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U.S. Department of Justice  
Office of Justice Programs  
National Institute of Justice



**National Institute of Justice**

*Issues and  
Practices*

# **Redefining the Career Criminal:**

**Priority Prosecution  
of High-rate  
Dangerous Offenders**

124136

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**James K. Stewart**

*Director*

**U.S. Department of Justice**  
Office of Justice Programs  
*National Institute of Justice*

**Redefining the  
Career Criminal:  
Priority Prosecution of  
High-rate Dangerous Offenders**

by  
**Marcia Chaiken and Jan Chaiken**

**April 1990**

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*Issues and Practices in Criminal Justice* is a publication of the National Institute of Justice. Designed for the criminal justice professional, each *Issues and Practices* report presents the program options and management issues in a topic area, based on a review of research and evaluation findings, operational experience, and expert opinion in the subject. The intent is to provide criminal justice managers and administrators with the information to make informed choices in planning, implementing and improving programs and practice.

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# Foreword

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Priority prosecution of high-rate dangerous criminals should help reduce crime, either by making sure that serious offenders are incarcerated, or by lengthening their sentences. But priority prosecution programs cannot always focus on high-rate dangerous offenders. Sometimes offenders' instant offenses or prior records do not clearly indicate the nature of their actual criminal behavior. As research knowledge grows, prosecutors can learn better ways to identify the most active violent predators, using available criminal history information. This report recommends official record information and practices prosecutors should use for targeting such offenders for priority prosecution.

These recommendations are based on a study carried out under the National Institute of Justice's research program on Classification and Prediction of Criminal Behavior. To carry out the study, the authors observed prosecutors' practices and interviewed many prosecutors and defendants. The study determined what information already in district attorneys' offices or nearby offices most accurately identified defendants who, by self-report, committed many serious crimes in the months before they were arrested. The findings demonstrate that some of the best information is obtained by police officers who investigate the crime and arrest the offender.

This report also clarifies how offenders who commit many serious crimes every week or month differ from persistent, long-term criminals who do not commit serious crimes frequently. The findings suggest that some prosecutors inadvertently use information that targets the latter type of persistent or habitual offenders, rather than the desired high-rate dangerous offenders. Some prosecutors also fail to use information that is strongly indicative of committing violent crimes at high rates—such as drug addiction.

The concrete advice offered in this report will be useful to every district attorney who wants to improve his or her office's practices for selecting high-rate dangerous offenders for priority prosecution.

**James K. Stewart**  
*Director*

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# Acknowledgments

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This study is an outgrowth of the link between researchers and practitioners forged by James K. Stewart, Director of the National Institute of Justice. By providing a context in which research is both shaped and utilized by criminal justice personnel, he made us acutely aware of the limitations of standard criminological theories and research methods. He challenged us to strike out in new directions, to formulate alternative hypotheses, and to develop innovative research techniques. We thank him for his constant encouragement and support.

We also thank the many criminal justice practitioners listed below, without whose help and cooperation we could not have carried out our study. Titles date to the period of our data collection, which ended in 1987.

## **Los Angeles County, California**

We appreciate the permission we received from District Attorney Ira Reiner to conduct our study in Los Angeles, and the help we received from Assistant District Attorney Curt Livesay in arranging to do so. Neil Riddle, Head of the District Attorney's Criminal Justice Information Systems Section, and his assistant, Alberta Beitman, coordinated our efforts to track cases through the PROMIS system. Leonard Smith, Data Processing Manager, County of Los Angeles, provided us with necessary programs and printout.

The attorneys in the Los Angeles County Central Career Criminal Division devoted many hours to this project in interviews, case reviews, conversations, and special meetings. They allowed us to sit at their elbows and probe their minds as they made selection decisions. They filled out numerous forms and helped us track cases to disposition. In particular we would like to thank Head Deputy District Attorney Michael Montagna, and Deputy District Attorneys William Crisci, Gregory Denton, Reid Rose, and Alan Yochelson.

With unflinching good humor, the staff of Los Angeles County Clerk, Frank Zolin, provided access to their records, work space, and excellent advice and assistance, as we tracked cases and coded information from hundreds of folders. John Walker, Division Chief, Criminal-Juvenile Division, and David Davies, Director, Pretrial Services Division, and the staff in their Los Angeles Superior Court offices were exceptionally cooperative. Additionally, the coherent organization of their records greatly facilitated our ability to collect data.

Los Angeles County Sheriff Sherman Bloch provided the staff and resources that allowed us to locate and interview defendants in custody of the Sheriff's Department. Deputy Noel Lanier and Sergeant Robert Dixon provided long-

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term help in arranging for interviews in the Los Angeles County Jail. Senior Clerk Corrine Hendon, Inmate Reception Center, and Sergeant Jack M. Anderson frequently interrupted their busy schedules to assist us in locating and interviewing Los Angeles respondents.

## **Middlesex County, Massachusetts**

In Middlesex County, District Attorney Scott Harshbarger gave us permission to scrutinize his newly reinstated priority prosecution program from its inception. We sincerely applaud his willingness to risk the cold light of research in his quest for effective prosecutorial innovations. We learned much from our early involvement and hope our suggestions in this report will provide a basis for further productive change. In the District Attorney's Office, Diane Juliar, Chief of the Criminal Division, Pamela Hunt, Director of the Priority Prosecution Program, Thomas Hoopes, former Director of the Priority Prosecution Program, and Thomas Reilly, First Assistant District Attorney, provided valuable assistance in working out research methods and carrying out case reviews and interviews. We greatly appreciate the help of all Assistant District Attorneys who completed priority prosecution recommendation forms, allowed us access to their records, and reviewed cases. Additionally, the clerical staff answered numerous questions, helped locate hundreds of records, and unstintingly provided space and expertise as we selected our sample, tracked cases, and coded forms.

Commissioner Michael Fair, Massachusetts Department of Correction, and Middlesex County Sheriff John McGonagle gave us permission to carry out interviews in their facilities. Dr. Frank Carney, Director of Research in the Commissioner's Office, and Robert DePauw, Office of the Sheriff, provided crucial advice for locating defendants after case disposition. Superintendents Norman Carver and Michael Maloney, and Deputy Superintendents Hank LaValley and Tim Hall, gave us extended cooperation in the Massachusetts Correctional Institutions, as did Superintendent William Quealy at the Billerica House of Correction. Lynn Woodford, Director of Classification, MCI-Walpole provided advice and assistance over several months.

Deputy Superintendent Steven Jefferson and his assistant Al Kitchener, MCI-Concord, and William Ryder, Director of Human Services, Billerica House of Correction, were key to our ability to carry out interviews and obtain usable self-report information in Massachusetts. Throughout the course of this study, they provided expert advice, oversaw notifications of potential respondents, and made arrangements for our interviewers and interviewees. Their interest in, care for, and commitment to the people in their charge gained our deep respect.

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## Coast to Coast

We are also grateful for the help we received from the Sheriffs' deputies and correctional facilities staff on both coasts. Working in overcrowded conditions with violence-prone populations, they often went out of their way to provide us with needed assistance.

Los Angeles County Public Defender Wilbur F. Littlefield and Counsel Richard Hayes, Massachusetts Committee for Public Counsel Services, reviewed and made suggestions for our procedures for protecting the legal rights of people we interviewed and the confidentiality of the data we collected. We appreciate their concern and the inquiries and advice of the many attorneys whose clients were potential respondents.

Career Criminal Program Directors in virtually all California counties that have such programs reviewed and commented on our observations in Middlesex County and Los Angeles. The generalizability of our study is due to their efforts. Joseph Arellano and Albert Howenstein, Executive Director, California Office of Criminal Justice Planning, arranged for this review by the Career Criminal Program Directors.

In addition to the criminal justice practitioners, several people on our research team devoted long hours over many months to this project. Rita Schwartz, our West Coast administrator, was integral to the project. She vigorously and rigorously carried out the sample selection design, case-tracking procedures, notifications of attorneys, interview schedules, and the myriad of other details a project of this scope entails. Our interviewers, Roberto King, William Cudmore, David Dawson, Julian Gonzalez, and Tommie Joyner, displayed infinite patience and skill in administering a complicated questionnaire to a population selected for their social difficulties. Joel Siegel and Gary Goldman exercised meticulous care in locating and coding official record data. Robert Caggiano took initial responsibility for locating respondents in Los Angeles. Cathy Ruley and Jere Hinds, administrative assistants at Brandeis University, helped coordinate the project personnel and typed and retyped drafts of interview protocols and coding forms.

Many colleagues offered advice and support during the course of this project. Michael Maltz, Joan McCord, and five anonymous reviewers of an earlier draft suggested changes that are incorporated in this report. Marianne Takas assisted in editing the final draft. We would also like to thank the people who tracked our progress and provided useful information over the course of the study, including Doug Anglin, David Chaiken, Shama Chaiken, Judge Eli Chernow, Jacqueline Cohen, Brian Forst, Don Gottfredson, Steve Gottfredson, Bruce Johnson, Judge Albert Kramer, Susan Martin, Zachary Tumin, Christy Visher, and our Abt Associates colleagues, especially Daniel McGillis, Joan Mullen, and Dale Parent.

Our National Institute of Justice project monitors, Dr. Richard Laymon, Jonathan Budd, and Cheryl Crawford, made it possible for us to carry out this



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project with maximum time devoted to substantive rather than administrative issues. Virginia Baldau and Joel Garner provided substantive recommendations included in this report.

Finally, we would like to thank the hundreds of defendants who signed informed consent forms agreeing to participate in this study, completed self-report questionnaires, and permitted us to code their official record data and combine it with their self-report data.

*Marcia Chaiken*  
*LINC*

*Jan Chaiken*  
*Abt Associates Inc.*

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bargaining—that are intended to assure their rapid conviction on the highest applicable charge.

A popular form of priority prosecution program—and the type upon which our research focused—is commonly known as career criminal prosecution. The earliest career criminal prosecution programs were established over ten years ago and were targeted primarily on habitual offenders who had extensive records of felony convictions. Since then, more than a hundred U.S. jurisdictions adopted some form of priority prosecution for career criminals,<sup>2</sup> but there is no uniform understanding across the country of what is meant by a “career criminal.”

In reality, three overlapping types of offender profiles could conceivably be called “career criminals” (Figure 1):

- *Persistent offenders*, also known as long-term offenders or habitual offenders, are those who *commit crimes over a long period of time*. For this study we included as persistent offenders all the offenders who had been committing crimes for at least one-third of their lifetimes.
- *High-rate offenders* are those who *commit numerous crimes per year* whenever free to do so (whether they have been doing so for many years or relatively recently). For example, an offender who commits 104 burglaries per year (an average of two burglaries per week), when not locked up, is a high-rate offender.
- *Dangerous offenders* are those who *commit crimes of violence*, often injuring their victims. In this study we included in this category all those who were high-rate robbers or who had assaulted, threatened with a weapon, shot at, or tried to cut, beat, or strangle another person.

While some offenders fit into more than one category, others do not. For example, a thirty-year-old who has committed occasional burglaries since age seventeen would be categorized as a long-term persistent offender but not necessarily either high-rate or dangerous. A person who had committed three assaults, two robberies, and a burglary in the past month, however, would be both high-rate and dangerous.

In response to changing public concerns and growing research knowledge, many career criminal prosecution programs have gradually begun to focus on offenders who are both high-rate and dangerous. High-rate dangerous offenders—and how to identify them—are the topic of this report. These offenders are considered worthy of “career criminal” prosecution whether or not they have been involved in crime for a long time. As indicated by the shaded area in Figure 1 (based on data from two jurisdictions analyzed in our study), the high-rate dangerous offenders are a small proportion of all felony defendants.

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# Chapter 1

## Overview

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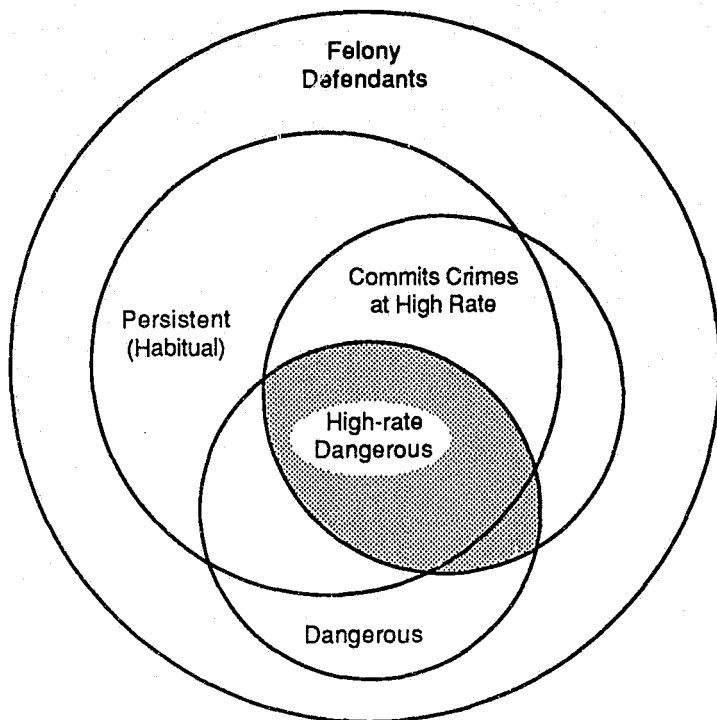
Faced with high case loads, long delays in the courts, and public demand for swifter and more effective justice, prosecutors must make hard choices as to allocation of resources. Summarizing and building upon the results of a study conducted by the authors under the sponsorship of the National Institute of Justice<sup>1</sup>, this report provides research findings about information that can help prosecutors focus attention on offenders who commit dangerous crimes at high rates. This chapter summarizes the main results of the study; details are given in Chapters 2-4 and in the Appendices.

The study examined official record data available to prosecutors in two jurisdictions to learn which items of information most accurately identified offenders as high-rate (committing crimes frequently) and dangerous (committing violent crimes). While much of the information usually available to prosecutors was found useful for identifying high-rate dangerous offenders, the study found that other commonly used information can be misleading or ineffective for purposes of identification. The study also indicates that district attorneys who specify formal selection criteria are likely to achieve very different results from district attorneys who allow more discretionary selection guidelines. As with all studies based on data from a small number of jurisdictions, our findings require replication in other jurisdictions before they can be considered generally applicable.

### **Special prosecution programs help focus resources on serious offenders.**

Almost all prosecutors deal with a wide variety of criminal offenders. As managers of your offices, you and other prosecutors must regularly decide what kinds of offenders or offenses are to receive attention from the best or most experienced attorneys or from staff members with specialized training or knowledge. District attorneys around the country have established a variety of priority prosecution programs. Some focus on major narcotics dealers, organized crime figures, arsonists, or sex offenders, while others concentrate on offenders whose victims are children, or on cases likely to entail lengthy or complex trials. These programs focus responsibility and accountability for specific types of cases, facilitate monitoring the progress of priority cases, and coordinate attorneys who have the necessary specialized knowledge. Defendants prosecuted under these programs face special practices—such as vertical prosecution, prosecution by attorneys with lower case loads, or limits on plea

**Figure 1**  
**Candidates for Career Criminal Prosecution**



Although some prosecutors still have programs for dealing with habitual offenders, some research evidence indicates that many criminals who persistently cycle in and out of the criminal justice system are not worth special attention from prosecutors: These offenders may commit relatively few crimes but get caught nearly every time they do.<sup>3</sup>

Of course, prosecutors often have reasons for selecting or not selecting particular defendants for priority prosecution, quite apart from whether they are high-rate dangerous offenders. The notoriety of the case, evidentiary problems, or the current workload of the priority prosecution unit may play an important role in these decisions. District attorneys may wish to focus resources on certain broad classes of offenses, for example those that involve violations of civil rights as well as violence. Our study does not in fact evaluate the quality of selection decisions made by district attorneys' staff. Nor do we evaluate career criminal priority prosecution units in terms of their case

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outcomes or the costs involved in achieving those outcomes. Rather, we focus on the accuracy of selection criteria that are specifically intended to identify and target resources on high-rate dangerous offenders.

**This report is addressed to prosecutors and suggests criteria for targeting high-rate dangerous offenders.**

Your office may have or may be considering a separate unit for prosecuting high-rate dangerous criminals or a special program such as vertical prosecution or lower case loads for handling priority cases. Or your office may carry out one or more of many possible practices focussed on high-rate dangerous offenders such as documenting enhancements for sentences, or recommending relatively high bail. The first step in programs targeted on such offenders is selection of appropriate cases. Some cases are so obvious that little attention needs to be given to selection decisions. A defendant charged with ten or twelve separate eye-witnessed incidents of robbery clearly qualifies as high-rate and dangerous. Most cases are not so clear cut. For example, should a defendant arrested for two separate robberies on the same day be classified as a high-rate dangerous offender? What of the defendant who held up five victims at gun point at a local convenience store at midnight? Selections often must depend on information obtained from several sources, such as rap sheets, the police officer's arrest report, or the investigating police officer's report.

The primary issue addressed by this research is *what information currently available to you can best be used to focus on the highest-rate dangerous criminals?* A secondary issue also addressed is *what different results can be expected from formal selection criteria as compared to more discretionary selection guidelines?* In some jurisdictions, selection decisions must follow strict guidelines established by state law or local regulations. (When the number of defendants who qualify under law exceeds program capacity, prosecutors may then use additional information to define a subset of defendants who will actually receive priority prosecution.)

Some of you may be considering modifying existing office selection guidelines. Others may be formulating guidelines for the first time. While some guidelines and discretionary information currently used to make priority prosecution decisions are in fact helpful in identifying high-rate dangerous offenders, this study found that other information may be redundant or misleading.

Since crime problems and local community concerns about crime differ among jurisdictions, no single selection rule can be best for all priority prosecution programs. But if swifter and more effective justice for the most serious offenders is one of the goals of your prosecution programs, if you are determined to get the high-rate violent predator off the streets fast, then it is important for your office to be able to distinguish correctly between the high-rate dangerous offender and other less serious offenders.



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Clearly, if you as a prosecutor knew exactly how many and what types of crimes an offender had committed, identification of high-rate dangerous offenders would be simple. Instead, you have only limited data; a rap sheet, for example, will report only arrests and convictions — not crimes committed successfully and without detection. In a sense, then, your task in identifying high-rate dangerous offenders is one of using limited data to draw inferences about actual (but unreported) behavior. Simply stated, does the rap sheet and other available data create a profile of a person who — if all the unreported facts were known — would in fact be high-rate dangerous?

Our study of data in two jurisdictions determined the accuracy of official record data items for identifying offenders who in the past had committed dangerous crimes at high rates; we did not attempt to predict their future criminal behavior. To carry out the research, we:

- analyzed data available to prosecutors for identifying candidates for priority prosecution, then
- statistically compared these data to confidential self-reports provided by convicted offenders.

The accuracy of data from the self-reports was controlled to the maximum extent possible. Respondents were assured of confidentiality. Repetitive questions were used to check for consistency of response. Analyses controlled for self-reports which did not contain consistent data.

### **Information used by prosecutors was determined by interviewing many attorneys.**

In-depth data analysis was carried out in Los Angeles County, California, and Middlesex County, Massachusetts. Selection procedures also were reviewed with prosecutors from a wide and diverse group of additional jurisdictions. (See Appendix A, “Methods for Determining Selection Criteria Actually Used by Prosecutors.”)

The Los Angeles Career Criminal Division exemplifies programs that operate under fairly rigid and restrictive selection rules and are carried out by a limited number of attorneys who follow cases from their initiation. Priority prosecution cases in Middlesex County, by contrast, can be handled by a large number of designated senior assistant attorneys (not just those in a special unit). Broader selection guidelines are used to target high-rate dangerous offenders, and cases can be selected for priority prosecution at any stage of their processing.

The two study sites also differ in size, resulting in differing levels of selectivity. The Los Angeles County District Attorney’s Office is the largest in the United States, processing more than 100,000 criminal cases a year. Its Central Branch office, the locus of this study, handles the bulk of the county’s most serious offenses. The Middlesex County office serves 54 cities and towns near Boston.

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It ranks number 42 in size among district attorneys' offices (in terms of the volume of cases handled) and processes 35,000 criminal cases a year. In Los Angeles, the Career Criminal Division concentrates on a relatively small number of robbery and burglary defendants. In Middlesex County, a subset of defendants charged with robbery, burglary, rape, aggravated assault, homicide/murder, and drug sales receive priority prosecution.

By interviewing and observing attorneys in both sites who select cases for priority prosecution, we determined the information they use in making their judgments and the procedures they follow. By then presenting them with anonymous versions of cases that had previously been eligible for possible priority prosecution in either their own county or the other study site, we determined the extent to which judgments were consistent between the two sites. This procedure also allowed us to verify concretely for these cases that the information about defendants and their offenses claimed to be taken into account by attorneys had actually been taken into account.

The criteria used in the two study sites were also presented to career criminal program directors from numerous other counties in California for comments and additions. During the course of the study we met informally with prosecutors from other states and discussed the information they used to select career criminals.

### **Defendants' reports of offenses and recorded data were collected in the two sites.**

The study collected data from and on 500 male defendants who were ultimately convicted. The sample included nearly all defendants selected for priority prosecution during the study period; they made up 17 percent of the sample. The remaining defendants selected for the study did not receive priority prosecution, but their charged offense—for example robbery or burglary—was one of those targeted by the priority prosecution attorneys. By examining records in these defendants' case folders, we were able to code hundreds of items of data about them, their criminal history, and the instant offense. Since we and our research assistants found the data in criminal justice agency records, obviously prosecuting attorneys either did or could readily have access to the same information. The wording of California State career criminal legislation, observations and interviews with prosecuting attorneys, and the results of prior research determined which items of data were coded.

Immediately after their cases were disposed, all defendants who had been selected for the study were requested to complete self-report questionnaires. The questionnaires asked about ten different types of crimes (such as robbery, burglary, and assault) that they may have committed in the period preceding their arrest, and their frequency of committing each of them. Because the veracity of self-reports on these sensitive topics is questionable, analytical

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techniques have been developed for handling such data conservatively so as to draw valid conclusions. Although some of the respondents were untruthful in their survey responses, the quality of the defendants' data was approximately the same, or slightly better, than that of data collected in previous similar surveys of jail and prison inmates who had had several months to adjust to incarceration before completing the questionnaire. (See Appendix B, especially Table B-4.)

Although in all 500 defendants were interviewed, 12 respondents were excluded from the study because they did not provide any usable self-report information about the numbers or types of crimes they had committed (four respondents from Middlesex County, eight from Los Angeles). Official record data were obtained for 452 of the remaining respondents; this 452 constitute the sample used in the analyses that compare official record data with self reports.<sup>4</sup> (More details about the study sample are presented in Appendix B.)

Our research methods are described in more detail in Chapter 2. The remainder of this chapter highlights 10 primary findings, based on our research in the two study sites.

## **Findings**

**Finding 1. Prosecutors evaluate separately the three dimensions of a defendant's criminality: rates of committing crimes, dangerousness, and persistence. They also consider other aspects of seriousness.**

The prosecutors interviewed did not think of serious offenders as a homogeneous category. (See Appendix A for methods used to reach this finding.) Instead, they often judged separately whether a particular defendant committed crimes at high rates, whether he was dangerous, and then whether he was a persistent offender.

Additional categories of seriousness, not specifically addressed by the study, were also considered in some cases. For example, defendants were considered serious offenders worthy of priority prosecution if their crimes reflected "professionalism," such as careful planning involving several defendants for extremely high criminal gain. Other defendants considered serious enough for priority prosecution were involved in crimes receiving intense coverage by the media.

**Finding 2. Defendants who were identified as high-rate and dangerous by prosecutors in one site were also identified as high-rate and dangerous by prosecutors in the second site.**

Despite wide differences in the selection criteria and procedures in the two study sites, the defendants actually selected for priority prosecution were remarkably

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similar across the two sites. However, the Los Angeles County prosecutors had a more restrictive view of the type of offender that is high-rate and dangerous. After the attorneys had reviewed the same group of anonymously presented cases, every defendant designated as high-rate and dangerous by the Los Angeles attorneys was also so characterized by the Middlesex county attorneys. But the Middlesex county attorneys also evaluated as high-rate and dangerous some defendants who were considered less serious by the Los Angeles attorneys.

**Finding 3. Written office guidelines concerning selection criteria for “career criminals” promote consistency in deputy district attorneys’ judgments about the kinds of defendants who are high-rate dangerous offenders.**

The evaluations of the prosecutors are clearly shaped by their department policies. The more inclusive evaluations of the Middlesex County attorneys reflect the District Attorney’s policy of casting a wide net to prevent serious offenders from escaping punishment. The more restrictive evaluations of the attorneys in Los Angeles reflect their concentration on the most serious offenders among the many offenders who have committed serious crimes.

The study found that in the office where selection of “career criminals” had to be justified with reference to established criteria, attorneys have developed a consistent mental model of the information that is relevant for judging a defendant high-rate or dangerous. The career criminal selection criteria they work with daily enter into these judgments (see Appendix A, especially Exhibit A-8). In other words, criteria established by state law and office policy have shaped these attorneys’ understanding of the nature of criminal behavior. The Middlesex county attorneys, who did not use mandated selection rules, were found to have a greater variety in their pictures of the information that indicates a defendant is high-rate or dangerous. (The analysis showed the specific California state legislative criteria which influenced the Los Angeles prosecutors’ judgments did not have a significant statistical association with the Middlesex county prosecutors’ judgments.)

**Finding 4. Long-term persistent offenders may or may not be high-rate dangerous offenders. Habitual criminality should not be confused with high-rate dangerous criminality.**

The study found that thinking about offenders in terms of persistent or habitual criminal behavior is probably more confusing than productive. Many different measures of “a rap sheet as long as your arm” are valid indicators of persistence, but they bear little relationship to the type of offender that priority prosecution units would like to target. (See Appendix Table C-2.) Some indicators of persistence are also indicators of high-rate or dangerous behavior; they are listed

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in the findings that follow. (But the indicators of persistence presented in Table C-2 were not related to high-rate or dangerous behavior in the two study sites.) Still other indicators of persistence, such as a large number of adult arrests for burglary, actually are counter-indicators of high-rate dangerous behavior.

**Finding 5. While some existing guidelines for identifying high-rate dangerous offenders are valid and useful, greater accuracy may be obtained through a two-stage screening process.**

The study found that information used because of formal rules or state laws do help focus resources on high-rate, dangerous, and persistent offenders. Moreover, some of the discretionary criteria that prosecutors applied increase the accuracy of these selections. Additionally, other information currently available but not generally used by prosecutors can be used to hone even finer selections. The Appendix C tables list all the official-record information found to be related or unrelated to high-rate dangerous or persistent offending. In all, 31 indicators were found to be associated with being high-rate or high-rate dangerous (Appendix Table C-1).

The research indicated that the best way to use this information in identifying high-rate dangerous offenders is to ask questions in two stages: First, who is high-rate? Then, of them, who is high-rate dangerous? The first stage is less accurate than the second one, but the two stages together result in a practical selection method.

Some items related to high-rate criminality also are related to high-rate dangerousness. They may therefore appropriately be used both in Stage I (setting apart likely high-rate offenders) and in Stage II (selecting the subset of high-rate offenders who are also dangerous).

**Finding 6. The strongest official-record indicators of high-rate offending in the two study sites were if a defendant:**

- Had a prior adult conviction for robbery, burglary, arson, forcible rape, sex crime involving a child, kidnapping, or murder.
- Was currently charged with three separate criminal transactions of burglary.
- Was wanted by the authorities for failure to complete a previous sentence (probation, parole, prison or jail).
- Was on parole when arrested.
- Had one or more adult arrests for receiving stolen property.
- Was on pretrial release (bail or own recognizance) when arrested.
- Is known to have a drug problem.

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**These indicators of high-rate offending are listed generally in order of the accessibility and acceptability of the information to prosecutors for decision-making purposes. All the indicators, taken together, were not strongly associated with high-rate offending.<sup>5</sup>**

The study sample, which included many defendants who had already been chosen for priority prosecution, contained a larger proportion (43 percent) of offenders classified as high-rate than is commonly found in offender populations.<sup>6</sup> Yet, in common with earlier research,<sup>7</sup> this study did not find many items of information that are available to prosecutors and that validly and decisively distinguish high-rate offenders from others. One of the strongest of these indicators was the California legislatively mandated criterion listed first above (prior conviction for robbery, burglary, arson, etc.).

Several factors in the list are used as bases for enhancing sentences in some jurisdictions. Judges may impose longer sentences on convicted offenders who have failed to complete a previous sentence or who have violated their terms of parole or pretrial release. These factors may be particularly pertinent for triggering priority prosecution in those jurisdictions.

These seven indicators can be used to divide defendants into subgroups having widely different probabilities of being high-rate. In fact, defendants in the study sample who had any three or more of these characteristics had over a 90-percent chance of being high-rate. The selection rule based on this method was found to have very few false positives. Less than 2 percent of low-rate offenders in the sample would be classified as high-rate by this rule. But the selection rule would have many false negatives. It would not identify most defendants who are actually high-rate. For this reason, prosecutors who use these seven listed factors as a rough "first stage" screen for high-rate offenders should require no more than two of the seven factors to be positive.

Although, in the study, information about a defendant's drug problem could have been entered in the official records from various sources—such as probation reports or pretrial release investigation reports—more accurate information can be obtained from urine test results. However, a single positive drug test at the time of arrest may provide misleading information. The majority of *arrestees* test positive in many jurisdictions,<sup>8</sup> but only a small percentage of arrestees are high-rate offenders. Rather, the results of drug tests can be assembled over a period of time, covering multiple arrests. Defendants who have a persistent history of positive drug tests could then be considered to have a "drug problem" in the sense intended here—relatively long-term use of opiates or other addictive drugs.

**Finding 7. Once a group of high-rate offenders was identified, the subset of high-rate dangerous offenders could be identified using a small number of criteria that include elements of the instant crime. The criteria for such determination are the following:**

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- **The defendant was wanted by the authorities for failure to complete a previous sentence.**
  - **A knife was brandished or used to injure someone in the instant offense.**
  - **A victim in the instant offense was female.**
  - **The offense was committed in an outside public location (e.g., street, alley, or parking lot).**
  - **The defendant had one or more juvenile convictions for robbery (armed or unarmed).**

**These criteria were found to be much more powerful than personal characteristics (e.g., age at first arrest, race, employment) over which the defendant has little or no control at the time of arrest.**

Although prosecutors have available to them numerous valid indicators of dangerousness, the five official-record items listed above are statistically nearly equal in value to using all valid indicators of high-rate dangerous offending found in the study. It may therefore be superfluous to collect information about all the possibly relevant data items and evaluate them as a means of screening defendants for priority prosecution.

Of the indicators listed in Appendix Table C-1, 22 are valid indicators of dangerous behavior among defendants who pass an initial screen for high-rate criminality, but the five listed items emerged as most useful in combination with each other. Other factors—strong in themselves but not adding any significant information after taking the above five indicators into account—included victim injury and multiple current charges for robbery. Purse-snatches or strong-arm street robberies are often considered by police and prosecutors to be less serious than inside robberies with use of a gun. However, neither commission of crimes inside buildings nor gun use were found to distinguish high-rate offenders from others, or dangerous from less dangerous offenders.

All indicators of high-rate dangerous behavior identified in this study were drawn from criminal justice agency records. The defendants' self-reports were used only to classify them as high-rate, dangerous, persistent, or not.

**Finding 8. Several factors which are commonly perceived as indicative of high-rate dangerousness in fact proved not to be, and in some cases were counter-indicators.**

Our study found 23 factors, listed in Table C-3 in the Appendix of this report, which were not associated with being a high-rate dangerous offender. Examples include:

- Display or use of a gun to threaten a victim.
- Alcoholism.

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- Number of prior arrests for drug distribution or possession.
  - Total number of adult convictions for assault, burglary, auto theft, robbery, or receiving stolen property.
  - Record of previous probation or parole revocations.
  - Record of a previous incarceration.

While prosecutors may wish to assign such cases for priority prosecution on other grounds, these findings suggest that such factors are not in themselves dependable indicators of high-rate dangerousness or of persistence.

**Finding 9. Some factors may preclude the selection and priority prosecution of defendants who are in fact high-rate dangerous offenders:**

**An instant charge for a crime that can only carry light penalties.** Even if the defendant is recognized as a high-rate dangerous offender due to past violent offenses, prosecutors would be legally unable to obtain a severe sentence for a minor new offense. For example, the study found a defendant with a long juvenile and adult record for robberies and assaults who was not recommended for priority prosecution because the current charge involved a single breaking and entering in an unoccupied business establishment. The case was satisfactorily handled by the assistant district attorney who originally received it, and special prosecution resources could not have yielded a more severe sentence.

**Constraints on resources for prosecution.** In Los Angeles, when Career Criminal Division attorneys had high caseloads, they could not prosecute some defendants evaluated as high-rate and dangerous. This constraint was not present in Middlesex County, where a large number of senior prosecutors handled priority cases.

**Constraints on resources leading to inadequate identification of priority prosecution candidates.**

In both sites, because records for screening defendants were incomplete, some high-rate dangerous offenders “slipped through the cracks.” Later, when presented with anonymous profiles corresponding to these overlooked offenders, prosecutors accurately identified them as high-rate and dangerous. The study showed that in most cases the original oversight occurred because official record information was not available at the time of screening or was fragmentary. In some cases the necessary information was located in another office in the same building as the District Attorney’s office.

Timely availability of critical official record information is a problem to prosecutors throughout the country. In a survey sponsored by the National Institute of Justice<sup>9</sup>, 58 percent of district attorneys noted difficulty in obtaining early information on defendants’ backgrounds.



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You can prepare a checklist showing factors to be taken into account when selecting offenders for priority prosecution. Such a checklist can help define your office policy; by using it, screening attorneys can identify a small percentage of defendants likely to be high-rate dangerous. This eliminates unnecessary effort looking for official-record items that do not appear to have independent value for helping the screening process. It also flags cases that at the time of screening lack a key piece of information for selection purposes.

If you do adopt a checklist for use in your office, we suggest reviewing the list with both police and judges. In the absence of such a review, the criminal justice system may risk operating at cross-purposes by having prosecutors target offenders with certain characteristics (for example, being addicted to drugs at the time of the crime) while police or sentencing judges consider the same characteristics to be mitigating factors.

In addition to using a checklist, we suggest formulating *office policy to allow screening prosecutors discretion* for recommending priority prosecution based on other information. Remember that while defendants who have many of the characteristics listed in Findings 6 and 7 were very likely to be high-rate and dangerous, other defendants as well were high-rate dangerous. Some kinds of circumstances, not readily captured in a checklist, indicate to the screening attorney that the case involves a high-rate or dangerous offender. If desired, cases selected for exceptional reasons could be subjected to higher-level review within the district attorney's office.

## Endnotes

1. Chaiken, Marcia and Jan Chaiken (1987) *Selecting "Career Criminals" for Priority Prosecution*. Report to the National Institute of Justice (Washington, DC: National Criminal Justice Reference Service, NCJ-106310).
2. Phillips, Joel L. and Lynne P. Cannady (1985) *The Effectiveness of Selective Prosecution by Career Criminal Programs* (Sacramento, CA: EMT Associates, Inc.).
3. Chaiken, Marcia and Jan Chaiken (1985). *Who Gets Caught Doing Crime?* (Washington, DC: Bureau of Justice Statistics Discussion Paper, U.S. Department of Justice). Williams, Terry M., and William Kornblum (1985) *Growing Up Poor* (Lexington, MA: Lexington Books).
4. Respondents who didn't admit to committing any of the study crimes listed in the survey booklet were omitted before respondents were classified as high-rate, dangerous, and/or persistent. These 102 respondents may possibly have committed unlisted crimes at high rates, e.g., rape or child sexual abuse.
5. The list of factors in Findings 6 and 7 are not identical to those in the research report, Chaiken and Chaiken, 1987 (endnote 1). The statistical methods used in preparing the present report were tailored to the two-stage selection process described in Finding 5.
6. Respondents were classified as high-rate in this study if their self-reported rate of committing robbery was in the highest 30 percent for the sampled defendants *who said they committed robbery*, or similarly for burglary, assault, forgery, fraud, motor vehicle theft, other theft, or drug dealing. Since a respondent had multiple chances to be in the "top 30 percent," in all 43 percent of respondents passed this condition.

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Since our study indicated that a small number of official-record items can help distinguish high-rate dangerous defendants, prosecutors who lack rapid access to official records could develop systematic data retrieval systems focused on those few specific items.

**Finding 10. The most criminally active defendants in Middlesex County, Massachusetts, and the most criminally active defendants in Los Angeles County commit crimes at essentially the same rates.**

Although fewer people in Middlesex County than in Los Angeles are prosecuted for robbery each year, the most active 30 percent of robbers in Middlesex County commit essentially the same number of robberies when they are free to do so as the most active 30 percent of robbers in Los Angeles County. Similarly, the 30 percent most active defendants in both jurisdictions who committed burglary, forgery, fraud, and drug dealing also committed these crimes at essentially the same rates. Theft proved an exception. The most active thieves in Los Angeles committed four times as many thefts as their counterparts in Massachusetts.

**Recommendations**

This study was limited to two jurisdictions; replication of the findings in other jurisdictions should precede any limitation of selection criteria to the factors found to be associated with high-rate seriousness in this research alone. However, the broad implications of the findings are congruent with results of other research, and so we can draw the following recommendations.

If your office already has a program for priority prosecution of dangerous offenders who commit crimes at high rates, you should continue to concentrate on such offenders. They can be identified more accurately than high-rate offenders who are not dangerous, and the crimes they commit are more serious. The high-rate dangerous offenders are also more serious than some of the "habitual" offenders who continually cycle through the criminal justice system.

Selection for priority prosecution can be enhanced by systematic searches of record information, including rap sheets and other records of prior arrests and convictions, offense reports, arrest reports, and — whenever relevant — reports of other criminal justice agencies with whom the defendant has had prior contact (probation, parole, police, pretrial release, or courts). To promote consistency in selection, standard office selection guidelines can be developed that include factors such as those described above (in Findings 6 and 7) as being associated with high-rate dangerous criminality, along with any other criteria that are considered important locally.

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7. Chaiken, Jan, and Marcia Chaiken (1982) *Varieties of Criminal Behavior* (Santa Monica, CA: The Rand Corporation, R-2814-NIJ). Rolph, John, and Jan Chaiken (1987) *Identifying High-Rate Serious Criminals from Official Records* (Santa Monica, CA: The Rand Corporation, R-3433-NIJ). Blumstein, Alfred, Jacqueline Cohen, Jeffrey A. Roth, and Christy A. Visher, editors (1986) *Criminal Careers and "Career Criminals": Volume I* (Washington, DC: National Academy Press).
  8. Wish, Eric D., Mary A. Toborg, and John P. Bellasai (1988) *Identifying Drug Users and Monitoring During Conditional Release* (Washington, DC: National Institute of Justice, U.S. Department of Justice).
  9. McEwen, Thomas, and Hugh Nugent (1988) *Results of the National Assessment Survey: Prosecutors. Research in Action* (Washington, DC: National Institute of Justice, U.S. Department of Justice).

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## **Chapter 2**

# **Research Methods**

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The remainder of this report gives further information about the research that supports the findings in Chapter 1. Details about how this study differs from earlier research, the study sites utilized, and types of data collected for the study are presented in this chapter.

### **Comparison with Past Research**

Past research about the frequency of crimes committed by various types of offenders has not specifically addressed concerns of prosecutors. A well-known finding from these studies is that only a small percentage of the offender population commits serious crimes at high rates. At the same time, research has shown that high-rate dangerous offenders cannot easily be distinguished from other, less serious offenders based on standard criminal history information such as adult arrests and convictions.<sup>1</sup> In fact, high-rate dangerous offenders are typically young and do not have lengthy adult criminal records. Offenders with long records may be nearing the ends of their criminal careers, or may simply be “low-rate losers” who commit comparatively few crimes but get arrested nearly every time they commit a crime.<sup>2</sup>

This past research suggested certain kinds of less tangible information as useful for identifying dangerous high-rate offenders—information about defendants’ criminal behavior before age 16, about their marital and employment history, and about their use of large quantities of multiple types of drugs. But some of the data items recommended by research as potentially useful are not readily available to prosecutors in a verifiable form, and others are available but are thought not to be sufficiently fair, unbiased, or legally justifiable to be used in making decisions about a defendant’s criminal processing.

Staff members who decide which defendants should be given priority prosecution do not in fact limit themselves to the specific types of data that appear in standard criminal history records or rap sheets. Police and other criminal justice system practitioners typically present attorneys with a great deal of additional information about the characteristics of defendants and their offenses and victims. The present report discusses the usefulness of this kind of information in identifying high-rate dangerous offenders.

Rather than focusing on defendant characteristics that are not reliably known by prosecutors, we discuss exclusively the kind of information that already is, or easily could be, known to prosecutors and taken into account in selecting

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defendants for priority prosecution. Our study determined which of the criteria or factors used by prosecutors appear to be valid indicators of high-rate dangerous behavior. We also explored which criteria may possibly be misleading, and what additional information typically found in case folders or agency files could help in sharpening these judgments.

Our study demonstrated what kinds of information *prosecutors* actually take into account when selecting defendants for priority prosecution, evaluating the extent to which each kind of information is useful for distinguishing high-rate dangerous criminality. In contrast, previous studies looked at background characteristics of offenders that *researchers* deemed likely to be useful for identifying high-rate dangerous criminality. In the present study we examined some items of official-record data never before examined in research of this type, and we verified that the data were available to prosecutors making selection decisions.

To access the accuracy of information used by prosecutors specifically to identify and target resources on high-rate dangerous offenders, we distinguish among three types of offender classification criteria:

- Selection rules that are formally mandated by career criminal legislation,
- Criteria that are used by criminal justice practitioners at their own discretion for identifying high-rate dangerous offenders, and
- Criteria that have been suggested by researchers as valid for identifying high-rate serious offenders, but are not typically used by prosecutors despite ready availability of the requisite information.

## **The Study Sites**

The two primary data collection sites were chosen to be as different as possible so that the results of the study could be useful to prosecutors with wide differences in caseloads, practices, and policies.

Los Angeles County was selected from jurisdictions currently incorporating career criminal prosecution units for the following reasons:

- Los Angeles has had a relatively stable career criminal prosecution program for over ten years. Originally funded by the Law Enforcement Assistance Administration in 1974, the California programs were allocated state funds after the federal funding ceased in 1978.
- To receive state funds in support of career criminal prosecution of any particular defendant, California attorneys must follow state guidelines for selection (see Table 1). The Los Angeles County Career Criminal Division prosecutes a subset of eligible cases. The subset is selected on the basis of local formal criteria (Table 1) or at the discretion of the personnel who select the cases.

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**Table 1**  
**Formal Career Criminal Selection Criteria**

***CALIFORNIA STATE SELECTION CRITERIA***

A defendant may be selected for career criminal prosecution if he or she has:

1. Current charges for three separate criminal transactions (events) for target crimes (robbery, burglary, arson, receiving stolen property, grand theft, grand theft auto, drug distribution, or a felony sex crime involving a child).

OR

2. A current charge for one target crime, plus a prior adult conviction (within last ten years, excluding time incarcerated) for robbery, burglary, arson, forcible rape, a felony sex crime involving a child, kidnap, or murder.

OR

3. A current charge for one target crime, plus two prior adult convictions (within last ten years, excluding time incarcerated) for grand theft, grand theft auto, receiving stolen property, robbery, burglary, kidnap, assault with a deadly weapon, or drug distribution.

***CENTRAL LOS ANGELES DISTRICT ATTORNEY'S***  
***MORE RESTRICTIVE CRITERIA***

A defendant may be selected for career criminal prosecution if he or she has:

1. Current charges for three separate criminal transactions for robbery.

OR

2. Current charges for three separate criminal transactions for burglary (residential or commercial).

OR

3. A current charge for one crime of burglary/murder, robbery/murder, or robbery, plus one prior adult conviction (within last ten years, excluding time incarcerated) for first degree burglary, murder, or robbery.

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- Prosecutors and sworn police officers with direct experiential knowledge of defendants are involved in selection of career criminal cases.
  - The jurisdiction handles relatively large numbers of career criminal cases each year, which permitted us to achieve our desired sample size in a short period of time.
  - The jurisdiction has a relatively large number of career criminal prosecutors. Therefore, we could determine whether or not discretionary criteria used to select career criminal cases were idiosyncratic.

Middlesex County met the following selection criteria.

- This jurisdiction also has had a relatively long history of involvement in career criminal prosecution; Middlesex County originally instituted career criminal prosecution with assistance from the Law Enforcement Assistance Administration. The program was disbanded after federal funds were no longer available, but key staff members involved in the recently instituted priority prosecution program had gained familiarity with the concept of career criminal selection in the earlier program.
- Middlesex County provides a clear contrast to Los Angeles in terms of geographical location, population, and formally mandated selection criteria. While Los Angeles' restrictive criteria are determined by state legislation and formal office policy, Middlesex County provides broad selection guidelines determined by experienced prosecutors (see Appendix A).
- All assistant district attorneys in Middlesex County are encouraged to submit any case they believe is suitable for priority prosecution; if selected, the case is assigned to an experienced prosecutor, but the prosecutors handling priority cases are not organized in a special priority prosecution unit. In 1986, approximately one-third of 105 prosecuting attorneys in Middlesex County had priority prosecution case assignments.<sup>3</sup>
- Further, while Los Angeles defendants are selected for career criminal prosecution only when the case is initiated (e.g., before or immediately after arraignment), in Middlesex County prosecuting attorneys may select a case for priority prosecution at any pretrial stage. Additionally, the primary goal of the Los Angeles program is more effective prosecution of the most serious of many serious defendants. A primary goal of the Middlesex program is to assure enhanced attention to all cases that involve serious offenders.
- Middlesex County also has a relatively large number of cases being handled under its Priority Prosecution Program. Since a relatively

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large number of experienced assistant attorneys are allowed to handle priority prosecution cases, more cases are selected than in jurisdictions where only a small number of attorneys in a special division handle priority cases.

## **Official Record Information Collected About Respondents**

Official records of Middlesex County respondents were located and coded in the Office of the Middlesex County District Attorney. Official records of Los Angeles County respondents were located and coded at divisions of the Los Angeles County Clerk's Superior Court Offices: the Own Recognizance Division and the Criminal Court Services Division. In order to perform response bias analysis, data were also collected for non-respondents in both jurisdictions. The records included police reports, rap sheets, probation reports, records of prosecuting attorneys, and, when available, reports by other criminal justice practitioners such as Own Recognizance Division interviewers and parole officers.

Given the confidential nature of these sources, access to the data required a court order in Los Angeles, and Criminal Offender Record Information clearance in Massachusetts. Identifiers were separately collected and maintained. A preassigned randomly generated code was used to link these data with the self-report data. The information obtained included:

- Prior adult arrests: type of offense, year of arrest, disposition
- Juvenile court appearances: type of offense, year, disposition
- Information about current offense: type, number of charges, location use of weapon; number of victims; victim's age, sex, and relation to offender; victim injury; number of accomplices
- Information about other pending offenses: type, number of charges, location; use of weapon; number of victims; victim's age, sex, and relation to offender; victim injury; number of accomplices
- Information about defendant: age, whether or not on conditional release at arrest, and prosecutors' and other criminal justice practitioners' assessment of defendant's general culpability. Data about defendant's use of drugs was also coded if noted—but more often than not, it was not mentioned.

## **Data Collected About Prosecuting Attorney Selection Procedures**

Data about the information prosecutors use for identifying serious offenders were collected in several stages (detailed in Appendix A).



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- At the two primary sites, the screening prosecutors were observed and interviewed, and data were collected from the forms they used to document selection of defendants.
  - At a second meeting, supervisors of Career Criminal Programs in California were presented with a briefing on the information used for selection in the two primary sites and asked to supplement this list with additional information they used.

The primary groups of prosecutors who cooperated in data collection and priority prosecution selection were attorneys in the Career Criminal Division of the Central Office of the District Attorney of Los Angeles County, attorneys in the Office of the District Attorney of Middlesex County, Massachusetts, and supervisors of Career Criminal Programs throughout California.

In *Los Angeles*, we observed the actual selection process of a small number of cases in order to determine:

- Types of recorded information consulted during the selection process,
- Types of criminal justice personnel consulted during the selection process,
- Types of other individuals consulted.

Attorneys in the Career Criminal Division select cases through two processes. One method is a biweekly review of all cases that have been filed in Los Angeles Superior Court—Central Division. Division attorneys have rotating responsibility for carrying out the initial stage of this review.

The assigned attorney reviews files of all burglary and robbery cases accepted for prosecution in the district to see if defendants meet the California and Los Angeles formal selection criteria. Information reviewed includes the report of the attorney who filed the case, reports of arresting and investigating police officers, arraignment reports, and rap sheets. If a rap sheet is not included and the defendant appears to be a serious offender, prior records are retrieved using an on line system.

If the defendant appears to be a serious offender but does not meet the formal criteria, the records of co-defendants are checked to see if they qualify; if so, all co-defendants are selected for possible career criminal prosecution. For this study, attorneys carrying out this selection process were asked to record case numbers of defendants believed to be high-rate and dangerous but not selected because neither they nor their co-defendants met the formal criteria or for other reasons (see Appendix A, Exhibit A-3).

Some of the cases that meet the formal criteria are selected for prosecution by the director of the division, often in consultation with the other attorneys in the division. Some cases are referred directly by police officers or other prosecutors. This process occurs sporadically and could not be anticipated or

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observed directly. Therefore we routinely contacted the attorneys to find out if they had had cases referred by police and interviewed them about the criteria used for selection.

In *Middlesex County* we reviewed forms routinely completed by attorneys to document priority prosecution selection processes (see Appendix A, Exhibit A-4). A new formal hierarchical procedure for selecting cases for priority prosecution was instituted as we began our study. The primary purpose of the new procedure was to improve identification of those cases that the staff attorneys in charge of the priority prosecution program wanted to target.

The selection process is initiated by assistant district attorneys completing defendant information forms including recommendations for or against priority prosecution. The attorneys are permitted to recommend ongoing cases for priority prosecution. Therefore, in addition to the types of records available in Los Angeles at the start of a prosecution, the attorneys in Middlesex county also had more extensive information, such as witness testimony and police investigations of other cases involving the defendant, to use as a basis for subsequent selection decisions. In fact, many of the cases accepted for the program in the first three months of our study were already in progress when they were selected.

During the period of our study, if an attorney recommended a specific case for priority prosecution, he or she had to state in writing the reasons why the defendant was recommended. The cases recommended for priority prosecution were then reviewed by the Director of the Priority Prosecution Program and/or by the Chief of the Criminal Bureau. They recorded reasons for rejection of cases not accepted, and they frequently recorded additional reasons for accepting a particular case.

In *California*, we met with all program directors of career criminal divisions located anywhere in the State. After describing to them the selection criteria we found to be used in Los Angeles and Middlesex Counties (see Appendix A, Exhibit A- 5), we asked for comments and further additions based on their own practices.

## **Data Collected From Prosecutors About Specific Anonymous Cases**

Structured interviews were carried out both with prosecutors formally given final responsibility for selection of career criminal cases and with other attorneys who are instrumental in the selection process. Based on the previous observations, reviews of selection documentation, and meetings with the California program directors, we assembled for each case information that seemed relevant but might or might not actually be used for selection. This information was summarized in an anonymous narrative form, approximately two paragraphs in length and listing information in the same order for all

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defendants (see Appendix A, Exhibit A-6). Typical information included in the narrative were the defendant's age and current charges, details of the current offense, amount of bail set at arraignment, prior adult criminal record, and juvenile record. If available, information was also included about observations of the defendant recorded by police or other criminal justice practitioners. The first few narratives we prepared also mentioned the defendant's race or ethnicity, but the reviewing prosecutors indicated that such information was irrelevant and asked us to remove it.

The same types of narratives about defendants and their cases were presented to prosecutors in both study sites. During the interviews, the attorneys who formally had responsibility for selecting cases were queried about these anonymous, previously prosecuted cases. They were asked to provide:

- Opinions about the defendant's criminal behavior, especially whether they considered the behavior to be high-rate or dangerous
- Opinions about the defendant's suitability for priority prosecution
- Specific indicators from each record type used for forming these opinions

Los Angeles Career Criminal Division attorneys were presented with a total of 134 cases; 106 cases were from their own county and included both cases actually prosecuted within the division and cases that had not been selected. The other 28 cases were those of Middlesex defendants. Middlesex attorneys were presented with 46 cases from their own county; the cases included both priority prosecuted defendants and those not priority prosecuted (see Appendix A, Exhibit A-7).

## **Self-report Data Collected From Convicted Offenders**

Methods for collecting data from defendants were developed in a preliminary study carried out in Los Angeles County.<sup>4</sup> Self-report data were collected from the defendants using a slightly modified version of a questionnaire previously used in a study of inmates in prisons and jails in California, Michigan, and Texas.<sup>5</sup> Modifications included questions added to better focus the respondents' attention on the calendar period about which we were most interested.

The questionnaire was designed to be self-administered and was available in both English and Spanish. Interviewers who had previous experience in working with offender populations were present in the room to give instructions and to answer questions. For respondents who were not literate, interviewers read each question aloud. In order to provide this individual attention when necessary, no more than five individuals were scheduled for most interview sessions.

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As soon as cases were disposed, potential respondents were scheduled for an interview. They were notified of the time and place for their interview, and that they would receive \$5.00 for participating in the study. They were also informed that they had the right to refuse to participate.

Before the questionnaires were administered to potential respondents who chose to appear when scheduled, the interviewers explained the purpose of the study and gave them a copy of the survey instrument. The questionnaire booklets did not contain the name or any other direct identifiers of the respondents but were precoded with a randomly generated number that also appeared on an enclosed informed consent form. After respondents agreed to sign the consent form, it was collected and kept separate from the completed questionnaire. The signed informed consent forms then served as a basis for linking a defendant's questionnaire responses with his official records.

### **The Middlesex County Defendant Sample**

Interviews were conducted with a subset of Middlesex County defendants whose cases were disposed between January 1985 and June 1986. Potential respondents ( $N = 455$ ) were priority prosecuted male defendants and male defendants not selected for priority prosecution but originally charged with the same types of crimes as defendants selected for priority prosecution: robbery, burglary, drug trafficking or drug possession with intent to distribute, rape, assault, and homicide; defendants charged with attempt of these crimes were also selected as potential respondents.

Sixty-eight percent of the potential respondents were located in local jail facilities and in the classification facility of the Massachusetts Department of Correction. Of these, 202 defendants completed a self-administered questionnaire. Response bias analyses indicated no significant differences between respondents and non-respondents in terms of original charge, priority prosecution status, or respondent characteristics.

### **The Los Angeles County Defendant Sample**

Interviews also were conducted with 298 defendants in Los Angeles County whose cases were disposed between December 1, 1984, and December 31, 1985. Potential respondents were male defendants prosecuted by attorneys in the Los Angeles County Central Career Criminal Division and a randomly selected subset of male defendants not prosecuted as career criminals but originally charged with the same types of crimes: robbery or burglary.

Questionnaires were completed by approximately two-thirds of the career criminal defendants whose cases were disposed during the study period. Sample attrition was primarily due to failure to locate potential respondents who had been transferred to other locations. Based on a comparison of respondents and

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Data were obtained on the following topics:

- For the reference period (a calendar period up to two years long preceding the last arrest): frequency of committing specific types of crimes, including burglary, robbery, assault, forgery, fraud, vehicular theft, other theft, and drug deals;
- For the same reference period, numbers of months incarcerated;
- Age of onset of criminal activity;
- Responses to items scattered throughout the questionnaire that essentially asked for the same information. These were used to measure consistency of the responses.

Although we originally anticipated and arranged for carrying out interviews both at jails or prisons and at homes of released defendants, for several reasons all interviews actually were carried out in jails or prisons. In order to gain the cooperation of defense attorneys of potential respondents we agreed not to contact defendants until immediately after their cases were disposed. We also agreed not to contact defendants found not guilty. Prison or jail sentences were ultimately given to the vast majority of potential respondents. Of the few defendants who were released on probation or given sentences of "time-served," most had been incarcerated before trial and returned to the local detention facility to retrieve their belongings. Therefore, almost all potential respondents were in custody immediately after case disposition.

In Los Angeles, defendants sentenced to prison or jail first were sent from court to local jails; therefore, all interviews were carried out in jails. Defendants in Middlesex County were transferred from the courts building to prison or jail, depending on the disposition of their cases, or released. Therefore, we conducted most interviews in Massachusetts at the State prison classification facility or in the County correctional institution.

In both sites, potential respondents were selected through records maintained by the Offices of the District Attorney. The status of Los Angeles cases was tracked through records maintained by the Superior Court Division office of the Los Angeles County Clerk; additionally, the Office of the District Attorney regularly provided us with data from their Prosecutors Management Information System (PROMIS). In Middlesex County, the status of cases of potential respondents was followed by using daily updates automatically recorded by the Office of the District Attorney.

The Los Angeles Public Defender and the Chief Counsel of the Massachusetts Committee for Public Counsel Services were provided information about the study before initial interviews were conducted. Private defense attorneys were notified about the study when their clients were selected as potential respondents.

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non-respondents who were prosecuted as career criminals, there were no significant differences in terms of respondent characteristics, original charges, or prior records of arrests and convictions.

## Endnotes

1. Chaiken, Marcia R. and Jan M. Chaiken (1984) "Offender Types and Public Policy," *Crime and Delinquency*, Volume 30, Number 2, pp. 195-226.  
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2. Chaiken, Marcia R. and Jan M. Chaiken (1985) *Who Gets Caught Doing Crime?* Bureau of Justice Statistics Discussion Paper (Washington, DC: U.S. Department of Justice).
3. One advantage of spreading priority prosecutions over a substantial number of attorneys is that it distributes widely the job incentives associated with handling the county's most interesting cases. Confining career criminal prosecution to one unit has the advantage of allowing for greater supervision on a day-to-day basis.
4. Chaiken, Marcia and Jan Chaiken (1984), *Methods for Studying Selection Criteria for Career Criminal Prosecution*, Final Report submitted to the National Institute of Justice (Washington, DC: U.S. Department of Justice).
5. Peterson, Mark A., Jan Chaiken, Patricia Ebener, and Paul Honig (1982) *Survey of Jail and Prison Inmates: Background and Methods* (Santa Monica, CA: The Rand Corporation, N-1635-NIJ).  
Chaiken, Jan M., and Marcia R. Chaiken (1982) *Varieties of Criminal Behavior* (Santa Monica, CA: The Rand Corporation, R-2814-NIJ).

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“probably just getting started” or “just beginning” are assessments likely to be given by the attorneys reviewing such a case.

On the other hand, a defendant with a long record of numerous arrests and convictions for receiving stolen property, but no record of violent crimes, would be likely to be considered a high-rate persistent criminal, but not dangerous and therefore not serious enough to warrant career criminal prosecution.

Given the high volume of robbery and burglary defendants that meet the Los Angeles formal selection criteria (over 30% of the defendants in our sample qualified), and the limited number of attorneys available to prosecute them, the Los Angeles discretionary criteria used by the Career Criminal Division attorneys are applied primarily to select the highest rate or most dangerous offenders from among a group of serious offenders. Therefore some of the discretionary criteria are even more stringent than the Los Angeles formal criteria; some of these criteria select defendants who are so obviously high-rate or dangerous that analysis for determining validity is superfluous.

Others, however are not as immediately obvious; therefore analysis was required to differentiate between more and less powerful discriminators, and to suggest additional criteria that could be used if prosecution resources are increased.

Middlesex County assistant district attorneys also explicitly select defendants based on the numbers of crimes they are committing, the harm they are causing, and their persistence in committing crimes. They too are more likely to be more concerned with dangerousness than with high-rate behavior, but an offender arrested for multiple charges of breaking and entering in a quiet suburban community might warrant priority prosecution. Their general rule for priority prosecution selection is: concentrate on “. . . offenders we want off the street fast.” However, they are more eclectic in their selection than Los Angeles attorneys. When we asked the Middlesex County attorneys to review 28 anonymous cases previously reviewed by the Los Angeles attorneys, all defendants designated as high-rate and dangerous by the Los Angeles attorneys were also so characterized by the Middlesex County attorneys. In contrast, 45 percent of defendants evaluated as high-rate dangerous by the Middlesex County prosecutors were evaluated as marginal or low-rate by the Los Angeles County attorneys (see Appendix A, Exhibit A-8).

The “wider-net” cast by the attorneys in Middlesex County reflects departmental policy and appears to be feasible because of several factors. Middlesex County has fewer absolute numbers of felony cases to handle than Los Angeles, and since most of the experienced assistant district attorneys are permitted to prosecute priority cases, relatively more attorneys are available for such cases. Too, the lack of any formal criteria allows for wider discretion.

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## Chapter 3

# Criteria Prosecutors Use to Select Defendants

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### Three Types of Selection Criteria

Three types of criteria are used to select defendants for priority prosecution: formal criteria, informal discretionary criteria related to offender and offense characteristics, and administrative criteria. Administrative criteria include resource allocation rules such as not taking cases because of high caseloads or because the case appears to be very easy to prosecute, or selecting cases with high public visibility or political sensitivity.

Administrative selection rules most frequently have little to do with whether or not the attorneys or other practitioners believe the defendant is a high-rate dangerous offender. Therefore, since administrative criteria were exercised in both jurisdictions, when we carried out analyses, we could not just carry out simple comparisons of priority prosecuted and non-priority prosecuted defendants to see if the priority-prosecuted were higher-rate or more dangerous. Rather we compared defendants that met and did not meet different formal and informal criteria that are intended to focus prosecution on serious offenders.

During the process of selecting cases, attorneys focused on the three dimensions of seriousness mentioned in Chapter 1: the numbers of crimes the defendant was committing, the dangerousness of those crimes, and the length of his criminal career. In *Los Angeles*, these dimensions are reflected in both formal and informal selection criteria. The office's formal criteria, listed in Table 1 (page 19), are more stringent than the formal state criteria. They explicitly focus on numbers of criminal events for which the defendant was charged, and prior records that indicate persistence in committing felony crimes; they implicitly focus on harm by selecting defendants in crimes publicly perceived as most serious.

The informal criteria used by Los Angeles attorneys are also focused on the three separate dimensions of criminal behavior: crime frequency, dangerousness, and long-term persistence. Attorneys are just as likely or more likely to select cases involving dangerous offenders than high-rate but not dangerous offenders. For example, a defendant who did not meet the formal criteria would be considered dangerous and a possible candidate for priority prosecution if he was charged with a robbery involving serious victim injury and had a prior juvenile commitment in a state facility for robbery. However, lacking other information, he would not be considered high-rate or persistent;



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## **Factors That Prevent the Selection of High-rate Dangerous Offenders**

Several factors may prevent attorneys from actually assigning priority prosecution to some defendants they believe are high-rate and dangerous.

*An instant charge for a crime that can only carry light penalties* for a defendant recognized as a high-rate dangerous offender typically precludes assignment of the extra resources of priority or career criminal prosecution. For example, we found a defendant with a long juvenile and adult record for robberies and assaults who was not recommended for priority prosecution; this current charge involved a single breaking and entering in an unoccupied business establishment. The case was satisfactorily handled by the assistant district attorney who originally received it, and special prosecution resources could not have yielded a more severe sentence.

*Constraints on resources leading to a lack of systematic review* commonly resulted in ordinary prosecution of defendants evaluated as high-rate and dangerous. During the process of reviewing anonymous cases, attorneys in both Los Angeles and Middlesex identified several defendants as high-rate and dangerous and then expressed concern that the case hadn't been selected for the program. (Several of the cases that concerned the Los Angeles prosecutors were actually Middlesex cases.) Generally, in Los Angeles such cases had not been reviewed by career criminal division attorneys because the case was filed at a time when their caseloads were too high to accept more defendants. Similarly in Middlesex, parts of the extensive official records which were presented for such defendants had not been available at the time they ordinarily would recommend priority prosecution. This is a common problem for prosecutors throughout the country. In an NIJ survey,<sup>1</sup> 58 percent of prosecutors stated that obtaining early information on defendants' backgrounds was a problem in their jurisdiction.

### **Endnote**

1. McEwen, Thomas and Hugh Nugent (1988), *Results of the National Assessment Survey: Prosecutors*. Research in Action (Washington, DC: National Institute of Justice, U.S. Department of Justice).

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## Chapter 4

# Results of the Analysis

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This Chapter briefly describes how the data were used to reach the study's conclusions.<sup>1</sup>

- *Defendants' self-reports* were used to determine which defendants committed crimes at high rates and which of the high-rate offenders were dangerous. Appendix B presents the numbers of defendants in each site who completed self-report questionnaires and who answered questions permitting classification as high-rate or not. An examination of the reliability of the self-report data (also described in Appendix B) permitted dividing the defendants into two groups according to the apparent truthfulness of their answers to the survey questions. The results reported here are based on all respondents in the study sample but have been specifically checked to determine that they are applicable to the self-reports that have good reliability.
- *Official-record data collected for the same defendants* were used to determine whether the defendants met mandated rules and State laws applicable to selecting career criminals, and to determine what other aspects of their records were related to their self-reported criminal behavior. The official record data were used to categorize all defendants according to the same criteria in both sites. For example, using the information from records of Massachusetts defendants, the defendants from that site were classified as meeting or not meeting the California state legislated selection criteria.
- *Prosecutors' judgments about whether defendants were or were not high-rate or dangerous, based on anonymous versions of the defendants' official records*, were compared with the official-record data presented to them, in order to confirm that the information prosecutors said influenced (or didn't influence) their classification of defendants was in fact statistically related to these judgments (see Appendix A, especially Exhibit A-9).

As could be expected, the defendants in this study (which over-represented those selected for priority prosecution) displayed somewhat more criminality than a typical group of offenders or defendants would have, but less criminality than prisoners who were surveyed in earlier studies. A defendant was classified as *high-rate* if he committed more crimes per year than did seventy percent of the defendants in the study who committed that type of crime<sup>2</sup> (Table 2). For

example, any defendant who reported committing more than 27 burglaries per year was considered high-rate, as was any defendant who reported committing more than 1084 drug deals per year. The cutoff levels for high-rate offending were identical in the two study sites, with the exception of theft as shown in Table 2.

**Table 2**  
**Criminality Considered to be "High Rate"**  
**for Crimes Studied in the Survey**

| Crime Type                       | Number of crimes<br>per year considered<br>high rate |
|----------------------------------|--|
| Burglary                         | 27 per year (or more)                                |
| Robbery of businesses            | 6.1  |
| Robbery of persons               | 4.8  |
| Robbery, total                   | 6.4  |
| Assault in robbery or burglary   | 3  |
| Assault, other                   | 4  |
| Theft other than auto            | 80 (Los Angeles)<br>20 (Middlesex)                   |
| Auto theft                       | 6  |
| Forgery and credit card offenses | 8  |
| Fraud                            | 32   |
| Drug dealing                     | 1,084  |

Note: The wording of the questions in the survey booklet defining these offenses was identical to that found in Appendix E, "Jail/Prison Survey Booklet," of *Varieties of Criminal Behavior*, Jan M. Chaiken and Marcia R. Chaiken, The Rand Corporation, Report R-2814-NIJ, August 1982.

High-rate offenders were considered *high-rate dangerous* if they reported committing assault, threatening someone with a weapon, shooting at someone, trying to cut someone, or beating or strangling someone, or if they reported robberies at rates exceeding the levels shown in Table 2. For example, an offender who reported committing more than 100 thefts in a year and also any assaults was classified as high-rate dangerous. Additionally, an offender who reported committing 10 auto thefts and 8 business robberies per year was classified as high-rate dangerous.

Defendants were classified as *persistent* if they reported committing crimes for at least one-third of their lives. For example, a 22-year-old man who reported committing crimes since he was 14 years old was considered a persistent offender.

Approximately 45 percent of the type of defendants selected for this research exceed one or more of the crime-rate levels in Table 2 and are classified as high-rate (see Table 3). Of them, approximately 62 percent can be considered high-rate dangerous, according to their own reports on the survey questionnaire.<sup>3</sup>

**Table 3**

**Dimensions of Serious Criminal Behavior Based on Defendants' Self-reports**

| Category based on self-report        | Percent of Defendants | Percent of Defendants in Category |
|--------------------------------------|-----------------------|-----------------------------------|
| Persistent                           | 51%                   |                                   |
| Persistent and high-rate             |                       | 52%                               |
| Persistent and dangerous             |                       | 43                                |
| Persistent, high-rate, and dangerous |                       | 18                                |
| High-rate                            | 45                    |                                   |
| High-rate and dangerous              |                       | 62                                |
| High-rate and persistent             |                       | 60                                |
| High-rate, persistent, and dangerous |                       | 21                                |
| Dangerous                            | 43                    |                                   |
| Dangerous and high-rate              |                       | 65                                |
| Dangerous and persistent             |                       | 51                                |
| Dangerous, high-rate, and persistent |                       | 21                                |

Note: Estimated percentages are based on 328 respondents for whom all three dimensions could be calculated. See Appendix B, Table B-3, for details.

Despite the notable differences between the two study sites in career criminal legislation, discretionary criteria, workload, and procedures for reviewing candidate defendants, we found great similarity in the groups of defendants selected for priority prosecution in the two jurisdictions. For example, the crime commission rates of defendants selected for priority prosecution were remarkably similar in the two study sites.<sup>4</sup>

In all, nearly 100 items of information coded from defendants' official records were compared statistically with their criminal behavior as classified from their self reports. Few of the items (twelve of them, as noted in Appendix Table C-1) were found to have any statistical relationship with *high-rate* behavior, and most of these are weak relationships. By contrast, a larger number are related to *high-rate dangerous* behavior, and many of these are strong relationships.

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Appendix Table C-1 lists thirty-one items of official-record information that were determined to be associated with either high-rate behavior or high-rate dangerous behavior. Most of them were also related to long-term persistence, and so by any definition could be considered indicative of defendants who are suitable for career criminal prosecution. The items in Table C-1 are listed generally in order of their accessibility to prosecutors who are deciding which defendants will receive priority prosecution; in addition, information that was definitely used by prosecutors in making selection decisions in the study sites appears earlier in the list than information that was not used. For example, the first item in Table C-1 is a California legislated eligibility criterion for career criminal prosecution; it was used in the Los Angeles site, and the relevant official record information for this factor was also readily available to prosecutors in the Middlesex county study site. By contrast, the items at the bottom of Table C-1 referring to reported illicit drug use were not consistently available to or used by prosecutors making decisions concerning priority prosecution.

Equally important are the items, listed in Table C-2, which are validly related to persistence but were not found in this study to be related to high-rate or dangerous behavior. Many of them appear similar to items in Table C-1 and some of them have been used in the past for selecting defendants for career criminal prosecution. However, if goals in selecting defendants for priority prosecution include identifying high-rate dangerous offenders, it is clearly preferable to use the factors shown in Table C-1 rather than those in Table C-2.

The items in Table C-3 were found *not to be related* to high-rate dangerousness or to persistence. At least in the two study sites, selection criteria ought not to be based on the items in Table C-3; however logical it may seem that they are related to serious criminality, the data analysis showed that they could be misleading for at least some kinds of defendants. Most interesting in this group of possibly misleading factors is the use of a gun. Although prosecutors in both sites judged use of a gun as an important indicator of high-rate dangerousness, and prosecutors may well have valid reasons for selecting offenders who use guns for priority prosecution, defendants who brandish knives to threaten victims are significantly more likely to be high-rate dangerous offenders than are those who use guns.

Additionally, while drug-involved offenders are significantly more likely than other offenders to be high-rate dangerous offenders, records of arrests or convictions for drug trafficking were not found to help identify high-rate dangerous offenders. Similarly, although offenders who were violent as juveniles are more likely to be high-rate dangerous criminals than other criminals (and a juvenile record of robberies helps identify such offenders), juvenile records of arrests or convictions for assaults were not found to be useful for evaluating adult defendants.

While all the items in Table C-1 are suitable as selection criteria, many of them are closely associated with each other, so in practice there is no need to obtain

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information about all of them. The analysis (described in Appendix D) determined which items, taken together, are equally as informative as collecting and reviewing data about all the items in Table C-1. For identifying defendants who are high-rate, the best factors to combine together appear to be these:

- a prior adult conviction for robbery, burglary, arson, forcible rape, a felony sex crime involving a child, kidnap, or murder,
- defendant is known to have a “drug problem,”
- defendant had one or more adult arrests for receiving stolen property,
- defendant was wanted by the authorities for failure to complete a previous sentence,
- defendant was on parole when arrested, and
- defendant was on pretrial release (bail or own-recognizance) when arrested.

However, these seven items, or even all the official-record data items examined in this study, do not strongly distinguish high-rate defendants from other defendants. According to our estimates, seventy percent of defendants who had three or more of these characteristics would be high-rate offenders. But few defendants will meet this condition, and many who don't meet the condition would also be high-rate offenders. Accordingly, in carrying out the analyses, we developed a less restrictive “Stage I” screen; it involves one, or in some cases two, of the listed items.

For identifying defendants who are high-rate dangerous, a “Stage II” screen can be applied to defendants who pass the Stage I screen. The Stage II screen determines whether two or more of these factors are true:

- victim in the instant offense was female,
- the offense was committed in an outside public location (e.g., street, alley, or parking lot),
- defendant was wanted by the authorities for failure to complete a previous sentence (probation, parole, prison, or jail),
- the defendant had one or more juvenile convictions for robbery (armed or unarmed),
- a knife was brandished or used to injure someone in the instant offense.

In our 1987 research study, our analysis focused on the identification of high-rate dangerous offenders *among self-reported high-rate offenders*. Using factors similar to those listed above we were able to show that among offenders who by self-report were high-rate, over 90 percent who had three or more of the indicated characteristics were high-rate *dangerous* offenders. However, these

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research results cannot be directly applied by prosecutors, since the defendants' self-reports of high-rate behavior are not available to prosecutors.

The two-stage process described here focuses on the identification of high-rate dangerous offenders *among offenders who qualify as high-rate using the official record information first-stage screen*. Unlike the earlier study, the defendants who pass the "Stage I" screen are not all high-rate; substantial errors are made. However, defendants who pass the "Stage II" screen are 80 percent likely to be high-rate dangerous.

It is important to realize that the two-stage screening process described here had numerous *false negatives* when applied to the study sample: Some defendants who failed the Stage I screen were actually high-rate dangerous (we estimate 20%) and also some who failed the Stage II screen were actually high-rate dangerous (we estimate 30%). For this reason, information that unambiguously identifies a defendant as high-rate (such as twelve arrests during the last two months for robberies with identifications by the victims) can be at least as valuable as the suggested screening items.

Before we began this study we were told by many prosecutors that they could identify high-rate dangerous offenders using the information they had available. Our analyses support this contention. The prosecutors in the study sites correctly identified about the same number of high-rate dangerous defendants as does the two-stage screening process (see Appendix D, Table D-8). However, prosecutors also believe other defendants are high-rate dangerous when, according to their self reports, they are not. The model is much more successful than the prosecutors in avoiding incorrect identifications of low-rate or not-dangerous defendants.

The results of the analysis suggest ways of producing consistent selections among prosecutors in the office. Finally, the findings suggest new ways of looking at particular items of information available for selecting high rate dangerous defendants for priority prosecution. We anticipate that as these recommended official-record data items are collected and evaluated in other jurisdictions, further refinements of selection methods will continue to be developed.

## Endnotes

1. Details are in Appendix D, and in Chaiken, Marcia, and Jan Chaiken (1987) *Selecting "Career Criminals" for Priority Prosecution*. Report to the National Institute of Justice (Washington, DC: National Criminal Justice Reference Service, NCJ-106310).
2. The quantitative crime rate cutoffs for defining "high-rate" were tailored to this study sample and are not directly comparable with cutoffs in other studies.

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3. The percentages shown in Table 3 are based on the subgroup of interviewed defendants who answered questions permitting their classification as high-rate (or not), dangerous (or not), and persistent (or not). See Appendix B, Table B-3, for the numbers of defendants in the entire study group who were classified as high-rate dangerous.
  4. For defendants in the study sample actually selected for career criminal prosecution or priority prosecution, there were no significant differences between the study sites in the following variables: percent of defendants high-rate, percent of defendants high-rate dangerous, percent of defendants above the 70th percentile in crime commission rate for each of these offenses: burglary, robbery, assault, theft, motor vehicle theft, credit card crimes, fraud, or drug dealing.



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# **APPENDICES**

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# Introduction to the Appendices

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These appendices provide documentation of the research discussed in the main body of the report. They are presented primarily for researchers who are interested in the methods and results used to produce findings and conclusions. They may also be of interest to practitioners who are considering replicating these studies in their own jurisdictions.

*Appendix A* provides details of the research methods used to determine the formal and informal criteria employed by prosecutors in selecting high-rate dangerous offenders for priority prosecution. Details of the findings concerning the criteria employed by prosecutors are also in *Appendix A*.

*Appendix B* provides details about the defendant sample and the quality of the self-report data collected from them.

*Appendix C* documents the findings of correlations between official-record information and three self-report dimensions of criminal behavior: high-rate, dangerous, and persistent. Note that these relationships are “postdictive” and not predictive; the analyses (and the prosecutors) used the official-record data to determine which defendants were high-rate and dangerous in the immediate past rather than trying to determine who would be high-rate and dangerous in the future.

Also note that the data from Middlesex County and Los Angeles County represent what researchers call “construction” samples for analyzing the strength of relationships between official-record information and defendant behavior. Findings of relationships have been developed using the construction samples and cannot then be tested or validated against the same data. Research methods were used to assure that findings presented here are valid in both counties, thereby indicating that the same information may be useful in other jurisdictions. However, the results of the research described here must be replicated using validation samples before the results can confidently be used to specify information to be used for targeting high-rate dangerous offenders in other jurisdictions.

*Appendix D* presents details of the multivariate techniques that were used to construct the two-stage model for identifying high-rate dangerous offenders. Also presented are methods and findings comparing the two-stage model with a one-stage stepwise model and with evaluations by prosecutors in Middlesex County and Los Angeles County.

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# **Appendix A**

## **Methods for Determining Selection Criteria Actually Used by Prosecutors**

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To determine the criteria actually used by prosecuting attorneys for selecting serious offenders for career criminal or priority prosecution the following procedures were carried out.

- At a meeting convened in 1984 for directors of California Career Criminal Programs, data was obtained about the general types of information that was used to select defendants for prosecution in those programs; prosecutors clarified that in addition to the formal guidelines other information was used.
- In Los Angeles, the forms used by the attorneys for determining eligibility for career criminal prosecution were obtained (see Exhibit A-1). A copy of the form used to record and justify cases actually selected for career criminal prosecution was also obtained (Exhibit A-2).
- Research study forms were prepared, resembling the Los Angeles form used to record and justify selected cases; in addition to allowing entry of formal criteria, the study forms also provided space for discretionary criteria. (Exhibit A-3).
- The principal investigator witnessed the review of several hundred cases conducted by Los Angeles Career Criminal Division Attorneys. The attorneys were asked to "think out loud" while they reviewed each case and to detail other than statutory criteria they were using in the selection process. For each case actually selected by an attorney, using the form shown in Exhibit A-3, records were made of selection criteria, including other than statutory criteria the attorney indicated he or she was using to select defendants who were high-rate dangerous offenders.
- To determine additional factors the attorneys used as indicators of high-rate dangerousness, the principal investigator, using the same data collection form, reviewed with attorneys cases they were prosecuting during the study but had selected before the study began.
- In Middlesex County, the written guidelines for selecting cases for priority prosecution and a copy of the form used to formally recommend priority prosecution were obtained (Exhibit A-4).

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- The principal investigator reviewed Middlesex County forms recommending priority prosecution and recorded reasons for recommending priority prosecution between January 1, 1985, and May 31, 1985.
  - A combined list of reasons used for recommending priority prosecution in Middlesex County and reasons for selecting career criminal cases in Los Angeles were distributed to the directors of California Career Criminal Programs at a meeting held in June 1985 (see Exhibit A-5). The directors were asked to suggest additional criteria they use in their programs to focus on high-rate dangerous offenders. Additional criteria suggested at this meeting were recorded.
  - The principal investigator continued reviewing forms recommending priority prosecution in Middlesex County and recording reasons for recommending priority prosecution until the reasons were essentially repetitious.
  - Data collection sheets were prepared to obtain information from case folders of study defendants that corresponded to the same information that the attorneys indicated they used in selecting priority cases. These data were coded, keyboarded and merged with the self-reports of the study defendants.
  - For selected cases, the data collected from cases folders were presented anonymously to prosecutors in the Career Criminal Division in Los Angeles and Middlesex County (see Exhibit A-6). Some of the anonymously presented defendants were from cases previously reviewed by the attorneys using procedures described above. Some defendants were from cases never reviewed by the attorneys. Some defendants who were presented anonymously in Los Angeles were actually Middlesex County cases.

Los Angeles Career Criminal Division Attorneys were presented with a total of 134 cases described anonymously; 106 cases were from their own county and included both cases actually prosecuted within the division and cases that had not been selected. The other 28 cases were those of Middlesex defendants. Middlesex County attorneys were presented with 46 cases from their own county; the cases included both priority prosecuted defendants and those not priority prosecuted (see Exhibit A-7).

- The attorneys in each county met in a group and, based on the information presented anonymously, were asked to decide whether each defendant was high-rate or dangerous.

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Although asked to categorize anonymous cases according to these two dimensions of criminality, during these reviews the prosecutors repeatedly discussed three conditional dimensions of criminality: committing many recent crimes (high-rate); if high-rate, committing violent crimes (dangerousness); and if high-rate and dangerous, length of criminal career (persistence). For each case, the prosecutors judgments of high-rate (yes or no) and dangerousness (yes or no) were recorded, coded, keyboarded, and also merged with the data obtained from case folders and self-reports.

- Of the 28 defendants reviewed anonymously in both study sites, 11 were judged high-rate and dangerous by the Los Angeles career criminal prosecutors; all of these were also considered high-rate and dangerous by the Massachusetts prosecutors who reviewed their cases (Exhibit A-8). Additionally, nine defendants considered high-rate and dangerous by the Middlesex attorneys were rated either not dangerous (three defendants) or not high-rate (six defendants) by the Los Angeles prosecutors. Thus the Middlesex prosecutors' evaluations included a wider range of defendant behavior under the category "high-rate and dangerous."
- A quantitative data analysis was undertaken to demonstrate that the criteria which were observed to be used by prosecutors in evaluating defendants were in fact statistically associated with prosecutors' decisions about the level of high-rate dangerousness of defendants they evaluated anonymously.

Exhibit A-9 shows the results for a variable which summarizes the prosecutors' evaluations of defendants into two categories: high-rate dangerous vs. not high-rate dangerous. The first two items in this table show that the Los Angeles County prosecutors are influenced by the legislatively-imposed definitions of "career criminal" with which they have to work. The first item in the table, a California state legislative criterion for a "career criminal", is significantly positively related to the Los Angeles prosecutors' judgment that a defendant is high-rate dangerous, whereas the Middlesex County prosecutors do not take that information into account either significantly or positively in their judgments. The second item, another California state legislative criterion, is evaluated in Middlesex County as demonstrating the defendant is not dangerous\*; by contrast, in Los Angeles County this legislative criterion is weighed positively in judging high-rate dangerousness (but the legislative mandate does not carry over into statistical significance).

- 
- The third item in Exhibit A-9, a Los Angeles County criterion, is weighed similarly as having significant importance by prosecutors in both study sites, as are the next three items (charges for assault, charges for robbery, and use of a gun in the instant offense). The following six items in Exhibit A-9 enter significantly into prosecutors' judgments in Middlesex County (either positively or negatively) only, not in Los Angeles County, according to this correlation analysis.

This finding is congruent with the observation that individual prosecutors in Middlesex County take into account more diverse considerations in their judgments about defendants and different Middlesex prosecutors take into account different factors as indicative of seriousness. Conversely, from the fact that these items are not correlated with the judgments of the Los Angeles County prosecutors we conclude that their judgments are more consistent and focused on the smaller number of items which are significant in the first column of Exhibit A-9.

Finally, the last item in Exhibit A-9 is the amount of bail required by the judge for pretrial release of the defendant. In Los Angeles County, the amount of bail is usually among the first set of information the Career Criminal Division attorneys see when they review cases for selection. They appear to consider the judge's summary impression of the defendant, as encapsulated in the amount of bail set for pretrial release, as highly indicative of the defendant's likelihood of being a high-rate dangerous offender.

In Middlesex county this information about bail was less likely to be available to attorneys selecting cases for priority prosecution and, when it was known to them, they tended not to take it into account. This example demonstrates that data items have different interpretations in different jurisdictions, depending on the time they become available in relation to other information.

- \* The evaluations of a defendant as high-rate, not shown here, were positively correlated with the second California legislative criterion in both study sites.

### Exhibit A-1

## Forms Used by Los Angeles Career Criminal Division Attorneys for Determining Eligibility for Career Criminal Prosecution

CAREER CRIMINAL DIVISION  
Statutory Selection Criteria (P.C. 999e)

| TARGET CRIMES*  | SEPARATE CRIMINAL TRANSACTIONS | TYPE OF PRIOR FELONY CONVICTION REQUIRED  | NUMBER OF PRIORS**     |
|---|--------------------------------|---|------------------------|
| I. 211<br>459<br>Arson<br>Receiving Stolen Property<br>Grand Theft<br>Grand Theft Auto<br>11351<br>11352<br>288 | 3**                            | None  | None                   |
| II. (Same Crimes as Above)  | 1                              | 211<br>459 - 1 <sup>o</sup><br>Arson<br>Forcible rape, 288, sodomy<br>288<br>209<br>187                                   | 1<br>(within 10 years) |
| III. (Same Crimes as Above)   | 1                              | Grand Theft<br>Grand Theft Auto<br>Receiving Stolen Property<br>211<br>459 - 2 <sup>o</sup><br>207<br>ADW<br>11351, 11352 | 2<br>(within 10 years) |

- \* Includes attempts - must all be Felonies.
- \*\* May be combination of different crimes.
- \*\*\* In computing 10 years - exclude time in prison.

CAREER CRIMINAL DIVISION  
Selection Criteria - Los Angeles County (PC 999c(b) and PC 999g)  
(Effective 5/1/84)

| TARGET CRIME*   | SEPARATE CRIMINAL TRANSACTIONS | TYPE OF PRIOR (Adult Convictions)                     | NUMBER OF PRIORS                       |
|---|--------------------------------|---|--|
| Robbery   | 3 or more                      | - 0 -   | - 0 -                                  |
| I. Burglary<br>(Residential or Commercial)                          | 3 or more                      | - 0 -   | - 0 -                                  |
| II. A. Burglary/Murder**<br>B. Robbery (any)<br>C. Robbery/Murder** | 1                              | A. Burglary (first degree)<br>B. Murder<br>C. Robbery | 1 felony<br>(within last ten years)*** |

- \*Includes attempts
- \*\*Robbery or Burglary must be charged in complaint
- \*\*\*In computing 10 years exclude time in prison





## Exhibit A-3

### Research Study Forms Designed to Record Formal and Discretionary Criteria

Cases SELECTED for preliminary referral

**CAREER CRIMINAL UNIT: COMPLAINT SEARCH  
PRELIMINARY SELECTION-STUDY FORM**  
(These data are protected according to 42 U.S. Code 3789 a)

Include ALL cases, whether or not prosecuted by unit

| Date | Defendant | Case No. | Charge(s) at Time of Filing | CRITERIA FOR SELECTION |                  |                       |  |
|------|-----------|----------|-----------------------------|------------------------|------------------|-----------------------|--|
|      |           |          |                             | 3 or more Target Off.  | Number of Priors | Codefendant is a C.C. | Other (non-statutory) criteria indicating High-Rate Dangerous Offender |
|      |           |          |                             |                        |                  |                       |  |
|      |           |          |                             |                        |                  |                       |  |
|      |           |          |                             |                        |                  |                       |  |
|      |           |          |                             |                        |                  |                       |  |
|      |           |          |                             |                        |                  |                       |  |
|      |           |          |                             |                        |                  |                       |  |
|      |           |          |                             |                        |                  |                       |  |
|      |           |          |                             |                        |                  |                       |  |
|      |           |          |                             |                        |                  |                       |  |
|      |           |          |                             |                        |                  |                       |  |

Cases SELECTED for prosecution (Listed on Unit Quarterly Progress Report)

**CAREER CRIMINAL UNIT: INTAKE CASES  
SELECTION CRITERIA STUDY FORM**  
(These data are protected according to U.S. Code 3789 a)

Include ALL cases presented by unit. "Other" criteria section to be completed by SSA or Captain

| DDA & Intake Date | Defendant | Case No. | Charge(s) at Time of Filing | CRITERIA FOR SELECTION |                  |                       |   | Com-plaint Search Case # |
|-------------------|-----------|----------|-----------------------------|------------------------|------------------|-----------------------|---|--------------------------|
|                   |           |          |                             | 3 or more Target Off.  | Number of Priors | Codefendant is a C.C. | Other (non-statutory) criteria indicating High-Rate Dangerous Off |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |
|                   |           |          |                             |                        |                  |                       |   |                          |

**Exhibit A-4**

**Middlesex County District Attorney's Written Guidelines for Selecting Cases for Priority Prosecution and Form Used by Assistant District Attorneys to Recommend Priority Prosecution**



DISTRICT ATTORNEY  
DISTRICT ATTORNEY

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE  
DISTRICT ATTORNEY FOR MIDDLESEX COUNTY  
CAMBRIDGE 02141

M E M O R A N D U M,

TO: ALL STAFF  
FROM: DIANE JULIAR *DJ*  
DATE: DECEMBER 12, 1984  
RE: PRIORITY PROSECUTION GUIDELINES

Thank you for your suggestions regarding the Priority Prosecution Guidelines. Several changes were made as a result of your help. The final guidelines are attached.

The major points of the guidelines are as follows:

1. The guidelines will take effect January 1, 1985. All current cases should be reviewed for priority prosecution designation by each assistant. Completed recommendation forms should be submitted to the appropriate supervisor by December 21, 1984. (The forms are available from each District Court, J-6, PPB, and Drug Unit secretary.) Supervisors should submit approved recommendations to Tom Hoopes through my secretary (Tina) by December 28, 1984. New cases arising between December 21, 1984, and January 1, 1985, should be processed in the same manner.
2. The guidelines provide that recommendations for priority prosecution and ADA assignment will be made by the appropriate supervisor.
3. A combined direct indictment/priority prosecution request form has been designed. (This form replaces the previous direct indictment form.) The form is to be completed by the ADA and then approved (or not approved) in turn by the appropriate supervisor and Tom Hoopes. Tom Hoopes will review all priority prosecution requests and will also act on direct indictment requests for these cases. I will review all other direct indictment requests. All forms are submitted to my secretary.
4. All priority prosecution requests should presumptively be forwarded to Tom Hoopes at the latest within 7 days of

arrest or arraignment, whichever is first. He will act within 3 days, at the latest, whenever possible.

The Commonwealth should be ready for trial on all District Court cases within 60 days and all jury-of-six and Superior Court cases within 120 days.

The assigned assistant will be asked to submit a brief memo to Tom Hocpes on all District Court cases older than 90 days and all jury-of-six and Superior Court cases older than 150 days.

The assigned assistant will be asked to submit a memo to the District Attorney on all cases older than 180 days.

5. I understand that some flexibility is required. For example, a necessary probable hearing may delay a case in the District Court. Also there may be some District Courts where the caseload is particularly congested. However, assistants can also look for a variety of ways to speed cases along, including:

- (1) immediate requests for line-ups to avoid a probable cause hearing in some identification cases.
- (2) grand jury presentations immediately after the probable cause hearing (but scheduled prior to the probable cause hearing).
- (3) requests for expediting minutes by the grand jury stenographer by notifying her that this is a priority prosecution case. (She has agreed to help us on these cases).
- (5) shorter pre-trial conference dates.

I am sure you can think of other ways to move cases along that I have forgotten.

Please continue to give us feedback on these guidelines. This effort will only work with your assistance.

DJ/skc  
Attachment



SCOTT MARSHBARGER  
DISTRICT ATTORNEY

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE  
DISTRICT ATTORNEY FOR MIDDLESEX COUNTY  
CAMBRIDGE 02141

M E M O R A N D U M

TO: ALL STAFF  
FROM: DIANE JULIAR *DJ*  
DATE: DECEMBER 12, 1984  
RE: PRIORITY PROSECUTION GUIDELINES

I. INTRODUCTION

Each of you is aware that the priority prosecution of violent crime, serious repeat offenders, and certain public protection cases has been a major objective of ours since the District Attorney took office. The explicit rationale for this priority is articulated in the Action Plan, pages 5-7. It is part of this Office's commitment to do the traditional prosecutorial job more effectively than ever before and is one of the major reasons for the restructuring of the Criminal Bureau, the establishment of the Public Protection Bureau, and the implementation of policies geared to ensure swift prosecution through vertical representation and, where appropriate, direct indictment. The overriding purpose is to ensure that we do all we can to target the serious offenders - the individuals who pose the greatest danger to the public - for swift, aggressive, quality prosecution and uniform and certain punishment. The premise is, that although these serious offenders represent only a small minority of all criminal defendants, they account for a disproportionate amount of the crime that affects people's lives. We seek to ensure that they are identified, prosecuted, and punished, and the priority prosecution focus is the primary means to this end.

In addition, these guidelines seek to identify cases beyond the scope of traditional priority prosecutions by including those other major or sensitive cases which, by virtue

of the nature of the offense or the offender, require special attention or handling.

In the early part of this term, we have made major strides toward achieving these objectives. With this experience to guide us, we are now in a position to formalize the priority prosecution process to a greater degree and to expand the net of cases that should be screened for priority prosecution on a presumptive basis. To achieve this objective, - to ensure that all appropriate offenders are targeted and that each priority prosecution case receives the attention it deserves in terms of early identification, experienced prosecution, appropriate supervision and timeline monitoring - we are establishing screening and handling guidelines for all of these cases.

The guidelines are intended to enhance our capacity to focus on this critical area and to up the ante for the hardcore and/or violent offender at both the District and Superior Court levels. It should be noted that these guidelines should be used for screening of cases within the jurisdiction of the District Court as well, to target those offenders and cases where priority prosecution treatment (with particular emphasis on vertical representation, thorough preparation and swift disposition) at the District Court level is appropriate.

## II. GOALS

Standards for the identification and subsequent handling of priority prosecution cases have been developed in an effort to meet the following goals:

1. To target crimes of violence, serious repeat offenders, and major public protection cases - that is, those crimes and individuals posing the greatest threat to the public - at the earliest possible time, whether during investigation or at arraignment.
2. To target other cases which, in the public interest, by virtue of the nature of the offense or the offender, require specialized attention.
3. To ensure that priority prosecution cases are appropriately handled by assistants with the level of experience required by each case.
4. To expedite the handling of priority prosecution cases and to ensure swift, aggressive, professional prosecution.

5. To ensure, upon conviction, uniform and appropriate sentencing recommendations by the District Attorney's Office.
6. To centralize the reporting and monitoring of priority prosecution cases.

### III. CASE SELECTION

#### A. Supervisors

The supervisors responsible for assigning cases will also be responsible for recommending cases for priority prosecution.

These supervisors are:

1. Senior supervisors -- cases bound for Superior Court.
2. District Court supervisors -- District Court cases.
3. Public Protection Bureau (PPB) division heads -- all PPB cases.
4. Ted Fucillo -- Narcotics Task Force cases
5. Tom Reilly or Diane Juliar -- murder cases.

The initial review should take place as soon as possible. Presumptively, all reviews should be completed within seven (7) days of arrest or arraignment (if there is no arrest).<sup>1/</sup> Recommendations to supervisors can and should be made by screening Assistant District Attorneys.<sup>2/</sup>

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<sup>1/</sup> We will also be notifying the various law enforcement authorities of the existence of this system and encouraging input from them to the respective supervisors as to which cases should be prosecuted on a priority basis.

<sup>2/</sup> Some cases will not appear immediately to the supervisor as warranting priority prosecution. If after the case is assigned, either the facts, the defendant's record, or  
(Footnote continued on next page)

B. Criteria

This system relies on the experience of the supervisors rather than any "point" system. Most cases will be selected because of the seriousness of the offense or the seriousness of the defendant's record. Others will be selected because the case is "sensitive," because police have reason to believe a defendant to be especially dangerous, because factors in a defendant's profile give reason to believe a defendant should be a priority target, or for other reasons which do not lend themselves to a rigid selection system. Roughly, we can estimate that between 10 and 20% of the cases in Superior Court should be prosecuted in a priority fashion. Experience may or may not change that figure. The District Court percentage in all likelihood will be significantly lower. Appendix I contains a list of crimes that should presumptively trigger a review for priority prosecution. Appendix II contains a list of factors that supervisors should consider regarding both the crime and the defendant.

C. Designation

If upon review, a supervisor believes a particular case should be designated for priority prosecution, the supervisor will be asked to submit a short form. (A copy is attached as Appendix III). On the form the supervisor will recommend priority prosecution designation and the assistant to be assigned.<sup>3/</sup> A brief summary of the facts, defendant's

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(Footnote continued from previous page)

other factors make the case more serious than was at first apparent, the assigned assistant should bring the case back to the supervisor for further review.

Also, a case may be docketed in a jury-of-six session which appears to warrant priority prosecution but was not so designated. The assistant(s) administering the session should bring the case to the attention of the court supervisor for further review.

3/ Priority prosecution cases will be some of the most important matters this office prosecutes. Supervisors are therefore encouraged and expected to take great care (Footnote continued on next page)



record and reasons for the recommendation are necessary.<sup>4/</sup>  
(Copies of the police reports should also be attached).

The form will be in triplicate. One copy will go to the head of the Priority Prosecution Program for approval. One copy will go to the District Court, PPB or Narcotics Unit secretary maintaining priority prosecution records. One copy will stay in the file. The head of the Priority Prosecution Program will review and act on the recommendations, and his/her secretary will phone the appropriate secretary with the resulting actions within three (3) days of receipt of the form.<sup>5/</sup>

In the interim, case handling should proceed on the assumption that the recommended assistant will be assigned to handle the case.

#### IV. MONITORING

This project design is based on the concept that assistants generally know which cases should be priority prosecution cases and know substantively how to prosecute such cases once designated for priority prosecution. Therefore, at this stage the monitoring aspect will focus primarily on time guidelines. However, all assistants should be attentive to the importance of appropriate supervision in priority prosecution cases.

Timeline monitoring will take place as follows:

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(Footnote continued from previous page)

in recommending prosecutors for assignments to these cases. The Chief of the Criminal Bureau, the First Assistant, and the District Attorney reserve the right to make other assignments.

- <sup>4/</sup> Note that this form has been combined with the direct indictment request form for use as applicable. As with direct indictment requests, the form is to be filled out by the recommended assistant for approval by the supervisor.
- <sup>5/</sup> When a District Court priority prosecution case is appealed to the jury-of-six, the file copy of the priority prosecution form should be attached to the transmittal form with the box indicating priority prosecution checked off.

Both the head of the Priority Prosecution Program and the respective District Court (or PPB or Narcotics) secretaries will keep a copy of each priority prosecution form. The status of each priority prosecution case will be updated by the first of each month. Seven days prior to the first of each month, forms will be distributed to each Assistant District Attorney by the District Court (or PPB or Narcotics Task Force) secretaries regarding the cases needing updating.<sup>6/</sup> Results of that update will be provided to the head of the Priority Prosecution Program by the third of each month.

Presumptively, priority prosecution cases should be ready to be tried to final disposition within 60 days of arrest in the District Court bench session and within 120 days of arrest in the Jury of Six session and in the Superior Court.<sup>7/</sup>

Assistants handling priority prosecution cases older than 90 days in the bench session or 150 days in the Jury of Six session or Superior Court will be asked to indicate in writing to the head of the Priority Prosecution Program the reasons for the delay. On all cases older than 180 days, assistants will be asked to submit a memo to the District Attorney with reasons for the delay. The memos are due the first of each month following the 90, 150, or 180 day mark.

#### V. INTAKE OF CURRENT CASES

We need to review our current cases to see which of them deserve priority prosecution. This will require a little extra effort on a one-time basis.

By December 21, each assistant should go through his/her current Superior and District Court cases bearing in mind the priority prosecution criteria set out in Appendices I

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<sup>6/</sup> The secretary for the Chief of the Criminal Bureau will maintain a running log of all priority prosecution cases. The various secretaries, including District Court, Jury of Six, PPB and Narcotics secretaries also should maintain a log with a place for the assistant to note whether or not the case was disposed and, if so, the date disposed. This can be circulated monthly for the assistants to complete.

<sup>7/</sup> In cases where no arrest is made, time will run from date of the first arraignment.

and II. The assistant should complete the priority prosecution recommendation form for those cases selected and present the cases to the appropriate supervisor.

By December 29, the supervisors should go through the cases selected by their assistants, sign the forms for approval where appropriate, and forward the form according to the procedure outlined above for new priority prosecution cases. The time guidelines for these cases are the same as those for new cases with the date on the priority prosecution recommendation form substituted for the date of arrest as a baseline date. Supervisors should note on this group of forms sent to the head of the Priority Prosecution Program that these are current cases.

Cases coming in between December 21 and January 1 should be processed in the same manner.

#### VI. DISTRICT COURT COMPONENT

Clearly there are some District Court cases which should be prosecuted on a priority basis and yet which can appropriately be handled in District Court. We would expect these to be a smaller percentage than the percentage of priority prosecution cases among those bound for Superior Court.

With time we will have a better idea of the precise categories of District Court cases to be screened for recommendation for priority prosecution. Included among these, for example, may be defendants with serious prior records charged with offenses not especially serious.

In any event, all District Court jurisdiction cases falling within the categories in Appendix I should be screened for priority prosecution.

Please remember that some cases within the jurisdiction of the District Court should be brought to Superior Court because of the defendant's record. Supervisors will often have to rely on assistants to alert them to these cases.

#### VII. CONCLUSION

In the initiation of this formalized priority prosecution program, the emphasis is intended to be on the identification of these cases and monitoring to ensure swift prosecution, adequate handling, and uniform sentencing. The goals and criteria set forth above should also be considered in making decisions about bail, whether direct indictment should be sought, the length and acceptability of continuances, and sentencing recommendations.

APPENDIX I: CATEGORIES OF OFFENSES

1. Murder and manslaughter.
2. Rape, and all cases of sexual abuse of children.
3. Armed robbery a) in which the victim was shot, stabbed or seriously injured by any means, or b) which was committed by a defendant with two prior armed robbery convictions, or c) was committed by a defendant armed with an actual firearm, or d) in which the defendant was masked, or e) in which the defendant committed multiple armed robberies within a short, discrete time period.
4. Armed assault in a dwelling.
5. Bank robbery.
6. Mayhem.
7. Felony motor vehicle homicides.
8. Narcotics trafficking cases.
9. Crimes of violence against the elderly or handicapped.
10. Felony prosecutions of defendants with three or more separate prior committed sentences for felony convictions, or one prior committed sentence to state prison.
11. Felonies committed while the offender was on parole.
12. Felonies committed by a young adult with a substantial juvenile record.
13. Serious repeat offenders of any felony (charged with three prior similar offenses, e.g., indecent A & B and rape, breaking and entering any structure, embezzlement or larceny).
14. Public protection matters (in addition to those covered in paragraphs 10-13) which involve:
  - a. Frauds of \$50,000 or more, including arson for profit.
  - b. Frauds against the elderly or handicapped involving \$10,000 or more.
  - c. Consumer frauds involving 10 or more victims.

- d. Embezzlement, fraud, larceny, or bribery by which a fiduciary or public employee has gained \$1,000 or more.
  - e. Prosecution of public officials for crimes related to the discharge of their duties.
  - f. Arson of an occupied building.
  - g. Repeat violator of civil rights or environmental statutes.
15. Hard-core juvenile offenders (see Juvenile Justice Project criteria and procedures for handling of these cases).
16. Any crime involving special or extenuating circumstances (e.g., a particularly vulnerable victim, serious actual violence, cases of particular concern to a community) making priority prosecution appropriate.

The above criteria are purposefully over-inclusive. In almost every category, a closer look at the facts is necessary to determine whether a case is in fact to be accorded priority prosecution status. Keeping the above-stated goals in mind should aid in this determination. However, all cases falling in the above categories must be reviewed to determine whether or not they should be designated as priority prosecution matters.

APPENDIX II: FACTORS

A. NATURE OF CASE

1. VICTIM(s)
  - number
  - injury
  - vulnerability
  - intimidation
  - prior relationship with defendant
2. WEAPON
  - type of weapon
  - use of weapon
3. STOLEN OR DAMAGED PROPERTY
  - value
4. STATE OF EVIDENCE
  - admission or confession
  - number and quality of witnesses
  - corroborating physical evidence
  - nature of identification(s)

B. NATURE OF DEFENDANT

1. PRIOR INCARCERATIONS
  - number
  - recency
2. STATUS WHEN ARRESTED
  - parole/furlough
  - wanted
  - probation
3. PRIOR ARRESTS/CONVICTIONS
  - number
  - recency
  - nature of charge
  - weapon involved
4. PENDING CASES
  - number
  - nature
5. EVIDENCE OF SERIOUS DRUG OR ALCOHOL ABUSE

REQUEST FOR DIRECT INDICTMENT/PRIORITY PROSECUTION APPROVAL

TO: DIANE JULIAR  
CHIEF, CRIMINAL BUREAU

FROM: \_\_\_\_\_  
(name)  
\_\_\_\_\_  
(court)

I do - do not (circle one) request approval for direct indictment on the following case.

I do - do not (circle one) recommend that the following case be designated for priority prosecution.

Name of Defendant(s): \_\_\_\_\_ Offense(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Arrest date: \_\_\_\_\_

Next event and date: \_\_\_\_\_

Reasons for request and/or recommendation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach extra sheet(s) if more space is needed)  
(Include defendant's record and police reports)

APPROVED: \_\_\_\_\_ PP \_\_\_\_\_  
\_\_\_\_\_ DI Supervisor \_\_\_\_\_ (Date)

NOT  
APPROVED: \_\_\_\_\_ PP Diane Juliar \_\_\_\_\_ (Date)  
\_\_\_\_\_ DI \_\_\_\_\_

## Exhibit A-5

### List of Criteria Distributed to the Directors of California Career Criminal Programs at a Meeting, June 25, 1985

NISA/MIJ  
SITE 2: CASES FOR PRIORITY PROSECUTION PROGRAM  
JANUARY 1, 1985 - MAY 31, 1985

| PRIMARY CHARGE  | NUMBER OF<br>DEPENDANTS<br>(N = 106) | SECONDARY CHARGE                          | NUMBER OF<br>DEPENDANTS | OTHER SELECTION CRITERIA   |
|---|--------------------------------------|---|-------------------------|--|
| Armed robbery   | 29                                   | Escape                                    | 3                       | Escapes or parolee<br>PPP on other case(s)<br>Age of victim<br>Number prior appearances in court past year<br>One of several robbery incidents<br>Extent of injury to victim<br>Long prior record: B&E, assaults, robbery<br>Fired gun<br>Many incarcerations<br>Number of aliases |
|   |                                      | Assault with rape                         | 2                       |  |
|   |                                      | A&B DW                                    | 10                      |  |
|   |                                      | Unarmed robbery                           | 1                       |  |
|   |                                      | Other unspecified                         | 1                       |  |
|   |                                      | B&E Dwell                                 | 5                       |  |
|   |                                      | Stealing by confining                     | 4                       |  |
|   |                                      | Larceny MV                                | 1                       |  |
|   |                                      | Kidnap                                    | 1                       |  |
|   |                                      | ...masked                                 | 1                       |  |
| Unarmed robbery   | 3                                    | Assault & battery                         | 3                       | Long record<br>Extent of injury to victim<br>On parole<br>Tried for murder [acquitted]<br>Number of incidents<br>Age of victims  |
| Murder  | 11                                   | Assault                                   | 2                       | Seriousness of offense<br>Prior record<br>Suspended sentence for prior robbery<br>Warrants when arrested<br>Aliases + disguises  |
|   |                                      | Robbery attempt                           | 2                       |  |
|   |                                      | Armed robbery                             | 2                       |  |
| Assault with<br>intent to murder  | 10                                   | Arm robbery                               | 3                       | Long record<br>Extent of injury to victim<br>Seriousness of incident   |
|   |                                      | Larceny MV<br>Possession, drugs           | 1<br>1                  |  |
| Burglary<br>[includes B&E]  | 13                                   | Larceny 4                                 | 4                       | On probation<br>Long record of prior B&E<br>On parole for B&E, assault, or rape<br>On bail for B&E<br>Number of incidents 9320<br>Number defaults for B&E  |
|   |                                      | RSP                                       | 2                       |  |
| Traffic drugs<br>[includes unlawful<br>dispensing; obtaining by<br>fraud] | 12                                   | Larceny MV + others                       | 1                       | On parole for murder,<br>Robber in famous case<br>Value of drugs netted in search<br>Amount of drugs<br>Amount of observed activity<br>Long record prior convictions   |
| Rape of child   | 9                                    | Indecent A&B on child                     | 7                       | Length of time over which offenses occurred<br>Setting (day care center)<br>Number of victims<br>On parole and probation for rape or robbery<br>Juvenile sex offender<br>Prior convictions including robbery   |
|   |                                      | Incest                                    | 1                       |  |
|   |                                      | Drugging person for<br>sexual intercourse | 1                       |  |
|   |                                      | Posing child in state<br>of nudity        | 1                       |  |
|   |                                      |   | 1                       |  |
| Rape  | 4                                    | Kidnap                                    | 1                       | Age of victim<br>Outgrowth of burglary<br>Number of victims<br>Number of other felonies pending<br>Community knowledge; number victims over year   |
|   |                                      | Indecent A&B                              | 1                       |  |
| Possession, drugs   | 3                                    | [Intent to distribute]                    | 2                       | On parole<br>Threatened to kill informant<br>Number of pending cases   |
| Larceny   | 2                                    | Unauthorized law<br>practice; fraud       | 1                       | Number incidents<br>Amount of money involved (1 over \$450,000)<br>Record of similar crimes  |
| Escape  | 2                                    |   |                         | Public policy considerations   |
| Attempt to commit crime   | 2                                    | Larceny MV                                | 2                       | Long prior record<br>Number of aliases   |
|   |                                      | Poss Burglary tools                       | 2                       |  |
| Kidnap to extort  | 1                                    |   |                         | Prior record   |
| Armed Assault   | 1                                    | B&E/ night time/dwell                     | 1                       | Nature of case   |
| Manslaughter, MV  | 1                                    |   |                         | Victim, police officer<br>Nature of incident<br>Prior DWI record   |
| MV Homicide   | 1                                    |   |                         | On parole for MV Homicide<br>Prior record  |
| Larceny, person   | 1                                    |   |                         | Age of victim<br>Long record of similar crimes   |
| Larceny, MV   | 1                                    | ADW                                       | 1                       | Nature of incident [high speed chase involv<br>3 police departments]<br>Extensive prior record including robbery, A.   |



**Exhibit A-6**

**Example Form Used to Present Data Anonymously to  
Prosecutors in Los Angeles and Middlesex County**

BRANDID 1305

Race:

Age: 31

Offense: Burglary

Other Information:

Bail \$17,500; on probation for burglary at time of arrest.

Description of Arrest Incident:

10 am burglary of a house.

Priors:

In addition to burglary for which on probation;

1 prison term for burglary

3 felony convictions out of state - served 2 years 3 months  
in out of state prison

As juvenile (out of state) 6 - 7 arrests; 1 incarceration.

Unit Decision

High Rate

Not High Rate

Dangerous

Not Dangerous

Comments:

*Not taken  
No Violence*

**Exhibit A-7**  
**Cases Reviewed by Prosecutors**

|  | Prosecutors in<br>Los Angeles County |   | Prosecutors in<br>Middlesex County |   |
|--|--------------------------------------|---|------------------------------------|---|
|  | Number<br>presented                  | Number evaluated<br>as high-rate<br>and dangerous | Number<br>presented                | Number evaluated<br>as high-rate<br>and dangerous |
| Anonymous<br>descriptions of<br>Middlesex County<br>defendants   | 28                                   | 11  | 46                                 | 29  |
| Anonymous<br>descriptions of<br>Los Angeles County<br>defendants | 106                                  | 29  | 0                                  | —   |

**Exhibit A-8**  
**Middlesex County Defendants Reviewed by Los Angeles Prosecutors**

| Massachusetts<br>Prosecutors'<br>Evaluation | Los Angeles Prosecutors' Evaluation         |                                   |                               | Total |
|---|---|-----------------------------------|-------------------------------|-------|
|   | Not high-rate<br>or marginally<br>high-rate | High-rate<br>but not<br>dangerous | High-rate<br>and<br>dangerous |       |
| Not high-rate<br>or marginally<br>high-rate | 4   |                                   |                               | 4     |
| High-rate but<br>not dangerous              | 1   | 3                                 |                               | 4     |
| High-rate and<br>dangerous                  | 6   | 3                                 | 11                            | 20    |

## Exhibit A-9

### Official-record Items Taken into Account by Prosecutors in Evaluating Defendants As High-rate Dangerous

| Official-record Item   | Univariate Correlation<br>with Evaluation as<br>High-rate Dangerous |                     |
|--|---|---------------------|
|  | Los Angeles<br>County   | Middlesex<br>County |
| California criterion #1<br>(three target crimes)   | .26*  | -.08                |
| California criterion #2<br>(1 target; 1 prior)   | .10   | -.30*               |
| Modified Los Angeles criterion #3<br>(burglary/murder, robbery/murder, or<br>robbery and juvenile state incarceration<br>for burglary, murder, or robbery) | .29*  | .28*                |
| Instant charges for assault  | .29*  | .32*                |
| Instant charges for robbery  | .25*  | .25*                |
| Weapon used in offense: defendant<br>displayed or used gun to threaten victim  | .30*  | .25*                |
| Offense location—residence   | -.06  | -.35*               |
| Offense location—business  | .06   | .37*                |
| Number adult convictions for burglary  | -.12  | -.35*               |
| Number adult convictions for assault   | -.01  | .36*                |
| Number adult convictions for drugs   | .02   | -.26*               |
| Number adult convictions for<br>receiving stolen property  | -.05  | -.33*               |
| Amount of bail   | .28*  | .09                 |

Note: The variable representing the prosecutors' evaluation equals 1 if the prosecutors judged the defendant to be high-rate dangerous, and equals zero otherwise. The California and Los Angeles County criteria are more precisely described in text Table 1.

\*Correlation is significant at the .05 level.

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## **Appendix B**

# **The Defendant Sample**

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This Appendix describes the sample of defendants and the data collected from them and analyzed as part of the research underlying this report.

### **Sample Selection and Size**

In Middlesex County, questionnaires were completed by 202 defendants out of a potential pool of 455 defendants whose cases were disposed between January 1985 and June 1986. The potential pool consisted of males who were charged with crimes targeted for priority prosecution: robbery, burglary, drug trafficking or drug possession with intent to distribute, rape, assault, homicide, or attempted crimes in any of these categories.

Of these 202 defendants, 198 provided usable self-report data (for example, they answered questions concerning their criminal behavior). Of these 198 defendants, we were able to locate official records for 181 defendants (91 percent); these 181 defendants comprise the study sample from Middlesex County. As shown in Table B-1, 21 percent of the Middlesex County defendant sample was actually selected for priority prosecution.

In Los Angeles County, questionnaires were completed by 298 defendants charged with crimes targeted by the career criminal division (robbery and burglary) whose cases were disposed between December 1, 1984 and December 31, 1985. Of these 298 defendants, 290 provided usable data, and official records were located for 271 (or 93 percent) of them; they comprise the study sample from Los Angeles County. Table B-1 shows that 14 percent of these defendants were actually selected for career criminal prosecution. The remaining 86 percent were a random selection of male defendants who originally were charged with robbery or burglary.

In total then, 500 defendants in two counties completed questionnaires, 488 completed usable questionnaires, and 452 of the 488 had official-record data collected; these 452 defendants comprise the study sample.

Defendants in the study sample were classified as high-rate or not, dangerous or not, or persistent or not based on their self-reported answers to specific survey questions. Consequently, respondents who failed to answer these key questions, or whose answers removed them from the pool of defendants who could be classified, are necessarily omitted from analyses based on these classifications. In particular, the survey questionnaire covers the respondents' criminal behavior only in regard to the following ten offenses:

- 
- burglary
  - robbery of business
  - robbery of person(s)
  - assault during a robbery or burglary
  - other assault
  - theft other than motor vehicle
  - motor vehicle theft
  - forgery and credit card crimes
  - fraud
  - drug dealing

(The specific questions used to ask respondents about commission of these offenses are the same as shown in the survey booklet for the Rand inmate survey; see Chaiken and Chaiken, 1982).

Defendants who answered that they had not committed any of these ten offenses during the reference period (which began on January 1 of the year preceding their arrest on the instant offense and ended on the date of the arrest) were omitted from classification as high-rate or not, or dangerous or not. (These defendants might have committed other crimes, not covered by the survey questionnaire, possibly at high rates; some of these crimes might be considered dangerous.)

Item 3 in Table B-2 shows that 350 defendants in the study sample provided answers permitting classification as "high-rate" or "not high-rate." This is the sample size of defendants that was used in analyses of high-rate dangerous offenders in the research underlying this report.

A larger number of defendants (419) answered survey questions permitting determination of the persistence of their criminal behavior (Item 4, Table B-2). In analyses of persistence as related to official-record data items, this group of 419 defendants was studied; however, in analyses that compared the relationships of the three dimensions of criminal behavior (high-rate, dangerous, and persistent behavior) the smaller study group of 328 defendants for whom the three dimensions could be calculated (item 5, Table B-2) was used.

The relationships among the subgroups are shown in Table B-3. The numbers of respondents in the second column of this table are presented as percentages in Table 3 (Chapter 4 of the text of this report).

### **Internal Reliability of Defendants' Self-Reports**

The survey instrument used for this study was similar to the one used in the 1978 Rand inmate survey (Chaiken and Chaiken, 1982) and in later replications of that survey. However, defendants differ from prison and jail inmates in regard

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to the circumstances surrounding them when they are asked to complete survey booklets. Inmates have been convicted and sentenced at some time in the past and typically do not have any pending court actions concerning their cases; but the defendants who completed questionnaires for this study had just recently been told that they had been convicted of the crime for which they had been arrested. Many defendants were undergoing a possibly stressful transition to the period of incarceration that followed. Others, having been sentenced to probation or time already served, were understandably anxious to leave the pretrial detention facilities rather than spending time responding to a questionnaire. Further, defendants in criminal cases are ordinarily cautioned by their attorneys not to reveal any information that might be harmful to their cases.

For these and other reasons, it was natural to expect that the defendants' levels of concentration and candor when completing questionnaires might not have been as good as that of inmates who had already been serving jail or prison sentences for some period of time. Prior to beginning the research described in this report, we carried out a preliminary study in which methods for administering questionnaires to defendants were designed and implemented, and the quality of data collected from 100 defendants were analyzed and compared to the quality of data previously collected from inmates. We also carried out the same type of comparison using the data collected from defendants sampled for this report. The results, summarized here, demonstrated that the defendants sampled for the preliminary study and this study had approximately the same level of internal reliability of their responses as was found for California jail respondents in the 1978 Rand inmate survey.

To carry out these analyses, we replicated a method for analyzing the internal reliability of questionnaire responses that we had developed and carried out earlier for the 1978-79 Rand inmate survey (Appendix B of Chaiken and Chaiken, 1982). This method entailed selecting examples of various types of confused, inconsistent, or incomplete responses that could appear in the survey data, and counting for each respondent how many of these errors occurred. We did not attempt to estimate the magnitude of error in any particular survey items or the standard error of statistics that were generated by analyzing survey data, but rather developed overall summary measures of internal quality.

In all, 139 survey responses (out of a total of approximately 450 separate items on the questionnaire) were used in evaluating the internal reliability of the data. In the preliminary study of 100 defendants in Los Angeles County (Chaiken and Chaiken, 1984), these 139 items were the only ones coded and entered into the data file. (The purpose of that study was specifically to evaluate the reliability of the data, not the substantive content of the self-reports.) For the samples of defendants in Los Angeles and Middlesex Counties interviewed

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during 1984 and 1986, a larger number (but not all) of the survey items were coded and entered into the database, specifically including the 139 items needed for internal reliability analysis.

The same computer program that had been written for use in evaluating the internal quality of the 1978-79 inmate survey data was also applied (with slight modifications) to the 1984 defendants' survey data and the 1984-86 defendants' survey data. Cleaning and archiving programs that had been applied to the 1978-79 inmate survey data produced special codes for missing values, multiple responses, responses in sections which the respondent should have skipped, and the like; to replicate these codes, we used exactly the same coding procedures and transformations when preparing and analyzing the data in the later defendant surveys.

The analysis involves calculating 27 distinct indicators of reliability from the 139 survey items (see Chaiken and Chaiken, 1982, Appendix B, for details). Up to 15 of these indicators could show that a respondent was answering inconsistently, and up to 11 indicators could indicate confusion. Up to 14 of these same 26 indicators could show that the respondent was omitting answers that should have been filled in on the questionnaire, and the 27th indicator was a separate measure of omissions. Each respondent is given an overall "percent bad internal quality," based on his number of errors divided by the number of indicators applicable to him. A cutoff was established for "bad internal quality" such that the worst 20 percent (approximately) of respondents to the 1978-79 Rand inmate survey fell into this category; the cutoff percentage was not subsequently changed for any of the later replications of this method. Respondents whose "percent bad internal quality" falls below the cutoff are said to have good internal quality in their self-report data.

The defendants in our 1984 preliminary study were found to have approximately the same level of internal reliability for self-reports as did the California jail respondents in the 1978 Rand inmate survey — a reasonable comparison group since all the defendants in the 1984 sample were prosecuted in California (specifically Los Angeles County) and most convicted defendants are sentenced to jail rather than to prison. Actually, the 1984 defendants had somewhat worse reliability indicators (Table B-4), but this was explained by the poorer quality of responses on the Spanish language survey booklet (30 percent of defendants in the 1984 sample used the Spanish language instrument, versus 3 percent in the 1978 California jail sample). The respondents using the English booklet fared the same in both years. (For further details concerning the 1984 respondents, see Chaiken and Chaiken, 1984.)

The internal quality of responses by defendants interviewed in Los Angeles and Middlesex Counties during 1984 and 1986 was approximately similar to that of the 1978 California jail respondents in terms of the number of errors they made. But this group of defendants was substantially better than the

comparison groups shown in Table B-4 when measured by their "percent bad internal quality." The disparity between "number bad" and "percent bad" is explained by the fact that the 1984-86 defendant respondents had, on the whole, more applicable questions on the questionnaire (they were involved in more types of activities covered by the questions in the survey). In fact, in our entire respondent group for this study (Middlesex County respondents plus Los Angeles County respondents), only 19.5 percent scored above the "bad" cutoff, which is slightly better than the 20 percent which applied to the entire 1978-79 respondent group (prison and jail inmates in three states).

On the whole then, concerns that a defendant sample might display worse patterns of inconsistency, confusion, or omission on the self-report instrument were not validated by the analysis. The quality of self-reports for the defendant sample was neither better nor worse than for a comparable inmate sample.

**Table B-1**

**Priority Prosecution or Career Criminal Prosecution Among Study Sample**

|  | Los Angeles County |         | Middlesex County |         | Both Counties |         |
|--|--------------------|---------|------------------|---------|---------------|---------|
|  | N                  | Percent | N                | Percent | N             | Percent |
| Not selected for priority prosecution or career criminal prosecution | 232                | 86      | 143              | 79      | 375           | 83      |
| Selected for priority prosecution or career criminal prosecution     | 39                 | 14      | 38               | 21      | 77            | 17      |
| Total  | 271                |         | 81               |         | 452           | 100     |

Note: Seven defendants originally selected for career criminal prosecution in the Los Angeles County study sample were handled by other prosecutorial units for administrative reasons.



**Table B-2**  
**Defendants Classified as High-rate, Dangerous, or Persistent**

| Category   | Los Angeles<br>County | Middlesex<br>County | Total |
|--|-----------------------|---------------------|-------|
| 1. Study sample (defendants with usable questionnaire responses and official-record data)  | 271                   | 181                 | 452   |
| 2. Defendants who admitted committing one or more of the ten types of crimes in the survey   |                       |                     |       |
| Number   | 208                   | 142                 | 350   |
| Percent of item 1  | 77%                   | 78%                 | 77%   |
| 3. Defendants classified as "high-rate" (These are candidates for being classified as "high-rate dangerous")                           |                       |                     |       |
| Number   | 85                    | 66                  | 151   |
| Percent of item 2  | 41%                   | 46%                 | 43%   |
| 4. Defendants who provided self-report information related to persistence  |                       |                     |       |
| Number   | 246                   | 173                 | 419   |
| Percent of item 1  | 91%                   | 96%                 | 93%   |
| 5. Defendants who provided self-report information related to persistence and admitted committing one or more of the ten survey crimes |                       |                     |       |
| Number   | 191                   | 137                 | 328   |
| Percent of item 2  | 92%                   | 97%                 | 94%   |
| Percent of item 4  | 78%                   | 79%                 | 78%   |

**Table B-3****Dimensions of Serious Criminal Behavior Based on Defendants' Self-reports**

| Category Based on Self-report        | Number of Defendants Who Committed Questionnaire Offenses | Number of Defendants Who Committed Questionnaire Offenses and Provided Data on Persistence |
|--------------------------------------|---|--|
| Total defendants                     | 350   | 328  |
| Not Persistent                       | 160   | 160  |
| Persistent                           | 168   | 168  |
| Missing data concerning persistence  | 22  | —  |
| Not high-rate                        | 199   | 182  |
| High-rate                            | 151   | 146  |
| Not dangerous                        | 201   | 187  |
| Dangerous                            | 149   | 141  |
| High-rate and dangerous              | 94  | 91   |
| High-rate and persistent             |   | 8  |
| Persistent and dangerous             |   | 72   |
| High-rate, dangerous, and persistent |   | 30   |

Note: See Table B-2 for relationship of 328 defendants and 350 defendants to total number of defendants who completed questionnaires.

**Table B-4****Internal Reliability Comparisons**

|   | 1978 California Jails | 1984 Preliminary Study Defendants | 1984-86 Defendants |           |       |
|---|-----------------------|-----------------------------------|--------------------|-----------|-------|
|   |                       |                                   | Los Angeles        | Middlesex | Total |
| Average Number of Omissions                   | 0.8                   | 1.8                               | 0.8                | 1.4       | 1.1   |
| Average Number of Inconsistencies             | 1.2                   | 1.4                               | 1.6                | 1.0       | 1.4   |
| Average Percent of "Bad" Indicators           | 13.6                  | 15.8                              | 11.4               | 10.8      | 11.1  |
| Percent of Respondents Above the "Bad" Cutoff | 28.8                  | 38.5                              | 21.4               | 16.7      | 19.5  |

Note: This table is adapted from Table 2, Chaiken and Chaiken (1987).

Sources: 1978 California jail inmates: Chaiken and Chaiken (1982), Appendix B.

1984 Defendants (Los Angeles County): Chaiken and Chaiken (1984), pp. 19-21 and Tables I and II.

1984-86 Defendants: Chaiken and Chaiken (1987), Section 4.

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## Appendix C

# Tables Showing Associations Between Official-record Information and Self-reported Criminal Behavior

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These tables summarize the statistical association between official-record predictor variables and self-reported high-rate, dangerous and persistent criminal behavior. The tables are based on the research reported in Marcia Chaiken and Jan Chaiken, *Selecting "Career Criminals" for Priority Prosecution*, submitted to the National Institute of Justice, June 1987. Typographical errors in the 1987 report have been corrected in this Appendix.

**Table C-1**

**Official-record Data Items Associated with Being High-rate or High-rate Dangerous in One or Both Study Jurisdictions**

(Most of these are also associated with persistence)

- California state legislative criterion: Current charge for at least one target crime (robbery, burglary, arson, receiving stolen property, grand theft, grand theft auto, drug distribution, or sex felony crime involving a child), plus a prior adult conviction (within last ten years, excluding time incarcerated) for robbery, burglary, arson, forcible rape, sex crime involving a child, kidnap, or murder<sup>a</sup>
- Los Angeles Criterion: Current charges for three separate criminal transactions for robbery
- Los Angeles Criterion: Current charges for one crime of burglary/murder, robbery/murder, or robbery, plus one prior adult conviction (within last ten years, excluding time incarcerated) for first degree burglary, murder, or robbery
- Los Angeles Criterion: Current charges for three separate criminal transactions for burglary (residential or commercial)<sup>a</sup>
- Juvenile version of above: Current charge for one crime of burglary/murder, robbery/murder, or robbery, plus one prior JUVENILE conviction (within the last ten years, excluding time incarcerated) that resulted in incarceration in a juvenile state facility for first degree burglary, murder, or robbery
- Total number of adult convictions for theft [the more convictions for theft, the LESS likely to be dangerous]
- Victim sustained lacerations in instant offense
- Victim was injured during instant offense
- Total number of instant charges for robbery
- Defendant was wanted by authorities for failure to complete previous sentence (prison, jail, parole, or probation)<sup>a,b</sup>

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Total number of juvenile convictions for robbery  
Weapon used: Defendant displayed or used knife to threaten victim  
Defendant was on parole when arrested for current offense<sup>a</sup>  
Total instant charges for drug distribution/possession [the more charges, the LESS likely to be dangerous]  
Total prior adult arrests for assault [the more assault arrests, the less likely to be high-rate and the more likely to be dangerous]  
Total prior adult arrests for burglary [the more prior burglary arrests, the LESS likely to be high-rate dangerous]  
Total prior adult arrests for robbery  
Total prior adult arrests for receiving stolen property<sup>c</sup>  
Defendant was pending a hearing for violation of probation when arrested for current offense<sup>a</sup>  
Defendant was on bail or own recognizance when arrested for current offense<sup>a</sup>  
Prosecutor, police, or other practitioner noted defendant had a long record but did not specify numbers or types of offenses<sup>a</sup>  
Defendant violated probation during current offense<sup>a</sup>  
Total juvenile arrests for robbery  
Use of alcohol involved in current offense [if so, LESS likely to be high-rate dangerous]  
Two or more offenders, including the defendant, were involved in current offense  
Location where offense occurred: street, alley, parking lot, other publicly accessible outside area  
Victim was female  
Victim was over the age of 60  
Defendant was known to use illicit drugs regularly<sup>d</sup>  
Defendant was known to use heroin<sup>a</sup>  
Defendant was known to use marijuana<sup>a</sup>

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<sup>a</sup> Associated with high-rate offending. Not associated with high-rate dangerous offending among those who self-report high-rate offending.

<sup>b</sup> Associated with high-rate dangerous offending among those who pass first-stage screen for high-rate offending.

<sup>c</sup> Associated with high-rate offending. In one of two study sites, associated positively with high-rate dangerous offending among those who self-report high-rate offending, in the other, negatively.

<sup>d</sup> Associated with high-rate offending. Association with dangerousness is negative and not statistically significant.

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**Table C-2**

**Official-record Data Items Associated with Being a Persistent  
Offender in One or Both Study Jurisdictions, But Not  
Associated with Being High-rate or Dangerous**

- California state legislative criterion: Current charge for one target crime, plus two prior adult convictions (within last ten years, excluding time incarcerated) for grand theft, grand theft auto, receiving stolen property, robbery, burglary, kidnap, assault with a deadly weapon, or drug distribution
- Amount of bail set at arraignment/ bail denied
- Location where offense occurred: restaurant, convenience store or other business establishment
- Total number of adult convictions for assault
- Total number of adult convictions for burglary
- Total number of adult convictions for auto theft
- Total number of adult convictions for robbery
- Total number of adult convictions for receiving stolen property
- Long record of specific felony arrests: arson, assault, burglary, drug sales/possession, auto theft, kidnap, murder, robbery, rape, receiving stolen property, theft, theft from person
- Long record of specific felony convictions: kidnap, robbery, rape, assault, murder and burglary
- Defendant was previously convicted for the same type of offense
- Total prior adult arrests for auto theft
- Total prior adult arrests for robbery or burglary [but weakly associated with high-rate]
- Total prior adult arrests for rape
- Total prior adult arrests for theft
- Number of aliases used by defendant
- Defendant had a long serious record (numbers and types of offenses not specified)
- Defendant had record of previous probation or parole revocations
- Defendant had record of previous incarcerations in prison
- Defendant deemed to be serious offender and likely to persist
- Total juvenile arrests for burglary
- Juvenile incarceration in state facility for burglary

**Table C-3**

**Official-record Data Items Not Associated with Being High-rate,  
Dangerous, or Persistent in the Study Jurisdictions**

California state legislative criterion: Current charges for three separate criminal transactions (events) involving these target crimes: robbery, burglary, arson, receiving stolen property, grand theft, grand theft auto, drug distribution, or sex felony involving a child

Victim bruised

Weapon used: Defendant displayed or used gun to threaten victim

Offense occurred in house, apartment or other residence

Total number of adult convictions for drug distribution

Juvenile incarceration in state facility for murder

Juvenile incarceration in state facility for robbery

Total number of instant charges for assault

Total number of instant charges for burglary

Total number of instant charges for kidnap

Total number of instant charges for murder

Total number of juvenile convictions for assault

Total number of juvenile convictions for burglary

Total instant charges for auto theft

Total number of adult convictions for theft from person

Total prior adult arrests for drug distribution/possession

Total prior adult arrests for theft from person

Age of victim under 16

Current offense involved forcible rape

Defendant was on probation or parole for robbery when arrested for current offense

Total juvenile arrests for assault

Defendant noted as alcoholic

Defendant was pending trial for another offense

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**Table C-4**

**Official-record Data Items With Insufficient Data or  
Inconsistent Association in the Study Jurisdictions**

(Association with crime rate, dangerousness or persistence  
could not be determined in this study)

Total number of adult convictions for murder

Number of victims who died as a result of instant offense

Total number of adult arrests for kidnap

Total number of adult arrests for murder

Current offense involved premeditated crime

Defendant was known to use PCP

Defendant had no community ties

Defendant was unemployed

Defendant was known to use amphetamines

Defendant was known to use LSD

Defendant's first arrest was before age 17

Total instant charges for receiving stolen property

Defendant had prior record (not specific)

Defendant was on probation when arrested for current offense

Total number of juvenile convictions

Total number of juvenile arrests

Total number of separate criminal incidents involving defendant recorded by police or  
other criminal justice practitioners — includes events for which charges not filed<sup>a</sup>

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<sup>a</sup> Possibly related to high-rate offending. Association significant in both sites combined but not  
in individual sites.

## Exhibit D-1

### Official-record Items Listed in Order of Their Entry in Stepwise Regressions

| Table Number for Full Description | Step Number | Type of Variable and Short Name of Variable  |
|-----------------------------------|-------------|--|
|                                   |             | California state selection criteria for career criminal prosecution  |
| C-3                               | 1           | California criterion #1<br>[3 target crimes]   |
| C-1                               | 1           | California criterion #2<br>[1 target; 1 prior]   |
| C-2                               | 1           | California criterion #3<br>[1 target; 2 priors]  |
|                                   | 1           | California summary<br>[1 of the above 3]   |
|                                   |             | Los Angeles District Attorney's more restrictive selection criteria  |
| C-1                               | 2           | Los Angeles Criterion #1<br>[3 robberies]  |
| C-1                               | 2           | Los Angeles Criterion #2<br>[3 burglaries]   |
| C-1                               | 2           | Los Angeles Criterion #3<br>[burglary/murder, robbery/murder, or robbery + 1 prior]  |
|                                   |             | Los Angeles Attorneys' discretionary selection criteria  |
| C-1                               | 2           | Modified Los Angeles Criterion #3<br>[burglary/murder, robbery/murder, or robbery + 1 juvenile state incarceration for burglary, murder, or robbery]                   |
|                                   | 2           | Los Angeles summary<br>[1 of above 3]  |
|                                   | 2           | Los Angeles Total<br>[1 of criteria #1, #2, #3, or modified #3]  |
|                                   |             | Discretionary criteria used by most Assistant or Deputy District Attorneys in Los Angeles and Middlesex Counties -- Information available at or soon after arraignment |
| C-2                               | 3           | Amount bail/ bail denied   |
| C-2                               | 3           | Offense location - business  |
| C-3                               | 3           | Victim injury, bruises   |
| C-3                               | 3           | Weapon used, gun   |



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# Appendix D

## Development of Selection Model by Multivariate Analysis

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The study sample for multivariate analysis was comprised of the 350 defendants who completed usable questionnaires, reported committing one or more of the types of crimes listed in the questionnaire, and had official record information collected about them (see Appendix B).

The official-record information was converted into the analysis variables which are listed in Exhibit D-1. More complete descriptions of the variables listed here may be found in the Tables in Appendix C which are cross-referenced to the left of each variable's short description. Variables which represent a yes-no situation were coded as zero for "no" and 1 for "yes." Other variables, such as the number of adult arrests for robbery, were represented as integer variables.

The official-record analysis variables were placed in the sequential order shown, according to their levels of operational relevance — the extent to which the information was used by prosecutors in selecting defendants for priority prosecution. Variables having the same "step number" in this table were treated equivalently in the stepwise analysis. Official-record data which were collected but are not shown in Exhibit D-1 did not have adequate variance in the study sample to permit their use in the analysis. For example, very few study defendants had prior adult convictions for kidnapping.

The dependent variables for the analysis were derived from the defendants' self reports and described the three dimensions of criminal behavior: *persistence*, *high rate*, and *high-rate dangerous*.

**PERSIST** — Equals 1 if the defendant committed crimes for more than one-third of his life

— Equals zero otherwise

**LOHI** — Equals 1 if the defendant's crime commission rate for any one of the ten study crimes was higher than the seventieth percentile (the crime rate cutoff shown in text Table 2)

— Equals zero otherwise

**DANGH** — Not applicable (missing) unless LOHI = 1 (i.e., this variable applies only to self-reported high-rate offenders)

— Equals 1 if the defendant committed robbery at a rate exceeding the seventieth percentile, or committed assault

— Equals zero otherwise

**Exhibit D-1  
(Continued)**

| <b>Table Number for Full Description</b>  | <b>Step Number</b> | <b>Type of Variable and Short Name of Variable</b>                  |
|---|--------------------|---|
| C-3   | 3                  | Offense location—residence  |
| C-2   | 3                  | Adult convictions for assault                                       |
| C-2   | 3                  | Adult convictions for burglary                                      |
| C-3   | 3                  | Adult convictions for drugs   |
| C-2   | 3                  | Adult convictions for auto theft                                    |
| C-2   | 3                  | Adult convictions for robbery                                       |
| C-2   | 3                  | Adult convictions for RSP   |
| C-3   | 3                  | Adult convictions for theft—person                                  |
| C-1   | 3                  | Adult convictions for theft   |
| C-3   | 3                  | Juvenile state facility—murder                                      |
| C-3   | 3                  | Juvenile state facility—robbery                                     |
| C-2   | 3                  | Juvenile state facility—burglary                                    |
| C-1   | 3                  | Victim injury, lacerations  |
| C-3   | 3                  | Instant charges for assault   |
| C-3   | 3                  | Instant charges for burglary  |
| C-3   | 3                  | Instant charges for kidnap  |
| C-3   | 3                  | Instant charges for murder  |
| C-1   | 3                  | Instant charges for robbery   |
| C-1   | 3                  | Victim was injured—instant offense                                  |
| C-3   | 3                  | Pending trial for another offense                                   |
| <p align="center">Discretionary criteria used by some Assistant or Deputy District Attorneys in Los Angeles and Middlesex Counties—Information available at or soon after arraignment</p> |                    |   |
| C-1   | 4                  | Wanted, failure to complete term—prison, jail, parole, or probation |
| C-3   | 4                  | Juvenile convictions for assault                                    |
| C-3   | 4                  | Juvenile convictions for burglary                                   |
| C-1   | 4                  | Juvenile convictions for robbery                                    |
| C-1   | 4                  | Weapon used, knife  |
| C-2   | 4                  | Long record, specific felony arrests                                |
| C-2   | 4                  | Long record, specific felony convictions                            |
| C-1   | 4                  | On parole when arrested   |
| C-4   | 4                  | On probation when arrested  |

**Exhibit D-1  
(Continued)**

| <b>Table Number for Full Description</b> | <b>Step Number</b> | <b>Type of Variable and Short Name of Variable</b>                |
|--|--------------------|---|
| C-2                                      | 4                  | Previously convicted, same type crime                             |
| C-3                                      | 4                  | Instant charges for auto theft                                    |
| C-4                                      | 4                  | Instant charges for RSP   |
| C-1                                      | 4                  | Instant charges for drugs   |
| C-4                                      | 4                  | Number of separate criminal incidents [includes events not filed] |

Information used by some Assistant District Attorneys in Middlesex County, not in Los Angeles County

|     |   |   |
|-----|---|---|
| C-1 | 5 | Total adult arrests for assault                   |
| C-1 | 5 | Total adult arrests for burglary                  |
| C-3 | 5 | Total adult arrests for drugs                     |
| C-2 | 5 | Total adult arrests for auto theft                |
| C-2 | 5 | Total adult arrests for robbery or burglary       |
| C-1 | 5 | Total adult arrests for robbery                   |
| C-2 | 5 | Total adult arrests for rape                      |
| C-1 | 5 | Total adult arrests for receiving stolen property |
| C-3 | 5 | Total adult arrests for theft from person         |
| C-2 | 5 | Total adult arrests for theft                     |
| C-3 | 5 | Age of victim under 16                            |
| C-2 | 5 | Number of aliases used by defendant               |
| C-1 | 5 | Pending hearing for violation of probation        |
| C-4 | 5 | First arrest before age 17                        |
| C-3 | 5 | Forcible rape                                     |
| C-1 | 5 | On bail or own recognizance                       |
| C-2 | 5 | Long serious record - nonspecific                 |
| C-1 | 5 | Long record - nonspecific                         |
| —   | 5 | On probation or parole                            |
| C-3 | 5 | On probation or parole for robbery                |
| C-1 | 5 | Previous probation/parole revoked                 |
| C-4 | 5 | Prior record (not specific)                       |
| C-2 | 5 | Previous incarcerations in prison                 |
| C-1 | 5 | Violated probation current offense                |
| C-2 | 5 | Serious offender/likely to persist                |

**Exhibit D-1  
(Continued)**

| <b>Table Number for Full Description</b>   | <b>Step Number</b> | <b>Type of Variable and Short Name of Variable</b> |
|--|--------------------|--|
| C-3  | 5                  | Total juvenile arrests for assault                 |
| C-2  | 5                  | Total juvenile arrests for burglary                |
| C-1  | 5                  | Total juvenile arrests for robbery                 |
| C-4  | 5                  | Total number of juvenile convictions               |
| C-4  | 5                  | Total number of juvenile arrests                   |
| Information available in official records but generally not used by Assistant or Deputy District Attorneys for priority prosecution selection purposes |                    |  |
| C-1  | 6                  | Use of alcohol/ current offense                    |
| C-3  | 6                  | Defendant noted as alcoholic                       |
| -  | 6                  | 2 or more offenders including the defendant        |
| C-1  | 6                  | Offense location/ publicly accessible outside area |
| C-1  | 6                  | Victim was female                                  |
| C-1  | 6                  | Victim was over the age of 60                      |
| -  | 6                  | Defendant was known to use cocaine                 |
| C-1  | 6                  | Defendant known to use illicit drugs regularly     |
| C-1  | 6                  | Defendant was known to use heroin                  |
| C-1  | 6                  | Defendant was known to use marijuana               |
| -  | 6                  | Defendant known to use multiple illicit drugs      |

Univariate (Pearson) correlations between the dependent variables and all the official-record variables were obtained for each study site separately (Middlesex County and Los Angeles County), for both sites together, and separately for (a) all 350 defendants in the study sample and (b) all defendants with good quality data (as defined in Appendix B). Official-record variables were listed in one of the four tables in Appendix C according to their statistically significant relations to one or more of the dependent variables (or no significant relationships). Official-record variables were not considered for further analysis if their univariate correlations were inconsistent between the two study sites, or were not confirmed for the subset of defendants with good quality data. For developing a selection model based on the significant official-record variables, the following self-report variable was constructed:

**HIDANG** — Equals zero if LOHI = 0 or if DANGH = 0  
 — Equals 1 if DANGH = 1

In the analysis, two types of selection models were developed and compared with each other: (1) a one-stage postdiction of HIDANG from official-record variables, and (2) a two-model which first approximated a postdiction of LOHI by official record variables and then, among defendants whose postdicted probability of LOHI=1 was high, postdicted HIDANG from official-record variables.

To develop the first stage of the two-stage selection model, stepwise multiple regression was used with dependent variable LOHI and with independent variables entered in steps as shown in Exhibit D-1. The multiple regression serves to screen the official-record variables, since independent variables which have significant univariate correlations with LOHI may be excluded from the regression if they do not explain any variance beyond the variance explained by variables which entered the regression in earlier steps. (In addition, in the analysis we eliminated any variables which were positively correlated with the dependent variable but, after entry of variables in earlier steps, had negative instead of positive coefficients.)

The variables which significantly entered the stepwise regression are shown in Table D-2. The overall F-statistic for this regression is 5.84, with significance 0.0001. (R-squared = 0.106). Regressions with this level of R-square are generally considered weak postdiction models.

By developing a logistic regression model with dependent variable LOHI and the independent variables listed, it is possible to estimate, for each defendant, a postdicted probability that LOHI=1 for him. (See Chaiken and Chaiken, 1987, for a description of this method and its results.) However, since the listed variables, with the exception of adult arrests for receiving stolen property, take on only two values (yes or no, quantified as 0 or 1), the implications of the

**Table D-2**  
**Stepwise Linear Regression Results for**  
**Dependent Variable LOHI (Stage 1)**

| Independent Variable             | Regression Coefficient | F Statistic | Sig.  |
|----------------------------------|------------------------|-------------|-------|
| California criterion #2          | 0.10                   | 3.33        | 0.07  |
| Los Angeles criterion #2         | 0.21                   | 2.82        | 0.09  |
| Wanted, failure to complete term | 0.43                   | 9.28        | 0.002 |
| On parole when arrested          | 0.13                   | 2.68        | 0.10  |
| Adult arrests for RSP            | 0.085                  | 2.81        | 0.09  |
| On bail or own recognizance      | 0.35                   | 6.41        | 0.01  |
| Drug problem                     | 0.29                   | 7.75        | 0.006 |

Overall F = 5.84 (sig. 0.0001).       $R^2 = 0.106$

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regression results can be easily understood by dividing defendants into subgroups according to the values of all of the listed independent variables. For this purpose, the variable "number of arrests for receiving stolen property" has been replaced by the variable "1 or more prior adult arrests for receiving stolen property."

A summary of the results is in Table D-3. Based on these results, we chose a cutoff rule, based on stage 1 postdictions, for entering stage 2 of the analysis. This cutoff rule was simply to select defendants if they were:

- on bail or own recognizance, or
- on parole, or
- met any two or more of the conditions derived from the list of independent variables in Table D-2.

For the 122 defendants who passed this Stage 1 cutoff rule, stepwise multiple linear regression was again used for the dependent variable **HIDANG**. Note that this dependent variable combines the effect of "high-rate" with dangerousness. Because the Stage 1 cutoff is far from a perfect postdiction of **LOHI**, part of the variance explained in Stage 2 is associated with the **LOHI** variable, and part is associated with dangerousness. The variables which entered the Stage 2 regression are shown in Table D-4.

To test the robustness of this model, a series of regressions was run eliminating in turn from possible entry into the regression, each of the variables in Table D-4. These alternative models were tested along with the original model by examining all combinations of "yes" and "no" on the independent variables to determine the fraction of defendants who were actually (by self-report) high-rate dangerous. The results for the variables in Table D-4 are summarized in Table D-5; none of the alternative models was nearly as satisfactory. Table D-5 suggests a cutoff rule of "defendant met two or more of the conditions in Table D-4."

For purposes of comparison with the two-stage model, a one-stage stepwise regression was run for all 350 defendants in the study group, using **HIDANG** as the dependent variable. The variables which entered this regression were:

- Los Angeles criterion #1
- Los Angeles modified criterion #3
- Defendant wanted for failure to complete a prior term
- Victim was injured in the instant offense
- Defendant was on parole when arrested
- Number of adult arrests for burglary (with a negative coefficient)
- Number of adult arrests for receiving stolen property
- On bail or own recognizance when arrested.

However, neither cutoffs based on the regression equation itself nor cutoff counting rules derived from these variables performed as well as the two-stage procedure in postdicting high-rate dangerous defendants.

The two cutoff rules from Tables D-3 and D-5 are presented in Exhibits D-6 and D-7 in the form of a two-stage checklist. The first stage is Exhibit D-6; defendants who pass the first stage are then considered in Exhibit D-7. This two-stage checklist serves as a succinct summary of the results of the postdiction analysis for the Los Angeles County and Middlesex County study sites.

Table D-8 compares the selections that would have been made following the two-stage checklist with the evaluations by prosecutors of anonymously presented cases. The table shows that the Middlesex County prosecutors are more inclusive than the two-stage model in selecting high-rate dangerous offenders, but the prosecutors include as high-rate dangerous more people who by self-report are not. The Los Angeles County prosecutors are approximately the same as the two-stage model in identifying high-rate dangerous offenders, but they also include as high-rate dangerous more offenders who by self-report are not. The model improves over the prosecutors' judgment primarily by eliminating "false positives" (defendants who are identified as high-rate dangerous when by self report they are not high-rate dangerous).

**Table D-3**  
**Quality of Stage 1 Postdictions of the Dependent Variable LOHI**

| Independent Variables Equal "Yes" | Number of Defendants | Percent of Defendants with LOHI = 1 |
|-----------------------------------|----------------------|-------------------------------------|
| None                              | 124                  | 25.8                                |
| Bail or own recognizance          | 8                    | 75.0                                |
| On parole                         | 5                    | 100.0                               |
| Any other one variable            | 104                  | 41.3                                |
| Any two                           | 89                   | 57.3                                |
| Any three                         | 18                   | 66.7                                |
| Any four                          | 2                    | 100.0                               |
| Total                             | 350                  | 43.1                                |

**Table D-4****Stepwise Linear Regression Results for Dependent Variable HIDANG  
(Among 122 Defendants who Passed the Cutoff for Stage 1)**

| <b>Independent Variable</b>  | <b>Regression Coefficient</b> | <b>F Statistic</b> | <b>Sig.</b> |
|--|-------------------------------|--------------------|-------------|
| Wanted for failure to complete previous sentence                       | 0.32                          | 4.84               | 0.03        |
| Female victim in the instant case                                      | 0.24                          | 6.67               | 0.01        |
| Threaten or injure with knife  | 0.36                          | 6.17               | 0.01        |
| Location of offense: street, alley, parking lot, or other public place | 0.18                          | 3.50               | 0.06        |
| Juvenile convictions for robbery                                       | 0.26                          | 5.61               | 0.02        |

Overall F = 5.23 (sig. 0.0002)  $R^2 = 0.18$

**Table D-5****Quality of Stage 2 Postdictions of the Dependent Variable HIDANG**

| <b>Independent Variables Equal "Yes"</b> | <b>Number of Defendants</b> | <b>Percent of Defendants with HIDANG = 1</b> |
|--|-----------------------------|--|
| None                                     | 53                          | 22.6   |
| Any one                                  | 44                          | 38.6   |
| Any two                                  | 24                          | 79.2   |
| Any three                                | 1                           | 100.0  |
| Total                                    | 122                         | 40.2   |



**Exhibit D-6**

**Example Stage 1 Checklist for Identifying High-rate Dangerous Defendants Based on Findings in Los Angeles County, California and Middlesex County, Massachusetts**

Stage I. Screen for high-rate

- |   |                                 |                                |  |
|---|---------------------------------|--------------------------------|--|
| 1. Was defendant on parole when arrested for current crime charged?   | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| 2. Was defendant on pretrial release when arrested for current crime charged (bail or own recognizance)?  | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| 3. Do <i>two</i> or more of the following apply to the defendant?   | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| a. Does the defendant have current charges for three separate criminal transactions for burglary?   | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| b. Does defendant have one or more prior convictions for robbery, burglary, arson, forceable rape, kidnap, murder, or sex felony crime involving a child? | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| c. Does the defendant have a record of 1 or more adult arrests for receiving stolen property?   | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| d. When arrested for current charge, was defendant wanted for failure to complete previous sentence (parole, probation, or jail)?                         | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| e. Is defendant known to have a drug problem?   | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |

IF "YES" ON 1, 2, OR 3, CONTINUE TO NEXT PAGE. OTHERWISE, STOP.

**Exhibit D-7**

**Example Stage 2 Checklist for Identifying High-rate Dangerous Defendants Based on Findings in Los Angeles County, California and Middlesex County, Massachusetts**

Stage 2. Screen for high-rate dangerous, for those "Yes" on 1, 2, or 3 in screen for high-rate.

- |  |                                 |                                |  |
|--|---------------------------------|--------------------------------|--|
| 1. When arrested for current charge was defendant wanted for failure to complete previous sentence (parole, probation, prison, or jail)? | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| 2. Was there a female victim in the current case?  | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| 3. Did the defendant allegedly threaten a victim with a knife, or injure a victim with a knife?  | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| 4. Did the crime take place in a street, alley, parking lot, or other public place?  | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |
| 5. Does the defendant have a record of any juvenile convictions for robbery?   | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Not determined |

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Total "Yes" answers on dangerous screen

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**TOTAL OF TWO OR MORE "YES" ANSWERS PASSES THE SCREEN FOR HIGH-RATE DANGEROUS.**

**Table D-8**  
**Comparison of Attorneys' and Two-stage Model**  
**Evaluation of High-rate Dangerous Behavior**

|  | Self-report High/Dangerous       |    |                                      |    | Self-report NOT High/Dangerous       |    |                                  |    | Total<br>Evaluated |
|--|----------------------------------|----|--------------------------------------|----|--------------------------------------|----|----------------------------------|----|--------------------|
|  | Identified<br>High/<br>Dangerous |    | Identified<br>NOT High/<br>Dangerous |    | Identified<br>NOT High/<br>Dangerous |    | Identified<br>High/<br>Dangerous |    |                    |
|  | N                                | %  | N                                    | %  | N                                    | %  | N                                | %  |                    |
| Middlesex<br>DAs                       | 14                               | 67 | 7                                    | 33 | 5                                    | 25 | 15                               | 75 | 41                 |
| Los Angeles<br>DAs                     | 11                               | 37 | 19                                   | 63 | 33                                   | 59 | 23                               | 41 | 86                 |
| Combined<br>DAs                        | 25                               | 49 | 26                                   | 51 | 38                                   | 50 | 38                               | 50 | 127                |
| Two-stage<br>model for<br>same cases   | 18                               | 35 | 33                                   | 65 | 68                                   | 90 | 8                                | 10 | 127                |
| Two-stage<br>model for<br>study sample | 31                               | 33 | 63                                   | 67 | 217                                  | 85 | 39                               | 15 | 350                |