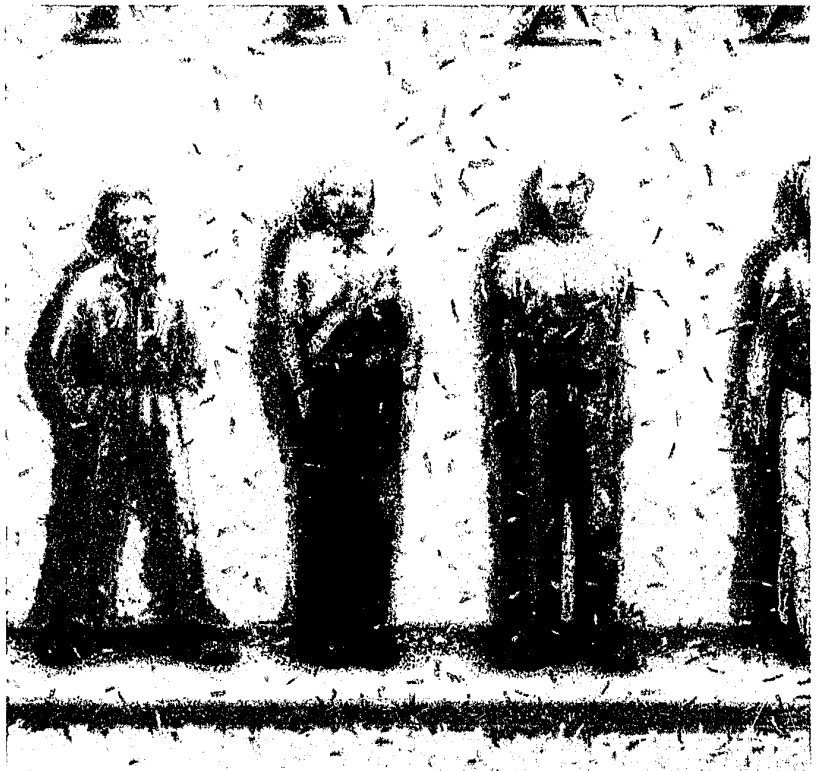


Prosecutors Perspective

Volume I, Issue I

February, 1987

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Selective
Incapacitation
& Career Criminals

A review of research of interest to prosecutors. Published in cooperation with
The American Prosecutors Research Institute.

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Another Research Journal?

This is the inaugural issue of **Prosecutors Perspective**: a research review of The American Prosecutors Research Institute.

The interested prosecutor may fairly wonder if he has the need to read another journal. The purpose of **Prosecutors Perspective** is not to add to the current lineup of journals that report the methods and results of individual research projects. Rather, the purpose of **Prosecutors Perspective** is to provide an informed review of research by experienced district attorneys.

Prosecutors often say that they do not have the time to adequately digest and critically evaluate the myriad studies being produced that touch on prosecution. At the same time, they require answers to questions as they seek to manage complex prosecutorial operations and to respond to critical policy issues. There is a need then to sort through

available research and to provide some idea of the potential applicability to the prosecutors.

Therefore, the American Prosecutor's Research Institute is sponsoring this effort to bring relevant research to the attention of those interested in prosecution issues in an efficient and useful form. The Institute and the Editors will select from research reports, journals, and other publications those that appear most relevant in particular topic areas. Members of the Board of Review and invited reviewers will provide their evaluation as to the applicability of such research.

The United States Department of Justice and, in particular, the National Institute of Justice under the leadership of Executive Director James K. Stewart, has been engaged in a concerted effort to direct criminal justice research efforts towards the needs of practitioners.

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ACQUISITIONS

Varieties Of Criminal Behavior *and* Who Gets Caught Doing Crime

Summaries of:
Jan M. Chaiken, and Marcia
R. Chaiken, Varieties Of
Criminal Behavior Santa
Monica, CA: Rand
Corporation, 1982.

Jan M. Chaiken and Marcia R.
Chaiken, Who Gets Caught
Doing Crime? Washington,
D.C.: Report for the Bureau
of Justice Statistics, U.S.
Department of Justice,
October 1985.

Varieties of Criminal Behavior presents the results of a survey of adult male prison and jail inmates in three states. The study aimed at discovering whether official records and characteristics would permit identification of serious criminals. Study data came from both self-reports of the surveyed inmates and from their official records.

The survey results indicate that criminals can be categorized according to the combination of crimes they commit, and that the resulting typology may be quite useful for prosecution, incapacitation, and rehabilitation policy. The typology includes ten types of offenders defined in terms of the crimes they do or do not report committing. The offender types are arranged hierarchically, the lower ones relatively less serious than the higher ones.

The authors found that the most serious category of offenders, violent predators, reported committing robbery, assault, and drug deals. They began persistently using hard drugs as juveniles and committing violent crimes before they were 16. Offenders in the lower categories not only committed fewer serious crimes and at lower rates, but their patterns of employment, drug use, and juvenile behavior were more socially acceptable than those of other offenders. However, even among the "lessor" offenders, those who used particular forms of hard drugs and had employment problems were likely to commit crime more frequently than their counterparts. The authors found that information currently available from official arrest

and conviction records does not allow officials to distinguish meaningfully between the violent predator and other offenders. However, significant (though imperfect) distinctions can be made on the basis of information potentially available on such factors as specific forms of drug use, employment, juvenile drug use and violence.

Because the characteristics they found associated with the violent predators have been associated with high probability of recidivism in many earlier studies, the authors infer that violent predators are better candidates for incapacitation and worse candidates for conventional rehabilitation efforts than any other criminal type.

Who Gets Caught Doing Crime results from a Rand Corporation survey in California, Michigan, and Texas prisons, and a Bureau of Justice statistics (BJS) survey of all 11,397 inmates in 215 state correctional facilities.

Because the characteristics they found associated with the violent predators have been associated with high probability of recidivism in many earlier studies, the authors infer that violent predators are better candidates for incapacitation and worse candidates for conventional rehabilitation efforts than any other criminal type.

Chaiken's Definition of Hierarchical Subgroups of Offenders from Varieties of Criminal Behavior

Analysis

by
L. Scott Harshbarger
District Attorney
Cambridge,
Massachusetts

Group	Robbery	Assault ^a	Burglary	Theft, Fraud, Forgery, Credit Card Crimes ^b	Drug Deals	Percent of Study Sample ^c
Violent predators (robber-assaulter-dealers)	+	+	?	?	+	15
Robber-assaulters	+	+	?	?	0	8
Robber-dealers	+	0	?	?	+	9
Low-level robbers	+	0	?	?	0	12
Mere assaulters	0	+	0	0	0	5
Burglar-dealers	0	??	+	?	+	10
Low-level burglars	0	0	+	?	0	8
Property & drug offenders	0	??	0	+	+	6
Low-level property offenders	0	0	0	+	0	8
Drug dealers	0	0	0	0	+	6

NOTE: + = Group member commits this crime, by definition.
 0 = Group member does not commit this crime, by definition.
 ? = Group member may or may not commit this crime. Analysis shows that nearly all members of the group do.
 ?? = Group member may or may not commit this crime. Most don't.
^aAssault includes homicide arising out of assault or robbery.
^bTheft includes auto theft.
^cPercentages add to 87%. The remaining 13% did not report committing any of the crimes studied. Some serious crimes (e.g., rape, kidnap) were not included in the self-report survey.

Insofar as the prosecutor in today's busy office strives to reduce future crime as opposed to the often overwhelming task of just reacting to today's situations of crimes already committed, and today's victims, he or she would benefit from considering the findings of these two studies.

It finds that some arrestees with apparently extensive arrest histories are not high rate, serious offenders. Rather, they are somewhat inept, unprofessional criminals who may be arrested nearly every time they commit a crime. These low rates losers start committing crimes as adults rather than as young teenagers. They rarely plan their crimes or work with partners and do not have a wide repertoire of different crimes. They usually commit primarily assaultive crimes and tend not to have a conviction history for robbery. They tend to be relatively straight hardworking men are not heavily involved with drugs or drinking. They were disproportionately black in the samples studied and had not completed high school. By contrast, high rate offenders had relatively low arrest rates, were more careful planners of crimes, and became enmeshed in a lifestyle involving drugs and crime when they were young teen-

agers. Many tend to come from relatively well educated but broken families, are heavily involved with barbituates and/or addicted to heroin, and tend to be unemployed. They commit a wide variety of different crimes, many including the combination of robbery, assault, and drug dealing. The author's caution against use of adult arrest records alone as indicators of high rate criminal behavior and suggest that official records must be examined in combination with specific information about the individual's methods for committing crimes, their lifelong history of arrest, conviction, incarceration, and their drug use patterns.

Initially, a prosecutor reading *Varieties* will think it reports what he or she already knows: that most violent predators, and those most likely to be career criminals, are young, use drugs and started their criminal careers early. However, the study also informs that our traditional methods of identifying "violent predators" — police reports of the details of the current offense and the record of adult arrests and convictions - do not reveal the most commonly-occurring characteristics of those for whom incarceration is the most appropriate sanction. The Study suggests that the serious criminal should be defined in terms of the offender, rather than the offense committed.

Any insight assisting in the identification of the violent repeat offender, aids the prosecutor in prioritizing prosecution, as well as in making more informed plea decisions and appropriate sentencing recommendations. True violent predators are often difficult to identify from their adult records. Because of their relative youth, they simply have not had time to establish an adult record reflective of their behavior which distinguishes them from repeat offenders of "lessor" crimes. Furthermore, juvenile court records are often unavailable, and when they exist, rarely reflect the true status of the history of the individual's criminal behavior.

According to the study, information concerning significant juvenile behavior and drug-use history would be more helpful in identifying the serious predator than the information prosecutors generally use. For example, while heroin-only users tend to commit property crimes, those who mix drugs in heroin-barbituate or alcohol-barbituate combinations are generally the most dangerous offenders. When a defendant is identified as having this type of drug use pattern, prosecutors should care-

fully consider their recommendations in plea negotiations. Evidence or a suggestion that the defendant is "high" at the time of the crime will often be viewed (by judges as well as defense counsel) as a mitigating factor in sentencing. In some jurisdictions, that fact also affects the likelihood of conviction, because the use of drugs or alcohol may negate the specific intent element of most serious crimes. Superficially the young drug user with an unstable employment history and convicted of his first adult offense, seems a most likely candidate for drug rehabilitation. However, if his drug use patterns are already well established, and he has a history of serious juvenile offenses which began at an early age, the study shows that drug rehabilitation programs will not work.

The first study (1982) shows that a small proportion of offenders commit crimes at very high rates, and that the "violent predators" - men who commit robbery, assault and drug distribution crimes - also commit other types of crimes at high rates. The second study (1985) finds that among these who have substantial records of conviction, there are clearly three different types of offenders - the "low rate loser", the "high rate loser", and the "high rate winner." While the study did identify some of the characteristics of such offenders and the way they commit their crimes, it acknowledged the need for further research before any conclusions could be drawn. In any event, while the police might be interested in these trends, most prosecutors are so busy dealing with those apprehended offenders that there is little time to consider those not apprehended.

Who Gets Caught reinforces many aspects of *Varieties* namely, the difficulty in distinguishing between high and low rate offenders solely from adult records, and that drug use patterns, juvenile criminal history, and some family and

environmental factors are more predictive of future dangerousness. While the family and environmental factors cannot be used in determining sentence length or in making decisions on selective incapacitation, that information can be useful to a prosecutor in deciding on whom to concentrate scarce resources.

Prosecutors must know who the high rate, violent offenders are. Saddled with limited resources, any prosecutor would find these studies instructive not only in helping to identify the violent repeat offender, but in revealing what information should be analyzed in addition to the adult conviction record. Obtaining information about the offender that is often available and known by the police, but rarely asked for by the prosecutors, could improve the prosecutor's selective incapacitation decisions. The prosecutor who is in a position to establish programs to impact on reducing future crime would not only benefit from information about violent predators, but would also find it necessary to identify and deter the serious juvenile offender, who is launching on a career of crime and drug use.

Career Criminal Program National Evaluation: Summary Report

Summary of:
Eleanor Chemlinsky, and
Judith Dahmann, Career
Criminal Program National
Evaluation: Summary Report,
Washington, D.C.: U.S.
Department of Justice,
July 1981.

This is an evaluation of four career criminal programs in Orleans Parish, LA; San Diego County, CA; Franklin County, OH; Kalamazoo County, MI. The Study reports on three effects: Process - The changes in criminal justice processing and operations involved in each jurisdiction's career criminal program.

Systems performance - the specific measures of criminal justice system performance and the investigation of the linkages between career criminal program activities and differences in: (1) disposition, (2) strength of conviction, (3) sentencing, (4) processing time. Crime levels - crime analysis for several years prior to and after implementation of career criminal programs.

included:

*-continuous case handling by a single attorney or a team of attorneys,
-reduced caseloads,
-increased investigative support,
-more stringent plea bargaining policies,
-efforts to increase incarceration and reduce processing time.*

With respect to system performance, the findings suggest that increasing prosecutorial attention on a high-priority subset of the criminal caseload will not necessarily increase the conviction and incapacitation rates for those high priority cases. There is some evidence that the program can increase the strength of the convictions obtained and result in longer sentences being obtained, when particular constraints are placed on the judiciary.

With respect to crime levels, no increases in the incapacitation of career criminals were observed and crime level effects could not be demonstrated.

The evaluators found diversity among the offices in how they defined their career criminal population. Activities implemented by career criminal units

Analysis

by
Edwin L. Miller, Jr.
District Attorney
San Diego, California

The summary report on the LEAA-funded career criminal programs offers some general guidelines to prosecutors contemplating first-time entry into the world of specialized prosecutorial units. Career criminal programs, which have existed in large jurisdictions for more than a decade, are specialized units in which teams of attorneys and investigators handling reduced caseloads are able to target serious repeat offenders committing the specific crime or crimes handled by the unit and, through concentrated prosecution, achieve one or more of several prosecutorial goals. Those goals include conviction rate, conviction of more serious charges and obtaining longer sentences.

This particular study examines four career criminal programs which are similar in theme but different in several aspects. Each program takes a different approach to the career criminal problem. Each exists within something of a unique judicial environment, concentrating on a different segment of the criminal population.

Using this report, an inquiring prosecutor has the ability to examine, at least superficially, the results achieved by those who have attempted to address similar problems. The success of certain programs, or portions of those programs, should be of assistance in devising productive, cost-effective office policies.

There are several caveats, however.

Prosecutors must know the problems and needs of his or her local community, which will in a large part dictate the class of crime to be targeted by a specialized prosecutorial unit. Having identified the target local problem, simply reading the summary report and imitating an apparently successful program, may not produce the best results. The summary must be reviewed carefully, updated and more detailed information sought as to those appealing aspects of any particular program.

and the survey covered only the "start-up" period of less than a year. Therefore this study, cannot, of course, be as accurate as one conducted over a longer duration.

The data represented are a decade old, but the summary provides a valuable first peek at four diverse jurisdictions' experience with fledgling career criminal programs and should serve as a valuable starting point for a prosecutor interested in exploring the establishment of such a unit locally.

There are several conclusions that can be drawn from this study but perhaps the quizzical prosecutor might examine the study to determine why jurisdictional results differ. Prosecutors should also note, a highly successful program in one jurisdiction, may not succeed in another.

A final caveat is that each of the programs described involved a limited number of cases

Selective Incapacitation

Summary of:
Peter W. Greenwood, Selective Incapacitation, Santa Monica, CA: Rand Corporation, August 1982.

Peter Greenwood's Selective Incapacitation report is the culmination of a six year Rand Corporation effort to demonstrate how selective incapacitation might provide a rational means for allocating scarce prison space.

The research approach consisted of self-reported data from approximately 2100 male prison and jail inmates in California, Michigan and Texas.

The author concluded that a small proportion of high rate offenders account for most of the crime problem, and most offenders were active in several major types of crime. Therefore, by using a seven variable scale model to identify and confine offenders most at-risk to society, the author estimates that this process of selective incapacitation could reduce crime rates without increasing the

recent arrest; a prior conviction for the crime type that is being predicted; juvenile conviction prior to age 16; commitment to a state or federal juvenile facility; drug use in the two-year period preceding the current arrest; drug use as a juvenile; employed less than half of the two-year period preceding the current arrest.

The author also demonstrates a quantitative model most often used to estimate the reduction in crimes from what it would have been without incarceration. If the other models were used the author suggests that the amount of crime prevented by any given incarceration level can be increased.

Finally, Greenwood suggests that selective incapacitation will undoubtedly be controversial as long as:

- the ability to discriminate between high and low rate offenders is imprecise,*
- the legitimacy of the seven variables is questionable,*
- opposition to the notion of preventive detention exists.*

prison population. The seven variables include: incarcerated more than half of the two-year period preceding the most

Analysis

by
Thomas Johnson
County Attorney
Minneapolis, Minnesota

Selective Incapacitation by Greenwood provides a starting point for the prosecutor interested in the developing body of research on selective incapacitation. This study attempts to quantify the benefits of incarcerating "high rate" offenders over "medium" and "low rate" offenders as a means of controlling both the prison population and the crime rate. Written four years ago, the Greenwood paper has stimulated controversy and criticism throughout the research community. Even though the results and methodology of the Greenwood's work have come under some attack, the importance of the paper should not be underestimated. The prosecutor without some familiarity with Greenwood's work, will find it difficult to get an overall understanding of completed and ongoing research in the criminal justice field.

It is important for the prosecutor to understand that the Greenwood study cannot be directly transferred for use in another state. Implementation would require a number of steps and evaluation of potential variables to determine those which will accurately predict high rate offenders within a given community. It would also involve a balancing of selective incapacitation with the other sentencing philosophies of deterrence and punishment. Given the practical considerations of growing prison populations and crime rates, the working prosecutor nevertheless will find Greenwood thought provoking and well worth the time it takes to read.

The Rand Institute Survey: A Reanalysis *and* Accuracy Of Prediction Models

Summaries of:
Christy A. Visher, "The Rand
Inmate Survey: A Reanalysis,"
Alfred Blumstein; Jacqueline
Cohen; Jeffrey A. Roth;
Christy A. Visher (eds.),
Criminal Careers and "Career
Criminals", Volume II.,
Washington, D.C.: National
Academy Press, 1986.

Stephen D. Gottfredson,
and Don M. Gottfredson,
"Accuracy of Prediction
Models," Alfred Blumstein;
Jacqueline Cohen; Jeffrey A.
Roth; Christy A. Visher (eds.),
Criminal Careers and "Career
Criminals", Volume II.,
Washington, D.C.: National
Academy Press, 1986.

Visher's report is a reanalysis of the ethical and methodological elements of Greenwood's study. This reanalysis is limited to two key findings: the estimates of annual individual offending frequencies, and the use of the survey data to develop a prediction instrument to identify high-rate offenders.

Although critical in large part, the reanalysis confirms Rand's most important finding concerning offending frequencies. Visher raises ethical objections relating to use of the seven predictors as well as to the concept of sentencing offenders according to a prediction of future behavior. Critics argue that some of the seven points are past behaviors or social characteristics that cannot be changed. Retributivists and others contend that using these criteria as a basis for sentencing is contrary to the widely accepted "just desserts" philosophy, whereby sentencing differences reflect the seriousness of the conviction offense.

Specifically, this reanalysis of the Rand

data found that Greenwood overestimated the anticipated reduction in the California robbery rate. The analysis of Michigan inmates illustrates that incapacitative effects of any policy are likely to vary dramatically across jurisdictions because of variations in the predictive accuracy of the classification scale and in existing sentencing policies. The Gottfredsons' also present a critical review of Greenwood's study with respect to issues of accuracy. They question Greenwood's analysis since it is retrospective only. They also review the use of various other prediction models such as those employed for bail and pretrial release decision making, as well as those used in prosecution, sentencing and parole.

Additionally, the authors conclude that the seven point scale does only marginally better overall than existing judgments in distinguishing offenders by their crime commission rates. Finally, unless predictive accuracy can be increased, the authors argue that false-negatives (classifying high-rate offenders as low-rate) are minimized at the expense of increasing false-positives (classifying low-rate offenders as high-rate).

Rather than selective incapacitation, the authors prefer a process of selective deinstitutionalization, which requires no changes in sentencing policies and practices. Instead, selective deinstitutionalization makes deinstitutionalization selections based on potential societal risk of the offender only under certain circumstances such as prison crowding, prison fire, etc.

Analysis

by
James C. Shine
Executive Director
American Prosecutors
Research Institute

Visher, in her reanalysis, touches on the majority of the problems contained in Greenwood's work *Selective Incapacitation* and, in addition, provides an extensive bibliography for the reader who cares to make a detailed study of the work. The major problems can be briefly summarized as follows:

1. Assumptions made in Greenwood's analysis of his data do considerable violence to the likely behavior of criminal offenders. It is assumed, for example, that crimes are committed at a constant rate over the length of a criminal career, that offenders specialize with respect to the kinds of crimes committed, that the probability of incarceration is the same for all offenders who commit a given crime, and so on. Few, if any, of these assumptions will stand close analysis and several are contradicted by data from other research.

2. The data employed by Greenwood was derived from self-reports of prior criminal

activity by California, Michigan, and Texas prison inmates. There are a host of problems with the use of self-report data in such a context, but perhaps the most serious is simply the fact that *inmate* data cannot reasonably be taken as descriptive for a *pre-sentence* population and Greenwood is, after all, making recommendations for *sentencing* purposes rather than for parole purposes.

3. The predictive factors developed by Greenwood to identify high-rate offenders raise ethical considerations and are not normally available from official records.

Visher's reanalysis demonstrates that because of sentencing difference Greenwood's claims are not only questionable for California, but simply do *not* emerge for Texas and Michigan.

What this suggests is not that the theory of selective incapacitation is necessarily faulty (there is an entirely different set of issues involved on ethical grounds which are strongly influenced by one's values and philosophical outlook), but rather that a specific version of the theory developed in one jurisdiction cannot simply be adopted wholesale in another. An aspect of this question is the subject of the Gottfredson's contribution to the National Academy of Science's review of the career criminal research. That is, and in general

terms, what is our current capacity to accurately predict the future rate or type of criminal conduct for any given offender?

The authors conclude that our ability to predict the future behavior of an offender is "modest" at best. What can be said is that the use of various statistical of which "score" the offender's prior behavior and personal attributes as a method of predicting his future behavior generally proves more accurate than the simply exercise of judgment alone. How much more accurate, however, depends heavily on the nature of the given case since the more rare the behavior (murder, for instance), the more difficult it is to accurately predict.

A second general conclusion is that the best predictor of future criminal behavior appears to be measures of prior criminal behavior and, in particular, the age of the first offenses. The third and perhaps most significant point made concerns the prospect for significant improvement in the available statistical devices in the near term. Their view, which is persuasively argued, is that the state of routinely available research data on usable samples of offenders is presently so poor that expectations of major improvements are simply unfounded. What we are left with, then, is a need to continue to improve on these devices. Although of some value in the decision-making process they cannot, however, be taken at present as substitutes for good professional judgment.

Developing Criteria For Identifying Career Criminals

Summary of:
William Rhodes; Herbert
Tyson; James Weekley;
Catherine Conly; and Gustave
Powell, Developing Criteria
for Identifying Career
Criminals, Washington, D.C.:
Inslaw, Inc., March 1982.

Developing Criteria For Identifying Career Criminals addresses whether it is possible to identify high rate offenders with a fair degree of accuracy? These researchers constructed a predictive quantitative model in an attempt to predict future recidivists within a sample of 1708 federal offenders who were released from jail or prison, or placed on probation. The reserachers found that the following criteria were statistically significant in distinguishing future recidivists:

- prior arrest and offense type (especially violent crimes and drug-related offenses)
- the length of the previous jail term served
- the offenders youth

The researchers also constructed a model to estimate the length of time required for a rearrest to occur once the offender is returned to the street. Those rearrested sooner tend to exhibit the following criteria:

- living alone,

...the length of the previous jail term served, the offenders youth, and a history of alcohol abuse or heroin use.

- a history of alcohol abuse or heroin use,
 - first arrest at early age,
 - a longer criminal career,
 - more non-prison sentences,
 - longer previous jail terms served.
- While a prior arrest record was found only marginally statistically significant the researchers recommend that prior arrest records or alternatively conviction histories, be an integral ingredient of any selection strategy.¹¹

...the length of the previous jail term served, the offenders youth, and a history of alcohol abuse or heroin use.

Analysis

by
 Michael D. Bradbury
 District Attorney
 Ventura, California

For how much crime are "career criminals" and noncareer criminals responsible? According to a 1982 INSLAW Study ("Developing Criteria for Identifying Career Criminals," hereinafter referred to as "the Study"), of 1708 federal offenders, there is a substantial difference. Noncareer criminals committed an average of 19 serious nondrug-related offenses over a five-year period. By comparison, *career criminals* committed an average of 895 offenses over a five-year period, of which 192 were nondrug-related.

Although admittedly crude, the Study estimates that if a career criminal were to remain in the community for a five-year period, he would be responsible for the following: violent crime including homicide and aggravated assault (9); rape (1); robbery (8); arson (6); property crimes including burglary (18); larceny (68); auto theft (9); forgery (9); fraud (10); drug violations (703); probation/parole violations (14); weapons offenses (6); and "other" (34).*

The good news is that the study concludes that guidelines can be developed to distinguish career criminals from other offenders (those committing more occasional and sporadic crimes); and the number of serious crimes committed by career criminals seems to justify their special handling.

Targeting prosecution on career criminals enhances both the offenders likelihood of conviction and the length of the prison term that he will serve, resulting in a significant reduction in street crime.

If a prosecutor is reviewing a resource allocation plan that is at least partly predicated on the objective of reducing street crime, these formulas provide some guidance in selecting offenders for special handling at the points of screening, case preparation, trial and sentencing.

The statistical results provide formulas that predict recidivism, based on factors known about an offender at the time his case is reviewed. If a prosecutor's resource allocation plan is at least partly predicated on the objective of reducing street crime, these formulas provide some guidance in selecting offenders for special handling at the points of screening, case preparation, trial and sentencing.

If a prosecutor is considering establishing a specialized prosecution section and/or procedure to specially handle crimes committed by habitual offenders, or wishes to critically evaluate existing career criminal prosecution policies, reviewing this study is a must. It concisely and understandably discusses methods which a prosecutor can employ to more accurately establish offender selection guidelines.[]

*Of course, this represents a composite picture; no one offender is likely to commit all these types of offenses.

The Effectiveness Of Selective Prosecution By Career Criminals Programs

Summary of:
J. Fred Springer; Joel L. Phillips; and Lynne P. Cannady, "The Effectiveness of Selective Prosecution by Career Criminals Programs," Sacramento, CA: EMT Associates, Inc., August 1985.

The Effectiveness of Selective Prosecution provides information about the management and operation of career criminal programs. The structure, objectives and strategies of such programs resulted from a survey of seven different metropolitan jurisdictions in 1983. Program objectives, organization, management and selection criteria are discussed. The latter demonstrated the most variation with differences in the crimes targeted for selective prosecution, the characteristics of defendants that are considered, and the amount of discretion employed. Jurisdictions using criteria in addition to prior conviction appeared to be more successful at prosecuting younger offenders than those relying on prior convictions.

The study identifies two models of organization and case management. With respect to organization, the most typical pattern involves separately

funded and staffed units. In other cases, the selective prosecution program is integrated into the prosecution program. The advantages and disadvantages of these styles are discussed. Case strategies differ in the amount of discretion allowed and the extent to which procedures are specified, but

programs which detail specific procedures for charge bargaining may allow considerable individual discretion in sentence negotiation. Case load strategies vary because of differences in their legal and political environments. The study focuses on intake procedures, the accusatory process, and trial and disposition. Some jurisdictions intervened early while others relied on cooperation with the police. In the accusatory process strategies pertaining to trial and disposition differed by jurisdiction, but all but one of the seven cases studied employed

programs which detail specific procedures for charge bargaining may allow considerable individual discretion in sentence negotiation.

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vertical prosecution. While the pattern of incarceration is related to state laws and prison capacity those programs which cast their net more broadly to include property crimes, for example, demonstrate a lower rate of imprisonment than those aimed at violent offenders. □

Analysis

by
Michael D. Bradbury
District Attorney
Ventura, California

Interested in acquiring a brand new 1987 selective prosecution program? Or overhauling your current model? Perhaps you want to build your own?

Then EMT has a study for you!

Selective prosecution is not a new approach to maximizing prosecutorial efforts. Special units for the prosecution of homicide, sexual assault, drug offenses or other serious crimes are common. Career criminal programs are unique, however, in that they focus on the offender rather than the crime.

In *The Effectiveness of Selection Prosecution By Career Criminal Programs*, released in December 1985, EMT's Springer, Phillips, and Cannady, combine their substantial knowledge of the workings of career criminal programs to provide helpful criteria analysis of the structure and objectives of such programs, as well as the strategies for managing selective prosecution caseloads.

The Study identifies two basic models of organization and case management. The most typical organizational pattern involves separate funding and dedi-

cated staff. The other involves the application of selective prosecution policies to appropriate cases without a unique organizational unit. It focuses on intake procedures, the charging process, trial and disposition with special attention given to the effects of differing amounts of discretion and charge/sentence bargaining.

The executive summary of the Study is mercifully short — only 27 pages. And one of the unique features of EMT's Study is that it is highly readable. This is owed in no small part to the fact prosecutors were included on the Study's advisory panel, once the exclusive realm of the "social scientists."

*"The most readable
summary on selective
prosecution in the area
of career criminal
offenders that I have
written since the 1970s."*

EMT's information for this Study was drawn from seven different metropolitan jurisdictions. It provides descriptive information about the operation and management of career criminal programs that vary from an annual caseload of 60 in Monroe County, New York, to 1,000 in Dade County, Florida. So regardless of the size of your jurisdiction, you will find much that is helpful in this Study. □

cumulating knowledge about offenders' criminal careers,

-the gains made in crime control efficiency from selective incapacitation are limited in part because decision makers already invoke many of the offenders characteristics that figure prominently in the statistical scales,

-since prediction scales are vulnerable to variation by jurisdiction and stage of the criminal justice process, transfer of these scales should be done so with caution, recalibration and validation in each new setting, and finally,

-the validity of the data on the predictor variables is a crucial concern; information systems will have to improve the accuracy of criminal justice records, avoiding errors of omission and commission.

Analysis

by
Stephen Goldsmith
Marion County
Prosecutor
Indianapolis, Indiana

This publication summarizes recent research concerning selective incapacitation and to a lesser extent, career criminals. It is the result of an extraordinary effort to bring leading researchers and practitioners together on crime control strategies.

Despite its title "Criminal Careers", district attorneys should understand the substantial differences between traditional career criminal units and the principles of selective incapacitation.

The information emphasized in these essays is critical to informed prosecutorial decisions. The authors focus on prosecution and apprehension for purposes of crime control as contrasted to simply deterrence or retribution, and dis-

cuss which factors identify repeat offenders.

In targeting chronic offenders for special efforts, district attorneys would pay particular attention to juvenile events, including:

- (a) age of first arrest;
- (b) number and type of juvenile arrests;
- (c) whether the juvenile was admitted to a state institution.

Concentration of these factors plus information on drug abuse will help increase incarceration (i.e. incapacitation) for high rate offenders.

Other observations by the authors also should be studied. For example, although more younger offenders recidivate, the older offender actually will continue his career still longer than the younger offender. And once a person has committed his first crime, the chances that he will repeat do not vary by race.

Prosecutors should keep several caveats in mind while considering this important publication:

(1) this volume brings together research on incapacitation and does not address the need to punish serious offenders, regardless of their predicted recidivism;

(2) the volume spends much time debating the ethics of using predictors to invoke preventive detention, speedy trial, enhanced prosecution, and increased sentences. Yet currently the typical district attorney who faces these decisions daily anyway will not view the ethical questions, albeit legitimate, as unresolvable;

(3) results in crime control vary greatly from jurisdiction to jurisdiction based on the state's sentencing procedure, (e.g., determinate vs. non-determinate).

Finally, aggressive prosecutors can use this information to generate legislative and judicial reforms, such as: bail (pre-trial and appeal) reform; sentencing guidelines; use and availability of juvenile records.

Consistent, well-aimed, incapacitation can reduce felony crime. Career criminal units focusing on the severity of the last crime only and not considering the above factors in their criteria often miss chronic career criminals.

Delinquency Careers: Innocents, Desisters, and Persisters

Summary of:
Alfred Blumstein, David P.
Farrington, and Soumyo
Moitra, "Delinquency Career:
Innocents, Desisters and
Persisters", M. Tonry and
N. Morris (eds.), *Crime
and Justice*, Volume 6,
Chicago: University of
Chicago Press, 1985,
pp. 187-219

This article presents an analysis of data for cohort group of juveniles in London, England; Racine, WI; Marion County, OR; and Philadelphia, PA. Each cohort is divided into three groups based on arrest or conviction record:

- Innocents - those with no offenses*
- Persisters - those with relatively high recidivism probabilities; and*
- Desisters - those with relatively low recidivism probabilities.*

Of those arrested or convicted before age 18, approximately 80 percent - the desisters - had only one or two contacts with the courts. The remaining 20% - the persisters - had five or more contacts with the courts. The authors construct a quantitative model in order to identify factors that predict probabilities associated with recidivism.

The authors found that desisters stop committing crimes relatively early in their careers; thus leaving a residue composed increasingly of high-recidivism persisters.

The seven-variable prediction scale model was applied to the London cohort. Variables associated with recidivism included behaving badly in school, coming from poor families, having criminal parents or sibling, having low IQs; and being subjected to poor parental child rearing. Considering these variables, the authors suggest the design of prevention efforts should target youths who are behaving badly and matched the persister profile at earlier ages.

Analysis

by Peter S. Gilchrist
District Attorney
Charlotte, North Carolina

There are several points of significant interest to prosecutors made and developed in this article. Foremost, with a reasonable degree of accuracy, juveniles who will become serious recidivists can be identified prospectively when first arrested even when the juvenile is as young as ten years old. The prospective identification is done by classifying the juveniles into groups based on their individual observable attributes. Then each group is given a probability which is either high or low that the offender will desist (cease) in contact with the system or persist (continue).

Obviously, no prediction of the future is certain, and the authors discuss how to determine the rate of correct and incorrect labeling of individuals. They also discuss the implications and benefits of correct labeling as well as the concerns over mislabeling.

Since total accuracy in prediction is impossible, the use of prediction is not appropriate for determining severe and punitive intervention. Alternatively, if the predictions are made without stigmatizing those identified, the predictions are helpful in determining which youths are in the greatest need of limited support services.

The article is technical and in large part consists of a geometric model and a logistic regression. This analysis will be difficult for the average prosecutor to follow. The writers do present conclusions that are straightforward and the article presents a method of early identification of juvenile offenders, who will most likely benefit from the application of limited and

often expensive court and community support resources.

The article will not benefit the prosecutor in the operation of his office. However, for the prosecutor in the role of a policy-making official who develops and sets community priorities for the allocation of resources, the article sets fourth a method of developing rational criteria for identifying juveniles who can be expected to become community problems. Thus, these identified juveniles may possibly be converted from persisters to desisters by early intervention with community support services.

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