvement, evidence needed to pursue the prosecution of the whole group of suspects can be sought.

Along the same lines, because they work with gangs all the time, the Hardcore attorneys have developed a base of expertise in gang operations, motives, etc., which aids them in developing their cases and in convincing juries of the credibility of their arguments.

The results of an analysis of defendants and cases handled by the Operation Hardcore program, as compared to similar defendants and cases handled by non program attorneys both before and during program operations, indicate that this program is having the expected effects on criminal justice performance. There have been more convictions, fewer dismissals, and convictions to more serious charges (including charge enhancements) among cases handled by Operation Hardcore. Where there exists sentencing discretion in the commitment of convicted young adults to the California Youth Authority (a form of sentence bargaining), the program shows a higher rate of state prison commitments.

These results suggest that selective prosecution has been an effective strategy in Los Angeles and that the Operation Hardcore program has obtained demonstrable improvements in the criminal justice handling of gang defendants and their cases.

## 1. INTRODUCTION AND OVERVIEW

The purpose of this paper is to present the results of an evaluation of an initiative currently underway in the Los Angeles District Attorney's Office. This initiative, Operation Hardcore, is a special prosecution Unit devoted specifically to handling cases involving serious, violent gang-related offenses. Responding to an alarming growth in the incidence of violent gang activities in Los Angeles County, Operation Hardcore was developed by the District Attorney's Office (initially with federal support) and, over the past three years, the Unit has expanded significantly with local government funding. The first such unit of its type, Operation Hardcore's selective prosecution program is designed to address the specific problems that gang-related offenses pose for criminal prosecution. This paper examines both those problems and Operation Hardcore's response in terms of the specific prosecutorial actions taken by the Unit in pursuit of the effective prosecution of violent gang cases.

Selective prosecution programs, programs which focus resources on a selected portion of the prosecutor's caseload, are an increasingly popular approach among the nation's prosecutors. In the first section of the paper, the most common forms of selective prosecution programs, those funded by the national Career Criminal Program initiative, are described as background to the analysis of Operation Hardcore itself.

In the next section, the particular characteristics of gang cases, the target of the Operation Hardcore program, are discussed. There are a range of problems facing the prosecutor (e.g., witness problems, multiple juvenile and adult suspects) which arise because of gang involvement in criminal offenses. These characteristic features of gang cases, and the



problems they create, are considered in Section 3. Looking at the characteristics of gang-related criminal incidents, basic features of crimes involving street gangs are examined in terms of their implications for criminal justice handling.

In the next section (Section 4), data on gang violence in Los Angeles is presented as background to discussion of the prosecutorial initiative in this problem area.

The remainder of the paper is devoted to discussion of the Operation Hardcore program. A descriptive analysis of the program is presented in Section 5. Included is a discussion of the circumstances which led to the development of the Unit, particularly the growing problems of gang criminality in Los Angeles and the difficulties experienced there with prosecution of gang cases. The philosophy, organization, and activities of the unit are presented and the specific strategies utilized by Operation Hardcore to address the problems posed by its caseload are described. What the Unit does, why it is doing it, and what effect it hopes to have are presented.

A quantitative assessment of the extent to which program effects have been realized is presented in Section 6. The data base developed to support the analysis is described and the analysis results are presented and discussed.

Finally, in Section 7 the results are summarized with respect to research on other, similar prosecution programs and the policy implications of the results are discussed.

The data on which this paper is based are derived from several sources. The standard and recent criminological, sociological, and evaluation literature on gang criminality and selective prosecution is the basis for Sections 2 and 3. The following sections (4-5) draw on observations of the operations of the unit and on interviews conducted with law enforcement and prosecutorial personnel at both policy and working levels in Los Angeles, particularly individuals involved with all facets of Operation Hardcore. Project administrative records, schedules, card files, and routine reports have been used as documentation of project activities. Finally, a data base on the incidence and criminal justice handling of gang homicides was developed to support the quantitative analysis of program effects (Section 6). This data base draws on records maintained by the Los Angeles Police Department and the Los Angeles County District Attorney's office. It is described further in Section 6 of the paper.

This paper is directed toward practitioners and researchers interested in strategies to improve the operation of the criminal justice system and, particularly, in selective prosecutorial efforts.



2. PAST EXPERIENCE WITH SELECTIVE PROSECUTION: THE CAREER CRIMINAL PROGRAM

Selective prosecution, the focusing of special prosecutorial resources on a selected portion of a prosecutor's caseload, is an increasingly popular approach to managing problems of growing criminal caseloads. The bulk of recent experience with selective prosecution is provided by a national effort to improve the prosecution of serious repeat offenders. This initiative, known as the Career Criminal Program, was announced by the Law Enforcement Assistance Administration in 1974. The program was based on the assumption that serious recidivists were not being prosecuted as effectively as the severity of their criminality suggested was appropriate. Funds were made available to local prosecutors to establish special prosecution units targeting these so-called "career criminals". The general strategies to be employed by local Career Criminal Programs were outlined at the federal level as were the general characteristics of the program target populations. Within these broad guidelines and with federal support, local jurisdictions were enabled to develop for themselves selective prosecution programs -- programs which focused prosecutorial talent on defendants and cases which were locally viewed as particularly problematic.

Over the past five years more than a hundred jurisdictions are reported to have implemented programs which use a selective approach to prosecution of a target group of serious recidivist defendants. Also, over this period research has been conducted and a knowledge base has been developed concerning serious recidivist offenders, the nature of law enforcement and prosecution programs targeting this group, and the effectiveness

of these targeted prosecution programs. There has been considerable variation in the programmatic efforts undertaken by local prosecutor's offices under the auspices of the Career Criminal Program. Local programs have varied in size and level of effort from small, one to two attorney units to larger programs employing a dozen attorneys or more. Some programs (often by virtue of the nature of their target populations) work regularly and closely with particular law enforcement investigative agencies, while others interact with law enforcement organizations in much the same way as does the prosecutor's office in routine cases. Finally, since prosecutor's offices vary considerably in their routine practices, the significance of certain Career Criminal Program activities will vary with the nature of each office's routine procedures. For instance, the significance of instituting vertical or continuous prosecution in Career Criminal cases largely depends upon the extent to which case handling would otherwise be fragmented.

In general, major Career Criminal Program activities fall into four categories:

- o Changes in case handling,
- o Changes in resource allocation,
- o Changes in policies governing case disposition, and
- o Attempts to increase incarceration.

While the actual implementation of Career Criminal Program activities varies from jurisdiction to jurisdiction, these categories of activities can be generally described as follows.

- o Changes in case handling instituted by Career Criminal Programs have typically been both organizational and procedural. In most programs, a special unit has been created which handles all the major prosecutorial functions -- case screening, case issuance, case disposition, and sentencing. Within most career criminal units, case handling procedures are based on the vertical or continuous case handling concept. To the extent possible, career criminal cases are handled by one particular attorney from start (case screening) to finish (sentencing). In practice, this often takes the form of coordinated team prosecution. Continuous case representation, both by unit and by attorney, is expected to realize an improvement over routine prosecution for two reasons. First, it is assumed that the attorney handling the case will become more informed about the case and its nuances if he handles it in various proceedings over a period of time than would be possible if he were responsible for only a single function, activity, or stage in its prosecution. Second, it is expected that the accountability implicit in continuous individual-attorney-case representation will act as an incentive for more intensive and complete case preparation than is the likely situation when responsibility is diffused and different deputies handle bits and pieces of case adjudication at different stages of their prosecution. These anticipated improvements in processing are ultimately expected to lead to increased convictions and incarcerations of targeted defendants.

- o Changes in resource allocation in Career Criminal Programs usually means that more experienced attorneys are assigned Career Criminal cases; their caseloads are kept small and they are allocated added support in the form of investigators and law clerks. By focusing the best prosecutorial talent on target cases and by offering unit prosecutors added time and support, it is expected that full use of evidence in the case and the attorney's knowledge of the law will lead to successful prosecution.
- o Changes in policies governing case disposition also characterize Career Criminal units. "No plea bargaining" policies are typical as are more controls on the types of pleas which are considered admissible and the circumstances under which they will be permitted. These policies are made possible by changes in case handling procedures and resources allocated to Career Criminal cases, which provide the support necessary to maintain more stringent case disposition policies.
- o Finally, attempts to influence incarceration are part of many Career Criminal Programs. By use of special allegations and Career Criminal sentencing statutes, more incarcerations and longer sentences are sought.

These activities generally parallel the approach used by the Operation Hardcore program.

Since the outset of the Career Criminal Program, several empirical analyses of actual and planned program efforts have

been conducted. This includes the Career Criminal Program National Evaluation which examined four of the early Career Criminal Programs (in San Diego; New Orleans; Franklin County, Ohio; and Kalamazoo, Michigan) and local analyses of programs and program plans in California, New Jersey, and Pennsylvania. A listing of these studies is presented in TABLE I.

Several general results appeared throughout these analyses.

First, the most notable program effects have tended to be found in the strength of convictions obtained by the special prosecution units. While few additional convictions appear to be obtained by Career Criminal efforts, in some programs defendants convicted by the Career Criminal units were more likely to be convicted to the most serious charge than were their non-career criminal counterparts.

Table I. Career Criminal Program Evaluations

Research	Research Organization	Research Sponsored	Programs Included	Major Evaluation Reports
National Level Evaluation	MITRE	National Institute of Justice	Franklin County, OH Kalamazoo County, MI Orleans Parish, LA San Diego County, CA	"Career Criminal Program National Evaluation: Final Report," Eleanor Chelimsky and Judith Dahmann, National Institute of Justice, July 1981
Pennsylvania Planning Study	Pennsylvania Commission on Criminal Delinquency	Pennsylvania Commission on Criminal Delinquency	Baseline Analysis for Delaware County, PA; Daulphin County, PA	"Career Criminal Task Force Research Report," John Kunkle, Pennsylvania Commission on Crime and Delinquency, 6 October 1980
New Jersey Statewide Program Evaluation	New Jersey Division of Criminal Justice	New Jersey Division of Criminal Justice - LEAA Funds	New Jersey Statewide Aggregate	"Career Criminal Processing: An Assessment," William Downey, Division of Criminal Justice, Department of Law and Public Service, State of New Jersey, 30 June 1980
California Statewide Program Evaluation	Metametrics	Office of Criminal Justice Planning	California Statewide Aggregate	"California Career Criminal Prosecution Program," State of California, Office of California, Office of Criminal Justice Planning, March 1981
Operation Hardcore Evaluation	MITRE	National Institute of Justice	Los Angeles County Operation Hardcore Program	"Operation Hardcore: A Prosecutorial Approach to Gang Violence," Judith Dahmann, The MITRE Corporation, September 1981

Second, criminal justice performance with "career criminals" does not appear to be as poor as was initially assumed by program developers. In particular, baseline conviction rates in some cases (90 percent and above in California, for instance) and baseline incarceration rates appear quite high, suggesting the limited likelihood of program induced improvements in light of potential ceiling effects.

Finally, impacts on incarceration and sentencing tended to be observed only in connection with increased strength of convictions and not independently. With respect to incarcerations, most programs handle offenders charged with serious felony offenses. In many jurisdictions, by law, convictions on these offenses, with or without the Career Criminal Program, carry an incarceration sentence. In terms of sentence times, under both discretionary and mandatory sentencing systems, an individual's sentence often tends to be determined by factors out of the purview of Career Criminal Program efforts (e.g. the charge, circumstances surrounding the incident, the defendants criminal record) (Chelimsky and Dahmann 1981, p. 139).

These results were found fairly consistently across programs despite differences in program strategies and target populations, suggesting several possibilities concerning prosecutors and performance.

First, the prosecutor may be generally limited in his ability to effect certain aspects of performance. For instance, the availability of sufficient evidence is recognized as critical in obtaining convictions. Few prosecutors, even under most Career Criminal Programs, are closely involved with initial evidence

collection. Consequently, if adequate evidence is available from the investigating agency, a conviction (on some charge) is highly likely, independent of the level of added effort on the part of the prosecution; conversely, in the absence of the availability of the necessary evidence, no amount of added prosecutorial attention is likely to compensate. Such limits on effects are probably most likely to be observed in prosecutor's offices in which systematic case screening is a regular practice (Healy and Jacoby 1973). In those offices, cases are usually not filed unless there is a reasonable chance of a conviction -- hence, perhaps, the high conviction rates observed for baseline groups in many of the evaluative analyses. This suggests several issues concerning Career Criminal Programs specifically and selective prosecution in general. It may be that, for cases which would have been filed even without added prosecutorial attention, it is unreasonable to expect certain types of performance improvements. For some areas of performance, close cooperation with law enforcement agencies or special legal provisions such as enhanced sentence statutes for recidivist offenders may be a prerequisite to certain performance improvements. It may also be the case that it is when the prosecutor moves outside his regular caseload with his added prosecution attention that improvements will be observed in some areas of performance.

Second, as a corollary to this first point, a prosecutor's leverage may be most pronounced in those areas most directly within his control; i.e., in the determination of whether and what to charge and in the exercise of dispositional discretion. For those cases in which there is sufficient evidence to convict, it seems reasonable to suggest that added attention could lead to stronger convictions since building a better case (as opposed to building a case) is to a greater extent a matter of time and resource allocation.

Finally, these results suggest the possibility that in those sites with high baseline rates of performance, the Career Criminal Program treatment may not have been the most appropriate response to the particular caseload being targeted. In this way, the results raise the general issue of the most appropriate targets for selective prosecution. While there is empirical support for the existence of career criminals as a group (as discussed above), empirical evidence does not seem to indicate that the criminal justice system, once it takes cognizance of career criminals and their cases, is generally failing.

The Career Criminal Program, at least in its initial stages, applied a strategy -- targeted (or selective) prosecution -- to a general problem -- repeated or career criminality. At the time the program was developed, however, there was no specific evidence available supporting the assumption, inherently underlying program expectations, that Career Criminal cases were experiencing problems in criminal justice handling which could be addressed effectively with targeted prosecution. Now that the program has been implemented and evaluated, the empirical evidence seems to indicate that contrary to expectation, baseline performance with career criminals in several critical areas (conviction, incarceration) is not uniformly poor. This leaves open an important question -- given the variation in program strategies and program target populations which characterize the Career Criminal Program nationally -- have we been looking for program effects among the wrong programs? Is it reasonable to expect selective prosecution can be any more effective or effective in ways other than the current evaluation results indicate? Under what circumstances would different results be expected?

The specific question addressed in this paper is whether Operation Hardcore, a selective prosecution program which targets cases with known prosecutorial problems, and presumably low baseline performance, represents an appropriate application of the selective prosecution approach and thus whether selective prosecution can effectively improve criminal justice performance with Operation Hardcore defendants.

### 3. GANG CRIMINALITY AND CRIMINAL PROSECUTION

#### 3.1 Definitions

Since Frederick Thrasher's The Gang appeared in 1927 the criminological and sociological literature has been concerned with street gangs, a phenomenon which was reported in the U.S. well before the turn of the century (Asbury, 1927) and which is a known problem internationally (Interpol, 1967). Since Thrasher, research attention in the U.S. has examined gang activities in Boston (Miller, 1962), New York (Bloch and Niederhoffer, 1958), Chicago (Short and Stodtbeck, 1965; Gordon, 1967; Horowitz, 1977), and Los Angeles (Klein, 1968; Moore, 1978). While gang studies all examine collective youth activity predominantly in urban and, in a few cases, suburban areas (Myerhoff et. al., 1969) they differ in the way they conceive of and define the groups they study. In short, through the years the term "gang" has taken on a variety of meanings.

In theory, "gang" definitions range from consideration of almost all group behavior among youth as a variant of gang behavior to restriction of the use of the term "gang" to organized group affiliations which are stable over time and which involve criminality as a central focus of the group.

The most widely recognized definitions include Thrasher's, based on his early study of 1,313 gangs in Chicago:

The gang is an interstitial group originally formed spontaneously, and then integrated through conflict. It is characterized by the following types of behavior: meeting face to face, milling, movement through space as a unit,



conflict, and planning. The result of this collective behavior is the development of tradition, unreflective internal structure, esprit de corps, solidarity, morale, group awareness, and attachment to a local territory (Thrasher, 1927);

Klein's, based on his research in southern California:

Gang refers to any denotable adolescent group of youngsters who (a) are generally perceived as a distinct aggregation by others in the neighborhood, (b) recognize themselves as a denotable group (almost invariably with a group name) and (c) have been involved in a sufficient number of delinquent incidents to call forth a consistent negative response from neighborhood residents and/or enforcement agencies (Klein, 1971);

and Miller's, whose work focused on Boston (1958) as well as on the U.S. as a whole (1975):

A group of adolescents who congregate recurrently at one or more extraresidential locales, with continued affiliation based on self-defined inclusion criteria. Recruitment, customary assemblage locales, and ranging areas are based upon location within a delimited territory, over some portion of which limited use and occupancy rights are claimed. Group boundaries and the composition of subgroups are delineated on the basis of age. The group maintains a versatile repertoire of activities with hanging (out), mating, recreational, and illegal activity of central importance, and is internally differentiated on the basis of authority, prestige, personality roles, and clique formation (Miller, 1958).

These definitions emphasize both group processes and organization and vary to some degree in the importance they attach to the criminal activities of the gang.

Because the focus of this paper is a criminal justice response to gang criminality, the orientation of the discussion is necessarily toward the illegal aspects of group behavior which will be discussed in the next section. For these purposes, a definition used by Miller in his recent national examination of gangs, based on a composite of criteria used by agency respondents in a twelve city survey, is adopted here:

A gang is a group of recurrently associating individuals with identifiable leadership and internal organization, identifying with or claiming control over territory in the community, and engaging either individually or collectively in violent or other forms of illegal behavior (Miller 1976, p.9).

For the purposes of this paper a gang-related offense is one in which the primary suspect or victim is a known gang member.

### 3.2 Current Thinking About Gangs

The most comprehensive examination of the contemporary gang phenomena in the United States was conducted by Walter Miller (1975). In this research, Miller assessed the current status of youth gangs and the problems of gang criminality in the United States through a twelve-city survey, involving interviews with agency personnel from the criminal justice and youth service systems. This effort represents the first nationwide study of the prevalence of gangs and incidence of gang criminality.

The results of this survey provided evidence supporting the continued existence of youth gangs in major U.S. cities:

Of the nation's 15 largest metropolitan areas, local professionals interviewed directly reported the existence of problems with youth gangs or law-violating youth groups in all but five. Of the 11 cities reporting problems with gangs or groups, respondents in six characterized them as "extremely serious" relative to other major crime problems (Miller 1975, p.75).

Miller also developed rough estimates of the current number of gangs and gang members:

Figures as to the numbers of gangs and gang members in major cities are inexact, but available data permit estimates of a minimum of 760 gangs and 28,500 gang members in the six cities reporting serious gang problems (New York, Chicago, Los Angeles, Philadelphia, Detroit, San Francisco), as well as a higher but probably still conservative estimate of 2,700 gangs and 81,500 gang members. The number of gang members reckoned under the minimum estimate substantially exceeds the total number of juveniles confined in all jails and juvenile detention facilities in the 50 states. In addition to the cities just cited, the possibility exists that there are gang problems of varying degrees of seriousness in approximately 20 other major cities in the country (Miller 1975, p.75).

Miller's findings suggest that the currently accepted profile of the typical gang member largely applies to the contemporary gang membership. As he states:

Social characteristics of gang members in the mid 1970's resemble those reported for past periods. Gang members are predominantly male, range in age from about 10 to 21, originate in low-income communities, and are composed primarily of members of those ethnic groups most heavily represented in the lower educational and occupational categories (Miller 1975, p.75).

Some differences from past experience did appear in Miller's results especially concerning the age and ethnic background of gang members:

Some evidence suggests that active gang participation is beginning at younger ages. The bulk of gang members in the United States today are black or Hispanic, but gangs of a variety of Asian origins, a new phenomenon in American society, appear to be on the increase. Non-Hispanic white gangs have not disappeared, but most of them are probably found in circumunicipal "suburban" communities, and in smaller towns and cities (Miller 1975, p.76).

Most notably, Miller's data suggest that gang violence in some parts of the U.S. today constitutes a major crime problem. As he writes:

Murder by firearms or other weapons, the central and most dangerous form of gang-member violence, in all probability stands today at the highest level it has reached in the history of this nation. The five cities with the most serious gang problems averaged a minimum of 175 gang-related killings a year between 1972 and 1974. These figures are equivalent to an average of about 25 percent of all juvenile homicides for the five cities, but reach a proportion of half or more in some. The three largest cities recorded approximately 13,000 gang member arrests in a single year, with about half of the arrests for violent crimes...it is likely that violence perpetrated by members of youth gangs in major cities is at present more lethal than at any time in history (Miller 1975, p.76).

This, Miller suggests, represents for some cities, a notable increase in the problem:

Comparing earlier with later periods of the past decade in the six gang-problem cities shows significant increases in levels of gang violence in New York, Los Angeles, Philadelphia, Detroit, and San Francisco, justifying the notion of a "new wave" of gang violence in major United States cities (Miller 1975, p.76).

This increase in gang violence is tied, in Miller's view, to the expanding availability of firearms:

Probably the single most significant development affecting gang-member violence during the present period is an extraordinary increase in the availability and use of firearms to effect violent crimes. This development is in all likelihood the major reason behind the increasingly lethal nature of gang violence (Miller 1975, p.76).

In summary, Miller concludes that:

Youth gang violence is more let today than ever before, that the security of a wider sector of the citizenry is threatened by gangs to a greater degree than ever before, and that violence and other illegal activities by members of youth gangs and groups in the United States of the mid-1970's represents a crime problem of the first magnitude which shows little prospect of early abatement (Miller 1975, p.76).

Thus, based on Miller's research, it would appear that contrary to much of the popular perception, the problems of street gangs and gang criminality persist in major American cities. In fact, the problem may be expanding in terms of the involvement of younger age groups and may be involving to a greater extent America's contemporary ethnic minorities, Hispanics and Asians. Most important however, are Miller's findings concerning the extent of criminal involvement of gangs both in reported crimes attributed to gangs and in the numbers of gang member arrests, which not only appear high in absolute terms but also, in certain jurisdictions, represent a considerable increase over the past few years. The violent nature of the gang criminality, the widespread use of firearms and the severity of gang-related offenses further attest to the growing significance of gangs in problems of urban violent crime.

### 3.3 Gang-Related Offenses

As the preceding discussion has indicated the problems of gang criminality are a persistent and growing component of urban crime. Beyond this, however, gang-related crime constitutes a particularly difficult problem because of certain features of gang-related offenses and the problems these features create for criminal justice processing, particularly for prosecution.

Specifically, the form that gang criminality, especially gang violence, typically takes, includes:

- o characteristic victims of gang violence,
- o the collective nature of gang-related crimes,
- o the age composition of gang offenders
- o motives for gang criminal behavior,
- o territorial aspects of gang criminality, and
- o the continuous nature of gang criminal activity,

All of these contribute to making gang cases problematic for criminal prosecution.

While most gang activity is not criminal activity and most gang criminal activity is not violent (Miller 1975, p.35), it is violent gang-related crime which is of greatest public concern. Beyond this, however, who is victimized and under what circumstances largely determines the extent to which even violent gang criminality is considered to be problematic. Miller (1975) distinguishes among four gross categories of gang member violence, based on the characteristics of the victim, which vary in the extent to which they generate public concern:

- o The first is often regarded as "normal" gang violence - attacks in which both assailants and victims are gang members. With the partial exception of unusually bloody, large-scale, or protracted intergang conflict, this type has the lowest capacity to engender a sense of problem.
- o A somewhat higher degree of concern may be engendered when gang members victimize non-gang members with social characteristics similar to their own.
- o Official concern is more likely to be aroused when gang member crime is directed against the property of the general public - in house burglaries, store robberies, arson, vandalism of homes, schools, public facilities, and the like.
- o Finally, the highest sense of "problem" is engendered when there is a real or perceived increase in victimization by gang members of persons with different social characteristics - young children, females, the elderly, non-community members through mugging, robbery, rape, murder (Miller 1975, pp.35-36).

In essence, to the extent that gang violence is confined to actual or potential gang members, it is often accepted as a fact of urban life or even as a 'solution' to the problem, especially when considering intergang conflict. As Miller writes:

Some secretly or openly espouse the cynical position that such violence is a solution rather than a problem; the more gang members kill one another off, the fewer will be left to present problems (1975, p.35).

Thus, as the targets of gang violence become removed from the 'normal' sphere of gang activity, gangs become more threatening, and hence, of greater public concern. A recent movement in this direction is identified by Miller in his nationwide survey:

It is significant that informants in several cities cited as a major new development of the 1970's the increasing tendency of gang members to victimize non-gang adults and children, with some claiming that this had become the dominant form of gang violence (1975, p.36).

Using press reports as his data source, Miller finds that in the early 1970s, (on the average across four cities) about forty percent of the victims of gang-related killings were reported to be non-gang members and only about one quarter of these were non-gang peers. However, this parallels information obtained about the gang-murder victims in a field study of Miller's conducted in Boston in the 1950's, causing Miller to conclude that any shift toward non-gang member victimization noted by informants may be limited to certain jurisdictions.

Miller delineates eight major types of normal gang criminality or gang violence which were widely acknowledged in his survey (see TABLE II). As the descriptions of the types suggest, conflict among gangs occurs at both the individual and group level, and is often initiated in response to a previous action on the part of a rival gang. Individuals may be earmarked as victims as in "hits" or "executions", or the interaction may be on a group to group basis as in "forays" or "rumbles". To the extent that even individual criminal acts by gang members are

TABLE II

Miller's 8 Categories of Major Forms of Assaultive Behavior  
(Miller 1975)

Planned Rumble	Pre-arranged encounter between sizable rival groups
Rumble	Encounter between rival groups
Warfare	Continuing pattern of retaliatory engagements by members of rival groups; various forms
Foray	Smaller bands engage rival bands
Hit	Smaller bands attack one or two gang rivals
Fair Fight/Execution	Single gang member engages single rival
Primitive Assault	Gang members assault or kill present or potential members of own gang

motivated by group concerns (i.e., are enacted on behalf of the gang) gang criminality is essentially collective in nature. Individuals engage in criminal behavior in the presence of or with the support of fellow gang members, when they would not do so if left to themselves. Gang criminal acts often involve both juvenile and adult members of a gang, reflecting the general age mix of gang membership. Further, in group offenses, the multiple individuals involved may play different roles depending on individual proclivities or on elements of the situation, and these roles may shift over time and with changing circumstances. It is also important to note that the group nature of gang criminal behavior is a reflection of the collective aspects of gang activity generally, including the importance of gang loyalties in the actions of individual members, loyalties which have been known to take precedence over family ties (Moore, 1978).

Gang-against-gang conflicts are largely motivated by efforts of the group to sustain group standing, either socially, geographically, politically, or materially. This has traditionally been the case and appears to continue to be so in the 1970's:

Of four distinguishable motives for engaging in gang violence - honor, local turf-defense, control, and gain, all four have been operative in the past, and all four continue to be operative in the present (Miller 1975, p.43).

Some changes in the relative importance of these motives have been suggested however. As Miller writes:

Insofar as gang violence is played out in an arena of intergang conflict, motives arising out of "honor" ("rep", "heart" in the past), and defense of local turf play a major role; as muggings, robberies, and extortion of community residents have become relatively more prevalent, and as efforts to intimidate witnesses, determine school policies, and dominate public facilities have become more widespread, the motives of "gain" and "control" can be seen as playing a larger role (Miller 1975, pp.43-40).

This emphasis on "turf" and neighborhood reflects the territorial nature of much of gang activity, criminal and non-criminal. Territorial domination by gangs affects both gang member peers as they are subjected to pressure to join local gangs and as they are unwitting potential victims in gang warfare -- mistaken for members of rival gangs -- as well as other local law abiding citizens and business people.

Finally, as Miller's typology (TABLE II, above) indicates, and as the earlier discussion suggested, gangs are often long-standing "institutions". Gang rivalries may transcend the membership period of any cohort of members, continuing for several "generations" of gang participants. Hence, as in the case of gang rivalries or "warfare" specifically, and more generally in terms of gang criminal activity with respect to neighborhood control, individual gang offenses are not independent events but, rather are part of a larger, ongoing criminal process.

#### 3.4 Gang-Related Prosecutorial Problem

The characteristics of gang-related offenses presented above are believed to have an impact on the prosecution of cases filed in gang-related incidents. In general, it is suggested that these characteristics make gang cases more difficult to prosecute and consequently because of them, individuals involved in gang cases are held to answer for their criminal involvement less frequently than the nature of their offenses would suggest is appropriate.

Specifically, prosecution of gang cases faces problems with the following aspects of gang-related criminal incidents:

- o collective nature of gang criminality, including multiple suspects/defendants and juvenile/adult mix among defendants,
- o witness problems including reluctance of witnesses to participate, and witness intimidation, and
- o credibility of gang motives to juries

The collective nature of gang offenses poses evidentiary and logistical problems for prosecution. The criminal justice system is organized primarily to deal with individuals.

Individuals are arrested for alleged criminal acts, they are charged for these acts and their cases are adjudicated. While multiple defendants can be accommodated by the criminal justice system, in instances such as group gang crimes, the normal tendency for the prosecution is to identify the individual or individuals most directly responsible for the criminal act itself and to hold that individual or individuals accountable for the incident. For instance, one attorney with the Los Angeles District Attorney's Office described their experience with gang prosecutions:

It was found that in a typical gang case, only the individual who perpetrated the act of violence was being charged and the others were being allowed a free run simply because it was very difficult to prove their guilt when there wasn't sufficient time to conduct a thorough investigation and pull together evidence of aiding and abetting (LA Attorney Interview, 1981).

Focusing on only the central individual in gang cases, it is argued, is inappropriate since, while one particular individual may have committed the act of violence, the others accompanying him, by their presence alone contributed to the act. Additionally, if the circumstances had been different, these others might have been the actual perpetrators themselves. Insofar as the violence was enacted for the good of the gang and the accompanying individuals involved are gang members, these individuals are implicated in the offense and, it can be argued, they should be held accountable for their involvement.

The law does not lend itself, however, to the prosecution of a group of offenders for a violent incident. To do so requires the prosecution to establish intent on the part of all the individuals involved, to establish conspiracy among the members of the group, or to demonstrate that the accompanying individuals materially aided in the commission of the act. To accomplish this requires the compilation of evidence to demonstrate an established relationship among fellow gang members and a common motive, such as an accepted gang rivalry between gang members and the victims. Such evidence is typically unavailable without special investigatory attention and special provisions in search warrants, both of which are time-consuming for law enforcement officials and, for those unfamiliar with gang criminality, are only tangentially related to the specific offense under investigation. As such, this type of law enforcement support is not normally available, without special arrangements. Again referring to Los Angeles:

There are reasons for this. It is extremely difficult for a police department to justify the manpower to go out and raid somebody's house for the purpose of obtaining photographs and scrapbooks because that type of evidence normally is peripheral, but it is important in a gang case (LA Attorney Interview, 1981).



Without such evidence, conspiracy charges cannot be substantiated and conspiracy theories supporting charges of aiding and abetting are not possible. In the absense of these and similar options, the potential for prosecution of accompanying gang members is limited.

Multiple defendants, especially when both juveniles and adults are involved, pose particular logistical problems for the prosecution. As a Los Angeles attorney stated:

Special cases involving multiple defendants were being lost in the system because they would be severed, a deal would be given to one, which was perhaps not compatible with the other . . . No one was overseeing the case as a whole (LA Attorney Interview, 1981).

When both juveniles and adults are involved, the problems are exacerbated. Police officers are required to work with two groups of prosecutors, appear in two courts, etc. Likewise, the demands on witnesses, who are often very reluctant to become involved in gang cases to begin with, are doubled. Even if the juvenile is ultimately prosecuted in the adult court (possible in some jurisdictions depending on his age and the nature of his alleged involvement in the incident), the prosecution is likely to proceed on dual tracks during the important early phases of the adjudication.

Witness problems are particularly severe in gang cases. In incidents involving gang-against-gang conflict, witnesses are often members of the gangs involved who are themselves implicated in the offense and whose gang loyalties prevent cooperation with the prosecution. Likewise, members of the gang of the victim are typically hesitant to cooperate with law enforcement agencies, preferring to settle the matter on the streets. As one Los Angeles attorney put it:

The difficulty with gang cases is that the gangs intimidate witnesses. Witnesses are very reluctant to come forward. Witnesses who are members of gangs and who often have a real contempt for the system believe in the concept of street justice which basically says I saw it but I'm not going to testify in court (LA Attorney Interview, 1981).

Non-gang victims or observers are reticent to become involved in gang cases. Their homes, their families, and their jobs or businesses are often located in the neighborhood in which the gang conflicts persist. Any action against the local gang may lead to retribution on the part of gang members against the cooperating party and their families. Such intimidation of witnesses is a tactic regularly used by gangs to interrupt the orderly prosecution of their cases.

Finally, prosecution faces the problem that the gang subculture, gang values and the gang way of life are alien to most members of juries. As an Los Angeles deputy district attorney said:

There are problems in convincing juries that the gang subculture exists and what its values are. The average person has extreme difficulty in understanding that you can commit a violent crime with no motive. Most people are raised to believe there is a reason for an act like that, that there is some justification at least in the mind of the person committing the crime. They have great difficulty in accepting the fact that someone can be murdered because he lives in a different neighborhood or he has walked through the wrong neighborhood (LA Attorney Interview, 1981).

To obtain convictions in cases such as these, the prosecution faces the task of credibly introducing juries to a subculture, in some cases, without prejudicing them against prosecution witnesses who may be gang members themselves. As a Los Angeles Deputy District Attorney discussed the problem of how to treat the gang elements of an incident:



In most cases its going to be obvious that it's a gang-related incident. My only real concern is that if my witnesses are shown to be gang members, that the jury will listen to them and not just believe they are lying from the start (LA Attorney Interview, 1981).

In short, gang cases are a far cry from the ideal case for prosecution in which you have single, clearly identified suspect perpetrating an offense against an innocent victim, in the presence of innocent cooperative witnesses. Rather, gang cases typically involve a collective act of violence against an individual or gang who often look much more like the gang suspects than the jurors. Finally, the witnesses in a gang case typically either resemble the suspects, or at least share their distain for the criminal justice system, or out of fear of retribution, and therefore are unwilling to cooperate with the prosecution.

#### 4. GANG VIOLENCE IN LOS ANGELES: A DESCRIPTION OF THE PROBLEM

Operation Hardcore represents a response by the Los Angeles District Attorney's Office to both the growing incidence of violence attributed to gang activity in the County of Los Angeles and the recognition of the problems arising in the criminal prosecution of gang defendants (see Section 3.2).

In his recent assessment of the national picture, Walter Miller wrote of Los Angeles in the early 1970s:

The Los Angeles metropolitan area is at present experiencing what is probably the most serious youth gang violence problem of any major United States city (Miller 1975,p.58).

Local officials present a similar picture of Los Angeles' gang problems. Local concern about gang criminality is illustrated by testimony presented to the California State Committee on Children and Youth (November 5, 1979) by Peter J. Pritches, the Sheriff of Los Angeles County:

In the past decade gang violence has increased at an alarming rate. Where in the past, gang fights involved fists, feet, chains, some knives, and very few guns, today's gangs are well armed. Once a death due to gang warfare was rare, today hardly a week goes by without one or more deaths occurring due to gang violence. Today brutal, senseless, want on acts of violence are becoming a daily occurrence rather than the exception.

A similar picture of gang problems in the city of Los Angeles was presented at the same hearings by Captain Tom Ferry, Detective Support Division, Gang Activities Section, Los Angeles Police Department:

As of 8:00 a.m. this morning, 101 have died this year as a result of street gang violence in the City of Los Angeles. The chances of becoming a statistic as a result of gang violence in a large metropolitan city is greater today than ever before...The problem of violence perpetrated by members of gangs is one of the most serious social and crime problems facing our city today.

Reflecting on the magnitude and widespread nature of the problem, Captain Ferry went on to say:

Today in the City of Los Angeles, we have identified 122 active gangs with a combined membership of over 9,000 members and associates. Of these members, 78 percent are adults and 22 percent juveniles...Gangs are no longer restricted to urban areas but have spread like cancer throughout the state...Certain areas are similar to war zones. The Central Bureau of the City of Los Angeles, an area where gangs have been rooted for over 50 years, accounts for 50 percent of the city's total gang problem. The Valley Bureau is presently experiencing an alarming increase in gang violence. To the gangs and their members, violence is a way of life.

Statistics maintained by County and City law enforcement agencies reflect a trend toward increased gang violence throughout the 1970s. Gang-related homicide incidents in the jurisdiction of the County Sheriff (unincorporated areas of the County) have shown a steady rise over the ten year period (TABLE III). Likewise, a general growth in gang homicides was observed for the City of Los Angeles over the decade with dramatic increases occurring from 1977 to 1980 (TABLE IV). These increases parallel a rise in total homicides in the city during most of the period but outstrip them during the latter part of the decade. These trends in gang homicides in the City of Los Angeles are shown graphically in FIGURE 1. This growth in gang-related homicides during the latter part of the 1970s is

Table III. Gang Related Homicides Reported in the Jurisdiction  
of the Los Angeles County Sheriff's Office  
1971 - 1979

Year	Gang Homicides
1971	16
1972	22
1973	12
1974	34
1975	39
1976	41
1977	58
1978	61
1979	92

Table IV. Reported Homicides (Total and Gang Related)  
in the City of Los Angeles

Year	Gang Homicides		Total Homicides	
	Number	% Increase	Number	% Increase
1973	39	----	489	----
1974	70	79.5	481	-1.6
1975	71	1.4	554	15.2
1976	57	-19.7	501	-9.6
1977	69	21.0	576	15.0
1978	92	33.3	651	13.0
1979	115	25.0	786	20.0
1980	192	67.0	N/A	

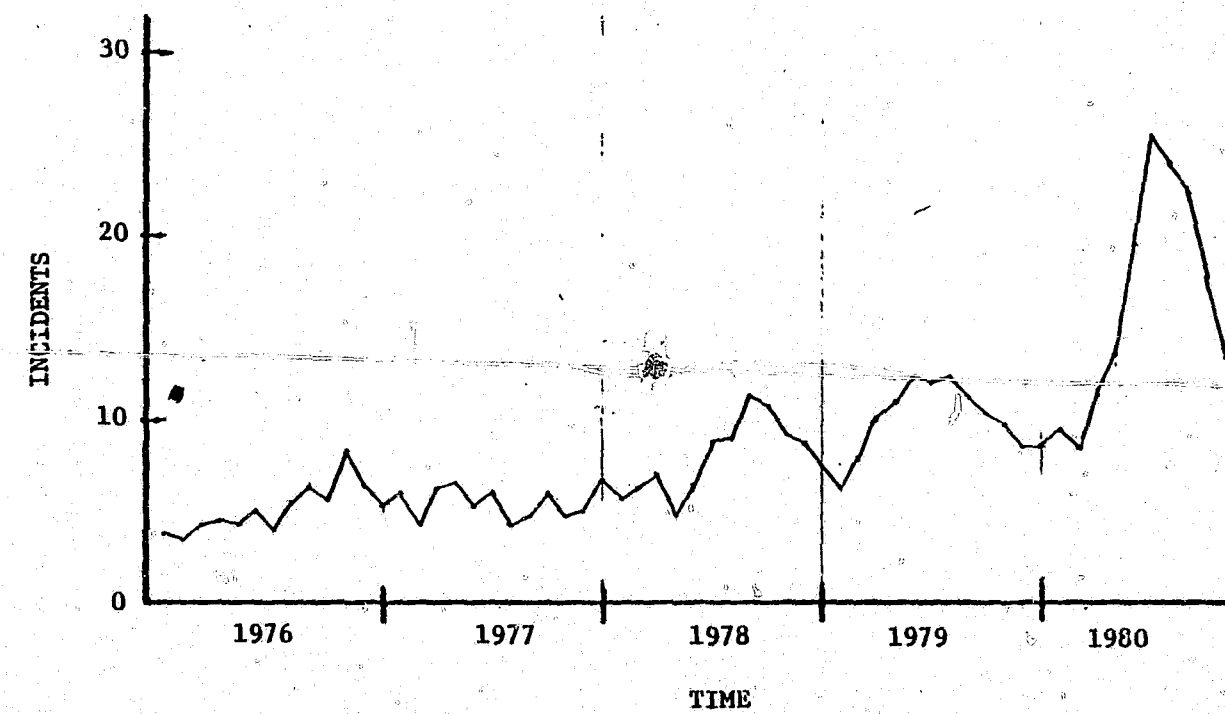


FIGURE 1  
Monthly Incidents of Gang-Related Homocides in the City of Los Angeles 1976-1980  
(Four Month Moving Average)

accompanied by increases in other lesser violent gang criminality according to figures maintained by the Los Angeles Police Department (TABLE V).

The experiences of Los Angeles police agencies suggests that gang offenses in Los Angeles exhibit many of the general characteristics described above (Section 3.1) as typifying gang-related violent crimes. In Los Angeles, as elsewhere, gang offenses are collective actions, often involving both juveniles and adults. Again in the words of Captain Ferry of the Los Angeles Police Department:

The tragedy of gang violence is a combined juvenile and adult problem. Juveniles are willing and at times eager "tools" for older gang members. The respect and acceptance these youths receive from their gang often displaces their family values. In many cases gang members are children of gang members whose parents were gang members (Ferry Testimony, 1979).

As this statement also suggests gang loyalties are often strong and gang affiliations longstanding. As for the motives behind gang violence, material on street gangs prepared by the Youth Services Bureau Gang Detail of the Los Angeles Sheriff's Office states:

Many have asked why gang violence occurs. The usual responses cover such areas as revenge for a wrong doing, sometimes imagined, territorial encroachment by a rival gang which cannot be tolerated or the gang will lose face, and eventually power. Long time rivalries now generate violence at such events as weddings, baptisms, and on occasion funerals. Rival gang members went so far as to invade the funeral of a rival gang member whom they had killed, held the mourners at bay with shotguns, turned the casket over and dumped the body on the floor. This is gang violence at its highest level (Youth Services Bureau 1979, p.6).

Table V. Incidence of Selected Reported Gang-Related  
Violent Offenses in the City of Los Angeles  
1977 - 1980

Year	Homicide		Attempted Homicide		Felonious Assault		Robbery		Total Violent Crimes*	
	No.	Percent Increase	No.	Percent Increase	No.	Percent Increase	No.	Percent Increase	No.	Percent Increase
1977	69	----	250	----	942	----	321	----	1849	----
1978	92	33.3	281	12.4	849	-9.8	255	-20.5	1682	76.6
1979	115	25.0	293	4.2	1070	26.0	354	38.8	2088	49.4
1980	192	67.0	420	43.3	1825	70.6	813	129.7	3119	49.4

\*Total violent crimes include: homicide, attempted homicide, felonious assault, battery on a police officer, robbery, shooting into an inhabited dwelling, rape and arson.



Listed in TABLE VI are a series of incidents described by the Los Angeles Police Department which illustrate the problems of violence resulting from ongoing gang rivalries.

Under these circumstances, prosecution faces many of the problems described in the preceding section (3.2). As Captain Ferry stated concerning the Los Angeles experience:

Prosecution of gang members is extremely difficult. Witnesses are usually reluctant to testify, either from fear of reprisals from the gang or individual hostility toward the judicial system. Gang member victims frequently refuse to cooperate in any phase of investigation or prosecution, opting to let their gang seek vengeance (Ferry Testimony, 1979).

In addition to these witness and other gang-related problems, gang prosecution in Los Angeles faces the more general problem of increasing caseloads and limited resources. This has a particular effect on difficult-to-prosecute cases (like those involving gangs), in terms of both the prosecutor and law enforcement time available for these cases:

Another major problem facing prosecutors dealing with violent [gang] offenders is the decreasing amount of investigation conducted by the law enforcement agency who originally submitted the case. Increasing case loads and Proposition 13 budgetary restrictions have combined to pressure investigating officers to spread themselves perilously thin over their many cases, thereby jeopardizing the successful prosecution of violent [gang] offenders (Final Report of Operation Hardcore 1979, p.11).

These problems, it is argued, have contributed to a inadequate criminal justice sanctions in gang-related cases, particularly gang-related homicides.

Table VI. Examples of Gang Violence Resulting from Gang Rivalries  
as Described by the Los Angeles District Attorney's Office\*

May 30, 1979	A member of gang "A, Juan Rodriguez, was set up and killed in a narcotics double-cross by Raymond Domingo and Fernandex Chavez, both members of gang "B".
July 12, 1979	Raymond Domingo of gang "B" was shotgunned to death by Luis Rodriguez of gang "A" in retaliation for the murder of his brother Juan.
September 29, 1979	Gang "B" members committed a drive-by shooting, killing Richard Olivas who was at a gang "A" party.
September 30, 1979	Gang "A" members ambushed gang "B" member Steve Lucerno.
October 1, 1979	Gang "B" committed a drive-by shooting on a gang "A" residence.
October 3, 1979	Gang "A" drove by and fired shots into the residence of Miguel Chavez, a gang "B" member.
October 4, 1979	Gang "A" drove into a gang "B" neighborhood and fired shotgun blasts into the residence of the Domingo family.

Table VI. Examples of Gang Violence Resulting from Gang Rivalries  
as Described by the Los Angeles District Attorney's Office\*  
(Continued)

A few minutes later  
October 4, 1979

Two gang "B" members went to the gang "A" residence of Johnny Montez and one fired into it, in retaliation for the earlier gang shooting. Johnny Montez and three of his gang "A" co-conspirators were lying in wait. The ambushers chased down Carlos Vasquez and fired numerous shots at him over a two-block area. The wounded gang "B" member crawled under a car for safety once discovering that his getaway car and driver had abandoned him. The gang "A" members pulled Vasquez from underneath the car and executed him.

SOURCE: Final Report of Operation Hardcore, 1979, pp. 5-6.  
\*Names have been changed.

## 5. SELECTIVE PROSECUTION OF VIOLENT GANG CASES

### 5.1 Introduction

In 1979 the Los Angeles District Attorney's Office initiated a program to selectively prosecute cases involving serious, violent, gang-related offenses. With support from the federal government, a special Unit called Operation Hardcore was created to improve the prosecutorial handling of gang cases. The Unit was originally staffed by seven, hand-picked volunteers from the District Attorney's Office staff. These attorneys were given reduced caseloads and added investigative support; they were assigned cases on a vertical or continuous basis and were urged to utilize available support programs including witness relocation funds. Over the first two years of the Unit's life, the Operation Hardcore attorney staff has expanded to twenty; two hundred and fifty defendants have been prosecuted by the unit in approximately one hundred and fifty cases; and, over sixty percent of the Unit's cases involved gang-homicide incidents (Operation Hardcore Final Report, 1980).

### 5.2 Operation Hardcore's Approach and Objectives

Responses to gang criminality in Los Angeles have been numerous over the years. In a review of the Los Angeles experience, Miller describes a range of initiatives which have been undertaken by local government in Los Angeles (Miller 1975, pp.60-61). Most of the early efforts attempted to work with local gangs outside of the criminal justice system, either to channel gang members' attention into activities other than the gang or to divert the energies of the gang as a group into the non-criminal arena. As Miller writes:

Between 1965 and '69 methods of most public agencies were based on service philosophies which stressed treatment and rehabilitation, preferably in non-legal community settings (Miller 1975, p.60).

Several of the best known gang prevention programs--the Ladino Hills project of Malcolm Klein (Klein 1968) and the Pinto project of Joan Moore (Moore, 1978)--took place in Los Angeles.

In addition to these preventive efforts, the Los Angeles law enforcement community has traditionally been very active in gang investigation and apprehension activities. In 1973 a program entitled CRASH (Community Resources Against Street Hoodlums) was developed by the Los Angeles Police Department to provide specialized resources for the investigation of gang cases. CRASH is currently an active and growing program in the city of Los Angeles.

In addition to Detective Support Division, Gang Activities Section, additional police resources have been assigned to gang crime suppression units. CRASH (Community Resources Against Street Hoodlums) units are in operation in areas of the city where gang violence is the highest. The total number of sworn personnel assigned to combat the gang problem at this time is approximately 134.

The purpose of these units in dealing with the gang problem is to effectively identify and apprehend violent hardcore gang members and monitor their progress through the criminal justice system; to work with victims, witnesses, parents, and neighbors, to strengthen and support them in their efforts to eliminate the gang problem; and to aid the efforts of other criminal justice and governmental agencies. These officers concentrate enforcement activities on gang leaders in an attempt to breakdown a gang's hierarchy (Ferry Testimony, 1979).

Likewise, the other law enforcement agencies in the County provide specialized support to the handling of gang cases:

The other agencies involved have specialized gang units: the Sheriff's Office has a specialized unit,...and of the over fifty law enforcement agencies in the County, the majority...have officers assigned to do nothing but gangs (LA Attorney Interview, 1981).

Operation Hardcore carries this approach of specialized handling of gang cases one step farther into the criminal justice system. Through the approach of selective, targeted prosecution, Operation Hardcore offers gang cases high priority prosecutorial handling in terms of the caliber of the attorneys assigned to handle gang cases, the time and resources available to these attorneys (including investigative support and reduced caseloads), and specialized resources for assisting witnesses. Attorneys are given the opportunity to handle their cases continuously from start to finish, a luxury often unavailable to prosecutors today, given current caseloads and resource constraints.

In short, through Operation Hardcore, attorneys are given the opportunity to address the prosecution problems posed by gang cases and, thus, to improve the performance of the criminal justice system with this increasingly problematic caseload. In this way, Operation Hardcore is attempting to accomplish its major objectives:

To develop and implement within the existing structure of the Los Angeles County District Attorney's Office a specialized section to vertically prosecute hardcore gang offenders. This section is to have the capability of identifying hardcore gang offenders and intensifying prosecutive efforts in the processing of such cases. The

process by which they are brought to justice would be expedited and the number of cases lost due to witness problems would be reduced. There would also be an enhancement of post-sentence follow up on problem and parole violators (Operation Hardcore Final Report 1980, p.7).

### 5.3 Unit Organization, Staffing and Operations

Operation Hardcore is a self-contained Unit in the Los Angeles District Attorney's Office. The Unit began prosecuting violent gang-related felony cases in January 1979, with grant support from the Law Enforcement Assistance Administration of \$327,011. Federal support continued for a second year at a comparable level (\$352,248). In the third year, an expanded Operation Hardcore Unit was funded by the County of Los Angeles reflecting a local commitment to the Unit and its efforts.

The Unit's resources are devoted primarily to attorney and investigative staff. During the first two years of operations, the Unit was composed of seven attorneys; at the end of the second year, ten attorneys were added; currently, the staff includes twenty attorneys devoted solely to the prosecution of violent gang cases.

Attorneys were selected for the unit from the regular staff of the District Attorney's Office. Participation was voluntary. Characteristics which were sought include high motivation:

Young Deputies who were energetic, eager to get involved, willing to spend the time it takes to put these cases together (LA Attorney Interview, 1981), willingness to learn:

...people were carefully selected for their motivation, not so much their experience but more their desire to learn (LA Attorney Interview, 1981), and assertiveness:

We look for very assertive lawyers. This kind of case is complex, difficult; we really have to sell our evidence. (LA Attorney Interview, 1981).

Also seen as very important is an ability to get along well with others and to develop rapport both with the staff of other agencies (especially the police) and with witnesses.

Two District Attorney investigators were assigned to the Unit during the first two years; in year three this was expanded to four. These investigators provide follow-up support to the police officers who bring the case to the attention of the District Attorney's Office. In some cases they assume full responsibility for the case investigation or the reinvestigation of elements of the case. These investigators work closely with the attorney staff, particularly in the identification and relocation of witnesses.

Gang cases are selected for prosecution by Operation Hardcore based on criteria designed to identify individuals who have both committed a serious violent offense and who have established a pattern of criminality.

Cases are brought to the attention of the Unit usually by law-enforcement agencies, sometimes by Deputy District Attorneys in the filing or regular trial sections of the Office. Police officers or attorneys may approach either the Director of the unit or individual members of the attorney staff with potential Hardcore cases. While individual attorneys may advise the police on the investigation of the case, the decision to handle the case by the Unit rests with the Director:

We follow the chain of command with the head or acting head of the unit having the say as to whether or not the case meets the profile. There is a good reason for that: as the individual Deputy [District Attorney] gets to know the police investigators that work gangs constantly, there is a pressure applied to that Deputy on a friendship basis to handle a particular case (LA Attorney Interview, 1981).

The point at which Operation Hardcore is informed that a case meets the Unit's criteria largely determines the specialized actions which they can take in the case prosecution. FIGURE 2 schematically displays the range of activities the Unit typically undertakes in the course of a case prosecution; the figure places these activities in the framework of the major steps in the processing of a case.

In general, the earlier the Unit becomes involved the better:

The premise was to get involved before the case is normally brought to the attention of the District Attorney for filing, assist the officers with search warrants, be brought in the beginning during the investigation so that we could guide [the investigators] in gathering evidence on other people in the case beyond just the shooter (LA Attorney Interview, 1981).

The Unit's experience has shown that most police officers welcome the interest of the attorneys in the early stages of processing.

After a year and a half, it has evolved to the point where, when legal problems crop up during the investigation of a case, the police officers will contact us even before they think about the filing stage. (LA Attorney Interview, 1981)

Early involvement in a case permits the Hardcore attorney to assist in the preparation of search warrants:



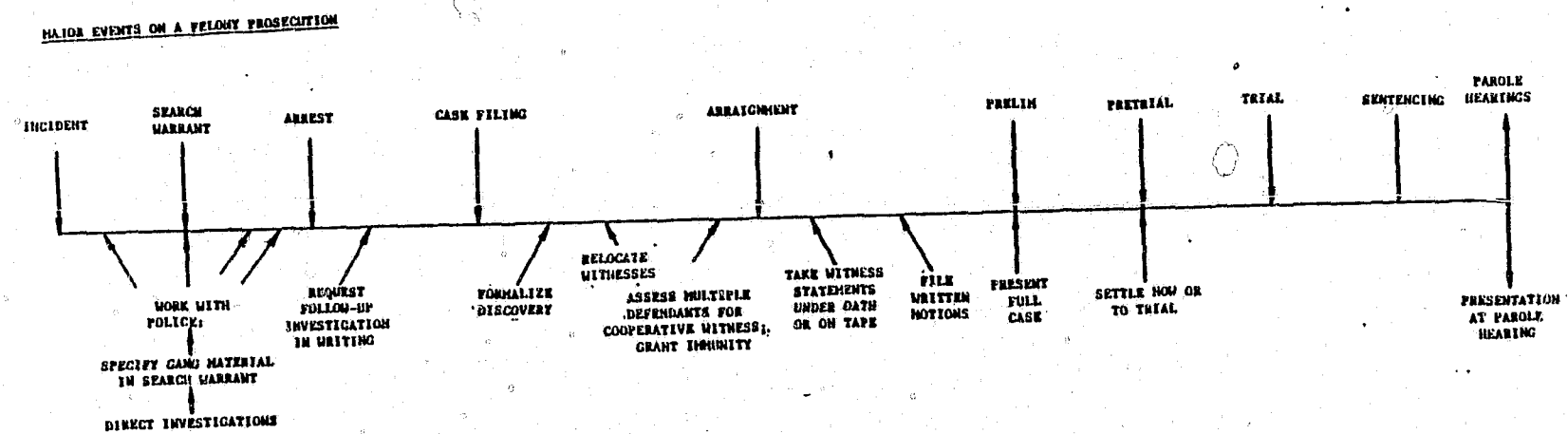


FIGURE 2  
HARDCORE PROSECUTION ACTIVITIES IN THE CONTEXT OF  
CASE PROCESSING

When you have a warrant, particularly when it deals with an area like gangs, there are a lot of things that even the police officers don't think about that a lawyer would ... identification of premises through papers, identification of monikers of defendants, graffiti inside the house ... things of that nature which we are tuned into because we do it everyday (LA Attorney Interview, 1981).

In some cases Operation Hardcore attorneys also accompany the police in the execution of the warrants:

Ideally the Deputy District Attorney goes out with the officer serving the warrant so he can get a first hand look at what is being seized. He knows precisely what he can prove and what he can't prove by looking at the physical evidence. He also may be in a position to write an additional warrant from a first location into a second that may be disclosed by evidence seized at the first (LA Attorney Interview, 1981).

Once a case is accepted by the Unit, it is assigned to a Deputy who is responsible for the full prosecution of that case to disposition and sentencing and theoretically to parole hearings, although no Hardcore defendants have yet become eligible for parole. To the extent possible, the same Deputy will perform the full range of prosecutorial functions for that case: case filing, preliminary hearing, pretrial motions, plea negotiations, and trial proceedings.

The ideal situation would be that the Deputy who goes out and serves the search warrant would also file the case, put on the preliminary hearing, and put on the trial (LA Attorney Interview, 1981).

This contrasts with regular processing which in most cases involves multiple attorneys in a routine case:

You are going to have [one]...Deputy for filing, a different Deputy for preliminary hearing (and it may only be assigned to that preliminary hearing Deputy the night

before), and a different Deputy will be handed it after the preliminary hearing for trial. Then it is frequently assigned to a court that has two or three Deputies, so for any given motion or any given trial date it depends on who is available who ends up with the case (LA Attorney Interview, 1981).

During the past two years there has been a move towards vertical prosecution in case handling in the Office generally. Cases may be assigned to a court prior to the preliminary hearing and remain in that court for the life of the case. The three Deputies assigned to that court will handle the prosecution of the case. So depending upon the work arrangements among the Deputies, a routine case may be handled continuously by a single attorney, although such continuity is not assured.

In an attempt to avoid problems of lack of continuity in the handling of gang cases, the continuous or vertical prosecution approach is a critical feature of Operation Hardcore:

The premise was that we could do a better job if we handled the case from the beginning to the end and were able to take a reduced caseload from the normal--so we could take the time to put the case together from the beginning (LA Attorney Interview, 1981).

During the first two years of operations, Operation Hardcore attorneys had average caseloads ranging from a low of three cases per attorney at the outset of the program to a high of sixteen cases per attorney late in the second year of Unit operations (see TABLE VII); in terms of defendants, at the lowest level Hardcore attorneys were handling an average of five defendants; at the highest, sixteen.

TABLE VII

Per Attorney Caseloads for Operation Hardcore, February 1979 - October 1980

Months	Modal No. of Attorneys	Average Caseload	Average No. of Defendants	Range			
				Cases		Defendants	
				High	Low	High	Low
1979							
February	3	3.1	5.5	3.5	1	10	1
March	6	4.1	7.0	5	1	9	1
April	5	4.0	7.6	5	1	9	1
May	5	3.8	7.6	4	1	9	1
June	6	4.3	7.7	9	1	13	1
July	6	5.0	8.5	10	1	14	1
August	6	5.7	9.2	12	1	12	1
September	6	6.0	9.7	9	1	10	1
October	6	6.2	10.0	9	1	12	1
November	6	5.4	8.9	10	1	14	1
December	6	6.0	8.9	10	1	14	1
1980							
January	6	6.8	9.5	13	1	15	1
February	7	6.7	9.7	16	1	18	1
March	5	7.8	12.6	13	1	17	1
April	6	7.7	12.6	13	1	18	1
May	6	6.7	10.3	14	2	24	3
June	6	8.9	13.7	16	2	24	3
July	7	9.4	14.3	13	7	21	9
August	7	10.0	15.0	13	7	19	11
September	7	9.2	14.5	12	7	23	9
October	7	10.4	15.9	17	6	24	10

(Data compiled from Operation Hardcore Schedules.)

These low caseloads permit Operation Hardcore attorneys to take the time to put in writing things which would routinely be handled on a more informal basis. Discovery is formalized; requests for follow-up investigation are made in writing; written points of authority on legal aspects of gang prosecution are prepared, preferably early in the case.

Perhaps more importantly these reduced caseloads on the part of both the Deputies and the investigators give the Hardcore Unit the opportunity to work more closely with witnesses. The Unit is able to provide support to witnesses who are fearful or who have been threatened. As one attorney said:

The basic solution is to relocate the witness (LA Attorney Interview, 1981).

Funds are available for relocation expenses and the Unit has the staff time available to assist individuals and their families in finding and renting a new apartment or in locating a new job. The Unit also has the resources to provide other protection to those who cannot be relocated, in the form of:

increased police to provide security in those cases where an individual cannot sell their house or cannot leave their job...those are the most difficult cases...those are generally...law abiding citizens (LA Attorney Interview, 1981).

In addition, Hardcore attorneys are urged to prosecute incidents of witness intimidation, currently possible under California law.

With difficult witnesses the Unit uses such measures as sworn statements and taped interviews:

In gang cases, something we use a lot and we direct police officers to use and which is not used widely by the rest of the office is tape. We have our police officers...tape interviews, sometimes clandestinely, sometimes openly...We like to try to lock our witnesses in, because in our type of case witnesses are either reluctant at the beginning or if they tell the police what happened at the beginning, many times they become reluctant after they have been threatened (LA Attorney Interview, 1981).

In particularly difficult circumstances the tape itself may be used as evidence.

A lot of times if you've got reluctant witnesses, the tape is invaluable because they will get up on the stand and change their story. At that point in time, the tape itself becomes evidence. We can play it for the jury and it becomes a prior inconsistent statement under California law...(LA Attorney Interview, 1981).

Finally, the reduced caseload allows Operation Hardcore to prepare cases early, present the full case at the preliminary hearing (thus locking witnesses in early), and restrict case settlements to well before trial. Settling the case early or not at all is seen as especially important in gang cases because of the implied obligation to witnesses who willingly cooperate with the prosecution despite risks.

Operation Hardcore is the only section in the Los Angeles District Attorney's Office which handles both juveniles and adults.

We are the only Unit in the Office which prosecutes in both juvenile and adult sections...you just have to do that because gang violence is unusual in that it involves that mix of people...we go back and forth between the two systems and it makes us more effective (LA Attorney Interview, 1981).

Juvenile involvement in these violent gang offenses is seen as serious by the Unit.

Our policy is to vigorously prosecute gang juveniles. We make no distinction as far as filing or prosecuting. Whether adult or juvenile, we use the same standards (LA Attorney Interview, 1981).

Most of the juveniles prosecuted by Operation Hardcore are eventually prosecuted as adults.

The greater proportion are found unfit for juvenile court and are tried as adults because what we are dealing with are people who met our criteria: violent people and recidivists. Those are the type of people who are not found fit. So if they meet the criteria, they are about three steps toward unfitness already (LA Attorney Interview, 1981).

The same Hardcore attorney handling the adults in a case will also handle the juveniles, an approach which can aid in the adult prosecution since what goes on at the juvenile proceeding may apply to the adult case.

Many times they will put the same alibi on at the juvenile hearing as will come about at the adult. Many times people will testify or things will come out. Facts will come to light at the juvenile proceeding that if you didn't handle it, you would never know about. They may make the case (LA Attorney Interview, 1981).

In terms of cooperative arrangements with other agencies, Operation Hardcore focuses on the police agencies.

That is the key component--the police agency response....If the police agencies are willing to allocate special resources then you mesh with them tremendously (LA Attorney Interview, 1981).

With respect to other components of the criminal justice system, beyond law enforcement agencies, Operation Hardcore does not look for any special accommodations.

We do not try to get any special treatment from other components [of the criminal justice system]...We do not get special treatment from the courts. We get harder sentences from the courts because of the nature our suspects and our crimes (LA Attorney Interview, 1981).

In short, Operation Hardcore is attempting to work within the domain of law enforcement and prosecution simply to get the criminal justice system to operate as it is intended with their selected caseload.

Finally, the Unit as work group has developed a pool of experience and expertise about gangs and about the mechanics of handling gang-related case problems, such as witness relocation, taking sworn statements, etc.

There are things you learn through exposure to the gangs...and the more you learn about their culture, their background, their motivations, and their thinking--the better you do (LA Attorney Interview, 1981).

Experience with these matters gives the Hardcore Deputies a clear advantage over:

...the average Deputy in the Office (who) doesn't get a gang case very often and when he does he is starting from scratch because there is no real profile on how to handle it, who to call, etc. . . . it is a time-consuming process (LA Attorney Interview, 1981).

To summarize, Operation Hardcore prosecution brings a number of special features to the handling of violent gang cases, in terms of resources:

- o A highly motivated and qualified attorney staff,
- o Special investigative support attached directly to the Unit, and
- o Low caseloads for both attorneys and Unit investigators; in terms of case management:
- o Early involvement in case preparation and investigation including preparation of search warrants,
- o Continuous or vertical prosecution with one Deputy handling the full range of prosecutorial functions for his cases from filing to disposition and sentencing,
- o Special attention to witness problems including using available witness relocation funds, providing witness protection, taking taped or sworn witness statements, prosecuting instances of witness intimidation, and
- o Prosecution of both juvenile and adult suspects by the same Deputy, and in terms of policy:
- o Working closely with law enforcement agencies,
- o Preparing written notions and points of authority early in cases,
- o Settling early or going to trial, and
- o Prosecuting both juveniles and adults and accessories as well as the "shooters".

#### 5.4 Selective Prosecution as a Response to Gang-Related Prosecution Problems

As the preceding discussion indicates, Operation Hardcore has developed a multifaceted program for the selective prosecution of cases involving violent gang criminality. The final issue to be considered here is how the elements of the Operation Hardcore Unit and its activities specifically address the problems prosecution faces with violent gang cases.

In the earlier discussion of gang-related prosecution problems, general aspects of gang cases and the problems they create were discussed. These general problems include:

- o evidentiary and logistical problems due to the collective nature of gang criminal incidents;
- o problems due to witness reluctance to participate and to witness intimidation by the gangs; and
- o problems due to the alien nature of the gang life-style which threatens the credibility of gang evidence and motives to juries.

Of the three areas, Operation Hardcore addresses problems involving witnesses most directly. Witness problems are the most often cited difficulty with gang cases. Witnesses hesitate to become involved in gang-related prosecutions for a number of reasons. Hardcore attorneys have the time to devote to their cases to assess the situations and motivations of witnesses and to deal with each individual as appropriate. Those who have been threatened or who are fearful can be relocated or protected. Those who are reluctant can be pinned down early and efforts can be made to hold them to their original statements. Taped interviews can be conducted and sworn statements can be taken, which can then be used throughout a case prosecution to aid in maintaining consistency in witness testimony.

In addition to these specific actions, Hardcore attorneys, aware of the importance of witness testimony in gang cases and the problems often encountered with witnesses, can afford to take the time to meet with witnesses, in the District Attorney's Office or in the witnesses' homes, both to reassure them and to impress upon them the importance of their continued cooperation in a case. The Hardcore investigators play an important role in this process. They develop a rapport with witnesses which aids both in the development of evidence and in the maintenance of witness participation. As one Hardcore attorney described his experiences with the Unit's investigators:

The rapport they establish is unbelievable; they are very good at that. They can turn an utterly frightened witness or a hostile witness into an extremely cooperative witness. You need that because if there is anything important in terms of the preparation of a gang case, it is getting the witnesses on your side and dealing with witness problems (LA Attorney Interview, 1981).

In this regard, the vertical prosecution approach is also of great value. A witness will have the same point of contact throughout the case, something which can be critical in building the confidence of reluctant witnesses. As one attorney stated:

When you have the same face making continued representations, it is something they can bank on...We tell them we are going to move you; we are going to find you a new apartment or a new job; we are going to move you out of this neighborhood so you don't have this intimidation problem with the gangs. When the same face that says it, is there the next time and delivers, that carries a lot of credibility (LA Attorney Interview, 1981).

Continuity is also an asset with hostile witnesses. Again, in the words of a Hardcore attorney:

There is continuity. Basically in a lot of situations you have to impress the witness with the force and might of the system (LA Attorney Interview, 1981).

Finally Operation Hardcore attorneys have the time and a mandate to pursue charges of witness intimidation as problems arise in their cases.

The collective nature of gang criminality and the age composition of gang members poses logistical problems for prosecution. Multiple defendant cases are subject to severance and time delays simply due to the management problems associated with handling the case. These problems are further exacerbated when both juveniles and adults are involved in an incident and separate filings are made in different courts. The vertical approach to case handling of Hardcore cases coupled with the ability of Hardcore attorneys to prosecute juveniles as well as adults, directly addresses these problems. With his low caseloads, a Hardcore attorney can comprehensively oversee the entire processing of the case.

Evidentiary and legal problems are also associated with multiple defendant cases. As was discussed earlier, in cases involving multiple suspects, a tendency among prosecutors is to file charges on only the central individual, given difficulties with legally holding the accompanying individuals accountable for their involvement. Charges of conspiracy or aiding and abetting require the prosecution to demonstrate associations among the group members as well as to show a commonly held motive. The evidence needed to substantiate charges such as these require special police attention. Operation Hardcore has been able to work closely with local law enforcement agencies, and in

particular law enforcement gang specialists, early in the investigation of gang cases to develop needed evidence. By specifying in search warrants material related to gang involvement, evidence needed to pursue the prosecution of the whole group of suspects can be sought.

Along the same lines, because they work with gangs all the time, the Hardcore attorneys have developed a base of expertise in gang operations, motives, etc., which aids them in developing their cases and in convincing juries of the credibility of their arguments.

As you begin to understand the lifestyle, the allegiance, the extended family relationship that gang members have, you can find ways to exploit it to the advantage of a prosecution and so that it educates the jury.

We have been able to improve the perception of jurors as to the ability of these people to commit these types of crimes by basically exploiting the individuals themselves and getting them to communicate to the jurors what we know from our exposure to the gang community (LA Attorney Interview, 1981).

In summary, Operation Hardcore is using the opportunities provided by selective prosecution to focus their efforts on aspects of gang prosecutions in ways that the caseload and time pressures of the routine process would not allow, based on the assumption that:

...a specialized group of prosecutors working closely with police agencies utilizing the vertical approach could be a very effective response to gang crime (LA Attorney Interview, 1981).



## 6. EFFECTS ON CRIMINAL JUSTICE PERFORMANCE:

### 6.1 Research Design

The activities implemented by the Operation Hardcore program address identified prosecution problems associated with serious cases involving gangs. These activities, it is expected, will lead to improvements in the performance of the criminal justice system with this target caseload. The research described in this section quantitatively assesses the extent to which these expected improvements have been observed.

Since the focus of the Operation Hardcore program is on gang perpetrated violence and the majority of the matters handled by the program are in response to gang related homicide incidents, the evaluative analyses specifically assess the performance of the program with gang homicide cases and defendants. Also because the vast majority of these matters are handled by the adult criminal justice system and because only limited data were available for juvenile processing, the analysis focuses on adult court handling.

The evaluative analyses focus on three areas of criminal justice performance: dispositions, strength of convictions and sentencing. Defendants and cases handled by the Operation Hardcore program are compared to other similar defendants and cases handled by non-program attorneys prior to and during program operations.

Specifically, the analysis compares three groups of defendants and cases. These are:

- |                                 |   |
|---------------------------------|---|
| Pre-Hardcore No Program Group:  | Included are defendants/cases prosecuted in connection with incidents occurring during the period 1976 to 1978, before the initiation of Operation Hardcore.  |
| Post-Hardcore No Program Group: | Included are defendants/cases prosecuted in connection with incidents occurring in 1979 and 1980, during the period of program operations, but which were prosecuted by the regular trial attorneys and not the Operation Hardcore program. |
| Post-Hardcore Program Group:    | Included are defendants/cases prosecuted by the Operation Hardcore program; this is the treatment group.  |

The defendants and cases present in all three of the groups are candidates for program attention as the program was implemented. Whether or not a case was handled by the program depended on whether the program was in place at the time the matter was taken under consideration and/or whether the program attorney staff had time available for an added case. This is discussed further below (Section 6.5.1).

## 6.2 Special Data Handling Requirements

A data base was developed to implement of the research design described above. Several requirements derived from the specific characteristics of criminal justice processing and record keeping guided data base development. These requirements primarily involve data collection and data base structure and are based on the need to collect data from several components of the criminal justice system, as well as on multiple units of analysis. Criminal justice processing is a joint effort of a number of Government agencies. Police typically respond to a criminal incident, collect evidence related to that incident, conduct an investigation, and in some cases, identify, apprehend, and arrest suspect(s) in connection with that incident. Prosecutors typically review police-generated materials and make the decision of whether and what to charge the suspects. Charges are filed in the criminal courts in which evidence is heard and a determination of guilt or innocence is made and in which, for convictions, penalties are established. Each component of the system maintains separate records on its own actions. This means that research interested in movement throughout this process must capture and link data from the several components of the criminal justice system. As the criminal justice process responds to a criminal incident, the units which are relevant to that response shift. The police are initially concerned with a reported incident and with the victim or victims of that incident. As the investigation progresses, police attention shifts to the suspects they have identified and, in some cases, arrested. For the prosecution, defendants and cases are the focus of activity. A police incident may result in one or more court cases each involving one or more defendants. Individuals identified by the police may or may not

be charged and, in the course of case prosecution, defendants may be charged who were not named by the police. The charges of arrest and the charges filed in the courts are likely to vary, in both nature and number. The schematic diagram in FIGURE 3 illustrates the nature of this situation. A criminal incident occurs. There are five individuals suspected as being involved. Four of these suspects are identified by name by the police. No further processing is possible on the fifth suspect, since his identity remains unknown. For the four named suspects, the evidence is reviewed by the prosecution and adult charges are filed against two of them in one case. The third is released due to insufficient evidence. The fourth is under age so a (second) case is filed against him in the juvenile court. Thus, in this example, there is one incident which involves five suspects, (four named, one unnamed) leading to two cases, one in adult court and one in juvenile court.

A data collection and management approach was implemented which maintains data on this complex configuration of units.

### 6.3 Data Collection Process

#### 6.3.1 Overview

The data collection implemented in support of the Operation Hardcore Program Evaluation was directed by the substantive concerns discussed above. The collection effort involved data on the following elements:

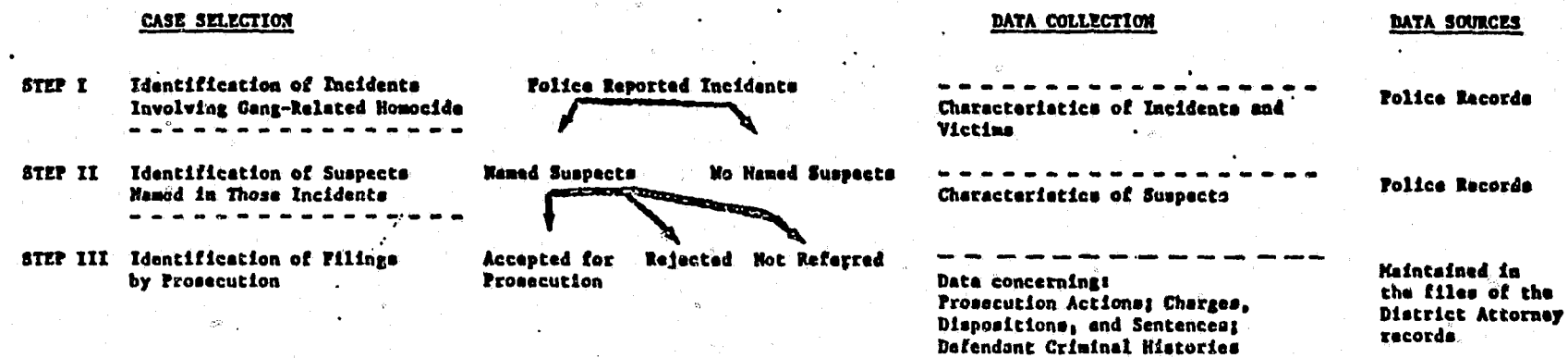


FIGURE 4  
DATA COLLECTION PROCESS

**CONTINUED**

**1 OF 2**

- o Criminal Incidents
- o Suspects and Defendants
- o Victims
- o Prosecutorial Activities
- o Charges, Dispositions, and Sentences

Data collection was conducted in a three-step process. It began with the identification of a pool of criminal events -- gang-related murder incidents -- as reported in police records. The suspects named in those records were used to link police-reported incidents with actions on the part of the criminal prosecution, including the screening of possible prosecutions and the filing of criminal charges in the courts. FIGURE 4 displays this process in a schematic form.

Step I involved the identification of the pool of incidents of interest in the research. Because the majority of the cases prosecuted by Operation Hardcore involve gang-related murder incidents, this pool of incidents was selected as the focus for the analysis. These incidents were identified using police records.

At Step II, individuals suspected by the police as involved in selected incidents were identified, again using police records. The names of these individuals served as the linking element between police and prosecutor records.

At Step III, the District Attorney's listings of individuals against whom criminal charges had been accepted or rejected for prosecution were used. These records were reviewed for the names of suspects identified by police and suspects were classified as accepted, rejected, or not referred (i.e., not present in the listing).

At each step, data was gathered from the police and prosecutor records concerning characteristics of incidents, suspects and victims, and criminal justice handling.

INSERT Figure #4

### 6.3.2 Case Selection Procedures

For the evaluative analysis, information was sought on all incidents involving a gang-related homicide, all suspects identified in those incidents and all criminal cases arising from them. The five year period, 1976 to 1980, was selected as the focus of analysis, with all incidents occurring within this period included in the data collection.

The pool of gang-related homicides was selected because the majority of the cases handled by Operation Hardcore involve such incidents and that it is in the prosecution of this type of incident that the unit is expected to have an impact.

The Hardcore unit became operational in January of 1979. Data covering two years of program operations and three years preceding program implementation have been included to allow for a sufficient number of incidents for an analysis of both baseline processes and program activities.

Inclusion of an incident or a suspect in the data set is dependent on the time the incident occurred, and is independent of the time of disposition of any cases derived of that incident. Hence, cases open at the time data collection was completed (December 1981) are included in the set, with the case disposition reported as pending.

### 6.3.3 Data Sources

Three primary data sources were used in the data collection: police records of gang homicide activity, prosecution listings of case acceptances and rejections, and prosecutor case files.

The Los Angeles Police Department has a specialized gang detective unit with the responsibility of record keeping on gang activities in the city of Los Angeles. A log of homicide incidents involving street gangs is maintained by this unit. Incidents are included which involve a known gang member, either as victim or offender. This listing was used in Step I, to identify the pool of incidents which formed the basis of the data collection process.

The Los Angeles District Attorney's Office systematically screens all referrals from local police agencies. Computer generated listings of all individuals referred for prosecution are maintained by the office. These listings (one for acceptances and one for rejections) are kept for each year, alphabetically by suspect's name. They include information on the date of referral and most serious charge. These listings were used to identify those individuals identified by the police who were subsequently prosecuted by the District Attorney.

Finally, the District Attorney maintains working files on all cases prosecuted by deputies in his office. These case files include copies of police, court, and criminal history records, as well as information on case prosecution. These case files were used as the primary source of data describing criminal justice handling.

Several additional sources of data were used to supplement the data collection where gaps existed in the primary information sources. These supplementary sources included the automated Prosecutors Management Information System (PROMIS) maintained by the District Attorney's Office and court records in the Superior Court of California in Los Angeles County, the local felony court.

#### 6.3.4 Data Collection Procedures

A data collection package including data collection forms and instructions was developed specifically for this data collection effort.

The three steps in the data collection process were implemented sequentially. Steps I and II were conducted at MITRE, by in-house staff, working from copies of police records. Case and defendant data forms were initiated for each incident and each suspect. Identification numbers were assigned by MITRE, with each number corresponding to an incident and with suspects associated with each incident allocated the same identification number appended with sequential defendant identifiers. Data describing the incident, suspects, and victims (available from police listings) was added to the forms at this time.

A listing of all named suspects was compiled from these materials. The listing included the suspect's name and age, the date of the incident, the victim's name, and the suspect's arrest status (in custody or outstanding). This listing was computer-coded and sorted alphabetically by the suspects last name, within the year of the incident. These lists were then used by an on-site data collection team to identify cases in which suspects were charged. This was done using the District Attorney's acceptance and rejection listings, described above. For all defendants named in cases, the District Attorney identification number (DA number) was added both to this listing (for form control purposes) and to the relevant case and defendant data forms (for further data collection in Step III).

Finally, the prosecutor case files for those incidents in which criminal cases were filed were used to collect information on the prosecution activities, criminal justice handling, and defendant criminal history. A team of locally hired data collectors were trained using the prepared instructions. They compiled this data over a six-month period. The forms were returned to MITRE, were reviewed by in-house staff, and clarification was obtained from on-site collectors as necessary. In some cases, additional data collection procedures (additional codes) were identified by the on-site collection team. These were incorporated into the procedures and are reflected in the instructions.

#### 6.4 Gang Murder Incidents in Los Angeles, 1976-80

The Operation Hardcore evaluation database includes incidents of gang-perpetrated murder reported in the city of Los Angeles from 1976 through 1980 and the response of the criminal justice system to those incidents. Included in the database is information on the characteristics of the incidents, the suspects and the victims, as well as data concerning criminal justice reactions to those incidents.

During the five year period 1976 through 1980, 526 incidents of homicide attributed to street gangs were reported (See TABLE VIII), with the number of reported gang perpetrated homicides increasing yearly over the five years. These incidents involved a total of 1016 suspects, of which 660 were identified by the police and 340 were charged by the prosecutor; a total of 223 cases criminal cases were filed in response to the incidents.



As the figures in TABLE VIII show, three quarters of the incidents involved the use of a firearm, about half involved multiple suspects, with less than a fifth involving multiple victims.

The characteristics of the suspects in these gang perpetrated homicide incidents are described in TABLE IX. The suspects are primarily male, with less than five percent female in any of the five years. In terms of age, only twenty percent of the suspects were less than 18 years of age and approximately one third are over 21 years old. There has been little variation over time in the age mix of suspects. In terms of race, the suspects are predominately hispanic, however, with the proportion of black suspects shifting considerably from year to year.

Like the suspects, the victims (See TABLE X) are predominately male (over 90%) and hispanic (approximately 60%). Victims tend to be older than suspects. As with suspects, about 20% of the victims are less than 18 years of age, however, more than 50% are over 21 years old. Only about 50% of the victims were gang members themselves, a proportion which varies somewhat, albeit not systematically from year to year. Finally, a third of the victims were reported as gang rivals in relationship to the suspects and a third to a half were strangers to the suspects on the incidents in which they were victimized.

TABLE VIII  
Incident Characteristics

Number of Incidents:

<u>Total:</u>	<u>526</u>
1976	54
1977	62
1978	85
1979	121
1980	204

Percentage of Incidents  
Involving The Following  
Weapons:

Firearm	75.0%
Knife	18.1%
Both	1.0%
Other	5.9%
(N)	(520)

Percentage of Incidents  
With Multiple Suspects:

%	51.4%
(N)	(518)

Percent of Incidents With  
Multiple Victims:

%	16.0%
(N)	(525)

TABLE IX  
Suspect Characteristics

	Total	1976	1977	1978	1979	1980
Sex Male	97.0	98.0	93.0	98.6	95.3	98.2
Female	3.0	2.0	7.0	1.4	4.7	1.8
(N)	(1002)	(98)	(122)	(151)	(235)	(396)
Age Under 18	20.3	28.9	10.2	18.3	20.9	22.1
18-21	44.7	50.0	46.6	42.5	46.3	42.2
Over 21	35.0	21.1	43.2	38.2	32.8	35.7
(N)	(823)	(90)	(118)	(120)	(201)	(294)
Race Black	31.6	37.2	22.6	21.5	24.7	40.4
Hispanic	64.5	57.7	77.4	72.2	71.1	56.3
White	2.7	3.9	0.0	6.3	2.7	1.6
Other	1.1	.1	0.0	0.0	1.4	1.4
(N)	(904)	(78)	(84)	(144)	(222)	(376)

TABLE X  
Victim Characteristics

	Total	1976	1977	1978	1979	1980
Age Under 18	18.3	21.8	27.1	16.1	17.8	16.1
18-21	27.3	36.6	27.1	25.8	25.0	27.4
Over 21	54.4	41.8	45.7	58.1	57.2	56.5
(N)	(641)	(55)	(70)	(94)	(158)	(264)
Race Black	24.9	23.7	29.6	15.3	25.0	27.6
Hispanic	62.6	67.8	62.0	68.4	62.2	59.4
White	10.0	6.8	8.5	13.3	9.7	10.0
Other	2.5	1.7	0.0	3.6	3.1	2.9
(N)	(631)	(59)	(71)	(98)	(164)	(239)
Sex Male	91.0	91.9	91.8	94.1	89.3	90.2
Female	9.0	8.1	8.2	5.9	10.7	9.8
(N)	(649)	(62)	(73)	(101)	(168)	(245)
Gang Membership Yes	55.8	58.3	47.9	45.5	57.6	60.4
No	44.2	41.7	52.1	54.5	42.4	39.6
(N)	(647)	(60)	(71)	(101)	(170)	(245)

TABLE X Victim Characteristics (Continued)						
	Total	1976	1977	1978	1979	1980
Relationship to Suspect						
Friend or Relative:	4.9	NA	NA	7.2	2.4	5.8
Aquaintance:	14.6	NA	NA	13.5	13.3	16.1
Gang Rival:	35.6	NA	NA	41.7	36.7	32.1
Stranger:	44.9	NA	NA	37.5	47.6	46.0
(N)	(486)	NA	NA	(96)	(166)	(224)

Information concerning the criminal justice response to gang homicide incidents over the five year period is shown in TABLE XI. As the figures indicate, overall in approximately 30% of the incidents no suspects were identified in connection with the reported homicide. In a further 20% of the incidents, no referrals to the prosecution were made. In about 5% of the incidents all police charges in connection with the incident were refused by the prosecution. Hence, in the remainder (over 50%) of the homicides, no adjudicatory action was taken in response to these incidents.

As the figures also show, there have been few shifts over time in these patterns. In each of the five years, in forty to forty five percent of the incidents cases were filed by the prosecution. This stability should be viewed in the context of the rising numbers of incidents reported over the five year period, from 54 in 1978 to 204 in 1980. Despite this dramatic increase, the criminal justice system has maintained a steady response to the problem and, in the process, has demonstrated an increasing capacity to handle gang homicide cases as reflected in the increased caseload over time (from 24 in 1976 to 86 in 1980).

#### 6.5 Program Effects

##### 6.5.1 Analysis Approach

Examination of the effects of the Operation Hardcore program on criminal justice performance focuses on three areas:

TABLE XI  
Criminal Justice Response

	Total	1976	1977	1978	1979	1980
<hr/>						
% of Incidents With:						
No Suspects Identified	30.2	20.4	21.0	29.4	36.4	32.5
No Suspects Referred for Prosecution	21.3	29.6	24.2	23.4	14.1	22.1
All Charges Rejected	4.5	5.5	8.1	4.7	4.1	3.4
Case Filed (Juvenile or Adult)	42.0	44.4	46.8	43.5	45.4	42.2
<hr/>						
Number of Total Incidents	526	54	62	85	121	204
Number of Total Incidents With Cases Filed	221	24	29	37	55	86

- (1) Dispositions: It is expected that devoting additional prosecutorial attention on the prosecution of gang related offenses will have an effect on the way cases and defendants derived of incidents of this type are disposed. Namely, more convictions and fewer dismissals are expected as a result of the increased time and attention devoted to case preparation. More trials and fewer guilty pleas are hypothesized as a result of more stringent disposition policies for targeted cases.
- (2) Strength of Convictions: It is expected that devoting increased attention to the prosecution of selected defendants will lead to stronger convictions. Because more resources are available for evidence gathering and because continuity in prosecution will limit the likelihood that evidence or witnesses will be lost along the case prosecution process, in conjunction with more stringent plea bargaining policies, it is hypothesized that fewer charge reductions and more charge enhancements will occur, and that targeted defendants will be convicted on more serious charges.
- (3) Sentencing: It is also generally hypothesized that the program will lead to more stringent sentencing for targeted defendants both by improving the quality of evidence and case preparation (leading to a stronger conviction) and by providing a more comprehensive picture of the seriousness of the defendant.

The specific performance measures examined in each of these areas are listed on TABLE XII.

As was discussed above the research design employed in the evaluation of the effects of the program in these three areas is based upon a comparative analysis of three groups of defendants cases. These groups defined in terms of two variables, program attention and time period of incident occurrence. The general configuration of cases and time periods included in the analysis is shown in FIGURE 5 below.

TABLE XII  
Performance Measures

<u>Analysis Area</u>	<u>Outcome Measure</u>	<u>Outcome Measure Definition</u>
Type and Mode of Disposition	Conviction	Defendants convicted by trial or by guilty plea to at least one charge
	Trial Disposition	Defendants tried on at least one charge
	Guilty Plea	Defendants pleading guilty on at least one charge as their worst disposition (i.e., no trial convictions)
Strength of Conviction	Conviction to Most Serious Charge Including Enhancements	Defendants convicted (by trial or guilty plea) to the most serious charge issued against them including all charge enhancements*
	Plea to Most Serious Charge Including Enhancements	Defendants pleading guilty to most serious charge issued against them* including all charge enhancements
Sentencing	Incarceration	Defendants sentenced to confinement
	State Prison Commitment	Defendants sentenced to serve time in the State Prison
	Youth Authority Commitment	Defendants sentenced to serve time in the California Youth Authority

\*Charge severity was determined by ranking charges first by the maximum sentences carried by each charge and second, by the minimum sentences. Allegations (of use of a deadly weapon, for instance) which carry increased sentences are considered as charge enhancements and are taken into account in the measure of charge

TABLE XII (Continued)  
Performance Measures

severity used here by adjusting the minimum or maximum sentenced as specified by the allegation. It should be noted that this is a considerably more stringent measure of the strength of convictions than is typically used by the Los Angeles District Attorney's office and should not directly compared to office strength of conviction measures or other similar state statistics.

FIGURE 5  
Configuration of Analysis Groups

		<u>Time Period of Incident</u>	
Program Attention:		Before Hardcore Program 1976 -1978	After Hardcore Program 1979 - 1980
		No Program Pre-Hardcore	No Program Post-Hardcore
	No		
	Yes	-----	Treatment Post-Hardcore

Analysis of both defendants and cases have been conducted. Because the results of the two are parallel, defendant analyses results are discussed in the body of this paper and case analysis results are included in Appendix I.

As is also discussed above, the cases and defendants in these three groups are all considered as eligible for program attention, as the program has been implemented. That is, all defendants were all charged in connection with a gang-related crime of violence, in particular, a homicide incident attributed to street gangs.

Clearly during the pre-Hardcore Period, none of the cases or defendants were accorded program attention, since there was no formal program in place during the 1976 to 1979 period. During the post-Hardcore period (1979-1980), a portion of these eligible cases were handled by the program; the remainder were prosecuted by regular line deputies.

Selection of cases for handling by the program was made on a case by case basis by program staff and management. The overriding criteria determining case selection was the availability of staff resources. Especially early in the program, the attorney staff was small and it is program policy that case loads be purposely limited in number. Consequently, cases which it is believed would have benefited from program attention were not handled by the program because of such resource constraints. Cases such as these are included in the 'Post-Hardcore, No Program' group, which serves as the primary basis of comparison in the analysis.

Because the selection of cases for inclusion in the program is discretionary, there is the possibility that the unit was 'skimming' the best cases in the office and that performance gains observed for the program may be attributable to selection process and not the expected program effects. Several factors work against a skimming effect in the Hardcore program selection processes. Given the expected rivalry between special and regular units in the prosecutor's office, there were informal controls on the unit's selection process. In the views of unit attorneys, in order to build credibility with the office, the Hardcore unit needed to be seen as a resource which was assuming case responsibilities not readily handled by line prosecution procedures. Anytime a difficult gang case was not handled by the unit, questions could be raised as to the necessity of the specialized unit. Likewise, in order to create a working relationship with law enforcement agencies the unit had to present a responsive approach to law enforcement referrals, on which the unit's caseload is largely based. In order to accommodate the needs of law enforcement agencies while maintaining the low caseloads central to the program concept, it is not unusual for Hardcore attorneys to work with gang detectives on early preparatory stages of cases which would eventually be prosecuted by line attorneys.

Hence, observation of the Hardcore program does not support the prevalence of 'skimming' process. Nonetheless, analytic procedures have been used to assess the extent to which selection may be biasing evaluation results. Namely, the inclusion of the 'pre-Hardcore, no treatment group' allows for the assessment of whether any performance improvements observed for the program treatment group have been achieved 'at the expense of' the cases handled during the post-Hardcore period

without program attention. This analysis approach is based on the expectation that in the post-Hardcore period, the 'no program group' will exhibit performance levels which equal or exceed pre-program performance, if no significant selection or skimming effects are present. That is, it is expected that outcomes of case prosecutions receiving no treatment after the program was in operation will look similar to no treatment cases (i.e., all cases) before the program.

#### 6.5.2 Dispositions

The results of the analysis of measures of dispositions for defendants are shown in TABLE XIII.

These results can be summarized as follows:

##### 1) Increase in Conviction Rate

Defendants prosecuted by the Operation Hardcore Program exhibit a significantly higher rate of conviction (95%) than would be expected based on the conviction rates of defendants prosecuted prior to the program (71%) and of defendants prosecuted by the regular (non-Operation Hardcore) attorney staff during the time period of program operations (78%).

##### 2) Decrease in Dismissal Rate

All charges against Hardcore defendants were dismissed at a significantly lower rate than would be expected in the absence of the program. Only 5% of Operation Hardcore defendants had all charges filed against them dismissed. This compared to 20% of defendants prior to the program and 18% of defendants prosecuted during the program period but by non-program attorney staff.

TABLE XIII  
DEFENDANT ANALYSIS RESULTS: DISPOSITIONS  
Percentage (N)

	Total	Pre-Hardcore No Program	Post-Hardcore	
			No Program	Program
Conviction Rate (N)	79.8 (285)	70.6 (102)	77.8 (107)	94.8 (76)
Dismissal Rate (N)	15.1 (285)	19.6 (102)	17.8 (107)	5.3 (76)
Plea Rate (N)	56.5 (285)	41.2 (102)	62.6 (107)	68.4 (76)
Trial Rate (N)	27.6 (285)	37.2 (102)	19.6 (107)	26.3 (76)
Trial Conviction Rate (N)	83.5 (79)	78.9 (38)	76.2 (21)	100.0* (20)

\*Differences between two Post-Hardcore groups are statistically significant at .01.

3) Increase in Trial Conviction Rate

While the number of trials is small, the results suggest that Hardcore attorneys have obtained trial convictions at a higher rate (100%) than have non-Hardcore attorneys (76%-78%).

4) Little Program Effect on Plea Rates and Trial Rates

Since the Operation Hardcore Program has been in operation, the rate of pleas has risen for both Hardcore and non-Hardcore defendants (41% to 63-68%) and the trial rate has declined for both groups (37% to 19-26%). During the program period, Operation Hardcore defendants exhibit slightly higher rates of both pleas and trials.

These results indicate that the program is having the expected effect on both increased convictions and decreased dismissals. There is no evidence of 'skimming' effects in either of these areas. In fact, the results indicate that office performance overall has improved since the program. This general improvement may be due to added attention devoted to the handling of gang cases by law enforcement agencies during this same period. It may also be attributable in part to assistance provided by the Hardcore program to preparation of gang cases which were ultimately prosecuted by the regular (non-program) attorney staff.

The results of the analysis of case dispositions parallel those of the defendant analyses. These results are included in Appendix I.

6.5.3 Strength of Convictions

TABLE XIV displays the results of defendant analyses of measures of the strength of conviction.



These results indicate:

1) Increase in the Rate of Convictions to the Most Serious Charge Including Enhancements

Defendants prosecuted by Operation Hardcore are convicted to the most serious charge (including enhancements) filed against them at a significantly higher rate than would be expected.

TABLE XIV  
DEFENDANT ANALYSIS RESULTS: STRENGTH OF CONVICTIONS  
Percentage (N)

	<u>Total</u>	<u>Pre-Hardcore</u> <u>No Program</u>	<u>Post-Hardcore</u>	
			<u>No Program</u>	<u>Program</u>
RATE OF CONVICTION TO MOST SERIOUS CHARGE INCLUDING ENHANCEMENTS				
Among Those Convicted (N)	21.4 (229)	20.8 (72)	17.9 (84)	27.4 (73)
Among All Defendants (N)	17.5 (285)	14.7 (102)	14.0 (107)	26.3* (76)

\*Differences between the two Post-Hardcore groups are statistically significant at .05.

TABLE XIV (Continued)  
DEFENDANT ANALYSIS RESULTS: STRENGTH OF CONVICTIONS  
Percentage (N)

	Total	Pre-Hardcore No Program	Post-Hardcore	
			No Program	Program
RATE OF PLEAS TO MOST SERIOUS CHARGE INCLUDING ENHANCEMENTS				
Among Those Pleading Guilty (N)	13.0 (161)	11.9 (42)	10.4 (67)	17.3 (52)
Among Those Convicted (N)	9.2 (229)	6.9 (72)	8.3 (84)	12.3 (73)
Among All Defendants (N)	7.4 (285)	4.9 (102)	6.5 (107)	11.8 (76)

TABLE XIV (Continued)  
DEFENDANT ANALYSIS RESULTS: STRENGTH OF CONVICTIONS  
Percentage (N)

	Total	Pre-Hardcore No Program	Post-Hardcore	
			No Program	Program
RATE OF TRIAL CONVICTION TO MOST SERIOUS CHARGE INCLUDING ENHANCEMENTS				
Among Those Tried (N)	35.8 (81)	26.3 (38)	38.1 (21)	55.0 (20)
Among Those Convicted (N)	12.7 (229)	13.9 (72)	9.5 (83)	15.1 (73)
Among All Defendants (N)	10.2 (285)	9.8 (102)	7.4 (107)	14.5 (76)
Among Those Convicted By Trial (N)	43.9 (66)	33.3 (30)	50.0 (16)	55.0 (20)

Among all defendants prosecuted, 26% of the Hardcore defendants were convicted to the most serious charge including all charge enhancements, as compared to 14% of non-Hardcore defendants both before and during the program period.

Among convicted defendants a similar pattern is observed. Defendants convicted by the Hardcore Program were convicted to the most serious charge including enhancements at a rate of 27% while convicted non-Hardcore defendants exhibit rates of 21% before the program and 18% during program operations.

2) Increase in the Rate of Pleas to the Most Serious Charge Including Charge Enhancements

Guilty pleas among Hardcore defendants were more likely to involve pleas to the most serious (enhanced) charge filed against the defendant than was the case for non-program defendants.

Among all defendants prosecuted, the rate of pleas to the most serious charge including charge enhancements for Hardcore defendants was 12% as compared to 5% and 6.5% for non-Hardcore defendants prosecuted prior to the program outset and during program operations, respectively.

Similarly among defendants pleading guilty, the plea to the most serious (enhanced) charge rate for Hardcore defendants was 17% compared to 12% for the non-Hardcore group before the Hardcore Program and 10%, during the program.

3) Increase in the Rate of Trial Convictions to the Most Serious Charge Including Charge Enhancements

Again although the number of trials is small, the rate of trial conviction to the most serious (enhanced) charge is higher among Hardcore defendants.

Among those defendants tried, the rate of conviction to the most serious charge including charge enhancements for Hardcore defendants was 55%, as compared to 26% prior to the program and 38% during program operations for non-Hardcore defendants.

However, these differences are due largely to differences in trial conviction rates, discussed above. The rate of conviction to the most serious enhanced charge among those convicted by trial has increased over time from 33% prior to the program to 50-55% after the onset of Operation Hardcore. However, the differences between Hardcore defendants (55%) and non-Hardcore defendants (50%) during the program operating period is small, especially given the small number of trial convictions.

As with dispositions, the analyses of strength of convictions of defendants suggest that the Operation Hardcore program is having the expected effects and that these effects do not appear to be due to selection processes. In general the results show that defendants prosecuted by the Hardcore program are more likely to be convicted to more serious charges, including charge enhancements.

6.5.4 Sentencing

In TABLE XV, the results of the analyses of sentencing measures for defendants are shown. These results suggest:

1) Increase in Incarceration Rate

Hardcore defendants are incarcerated at a higher rate than non-Hardcore defendants, both before and during the program period. These differences are largely due to differences in conviction rates among the groups.

Among all defendants prosecuted, the rate of incarceration for Hardcore defendants is 93%. This is compared to 64% for non-Hardcore defendants prior to the program and 74%, during.

However, considering only convicted defendants, incarceration rates have risen since program initiation from 90% to 97-99%. Since program operations, little difference is observed between the incarceration rates of Hardcore (99%) and non-Hardcore defendants (97%).

TABLE XV  
DEFENDANT ANALYSIS RESULTS: SENTENCING  
Percentage (N)

	Total	Pre-Hardcore No Program	Post-Hardcore No Program	Program
INCARCERATION RATE				
Among Those Convicted (N)	95.4 (218)	90.2 (72)	97.3 (75)	98.6 (71)
Among All Defendants (N)	75.4 (276)	63.7 (102)	73.7 (99)	93.3* (75)
RATE OF COMMITMENT AMONG THOSE INCARCERATED				
To State Prison (N)	74.4 (207)	73.8 (65)	68.0 (72)	81.4** (70)
To California Youth Authority (N)	15.0 (207)	15.4 (65)	22.2 (72)	7.1*** (70)

\*Differences between the two Post-Hardcore groups are statistically significant at .001.

\*\*Differences between the two Post-Hardcore groups are statistically significant at .1.

\*\*\*Differences between the two Post-Hardcore groups are statistically significant at .01.

## 2) Changes in Commitment Rates to Institutions Among Those Incarcerated

Incarcerated Hardcore defendants are sentenced to commitment in state prison (81.4) at a higher rate than non-program defendants (74% and 68%, before and during the program, respectively).

Likewise, the rate of commitment to the California Youth Authority among incarcerated Hardcore defendants (7%) is lower than that for their non-Hardcore counterparts both before the program (15%) and during program operations (22%).

In sum, the program appears to be having an effect on sentencing. This effect appears to be, at least in the case of incarcerations, a secondary effect of improvements in strength of convictions. Effects are also observed in the institutions to which defendants are sentenced. In this area, defendants prosecuted by the program are treated more severely than non-program defendants and are sentenced more frequently to the California youth authority. In this case, however, improvements observed for program defendants are offset by decrements in these measures for non-program defendants prosecuted by regular line attorneys. This pattern may be due to selection effects, as discussed above.

## 6.6 Crime Level Description

The purpose of this evaluation was not to analyze program effects on crime. However, for descriptive purposes, information on crime (specifically, gang related homicides) since the period covered by the evaluation is provided (see TABLE XVI). This data represents a continuation of the data presented as background in Section 4 above (see FIGURE 1). Whereas the background data for the period 1976-1980 shows a

TABLE XVI  
Gang Murder Incidents in Los Angeles  
January 1981 - September 1982

1981:	Number of Incidents	Previous Year to Date	Percentage Change
Jan	14	11	+27.2
Feb	30	21	+42.8
Mar	36	30	+20.0
Apr	48	39	+23.0
May	65	45	+44.4
Jun	74	65	+13.8
Jul	95	86	+10.5
Aug	113	111	1.8
Sept	124	146	-15.0
Oct	136	165	-17.5
Nov	147	177	-16.9
Dec	167	192	-13.0
1982:			
Jan	10	14	-28.5
Feb	19	30	-36.6
Mar	28	36	-22.2
Apr	37	48	-22.9
May	54	65	-16.9
Jun	61	74	-17.6
Jul	66	95	-30.5
Aug	72	113	-35.4
Sept	80	124	-35.5

Data Source: Los Angeles Police Department, Gang Detective Unit.

dramatic increase in gang-related homicides over the 1976-1980 period, the data presented in TABLE XVI exhibit a turnabout in this pattern beginning in about September 1981. To what extent these changes can be attributed to the Operation Hardcore program is not known. The performance analysis results presented above do suggest that to the extent there exists an effect of the performance of the criminal justice system on levels of crime, the program has contributed to this improved situation.

## 7. SELECTION PROSECUTION AND THE OPERATION HARDCORE

The results of the Operation Hardcore evaluation offer some insights, useful in addressing the general effectiveness of a selective prosecution. Operation Hardcore was initially supported with federal Career Criminal Program funding, the source of most recent experience with selective prosecution. Operation Hardcore differs, however, from most of the Career Criminal Programs evaluated in the past in several important ways.

First, the target population and their cases pose specific, severe problems for prosecution. These special problems are described in detail above. In brief, targeted gang offenses tend to be group incidents involving multiple offenders, often including both juveniles and adults in the same incident. Gang motives are typically not straightforward, being based in many instances on long-standing hostile relationships among gangs. Witnesses to gang incidents, often either other gang members or fearful residents in gang dominated neighborhoods, are usually reticent to become involved with the criminal justice system.

Second, there exists in Los Angeles regular targeted law enforcement and investigation focusing on the same target population of gang incidents as is Operation Hardcore. There is a long tradition in Los Angeles of specialized law enforcement targeting gangs. Operation Hardcore has effectively extended this established specialization further into the criminal justice process.

Finally, this Career Criminal Program has been able to use the strategies offered by the general Career Criminal concept in a meaningful way to address the particular prosecutorial problems posed by their caseload. Early intervention in response to gang-related incidents is a regular part of the unit's activities. This often means working with gang police units in activities, such as the preparation of search warrants, in an effort to insure that adequate gang evidence is collected to prosecute the accessories in the incidents. This occurs often before any arrests have been made. Regular and ongoing involvement with gang cases allows for the development of specialized expertise among the attorney staff which, when brought to bear on each new case, is felt to improve the likelihood of successful handling. Continuous or vertical prosecution, spanning both juvenile and adult courts, is a meaningful asset in these complex multiple defendant cases where maintaining cooperative and consistent witness testimony is often critical. Further, the program personnel have both the time and the resources to work closely and continuously with witnesses, to relocate them if necessary, to allay their fear of intimidation.

In sum, the Career Criminal Program framework provided the tools for Operation Hardcore to address the specific prosecution problems posed by gang cases in conjunction with law enforcement agencies focusing on the same problems.

The results of the evaluative analyses, described above (Section 6) indicate that this program is having the expected effects on criminal justice performance. As has been discussed, there appear to be more convictions, fewer dismissals, and more convictions to the most serious charge including charge enhancements among cases handled by Operation Hardcore. Where there exists sentencing discretion in the commitment of convicted young adults to the California Youth Authority (a form of sentence bargaining), the program shows a higher rate of state prison commitments. These results suggest that selective prosecution may in fact be an effective strategy if applied under the right circumstances.

APPENDIX A  
CASE ANALYSIS RESULTS



TABLE A-1

CASE ANALYSIS RESULTS: DISPOSITIONS

Percentage (N)

	<u>Total</u>	<u>Pre-Hardcore No Program</u>	<u>Post-Hardcore</u>	
			<u>No Program</u>	<u>Program</u>
Conviction Rate (N)	86.8 (196)	80.6 (72)	85.0 (79)	100.0 (45)
Dismissal Rate (N)	8.7 (196)	11.1 (72)	11.4 (79)	0.0 (45)
Plea Rate (N)	59.7 (196)	44.4 (72)	68.4 (79)	66.7 (45)
Trial Rate (N)	31.6 (196)	43.1 (72)	20.3 (79)	33.3 (45)
Trial Conviction (N)	85.5 (62)	80.6 (31)	81.3 (16)	100.0 (15)

A-2

TABLE A-2

CASE ANALYSIS RESULTS: STRENGTH OF CONVICTIONS

Percentage (N)

	<u>Total</u>	<u>Pre-Hardcore No Program</u>	<u>Post-Hardcore</u>	
			<u>No Program</u>	<u>Program</u>
RATE OF CONVICTION TO MOST SERIOUS CHARGE INCLUDING ENHANCEMENTS				
Among Those Convicted (N)	22.9 (170)	20.7 (58)	17.6 (68)	33.3 (45)
Among All Defendants (N)	19.9 (196)	16.7 (72)	15.2 (79)	33.3 (45)
RATE OF PLEAS TO MOST SERIOUS CHARGE INCLUDING ENHANCEMENTS				
Among Those With Guilty Pleas (N)	13.7 (117)	9.0 (33)	11.1 (54)	23.3 (30)
Among Those Convicted (N)	9.4 (170)	5.2 (58)	8.8 (68)	15.6 (45)
Among All Defendants (N)	8.2 (196)	4.2 (72)	7.6 (79)	15.6 (45)

A-3

TABLE A-2 (Continued)

CASE ANALYSIS RESULTS: STRENGTH OF CONVICTIONS

	Percentage (N)			
	<u>Total</u>	<u>Pre-Hardcore No Program</u>	<u>Post-Hardcore No Program</u>	<u>Program</u>
RATE OF TRIAL CONVICTIONS TO THE MOST SERIOUS CHARGE INCLUDING ENHANCEMENTS				
Among Those Tried (N)	37.1 (62)	29.0 (31)	37.5 (16)	46.7 (15)
Among Those Convicted (N)	13.5 (170)	15.5 (58)	8.8 (68)	17.8 (45)
Among All Defendants (N)	11.7 (196)	12.5 (72)	7.6 (79)	17.8 (45)
Among Those Convicted By Trial (N)	43.4 (53)	36.0 (25)	46.2 (13)	46.7 (15)

TABLE A-3

CASE ANALYSIS RESULTS: SENTENCING

	Percentage (N)			
	<u>Total</u>	<u>Pre-Hardcore No Program</u>	<u>Post-Hardcore No Program</u>	<u>Program</u>
INCARCERATION RATE				
Among Those Convicted (N)	98.9 (163)	96.6 (58)	100.0 (61)	100.0 (44)
Among All Cases (N)	85.2 (189)	77.8 (72)	83.6 (73)	100.0 (44)
RATE OF COMMITMENT AMONG CASES WITH INCARCERATION SENTENCES				
To State Prison (N)	78.9 (161)	76.8 (56)	70.5 (61)	93.2 (44)
To The California Youth Authority (N)	14.9 (161)	16.1 (56)	21.3 (61)	4.5 (44)

APPENDIX B  
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