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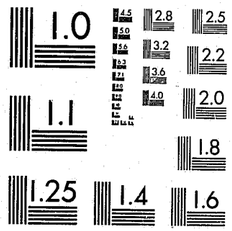


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# THE PREVENTION AND CONTROL OF ROBBERY

## VOLUME IV

## THE RESPONSE OF THE POLICE AND OTHER AGENCIES TO ROBBERY

Edited By
Floyd Feeney and Adrianne Weir

THE CENTER ON ADMINISTRATION OF CRIMINAL JUSTICE
University of California, Davis
April 1973

# The Prevention and Control of Robbery
## Volume Four

# THE RESPONSE OF THE POLICE AND OTHER AGENCIES TO ROBBERY

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U.S. Department of Justice
National Institute of Justice

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The Center on Administration of Criminal Justice

University of California, Davis

Co-Directors

Edward L. Barrett, Jr.
UCD School of Law

Lloyd D. Musolf
Institute of Governmental Affairs

THE RESPONSE OF THE POLICE AND OTHER AGENCIES TO ROBBERY

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## PROJECT STAFF

Study Directors: Floyd Feeney, Adrianne Weir

Geography Study: Susan Wilcox  Special Consultant: Paul Marr

History and Concept Study: Charles Van Court

Police Response Study: James Smith, William Smith

Field Supervisors: Thomas Aceituno, Michael Spedick, Selene Wolf

Research Assistants:

Marie Andrus
Steve Baker
Lee Bardellini
Susan Bardellini
Roosevelt Baines
Bill Bisset
Mary Boehm
Larry Bolton
Phil Bourdette
Ann Buchbinder
Elizabeth Cabrall
Alan Carlson
Shirley Cartwright
Jan Charlup
Lynn Cooper
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Tom Specht
Phyllis Turner
Ray Ward
Ruth White
Judi Zukerman

Consultants:

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Robert Millar
Abraham Miller
Ike Sofaer
Virginia Vanich
Max Wendel

Support Staff:

Lainda Boosembark
Carol Crayne
Dollye Evans
Virginia Grose
Darleen McNamer
Suesan Wagnon
Jo White

General Consultants:

Ronald Beattie
Donald Cressey
Willard Hutchins



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## Introduction

In a recent year there were about 5000 radio dispatches in the city of Oakland for robbery offenses. For the same year there were about 2200 robbery offenses reported, 800 robbery offenders apprehended, 400 charged, and 200 convicted.

By now this phenomenon of progressive narrowing down is well known and accepted as a normal part of the criminal justice system. Parts of the process have been fairly well described and are at least generally understood. Other parts remain almost totally unexplored and unclear.

Even for those parts of the system which have been generally described, however, there is relatively little information concerning the impact of the process on specific crimes. Undoubtedly the process is at least in part general and to that extent information concerning specific crimes is unnecessary. From what is known about the system, however, it seems highly likely that the system operates in substantially different ways for some crimes than for others.

The purpose of the studies in this volume was to describe the operation of the system with respect to the crime of robbery. These studies were seen as crucial to an understanding of the relevance of the system to the problem of control and prevention of robbery. In particular in a system characterized by wide discretionary powers and which often operates in fact in ways very different from either formal administrative structures or formal legal powers, the task of describing actual operations was seen as a crucial one. The perception that operators in the system have of the crime of robbery and the relative priority which they attach to it and why



was seen as a particularly important fact. It seems obvious but it is often overlooked that in a highly discretionary system the perceptions of a crime and the attitudes and policies adopted with respect to it have highly important effects upon decisions made about that crime. Without an understanding of these factors, it is not possible to place other information--statistical or otherwise--in sufficient perspective to understand the phenomenon itself.

The studies in this volume should not be taken as describing the current criminal justice system with respect to robbery in Oakland. Neither do they describe the system at any particular time in the past. Rather they are a collection of descriptions of particular parts of the system made by different people at different times. Because the system and its organization is in constant change, almost daily in fact, it is not easily possible to make a completely accurate current description and it is possible that the present system looks very different in some respects.

Even where the system has been changed, however, the studies show a great deal about the questions with which the various agencies must deal and the kinds of interchange that takes place between agencies.

Chapter One

## MOBILIZING THE POLICE: ROBBERY DISPATCHES AND ROBBERY REPORTS

When a citizen is robbed at gunpoint or mugged in the street, the police come into action only when they learn of the situation. Generally one of the most common ways that police learn of crimes is through a call to the police department requesting help. In these cases generally the result is the radio dispatch of a patrol car to the location to see if the officer can help.

During one recent year (August 1967 - July 1968) the Oakland Police Department radio dispatcher sent 5580 calls out over the air to police patrol cars asking the cars to respond to a robbery situation. During the same period, however, only 2120 robbery crime reports were filed by the department. Keeping in mind the fact that the radio dispatch unit screens all incoming calls in order to give them insofar as possible the proper crime classification before dispatch, this difference of two and one-half robbery dispatches for each robbery report filed raises many questions.

In order to try to get some answers to this problem more detailed analysis was made of robbery dispatches and robbery reports for a three-week period in June 1969. During this period the department made 234 robbery radio dispatches while filing a total of 135 robbery offense reports.



[Insert Table 1]

The one and one-half to one ratio of robbery radio dispatches to robbery reports filed for the study period is noticeably less than the two and one-half to one ratio found during the August 1967 - July 1968 period. The difference, however, is still a substantial one. The difference is even more significant if the number of robbery radio dispatches is compared with the number of robbery reports resulting from those dispatches (Table 2) rather than the total number of robbery reports for the period (Table 1).

[Insert Table 2]

Table 2 shows a three to one ratio between the number of robbery radio dispatches and the number of resulting robbery reports. In conjunction with Table 1 it also shows that 49 of the total 135 robbery reports resulted from something other than a robbery dispatch. These facts raise two basic questions: (1) what is involved in those robbery radio dispatches that do not result in robbery reports, and (2) where do the large number of robbery reports that do not come from robbery dispatches originate?

Table 1

Robbery Radio Dispatches

June 1969

| | |
|---|---|
| Robbery Radio Dispatches | 234 |
| Robbery Offense Reports Filed | 135 |



Table 2

Robbery Reports Resulting from Robbery Radio Dispatches

June 1969

| | |
|---|---|
| Robbery Radio Dispatches | 234 |
| Resulting Robbery Offense Reports Filed | 86 |

## I. ROBBERY DISPATCHES

When a telephone call comes into the department saying "Help police! I've been robbed," the radio room operator's instructions are to find out enough about the complaint to determine whether it involves a robbery, some other crime or some non-criminal situation. Often it turns out that the caller has simply had the hubcaps taken from his car or that someone broke into his house while he was away. These situations would be classified by the operator as a larceny or burglary or whatever the appropriate kind of theft and dispatched for those offenses rather than as a robbery. Similarly if someone called in and reported the taking of property by force but without calling it a robbery, the situation would be classified and dispatched as a robbery.

After the radio room operator makes a determination as to the nature of the complaint, he completes a complaint-dispatch report. (See Appendix.) If the facts, as given over the phone, indicate a robbery, this report will be coded "211" (the radio code number for robbery). The location of the complaint, the complainant's name, and the date and time the call was received will be noted along with other pertinent information.

If the situation is an emergency one such as a crime in progress, a priority form will be used. These situations receive immediate attention and are given to a dispatcher who assigns the nearest unit to handle the call. When the nearest unit is not available, the dispatcher will give the location and ask for the nearest available units. If the unit is some distance away, he will advise the dispatcher, thus advising other units who are closer to take the assignment or respond until the assigned unit arrives.



If the situation is not a priority matter, the dispatcher may hold the assignment until units are available or may assign a unit regardless of distance away from the assignment. An example of a non-priority situation would be where the complainant said he had been robbed, that the offender had escaped, and that he, the complainant, was going home and would like the patrolman to contact him there for the information on the crime.

Whenever an officer is dispatched in response to a complaint, he is supposed to make a written report of his findings--either a crime report or an assignment report. If the complainant is present and gives facts to indicate that he has been victimized, the officer is required to fill out a crime report. Except for a few minor situations, a crime report is required any time the officer finds that an offense has been committed. The crime report provides information about the complainant, any witnesses, the offender or offenders, and what happened. However, if the officer arrives at the scene and cannot find the complainant or any indication that a crime has been committed (a not infrequent situation), he is supposed to fill out an assignment report. This report says, in effect, what the officer found (e.g., that there was no complainant and no indication of a crime). It is primarily a record of police activity.

Theoretically any call to the communication section resulting in a patrolman being dispatched should be followed by a crime report or an assignment report. Some assignment report situations go unrecorded, however. Generally this is because the event is viewed as too trivial by the responding officer to warrant any report or because he feels that the paperwork involved is too great.

This study is based primarily on matching up the departmental dispatch records with resulting crime and assignment reports. Where such a match was not possible, other information was used to the extent possible to indicate what had happened.

## II. RESULTS OF RADIO DISPATCHES FOR ROBBERY

Table 3 indicates the results of the 234 radio dispatches that were made during the sample period for robbery.

[Insert Table 3]

This table indicates that while only one-third of the robbery dispatches resulted in a robbery report, about half resulted in a crime situation of some kind. The largest single category of those not resulting in a robbery report, 56 cases, were false electronic alarms.

Table 4 shows the same information as Table 3 broken out by whether the outgoing radio dispatch was made on a priority or a non-priority basis.

[Insert Table 4]

This table indicates that the majority of all robbery dispatches--including both those which do result in robbery reports and those which do not--are dispatched on a priority basis. Examination of the cases in which the dispatch is on a non-priority basis indicates that delay in receipt of the report rather than nature of the crime is the principal reason for the non-priority assignment.



Table 3

Results of Robbery Radio Dispatches

| | | |
|---|---|---|
| **Crime Situations Reported** | | |
| Robbery | 86 | |
| Pursesnatch (487) | 9 | |
| Other Crimes | 11 | |
| Unfounded Robberies | 9 | |
| Other Crime or Possible Crime Situations | 5 | |
| Total Crime | | 120 |
| **No-Crime Situations** | | |
| False Alarms | 56 | |
| No Complainant at Scene | 9 | |
| Information on Robbery Suspects | 8 | |
| Repeat Calls and Other | 17 | |
| Other No Crime | 24 | |
| Total No-Crime | | 114 |
| Total Robbery Radio Dispatches | | 234 |

Table 4

Results of Robbery Radio Dispatches

| Crime Situations Reported | Priority | Non-Priority |
|---|---|---|
| Robbery | 71 | 15 |
| Pursesnatch (487) | 5 | 4 |
| Other Crimes | 11 | - |
| Unfounded Robberies | 6 | 3 |
| Other Crime or Possible Crimes Situations | 3 | 2 |
| **No-Crime Situations** | | |
| False Alarms | 56 | - |
| No Complainant at Scene | 7 | 2 |
| Information on Robbery Suspects | 7 | 1 |
| Repeat Calls and Other | 7 | 10 |
| Other No Crime | 18 | 6 |
| Total Robbery Radio Dispatches | 191 | 43 |



Table 5 indicates the outcome of robbery dispatches which result in a crime report or a situation.

[Insert Table 5]

Eighty-six of the 106 crime reports filed as a result of the 234 robbery dispatches were robbery reports. Nine of the remaining 20 were classified as pursesnatches, a crime closely related to robbery and often virtually indistinguishable. Of the other 11 reports all but three could probably have been classified as robberies, but none were really misclassified in the category actually designated by the responding officer. Two of the reports not classifiable as robbery were based on dispatches triggered by an alarm (the burglary and the forged check).

Some mention should be made here of the way the radio complaint-dispatch reports get coded "211" (robbery). When the reporting party gives the facts to the communication section, the dispatcher who takes the call must quickly make a determination of the crime involved. Many times the dispatcher will code the crime "assault" and then add "poss. 211" (possible robbery). When that particular complaint-dispatch report is keypunched for data-processing purposes, it is supposed to be coded as a "211" as that is the most serious crime mentioned. Such a card could then have been one of the 234 used for this study even though robbery was a second choice and considered only a possibility.

If upon investigation the patrol officer assigned determined that there was an assault but no robbery, there would then be a crime report made for an assault, filled out by the patrolman who had been

Table 5

Robbery Dispatches Resulting in Crime Reports or Situations

| | | |
|---|---|---|
| **Crime Reports** | | |
| Robbery | 86 | |
| Pursesnatch (487) | 9 | |
| Petty Theft (484) | 4 | |
| Homicide | 1 | |
| Burglary | 1 | |
| Grand Theft | 1 | |
| Check Forgery | 1 | |
| Assault with Deadly Weapon | 1 | |
| Battery | 1 | |
| Other | 1 | |
| Total Crime Reports | | 106 |
| **Crime Situations** | | |
| Robbery Unfounded | 3 | |
| Robbery Suspicious Circumstance (Unfounded) | 6 | |
| Refusal to Prosecute | 2 | |
| Probable Crime or Arrest (Callbacks) | 3 | |
| Total Crime Situations | | 14 |
| Total Crime Reports and Situations | | 120 |
| Total Robbery Dispatches | | 234 |



dispatched for a possible robbery. If the reporting party was not the complainant mentioned on the crime report, then the crime report might not be matched with the radio complaint-dispatch report. The majority of cases in which crime reports other than robbery were found were cases in which the reporting party and the complainant were the same person.

Twice there was an actual robbery committed but the complainant refused to take further action. In each instance the responding patrolman then erroneously made out an assignment report. In one of those two assignment reports, the patrolman gave detailed facts of the situation. It seems that a woman was the victim of a strong-arm pursesnatch. But the offender, shortly after taking the purse, was apprehended by two men who were passing by. A person not involved in the incident reported it to the communication section who dispatched a patrolman to the scene. When the patrolman arrived, the offender was being held by the two men and the victim had her purse back. Since nothing was removed from her purse, the victim had no desire to see the offender prosecuted. She refused to co-operate in any way, and so the patrolman wrote up an assignment report and did not arrest the offender.

For three situations the patrol officer assigned called back to the department indicating that some crime had been committed or that he had made an arrest but no crime or arrest report matching the dispatch card could be found. Because of the various checks performed it is unlikely that any of these callbacks resulted in a robbery (211) or pursesnatch (487) report. It is possible, however, that the callback might have resulted in some other kind of

crime report. This is particularly true for cases in which the complainant named on the crime report was someone other than the party who complained to the communication section. In such a case the methods used in this study would probably not be able to match the complaint-dispatch report with the crime report. The large number of crime reports written each month by the Oakland Police Department prevented the manual checking of each report to see if it matched by beat, time, location, or complainant.

The unfounded and suspicious circumstance cases are included in the crime situation category because many of these--possibly--were downgraded as a result of the victim becoming unavailable. Arguably these cases should have been classified as crimes.

Another five cases, the "marginal crime cases," could possibly have been included in the crime situation group. In these five cases, which were ultimately classified in Table 6 as no-crime cases, there were indications from assignment reports that a crime other than robbery had been committed or that some crime was possibly committed. In one case a bus, which had been left with the motor running, was driven several blocks and then abandoned. In another case the assignment report said "no description and no DOF [direction of flight]," implying that some crime had been committed but saying no more.

In the other cases the dispatches were as follows:

--"Someone being beaten in the street. Looks bad. Hung up."

--"MN's beating up MW."

--"Man bleeding from head."



A. Dispatches Ending in No-Crime Situations

Table 6 shows the distribution of robbery radio dispatches which ended in no-crime situations.

[Insert Table 6]

(1) Alarms. Of the 115 instances in which a dispatch ended in a no-crime situation, 56 involved alarm systems. Thirty-five of the false alarms in the sample period were evidenced by an actual assignment report. Most of these assignment reports give no indication of the circumstances beyond the radio code number. Six of the reports, however, did offer some explanation:

1. Clerk accidentally set off.
2. Janitor set off accidentally.
3. Worker pounding on floor set off alarm.
4. Short in alarm system.
5. Set off by P.G. & E. workmen.
6. Faulty alarm.

In addition to these cases which involve assignment reports there are 21 other cases in which the initial complaint came from an alarm company. Looking at Table 6, it can be seen that ten of these were situations in which the callback indicated a false alarm, but no assignment report was found. Many of these complaint-dispatch reports indicated something such as "secure." It is probably safe to assume that all ten of these are no-crime situations.

The remaining 11 cards, however, had no callback information as well as no matching assignment report. These must be analyzed, if

Table 6

Robbery Dispatches Ending in No-Crime Situations

| | | |
|---|---|---|
| Marginal Crime Situations | | 5 |
| False Alarms | | 56 |
| False Alarms | 35 | |
| False Alarm Callback | 10 | |
| Probably False Alarm | 11 | |
| No Complainant at Scene | | 9 |
| Robbery Suspects | | 8 |
| Complainant Mistaken | | 1 |
| Administrative Calls | | 7 |
| Repeat Calls | | 9 |
| Probable No Crime | | 19 |
| Callback | 8 | |
| No Information | 11 | |
| Total No Crime Situations | | 114 |
| Total Robbery Radio Dispatches | | 234 |



at all, from the information given on the face of the dispatch report. As mentioned before, the time the dispatch is made is stamped on the complaint-dispatch report. The time the complaint is cleared is also stamped. Clearance can come by a call from the patrolman himself who after arrival finds no evidence of foul play or by a call from the alarm company who discovers that the alarm is false (the alarm user may call to say he accidentally tripped the alarm, etc.). Therefore, if time of clearance is shortly after time of broadcast, it seems safe to assume that the alarm was false.

An analysis of the dispatches from alarm company complaints reveals that only two of these 11 dispatches had a return-to-duty time of over five minutes, as shown in Table 7. In the ten cases in which alarm company calls led to a crime report, none were cleared in less than 37 minutes and the average time was 56 minutes. Furthermore, two of the 11 unexplained reports had some indication that it was a false alarm situation, although the assignment report box was not checked and no actual assignment report was found. Based on the above, it would be safe to conclude that these 11 cases were all probably false alarms.

[Insert Table 7]

(2) No Complainant Present. In nine cases the police arrived but no complainant was present at the scene. Seven of these were priority dispatches and two non-priority.

The notations on these cases suggest that some of these situations may have been real robberies while others may simply have been events that looked like a robbery to a passerby.

Table 7

No-Match Robbery Dispatches Based on Alarms

| Complaint-Dispatch Cards | Clearance Time (Minutes) |
|---|---|
| 9 | 0-5 |
| 2 | 21-25 |



Dispatch: "Poss. 211 S/A. Said one M/W Robbing another - could get no better location, no additional info."

Assignment Report: "Checked for possible 211 but found nothing."

Dispatch: "Poss. 211 S/A. Male trapped in phone booth, 2 M/N trying to get to him."

Assignment Report: "GOA" (gone on arrival). This call was 13 minutes between reception and broadcast.

Dispatch: "Call from owner of car in Berk. Rec. call from person she lent the car to that he was robbed at knife point."

Assignment Report: No one present at scene.

Dispatch: "Nurse called in. Not positive."

Assignment Report: "GOA". Twenty-eight minutes to dispatch.

Dispatch: "Poss. 211. Armed. Woman stated she saw 4 M/N's aiming a gun at another M/N. She drove by. They were all pedestrians. Could give no more info."

Assignment Report: Indicates area checked - "No one in sight."

In three of the seven priority calls in this category the time from receipt of the telephone call informing the dispatch operator of the event to broadcast over the air was over ten minutes and in one of the two non-priority calls the time to broadcast was over 30 minutes. It is possible in these circumstances that some of the parties got tired of waiting.

(3) Suspects. In eight cases the dispatch related in some way to a robbery suspect rather than a new robbery offense. Several typical examples:

--"Reporting party thought she saw person who robbed her last week."

--"Cab #____ spotted two men who held him up."

--"Description from citizen of 211 suspects at donut shop."

(4) Some Other Situations. In one case the complainant indicated that she was mistaken and that no robbery occurred. In seven cases there were administrative dispatches relating to robbery. These included such things as a dispatch to cover the California Highway Patrol on the stop of a vehicle possibly involved in a robbery, a call for dispatch of an evidence technician to a robbery scene, and a request to check an earlier robbery crime report. Nine calls which were repeats of earlier calls were recorded.

(5) Probable No Crime Situations. (a) Callbacks. There were eight dispatches, not involving alarms, in which the officer called back to the department and indicated that no crime had been committed but for which no corresponding assignment report could be located. Five of these were priority dispatches. In the absence of additional information, it seems safe to assume that all these cases were non-crime report situations.

(b) No Callbacks. There are an additional 11 dispatches not involving an alarm company, for which no crime or assignment report could be found, and for which there was no callback information. The dispatch card entries for these dispatches were as follows:

| | |
|---|---|
| "211" (robbery) | 2 |
| "Possible 211" | 1 |
| "962 - 211" (meet a citizen) | 3 |
| "950 - 211" (investigate report from citizen) | 2 |
| "945B - 211" (ascertain if ambulance needed) | 1 |



| | |
|---|---|
| "953 - 211" (investigate report from person on street) | 1 |
| No information | 1 |
| | 11 |

These dispatch entries do not differ greatly from those in the cases for which some crime or assignment report could be found. It seems likely that they resulted either in an assignment report or a crime report for some crime other than robbery. Seven of these dispatches were designated priority, while four were non-priority situations.

B. The Special Problem of Alarms

Because alarms loom so large in robbery dispatches they deserve separate attention. Of the 234 robbery dispatches made by the communication section during the study period, 63 were based on calls from an alarm company. Fifty-six or nearly 90 percent of these calls were false.

Most alarm systems are custom made. That is, they are designed to fit each particular business that uses them. The service sold by the alarm company usually takes one or both of two forms, burglary protection or hold-up protection. It is important to distinguish between these two types of protection.

The burglary protection alarm system is triggered by the opening of doors or windows. The hold-up or robbery protection alarm system is triggered by the subscriber or some other person. They are two completely different systems used for different purposes. When the alarm company is alerted by one of these alarms, they call the Oakland Police Department. The crime they report

will depend entirely on the type of service they have sold the subscriber. If the alarm company has sold only hold-up service to a commercial establishment, then when that alarm is triggered, as far as they are concerned, a hold-up is in progress.

Therefore, the 63 alarms that this study is concerned with are distinct from whatever burglary alarms may have been triggered in the same period. Sixty-three times during the study period a hold-up system was triggered in some way and a robbery was reported to the Oakland Police Department Communication Section.

As mentioned previously, most of these were false alarms. False alarms have two major causes, equipment error or subscriber error. Equipment error is not too common. A spokesman for one Oakland alarm company has said that equipment errors accounted for only one percent of Oakland's false alarms. While this figure may be biased, it probably is not too erroneous. The overwhelming majority of false alarms were ascribed to "subscriber errors caused by carelessness or indifference."

The subscriber errors can take many forms. Many of these are caused by someone accidentally triggering the switch to the alarm. Many more are caused by the inappropriate use of the alarm. Some examples of misuse that have been mentioned are triggering the alarm because it was suspected that a store customer was trying to pass a forged check, or because a service station customer bought some gasoline and then drove off without paying for it, or because a store clerk thought a customer was shoplifting. While all of these circumstances might show criminal activity, they are not the kind of situations that require the same degree of emergency response that an armed robbery does. No one is more



disturbed than a policeman who responds to a robbery alarm by driving at high speeds, at physical risk to himself and others, only to find that someone has called him for minor or false reasons.

## III. WHERE ROBBERY REPORTS COME FROM

Because some robbery reports do not originate with a robbery dispatch, the problem of where robbery reports come from is different from that of what happens to robbery dispatches. Table 8 supplies some of the answers to this question.

[Insert Table 8]

What this table shows is that:

- --the largest single group of robbery reports (64 percent) derive from robbery dispatches.
- --excluding the unexplained reports about 80 percent of all robbery reports (96 of 121) come from radio dispatches of some sort.
- --about one-sixth of all robbery reports clearly derive from non-dispatch situations.

As indicated in Table 8, many of the 135 robbery crime reports filed by the Oakland Police Department during the study period were not initiated by a robbery radio dispatch. How these robberies first came to the attention of the Oakland Police Department is the subject of this section.

Table 9 summarizes what is known about these cases.

[Insert Table 9]

Table 8

Origin of Robbery (211) Reports

| | Number | Percent of Total |
|---|---|---|
| Robbery Radio Dispatches | 86 | 64 |
| Other Radio Dispatches | 10 | 7 |
| Non-dispatch Situations | 25 | 18 |
| Unexplained and Other | 14 | 10 |
| | 135 | 99* |

*Doesn't add to 100 due to rounding.



Table 9

Robbery Reports Not Initiated by Robbery Dispatch

| How Police Notified | | Number of Cases |
|---|---|---|
| Other Radio Dispatches | | 10 |
| Battery | 2 | |
| Assault with Deadly Weapon | 2 | |
| Petty Theft | 2 | |
| Disturbing the Peace | 1 | |
| Exhibiting Firearm | 1 | |
| Ambulance | 1 | |
| Other | 1 | |
| Telephone Report (to Somewhere other than Communication Section) | | 6 |
| Walked into Police Station | | 3 |
| Officer Witnessed Crime in Process | | 2 |
| Flagged Down Officer on Street | | 11 |
| Hospital Connected | | 3 |
| Unexplained | | 14 |
| Total | | 49 |

A. Non-Dispatch Situations - Unexplained

Returning to Table 9 it can be seen that in 49 cases, a robbery crime report was filed even though no robbery dispatch was involved. In 35 of these cases, a determination was made as to how the fact that a crime had occurred was called to the attention of the officer involved. What can be said of the remaining 14 cases? Table 10 indicates the time between the offenses and the time the report was taken by the police officer at the scene. This is at best an estimation based on what the complainant tells the officer completing the report.

[Insert Table 10]

In most instances the report and the offense appear to have occurred reasonably close in time. This, as well as some of the report information, suggests that several of the cases were flag-downs or on-views. It is possible also, however, that several of the cases came from some kind of dispatch that was not located.

B. Robberies and Pursesnatches

Functionally there is great similarity between many offenses which are charged as robbery (Penal Code Section 211) and pursesnatching which is charged as theft from the person (Penal Code Section 487). During the period studied there were a total of twenty-one pursesnatches reported. Table 11 compares the origin of these reports with those of the 211 reports.

[Insert Table 11]



Table 10

Unexplained Situations

| Number of Crime Reports | Time Taken to Report |
|---|---|
| 1 | 5 minutes |
| 1 | 12 minutes |
| 3 | 15 minutes |
| 1 | 20 minutes |
| 3 | 30 minutes |
| 1 | 60 minutes |
| 4 | Unclear |

Table 11

Origin of Reported Robberies and Pursesnatches

| | Departmental Actions | Reported Robberies | Reported Pursesnatches |
|---|---|---|---|
| Robbery Radio Dispatches | 234 | 86 | 9 |
| Pursesnatch Radio Dispatches | 87 | -- | 9 |
| Other Radio Dispatches | -- | 10 | 3 |
| Non-Dispatch Situations | -- | 25 | 4 |
| Unexplained | -- | 14 | 5 |
| Total | -- | 135 | 30 |



Table 12 shows the same data in combined fashion.

[Insert Table 12]

Table 12

Origin of Reported Robberies and Pursesnatches in Oakland

| | | |
|---|---|---|
| Robbery (211) Radio Dispatches | | 95 |
| Pursesnatch (487) Radio Dispatches | | 9 |
| Other Radio Dispatches | | 13 |
| Non-Dispatch Situations | | 29 |
| Flagged Down Officer on Street | 13 | |
| Telephone Report | 6 | |
| Walked into Police Station | 5 | |
| Hospital Connected | 3 | |
| Officer Witnessed Crime in Process | 2 | |
| Unexplained | | 19 |
| Total Robbery and Pursesnatch Reports Filed | | 165 |



Appendix

Method of Study

The complaint-dispatch report contains the following information.

1. Date
2. Beat
3. Car detail
4. Location of complaint
5. Time received
6. Time broadcast
7. Time cleared
8. Complainant's name

With this information, several avenues were available to determine what resulted from the complaint-dispatch. The following methods were those actually used.

A. Assignment Report Match

Assignment reports are filed by date and beat. By taking the date and beat on the complaint-dispatch report and matching with the date and beat on the assignment report, it was possible to narrow to five or six the number of assignment reports that might match completely with any given complaint-dispatch report. These five or six could then be matched by location, time and complainant.

Generally, if the situation was appropriate for an assignment report and an assignment report had been filled out, there was no problem in matching it with the complaint-dispatch report. When a match was made, the circumstances, as expressed by the assignment report, were noted. The circumstances usually consisted of a brief explanation of what the officer found on arrival at the scene (i.e., "no complainant could be found upon arrival and there was no indication that a 211 had been committed").

Sometimes the information on the assignment report did not match perfectly with the information on the complaint-dispatch report. This does not diminish the validity of the match, however. Often the person complaining to the communication section is no more than a reporting party and not a victim himself. The responding officer, however, when he arrives at the scene, usually classifies the victim as the complainant. Similarly, the location given the communication section might be either an approximate location of the offense or it might be an entirely separate location where the complainant wants the officer to contact him. The responding officer, on his report, will note the location of the offense or suspected offense first and separate from the location of the complainant's residence.

B. Crime Report Match

The next method used to determine dispatch disposition was to try to match the complaint-dispatch reports with crime reports. Crime reports are filed by an R.D. number assigned on a chronological basis, as the reports are filed. An offense log, however, lists the nature of the crime, the date filed, the R.D. number, and the complainant's name. Furthermore, all robbery and pursesnatch crime reports are listed on a separate crime analysis log. By using the logs it was possible to match robbery and pursesnatch reports with the assignment reports.

It would also have been possible to check the complaint-dispatch reports against the "larceny-theft" file. Such a process would probably have resulted in a few more complaint-dispatch reports being matched with crime reports. In Oakland, however,



thefts run at the rate of over 1500 a month. Since the possible benefit was thought to be slight, this move was not done.

C. Special Study

Some reports were matched because this study coincided with a special departmental study which required field units to call the dispatcher from the scene as to what kind of report had been completed. In some cases field officers indicated that they were completing an assignment report but no such report was later found. These cases were counted as assignment report situations.

D. Alpha Index File

A fourth method employed was to go to the Alpha Index File in the Records Division. Anyone who had been the complainant of a crime should have a card in the file. In fact, the card comes from xeroxing the upper right hand corner of the crime report which contains the name and address of the complainant and the crime he complained of along with the date, and time reported. This file was utilized by trying to match the complainant's name on the complaint-dispatch report with the name in the index file. Once names were found to match, the dates and the crime involved could then be noted.

## Chapter Two

## ROBBERY: GETTING CAUGHT

The question of how robbers are apprehended, like the question of apprehension of criminals generally, is not well understood. This study is an attempt to fill in some of the missing blanks. It is based on a study of robbery clearances. Other possible universes such as arrests, suspects, or cases in which charges are placed could have been used. Clearances were chosen as the universe, however, because they are a widely recognized, even though often criticized, measure of police efforts. Clearances as a measure have the advantage of relating to the total universe of robbery offenses, a virtue not possessed by other measures. Most of the more serious problems of clearances as a measure are dealt with through the use of various subsamples.

Each crime report that is called into the police department by a witness, victim or an officer is numbered; and after a preliminary investigation by a patrol unit sent to be further investigated by detectives. After investigating the report, the detectives label the case either "cleared", "filed", or "unfounded." When a case is labeled "cleared," the police feel that they have "got" the suspect who committed the offense. By "filed" the police mean that until further information comes in the crime cannot be solved. When a case is "filed," the police assume that a crime has actually taken place--that the victim's report concerns an actual wrong that was done him. If after an investigation a determination is made that no offense actually



occurred, this case is "unfounded."

The sample for the study was defined as those cases which occurred during the period July 11 through September 10, 1969, which were cleared as of the time of the study. Because some cases are cleared in a few days while others may not be cleared until months or years later--as when someone confesses to a crime that he committed years ago or a bank robber is finally caught after a long search--it is possible that some of the robberies in the sample period may have been cleared at some time later than the study. Four cases from an earlier period were cleared in this manner during the study period and have been included in parts of the study.

During the sample period, there were a total of 470 crime reports filed for robbery (Penal Code §211) and pursesnatch (§487) combined. Thirty-three of these were suspicious circumstances and 15 were unfounded, as indicated in Table 1, leaving a total of 422 crime reports that were counted in the departmental statistics.

[Insert Table 1 here]

Of these 422 reports, as indicated in Table 2, 106 were cleared and 316 filed with no further leads.

[Insert Table 2 here]

Based on these figures the clearance rate for the period was 25.1 percent. This compares with a rate of 26 percent computed for the entire year of 1969 and 27 percent for 1968.

Table 1

Robberies and Pursesnatches

July 11-September 10, 1969

| | | |
|---|---|---|
| Robbery reports | 404 | |
| Pursesnatch reports | 66 | |
| Total reports | | 470 |
| Unfounded | 15 | |
| Reported as suspicious circumstances and later unfounded | 33 | |
| Total unfounded | | 48 |
| Total | | 422 |



Table 2

Disposition of Robbery Cases

| | |
|---|---|
| Filed, no further leads | 316 |
| Cleared | 106 |
| Total | 422 |

The breakdown for these clearances as provided in the department's classifications was as shown in Table 3.

[Insert Table 3 here]

The unit involved in this breakdown is the "case" or the incident, rather than the number of suspects involved or the number of victims. Thus, a single clearance may involve one suspect or it may involve two, three or more; similarly with victims.

Even the simple question of how robbery suspects are caught has at least three possible meanings: (1) how are the police brought into action; (2) how are the suspects identified and connected with the incident; and (3) how are the suspects physically brought under control of the police? This study focuses essentially on the second question, although at times dealing with questions one and three.

Suspects can be identified and connected with a case in several ways. The first occurs when a suspect is apprehended in connection with a specific robbery. A store is robbed, and the offender is caught coming out the door. The second situation occurs when the suspect caught running out the door is suspected of committing other robberies performed in a similar manner and is questioned about them or put into a lineup so that the victims from these other offenses may view him.

Table 4 attempts to indicate the relationship between these two methods of connection. The first might be called a "primary clearance" and the second, a "secondary clearance."



Table 3

Clearance by Departmental Codes

| | |
|---|---|
| Arrest and prosecution | 40 |
| Turned over to juvenile authorities | 17 |
| Prosecuted for another offense | 16 |
| Complainant refuses to prosecute | 13 |
| D.A. refuses to prosecute | 10 |
| Prosecuted by another agency | 7 |
| By notification to appear at D.A.'s office | 1 |
| Notice to appear, juvenile | 1 |
| Citation, juvenile | 1 |
| | 106 |

[Insert Table 4 here]

This method of counting has the virtue of being able to deal with apprehensions in terms of cases, and still be able to distinguish between those clearances attributable to arrests and those attributable to some other factor.

I. APPREHENSION IN ARREST AND PROSECUTION CASES

Fifty-nine teams of suspects or single suspects were apprehended by the police and turned over for further processing. The 59 incidents in which these robbers were identified, apprehended and charged were analyzed to pick out the most vital and critical role in the identification and charging of the robbery suspects.

Identification and apprehension of robbers depends on the intersection of the lines of action of (1) the victim or witness; (2) the police; and (3) the robber. Generally in cases in which robbers are caught and identified, the victim or witnesses must be willing to report the incident and to follow through at least minimally on the case. The police must be reasonably certain of the victim or witnesses' version of the incident; the victim or witness must be available and willing to pursue the robbery suspects at the time of the incident; and they must be willing and able to pursue lines of action that will lead to the identification, apprehension, and charging of the robber afterwards. Finally, the robbers in being identified and charged ordinarily must misplan their endeavor, misjudge their



Table 4

Robbery Clearances

| | | |
|---|---|---|
| Cases with one or more suspects caught and prosecuted (or turned over to juvenile authorities)(primary clearances) | 59 | |
| Additional cases charged to these suspects (but not clearances within the period) | 7 | |
| Additional cases attributed to these suspects but not charged (secondary clearances)* | 13 | |
| Total cases connected to these suspects | | 79 |
| Prosecuted on another offense but connected to robbery within the period* | 3 | |
| Victim refuses to prosecute | 13 | |
| D.A. refuses to charge | 10 | |
| D.A. notice to appear | 1 | |
| Prosecuted by outside agency but connected to robbery within the period | 7 | |
| Total other cases | | 34 |
| Total cases | | 113 |
| Total clearances within period | | 106 |

*These cases were cleared as prosecuted on another offense and total to 16.

victim, take poor precautions in making their getaway, fail to hide their complicity afterwards, or be the victim of some stroke of bad luck.

Even though all three lines of action are generally involved in any single robbery, in most cases one role contributes more to the identification and charging of the robber than that of the others. In these instances the other actors merely follow through in their normal and expected way.

A. Most Significant Role in Apprehension

In the 59 cases involved in this part of the study the roles that were found to be the most important in the identification and connection of a suspect to the case are given in Table 5. In some instances, such as a rapid police response to a good victim identification, there was judged to be more than one decisive role.

[Insert Table 5 here]

The victim is the single most important category in the group. If the totals of the overlapping categories are combined, the decisive role of the victim can be seen even more clearly.

[Insert Table 6 here]

B. Victim and Witness Roles

The importance of the victim in the apprehension process has



Table 5

Most Significant Role in Apprehension

| | |
|---|---|
| Victim | 24 |
| Witness | 12 |
| Police | 10 |
| Robber ineptitude | 2 |
| Victim and police | 8 |
| Victim and robber ineptitude | 3 |
| Total | 59 |

Table 6

Most Significant Role In Apprehension

Including Shared Roles

| | |
|---|---|
| Victim | 35 |
| Witness | 12 |
| Police | 18 |
| Robber ineptitude | 5 |
| Total | 70 |

Note: Cases with shared roles are counted twice.



already been indicated. The ways in which this role is played are indicated in Table 7.

[Insert Table 7 here]

The witness also plays an important role in the apprehension process as indicated in Table 8.

[Insert Table 8 here]

Together the victim and the witness play the decisive role in 36 of the 48 unshared roles and 47 of the 70 shared roles. The victim and witness cases will be discussed together.

(1) At the Scene. In most of the instances in which victims or witnesses played the vital role, the suspects were caught at or near the scene of the crime. In 12 of these instances the suspects were caught in the commission of the crime or shortly thereafter, often within a few minutes. In these instances the suspects were identified at or near the scene and the police patrol officers arrested the suspects almost immediately.

In five of these cases the victim flagged down a passing patrol car, and the suspects were arrested before they left the scene. Examples are:

> MW 19 and MN 19 approach victim, MW 55, in his car in a parking lot behind a restaurant at 0300. The suspect points a gun at the victim's head and tells him to get out of his car. As the victim is getting out, another car enters the lot and the victim walks over to the driver and tells him he is being robbed. The driver of the second car tells the victim that a police car is just around the corner. The victim walks to the police

Table 7

Victim Role Decisive

| | | |
|---|---|---|
| Points out suspect or suspect's location | | 12 |
| - Flags officer, points out at scene | 5 | |
| - Calls police, points out at scene | 2 | |
| - Follows suspect, flags officer | 3 | |
| - Follows suspect, points out residence | 1 | |
| - Victim returns to scene, spots suspect | 1 | |
| Accidentally spots suspect much later | | 2 |
| Mug shots | | 9 |
| Gives good description for radio, police catch in vicinity | | 6 |
| Gives good description for radio, police catch within two hours | | 2 |
| Identifies suspect by name | | 3 |
| Other | | 1 |
| Total | | 35 |



Table 8

Witness Role Decisive

| | |
|---|---|
| Becomes suspicious, directs police to scene, suspects captured there | 4 |
| Becomes involved in robbery incident, aids in capture of suspect | 3 |
| Identifies suspects by name | 3 |
| Gives license number and vehicle description | 2 |
| Total | 12 |

car and explains the circumstances. The police arrest the suspects as they are walking away. They find the gun nearby. Later, the suspect who held the gun is charged with attempted armed robbery; the second suspect is released as there is little implicating evidence.

MN 57 approaches MW 35 (victim, who speaks mainly Greek) at a bus stop at 1300. The suspect points a toy gun at the victim and gets $10. The victim takes a bus, rides several blocks to the downtown area and exits when he spots a patrol car. The victim explains the incident to the police and he accompanies them back to the scene of the holdup. The victim points out the suspect and he is arrested with the toy gun. Suspect is charged with armed robbery.

In seven other instances the witness played the vital role in the apprehension of the suspect at or near the scene. In four of these the witness became suspicious of the circumstances and flagged or called the police to the scene. The suspects were arrested in the vicinity of the crime at the time of the incident or shortly thereafter. Two such instances are:

MN 17, who had been drinking, approaches MW 63 on street at 2100. Asks victim for money. After getting small change from victim, demands more money from him and begins to accost him. Meanwhile, a passing witness in a vehicle flags a patrol car and directs the police to the scene. When the police arrive the suspect has fled but he is captured nearby and arrested. Suspect is turned over to the juvenile authorities, charged with strong-armed robbery; suspect also charged with possession of drugs.

Four MN adults (22-40) commit armed robbery of a bar at 0700 gaining about $350 from bartender and customers. The following morning the four suspects attempt to commit a similar robbery of another bar in an adjacent town. On this occasion, however, a witness about to enter the bar becomes suspicious of the strangers and phones the police. The police arrive to catch the four suspects as they are about to leave the completed robbery. All four are charged with the two armed robberies.

In three other instances a witness at the scene became directly involved in the apprehension of a suspect at the scene. In one instance the witness captured the suspect bodily and held him for



the police to arrive. In another instance:

A MN 19 approached a M Mexican 59 as he was returning from work at 0300. The victim was about to enter his hotel when the suspect accosted him. Victim resisted, shouted for help, and a neighbor heard the struggle. The victim managed to escape from the suspect and told the neighbor of the attempted robbery. The neighbor went out to the street and saw the suspect. The suspect came towards the neighbor with a (toy) gun pointed at him. The neighbor shot three shots at the suspect with his own gun; the suspect staggered, dropped his toy gun and fled. Several minutes thereafter the suspect reported to a nearby hospital. The police went, identified the suspect, and spoke to witnesses who said that they picked the suspect up near the scene of the incident and took him to the hospital. The suspect was charged with armed robbery.

(2) Immediately After. There were seven instances in which the victim's actions immediately following the occurrence of the crime was vital in the apprehension of the suspects. In all of these instances the victims pointed out the suspects to the police and the police then arrested the suspects. In four of these instances the victim followed the suspects from the scene of the crime.

M Mexican 35 and M Indian 35 approached MW 27 and MW 29 in parking lot behind bar at 0100. With drawn guns the suspects demanded the wallets and money of both victims. When victims refused, one suspect fired a shot near the head of one of the victims. The victims then complied. Suspects leave in their own vehicle and are followed by the victims in their car. After traveling a few blocks the victims flag a patrol car, describe the crime and point out the suspects' vehicle. Police chase and curb. Suspects are arrested with the loot and weapons. Both charged with two counts of armed robbery.

FN 18 lured M Chinese 40 to a hotel room for an act of prostitution. While in the room, two MN's 25-30 attack victim, taking his wallet and hitting him. The victim follows one male and the female from the hotel. He flags a patrol car, explains the story, and is placed in the back of the car to search the adjacent area. Victim spots the female and she is arrested. Later, the victim identifies one of the male assailants from police mug shots. He is arrested 8 days later on a warrant.

Both the female and the male admit being in the room with the victim, but both deny knowing who the other male is. The female admits that the arrested male committed the robbery, though she denies complicity. Both are charged with strongarmed robbery.

There were three other incidents in which the suspects were pointed out by the victims in the events following the commission of the crime. In one of these the victim returned to the location where he had originally encountered the suspect, and after spotting the suspect, called or flagged the police. In the other two cases the victim called or flagged the police to the scene and then accompanied the police in search for the suspects:

A crap game (where cheating is alleged) results in an altercation between two victims, MN 27, MN 42, and six suspects MN's in their late teens and early twenties. In the course of the brawl, which occurs at 0500, one victim is lacerated with a broken bottle and has his money ($120) taken from him. The other victim has $43 taken from him at knifepoint. Police are called by the victims and they accompany the patrol officers to another bar where the suspects hang out. At this bar the victims point out five suspects who are arrested. In the followup investigation the victims identified four of the suspects from mug shots. Three juveniles turned over to the juvenile authorities on armed robbery, an adult charged with battery and petty theft; one suspect is released.

(3) Suspects Accidentally Spotted. There were two cases in which the victims of a robbery accidentally spotted the suspects after the crime had been committed. In one instance the victim of a street robbery the night before was on his way to the police department to report the crime. While walking he spotted the suspect who had robbed him also walking on the sidewalk. When the suspect stopped at a phone booth, the victim rushed to a phone booth himself and called the police to the scene. The police arrived, and the victim pointed out the suspect. In the other instance, a clerk in a shoe store which had been robbed ten days



earlier spotted the robber in the vicinity of the store. He notified two officers in the juvenile division who happened to be in the vicinity, and they arrested the suspect on the clerk's identification.

(4) Radio Description Cases - Immediate Capture. The cases already discussed only minimally involve the police in an active chase of the suspects. For the most part the police simply apprehended the suspects at the scene or apprehended the suspects afterwards after the suspects were pointed out and identified by the victims. There were six cases, however, in which the police captured the suspects after a more or less active chase. In these six cases the suspects left the scene but did not get very far. The trail on these suspects never got cold, though in some incidents it was momentarily broken. These suspects were captured by the police on the basis of descriptions given by the victims and witnesses that were broadcast on the police radio. In most instances several police cars were brought into play in the hunt for the suspects.

The apprehensions in these cases are also classified as due to police initiative. Due to the rapidity of police response, and the capacity of the police to flood an area with patrol cars, they might reasonably have been attributed solely to police initiative. They have instead been placed in the victim-aid police category because something in the report of the case indicates that the victim played a particularly important role. In many of the six instances the victim resisted the robbery and gave chase to the suspect; in some the victim summoned the police quickly; in others witnesses gave descriptions and indications of the directions of

the suspects' flight.

In two cases the police action was particularly dramatic:

> Two MW, 40, entered a shoe store at 1700 and attempted to rob the owner, MW 37, at gunpoint. The suspects attempt to tie up the victim in the back of the store and hit him repeatedly on the head. The victim resists, fights, and finally escapes to the street shouting that he has been robbed. The suspects flee on foot and the victim and a passerby give chase. The police are called to the scene and a witness points out a suspect who has just exited from a nearby garage as one of the suspects. The police stop the suspect and search him finding evidence from the robbery attempt. Both the victim and another witness positively identify the suspect. One suspect escaped and was never identified; the captured suspect is charged with attempted armed robbery.
>
> A MN 23 enters a liquor store, one block from the police station and attempts a holdup at 1600. The suspect shoots and seriously wounds a clerk without warning. The other clerks and relatives return the fire at the suspect and press the alarm button. Numerous witnesses outside hear and observe the scene, one runs towards police headquarters to tell the police. As the witness is about to cross the street, the suspect passes the witness on the sidewalk and enters a vehicle. The witness gives the description to the police. The police broadcast the description and a police car waits at a corner for the vehicle to pass. When it does he follows it in a slow path to its destination. Police then arrest the two suspects in the vehicle. One is charged with an attempted armed robbery and attemped murder; the other is released as apparently unknowledgeable about the events.

Not all of the other four cases in which the police captured suspects near the scene of the crime after a chase were as dramatic as these.

(5) Radio Description Capture - 1-2 Hours Later. In two instances the suspects were apprehended some distance from the scene by the police on the basis of a recognizable description of the suspects and their vehicle. The description in these two cases was put out on the police radio, particularly in the general area of the city in which the suspects were last seen driving. In both cases the suspects were spotted by a patrol car within an hour of



the radio broadcast. In one instance the vehicle was described as a motorcycle with two white male juveniles riding on it. A description of the juveniles' attire was also given. These suspects were spotted by the police about 30 minutes after they had committed the crime. The description was so unmistakable that the police gave chase.

(6) Known to Victims. The three cases in this category are discussed later in the robber ineptitude section.

(7) Known to Witnesses. In three instances the suspects at the scene of a crime were known by witnesses. The known-to-witnesses cases included:

> The victim, a MW 42, was talking to a MN 42 in a park at 1000 when a FN 42 arrived at the scene being driven by another man. The female got out of the car, walked over to the two talking men and then along with the Negro began beating the victim and removing the victim's wallet from his pocket. Taking $2 from the wallet, the suspects threw the wallet to the ground, fleeing in the waiting vehicle. All of this was witnessed by a park employee who called the police, stated he knew the suspects and where they lived. The patrol officer accompanied the witness to a hotel where the witness pointed out the suspects as well as the driver of the car. The patrolman arrested both suspects and they were charged with strongarmed robbery.
>
> The victim, a MN 47, who had been drinking, was confronted by four MN 17-25 at 2300 on the street. At first the suspects asked for a quarter, but when the victim told them to work for their money, they told him they would take a quarter from him if he didn't give it to them. The victim threw a quarter at the suspects and then began running. The four chased him, threw him to the ground and began beating him in an effort to get his money. At this point a truck with a MN driver and his daugher stops at the scene, and the driver orders the suspects to stop beating the victim. The victim is hospitalized. The daughter of the driver had recognized two of the suspects and gives partial names and addresses to the police officers. The police officers go to the two suspects' homes and arrest them at this time. Both suspects charged with attempted strongarmed robbery, the juvenile turned over to the juvenile authorities and the adult to the criminal court; two suspects not identified.

The suspect, a MN 16, committed a series of at least eight robberies of cab drivers over a period of four weeks. In each of these he would order a cab, take the cab to his destination, frequently to about the same vicinity in an adjacent city or to two particular areas in this community. Upon arriving the suspect would place a knife on the throat of the cab driver, take his money, and then frequently slice the skin of the cab driver and flee down the street. In the next to the last incident, which occurred the day before he was arrested, the suspect took a cab to the neighborhood in which he used to live. (He had taken cabs here and committed the same crimes here also.) He robbed the cabby and fled at 1200 hours. A MN 13 neighborhood boy, however, recognized the suspect and identified him by name to the police. The police then went to the suspect's grandmother and attempted to find out where he lived. The police spent the next 24 hours trying to track down the suspect and finally did, but not before he had robbed and sliced another cabby. This suspect and a MN 19 year old cohort were both charged for armed robbery.

(8) License Description. In two instances witnesses at the scene were able to give the police who came to the scene a vehicle description and the license number of the getaway vehicle. Though a good vehicle description and the license number of a car provides an excellent clue for the police to work on, there is always the possibility that the vehicle or plate may be stolen, transferred, or borrowed. Though the police can get the name, age, sex and address of the registered owner within minutes, the description of the vehicle owner may not match that of the robbery suspects. For this reason the police try to find the vehicle as quickly as possible after the crime is committed. In one case in which witnesses gave a vehicle description and license number, the suspects were apprehended shortly afterwards in the vehicle. In the other case the license number identification was a key link in a long series of events leading to the apprehension of the suspects.

The suspect, a MW 20, walked into a grocery store at 1000 and according to the owner, a MW 32, acted very nervous.



The owner asked the suspect what he wanted and the latter pulled a gun and demanded the cash register money. The owner gave the suspect $294. After the suspect walked away on foot, the owner got his gun, ran after the suspect and ordered him to stop. When the suspect didn't halt, the victim fired at him. A gun battle ensued in which the owner fired four shots and the suspect fired two. The victim ran back into his store to reload his gun and the victim fled to his vehicle. All of the shooting was observed by a witness who was sitting in his vehicle. The witness tried to follow the suspect, but lost him in the traffic. However, the witness gave the police a vehicle description and the license number. The police were unable to find the vehicle or the owner until four days later. The vehicle owner was picked up in another part of the county by the County Sheriff on the basis of an all points bulletin issued by the police department. The car was impounded and a bullet from the shootout was discovered in the body. The car owner denied the robbery, and claimed he lent the car to a friend on the day of the incident. The car owner stated that the friend told him he had robbed the grocery store. At this point the police were able to show mugs to the victim in order to get an identification of the suspect. The victim and witness both identified the suspect and exonerated the vehicle owner. Subsequently, after numerous inquiries of friends and raids on associates of the now identified suspect, the police were able to locate the suspect in another state. The suspect was arrested there and waived extradition. He was returned to this city six weeks after the crime was committed and charged with armed robbery and attempted murder. Though he never confessed he was also identified as the suspect in another grocery store robbery three weeks prior to this one.

(9) Mug Shots. In nine instances the key link in the identification of the suspect was the victims' selection of a photo likeness from the police mug shot gallery. In these nine instances the victims came into police headquarters a day or two after the crime and selected a photo from a number of mug shots shown to them. In eight instances the victims selected the likeness from photos available in the robbery section of the department, a file which contains photos of robbery suspects. In the other instance, the likeness was picked from the "rogue's gallery" which is a collection of photos of all types of criminals, specifically classified according to outstanding physical characteristics (race, age, height,

weight, scars, etc.). In the latter case, for example, the suspect was picked from a collection of photos of Mexican suspects. In all nine instances, the victims identified the picture with a high degree of certainty. The detectives then asked the victims to sign statements confirming their identification.

Detectives, naturally, are somewhat leary of mug shot selections as the sole basis for the identification of suspects. Consequently they try to sift through other aspects of the case in order to substantiate or deny the victim's photo selections. They gauge the mental state and degree of certainty of the victim or witness; they check to see that other aspects of the suspect's physical appearance (height and weight, for example) match those given on the crime report; they check the record and reputation of the suspect in order to see that the suspect's "activities" and the location of his activities correspond to those of the reported crime and they will try to locate the suspect. If they find the suspect, they will try to further establish the suspect's connection with the case. They may, depending on the specific circumstances, question the suspect at his residence, ask him to come into the department for questioning, or arrest him in order to more firmly establish the case. Detectives sometimes employ other strategies (finger prints, lineups, polygraphs, and the like) in order to confirm the linkage of the suspect to the crime. Once satisfied that the suspect is securely connected to the crime, the detectives present the evidence to the district attorney and he evaluates the merits of the case. If the case is solid and the whereabouts of the suspect are unknown, a warrant is issued for the arrest of the suspect on the charges. If the district attorney is doubtful



of the case, he will reject it until a more substantial identification of the suspect is obtained.

In the nine instances in which robbery suspects initially were identified on the basis of mug shots, the detectives were able to locate, arrest, and charge suspects in six cases. In the other three cases the suspects have never been located and warrants are outstanding on the robbery charges, based chiefly on the victim's identification of the photo. If and when these suspects are located, they probably will be subjected to further police efforts to ascertain their connection with the crime. The most interesting mug shot identification was one involving a left-handed robber.

> The suspect entered a medium sized grocery store at 1800. He loitered in the store for 5-10 minutes, then walked over to the counter, placed a gun in the stomach of one of the clerks (MW 17) and told him to be quiet and ask the other clerk (M Hawaiian 28) to come to the register. The clerk did as requested. The suspect then demanded all the money from both registers as well as other hiding places which the suspect pointed out. Taking the money the suspect fled on foot, warning the victims as he fled. The suspect was described in the initial report as Mexican 20-21, 5-7" with a thin mustache, and dark glasses. The clothing of the suspect was also carefully described. The patrol officer noted that the suspect was similar to that of a previous recent grocery store hold-up and that the suspect had cased the store well as he knew the store's hiding places. The detective contacted both clerks the following day and they said they were sure they could identify the suspect, noting that the suspect held the gun in the left hand. An appointment was set up for a review of the photos in the rogues gallery and one week afterwards the two clerks both identified the suspect. Information from the state bureau of identification requested on the suspect noted he was left handed. This confirmed the case. The detective took the statements of identification to the district attorney's office and a warrant was issued on an armed robbery charge. The detective arrested the suspect the following day; the suspect denied the crime.

(10) An Odd Case. There was one other instance in which a suspect was arrested in the vicinity of the crime following a police chase a little after the time of the offense. In this instance, although the police apprehended the suspect and two witnesses identified him at the scene, the witnesses' identification proved to be wrong. Though we have classified this case as due to the witnesses' action, it would be difficult to devise a simple scheme that would satisfactorily encompass this oddity of robber identification. It is placed in the witness category, because the witnesses' mis-identification was probably the turning point in the case.

> A FW 66 was walking at 1300 with two companions, a MW 54 and a FW 39, when two MN juveniles came up from behind. One snatched the purse off the arm of the victim. Both companions gave chase and the male managed to grab back the purse from one of the suspects. The police arrived and were in the process of taking the report when another officer came to the scene with a MN 13 in his custody. Both witnesses who gave chase identified the suspect as being one of the suspects. The following day the detective interviewed the suspect, and released him from custody after learning that the boys who took the purse were the suspect's older brother and a friend. The detective arrested the new suspects (MN 11 and MN 15) and turned them over to the juvenile authorities as responsible for the pursesnatch. The real suspects confessed.

C. Police Initiative

Police initiative was judged as decisive in 18 of the 59 instances when robbery suspects were identified and charged with an offense. These 18 cases are classified in Table 9.

[Insert Table 9 here]



Table 9

Police Initiative

| | |
|---|---|
| On-view | 1 |
| Victim gives good description for radio, police catch | 8 |
| Other immediate police actions | 4 |
| Later police action | 5 |
| Total | 18 |

The radio description cases which involve both the police and the victim were discussed in the previous section.

(1) On-View. In five of the instances in which police initiative was judged as decisive, the apprehension of the robbery suspect occurred at the scene of the crime or shortly thereafter. In one case the police "on viewed" the incident; discovering it in progress and arresting the suspects before they were able to leave the scene.

In the only case that the police "on viewed", the police got to the scene just at the moment the suspect was making his attack on the victim's goods. In this instance the patrol officer gave a quick chase and apprehended the suspect close to the crime scene. One adult was charged with strongarm robbery.

(2) Other Immediate Police Actions. Some of the most important suspects in the whole series were uncovered in the four other cases in which the suspects were identified due to police initiative shortly after the crime. In one case the actions of off-duty police officers were vital.

> A bar was robbed by three MN adults at 1730 with shotguns and revolvers. The suspects took $1400 from the cash register and 11 customers. The suspects fled the scene, firing a shot into the floor as they left. Two witnesses on the street observed the three suspects enter a car and begin to flee. As they did so, the witnesses shouted at a passing vehicle to "get the license number of the car." The occupants of the car were off-duty police officers who tried to pursue the fleeing vehicle. The officers lost the vehicle but did identify it and its license number. Two days later the investigating detective placed an item in the police bulletin to stop the vehicle and pick up the occupants. The following morning the vehicle was stopped by a patrol officer, and the driver arrested.



> When placed in a police lineup, several customers identified the suspect as one of the three men who robbed the bar. The suspect was charged with armed robbery; the other suspects were never identified.

In the three other instances the police stopped a suspicious vehicle, only to discover afterwards that the persons stopped had committed robberies. One of these cases was comparatively trivial, involving a bicycle stopped for inspection of the bike registration. In the course of the inquiry a male white 13-year-old victim ran up to the police officer and identified the rider as one of the three 11 to 15-year-old Negro boys who had attempted to take his watch a little while earlier. The policeman took the suspect to police headquarters, and discovered that the boy and his companion had also robbed another boy earlier in the afternoon, taking the latter's watch. Also, the bike the suspect was riding was stolen several days earlier. The boy was turned over to the juvenile authorities and charged with two robberies and a bike theft.

The other two instances of traffic stops which led to identifications of suspects were more serious. In one case:

> Officers "on routine patrol" (at 2200) noted a speeding vehicle with its lights off drive past where they were parked. The officers gave chase and after a few blocks of cutting in and out of side streets the vehicle pulled to the side of the road. The officers got out and recognized one of the suspects as wanted on a warrant and then another occupant as a narcotics suspect. The officers apparently then began a methodical search of the three occupants, patted each down and identified each occupant. They had done this with two of the occupants when they heard a thud on the car floor. Inspecting further, they discovered a revolver on the floor, another revolver under the driver's seat and two cigar boxes full of money and rolls of coins ($887). They arrested the

> suspects as the robbery report came over the air. The robbery was of a small grocery store some 15 blocks from the place where the officers first spotted the suspects. All three were charged with armed robbery and the detective later cleared one other case due to the suspects in this case.

In the other instance in which a traffic stop led to the identification of robbery suspects, the patrol officers knew about the offense and arrested the offenders an hour before the crime was reported.

> At approximately 1 a.m. a patrol officer was writing a ticket for a traffic violation. A speeding vehicle containing four young males drove by "acting suspiciously." The officer took off after the vehicle and a high speed chase developed. The suspects finally crashed and attempted to flee on foot. The patrol officers rounded up three of the suspects near the scene of the crash; the other escaped and was captured several days later. One suspect attempted to exonerate himself by telling of his lesser complicity in the night's events. He related a story of a robbery and beating of a laundromat owner. The police then attempted to find the beaten man, checking the hospitals and police reports. An hour later the victim, MW 52, appeared at a hospital with severe wounds. The victim had apparently emptied the coins from his laundromat at midnight and was accosted by the suspects in the back of his business. The four youths then took him to a desolate area in his own car, ordered him to lie on the ground, and began beating him with a hammer. The youths left him for dead and drove back to town in the victim's car. It was at this time that the police spotted the vehicle and gave chase. The victim, having played dead, regained consciousness, went to a nearby house and called his relatives to take him to the hospital. The suspects were charged with attempted murder, kidnapping, two robberies, and the auto theft. Earlier in the evening the boys had taken a watch from a juvenile. One suspect was 17, two 18, and one 20.

(3) Later Police Activity. The other cases in which the action of the police was decisive in the identification and



apprehension of suspects occurred some time after the commission of the crimes. For the most part these identifications were due to the systematic, workday pursuit of normal police activity.

In one of the two "informing" cases in the sample, a small boy, age 11, was caught in the act of surrepticiously entering a church. He named three suspects who were "the real bad guys"; three boys, 11-14, who had snatched a woman's purse. In this case the crime was serious not only in the eyes of the youthful offender but also in the eyes of the elderly woman who ended up in the hospital with a number of fractures. Though the detective who later charged the boys was unwilling to arrest the boys because "they were only so high," he also, of course, recognized the harm that the boys had, perhaps accidentally, done. He therefore issued a written order for the boys to appear at the juvenile probation department.

Another incident in which the routine performance of duty uncovered the suspect in a robbery was due to the arrest of an offender for failure to pay a traffic citation. The suspect was stopped for a second traffic violation and when the unpaid warrant was uncovered (via a warrant check on the radio) the suspect was arrested and brought to the jail. The passenger in the vehicle was released, but not before he had shown his identification. After jailing the suspect, the policeman discovered a credit card in his patrol car which didn't belong to the man just jailed. He turned the card into the property room. The following day the forgery detail (which handles credit card violations) notified the robbery detail that they had a suspect in jail who had a credit card taken in a robbery two days previously. The

detective got mug shots of the suspect, as well as the passenger who was identified by the patrolman, and showed them to the robbery victim. Both mug shots were positively identified by the victim and the suspects were charged with strongarmed robbery.

In two cases the detectives uncovered witnesses to the crime who were able to identify the suspects in the crime. Unlike those instances mentioned earlier the witnesses for one reason or another did not step forward to help the police identify the suspect. In these two instances the police had to work to find the witnesses and had to get the witnesses to cooperate with them. In one case the FBI had to find and question a customer at a bank who recognized a suspect in the process of committing a bank robbery. In the other instance the detective had to question a host of juveniles and adults who witnessed a pursesnatch in a recreation area before he was able to learn the name of the suspect.

Police activity then that is significant in the identification of robbery suspects can be divided into two kinds: (1) that which occurs on the scene or shortly thereafter in which the attentiveness of the officers to suspicious circumstances leads them into action, and (2) those instances in which the police uncover the suspects simply through their organized and persistent efforts in the specific robbery incident or in their systematic informational network which continuously provides leads to the identification of suspects. Though in most cases an element of chance is involved in the successful identification of suspects, police vigilance and persistence capitalizes on these turns of fate in order to make the case.



D. Robber Ineptitude or Miscalculation

Those cases which we have classified as due to the ineptness or the miscalculation of the robber fall into two kinds: (1) those where the robber failed in his performance in some serious way, and (2) those where the robber is known and can be named by the victim.

(1) Robber Bungling. There were two instances in which the robber committed a major faux pas or a series of them:

> In the first of these a FN 23 was visiting at 1800 with a casual acquaintance, a MW 51 in his apartment. They were interrupted by a knock on the door. The man went to the door and a MN 30-35 asked for the manager. Stating that he wasn't the manager the victim turned away. As he turned away he was hit on the back of the head and knocked to the floor by the intruder. The latter then removed the wallet containing a $100 money order from the pocket of the partially conscious victim. Both the witness and the suspect left the apartment together. The victim called the police, explained the events and then was taken to a hospital by an ambulance for his severe scalp injuries. As the police were leaving, they were approached by the witness who explained who she was and identified the suspect in the case as her ex-husband. She gave the patrolman her ex-husband's name and address. It is not quite clear what happened after that but it appears that the witness later cashed the stolen money order at a local bar. Two days later the witness cashed another check at the bar; this one it later turned out was "missing" from a local refrigerator Company. One week after the robbery occurred the victim received his money order back from his bank--endorsed by the "witness" to the robbery. He called the police and the detectives arrested the "witness." In the followup questioning the witness willingly admitted cashing both the money order and the "missing" check at the bar. The witness, now turned suspect, also stated that she had falsely named her ex-husband as the suspect when in fact it was her fiance who was the suspect. Finally she told the police that she had planned the robbery with her boy friend, though she refused to identify the latter.

Though there is an amateurish character to this robbery--the most important part being, of course, the "identifying forgeries" afterwards, the other case which we have labeled as

suspect ineptness was apparently committed by a robber who was somewhat experienced. In this example of suspect ineptness or miscalculation, the suspect:

> A MN 21 attempted an armed holdup of a liquor store as the clerk was locking the door at 0300. The masked suspect approached the victim from behind and placed a revolver in his ribs. He so startled the victim that the latter dropped his keys on the sidewalk. The suspect reached to the ground trying to find the keys. A passing witness caught the scene in his headlights and backed up to get a closer look. The suspect fled, and the police were called. While the police were taking the report, the suspect returned to peer around a corner. He was spotted by an unmarked police vehicle which had come to "cover" the incident. The suspect fled again, only to be nabbed nearby with the gun, mask, and a glove near or on his person. The suspect was also charged with a similar robbery of the same store two weeks earlier, and the police cleared one other liquor store holdup in the same vicinity as due to this suspect.

In this case we classified the robber as inept or miscalculating because of his violation of a cardinal principle of successful robberies--to get away from the scene of the crime.

(2) Victim Identification. In the other three cases which we have labeled suspect miscalculation the suspect was known to the victim, and the victim was willing to report the crime and name the suspect. The apprehensions involved in these cases, like those in the witness identification cases, could be classified wholly as due to victim action. They are included here also, however, because most of the cases seem to involve some kind of a miscalculation on the part of the suspect about the victim's willingness to report the crime and to name the suspect.

There are many cases in police records where this calculation by the offender turns out to be correct. Some of these



cases show up in the police records as "victim refuses to prosecute"; some appear in the "unfounded" category where the victim doesn't respond to police inquiry, or perhaps gives an incorrect address. Somewhere along the way the victim changes his mind about pursuing the case, perhaps because he has qualms about doing so, perhaps because he has reconciled his grievances--sometimes due to the return of his property. Unquestionably there are many more cases where the victim knows or is acquainted with the robber, but never reports the robbery at all. These cases, of course, are not found in the police record system.

The cases in which the victim knows the suspect raises some perplexing problems. When the suspect shares a special relationship with the victim, such a relationship may limit the actual as well as legally possible application of the notion of robbery. One example that appears several times in our sample is the taking of property by force by one spouse from the other. In these instances the relations may share legal ownership of the property. Legally there is no robbery in such a situation, although the offense is sometimes called "robbery" on the arrest report. Generally takings by force that occur between relations are reduced to battery or disturbing the peace charges. In other cases in which the victim knows the suspect and where there is no question of common property, the theft may arise out of dispute between the parties. The robbery may be more an act of vengeance or an adjustment of grievances between the parties who stand in a short term or long term friendship or acquantanceship with each other. Because the "victim" reports his claim to the police first, it occurs that the suspect stands accused without having the capacity to present

his version of the story. When the suspect renders his version, the claim of robbery is frequently dropped.

In the three cases in which the victim was able to name the offender, one involved juveniles. In this case a 17-year-old boy took $20 from a 15-year-old boy at gunpoint in the park. The victim's mother reported the incident three hours after it occurred, and the suspect's father brought his son into the police three days later. The suspect was charged with armed robbery and turned over to the juvenile authorities.

There were two cases in which adult victims were able to name their suspects. In one:

> The suspect MW 25 returned with his friend (the victim) MW 48 to the victim's house. The latter had just sold some equipment to a common friend for $70. The suspect used the victim's phone and made a long distance phone call to Kansas City. After getting off the phone the suspect accosted the victim, threw him to the floor, and with a knife at his throat demanded $53 for the fare to Kansas City. After getting the money the suspect released the victim, and went off to the store to purchase some beer. The victim tried to call the police but the line was busy. The suspect returned and began to use the phone again. The victim slipped out of the house, got into his car and flagged a patrol car. They returned to the house where the suspect was arrested with the money still on his person. The policeman discovered the knife that had been used in the robbery in his patrol car after the suspect had been jailed. This too was turned into the evidence room and the suspect was charged with armed robbery. The victim signed the complaint.

The other case involved a victim who informed the officer that he had made a deal with the suspect to buy a large quantity of marijuana for $160. However, when the victim met the suspect for the exchange, he was shot in the back at close range and robbed of the $160. The robber's miscalculation is evidenced by



the fact that not only did the victim know the suspect's name, but he also gave the reporting officers an accurate description of the car. The description of the car led to the capture of the suspect within a short time, along with the gun that was used in the shooting.

E. Time of Capture

From the point of view of time the capture of the 59 teams or suspects was as shown in Table 10.

[Insert Table 10 here]

All of the 38 identifications and captures made within four hours of the incident were made by patrol officers. Thirty-four of these captures were made on or close to the scene of the robbery without any break in the chain of events from the occurrence and reporting of the incident to the identification and capture of the suspects. Four of the teams of suspects got away from the scene only to be captured within four hours on the basis of a description that linked them to the incident. All of the 38 teams of suspects were arrested and booked on the charges and the evidence connecting them with the incident was placed into the record at this time.

Of the 21 other captures and identifications, four were made some days after the incident on the basis of description of the getaway vehicle and the car license number. The police had to find the vehicle, identify the occupants of the vehicle at the time of the robbery and then link the suspects with the robbery itself.

Table 10

Time of Capture

| | |
|---|---|
| Within Four Hours of the Crime: | |
| At or near scene of crime (little or no break in sequence of events leading to identification and capture) | 34 |
| Suspects escape scene, captured and identified within hours on the basis of a description | 4 |
| Total within four hours | 38 |
| After 12 Hours from the Commission of the Crime: | |
| Witness names: license number, vehicle description | 4 |
| Victim names suspects | 5 |
| Victim (accidentally) spots suspect on street, calls police | 2 |
| Victim identifies suspect from police mug shots | 4* |
| Suspect caught with evidence in his possession (credit card) | 1 |
| Witness cashes check from robbery; becomes suspect | 1 |
| Police uncover witnesses | 2 |
| Patrol officer uncovers "names" of suspect from informant | 2 |
| Total after 12 hours | 21 |
| Total number | 59 |

*Victims identified nine suspects or teams by mug shots as indicated in Table 7. In some instances defendants were already in custody, however, and the mug shot was not involved in the apprehension. In these four cases, warrants were issued on the basis of the mug shots. A suspect was apprehended in one of the cases but not in the other three.



In one case a witness named the suspect and the police had to locate the suspect.

Identifications of suspects by victims accounted for the clearance of 11 cases where the suspect was not apprehended at the time or near the scene of the incident. In five instances the victim knew and was able to name the suspect. These suspects were apprehended and charged by the detectives in the followup investigation in the days following the commission of the incident. In these instances there was no need for an immediate arrest of the suspect because the victim was able to name and locate the suspects. In two other incidents the victim of a robbery accidentally spotted the suspect on the street after the robbery had occurred, called or flagged the police, identified the suspect, and had him arrested then. Finally in four instances the victim identified the suspects from the inspection of police mug shots. In one of these cases the suspect was located and arrested, in the other three cases warrants were issued but the suspects had apparently not been located at the time of our inquiry.

Six cases were cleared, suspects identified and arrested because of a miscellany of police work and investigations following the original incident. In one of these the suspects were identified because they were caught with a credit card that was taken in the robbery. In this case the victim was able to identify the possessor of the credit card as a participant in the robbery. In two other cases the detectives in their followup investigation were able to uncover a witness to the events of the robbery who was able to name or identify the suspects. In another incident a patrol officer in the course of an investigation for a minor incident of vandalism,

was given the names of three juveniles who had committed a more serious crime, a pursesnatch. Similarly, in another case the investigator learned the names of several youths involved in pursesnatches while questioning a strongarmed robbery suspect. Actually, however, in major robberies, those where a great deal of money is taken, or a victim seriously injured or killed, this mode of identification seems to be more common. In "big" cases it appears that the suspects in "less important" crimes attempt to use such information in exchange for leniency. We have knowledge that such exchanges occur but have little evidence that they occurred in our sample of cases. Finally in one incident a "witness" to a robbery became a "suspect" when she was caught attempting to cash a money order taken in the robbery. The detectives were able to get this witness to give a partial confession to her complicity, but she refused to disclose her confederate.

From the point of view of time, then, robbers are most often identified and captured at or near the scene of their crime or within a few hours thereafter. Thirty-eight of the captures--64 percent--were made within four hours of the commission of the offense; in 34 of them--58 percent--suspects were never able to get very far from the scene of the crime.

F. The Role of Detectives.

The role that detectives play in the apprehension process does not appear to be anywhere near as great as that of patrol. All 38 of the catches made within four hours were made by the patrol force. Of the later catches the detective division was involved in roughly ten of the cases. In two cases robbery



squad detectives located new witnesses that proved important in apprehension. In five cases detectives were able to secure mug shot identifications. In one case detectives secured a partial confession from a "witness" who had tried to cash a money order taken in the crime. In two cases involving vehicle license identifications detectives played an important role as they did in one of the cases involving an off-duty officer.

## II. OTHER CASES CLEARED BY THE 59 APPREHENSIONS

Once an apprehension has been made, it is often possible to connect a suspect with other offenses as well. The 59 cases discussed in the previous section in which one or more suspects were apprehended resulted in a number of actions of this kind. In all a total of 20 other robberies were cleared by the apprehensions in the initial 59 cases. For seven of the additional 20 cases cleared, a charge was actually placed against one or more suspects. In the remaining 13 cases, the detectives simply cleared their books "prosecuted for another charge."

In all but two of the additional charged cases, the additional charged crimes were committed on the same day or were in some other way connected with a sequence of events. The 59 cases leading to the initial apprehensions thus accounted for the placing of charges in 66 robbery cases.

There was no evidence of the robbery detectives attempting to aid their clearance records by clearing a number of reports on spurious identifications or confessions. For one thing, the robbery detectives tended to charge only for the crime for which the suspect was apprehended. The Alameda County courts generally do not give consecutive sentences for multiple charges. The

detectives said they only needed one or two charges and they in fact sought only one or two charges. Secondly, robbers for the most part did not confess and rarely named their confederates. If they did confess, it was mainly for the robbery for which they were caught.

Finally, in the two cases in which the robber did identify himself as responsible for a number of robberies the evidence in one of these was very clear because of the style of the robbery. In the other instance a pursesnatcher identified himself as responsible for 40 pursesnatches, but the detective was able to identify only six of the instances. In general it was not rewarding for the detective to try to link a suspect with a large number of cases as it was time consuming. Frequently stymied by the suspect's unwillingness to talk, the detective was not rewarded by a better case in the courtroom or significantly greater plaudits in the police department. If a detective cleared a case because he recognized the style of the robber or connected him with other robberies because of some other clue, his efforts to clear his books were for the most part modest as there was little concrete advantage for doing so.

[Insert Table 11 here]

## III. PROSECUTED ON ANOTHER OFFENSE OR BY OUTSIDE AGENCY

Ten additional cases cleared by the police department during the time of the study were not charged to the suspects in the 59 cases above, as shown in Table 12.



Table 11

Other Cases Cleared

| By Additional Robbery Charges | Cases |
|---|---|
| Liquor store, same offender | 1 |
| Juvenile offender, two additional robberies on same day (identified by MO, victim, and loot) | 2 |
| Pursesnatch from motorcycle (one additional victim, same hour) | 1 |
| Juvenile street robber (additional offense same hour, in same vicinity) | 1 |
| Offenders against laundromat owner (confessed to earlier street offense against juvenile for watch on same day) | 1 |
| Strongarm street robber caught with evidence from one day before street robbery in his possession | 1 |
| | 7 |
| **By Clearance Only (Prosecuted on Another Offense)** | |
| Cab robber, suspect confessed | 4 |
| Armed robbers of grocery stores, cleared on similar MO; identification of vehicle; victims' identification | 2 |
| Robber of small liquor stores, same MO, description, vicinity victim unable to identify positively | 2 |
| Small liquor stores, suspect's description, vicinity of holdup, time of holdup, victim unable to identify positively | 1 |
| Laundromat suspects, confessed to street holdup two weeks earlier | 1 |
| Early morning small grocery store holdup, description, vicinity similar, time, victim unable to positively identify suspect | 1 |
| Small grocery store holdup team, similar MO, description, victim unable to positively identify | 1 |
| Early morning drunk-roll, suspects named by victim, suspects held responsible for more serious offense later on in the same morning | 1 |
| | 13 |

[Insert Table 12 here]

A. Prosecuted on Another Offense.

While clearance as a measure has the virtue of relating to the total universe of cases, it has the drawback of involving a number of different kinds of situations.

In three cases an offender was apprehended for an offense outside the time period but was also connected to a robbery within the time period. In two instances the primary offense was prior to the study period and in one after. In one case the victim was positively able to identify the offender from mug shots, but the victim was returning to his home state and thus would be unable to aid in the prosecution. In the second instance the victim was also a poor witness, but the type of weapon (a pellet gun) and the vicinity of the offense led the police to believe that the offender, a juvenile, was responsible. In the third case a juvenile confessed to "30 or 40" pursesnatches and was able to identify six of his victims. One of these pursesnatches fell in the study period but most occurred afterwards. The detective cleared this pursesnatch as prosecuted for another offense, and charged the offender with some of the more current cases.

B. By Another Agency.

There are two perspectives from which a study could be made: offenses and offenders. The perspective here is one that tries to combine the two.

Detectives also cleared seven cases as prosecuted by an outside agency. In five of these cases the suspects were arrested



Table 12

Other Cleared Cases

| | |
|---|---|
| Prosecuted for another offense, two prior to our sequence, one afterwards | 3 |
| Prosecuted by an outside agency: | |
| Four cases cleared by the arrest of suspects in another robbery | 4 |
| One case cleared by the arrest of a credit card forgery suspect one day after the robbery occurred in our city | 1 |
| Two cases cleared by the arrest of bank robbery suspects turned over to the F.B.I. | 2 |
| | 10 |

and to be prosecuted in another county. The suspects were identified as being responsible for the robberies in our jurisdiction. In one case the suspects were responsible for a series of gas station holdups in which a standard mode of operation was clearly discernible in the robbery case reports. In all of these the suspects placed the attendant in the washroom and threatened to blow his head off if he opened the door within ten minutes. Since the physical description of the suspects was the same, the police were able to know or guess that the same suspects were responsible for four robberies in their jurisdiction. According to a teletype, robbery suspects that matched the description of the gas station holdup men were captured in another jurisdiction. The detective then requested that the other department send him their report. Upon receiving it he was able to conclude on the basis of the description that his suspects were being charged for a robbery there. He cleared four of his cases on the other agency's report. Interestingly enough the suspect vehicle was spotted and identified as it was fleeing the robbery, but the police lost track of it on the freeway. A short while later, however, one of the suspects was apprehended by the victim of an accident with the suspect's car. The accident victim was so enraged by the sight of the fleeing suspects' leaving on foot that he gave chase and captured one of them. When the police came to the scene they recognized the robbery vehicle and rounded up the missing other suspects.

Another case that was cleared as prosecuted by an outside agency involved a credit card forgery arrest in another jurisdiction. In this instance the robbery had occurred a day earlier



in the city studied. When notified of the arrest, the detective got a photo of the suspect to show the victim. However the victim was uncertain of the mug shot and the detective charged this case off as prosecuted by the other jurisdiction, presumably for the forgery.

The final two cases that were cleared as prosecuted for another offense were bank robberies. In both of these cases the police worked in conjunction with the F.B.I., and the cooperation between the two agencies resulted in the identification and arrest of the suspects involved. In one of the cases which resulted in a $104 loss to the bank, a 35-year-old man walked up to a teller, handed her a note explaining his demands, and casually walked out of the door with the loss. Both F.B.I. agents and police answered the alarm in order to take initial reports, and both agencies stayed in close contact with each other throughout the follow-up investigation. The case was finally solved when an F.B.I. special agent showed photos of the suspect taken during the holdup to his informants, one of whom identified the suspect and told where he could be located. The suspect was turned over to the F.B.I. for prosecution and the case was cleared as prosecuted by an outside department.

## IV. CASES NOT PROSECUTED

### A. The Victim Refuses to Prosecute.

In 13 instances the police cleared the case as victim refuses to prosecute. These are abbreviated as follows:

1. Wife, FN 23, threatened husband, MN 28, with knife and demanded his money. Husband gave her his wallet and $20, but suspect returned it to her husband when he called police; victim refused to respond to police contacts to sign a complaint.

2. Victim, MN 33, a pharmacist, reported he was robbed while delivering prescription to customer; reported crime next day; subsequent investigation reveals the victim was having illicit sexual relations with the customer, FN 27, over a long period of time; the customer's boyfriend, MN 22, demanded money at gunpoint and forced victim to return to pharmacy where the victim turned over day's receipts $350. Suspect the following day, demanded more money and so victim reported the events to the police. The police contacted the female and she revealed the victim had given the female $1,000 over the previous year. Victim refused to prosecute for robbery or extortion.

3. MN 17-18, friend of FN 18, entices female to go for car ride; asks her for sexual favors and when she refuses he displays gun and takes $4 from her purse. Victim is pushed to the street where she is discovered by the highway patrol. Although victim knows the address and identity of the suspect, victim does not respond to police efforts to contact her.

4. 6-8 MN juveniles strongarm four MN juveniles for coat and $4 after high school show. Victim and companion identify two suspects from police mug shots; warrant issued for 211 strongarm, but when coat and money is returned the victim refuses to prosecute, warrant withdrawn.

5. MN 18 knocks victim MW 18 to ground, breaks victim's tooth and threatens with gun; no money loss. Victim reports crime 5 hours later, stating that he is able to identify the suspect. Victim, however, refuses to respond to efforts of the police to recontact him. Police believe this case is related to a narcotics transaction.

6. FW 51 has purse and watch taken off her arm by MN as she is approaching her home at 0115; loss $365; police contact her the following day and she declines to prosecute. She has received some of her loss back including her watch, wallet, and credit cards. States she lives in a colored neighborhood and does not want to risk further problems.

7. MN had just got laundry from a cleaner when a MN 41 accosted him demanding money. When victim refused, suspect grabbed laundry and left. Victim called police and police and victim drove around until victim spotted suspect. Suspect arrested and jailed. Complainant came into police department on Monday, got his clothes back and decided not to sign a complaint against the suspect who had been jailed over the weekend.

8. 3 MN 14-17 accost MN 15 on street with a big dog as a threat; take victim's watch. Victim reports crime 2



weeks later after trying to locate suspects. Victim is able to name one suspect and does. Later victim, "who is mentally slow" is contacted by the police and says the matter has been "adjusted" and he does not want to prosecute.

9. F 40-45 knocked down and purse on ground by MN 19; a witness heard noise, went outside his place of business and interrupted scene; suspect fled and someone reported the attempted pursesnatch. Police got description from the radio and arrested a profusely sweating suspect who matched the description. However the police were only able to get the complaint from the witness as the victim had picked herself up, picked up her purse and never reported the crime. The suspect was released after 3 days as there was no complainant.

10. MW 27, who had been drinking, flags police and reports that he had just been "rolled" ($107) by 2 FN adults and MW adult after he left bar with the two females. Police return to the bar with the victim and he points out one of the patrons as one of the female suspects. The doorman denies that this patron is one of the females who accompanied the victim when he left the bar. Victim lives in another part of the state and does not answer a letter sent to him.

11. Victim, MN 28, who had been drinking makes acquaintance of 2 MN 27, 33 in bar. Victim requests a ride home and the suspects agree, letting victim off near his house. They drive off only to return, stopping their car, and accosting the victim for his money ($83). Complainant knows one of the suspects as he has met him at the bar before. Complainant calls in suspect's partial name and car description, but then states he doesn't want to pursue the matter.

12. A retired MW was walking along the street at 10 AM when he was knocked to the ground by a M Ind who "hung around in the neighborhood". The victim, who lost thirteen dollars in the robbery, was injured badly enough to require hospitalization. The detective assigned to the case reported that his attempts to recontact the victim had been unsuccessful because the victim had moved from his hotel the day after the robbery and had left no forwarding address. Although the victim never actually refused prosecution, his failure to follow-up the case with the police was cause enough for the investigator to clear the case as complainant refuses to prosecute.

13. A 21-year-old FN was walking down the street when the suspect (her ex-boyfriend) approached her, grabbed her purse saying that he needed the money to pay for a

window that she had broken, and fled. The follow-up investigation reveals that the victim had been in court the same week in an attempt to gain child support from the suspect. Upon recontacting the victim, the investigator was informed that the victim did not want to prosecute.

What is striking about the "victim refuses to prosecute cases" is the large proportion in which the victim and the suspect are known to each other. Though perhaps only five are able to name their suspects at the time of the incident (cases 1, 2, 3), a number of other victims have some knowledge about their suspects (cases 4, 8 and 11). These victims are acquainted with their suspect in some way, know them by sight or by their location and habits. Again too, the victim-suspect relationship while facilitating the identification of the suspects, hinders the formal prosecution of the case.

In some cases the police intervention itself may serve to bring about restitution of property, redress grievances, or temporarily restore the equilibrium that has been shattered by force or fear. In other cases, however, it is clear that the victim decided that the trouble of following through on a case was not worth the effort or in itself a risky proposition (case 7). Perhaps the lack of interest in following through is most clearly illustrated by the case of the woman who walked away from the scene of the pursesnatch without even reporting the crime.

The hazards of drinking both from the point of view of being victimized, and the incapacity to present a good case to the police, are also found in a number of these cases. On the other hand, if we were to read these particular cases as a morality tale, we would also have to be alerted to the dangers of marriage, illicit love, romance, prostitution, friendship, and acquaintances, narcotics and drugs, picking your laundry up from the cleaners, being too young, too old, or too weak, or outnumbered.



B. The District Attorney Refuses to Prosecute.

There were ten cases in which the district attorney refused the case. It seems likely that in some of "victim refuses to prosecute" cases, the police had some question as to whether there had been a robbery or crime of any kind. In the cases which the police cleared "D.A. refuses the complaint," they were confident that a crime had been committed but their evidence was found to be inadequate to prosecute. In many of these cases the police investigators knew that their case was weak and even though they marked the case "D.A. refuses," they themselves were hesitant about seeking a conviction. The category of "D.A. refuses" represents a rubric for the police to classify crimes in which their evidence against the suspect is weak rather than representing a real difference of opinion between the police and the D.A. In general the police and D.A. in this jurisdiction have little serious differences of perspective on robbery complaints. Occasionally a detective might "shop around" among the various assistant prosecutors for a more favorable hearing. The police might also feel that the charges preferred against suspects were not as strong as the case merited. For the most part, however, police and the various district attorneys saw robbery and its attendant crimes from a similar perspective and seldom clashed in major ways.

The types of cases which were marked "D.A. refuses" for the most part represent evidential weakness. They are abbreviated as follows:

1. Victim, FW 29, (had been drinking) was crossing the street with her dog when the suspect MN 25-35 almost struck her dog with his vehicle. The victim and suspect got in an altercation in which the victim berated the suspect and the suspect hit the victim in the face, took her purse, ($40), and fled in his vehicle. Victim reported the crime, and gave a description of the suspect and the vehicle. Detectives called victim the following day and she stated she was unable to identify him. The detective placed the description of the suspect, the vehicle and the license number in the daily patrol bulletin. About a week following the incident, patrol officers stopped the vehicle with a suspect matching the description on the original report. The vehicle contained gas receipts that indicated the suspect had been in possession of the car on the date of the crime. Moreover, the owner of the vehicle, the girlfriend of the suspect, also confirmed that the suspect was the only person in possession of the vehicle on that date. The suspect was arrested. However, the victim was unable to positively identify the suspect from mug shots or a lineup. The D.A. refused the complaint without a positive identification.

2 & 3. 2 MNs in 20's hold up a bar with a shotgun. Force clerk to open register and remove $175. Take wallet and money ($10) of lone customer. Flee on foot. A few minutes later a cab is called to a nearby address and a MN in a bathrobe tells the driver to wait. Shortly thereafter 2 MN adults in their 20's come out of the house and ask to be taken to a given address. They arrive and then rob cab driver of his wallet and $7 with a shotgun. Both crimes reported to the police by the victims. In the follow-up investigation the detective locates the house where the cab was dispatched and after inquiries within learns (apparently from the man in the bathrobe) that the two suspects had knocked on his door, asked him to call the cab and told him that they had just robbed the bar and that they intended to rob the cab driver. They gave the "witness" $15 in change. The witness named the suspects, but the detective was unable to get a positive identification of the mug shots of these suspects from any of the victims. The victims were very uncertain on the identification of the suspects and the D.A. refused the complaint.

4. Victim, MN 67, walking down street when approached by FN 20's and MN 20's who asked him for a cigarette. He



attempts to comply when the male holds victim from behind while the female removed his wallet with $120. Suspects flee on foot. The victim reports the crime 1 hour later and the next day identifies two suspects from mug shots. A week later the victim signed a complaint on these two suspects and a warrant was issued for their arrest. However, two weeks after this the victim stops a police officer and points out another suspect on the street as one of the people who robbed him. This suspect was arrested on the spot and a lineup held on the following day. In the lineup the victim again identified the second suspect as one who committed the offense. The warrant on the first suspects is set aside, but the D.A. refused the complaint on the second suspect as the victim is an unreliable witness and there is no other confirming evidence.

5. Victim, MN 15, states he was walking with another youth and 2 girls about the same age when they were accosted by two MN 20, 22. They got into an altercation in which the victim's pocket was torn and his wallet removed. During the scuffle, one of the suspects displayed a gun. Finally released the victim walked on, flagged down a passing patrol car and explained the events. The victim named the suspects and drove with the officer to a hamburger stand where the victim pointed out the suspects and recovered some of his money. No weapon was found, but the suspects were arrested. In the follow-up investigation suspects denied the offense. The investigating detective was unable to contact the victim by phone, and after several attempts was unable to locate the victim at the address listed on the report. No one in the neighborhood knew anyone who matches the victim's description. The complaint was refused by the D.A. because the complainant could not be located.

6. A Spanish-speaking FW 34 after a minor struggle has her purse snatched ($200), by a MN 18. She follows the suspect but he disappears between two houses. She reports the crime 3 hours later and through interpretors the followup investigation indicates that there have been a number of thefts in the neighborhood recently. Detective contacts an informant who gives first names of possible suspects near the address where victim last saw suspect. Detective shows mug shots of suspect in this neighborhood to the victim and a witness. They both pick out one suspect, though neither is positive. A MN 17 is arrested and turned over to the juvenile authorities. The next day the victim is unable to identify this suspect in a lineup though she again identifies him in several mug shots. The other witness refuses to come in for the lineup. Finally the detective asks that the suspect be released because of the lack of a positive identification. The D.A. agrees

that he will not prosecute.

7. A MN 55 was accosted on the street by 3 MN adults and at knife point was forced to give up his wallet and $207. The victim eluded suspects and then followed them. Locating a friend he returned to the suspects and tried to recover his money with the friend's assistance. Unsuccessful, the police were called and the victim and his friend made a number of identifications which resulted in the arrest of five suspects. The following day the investigating detective was unable to make sense of the patrol officer's report nor able to discern from whom the evidence was obtained. The suspects denied the offense and one stated that he had called the police on the night of the offense in order to be protected from the victim. The victim was unable to positively identify any of the suspects from mug shots because of the poor initial report, evidence collection and the lack of positive identification. The suspects were released and the D.A. refused the case.

8. A 38-year-old FN was accosted on the street by her "ex-boyfriend" who took her 38 caliber revolver from her dress pocket. As the suspect had been the victim's boyfriend for over six years, the D.A. refused the complaint.

9. A 16-year-old MN was spending the afternoon in a park. While there he displayed some money to a group of friends. A short time later, two MN teenagers approached the victim, knocked him down and took his money. However, because the victim waited several hours before making the report and because during the followup investigation the victim stated that he only "thought" the suspects had taken the money, the D.A. refused the complaint.

10. A FN stated that she and some friends were visiting in her house one evening when they were interrupted by eight suspects armed with butcher knives, pistols and shotguns. The suspects began beating the victims and searching the house, taking a stereo and some clothes with them as they left. As the police arrived, they found two of the suspects attempting to make their getaway and immediately took them into custody. The followup investigation revealed that a "feud" existed between one of the suspects and one victim, and that the current event was a retaliation by the suspect against the victim. Because the victims failed to recontact the police in order to substantiate the events of the robbery, the D.A. refused the complaint.

The cases above perhaps more than any others indicate the



problems that the police have in trying to establish some certain connection between the suspect and the crime. If a victim is certain that a suspect is the one by positively pointing him out on the street, from mug shots, or in a lineup, then the police are inclined to go with the victim's identification. But if the victim or witness vacillates, is less than certain, appears to be unreliable, then the police are more hesitant. Confirming evidence of any kind, along with an identification, of course, makes the police more confident and willing to go on a complaint. Without identifiable loot, a description of a vehicle or license plate, or an article of clothing, dress, or manner, the police are often unwilling to seek a complaint against a suspect. Of course in the background is the knowledge that the police will not only have to gain the district attorney's agreement on a case, but they will have to be able to follow through in the courtroom. In some of these cases then the police had some reason to believe that the suspects were connected with the crime, but the strength of the case was not sufficient for them (along with the D.A.) to present the case.

## Chapter Three

## THE INVESTIGATION OF ROBBERY

When a crime occurs in Oakland a uniformed policeman is dispatched to cover the situation. The policeman will go to the scene, interview the victim, and if possible pursue a hot trail to find the offender. In all cases he will submit a written report on the occurrence.

Policemen are trained in the writing of these reports. They are instructed as to what should be in them, on clarity of information, and other standard procedures. They are told that these reports are important in both the investigative process and also in the prosecution should the offender be caught and charged. Many times a policeman who covered the crime will be called to testify on the case. The trial or preliminary hearing may be months later and the report taken at the scene of the crime may be the policeman's only method of recalling the events in question.

The completion of the report by the patrolman on the beat is not the only phase, however, between the crime and the prosecution. If the offender is not in custody, specialized robbery investigators take over in an attempt to locate and arrest the offender. If the offender is in custody, the robbery investigators are charged with preparing the case to go to the district attorney. This chapter is concerned with how these functions are carried out. It is based on field observations and discussions and necessarily reflects the opinions and views of the author.



### I. SOLVING THE CRIME

The investigator's job is split into two major areas. The first is solving the crime and is essentially an attempt to discover and apprehend the person who committed the particular robbery. The second is post-arrest; that is, the procedure after a suspect is in custody. The attempt to solve the crime is done both inside the office and outside of the office.

#### Inside the Office

Each morning the lieutenant assigns cases to the investigators. This procedure consists of coming around to the desks and giving each particular investigator four to eight crime reports of robberies which occurred in his section of the city. Normally these robberies will have occurred the day before. In most cases the suspect is not in custody and it is the job of the investigator to identify the suspect and effectuate his arrest. Identification of the suspect is often much easier said than done.

Ultimately, the idea is to get the victim or some witness to the crime to come down to the department and to identify the offender either by viewing mug shots or by viewing a lineup. This can be done in a number of ways. One is to have the victim go through a large number of mug shots and try to see if the offender is among them. Another method is to do some preliminary work in trying to narrow down the number of mugs that the witness must ferret through. This is done by taking the facts from the crime report and using the police facilities to come up with a suspect, at which point this suspect's picture can be placed among a small sample to save the witness both time and confusion.

Thus, let's assume the investigator gets a case in which the offender is still at large and a witness thinks he might be able to make an identification if shown a picture of the offender. The first thing the investigator does is to review the report and familiarize himself with the facts of the case. He will look particularly at the description of the suspect. From this he might be able to hook this case up with some guy around town who is a known robber.

He will also take a special look at any words used by the robber. These are considered important, for it is contended that a robber who pulls the same kind of stick-up a number of times will more likely than not use the same words. Thus in a case where the robber hit a liquor store and said, "Open it up or I'll blow your head off," the detective will take particular account of these words. They might be of significance not only in apprehending the offender, but might also be valuable in clearing other crimes once the offender is caught.

The investigator might also look at the teletype which comes into the office every day. The teletype messages are sent out nationally by most police departments. They contain a description of and the modus operandi of suspects who are in the custody of the departments sending the information. Of course, for a simple pursesnatch or strongarm robbery the teletype check will be skipped. This informational service can be of great importance however, in some bigger cases. At the time of the study two investigators were preparing to make a trip to New York to bring back a suspect wanted for robbery in Oakland. Most cases, however, are local and the teletype is not checked. While some investigators



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read the teletype each day, they do not check each individual case. It seems doubtful that there are many additional cases, if any, that would be cleared by further checking.

Modus operendi (M.O.) is considered very important. It is thought that "robbers continue to rob." And that they tend to use the same M.O. each time. Robbers are not expected to pass checks as well as rob. Thus, when an experienced investigator gets a case, he looks at the M.O. and tries to connect it with someone whom he knows has used the same M.O. in the past. If he can do this he has a lead. He can then pull the guy's mug shot and make a showing to the witness.

Also at the investigator's disposal are the field contact files. Patrolmen will often make what are called field contacts. They stop a person or a car and ask for identification, destination and the like. The information garnered is recorded by the patrolman on the beat and ultimately translated onto an I.B.M. card. The printout sheets then organize the information by the date as to car, name, and beat. (Oakland was one of the first police departments to employ this type of field contact printout.) Such files can be of great help, depending, of course, on the volume of field contacts in the area of the crime.

For instance, a victim might have seen his assailant drive away in a 1969 blue Chevrolet. The investigator can then look up the beat or the car on the particular day to see if a blue '69 Chevy was stopped in the area. If one was he can get the name of the driver. If the driver has a record in Oakland, he can pull his mug shot and see if the witness can identify it out of a group. It is generally felt that robbers are made and not born. That is,

they start out on small stuff--petty theft, etc.--and work their way up to robbery. It is also felt that robbery is a local crime. A person who robs, as opposed to a phony check artist, will continue to rob in one city rather than moving around. Thus, the odds would seem to be that for most robberies the offender has been arrested at some time for something in Oakland and his mug shot will be in the files.

There is thus a great amount of investigation which can be done directly from the crime report. This is not to say that each of these steps is or should be followed in every case. The above procedures are geared to narrowing the field of mug shots for the witness to view. If the witness says he would not be able to identify the assailant, then the above steps are for the most part eliminated.

After this preliminary review of the case, the investigator will ordinarily attempt to contact the complainant. In many cases the crime report has stated that the victim didn't think he could identify the assailant; but the detail realizes that there is good public relations involved in recontacting the victim. Many times the investigator will ask how the person is feeling, especially if he or she was injured. He will review the case with the victim and ask for further details. He may ask for specific details, "Do you remember anything about his complexion? Was it ruddy? Did he have sideburns?" Here the detective might get information that the patrolman did not get when he asked the victim to merely give a description of the person who robbed him. He will invariably ask if the victim thinks he can make an identification. If the victim thinks he might be able to identify, he is asked to come down to



the station to view mug shots. (Investigators will also call witnesses to ascertain whether they might be able to make an identification.) One investigator stated that it was a bad witness who was positive that he could make an identification: "I'd know that guy anywhere." He felt much more comfortable with a witness who said he thought he could identify or that he might be able to identify. At any rate, if the witness is going to come down to the station to view mug shots, the investigation enters a second phase.

Mug Shots. There are a number of ways by which the police can gather information from a victim or witness while he or she is at the station. The first and most obvious is mug shot viewing. The robbery detail has its own mug shot files in which they keep pictures of both robbery suspects and those suspected of weapon violations. The robbery mug shot file is located right in the robbery office; and it is not uncommon to see a witness sitting in front of it and going through the mugs. This file is organized by area of the city, M.O., race and size. Thus, with a minimal bit of information from the witness the inspector can narrow down the number of mug shots the person must go through.

The robbery mug file is in the process of being updated. Many of the shots were taken a number of years ago and the suspect might look quite different today. One investigator always admonishes those to whom he shows mugs with the simple statement, "Remember, now, these pictures weren't taken yesterday."

There is also a central mug file. This file is run by a "pin selection method." Information as to those in the file is recorded on a rectangular piece of cardboard. Around the edges of this card are small perforations. Under each one is a code number or letter.

These codes are divided by lines and designated underneath as pertaining to particular characteristics. Thus one set of codes applies to sex, one to race, age, height, etc., all the way down through hair style, ears (which might be pierced, cauliflower, partial or missing or excessively protruding), lips (which might be large or puffy, thin, or harelip), and visible scars including moles and their location. On the back of the card is a place for the mug shot and a description of distinguishing characteristics.

The way the pin system works is as follows. When a person has his mug shot taken someone in that department will fill out the card. He will check the person's physical characteristics and match them up with the code numbers of the various characteristics. Thus, if the suspect is male he will look under sex and find "M". He then cuts the perforation above the "M" through to the edge of the card. This is done for all the characteristics.

The cards then are placed in files in order of their creation. When a person comes to identify, he will usually pick out three characteristics--race, height, and sex. In order to narrow the field the cards are compressed together so that the perforations match up. Then a long pin, not unlike a long knitting needle, is placed through each of the holes designating the particular characteristic. Thus if the suspect is white, a pin will be placed through the hole for white. If he is 5 feet eleven inches, one will be placed through the hole for heights between 5 feet ten inches and 6 feet. And the same procedure will be used for sex.

When the pins are placed the cards will be raised, and mugs of those white males between 5 feet ten inches and 6 feet tall will fall out (since the perforations for the characteristics were pierced



through to the edge). In theory were the witness to supply enough characteristics the selection could be narrowed down to a small number of mug shots (especially if the suspect were someone very distinguishable like a one-armed man). As clever as this system sounds, it is still very cumbersome. The cards are old and in many cases fraying. Apparently the force is hoping to get some funds to get a computer to do the manual labor rather than trying to perfect the pin system.

The robbery detail, however, does not place much stock in the pin system or the general mug file. They seem to rely, as far as mug shots go, on their own file. It is not hard to see why this is so. It would be an all day task for a person to go through all the recent mug shots and pin them out by only three characteristics. And without some reduction in the volume of pictures a woman would be pressed to find a picture of her own husband much less someone that she got a quick glance at as he ran down the street with her purse.

Most of the robbery investigation is geared to identification. For it is through identification that the investigators find out who committed the crime so that they can arrest and process for prosecution. Often an identification will be the only real evidence when the suspect is arrested; and from this fact it is not hard to deduce how important that identification was in locating the suspect and making the arrest.

In addition to mug shot files the detail keeps "gun and car books." Some people remember exactly what the gun or car looked like but don't know what it is called. That is, the person may not be able to tell the police if the gun was a .22 or a machine gun

or may not be able to tell him if the car was a Cadillac or a Volkswagen; but given a picture of the gun used or the car driven he will be able to positively state, "That's the one." Thus, through these books the witness is able to identify the gun as a .38 automatic and the car as a Mustang. From this point the investigator can check the field contact sheets and see if anyone was stopped in the area in a Mustang or was found in possession of a .38 automatic.

One woman was observed going through the gun books. She apparently was a waitress and was obviously shaken up and on the verge of tears. The detective was sitting with her going through the gun book and trying to explain the lengths of the barrels of the various pictured guns as the gun she had seen had impressed her with the length of the barrel. (The guns in the book are pictured being held by someone so that the viewer can get some idea of the size of the weapon.) This personal attention was not present when other persons were going through the mug files in the office. The reason seems clear. There is no real way anyone can help that witness pick a picture out of a mug file.

Whether or not the witness has been able to pick out a mug shot, the investigator may use the opportunity to attempt to get more leads on the case. One sergeant related his own approach, which he said worked fairly well with women. He has the woman close her eyes and try to picture where she was and what she was doing just before the robbery. He will ask unrelated questions: How light out is it? What buildings are around you? In essence he is trying to put her back at the scene of the crime--to probe her subconscious. Once he gets her back at the scene he starts



asking questions pertinent to the robbery.

This particular investigator thought that this approach works fairly well for him but indicated that each investigator has his own style in handling witnesses (a term which in this case includes the victim) and, for that matter, in investigating cases. The sergeant also pointed out that people have trouble with heights--especially in the excitement of the robbery. He stated that he will ask the witnesses how tall the assailant was. When they answer he will ask them how tall they are. If they are at the station he will ask, "How tall am I?" Thus, if they had the height incorrect on the crime report the error can be noted and the police won't be searching for someone who is 5-feet-six when the offender was actually 6-feet-three. A discrepancy of this kind actually occurred in one case and had a significant affect on its processing.

Thus, in a great number of cases, the witness can be of great help. In some he is the only lead and his cooperation is essential in finding the culprit. One investigator said that he had noticed a change in witnesses in that they seem to be more willing to cooperate than in the past. He also noted that many whites have trouble identifying blacks. Ability to identify a black, he surmised, was based on the frequency of the person's contact with the other race. His example was that a man from Piedmont, where there are very few, if any, blacks will have much trouble identifying a black. On the other hand, people from mixed neighborhoods will more easily pick a black from mug shots. This presumably is the old "they all look alike to me" theme. But apparently to some people, absent any trace of racial prejudice, there are problems of making distinctions. It was also noted that although witnesses are more

willing to cooperate with the police they still have reservations where groups with a reputation for militancy are involved.

These methods of investigation are what might generally be called the standard operating procedure in a robbery case. They are procedures that can be more or less routinely pursued in virtually every case that comes across an investigator's desk. The number employed varies from case to case, depending usually on the witness' confidence in his ability to identify the assailant.

There are also other sources of information which, while not regularly usable, are nevertheless valuable.

"People calling in help make cases." Oftentimes there will be witnesses that the patrolman on the street does not discover. A person who witnesses a robbery from the window of his apartment across the street or a passing motorist who does not stop at the scene. Although many such people may "not want to get involved," others will at a later time call the police department and relate the information they have.

Informers are also helpful. Two inspectors mentioned this source of information. Informers come in all varieties. Some are more or less regular. An informer may be a guy the investigator gave a fair deal to. In some cases it may be a guy he "sent up." One inspector discounted the popular television theme where the convict gets out of jail and comes looking for the cop who sent him up. "That's in the movies only," he noted.

In one case observed, an inspector was handling a case through the suspect's father. The father sent the kid down to the station to talk to the inspector. After trying to create a confident appearance in front of his friends, the kid decided to cooperate with



the inspector (apparently because of his fear of his father). The suspect denied being implicated in the crime. Later in the day the inspector got a call from an informer implicating the kid. The inspector then called the kid's father. Whether the suspect was ever arrested or charged was not clear, but it seemed likely that he met some summary justice when he got home.

Parental cooperation is not unusual. It is more likely, however, with poorer kids than with wealthier suburban kids whose parents "have a lawyer there right off the bat."

Paperwork. Accompanying any of the above work is corresponding paperwork. All investigators point out the amount of paperwork involved in every case, one sergeant complaining, "We don't have much time to do much actual investigating. We're too busy shuffling paper."

The basic paperwork is the follow-up report. This is filled out for every case. It will list the progress of the case from the initial contact of the complainant or witnesses to a summary account of mug shot or lineup viewings. It will list unsuccessful attempts to locate the complainant or witness. If the suspect is in custody it will relate contacts between the suspect and the investigating officer, stating whether a confession or admission or denial was elicited. It will also account for contacts with the district attorney in an attempt to charge the suspect. And it will record whether or not the case was cleared and if it was cleared, why.

How detailed the follow-up report is varies from investigator to investigator. Many take notes on the back of the crime report as they pursue the case and later transcribe these onto the follow-up

report. One sergeant took very detailed notes on his activities on the case, listing not only dates on which he did certain things but also the time of the day. Another investigator called the follow-up report the "secret of success" in a robbery investigation.

A good "clearance record" does not seem to be the principal motivation for activity by the robbery detectives as apparently is true in some departments. This, however, does not mean that clearing cases is not important. The average inspector appears to take pride in his skill in getting one of his cases solved. He also is very concerned about convictions.

Occasionally clearances will be garnered from activities that border the bounds of legality. In one case handled initially by another detective detail, a questionable search of the suspect's car trunk uncovered a large number of women's purses. Although no effort was made to press charges because of the questionable search, a large number of cases were cleared and a large amount of property returned to the victims.

Most investigative work is done on the phone. Witnesses are called and questioned. Times are set for them to come to the station. Follow-ups are carried out. But some work goes on outside the office--on the street.

B. Outside the Office

Much of this work involves making personal visits to victims or witnesses to obtain the same information that in some cases is gotten over the telephone. One observation day was spent covering four cases with one of the investigators. He had gotten four reports that morning and was going out to visit the victims.



The investigator set out in an "unmarked" car in civilian clothes. These cars have a siren, a police radio, and a red light which is kept in the glove compartment and can be hung from a hook just below the visor on the passenger side.

The first stop was a corner market in an older section of town, a racially mixed neighborhood. This was the third robbery of this market in a very short period of time. The investigator approached the clerk and introduced himself as being from the Oakland Police Department. The clerk indicated that the owner was not in and that she had not been working when the robbery had taken place. She, however, had been the victim in the previous robberies and the description she gave of the guy who robbed her twice before fit the description on the crime report of the third robbery. The inspector asked when the owner would be in and said he would contact the owner later. On the way out the woman made a plea for more police protection. The investigator nodded sympathetically.

Outside the investigator said that many store owners run marginal businesses. When they get robbed three times in a month for $50 or $100, their whole business can hit the rocks. They can't get insurance because they are such very poor risks. In final analysis he was in agreement that such areas should be patrolled more regularly, if at all possible. (It is interesting to note that when this complaint was first received in the office in the morning a number of the investigators recognized the address as having been the scene of two other recent robberies.)

The next case involved an elderly man and his wife who were managers of an apartment house in another older section of town. The robbers had come to the door the night before while the husband

was in bed. The wife answered the door and one robber asked if that was number 308. When the wife answered that 308 was on the next floor, the suspects pushed their way in and pulled a gun. One went into the bedroom where it was dark and awakened the husband, telling him not to move if he didn't want his wife hurt. They ransacked the apartment finding approximately $400 in cash and taking the woman's rings worth about $900. Before leaving they hit the old man with the butt of the gun inflicting a gash over the right eye but doing no permanent damage to the eye itself.

The man, who had his eye bandaged, told the story and the wife filled in minor details. He said that he would be unable to make an identification, since it was dark in the room in which he was held captive. The wife doubted that she could make an identification as she had been pretty excited at the time.

As the husband stated that they had been managers for only a short time, the investigator asked if they knew all their tenants--if it might have been one of them. They stated that although they didn't know all their tenants by face, they had had no trouble from them.

Outside the inspector evaluated the case. He said he thought it was pretty much a lost cause. He doubted that the woman could identify the suspects and expressed a general suspicion of the ability of elderly people to make an identification. He did, however, concur in the opinion that the man was fairly sharp and probably could have identified had he been able to see the assailants in the light.

The third case was in a commercial district at a candy store. Inside there was a long line of customers holding numbers indicating the order of service. The investigator contacted the lady who had



been working when the robbery had occurred the night before. From the description on the crime report, the investigator had some suspicions as to who the suspect might be. He had brought with him a photograph of a lineup and asked the victim if she could identify anyone in the picture as the one who had robbed the store. She said that the suspect was not in the picture, but thought that she might be able to identify him.

The last case was at a quick service grocery market. The manager discussed the case over coffee in a closet-sized room which he designated as his office. (In actuality he was the only one who could fit in the "office".) The victim was about 30 years old and recalled in precise detail the events of the night before. Two suspects had entered 15 minutes before closing time. There was nobody in the store except the manager and his wife, although business had been brisk only five minutes before. The victim surmised that the suspects had parked on the blind side of the store and waited for it to empty out. The older suspect was distinguished by a ruddy complexion, while the younger one was something of a baby-face. The older robber approached the husband who was at the register, pulled a gun, and demanded the money. The younger one in the meantime stood by the wife as a threat so that the husband would fully cooperate. The victim felt that the older robber was experienced, while the younger one, although trying to appear tough, was nevertheless extremely nervous. The younger suspect made an attempt to extract the change from the register but was rebuked by the older partner. As they left the store, the husband ran to the back of the store and out the back door to try to see if the robbers had a car or if he could get

the direction of flight. He struck out on both scores.

The husband felt that he could make an identification. He wasn't sure about his wife, and she was not in the store that day to ask. The investigator asked him to come down to the station to look at mug shots and he said that he would be glad to. The idea is to get the victims to the mugs as soon as possible after the crime because their memory is fresher and they are more likely to be able to make an identification. However, because of the holiday season the victim said he would not be able to get down to the station for several days. He said that on Saturday he and his wife would alternate tending the shop and that both would get down to look through the Rogues' Gallery. The investigator felt that in this case there was a definite chance of getting a solid lead.

These cases were rather routine and probably could have been handled with the same results over the telephone, the difference being that it would have taken about a quarter of the time over the phone. In light of this it seems easy to understand why most investigative work is done over the phone.

C. Making the Arrest

Getting a witness to make an identification is only step one in the pre-arrest process. The second step is to locate the guy and make the arrest. The arrest, of course, is ordinarily made outside the office and can be based on two things: a warrant or probable cause. Since a warrant involves administrative red tape, probable cause is generally used. Usually a positive identification by the victim or a witness will be sufficient to make a warrantless arrest but in some cases the investigator will play it safe



and get a warrant.

In one case the victim of a pursesnatch felt that she could identify the offender. She came down to the station and looked through the files and picked out two pictures of the same guy. (In many instances this is a very strong identification because the pictures are taken years apart and the suspect looks a great deal different in each one.) There was one problem, however. When questioned at the scene of the crime she had said that the suspect was 5 feet 6 inches tall. The suspect she picked from the mug shots was 6 feet 3 inches tall. Although it could well be contended that her error was understandable in the midst of excitement, the error is just the kind to cause trouble in sustaining a probable cause theory. The district attorney consequently advised getting a warrant for the suspect's arrest.

Robbery detail work is not all routine. One investigator told how a 5-man robbery ring had been broken just a couple of weeks before. This band had been responsible for robberies as far as 150 miles to the north but maintained their headquarters in an Oakland penthouse apartment. During the raids that led to the arrests of all the suspects, a uniformed policeman was shot and killed. This case was the stereotype of what one would expect a robbery detail to spend its time doing. In big cases such as this it was indicated that the undercover work done is really undercover. Rather than unmarked police cars, the detectives use cars borrowed from local car dealers. They drive sports cars and all sorts of different makes and models to avoid arousing the slightest suspicion (for obvious reasons in a case dealing with suspects who are armed and dangerous). They communicate among cars by

means of walkie-talkies. When they arrested the last suspect, they caught him in bed at three in the morning. He was pretty groggy and the arrest was made without any trouble. However, as he was roused it was discovered that he had a gun on the nightstand, a gun under the pillow, and a sawed-off shotgun under the covers between his legs. The job can be exciting and dangerous.

Another sergeant likes to get out of the office for a spell in the afternoons. Ordinarily he will take a case or two and check with the victims. He will also take a few minutes to cruise around his territory and look around. While he is out he will answer any robbery calls in the immediate area in hopes of grabbing a fleeing suspect.

Once the suspect is in custody, the robbery investigator's job takes on a new dimension. He must prepare the case for charging and eventual prosecution.

## II. THE SUSPECT AFTER AN ARREST

Once a suspect is in custody the investigator prepares the paperwork which will be used in convincing the district attorney to charge, and which in some cases will actually be used at trial. But the paperwork is only the written summary of the actual work. Basically, there are three phases in post-arrest work: interrogation of the suspect, a lineup, and the actual charging with the district attorney. Ordinarily, but not always these steps will take place in this order.

Interrogation. Interrogation is considered an important part of the arrest and prosecution procedure. Any incriminating statements or confession will be weighty evidence at trial and may be



enough to convince the defendant to plead guilty, thereby saving the time and expense of a trial. To the detective interrogation is an enjoyable battle of wits as well as an important part of his job.

Investigators are well tuned to the legalities of interrogation. They all know about Miranda. One inspector was aware of the distinction between the letter of Miranda and its spirit. He stated that they try to be straightforward and businesslike when admonishing. "We know that if we don't comply with it [Miranda] here, it will just catch up with us at trial." He did say, however, that since Miranda robbery suspects have "clammed up." They seem to know their rights.

Particular emphasis was placed on the fourth warning--that the suspect before questioning has a right to court-appointed counsel if he cannot afford an attorney. One inspector said that for a while after Miranda, another department he knew of was giving this particular warning in Italian.

At any rate, the police give the suspect his rights; but on the other hand they don't care to emphasize them to the suspect. Thus, the patrolman on the beat will not admonish the suspect. The reason for this is that if the suspect is admonished on the street the time lapse between that arrest and subsequent in-station interrogation may necessitate a second warning. Therefore, the suspect is warned once--just prior to interrogation by the investigator.

The Oakland Police Department has two standard forms pertaining to interrogations. The first is the "Admonition and Waiver" form. This form is divided into two parts. In the first

the instructions are to quote the four warnings "...to all persons arrested and all persons to be questioned as suspects in criminal offenses." The warnings follow. The second part instructs the interrogator to "Ask the following questions prior to questioning any suspect. Record all answers verbatim." The questions are: "Do you understand each of these rights I have explained to you? Having these rights in mind, do you wish to talk to us now?" After recording the answers the investigator prints the name of the admonished and signs the form, recording the date and the time.

If the police get a statement, they use the second form. The form is lined paper for a verbatim recordation of the statement which the suspect signs at the bottom of each page. Preceding the statement is printed on the form the following:

> STATEMENT: I have been advised of my rights to remain silent and that anything I say may be used against me in court. I know that I have the right to have a lawyer with me during any questioning and that I am entitled to a court-appointed lawyer if I can not afford one. I understand this and wish to make the following statement.

Not only do interrogations beget confessions and statements, they also lay the groundwork for deals that will help in other police work. The typical deal will involve an offer to drop the number of counts if the suspect will clear cases for which he is responsible. (He is of course not to be prosecuted for admitting to these crimes so that the police can clear them.) This process may merely involve an oral statement of what "capers" the suspect is responsible for. In some burglary cases they will take the suspect around and ask him to point out which house he burglarized and what he took from them.



Deals do not always rest well with the citizens. Some victims are not content that the offender is being prosecuted for some crime. They want to know why he is not being prosecuted for their robbery. This understandable consternation has led to the general policy that in a robbery case there will be no deals where there has been an injury.

The Lineup. A lineup is a showing in person of the suspect to the witness. The suspect is placed in a line with five or six other persons fitting the same general description and the witness attempts to pick out the person who robbed him (if, indeed, it was any of them).

There are a few preliminary steps to holding a lineup. (The Oakland Police Department formally calls this procedure a show up, but I heard no investigator call it anything other than a lineup.) First thing is to call the witnesses and set a time that they can come in for the lineup. Secondly, they will talk to the suspect about his rights. There is also an "Admonition and Waiver" form for lineups. Like the interrogation form it is divided into two parts. Part one instructs the investigator to quote the following "to all persons to be the subject of a police show-up:"

1. You are to participate in a police show-up which will be held in accordance with this Department's policy and procedures which are based on existing law.

2. You may be asked to speak for voice identification, make some physical motion, or wear articles of clothing or glasses.

3. Refusal to participate in such test may be considered as evidence of consciousness of guilt and may be admitted into evidence should you become a defendant in a subsequent trial. [One inspector emphasized this point as important for effective police lineup work. Obviously it is quite a lever for gaining cooperation.]

4. You have the right to an attorney present with you while you are participating in the police show-up, if you wish one.

5. If you cannot afford to hire a lawyer, one will be appointed to represent you at the time the police show-up is held, if you wish one.

The second part is the same as the interrogation form except that the second question says "Having these rights, in mind, do you want an attorney present at the police show-up."

The indication was that even though there is a waiver form and the suspect may sign it, the public defender is called as a matter of course for robbery. This is undoubtedly due in part to the fact that in a robbery case so much depends on the admissibility of the identification.

When holding a lineup, an investigator will usually ask his colleagues if they have any suspects they want to go in. If some other investigator does have a suspect on which he is eventually going to have to run a lineup, he will check the general description of the original suspect to see if his suspect generally fits. If he does, the inspector will call his witnesses to see if the scheduled time is convenient for them. If so, he will run his suspect in the same lineup and have his witnesses present.

Some cases will involve a large number of witnesses who are to view the lineup. In these cases it may be hard to find a time during which these witnesses can get together to see the lineup. To avoid the necessity of running a number of lineups on the same suspect, the lineup in this situation will be video-taped. Then, when a witness can make it in to the station, he will be shown the lineup on television.

During the lineup witnesses sit apart. As the suspects



come on to the stage they are given a number, one through x in accordance with their position from the witness' left to right. The suspect's position is determined by drawing numbers. Witnesses are instructed to make no gestures of affirmance toward any person in the lineup and not to speak out loud. They make an identification by writing down on a card the number of the suspect whom they are identifying.

One observed lineup involved a witness who had been the victim of a strongarm pursesnatch with a simulated weapon (hand in the pocket pointed at the victim). The suspect and the victim were both black. The victim had previously picked two mug shots of the same suspect from the files, pictures which were very different looking.

Before the suspects were brought in the witness was instructed on the mechanics of a lineup. She was then introduced to the public defender who was present. She was told that the public defender was allowed to ask her questions after the lineup but that she did not have to talk to him. (The public defender asked only her name.)

The witness was then asked if the suspect had said anything during the robbery. She told the investigator that he had said "Give me your watch and ring. I'll blow your head off."

There was a knock on the door to signal that the persons were ready for the lineup. The lights were turned off in the witness' part of the room and the suspects came in. They were lined up on a stage that is about a foot higher than the rest of the room. They face the witnesses. Hanging out and above the stage were lights, best described as stage or flood lights which were pointed at the suspects to prevent them from seeing the witnesses.

Once lined up the suspects were told their numbers and asked

to count off. The investigator running the lineup stands at a floor-level podium off to the side and runs the lineup with the help of a microphone and sound amplifier.

The Oakland lineup stage has the facilities for changing the lighting on the stage in an attempt to correspond with the lighting in which the victim or witness might have viewed the offender. In this case, however, only bright lighting was employed.

After the suspects were given their numbers the lineup began. Suspect number one was asked to step forward. He was instructed to face the left wall; then to face the right wall; then to do an about face and walk to the left wall and back. Upon his return he was asked to repeat after the sergeant, "Give me your watch and ring." After he repeated this he was asked to repeat, "I'll blow your head off." He repeated this but his voice was somewhat muffled. "Louder," said the investigator, and he said it louder and more clearly. When this routine was finished, he was asked to step back against the wall.

The same procedure was repeated with all five suspects. And each suspect was told, "Louder," after the first time he said, "I'll blow your head off." After the lineup the sergeant said he had asked the first suspect to repeat the second sentence louder for the benefit of the witness. All the others were told to do the same thing for the purposes of uniformity of the lineup and so as not to point any fingers at the first suspect or any other suspect by means of different treatment. (Suspect number 1 was, in fact, not the suspect for this particular case.)

Generally, the cast of the lineup was a good one. Although one suspect was noticeably taller than the others, the general



description was the same for all five. In this lineup the suspect had been allowed to pick his position rather than drawing it. He picked position number three, the center position in a five-man lineup and from the standpoint of the suspect's interests in not being identified by chance, probably the worst place to be. The position in this case, however, meant little as the witness identified the suspect the second he walked into the room. The witness was then ushered out and the photographer came in to take a picture of the suspects in the lineup.

After the lineup, if the investigator has gotten an identification, he will attempt to get the case charged. This procedure involves both paperwork and leg work and aside from trial testimony culminates the investigator's work on the case.

Charging. From the time of arrest the police have 48 hours in which to get the suspect charged with a crime. This is the first step in the process of prosecution. Some investigators consider this a very short time period in which to accomplish the work. Problems can arise in getting witnesses for lineups or getting warrants to search for corroborating evidence.

The written procedure begins with the case report. The case report lists: (1) a list of the witnesses, (2) a summary of the offense, (3) a summary of statements of other witnesses, (5) a summary of statements of adverse witnesses, (6) a description of the physical evidence and a statement of its present location, and (8) an indication whether a statement was taken from the defendant and by whom it was taken but not the statement itself.

The case report is generally typed and about a page and a half long. It is really the district attorney's basis for charging.

It tells what evidence there is to connect the suspect in custody with the crime in question. The district attorney does not always look at the case report, however. In fact, in most cases the case report has not been filled out when the suspect is charged. The charging process works generally as follows.

The investigator takes the crime report and goes up to the offices of the district attorney. If his case is not that strong, ordinarily the district attorney will read through the crime report checking to see if all the elements of robbery are present from the report. He will talk over the facts of the case with the investigator who also relays information on the follow-up pertaining to identification by mug shots, lineups, or any further evidence implicating the suspect. After weighing all the facts the district attorney decides whether to charge. He may charge 211 (robbery) or he may suggest that the force or fear element of robbery is weak in the case and charge grand theft person. There are a variety of lesser charges that the facts of the case might allow. Finally, he might not charge at all. Many times a weak robbery will also be a weak grand theft at trial.

The investigator may attempt to see one whom he likes personally or whom he thinks is likely to give him a charge. By getting the suspect charged in this way, he beats the 48 hour rule and does not have to release the suspect. He thus has more time to come up with the necessary evidence to convict. Since the burden of proof to hold for trial is far less than that required for conviction, weak cases will sometimes be charged in the hope that the convicting evidence can be obtained by the time of trial. When there is no chance to convict without further evidence,



however, the district attorney will not charge, though he may suggest the evidence needed to get a charge and tell the investigator to come back if he gets that evidence. Such evidence may consist of identification of the suspect by another witness in the case.

If the district attorney decides to make a charge he fills out a form which the investigator takes to one of the outer office secretaries. She pulls out a form book and types up the formal charge, filling in the variables from the information on the form. The inspector then takes this down to the clerk who records it.

Bail and O.R. While the charge is being recorded, the inspector fills out a bail recommendation form. On this form are spaces for designating opposition to or for designating no opposition to bail reduction and release on own recognizance (O.R.), respectively. The investigator can oppose O.R. or he can oppose both. Conversely, he can put no opposition to bail reduction or no opposition to both. (In theory he could have no opposition to O.R. but opposition to bail reduction; but this does not make much sense.) There is also a place for remarks if the officer desires to justify his decision.

The decision on the O.R. recommendation is completely with the inspector. According to one inspector, the basic consideration, assuming, of course, that the suspect is not to be considered dangerous, is whether the family will have to go on welfare or AFDC because the father can't get out of jail and consequently might lose his job. As to skipping town he figured that those who are going to skip out will do so on bail also. (He did say that those who do skip bail almost always pay off the bail bondsman. A possible ace-in-the-hole if he ever needs bail again.)

But no matter how hard you try to analyze a person there is still a chance that an O.R. will come back to haunt you. One inspector told about a case in which he had arrested a man for an assault with a deadly weapon upon his wife. After he was charged, the inspector figured he had had a couple of days to cool off and that he would be alright for release on his own recognizance. The man got out, went home, and finished the job he had started, killing his wife this time.

Another, less morbid example was a case of a young kid who came in to talk to one of the inspectors. The inspector was familiar with the kid and called him by first name. Later the inspector said that the kid had been arrested for burglary. The inspector had O.R.'d him and the kid went out and got caught for robbery. Some days nobody wins.

Bail is another topic. The standard bail for robbery is $5000. Some judges apparently can be counted on to jack up the bail even higher if necessary to keep a particular suspect off the streets. The standard bail amount is a lot of money, even going through a bail bondsman whose normal charge is 10 percent. Once again the considerations are much the same as with O.R. Why should bail reduction be opposed? One detective put it this way: "If the guy isn't going to be dangerous back on the street, I see no reason to oppose bail reduction. I'm not a mercenary. Many of these suspects are poor. They can't afford the high bail. The rich kid would be out on the street."

The bail form when completed is turned into the clerk who gives the investigator a form verifing that the defendant has been charged. The investigator takes this to the jail and turns it in. The



suspect is now charged.

In some cases, however, the district attorney refuses to charge.

One such case involved a series of hotel robberies. The hotels were within a couple of blocks of each other annd the M.O. of the robberies was the same. On three consecutive days between 4 and 6 in the morning the suspect entered the lobby of the hotel and approached the desk clerk, wearing a mask that appeared to have been made out of a sweater sleeve. He pointed a gun and asked for money. He was described in each case as being dark and about 5 feet, 3 inches tall.

On the fourth morning officers spotted a short dark man at 6:30 a.m. getting out of his car across the street from one of the hotels that had been hit on one of the previous mornings. He appeared to be looking into the hotel at the clerk who could be seen from the street. He then went into the hotel. He was there for about 20 minutes, most of which was spent in the restroom. As he prepared to leave, he inquired about the hotel rates. When he got outside the officers stopped him and asked for identification. When asked if they could search the car the suspect replied that they could. In the glove compartment they found a gun, but it was not the type that had been identified in the robberies. The police searched the restroom and found nothing. The suspect was taken in.

An inventory was made of the car. The officer who made the inventory had his eye out for a gun or anything that looked like a mask. The inventory uncovered nothing. One of the victims said that although the robber had worn a mask, he might be able to identify him.

On these facts the district attorney would not charge for robbery. He told the investigator to run a lineup and try to get an identification. The officer was disappointed but not surprised. He realized the case was weak but was happy with the fact that he could still get the guy on a Penal Code 12021 (ex-con with a gun).

A second case involved a stickup of a small diner. The robber made a clean getaway. Several hours later the clerk who had actually been confronted by the robber was at a shopping center when he spotted the robber in the crowd. He contacted the police who arrested the suspect. The same D.A. refused to charge this case. He said that, as it stood, it was just the word of the victim against the word of the suspect and that they couldn't get anywhere with that in court. He suggested that they hold a lineup for the other clerk during the robbery, cautioning that if that clerk failed to identify or said that he didn't think that the suspect was the robber, the case was out the window. The clerk had already told the police that he hadn't gotten a very good look at the robber and didn't think he could make an identification.

It could be argued that the identification in this case was one of the strongest you can get after the event is already over. When a person comes in to look at a small set of mug shots or a lineup, he presupposes that the culprit is in that set and all he has to do is pick him out. Thus, in theory, witnesses may be identifying a picture or person which is the closest to what he can remember of the robber, and not a picture that corresponds with exactly how he remembers the robber. If the police have done their homework correctly and the actual robber is in the set, the process takes on an element of the process of elimination. "No, that doesn't



look like him. That doesn't look like him. That doesn't look like him. That looks like him. That must be him because none of these other guys look very much like him. Hey, officer. Here's the guy." Even if he is looking through many mugs in a case where the police have no idea who the guy might be, the witness is tuned in to looking for the suspect. The identification in this case, however, was made by chance. The witness was not looking for the suspect nor did he have any idea that he might be in the crowd at the store. And yet when he saw the guy, he recognized him as the offender who had robbed him. No process of elimination. No mind geared to identifying a suspect.

Yet the case was not charged. And the exact same type of one-on-one case was charged when the pursesnatch victim made the identification from mug shots and a lineup. This is not to suggest that the mug viewings and lineups are resulting in identifications of innocent persons. It does suggest, however, that the shopping center identification was every bit as strong, if not stronger, than the type of identification in the pursesnatch case, and that if you are going to charge one, then you should charge the other.

## III. THE ROBBERY DETAIL

The robbery detail shares a large, open office with many desks with the homicide detail. Both details also share a single secretary-receptionist. Each investigator has his own desk with a phone and the secretary has a master switchboard. The lieutenant in charge of each detail has his own office adjoining the main office that houses the investigators.

The intra-office chain of command consists of two basic ranks. The lieutenant is in charge of the detail and handles its basic administration. He assigns the cases to the investigators. Among the investigators there are two ranks, sergeant and inspector. For practical or administrative purposes there is no difference between these ranks. The work is the same and the jobs involve the same responsibilities. The rank of inspector is a higher rank but is being phased out.

The robbery detail is divided into four two-man details. They are not partners per se, but many of the two-man teams consider the other person in the team as a partner in name if not in function. The teams are assigned to areas of the city. Thus there are four areas in the city and the men in each team cover only the cases which occur in their section. Through this system it is hoped that they will become familiar with the people in that area, the trouble-makers as well as the innocent victims. One would suppose that the two men in the area would to some extent become familiar with each other's cases, especially in those not uncommon situations where more than one complaint has been received from a single victim. Hence the concept of partners.

This area allocation is a relatively new one. In the past investigators were "type-specialists". That is, an inspector handled only one type of robbery, commercial for instance. The detail still maintains one specialist. This man is in charge of guns, all cases in which the police have recovered a gun. Some of these cases will be robberies, some will be normal gun violations--concealed weapon, loaded weapon in public, etc.

The Oakland robbery detail keeps a close working relationship



with other Bay Area police departments. One inspector called the operation a type of "central-agency". The robbery details meet once a month to discuss their work and possibly even individual cases that seem to cover more than one city. Other details apparently do not have this close working relationship with the departments of other cities although such cities will be contacted in individual cases where the circumstances call for such.

Often a suspect may be arrested for one crime when he has been responsible for many. Some of the reports to the additional crimes may be sitting on the desk of an investigator who did not handle the crime for which the person was arrested. Thus, it is important for each investigator to be familiar with those persons in custody so that through description or modus operandi he might be able to connect the suspect with another crime which is unsolved. To facilitate such a possibility, the investigators attend "line-ups" of those in custody. They are shown mug shots of suspects in custody or on bail. These mugs are projected on a screen while size specifications are read to the investigators. Such information lineups are supposed to take place daily. How valuable these showings are is impossible to tell. However, the investigators appeared to consider them as routine rather than something in which the chances were that they would uncover a key to one of their cases.

Not all the individual investigator's work may be accomplished during the work day (eight a.m. to four p.m.) It is not uncommon for an investigator to work overtime. Sometimes this is necessary in order to conduct a lineup because the witness works during the day. Sometimes they will take cases home at night in an attempt

to contact victims or witnesses who for some reason cannot be contacted during the day. If an investigator puts in two hours overtime he is paid three dollars for a meal. Also, if he goes to court on his day off he gets transportation costs.

The robbery detail does some juvenile work. This consists mainly of going over to juvenile court on robbery cases that have been assigned to the particular investigator and testifying at the juvenile hearings. One sergeant expressed great concern over the juvenile system which he considered as too lenient on those who commit crimes that cause serious injury or property loss. He stated that those who had been through juvenile proceedings so many times and had been turned loose could not understand why they were being sent to prison for the same offense when tried in adult court.

## IV. SOME ATTITUDES ABOUT ROBBERY AND INVESTIGATION

A number of attitudes and observations about robbery and investigation were expressed by the individual investigators based on their years in policework. These included the following:

> Police make decisions today that the Supreme Court will decide on four years from now. It is impossible to second guess the Court. You can't look into the future. If you could, you'd never have a cop shot.
>
> Search and seizure laws have hurt. In the old days you could bust in and catch them in the act. Today the search and seizure laws make it tougher to get a valid arrest.
>
> Many robbers are on drugs.
>
> Blacks pull 90 percent of all robberies. But only five percent of the blacks pull these robberies. The percentage of blacks who are robbers is low but the recidivism rate is high.



> These little old ladies that get their purses taken are like natural prey in the jungle. They don't really have a chance.
>
> You don't get too many robbers on their first robbery unless they are real stupid. But they seem to go until they are caught.
>
> Robbers start on petty stuff and work their way up. They graduate from parking meters to pursesnatches to roundnecks (strongarms) and armed robberies.
>
> The robber takes a chance carrying a gun. Some victims shoot back. Liquor store owners and bartenders are known for shooting back.
>
> Some robbery suspects think that the fact that the gun was loaded makes the crime worse. They have the notion that if the gun is loaded they can be charged with something akin to 187. They will tell you during interrogation, "Yeah, I did it. But there weren't no bullets in the gun." What they don't realize is that a gun in a robbery is presumed to be loaded and it makes no difference if it is unless it is shot.
>
> People with jobs stay out of trouble.

Chapter Four

THE PROSECUTION OF ROBBERY

After arrest the next stage in the processing of a robbery offender is the prosecution. At this point the police begin to lose their control over cases and as the judicial process progresses the control of the police diminishes further. It will be helpful to first describe the different stages of the prosecution process and then discuss the factors affecting decisions at these stages.

## I. THE MUNICIPAL COURT

The first step in the prosecution is the issuing of a complaint. The complaint informs the defendant of the crimes he has allegedly committed. The decision to issue a complaint, as well as the number of offenses to charge, is made by the district attorney with police participation. The complaint must usually be issued within two court days of the suspect's arrest.

Once a complaint is issued the defendant must be arraigned in Municipal Court. The purpose of the arraignment is to advise the defendant of his right to be represented by an attorney and the charges against him. At the arraignment, it is also ascertained whether or not the defendant can afford an attorney, and if he can't the public defender is appointed to represent the defendant. A date is set at this time for the defendant to enter a plea.

Bail is set at this hearing by the Municipal Court judge.



The amount is discretionary with the judge but is generally set according to a bail schedule delineating the amount of bail for each type of offense. The basic schedule is $3000 for a felony and $5000 for a felony involving a weapon. The kind of offense charged and the number of offenses charged determine the bail.

The next step is for the defendant to appear with counsel to enter a plea. If the plea is not guilty, a date is then set for the preliminary examination. This date depends on the defendant's custodial status. If he is in custody the preliminary will be held in one to two weeks. If the defendant is still in custody, the defense attorney usually makes a motion at this appearance for an own recognizance release or a bail reduction.

When the preliminary examination is held, the adversary proceedings begin. The purpose of the preliminary is to determine if there is sufficient cause to hold this defendant to answer for the crime he is charged with. In California the preliminary hearing is used as an alternative to indictment by the grand jury. Both prosecution and defense attorneys are present, the defendant is present and witnesses may be called by both sides. This proceeding can best be described as a miniature trial although it isn't concerned with proof of guilt. The standard of proof is less than that required for a civil or criminal trial. All the State need prove is that there is sufficient cause to believe a felony has been committed and that the defendant is guilty thereof. While both parties may call witnesses, in practice usually only the prosecution does. A guilty plea may be entered at any time in the proceedings. When he enters a plea of guilty the

defendant may waive the preliminary hearing which is guaranteed by law. The judge will not accept a guilty plea, however, until the defendant has consulted his attorney.

If a defendant is held to answer at the preliminary, he is then instructed to appear at the Superior Court, usually in three weeks, to be arraigned and have a date set for trial.

A. Issuing A Complaint--The Charging Process

Charging is a function of the Municipal Court Section of the district attorney's office. This section is responsible for misdemeanor offenses and the preliminary stages of felony cases. The other district attorney's office section significantly involved in robbery cases is the Superior Court Section. This section is primarily responsible for felony trials and for plea bargaining that is not resolved at the Municipal Court level.

At the charging stage the Municipal Court deputy district attorneys and the police necessarily work closely together. The Municipal Court D.A. deputies and the police officers with whom they deal have developed a strong mutual respect. The D.A. deputies on the whole speak highly of the Oakland Police Department. And the same is true of the police attitude toward the D.A. deputies. Occasionally differences will occur, but in the main the deputies and the police agree as to which cases complaints should be issued for.

The charging process is a critical stage in the prosecution of a case because the decision made here determines the course a case will take. At this point a case can be dismissed, prosecuted as a felony, as a misdemeanor, or as a juvenile matter. Due to this the assistant district attorney in charge of the Municipal Court



office likes to have only the more experienced D.A. deputies issue complaints. Due to the heavy caseload in this office, however, this is impossible. Consequently, most D.A. deputies in the office end up issuing complaints at some time or another. Since the Oakland office is composed mostly of young men with less than three years experience, the police must go to the young inexperienced D.A. deputies for complaints. Contrary to some earlier reports, however, the police usually do not make a point of seeking out the most inexperienced district attorneys.

Police officers tend to go to certain district attorneys who they like or trust. When an officer comes into the office, it reminds one of a customer in a store looking for goods to buy. If the "right" district attorney is not there or if he is busy with another officer, the officer will wait until that deputy is free. Some officers at the time of the study found one district attorney so hard to get a complaint from that they say he works for the public defender. One example of the shopping process occurred when an officer failed to obtain a complaint for a robbery. After trying to get the complaint from two deputy district attorneys the officer walked around looking into each office for a friendly face. When no friend was found, he left. In the elevator, his friend was found. The officer jokingly asked if the deputy D.A. was issuing complaints because no one else on the staff was. The friend responded as if he realized what occurred and said no; he was dismissing cases today. Later the officer said, "had I gone to him first I would have obtained a complaint. The younger district attorneys sometimes can't see a good case until you hit them with it."

When a complaint is issued the case is usually a strong one because the standard generally used by the charging deputy is whether or not a conviction would be obtained before a jury. Sufficiency of the evidence for conviction is by far the most important factor affecting the issuance of a complaint. In one case, for example, grand theft auto was charged instead of robbery because the district attorney making the decision thought the case was weak on the force and fear element of robbery. The facts were that the defendant had taken a car on a demonstration ride with someone from the car lot. After driving a few blocks, the defendant stopped the car and in a threatening manner told the lot attendant to get out of the car. In his haste the lot attendant climbed out the rear window of the car. This certainly indicated some degree of fear. The district attorney who charged the case, however, felt a sure conviction for grand theft was better than a rough case to prove robbery. Another factor having a direct effect on charging is the character and reputation of the defendant. Here a "good guy-bad guy" attitude comes into play. Many suspects are classified by the police and district attorneys into one of these groups. If one is a bad guy, he will be treated rougher and given less consideration than a good guy.

In one robbery case, for example, the district attorney decided to go to the preliminary on a robbery complaint which was shaky instead of proceeding on a solid petty theft case. The reason was that a petty theft was only a misdemeanor and this suspect was such a "bad guy" that he should be convicted of a felony.

Charging is also used occasionally to provide the police with something to bargain with in order to obtain information from



suspects. In another case the police officer asked that the suspect be charged with as many offenses as possible, in this case 14 counts of robbery. The policeman would then try to obtain the names of the defendant's accomplices from the defendant; in exchange the policeman would dismiss several counts. The district attorney in this case issued a complaint containing four counts, only two of which he had sufficient evidence to prove.

Increasing the number of counts does two things: it increases the bail and it increases the theoretical maximum sentence a defendant can serve. Thus, by charging several counts it makes it harder for the defendant to be released and increases the psychological pressures on him with the thought of the number of years in prison facing him. This also makes the defendant more available to the police for questioning. The police officer can become the friend of the defendant by reducing the number of counts in exchange for information.

The office has a policy of not making more than four or five counts on any one complaint. There are two reasons for this policy. One is that the sentences usually run concurrently and more counts do not increase the length of sentence. The second is that it is time consuming to call witnesses and present a preliminary and a trial for more than five counts. Each count is a separate offense requiring independent proof.

In some cities it is apparently the practice to charge as severe an offense as possible or the greatest number of counts in order to induce guilty pleas. This practice does not generally seem to be involved in the charging of robberies in Oakland, however. Due to their enormous caseload, the district attorneys

feel they do not have the time to prosecute if a defendant does not respond to an overcharge by pleading guilty. Instead of risking the chance that they might have to prosecute, they elect generally to charge on a more realistic basis.

Before a complaint is issued or a case is washed out, the district attorneys seek to check out any weaknesses. If the defendant has an alibi, the police will be asked to ascertain its validity. When a weak case with some potential is brought to the district attorneys, they will sometimes instruct the police as to what is needed to make the case prosecutible. One case observed illustrates both of these techniques. In this case the only person who could identify the suspect as the offender in the robbery was a 13-year-old boy. The case had further weaknesses--the fact that ten eye witnesses to the robbery had failed to identify the suspect. The defendant also had an alibi that he was at the barber shop at the time the robbery was committed. The district attorney told the investigating officer that he would issue a complaint if four things were done. The investigating officer was to: (1) obtain a statement from the defendant that no one else used his car on the day of the robbery; (2) obtain a statement from the 13-year-old boy that he identified the suspect in the line-up; (3) show mug shots to those witnesses who did not attend the line-up hoping for a possible identification; and (4) check the barber shop alibi. After each of these was done successfully, a complaint was issued.

In one case the district attorney's office would not issue a complaint which the police wanted. In this case the investigating officer told the complaining witness to write letters to the district



attorney, the grand jury, and the newspapers. He suggested that the citizen state the facts of the case, mentioning that a certain district attorney refused to prosecute. Thus, public pressure is used to put pressure on the district attorney. At times the district attorneys use similar pressure to influence decisions made by judges. In one robbery case, the judge reduced bail from $20,000 to $10,000. The district attorney suggested that the complaining witness who was dissatisfied write letters to the judge, the governor, and the newspapers, expressing his opinion that by reducing bail the judge had made it easier for this defendant to rob again.

B. Arraignment

Once the complaint is issued the defendant is arraigned. The arraignment as far as the district attorney is concerned is not important. In fact the district attorney doesn't even appear. The next stage at which the district attorney is important is the preliminary examination.

C. Preliminary Examination

A different deputy district attorney is responsible for the preliminary hearing. He begins preparing two weeks prior to the date of the hearing. At this time he reads the case report and determines who will be called as witnesses. He may at this time disagree with the initial charging decision and seek to amend the complaint. In practice, however, he rarely does this. He also tries to ascertain the weaknesses of the case and determine what disposition he will seek. In deciding which witnesses to call,

the theory is to call as few witnesses as possible. The reason for this is to put on enough evidence to hold the defendant over and yet prevent the defense from obtaining too much information about the case.

On the day of the preliminary a pre-trial conference is held. At this conference the deputy district attorney explains to his witnesses the purpose of the preliminary and discusses with them the testimony they will give. Since the major problem in robberies is identification of the offender, the deputy usually tries to ascertain how the witness is able to identify the accused. In one pre-trial conference observed, the witness was an elderly woman who kept saying she could recognize the offender by his hair and some funny marks on his face. Not satisfied with this description, the district attorney kept asking questions about identification until the witness finally said: "when you look straight into someone's eyes for a long time like I did, you're able to identify them later." When the witness responded this way, the deputy became very elated and told the witness to make sure that she testified that way in court.

At the pre-trial conference the deputy district attorney also goes over the case with the police if they are to testify. In robbery cases it is rare that a police officer testifies at the preliminary. Usually the victim and one witness are the only witnesses to testify.

In routine cases not more than two hours is used to prepare the case for the preliminary. The small amount of time appears to be adequate because of the low standard of proof required.

Once the case is assigned to a particular D.A. deputy he



usually has complete control over it. It is up to him to continue with the case, to dismiss it, or to accept a deal. It is rare that this attorney seeks advice from another attorney on what disposition to make in a case. The deputy district attorney will, however, often consult with the police about a deal before accepting it. In one case, for example, a deal had been arranged. The defendant, the defense attorney, and the district attorney all agreed to the deal. The arresting officer would not agree, however, because the defendant had spoken belligerently to the officer. The officer finally agreed only after the defendant had spent the whole day sitting in court and had apologized to the officer.

The role of the district attorney at the preliminary is to establish sufficient cause to believe that a felony has been committed and that the defendant is guilty. The district attorney also seeks to keep the defense from obtaining too much evidence on cross-examination. Most district attorneys look upon the preliminary examination as a show for the benefit of the defense. The preliminary gives the defense the opportunity to obtain information and test the prosecution's witnesses.

Handling preliminary examinations is a difficult and to most D.A. deputies a boring task. Anywhere from four to seven preliminaries may be scheduled for each day. The district attorneys are expected to conclude all the cases scheduled plus preparing cases to be heard in two weeks. Therefore, each day the district attorney is required to examine ten to 15 cases. With an enormous caseload such as this he has to negotiate cases. The caseload also makes the possibility of mistakes very high.

A mistake in case preparation by a district attorney is a great problem because the mistake can produce a snowball effect. If a district attorney is unprepared due to a mistake, the case must be rescheduled or dismissed. Usually the case is rescheduled. If the defendant is in custody the case will be continued for one week or less; but if he is out of custody the case may be set for a month or so later. This has an adverse affect on the whole case because the more time between the occurrence of the offense and the prosecution of the case, the greater the tendency for witnesses to forget important facts and lose their ability to identify the offender.

Continuances are sometimes used by defense counsel as a tactic to wear out the prosecution and make witnesses forget facts. This practice does not appear to be widely prevalent in the Alameda Municipal Court--at least at the stages from arraignment through the preliminary. Most continuances before the preliminary seem to be requested by the prosecution. The defense rarely asks for a continuance, especially where the defendant is in custody. When a defendant is in custody all parties try to expedite matters.

A defendant's custodial status has a great bearing on the processing of a case. At the arraignment and the preliminary those cases where the defendant is in custody are heard first. Many times this procedure indirectly gives the defense a continuance. This occurs when there are too many preliminaries scheduled in a day necessitating the rescheduling of some cases. Those in custody wish to have their cases processed quickly so that they spend a minimum amount of "dead" time in jail. The



result is that those out of custody have their cases reset at times two to three months later.

If the judge finds sufficient evidence at the preliminary hearing to believe a felony has been committed and the defendant is guilty, a holding order will be issued. The holding order compels the defendant to be in the Superior Court on a certain day (usually three weeks later) to be arraigned for trial. If the judge finds there is not sufficient evidence, the case is dismissed and the defendant is released. However, if the defendant is released, the district attorney may recharge the defendant with the same offense, without twice putting the defendant in jeopardy for the same offense. This is because the preliminary is not a trial but merely a proceeding to ascertain if a trial should be held.

In one robbery case the judge dismissed the case for lack of evidence. The deputy district attorney then refiled the case with a new robbery charge. The deputy district attorney indicated that he had two other eyewitnesses that he could call to prove his case. The reason this defendant was not held to answer in the first place was because the two witnesses who had testified could not say for sure that this defendant committed the robbery. The victim, in custody for being drunk in public, when asked to identify the defendant could not see as far as the defense table. The victim's inability to see the defendant when sober attacked his whole credibility and reliability. The other witness, a hotel desk clerk, could only state that he had seen the defendant lean over the victim and that another party, not acting in concert with this defendant, also leaned over the victim and roughed him up. The

district attorney argued with the judge that the victim in fact knew who robbed him because "winos protect their money because money buys the one thing in life they live for."

The deputy indicated that one reason for refiling was that "there are so many drunk rolls occurring that when we catch an offender we must try our best to convict; maybe a few convictions will stop others from rolling drunks." His principal reason, however, appeared to be to protect his won-loss record. This was the first case in which he had not received a guilty plea or a holding order.

If a defendant is charged with a felony, the district attorney can proceed before the grand jury instead of going through a preliminary hearing. Sometimes when a defendant has many counts against him, the grand jury will be used to expedite matters because cross examination is not allowed at the grand jury. This procedure was used in one robbery case where there were two defendants, each of whom was charged with five counts of robbery, five counts of kidnapping, one count of assault with intent to kill, and one count of assault on a peace officer. The defendants had been in custody for almost two months and had yet to have a preliminary. Finally, the district attorney decided to submit the case to the grand jury. The deputy district attorney handling the case indicated that he went before the grand jury because a preliminary would have consumed too much time.

D. Plea Negotiations in Municipal Court

Plea negotiations cut across the entire system. They are a method of streamlining the whole judicial system. The defendant



enters a guilty plea; in exchange the district attorney reduces the charges or guarantees a certain sentence recommendation. Both the prosecution and defense attorneys contend that the only time a plea is entered is when the defendant is in fact guilty.

If a robbery charge is reduced to grand theft, often no other consideration is needed to obtain a plea. Sometimes, however, the district attorney must also make some sentence allowances, such as agreeing to recommend that only county time be served. Theoretically the judge is not bound by the sentence agreed upon. In practice, however, the judge is bound. If the judge does not follow the agreement soon defendants will not bargain, and the whole plea negotiation system will collapse. Moreover, a system has developed to insure the judge complies with the agreement. A guilty plea is entered contingent upon the sentence agreement being adopted by the sentencing judge. If the Superior Court judge doesn't follow the deal then the plea is set aside, the defendant comes back to the Municipal Court and proceeds with a preliminary as if a plea had never been entered.

The power of an individual deputy district attorney is most dramatically displayed in the plea negotiation process. Here the district attorney plays judge and jury. The factors which lead a deputy to accept a particular deal are not easy to generalize. They are at least in part personal to the deputy district attorney involved. One case handled by two different district attorneys involved a "hippie" addicted to "speed" who snatched the purse of a 15-year-old girl in broad daylight. The offender was apprehended with the purse in his possession after a chase by some witnesses. The defendant was charged with grand theft. The deputy district

attorney originally assigned to the case indicated an intent to press the charges to the full extent possible; a deal would not be accepted in this case. The case was transferred to another district attorney, however, who viewed the case differently. After reviewing the file and talking to the victim for a total of ten minutes, he accepted a plea of guilty to petty theft with a 60-day sentence. When the first district attorney heard of this disposition, he was furious, stating: "Pursesnatches are potentially dangerous crimes. We have to stop these addicts who are supporting their habits by snatching purses." He continued talking about the merits of the case, stating there were no problems with identification or proof: "A case as good as this should be prosecuted and not dealt out. No other district attorney in the office would have accepted that deal."

One district attorney doesn't like to accept any deals in robbery cases. He feels that robbery, particularly armed robbery, is so serious that a person who commits a robbery should be punished for committing a felony. The problem with accepting a plea to grand theft is that the judge in his discretion may sentence the defendant to a misdemeanor sentence. This same district attorney will accept almost any deal in Juvenile Court. The reason for this disparity is that "it doesn't matter what they are found guilty of in Juvenile Court, the disposition is the same."

Another method of bargaining involves the Juvenile Court. When a minor is between 18 and 21, he may be prosecuted as a minor or an adult. Usually the police will hold a minor in this category in the adult jail. He will be processed as an adult unless the case is transferred to the Juvenile Court by the Municipal Court judge.



The defendant pleads guilty, and in exchange for the plea the district attorney transfers the case to the Juvenile Court. This is a favorable disposition for both defense and prosecution. For the defense, it is favorable because the defendant thus avoids a felony conviction and an adult record. The prosecution obtains a conviction plus a disposition which is not time-consuming.

In response to questions concerning the number of robbery cases which are disposed of by pleas, conflicting answers were given. Some district attorneys felt that a lot of robberies were disposed of by pleas, while others felt fewer robbers "cop out" than do other offenders. Part of this dispartity was clarified by drawing a distinction between armed and strongarm robbery. Armed robbers are much more likely to go at least as far as the preliminary because most strongarm robbery cases are weak as to identification. If the preliminary brings out shaky testimony, then the defendant is in a much more favorable position to bargain. On the whole, it was felt that robbery cases are settled by guilty pleas at about the same frequency as other crimes, although armed robbery tends to be settled more often by guilty pleas.

The strength of the district attorney at the Municipal Court level in plea bargaining is maintained by two forces. First, once a deal is offered in the Municipal Court and is not accepted, a better deal will, at least in theory, not be offered by the attorney in the Superior Court. Secondly, sentences given by the Superior Court judges for felonies tend to be greater than those given by the Municipal Court judges for misdemeanors.

Plea bargaining is viewed by the district attorneys as a necessary procedure in order to keep the criminal justice system functioning.

E. The Perception of Robbery by the Municipal Court Deputies

The major problem in prosecuting robbery cases is identification of the offender by victims and witnesses. Some Municipal Court district attorneys feel that robbers deliberately pick victims who will be unable to identify the offender. In their view this explains the large number of robberies of drunks and elderly people. It also explains the number of robbery-murders in which the offender escapes detection by killing the victim. One district attorney felt that the only way a prosecution is brought against a strongarm robber is if he is caught at the scene of the crime. "Drunk rolls are particularly a problem. The only way this type of robber is caught is if a good citizen witnesses the robbery and provides the identification; drunks can't identify anyone."

In the district attorneys' view, robbers, both armed and strongarm, are primarily caught at or near the scene of a robbery. One distinct difference is that when an armed robber is caught, victims of past robberies usually can identify the suspect, thus clearing up past robberies. However, in strongarm robberies because of the victim picked, identification at a later time is almost impossible. Strongarm robbers therefore are usually prosecuted only for the offense which they are caught in the act of committing.

Several district attorneys contended that "robbers, especially



armed robbers, tend to be professionals. Burglars and shoplifters don't become robbers; it takes a different kind of person to be a robber."

When questioned directly on how serious they regard robbery, all district attorneys stated it was a most serious crime. One district attorney responded that "next to murder, armed robbery is the most serious offense a person can commit." However, when talking about robbery outside the context of a specific question about its seriousness, most district attorneys tend to describe robbery as they would any other crime.

One factor continually mentioned by the Municipal Court district attorneys was the light sentences given robbers. Most Municipal district attorneys feel that it is a rare case in which a robber is sentenced to state prison. Probation was mentioned as the most common sentence. The district attorneys expressed an attitude of "What good does it do to work hard for a conviction when the judge cuts the offender loose."

## II. THE SUPERIOR COURT

There are three ways in which a defendant may enter the Superior Court. The first and most often used method is on a holding order issued at the conclusion of a preliminary hearing. The second method is an indictment issued by the grand jury. The third and least used method is pleading guilty at the Municipal Court and being certified to the Superior Court for purposes of sentencing.

If a case arrives on a holding order, an additional step is taken by the district attorney's office. This step is called

"drawing the information." Two deputy district attorneys spend most of their time performing this task. These attorneys read the preliminary hearing transcript to ascertain if any new offenses were uncovered during the preliminary hearing. If any new offenses are discovered or an error in charging is discovered, then these new charges will be added to the information.

After the information is drawn it must be filed in the Superior Court. The district attorney has 15 court days in which to file the information (after the preliminary hearing). In practice the information isn't filed until the last day of this period. This is done because an accused's right to trial within 60 days begins to run when the information is filed and the district attorney wants to have as much time as possible. Thus an accused who is incarcerated spends another three weeks of dead time which does not count as time served if convicted or time against his statutory right to trial within 60 days. From observation most defendants waive time anyway, thereby releasing the district attorney from the 60-day time limit. Thus, it doesn't appear necessary to wait a full three weeks before filing on information.

A. The Master Criminal Calendar Court

Whichever method the defendant takes to get to the Superior Court, he must appear first in the Master Criminal Calendar Court. This court, which is a part of the Superior Court, acts as the roundhouse for the five criminal courts which are also a part of the Superior Court. The Calendar Court assigns cases to those courts as available and seeks to keep cases moving as rapidly as possible.



Each day the calendar is divided into five different sections; primary trial cases, secondary trial cases, arraignments, pre-trial conference, and sentencing. Managing the primary and secondary trial cases is where the administrative role of the Calendar Court is most visible. Here the Calendar Court seeks to get those cases needing a trial into a court. Those cases designated primary are to be tried first, and if for any reason a primary case cannot go to trial then a secondary case goes. While the Calendar Court controls cases at this stage, once they go to the trial court the Calendar Judge loses all control. He has no power to force a trial judge into taking a case or for that matter quickly disposing of cases. Many factors go into the acceptability of a case, including length, type (murder, robbery, political, etc.) and complexity, etc.

In viewing the procedures of this court, it is important to keep in mind the tremendous pressure on all involved with it. As one deputy D.A. put it: "That court is a killer--it takes a special breed to keep on top of that court. There are between 450 and 600 cases backed-up which the calendar now must deal with." This court is extremely busy, handling over 50 cases every day. The court is in session from nine to noon and two to four-thirty or five almost every day.

The judicial functions are even more important because the Calendar Court disposes of the majority of cases which come to the Superior Court. Arraignment, pre-trial conferences and sentencing are the judicial functions of the Calendar Court. These three calendar functions take up the bulk of Calendar Court's time.

The deputy D.A. in the Calendar Court is in fact the chief

administrator of this court. It is the deputy's job to decide which cases need to go to trial, to negotiate other cases and to set others on the pre-trial Conference Calendar. This initial determination by the deputy D.A. is crucial to the outcome of a case. What kind of deal the calendar D.A. is willing to make affects the whole course of a case.

Superior Court Arraignment. The purpose of the Superior Court arraignment is to advise the defendant of the charges against him and of his constitutional rights. In the vast majority of cases this is a wasted proceeding, because most defendants have been arraigned at the Municipal Court. The arraignment is useful for those who have new charges added after the preliminary hearing and those few defendants who have been indicted by the grand jury.

That which unofficially occurs at the arraignment, however, makes the defendant's appearance at this stage important. The deputy D.A. makes his initial determination here as to what type of disposition will be acceptable for a particular case. Many times cases will be disposed of at arraignment. In other cases the deputy D.A. and the defense attorney will agree that a deal should be made even though the particulars of the deal can't be reached at this time. In these cases the deputy D.A. will set the case on the pre-trial conference calendar, usually for three weeks after the arraignment.

The Pre-Trial Conference. The purpose of the pre-trial conference is to give the D.A., the defense attorney and the defendant time to negotiate a deal. Many times the deputy D.A. and the defense attorney agree on a deal but the defendant is reluctant to plead. When this occurs the deputy D.A. puts the case on the



pre-trial calendar. Every day there are five to ten cases scheduled for pre-trial conference. The procedure followed is that when the judge is finished with the day's sentencing calendar, the court is recessed. During the recess the deputy D.A. and the defense attorney talk over the case. When the deal is settled, the judge convenes court and disposes of the case.

Since each judge sentences those cases he disposes of, the Master Criminal Calendar Court judge must sentence defendants. Each afternoon beginning at 2 p.m., the judge begins sentencing those defendants he has found guilty or from who he has accepted pleas. A defendant is usually sentenced three weeks after his plea or trial. The purpose of this time lapse is to give the probation department an adequate time to prepare a psychological and background workup in order to aid the judge in his sentencing. In many cases this report is unnecessary because the sentence is predetermined by the negotiation. The report will still be prepared, however.

It seems apparent that plea negotiation has a tremendous effect on the operation and structure of the Criminal Calendar Court.

B. Plea Negotiations in Superior Court

"Without bargained pleas the whole system will collapse." This statement by a deputy D.A. probably best characterizes the role of negotiated pleas in the criminal justice system.

The magnitude of negotiated pleas in the Superior Court is illustrated by Table 1.

[Insert Table 1]

The first thing one notices about Table 1 is that roughly 75 percent of the robbery cases are decided by guilty pleas. The guilty plea is the manner in which most negotiated cases are settled. The defendant pleads guilty in exchange for concessions made by the district attorney. Those convicted by court trial contain some cases submitted for decision by the judge on the basis of the transcript of the preliminary hearing. This is in effect a negotiated plea because there is no trial by the judge. One deputy explained that this kind of submission is sometimes made when the defense attorney believes the defendant will be found guilty if tried, but the defendant won't admit his guilt. Since a guilty plea requires that the defendant admit his guilt, no negotiations could be reached unless the defendant cooperated. This deputy thought the submission procedure was an extremely good innovation. "The Chief Assistant Public Defender came up here from L.A. and introduced this procedure to us. We find it works very well."

A negotiated plea can take many forms, such as sentence concessions, reduction in the nature of a crime, reduction in the number of crimes charged or dropping the prior convictions charged. The nature of a particular deal can take many forms and depends mainly on the individual involved. Most defendants are primarily concerned with the sentence they will receive.

The form of a negotiation based on sentence concession will vary greatly. A defendant may seek to avoid state prison by accepting commitment to the Youth Authority. Probation,



Table 1

Persons Convicted in Superior Court
by Type of Trial or Plea
(In Percent)

Convicted of Robbery

| | On Guilty Plea | By Jury | By Court |
|---|---|---|---|
| 1967 | 70 | 19 | 11 |
| 1968 | 80 | 13 | 7 |

Total Convictions

| | On Guilty Plea | By Jury | By Court |
|---|---|---|---|
| 1967 | 87 | 7 | 5 |
| 1968 | 86 | 7 | 7 |

probation with jail, and straight jail are other sentence concessions a defendant might seek.

The district attorney will deal or make an offer in almost every case. Negotiation is the name of the game. The whole stucture of criminal justice is centered around how to negotiate cases. As can be seen by the above discussion of the Master Criminal Calendar Court, the courts are even set up in a manner to facilitate the acceptance of negotiated pleas.

Negotiations usually begin at the Municipal Court but are rarely settled there. Serious negotiations begin at the time of arraignment and continue to some extent up until the time the jury comes back with a verdict. In one case witnessed, the deputy D.A. was asking for the death penalty, but all along he mentioned the fact that he was still willing to deal. Before the selection of the jury he was afraid the judge would force a deal so that a death penalty trial would not proceed. Even the judges look first to a negotiated plea and then to a trial as a last resort.

Plea negotiations even play a role in determining what makes a good public defender. Many D.A. deputies believe a good public defender is one who can talk his clients into accepting deals.

C. Case Preparation

When a defendant is arraigned and plea isn't entered, then the calendar D.A. assigns the case to a trial deputy and an investigator. Sometimes the time spent by the trial deputy and inspector is wasted because a plea is later entered. The inspector can play an important role in the disposition of cases, however. The inspector first reviews the police procedure followed in



examining the case. Inspectors are troubleshooters seeking to solve the problems presented in the case. Many problems arise out of the preliminary hearing. A witness at the preliminary may not prove to be as strong as thought by the police. Inspectors not only seek to make cases stronger; they also check out a defendant's alibi. In fact the inspectors seem to talk more about the cases in which they clear the defendant than the ones in which they make a weak case strong.

Inspectors use many of the same investigatory techniques which the police use. They talk to witnesses, seek to gather physical evidence, use information and talk with the defendant. The inspector also will talk to co-defendants, if there are any, seeking to get one co-defendant to testify against another. Inspectors can generally arrange a grant of immunity in the same way as the police. In fact a promise of immunity from an inspector may be better since he is from the district attorney's office. Informants are also an important source of information for inspectors, at least in robbery cases. One inspector mentioned that "if you want to find out about robbery you should talk to one of my informants. He knows what is happening when it comes to robberies."

The inspector has another role to perform and that begins when a case is near to trial. The inspector is the watchdog of witnesses. He makes sure that witness will show even if he has to go out and pick the witness up. The inspector also is in charge of getting a witness to court on the right day so that a witness will not have to sit around waiting several days to testify. A good inspector also makes sure that a witness is protected from

threats and physical harm.

The trial deputy's case preparation includes overseeing the activities of the inspector, interviewing witnesses, and, most important in robbery cases, making sure that there is a strong identification of the defendant as the robber. The trial deputy spends most of his pretrial preparation time reviewing the facts and not in legal research. If the facts warrant it, he will retrace the whole crime going through the steps the defendant allegedly went through.

D. Citizen Cooperation

Many citizens are very reluctant to aid in prosecuting cases. Some victims refuse to cooperate with either police or district attorney. Examples of this noncooperation were observed at both police and district attorney levels. In one lineup several people attended but only one person properly identified the suspect. Later it was learned that two women erroneously identified another lineup participant because they did not want to get involved. At the district attorney level many witnesses won't testify, and some even change their testimony once they get on the stand. Fear of retaliation by the offender is sometimes a factor in witness noncooperation. In one robbery case this fear proved to be based on proper foundation. In this case the complaining witness was hospitalized due to injuries resulting from an altercation after a court appearance. Apparently, however, this kind of retaliation is rare.



E. The District Attorney in Juvenile Court

Since the United States Supreme Court decision in the Gault case guaranteeing juvenile defendants the same rights as adult defendants to have defense counsel, the district attorney's office is also involved in cases before the Juvenile Court. The district attorney's role in juvenile cases is less, however, than that for adult cases. Juvenile matters are handled mainly by the probation department.

The juvenile system's equivalent to a complaint is a petition. Once the minor is placed in the custody of the probation department, the probation officer is on his own to decide whether or not to issue a petition. Usually the probation officer consults with the arresting officer and the minor, and checks the minor's past record. On the basis of this information a decision is made. While the police are consulted they do not have the influence on the decision to charge in juvenile matters that they do in adult matters. Different types of robbery are viewed differently. Taking a quarter from a schoolmate with force is viewed as a serious offense because "only a person with a psychological problem would rob a fellow classmate." In adult matters this would be considered an offense but not too serious.

The first step in juvenile procedure after the decision to file a petition is a decision by the probation officer on detention or release pending the dispositional hearing. If the juvenile is not released, a detention hearing is held. At the detention hearing a referee determines if the minor shall be held or released until the dispositional hearing. The next step is the juvenile equivalent to a trial, the dispositional hearing.

The dispositional hearing is conducted in a manner similar to a non-jury trial in the adult courts. The district attorney plays the role of prosecutor in juvenile cases. His control is shared with the probation department, with the probation department maintaining majority control. The district attorney will offer deals to the defense but they are always subject to the approval of the Court Officer (the probation officer who acts for the probation department in court).

District attorneys are more likely to offer a deal in a robbery case in Juvenile Court than they are in adult court. As one district attorney says, "This is because it doesn't matter what a juvenile is convicted of, the disposition will be the same." In one case observed the district attorney started by offering a reduction of robbery to grand theft, then petty theft, and finally battery. The defendant, however, refused to accept any deals and proceeded to trial where he was found guilty.

Most district attorney deputies spend at the most 30 minutes of preparation for a juvenile case; the majority of the time their only preparation is reading the police report. While most district attorneys realize the large number of robberies being committed by juveniles, they still do not approach juvenile cases with any great determination. The D.A.'s attitude can best be described as: There is not much we can do at this time, but this defendant will eventually appear in adult court and then we will handle the case so that interests of justice will be served. Some deputies feel that the probation department is particularly light in their sentence recommendations.

In the juvenile cases observed the defendant always took the



stand in his defense, usually not aiding it, however, by testifying. In the robbery cases observed the minors were always found guilty and confined for some period. Only one minor was sent to CYA, with the rest being sentenced to the Senior Boys Camp.

The judge of the Juvenile Court indicated concern about the increase in the number of robberies and the violent nature of the crimes. In one case the judge asked a minor why he committed the robbery; the minor had no explanation, and the judge said the reason he was asking was because he wanted to get some insight into the motivation for robbery. The minor then responded he committed the robbery so as to be one of the group. The judge stated that the previous judge had felt that sending robbers to Senior Boys Camp for a period had some deterrent effect.

## III. CONCLUSIONS

It is difficult to study the processing of a certain type of criminal case in a system designed to handle all types of crime. The people most directly connected with the process don't think or act in terms of any particular crime. Therefore, it is difficult to see how these people feel about a particular type of crime, or how they approach a certain crime compared to another. Most district attorneys approach criminal law on a case by case approach without seeking to establish any pattern regarding any one type of crime.

Another factor which hinders the drawing of any broad conclusions is that each district attorney acts differently. There are few uniform office policies to direct attorneys. Every district attorney possesses a great deal of power and in the normal

case usually doesn't answer to anyone to justify his use of that power.

Perhaps the best way to describe the processing of robbery cases is that it is a highly personal system. Each case is a composite of the personalities of the police, the district attorney, the defense attorney, and the defendant. And the outcome of any case is dependent in part on the relationships between these parties.

The typical robbery described by several deputy D.A.s when asked about robberies is the armed robbery of a liquor store. This seems to be based on the feeling of the deputies that this is the type of armed robbery most often committed. When asked specifically about strongarmed robbery, the deputies tell you about a drunk roll or someone being rolled in the prostitute section of town. A pursesnatch is always a juvenile taking an elderly lady's purse.

Those robberies in which physical injury or death results have the highest status with the D.A. deputies. Most other robbery cases are considered run of the mill. "If you've seen one, you've seen them all." The only critical issue in robbery cases is the identification of the offender by the victim and witnesses. Many Superior Court deputies as well as the Municipal Court deputies feel that robbers pick their victims based on their inability to identify.

With identification being so important to robbery cases, one would think that U.S. vs. Wade would place new burdens on robbery prosecutions. This isn't the case, however. While Wade arises as an issue routinely in robbery cases, it is an easy hurdle for



the district attorney to get by. This is primarily because the police conduct lineups properly and also due to the great use of mug shots instead of lineups.

Robbers are viewed as dangerous criminals by most deputies. One voiced his opinion of robbers by the following: "If I had my way, that is, if I were running the show, I would hand them all. They possess the greatest potential for serious harm of any type of criminal." The usual robber is seen as specializing in robbery. Most deputies also feel that only careless robbers are getting caught. To illustrate this, one deputy D.A. talked about two university students who were robbing drug stores in a certain area of town. After a series of these robberies, the police began staking out the drug stores and caught the robbers. "If they had only been smart enough to try another part of town, we probably never would have caught them."

While robbers as a class of criminals are viewed as dangerous, there is still an individual determination made as to the nature of a particular defendant. This is where the good guy-bad guy determination is made. A bad guy is one who the deputies feel is a definite threat to society and must be put away. This status is based on an evaluation of the crime, the defendant's past record, and his general attitude towards the police and the prosecution.

Along with this fact is the difference in perceptions about muggers and armed robbers. When an armed robber is caught past robberies are much more likely to be cleared than with muggers. Armed robbers are also much more likely to "cop a plea" than are muggers.

The fact that most Municipal Court district attorneys and

police believe that robbers receive petty sentences appears to have a detrimental effect on the investigation and prosecution of robberies. Some seem to have a "doesn't matter" attitude and are generally unaware of the relatively stiff sentences meted out in Superior Court.

Lack of manpower is another problem. Police, judges, district attorneys, and public defenders are all asked to do jobs which are beyond their manpower capabilities. One area where more manpower would have an effect is in plea bargaining. With more attorneys and judges, the pressure to bargain would not be as great. If fewer pleas were accepted, perhaps the police and Municipal Court district attorneys might be more satisfied with the sentences imposed.



Chapter Five

## PROBATION HANDLING OF YOUTH CHARGED WITH ROBBERY

Youths arrested for robbery offenses are almost always turned over to the county probation department. What happens to these arrested youths thereafter depends in large part on the actions of the county probation department. How these cases are handled by the probation department obviously depends in large part upon its general methods of case-handling.

In California and many other states the role of the probation department in juvenile cases is much broader than that of any agency in the adult criminal process. Initially, the probation department has an extremely broad discretion to decide how the case should be handled. It may dismiss the case entirely, place the youth on informal probation without the case going to court, or may petition the court to assert jurisdiction over the youth. In this role the probation department occupies essentially the same position as the district attorney in the charging of adult cases but its discretionary authority is even broader and more widely recognized. If the initial decision is that the case should go to court, the department continues to play an important part throughout the case, successively being responsible for presentation of the case before the juvenile court (a role that is increasingly shared since the Gault decision with the district attorney), development of disposition plans, and later the carrying out of the correctional disposition ordered by the juvenile court.

This report is a description of policies and procedures followed by a Bay Area County Probation Department in the handling of youths arrested for robbery and pursesnatching. Its major purposes were to determine what happens to these cases and what, if any, differences exist between their processing and the processing of "standard" cases.

It is based on field observations and discussions and necessarily reflects the opinions and views of the author. As will be seen, certain differences do appear in the handling of robbery and pursesnatching cases by the probation department. However, the differences are neither uniform (they do not occur in each case of robbery and pursesnatching), nor are they unique (they may be shared with other kinds of serious offenses). To the extent that differences show up, they arise from two principal sources: (a) the presence and intensity of violence involved in such offenses, and (b) considerations of evidence, which in robbery and pursesnatching cases often take on special features because of the importance of recognition by victims and witnesses. It should be emphasized that from an organizational standpoint, the probation department must attempt to balance competing interests. It is only one of several official parties importantly involved in the processing of juveniles accused of robbery and pursesnatching. Victims, witnesses, and frequently the parents of the juveniles are also involved in making decisions about such cases. The department, seeking to follow a policy of even-handed justice, must take all these factors into account.



## I. INITIAL SCREENING

When a juvenile is arrested anywhere in the county and formal action is to be taken, the youth is delivered into the custody of the probation department. The probation center has detention facilities and a book-in setup known as Boy's Receiving. The suspect is "booked-in," assigned a "room," and is shortly thereafter "interviewed."

The general procedure is as follows. One deputy probation officer from the intake unit is assigned to Boy's Receiving and it is he who performs the initial screening function. The intake screening position is manned from 8:00 a.m. to 12:30 in the morning and on weekends. If a suspect is brought in at a time when no screening D.P.O. is at work, he must wait until the following shift to see anyone.

The deputy doing the initial screening performs essentially two main functions:

--He must first determine whether the case warrants any further action by the probation department.

--If so, he must further decide whether to continue to maintain physical control over the juvenile.

Thus, the screening deputy probation officer has a number of alternatives open to him. He may release the juvenile, which means that the charges are dropped. He may conditionally release the person, which means that he is not to be detained any further at this stage in the case, but subsequent action may be taken. In

this situation the person is typically told to come into the office and see another D.P.O. within the next day or so. Or a petition may be filed and the juvenile either held pending a detention hearing or released to return later to a hearing on the petition.

Police Reports. There are several pieces of paper that are supposed to accompany the youth when delivered by the police to the probation department. Depending upon the police department and the police officer, however, some of these documents may not be sent over until the following day or two. Generally, all police departments fill out the "Delivery of Custody of Minor" form. Several police departments do not, however, send the crime or arrest reports along with the suspect. Delay, of course, makes any initial determination by the screening D.P.O. more difficult, since he has no information about the alleged offense except the Penal Code Section (e.g. 484 petty theft). In robbery and pursesnatching cases this factor is somewhat less important, as most of these cases are detained anyway.

Even assuming that the appropriate reports are available, however, the screening deputy still may be faced with a serious problem, that of assessing whether sufficient evidence of the offense is available. The screening deputy generally doesn't have time to "investigate" the charges any further than to read the police reports and interview the suspect. Occasionally, however, the deputy will do some investigation on his own. In one case a D.P.O. questioned the suspect and when the youth denied the charge, investigated, discovering that the suspect had a good alibi. The deputy therefore released the youth.



The Interview. There are two basic sources of information on which the initial screening deputy bases his decisions. One is the police report. The other is the suspect himself. The screening deputy interviews every juvenile delivered to Boy's Receiving. Needless to say this initial interview cannot be very extensive. The intake officer is forced to conduct the interview rapidly and simply ascertain what the suspected offense was, whether the youth denies the offense, and whether this was the youth's first contact with the probation department. The intake officer is also concerned to some extent with what the parents want and whether the youth "talks" or not about the offense. Generally, "talking" is viewed favorably. Both the parents and the youth are told of the legal rights of the juvenile.

The interviews observed were conducted in a small, stuffy room at the end of the hall in which detaining cells are located. Many of the youths were hostile and many were there for runaway, incorrigibility, and other section 601 offenses. In one set of observations the D.P.O. was a large man, with a friendly, but businesslike, demeanor and manner. With this deputy some kids at first tried to run a lot of nonsense past him, but most gave that up quickly. On the other hand, the deputy really did try to ascertain, to the extent possible, whether the youth had a legitimate alibi.

## II. THE PETITION DECISION

The decision as to whether to file a petition or not is the equivalent in adult cases of the charging decision. There seems

to be a policy to the effect that if the subject has never had contact with the probation department before (e.g., this is his first known offense), he is rarely held at this stage in the process. In one case the suspect was arrested on a burglary charge and was given a "conditional release." However, when the suspect is involved in a robbery or pursesnatching, a petition is almost always filed and the youth is almost always automatically detained pending a detention hearing (and then almost always held pending the delinquency hearing). This seems to hold true whether the offense is a first offense or not.

Many times the suspect will already be on probation or parole. If on probation, the screening D.P.O. always calls the supervision D.P.O. and almost always decides whatever the supervision D.P.O. suggests. If on parole, the screening D.P.O. generally tries to contact the parole agent, but the parole agent's wishes may well not be determinative. California Youth Authority parole officers are viewed on the whole as too readily inclined to recommend release. One screening D.P.O. explained that he is responsible to the juvenile court whereas the parole agent is a state employee who may have different interests in the case.

The precise considerations involved in the charging process are not easy to state. Offense and prior record are particularly important. But like all complicated matters there is a certain amount of necessary ambiguity. Some D.P.O.'s who were interviewed, for example, found it very difficult to make any generalizations about the charging process. They could only think in terms of specific cases. There is in addition a large amount of subjectivity



involved in the charging process. A further difficulty stems from the fact that the district attorney has come to have considerable influence and expertise in deciding whether and what to file in the juvenile court.

Beyond the question as to whether a petition should be filed at all or not, is the question as to what the charge should be--whether the offense should be labeled, for example, as a robbery, or as a simple assault or petty theft. Not as much attention is paid to this decision in the case of juveniles as in adult court where the offense designation has much more clearly defined consequences in terms of the judge's sentencing authority. The decision is still one of some importance, however. While in legal theory all juvenile violations of the penal code are simply violations of section 602 of the Welfare and Institutions Code, studies have shown that in practice the specific offense label is often looked to later by the police, intake personnel, the court and correctional officials in determining how serious the offense was. One intake D.P.O., for example, explained that if he looks at a case file and sees malicious mischief or some petty offense, he pretty much disregards it. If the boy has had a previous robbery offense, however, then this is another matter.

A number of intake deputies were consequently asked about the considerations they saw as being involved in the petition decision for robbery and robbery-related situations. In particular they were asked about how they decided between a robbery petition as opposed to a grand theft pursesnatching petition.

One D.P.O. stated that if any force or violence was used, or

if the victim was injured at all, then he would charge a robbery. He said that he realized that the charge would often be mitigated in court or elsewhere but that his role was to label accurately what happened.

Another D.P.O. stated that if any violence or if a weapon was involved, a robbery should be charged. When asked to distinguish between a robbery and pursesnatch charge, his response was that it was usual for a little old lady to be involved in a pursesnatch. These victims quite often received injuries and therefore a robbery would often be charged. However, if the victim was a 30-year-old woman and she was not hurt (even if her arm got pulled in the process of the snatch), then maybe a grand theft would be appropriate.

Another D.P.O. explained that he would charge grand theft if there was not too much physical activity involved and threats rather than overt actions were used to effect the crime. He also stated that in some instances administrative or supervisorial views are the determining factor.

Another factor affecting the nature of the charge has to do with the concern of the D.P.O.s that the youth's record "accurately reflect" his past behavior. One D.P.O. said that he thought that in serious cases, such as a robbery offense, he was paving the road to San Quentin for these offenders. Large distinctions, however, are made between various types of robbery offenses. With one exception, every D.P.O. interviewed indicated that he views the 25 cent shake-down on the school yard as much less serious than other forms of strongarm robbery. The one D.P.O. who disagreed said he thought that a kid who would "rip off" his fellow classmates



had a very serious mental problem.

Some D.P.O.'s also make a distinction between juveniles committing "situational" robberies and treat these youths differently than suspects whom they believe are dangerous and likely to rob again at any time.

The increased involvement of lawyers in the juvenile process has also had an impact on the charging policies of the probation department. The presence of lawyers--both defense and prosecution--has affected both the nature and number of counts charged. All intake D.P.O.'s are aware of "plea bargaining." As indicated, some D.P.O.'s charge a robbery when they feel that perhaps a grand theft or some lesser offense would be an appropriate finding, since they believe that the system will arrive at that result in the end, but only if a more serious offense is charged in the first instance. On the other hand, some D.P.O.'s indicated that they charged only what they felt the ultimate findings should reflect and that they did not like the gameplaying by the lawyers and other people involved in the process. Such variations may refer more to preferences than to actual behavior among deputies. It is true, however, that plea bargaining is very distasteful for a certain kind of probation officer.

Several D.P.O.'s indicated that the juvenile court district attorney deputies were helpful in determining whether the elements of an offense existed. Others indicated, however, that the D.A. deputies really played a small role in actually deciding what to charge. It was stated that the D.A. deputies wanted to charge many more cases and violations than the probation department felt

necessary. If the elements of a robbery exist, for example, the D.A. deputy is said to want to charge that offense, irrespective of the other factors in the case. Much apparently depends on who will "put the case on" in court--the district attorney or the probation officer. If the former, then he calls the shots.

The D.A.'s position is probably not without its own intricacies. He probably has to defer, or at least give the appearance of deferring, to the probation officer in certain situations, if only to maintain his ability to exercise influence in others. The principal arena is the contested case, where the major question concerns who will "put cases on"--the D.A. or the court officer. Estimates are that the deputy D.A. puts on contested cases about 80 percent of the time, the court officer about 20 percent. Nearly all of the contested cases put on by the court officer are heard by the juvenile court referee. The division of labor is about 50/50 in non-contested cases.

The D.P.O.'s interviewed expressed mixed emotions about the increased involvement of lawyers in the juvenile justice system. Some were of the opinion that it was healthy, since lawyers kept the D.P.O.'s on their toes. Others felt that most lawyers didn't really understand the juvenile justice system and simply got in the way without really helping their clients. One D.P.O. said that the only effective lawyers were the ones who got on the case right away and contacted the D.P.O. soon after arrest. He was not sure, however, whether this was more likely to occur when a serious offense, such as robbery, was involved or not.



## IV. INVESTIGATION FOR COURT

The Boy's Investigation Unit is bifurcated. One section performs "intake" functions, while the other performs "investigation" (writing the court report, the social study, and working on dispositional issues). If it is determined after the initial screening process that a petition should be filed, a senior D.P.O. within the Boy's Investigation Unit decides to whom the case should be assigned for court investigation and further action.

Generally the assignment will be to the investigation section. Youths who have not had previous contact with the department and cases not currently on probation are almost always assigned to this section. Active probation clients who are currently receiving field supervision may, however, be assigned to the Boy's Supervision Unit for handling.

If an active client is involved with a co-participant who is a new case, however, the departmental policy is that both cases, including the active case, be handled by the investigation unit. Thus, if the case is assigned to the Boy's Investigation Unit, there are normally two D.P.O.'s actively involved in any given cases. As will be seen, this often is not true with respect to robbery and pursesnatching cases.

Another situation in which the case will probably not be assigned to the field supervision deputy already handling the suspect is if the case appears to be a difficult and time-consuming one. The field deputy may not have time to properly investigate the case. Some field D.P.O.'s do not like to do investigation

work and occasionally the investigation unit senior may feel that a particular supervision D.P.O. is simply not capable of doing an adequate job of investigation.

Supervision deputies may sometimes play a role even if not assigned the case. One case involved a boy, already on probation, who became involved in a pursesnatch with several other co-participants. The case was assigned to the investigation section, over the objection of the field D.P.O. After the initial intake work was completed, however, the field D.P.O. convinced the "investigating" D.P.O. to let him help do the court report on the youth. Thus, part of the work was done by the investigation section and part by Boy's Supervision. In this case the supervision officer wrote up the "social factors" part of the court report.

The Investigation Interview. In the investigation interview the "warnings" given to the juvenile are done very carefully, and more time is spent trying to ascertain the boy's side of the story than in the initial screening. These interviews are conducted either in the intake screening room or in the dining room facilities. In the interviews observed the D.P.O. read the warnings exactly as printed. The juvenile seemed to pay no attention to what was being read. Several youths then obviously (at least it appeared obvious) tried to tell the D.P.O. a phony story. In one case, the suspect being interviewed, in tears nearly the whole time, was vigorously protesting his innocence. About halfway through the interview the D.P.O. got up to get a drink. Another youth came into the dining room, and the suspect, tears still in his eyes, smiled and nodded at him. When the D.P.O. returned, so did the solemn face and tears.



Prior Record. One section of the court report is concerned with prior record and calls for a listing of previous court findings. Sometimes in the completion of the section the distinction between previous charges and previous findings is not always carefully maintained. In one case, for example, a ward had been before the juvenile court and charged with a robbery. The court made a receiving stolen property finding instead. When the boy was again before the court on another robbery charge, the report stated that the court had made a previous finding of "robbery."

Effect of Plea on the Investigation. Generally there did not appear to be any penalties involved insofar as the probation department was concerned, in contesting the allegations contained in the petition.

One court supervisor explained that denying the petition (the equivalent of pleading not guilty) ought not to affect a D.P.O. at all. "The D.P.O. today really isn't personally involved. He used to be more so, when the D.P.O. knew the kid was guilty but couldn't break him down or coerce a confession. The D.P.O. now has a more professional attitude and is not personally involved." In part this may be because contests are now negotiated by the public defender, the probation officer, and the district attorney.

A typical answer given by several D.P.O.'s was that the plea was really unimportant, that a denial should have no effect on his job as an investigation D.P.O. How a denial affects the judge and D.P.O. making dispositional recommendations is less clear. Several D.P.O.'s said they were aware of this problem and simply

tried not to let it affect their judgment. The case of a field D.P.O. who has a boy that he knows and now believes is lying to him is also less clear.

The Supervision Role in Investigation and Intake. The primary function of the Boy's Supervision Unit is the supervision of juveniles who have been placed on probation by the court. This unit also gets involved in intake and investigation, however, when one of its clients becomes involved in another offense. In this situation there is a certain amount of inter-unit competition and corresponding suspicion. The investigation unit senior deputy may be reluctant to assign a case to a field D.P.O. Several supervision D.P.O.'s explained that investigation unit D.P.O.'s sometimes feel that supervision D.P.O.'s are "too liberal" in their handling of repeat cases. A senior D.P.O. from the supervision unit indicated, however, that this feeling was not supported by fact. "This unit is no different than any other. Some D.P.O.'s are, of course, less inclined to file a supplemental petition than others, but we (senior D.P.O.'s and the unit supervisor) attempt to see that certain guidelines are followed." Robbery cases were cited by way of example, as an instance in which the policy is generally to "detain and file." In short, the supervision D.P.O.'s say they approach their job in the same manner as the intake D.P.O.'s despite the fact that some members of the department perceive them as functioning differently. It should be expected, of course, that different functions generate different values and attitudes concerning delinquents. Also, there probably is some degree of self selection going on, with "liberals" heading for supervision jobs.



It should be noted that the same confusion exists concerning "serious" cases as was previously discussed. The unit supervisor stated that most robbery cases are done by the special D.P.O. II in the investigation unit. However, many of the field D.P.O.'s stated that they would do their own investigation work, unless perhaps a homicide was involved.

In one instance involving a probationer charged with a new robbery offense the supervision D.P.O. handling the case spelled out his thought process in his field notebook. The boy, already on terminal leave from one of the county youth camps, had a history of "hustling" and family problems. The boy admitted his new robbery offense, but apparently was arguing to the D.P.O. that he should be granted a 30-day continuance. The argument ran something to the effect that this really wasn't a serious physical offense and a continuance would allow the boy time to "prove himself." The ward argued that if he failed, then the D.P.O. could recommit him or send him to prison or whatever.

The D.P.O. then lists the arguments, pro and con. The notes read as follows:

"In favor:
1. Boy may have made decision to stay out of trouble.
2. Boy is small time hustler - no physical danger?
3. Crimes without victims - hitchhikers, Mj dealing.
4. Boy has "I'm not criminal" self-image.
5. Boy eager to avoid YA, jail, etc.

Against: 1. Only 5 months on terminal leave, all hustling.
2. Must return to mother's home.
3. Past behavior more important than present words.
4. Offense serious enough to face punishment."

The D.P.O. then summarized his conclusion as follows:

"With a crime this serious for a boy this sophisticated and this old, there is more at stake than the best interests of the boy. The community demands a pound of flesh (rightly?)." The ward was ultimately committed to the Youth Authority on this charge.

The terminal leave section, although actually part of Boy's Supervision Unit, is physically separate and keeps its own files. The D.P.O.'s assigned to this unit seemed to approach robbery cases similar to other D.P.O.'s in the department. They too seemed not to think in terms of "robbery" unless they were involved in the filing of a supplemental petition, and even then, the key factors seemed to be violence, and whether they were recommending incarceration or continued probation.

## V. SERIOUS CASES

Some cases are designated "special problem cases" and given special handling at both the intake and investigation stages. One primary criteria as to when a case is categorized as "serious" or special and thereafter treated specially is whether violence or a weapon was involved. Other defining criteria for serious



cases are somewhat vague, including, for example, cases "of considerable community interest." Vagueness in this situation, however, is not evidence of an organizational failure in setting policy--instead it reflects the fact that the world does not arrive on the probation department's doorstep in neat categories.

In "serious cases," the case will normally be handled by one of two D.P.O. Grade IIs. These experienced deputies are expected to know what evidence is important, what elements of offense can be established, which witnesses to subpoena, and when to talk the whole thing over with a senior deputy or the D.A.

Most robberies and pursesnatches are considered serious. A few, however, do not become so categorized.

Even if a robbery or pursesnatch case is not assigned to one of the "serious case" officers, it is generally assigned to one of the "more experienced" D.P.O.'s in the department. This is partly because these cases are more serious. But some D.P.O.'s also seem to prefer this kind of case. Their view seems to be, "give me a good old robbery or pursesnatch case any time, as opposed to a lousy 601 case." To these deputies the 601 cases are clearly more frustrating and more difficult to deal with than a robbery case (601 cases are noncriminal offenses).

After reading what has been said up to now, one might conclude that there are definite "policies" with respect to robbery cases, at least at the intake level. This would overstate the case, however. Basically, probation officers do not think so much in terms of specific violations, whether robbery or pursesnatch or what. If the case is particularly nasty (for example, in one robbery case

the suspect kicked the woman in the face and stomach), then the D.P.O. "naturally" recognizes this as a "serious" case. When talking to D.P.O.'s about their detention policies, many said in effect that it was almost "self evident" and "obvious" that one ought not to turn a dangerous person loose. The point is that the probation department seems to react more to the violence aspect of the case than to the legal definitions.

## VI. THE DELINQUENCY HEARING

There are several protagonists in the courtroom drama and each presumptively has a different role to perform. The main characters are the court officer (a senior D.P.O.), the deputy district attorney, the deputy public defender and the judge. The other characters vary, but often include the police, the victim, other witnesses, and the juvenile's family.

Not surprisingly, many of the important issues are taken care of at the plea bargaining stages. Most of the bargaining seems to take place right before the case is scheduled to go into court. Thus, if court began at 9:00 a.m., most of the action had begun around 8:30 a.m.

In the cases observed, the deputy D.A. had not read the petition before the morning of court. While he was busy reading the file, the court officer and defense counsel engaged in "plea bargaining." This wasn't always true, however, since in several cases the public defender had apparently not read the case file before that morning either. In any event, the real decision makers at this point seemed to be the court officer and defense



counsel. Kids are admonished of their rights--including legal representation. If they want to see an attorney before the detention hearing, they get one. The public defender has a small office right in the probation center and at juvenile hall. Plea bargaining gets going right away when the public defender steps into a case.

The roles of the court officer and deputy D.A. are somewhat overlapping as previously indicated. It is quite possible that how dominant a role each plays is a function of individual personalities as much as anything. One court officer felt that the district attorney simply acted as a "technician" presenting the relevant facts to the court. Another court officer seemed to work differently, however, and the deputy D.A. here played a greater role in the process. Several cases were observed in which the D.A. accepted a "deal" prior to going to court. The unit supervisor complained that while the district attorney gets angry if the probation department does not tell him about deals, the district attorney has sometimes failed to tell the probation department of deals he makes.

In general there seems to be a great deal of concern about violent offenses. While the juvenile court judge often follows the recommendations of the probation department (for all the same reasons that judges abide by "deals" made via plea bargaining in adult court), D.P.O.'s had the impression that the bench has been more severe with robbery offenders than the D.P.O. recommended. The effect of this may well be to make the probation department "tighten up" with respect to dispositional issues. One court

officer indicated that the judge and the probation department had a posture of getting "tough as hell with vicious offenders." One case was observed in which the defendant had an uncle who was a D.P.O. with another county and was obviously very concerned about his nephew. The uncle tried to convince the court officer that it would be much to the boy's and society's interest for the boy to be placed on probation (on a robbery charge which was admitted.) The court officer, however, related this "get tough policy" to the uncle, and absolutely refused to retreat from a recommendation of Senior Boys Camp. This same court officer also indicated that some of the younger and "bleeding heart" D.P.O.'s somehow did not get the word on this "policy," and that he sometimes had to "straighten them out" with respect to their recommended disposition before the petition got to court.

The court is not always tougher than the D.P.O., however. In another case the suspect, just out of camp, was charged with a robbery offense. After a jurisdictional hearing in which the boy, for some reason, did not say anything, the judge made a finding in the case. Later, at the dispositional phase, the boy did speak and presented a very believable story. The judge ruled that he had already made a finding, but now had serious questions about the boy's involvement. Despite the fact that the D.P.O. had recommended a commitment to the California Youth Authority, the judge continued the boy on probation.

There is another new policy being implemented by the judge that deserves mention. This is a fairly strong emphasis on restitution by the offender to the victim. This policy, of course,



becomes operative in most robbery and pursesnatching cases. Several D.P.O.'s complained that the judge has ordered restitution in cases in which it was virtually impossible for the juvenile to comply. One D.P.O. pointed to this "policy" as yet another indication of the punitive motives of the system.

The victim does not appear to play an important part in the probation officer's decisions. Attitudes of victims are far more consequential for police operations. Something of the reverse problem may arise for the probation department when victims (and witnesses) become reluctant to testify (for whatever reasons). By the time a petition has been filed, the illegal event has become very formalized. Those who orchestrate the legal drama are most unhappy when certain key figures want to drop out. In extreme cases, uncooperative witnesses and victims may be reminded of the existence of criminal penalties for filing false reports of crime. Several D.P.O.'s indicated that the victim's personal opinion with respect to the recommended disposition was irrelevant. They were quick to add that a real effort was made to explain and otherwise make the victim understand what was happening in the case, if he was interested. In one case the court officer who was considering accepting a battery and theft plea instead of the robbery offense charge said his acceptance would be contingent upon how the victim who was in court reacted to this deal. This is generally considered a very unusual situation, however.

Cases Transferred From the Municipal Court

In California, as in many other states, some cases may be heard either in the juvenile court or in adult court.

Offenders younger than 18 start out in juvenile court and must be certified to adult court. Offenders between 18 and 21 start out in adult court and are certified to juvenile court.

This overlapping jurisdiction leads to some confusion. The juvenile court judge will not hear any case that originated in adult court, unless the defendant is willing to stipulate to at least some charge when appearing in juvenile court. This policy really puts defense counsel in a tough position. There may be a real question with regard to the client's innocence. Unless the defense has a very good case, however, he may be afraid of a possible conviction in adult court and therefore advise his client to stay within the "protective shield" of the juvenile court by copping out. On the other hand, some attorneys are apparently unaware of this "unwritten policy" and fight to get the case certified to juvenile court only to find that the judge will remand unless a stipulation is made.

One case observed highlights this problem. The case in point (not involving a robbery offense) was very weak. The defendant was 18-years-old and was arraigned in municipal court. The defendant moved to be certified to juvenile court (for reasons known only to defense counsel) and this was granted. The defendant then "denied the petition." The juvenile court judge refused to hear the case and remanded back to adult court. The boy's father was present in court and didn't understand. The juvenile court judge explained that, since the boy had "pleaded not guilty," the judge thought that the boy's rights would be better protected in municipal court. The father still didn't



understand and asked why the matter could not be disposed of in this court. The father felt that going back to adult court and further delaying the outcome of the case would be a real detriment to the boy. The judge, tenaciously holding to his "policy," refused the father's request. After court was recessed, the judge asked the deputy district attorney what would happen in the boy's case and the deputy D.A. said that the boy would probably "get lost" in municipal court, and thus might not even have to appear again.

Some D.P.O.'s believe the municipal court D.A. charges many more cases than the probation department would. One senior D.P.O. stated that he sees many "cheap" cases coming down from adult court and wonders why so many of these ever get charged. Presently there is no mechanism by which the juvenile justice system can accommodate these cases originating from adult court, absent a stipulation to at least some charge. There may well be some practical reasons why the contested cases would be better handled in adult court, but the shuffling back and forth is clearly a poor system.

Several field D.P.O.'s were asked how they go about supervising robbery offenders. In particular they were asked if little red flags jumped up when a robbery or pursesnatch case came across their desk, that is, whether they treat this "type of offender" differently than "others." Generally, these officers said that by itself the type of offense involved made no difference in the way the juvenile was supervised. Some D.P.O.'s even found the question a strange one. Almost without exception, the D.P.O.'s neither knew nor apparently cared how many robbers they had on their caseload.

Thus, while the fact that a robbery had been committed was critical at some earlier stages in the process, it is apparently almost meaningless at this stage. It should again be pointed out, however, that a robbery record is important if the boy commits another crime, since his previous record will then come back to haunt him.

Furthermore, it must be assumed that a boy with a robbery on his record does invoke certain responses from a D.P.O. Several D.P.O.'s talked about "physical acting out" being a "symptom of the real problem." A number of D.P.O.'s also made a distinction between a "situational" robber and a boy with a propensity to rob at various times. For the most part, however, the D.P.O.'s use these terms when discussing specific cases. From responses to generalized questions about the robbers on their caseloads, one gets the feeling that the D.P.O.'s have never thought in those terms.



END