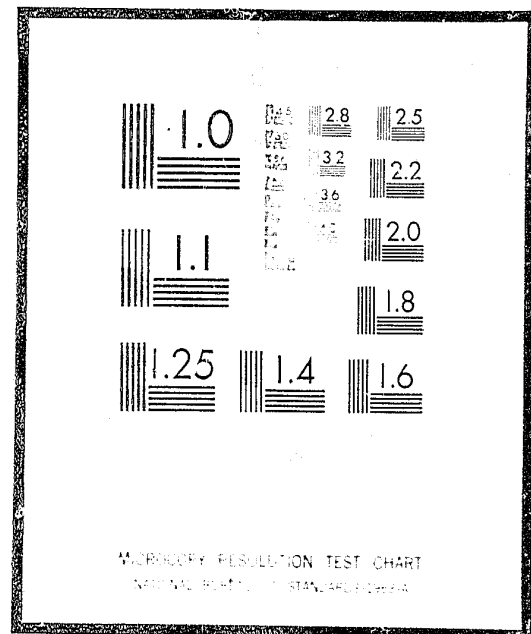


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## Prosecution of Economic Crime

### San Diego and Seattle Fraud Divisions



Office of Technology Transfer  
National Institute of Law Enforcement and Criminal Justice  
Law Enforcement Assistance Administration  
U.S. Department of Justice

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**NATIONAL INSTITUTE OF LAW ENFORCEMENT  
AND CRIMINAL JUSTICE**

Gerald M. Caplan, Director

**LAW ENFORCEMENT ASSISTANCE ADMINISTRATION**

Richard W. Velde, Administrator

San Diego and Seattle Fraud Divisions are two of 17 programs which have earned the National Institute's "Exemplary" label. Projects are nominated through the LEAA Regional Offices and the State Planning Agencies and are examined by an independent evaluator to verify their:

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- Adaptability to other jurisdictions
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- Demonstrated cost effectiveness

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**EXEMPLARY PROJECTS**

**PROSECUTION OF ECONOMIC CRIME**

By

Peter Finn  
Alan R. Hoffman

March 1976

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**Office of Technology Transfer  
National Institute of Law Enforcement  
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Law Enforcement Assistance Administration  
U.S. Department of Justice**

For further information concerning the policies and procedures of the Seattle and San Diego Fraud Divisions contact:

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## FOREWORD

An estimated \$40 billion is lost each year as a result of economic — or “white collar” — crime, according to the U.S. Chamber of Commerce. Much of this loss is borne by the low- and moderate-income person victimized by such consumer frauds as false advertising or fraudulent auto repair. Some of the loss falls on businesses, the target of security frauds, insurance swindles, or embezzlement. In addition to the enormous financial impact, we are all affected, in a more general way, by the cynicism and lack of confidence spawned by ineffective prosecution of white collar criminals.

Recently, several jurisdictions have focused their resources on investigating and prosecuting these crimes. The Fraud Divisions established in the District Attorney's offices of San Diego, California, and Seattle (King County), Washington, are excellent examples of the aggressive efforts being launched against economic crime. The work of these two projects has resulted in fines and incarceration for the offenders and restitution for the victims.

The San Diego and Seattle Fraud projects have been given sufficient resources to pursue the twin goals of *prosecuting* and *preventing* economic crime. In both jurisdictions, the District Attorney has given priority to strong efforts against economic crime. This combination of resources and status within the Prosecutor's Office has made these projects distinctive and successful.

The National Institute believes that the San Diego and Seattle approaches to prosecuting economic crime should be considered by other communities. This manual provides a detailed description of both projects. A brochure containing a general description of the project is also available through the National Criminal Justice Reference Service.

Gerald M. Caplan  
Director  
National Institute of Law Enforcement  
and Criminal Justice

March 1976

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## CHAPTER 1 INTRODUCTION

### 1.1 The Nature of the Economic Crime Problem

● *Item:* A large corporation in New York City clandestinely taps into the city water system with a ten-inch pipe and, circumventing the water meter to avoid payment to the city, siphons off an estimated half million dollars of free water.\*

● *Item:* Investigators for a consumer publication drive into a large number of typical gas stations with a car rigged with a minor defect -- a loose wire which would normally cost twenty-five cents to repair. Seventy-five percent of the garages misrepresent the defect and the repairs they "perform"; the average bill is \$4, and the highest is \$25. This takes place in the pre-inflationary days of 1941.\*\*

● *Item:* Thirty, or half, of a state's contingent of meat inspectors are bribed with cash and free prime meat cuts by meat packing processing plants to overlook health violations. The results of such violations include not only increased profits for the companies but also potential health dangers to all consumers who buy meat from these companies.\*\*\*

All of these activities are economic, or "white collar" crimes. The term, "white collar crime", however, is a misleading and limited label for fraudulent economic activity, since it implies that

\* Edwin H. Sutherland, *White Collar Crime*, Holt, Rinehart and Winston (New York, 1961), page 179.

\*\* Ramsey Clark, *Crime in America*, Pocket Books (New York: 1970), p.23.

\*\*\* Case prosecuted by one of the contributors to this document.

only the wealthy or those employed at the executive level perpetrate economic frauds. Actually, the offenders may be salespersons, retail business employees, or private citizens, as well as high-salaried professionals.

Economic crime is not related to the social class of the offender, but to the *method used to commit the crime: deception, guile and trickery*; and to the *purpose for which it is perpetrated: economic gain*. In this document, economic crime is defined as

" . . . an illegal act or series of illegal acts committed by nonphysical means and by concealment or guile, to obtain money or property, or to obtain business or personal advantage."\*

Experts have estimated that the economic loss to the public as a result of economic crime is more than forty billion dollars a year. This figure far exceeds the economic losses to citizens which result from all street crimes against property combined. Moreover, the consequences of economic crime are often more oppressive to the victims than those which result from most property crimes. Economic crime can "dig deeper than the wallet in the pocket to wipe out the savings of a lifetime. The thief takes only what is in the purse or the dresser drawer at the moment of his or her crime. The embezzler may reach beyond to destroy the equity of a family, ruin a whole firm, or render corporate stock valueless".\*\*

The following data, taken from the U.S. Chamber of Commerce booklet, *White Collar Crime*, present a grim picture of the economic effects of fraud.

- Fraud was a major contributing factor in the forced closing of about 100 banks during a 20-year period.

\* The National Institute of Law Enforcement and Criminal Justice, *The Nature, Impact and Prosecution of White Collar Crime*, U.S. Government Printing Office (Washington, D.C.: 1970).

\*\* Ramsey Clark, *Crime in America*, Pocket Books (New York: 1970), P. 23.

- An insurance company reported that at least 30 percent of all business failures each year are the result of employee dishonesty.
- The annual bill for all purchases by a state is said to have dropped by approximately 40 percent following exposure and prosecution of businessmen and governmental officials on charges of bribery and receiving kickbacks.
- Dishonesty by corporate executives and employees has increased the retail cost of some merchandise by up to 15 percent, and, in the case of one company, caused shareholders to suffer a paper loss of \$300 million within just a few days.\*

In addition to the financial loss which results from economic crime, fraud has other less tangible effects that are equally or more damaging. First, economic crime often has dire, yet immeasurable, effects on public health. When a child burns to death in pajamas sold in violation of the federal law prohibiting the sale of flammable children's nightwear, who can measure the costs? When collusion among manufacturers subverts the intent of pollution or safety controls on everyday products, how can the effects on public health be evaluated?

Second, economic crime may contribute to general social problems. Citizens come to distrust government and business; business distrusts its employees and government; and government loses faith in the probity of business and the average citizen.

Given this distressing picture of the consequences of economic crime, why hasn't the criminal justice system marshalled its resources to deter these fraudulent activities? There are at least five reasons for this failure:

\* U.S. Chamber of Commerce, *White Collar Crime*, (Washington, D.C.: 1974), pp. 4-5.

1. *Economic crime tends to be disguised or hidden from law enforcement officials.* It is difficult (even for the victim) to detect, in contrast to non-economic offenses, which are obvious to law enforcement officials as well as to the victims. Victims may not realize they have been swindled, they may think that an attempt to secure redress of grievances would be futile, or they may be embarrassed by their own gullibility or avarice as reflected in the transaction. Consequently, many economic crimes go unreported.

2. *Schemes employed in economic crimes are often very complex.* Law enforcement officers accustomed to investigating and solving armed robberies have little expertise for handling complaints involving sophisticated swindles, arcane financial records, complex bookkeeping practices, and obscure laws. Investigators frequently must understand a corporation's bookkeeping practices as well as the swindler does before they can piece together evidence of the fraud.

3. *Prosecuting economic crime is difficult and time-consuming.* The incapacity of normal law enforcement channels to deal with economic crimes presents unique difficulties for the prosecutor, who must either work closely with the police to guide their efforts or handle the investigation personally. Fraud cases also present special requirements when they come to trial. The substantial financial resources available to some of these defendants often allow them to fight prosecution vigorously and to delay trial extensively. Moreover, the issue raised at a trial involving a typical "street crime" is simply whether or not a particular defendant committed a particular physical act. In fraud cases, the state frequently must not only expose what the defendant did, but also prove that the particular constellation of acts in question amounts to a crime. It is often necessary to have numerous witnesses to properly authenticate and identify business records; to "educate" the jury about complex economic procedures; and to convince the court and the jury that the defendant intentionally committed a fraudulent act. (Due to the inherent weaknesses involved in prosecuting economic crime under criminal law, many observers favor the application of civil rather than criminal sanctions. This issue is discussed further at the conclusion of Chapter 4.)

4. *Attacks on certain types of economic crime may be opposed by powerful interests.* Business interests have a powerful influence in American society, which may directly or indirectly

discourage the prosecution of frauds by law enforcement officials.

5. *Prosecuting economic crime can be politically unrewarding.* Until recently, prosecuting economic crimes did not have the public appeal of attacking "crime in the streets."

Despite these constraints, several prosecutor's offices have set up highly successful programs to prosecute fraudulent practices. Indeed, this is a particularly suitable time for such action, as current social trends make the prosecution of fraud a highly relevant undertaking:

- *Consumerism.* The current popularity of consumer groups, and the clear legitimacy of most of their goals, has made it both politically and ethically desirable for prosecutors to include the prosecution of economic crime among their highest priorities.

- *Mass Media.* The consumer movement is now firmly supported by most of the mass media, and much of the press has energetically sought evidence of illegal economic activity on the part of government and business.

- *Public Disenchantment with Government.* Public cynicism and disrespect for government in general, and for the criminal justice system in particular, have rarely been so pronounced. The best way to restore trust in political and legal institutions is clearly to make those institutions worthy of trust.

In summary, economic crime, defined broadly, is widespread in America. It is also, by and large, left unattended by the criminal justice system. Yet, many special fraud divisions which have been developed in prosecutors' offices throughout the country have been successful in their efforts to deal with economic crime. Currently, the National District Attorneys Association (NDAA) under an LEAA grant, provides partial funding to economic crime programs in 15 different jurisdictions. Two of these programs, the Seattle and San Diego Fraud Divisions, are described in this document. As these and similar programs will attest, the time is ripe for launching a concerted attack on this economically and socially disruptive type of crime.

## 1.2 Summary of Contents

The King County (Seattle) Fraud Division and the San Diego County Fraud Division are just two examples of highly successful efforts to curb economic crime activities. They have been described in this document to illustrate the general principles and procedures involved in the development and operation of special fraud divisions. This document stresses the need to adapt the features of programs such as these to respond to local needs and constraints, and introduces a number of alternative approaches to the establishment of fraud programs.

Chapters II and III provide information on the goals, organizational structures, operations, costs and results of the San Diego and Seattle Fraud Divisions. These chapters illustrate that, despite differences in their operating procedures, the programs have certain basic similarities which have contributed to their notable success. Among the features which the Divisions have in common are distinct organizational and operational separation from the other divisions in the prosecutor's office; the strong support of the District Attorney; clearly defined program goals; highly qualified and experienced staff; and mutually supportive relationships with other agencies and with the press. Chapters II and III also point out the differences between the two Divisions, such as the degree of effort devoted to individual consumer complaints; the extent to which reliance is placed upon other agencies for investigative assistance; the size and cost of the operations; and their methods for selecting cases. As the descriptions in Chapter II and III illustrate, the San Diego and Seattle programs are unique, as any fraud program must be.

Chapter IV presents a discussion of suggested procedures for planning and operating a fraud program. Drawing on the combined experience of Seattle and San Diego as well as other projects partly sponsored by LEAA through the NDAA grant, this chapter outlines several organizational issues which must be addressed in implementing an economic crime program. The concluding chapter continues this general discussion with a review of funding and evaluation issues.

\* The term District Attorney is used to denote the office of the top elected prosecuting official of a locality. The term Chief Deputy refers to the administrative head of a Fraud Unit.

In general, this manual concentrates on describing an organizational framework for the prosecution of economic crime. Various investigative strategies and prosecution techniques are not considered in detail as these will be covered in a comprehensive handbook currently being prepared by the Battelle Memorial Institute under an LEAA grant. This document (which will be available in early 1977) as well as other currently available reports (specifically, the NDAA's *Prosecutor's Hornbook*\*), will provide the reader with valuable information on many legal and procedural topics important to the successful prosecution of economic crime.

\* Charles A. Miller, *Economic Crime: A Prosecutor's Hornbook*, March 1975.



## CHAPTER 2 THE KING COUNTY (SEATTLE) FRAUD DIVISION

### 2.1 Project Overview

The King County (Seattle) Fraud Division was established in 1972, following the successful prosecution of several consumer protection cases by a new staff member of the District Attorney's Office. Since then, the Division has expanded in size and scope, and has become a major component of the King County Attorney's Office. Its activities are devoted primarily to three major goals: the successful prosecution of economic crime; the deterrence of economic crime; and the enhancement of public respect for the criminal justice system. In pursuit of these goals, the Division has prosecuted over 100 cases, involving more than 800 victims, 100 defendants and \$3.4 million in economic loss. The cases have included complex land fraud schemes, odometer rollback frauds, false advertising and bribery.

The Division relies on several key operational approaches in order to ensure the achievement of its goals. For example, the Division hires expert staff in order to prosecute cases most efficiently and effectively; concentrates on major impact cases which have the most significant deterrent effect; has established close working relationships with other investigative agencies so that it can concentrate its own limited resources on prosecution; takes full advantage of all existing statutes in order to bring the simplest and most provable charge and seek the most effective remedy in complex fraud cases; and publicizes its activities in order to deter economic crime and to win public support for its activities. In addition, the Division endeavors to further its goals indirectly by pressing for significant legislative changes in the criminal statutes to facilitate the prosecution of illegal economic activities and by encouraging other jurisdictions in the state to set up fraud divisions of their own.

In short, the King County Fraud Division is attempting to prosecute economic crime effectively, economically, and visibly and is demonstrating that this type of illegal activity can be successfully prosecuted by the criminal justice system. Following a discussion of the program's organizational and operational structure, the conclusion of this chapter summarizes the Division's results over two and one half years of operation.

## 2.2 Project Administration

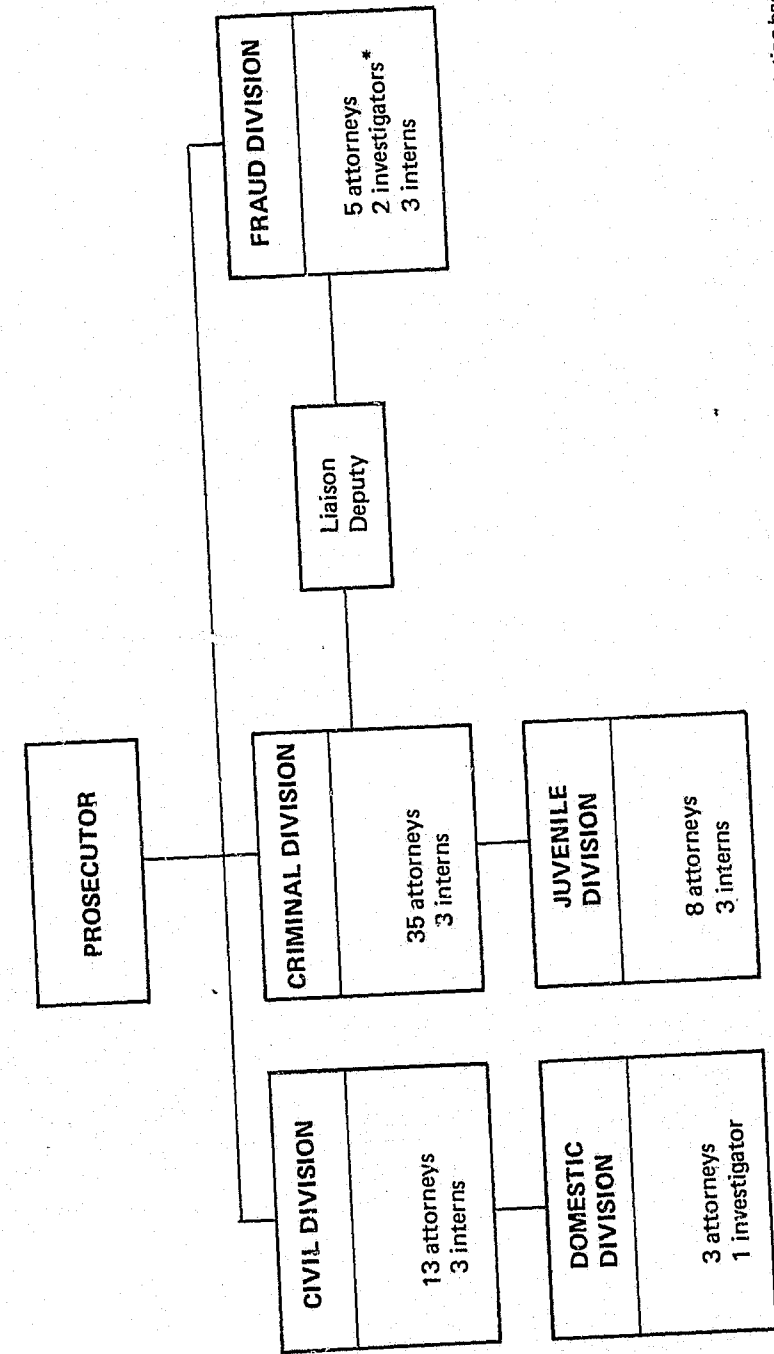
The Fraud Division is a totally separate physical and operational entity within the King County District Attorney's Office. Figure 1 illustrates this relationship. A liaison deputy has been appointed to handle relationships between the Fraud and Criminal Divisions. The two divisions typically work together in cases of theft from businesses (e.g. embezzlement) when the amount of the theft is relatively small. In such cases, the Fraud Division works up the case, obtaining subpoenas and search warrants as necessary, and then refers the case to the Criminal Division for filing and prosecution. Major frauds, however, are handled exclusively by the Fraud Division.

In order to provide continuity in case development, deputies are assigned to handle cases from initial investigation through trial and disposition. The practice of specialized task allocation (with one deputy handling all investigation, another all filings, and another all trials) is avoided. However, there is specialization by case type within the office, based on staff preferences, skills and personality. One deputy, for example, handles most of the civil cases due to his accrued expertise in this area. Another files many relatively simple cases which will be processed rapidly through the courts because he enjoys courtroom work. A third deputy usually handles complicated real estate frauds because of his accounting experience and Master of Business Administration degree. The fourth deputy is particularly adept at handling consumer grievances and works closely with the police on embezzlement cases.

## 2.3 Staffing

The current staff of the Seattle Fraud Division consists of the Chief Deputy, four other attorneys, two investigators, three interns

Figure 1  
Organization and Staff of Prosecutor's Office



\*Under a grant from NDA's Economic Crime Project, detectives from the Sheriff's Office receive training in one of these positions on a rotating basis.

(second and third year law students), an administrative secretary, and a secretary.

The Chief Deputy devotes about half of his time to administrative work and half to investigative and prosecutorial tasks. As part of the latter activity, the Chief provides technical assistance and advice on an *ad hoc* basis to the rest of the staff. The other professional staff members work nearly full-time on substantive prosecutorial tasks, devoting little time to administration or paperwork. Law student interns handle complaints and correspondence, write letters, do legal research and some investigation, identify cases attorneys should review, and engage in limited and supervised trial actions. In general, there is a great deal of fluidity among the staff in terms of responsibility, with few inflexible assignment guidelines.

Prior to the current Chief Deputy's arrival, the staff consisted primarily of investigators. In order to concentrate on attorney-managed case development (using subpoena and discovery powers) and on successful prosecutions, the Chief Deputy decided to recruit a new staff consisting primarily of attorneys from other Divisions in the District Attorney's Office and to rely on other agencies for investigative resources.\* Since the Chief Deputy had personally observed these attorneys in action, he was able to select a high quality staff.

The Chief Deputy selected attorneys to work in the Fraud Division on the basis of general competence, personality and commitment, as well as prior relevant experience. One Deputy worked in the Criminal Division of the District Attorney's Office. Another handled consumer protection cases in the Washington Attorney General's office. A third, who handles civil cases for the Division, was the Chief Deputy of the District Attorney's Civil Division. The fourth, who handles real estate and investment fraud prosecutions, received training in accounting at business school prior to attending law school.

\* The reliance on outside agencies also allows the Division to tap a broader range of expertise, to avoid the problems of maintaining a large staff of investigators who are under pressure to make cases, and to be able to select a greater variety of cases.

However, the new staff were largely inexperienced in the specific area of economic crime. The Chief Deputy therefore trained and educated his staff in the art of developing and prosecuting major fraud cases, sharing his own considerable expertise, which he had gained while serving in the Fraud Division of the United States Attorney's Office for the District of Columbia. As a result of his careful selection and training of the new attorneys, the program is now staffed with individuals of considerable expertise and a high level of commitment and integrity.

The Division has modest in-house investigative capacity. It has been able to rely on the investigative capabilities of other law enforcement and regulatory agencies with whom it has established close and highly productive relationships.

## 2.4 Operations

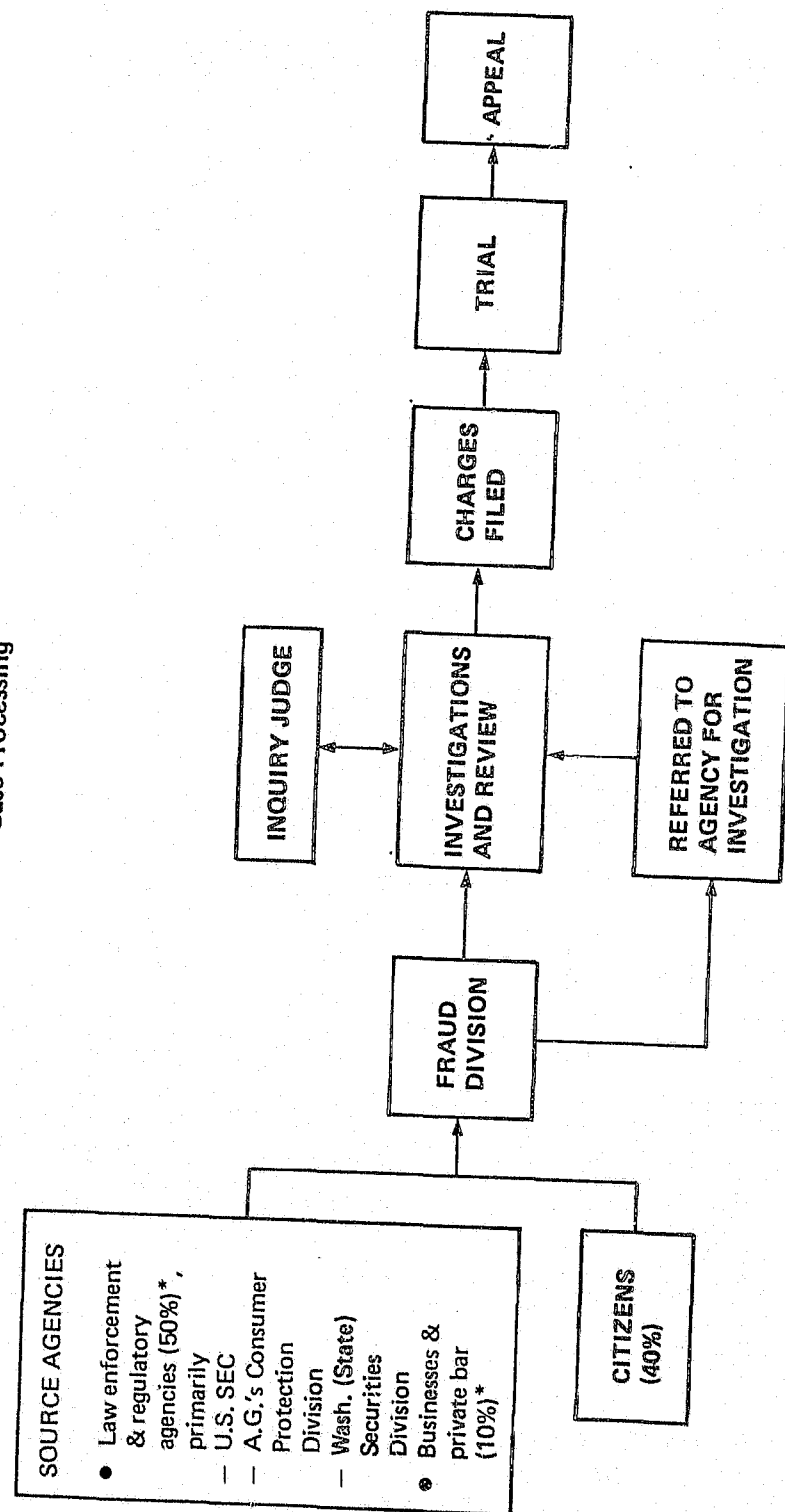
The operating procedures of the Seattle Fraud Division are discussed in this section, following the order in which cases normally proceed from intake through final disposition. Figure 2 illustrates the processing of typical cases.

### 2.4.1 Case Intake and Screening

The initial contacts of complainants and referring agencies with the Fraud Division may take several forms. Frequently the initial complaint provides information which merely suggests that a fraud has been perpetrated. Sometimes it is clear that an offense has occurred, but not equally apparent that enough evidence can be assembled to convict. Only infrequently does another agency or a private citizen present the Division with a case in the more narrow sense -- admissible evidence demonstrating every element of a specific offense or offenses, available witnesses, and a defendant within the court's jurisdiction.

After an initial contact, the Fraud Division staff member handling the matter must make several decisions:

Figure 2  
Case Processing



\*Indicates approximate percent of filed cases referred from each source.

- Does the complaint allege adequate grounds for a civil or criminal case? What specific offenses may be charged?
- Has all necessary and admissible evidence been assembled?
- Is the evidence good enough to win?
- If there is some doubt about the strength of the case, what further information is needed?
- How should such information be sought -- subpoena, discovery, staff investigation, other agency investigation? How much guidance and consultation will be needed?
- How urgent is the case -- is there reason either to rush or to delay?
- How important is the case?

The answers to these questions emerge from a process of interviews, investigations, legal research, and policy determinations controlled by the attorney or investigator to whom the matter is assigned.

*How cases are obtained.* During 1974, approximately 40 percent of the Division's cases originated from consumer complaints, 50 percent were referred by other governmental agencies, and the remaining 10 percent were referred by businesses or the private bar. Agencies which regularly refer cases include the Federal Securities and Exchange Commission (SEC), the Washington State Securities Division, and the Attorney General's Consumer Protection Division. Citizens register complaints by telephone at a rate of five to ten a day. Seventy percent of these calls are referred to other agencies. Twenty-five percent are usually resolved with a warning letter. The Division considers the remaining five percent as cases to be filed in court.

Originally, since there was no backlog of cases, the Division sought out cases in addition to responding to complaints. These activities have included the following:

- investigating odometer rollback operations prior to receiving citizen complaints;
- using a decoy car to determine the honesty of car repair shops and mechanics; and
- recommending legislation to improve the State Securities Division and to permit electronic surveillance under certain circumstances.

Because of the Division's increased visibility and large number of successful prosecutions, it is now constantly supplied with investigative leads by agencies, citizens, businesses, and the private bar. Therefore, it relies less on its own efforts to discover possible frauds.

*Case screening and selection.*

The progenitor of the present Fraud Division concentrated on official corruption cases. When the new Chief Deputy arrived, the scope of activities was expanded to include consumer protection cases and, later, real estate and investment frauds. In order to publicize the unit's existence and to establish its credibility, the Chief Deputy initially concentrated on prosecuting a small number of high-visibility consumer protection cases. Today, three major unwritten criteria are used for deciding which cases to handle:

- significant economic loss;
- high probability of a successful outcome; and
- likely deterrent effect on other potential white collar criminals.

The Division prefers to select cases which in addition:

- involve well-known or powerful businesses;
- involve repeated offenses;
- deal with activities in which crime is widespread;
- require relatively little investigative time and

expertise (or for which resources can be provided by other agencies);

- respond to broad public concern;
- involve little-known schemes (so that prosecution will increase public awareness of particular dangers), or
- involve some new area in which the Division wishes to become involved.

The Division limits the number of civil cases it will handle at any one time because of the time, cost, and labor required to handle them thoroughly. It devotes an average of ten percent of its resources to civil cases.

Both civil and criminal cases are screened applying the above criteria in discussion sessions among the staff, but the Chief Deputy has ultimate authority to decide which cases will be investigated and filed.

Consumer complaints are not publicly solicited and are not a major concern of the Division for four reasons:

- Washington's Consumer Protection Act is administered by the State Attorney General's office;
- The Division would be duplicating the work of other consumer protection agencies;
- The Division prefers not to use the coercive power of the criminal law to effect what would ordinarily be civil settlements; and
- With a staff composed mostly of attorneys, the Division is not operating at maximum efficiency when investigating individual consumer complaints.

The Division does not consider organized crime, prostitution, illegal gambling, and loan sharking as part of the economic crime with which it is primarily concerned. However, if organized crime figures are engaged in business, real estate or investment frauds, the Division will prosecute them.

*Types of cases handled.* The cases the Division handles can be categorized two ways: by difficulty and by type. In terms of difficulty, there are three levels (in ascending order):

- consumer fraud;
- securities cases, real estate frauds, and other business crimes;
- corruption cases.

In terms of case type, the four major categories (and the percentage of Division resources allocated to each) are:

- frauds in the product marketplace -- odometer roll-backs, false advertising, unnecessary auto repairs, and other consumer frauds (30%);
- frauds committed in the guise of legitimate business transaction -- securities fraud, real estate and land sale schemes (30%);
- frauds against businesses (embezzlement, insurance frauds) (30%); and
- frauds against government (bribery, embezzlement, obstruction of justice) (10%).

In 1974 the active caseload included 22 frauds in the marketplace, 8 frauds committed in the guise of a legitimate business transaction, 33 frauds against business and 2 corruption cases. Note that some types of cases, such as those in the first category, are less complex and thus more cases can be handled with the same resources.

#### 2.4.2 Case Development

One attorney or one investigator assumes primary responsibility for each case, relying on the expertise of the other staff, including the Chief Deputy, on an *ad hoc* basis. Although the

Division generally tries to use the investigative services of other agencies, the complexity of certain cases requires that Division attorneys be extensively involved in case development and overseeing and conducting investigative work. Upon reviewing staff recommendations for a case, the Chief Deputy decides how the case should be filed -- criminal or civil -- and how plea negotiations are to be handled.

The process of developing a successful case typically involves the following five steps:

- (1) Use of inquiry judge procedures to subpoena individuals or records;
- (2) Thorough investigation of cases with the assistance of other agencies;
- (3) Legal analysis leading to filing the most effective charge;
- (4) Early provision of liberal discovery to defendants;
- (5) Publicity, where appropriate.

Each of these steps is discussed briefly below.

(1) *Inquiry judge procedure.* An essential step in many fraud investigations is to subpoena witnesses and documents. For this purpose, the grand jury is the normal route. However, in the State of Washington, grand juries can be called only upon the approval of a majority of the court. Such approval is rarely given. Until 1971, therefore, prosecutors had virtually no subpoena power. Consequently, when the Fraud Division was first established, the District Attorney's Office, the Presiding Judge of the Superior Court, and a group of private attorneys submitted a bill to the State legislature to provide for an inquiry judge procedure with investigatory and subpoena powers. Passed by the legislature in 1971, the mechanism became fully operational in July, 1972, when the present Chief Deputy of the Fraud Division began making extensive use of it.

The inquiry judge does not review cases for probable cause, nor does the procedure result in indictments. Rather, it is solely an investigatory procedure, affording the prosecutor power to subpoena individuals and records, take testimony under oath, and grant immunity from prosecution. The inquiry judge serves one afternoon per week for at least a year, in order to preserve some degree of continuity. Compared to a 23-person grand jury, the inquiry judge procedure is more economical, more readily available in emergencies, and less likely to jeopardize a defendant's privacy with press coverage or leaks (proceedings are confidential). The inquiry judge procedure is not used, of course, in civil cases, nor is it always needed in criminal cases.

(2) *Thorough investigation of cases and liaison with other agencies.* The Seattle Fraud Division places great emphasis on thorough investigation of major cases prior to filing. There are two important reasons for this policy. The first is the previously noted characteristic of most major fraud cases: there is little dispute over who was engaged in what activities; the difficult question is whether or not the activities constitute a crime. Assembling sufficient evidence of criminal intent requires a thorough investigation of the case prior to filing. The second reason for this "investigate-first" policy is efficiency. Early investigation avoids much trial-related work by encouraging more defendants to plead; it avoids the harried period of trial preparation and investigation at the same time; and it permits greater use of the investigative resources and expertise of other agencies.\*

When the Division was first established, the Chief Deputy actively sought the support of federal, state and local regulatory and law enforcement agencies. The Division's extensive contact with other agencies is a key feature of the program, as noted earlier. This contact permits the Division to handle more cases by relying on the investigative capabilities of outside agencies.\*\* It also ensures the Division a more varied selection of significant cases by drawing on the extensive activities of other agencies for case referrals.

\* A complete list of the Division's support agencies and the nature of the assistance they provide is contained in the Appendices.

\*\* To avoid leaks and premature publicity, the Division does all its own investigations for political corruption cases.

Working relationships were established by soliciting the agencies' cooperation in early cases involving relatively simple tasks well within the agency personnel expertise. These initial cases provided the agencies with tangible evidence of the value of their participation and thus encouraged future collaboration. The Division is careful to reward cooperating agencies with favorable publicity, calling attention to their assistance whenever possible. The Division also reciprocates, within its resource limitations, by providing some technical assistance to other agencies.

Liaison with cooperating agencies is initiated on an as-needed basis and then maintained, if necessary, throughout the duration of a case. Often, at the beginning of a case, the Chief Deputy will call a meeting of representatives from relevant agencies to explore the merits of the case and to decide which agencies should perform which investigatory tasks. In one major King County real estate fraud case, for example, the Fraud Division Chief Deputy chaired a meeting of representatives from the U.S. Securities and Exchange Commission, the State Securities Administration, the State Real Estate Division, the Attorney General's Consumer Protection Division, the Seattle Police Department and the District Attorney's Office. At the meeting, the nature of the fraud was outlined and a division of the investigatory labor was arranged. Within 45 days of the meeting, the Fraud Division filed charges against two defendants.

In addition to performing investigatory tasks, a cooperating agency may loan the Division one of its investigators on a part-time basis, or simply open its files on an individual or business to the Fraud Division.

After the workload has been divided, the Fraud Division deputy assigned to the case takes responsibility for coordinating the efforts of the various agencies. Listed below are several examples of the program's coordination of case development with other agencies:

- An investigation of a savings and loan association involved initial examination by the state Division of Savings and Loan Association and the Federal Home Loan Bank Board which indicated possible criminal activity. Subsequent investigation was conducted cooperatively among the local offices of these two agencies, the Fraud Division, and the Washington, D.C. office of the Federal Home Loan Bank Board.

• A major investigation into a fraudulent membership scheme required significant investigatory work in Chicago. The United States Postal Service, contacted through the Seattle regional office, performed this investigation, which together with local investigation resulted in prosecution of the scheme's promoters.

• Breaking an inside theft ring at a large hardware wholesale firm involved the police, the Fraud Division, and the inquiry judge. An executive of the company and his attorney came directly to the Fraud Division with their suspicions that a theft ring was operating. Within a few days the Fraud Division assembled a task force to prepare search warrants, execute the warrants and recover over \$10,000 worth of stolen goods, interview witnesses, and locate defendants. On one afternoon, a 20-person Seattle Police Department force was assembled to execute search warrants prepared by the prosecutor's office and simultaneously to interview suspects. Fraud Division investigators also gathered evidence and identified other participants in the ring. A cooperative defendant testified under an inquiry judge subpoena. Within 40 days of the original complaint, three other defendants had pleaded guilty to grand larceny charges. Restitution of \$66,840 was ordered and further investigation led to the recovery of an additional \$12,000 of merchandise.

(3) *Legal analysis leading to filing the most effective charge.* Division staff do not limit themselves to the most obvious and common criminal statutes when determining charges; they may consider more broadly drafted laws or more obscure statutes. This approach often broadens the coverage of the criminal laws in operation and simplifies the prosecution of complex cases. For example, the Division applied the grand larceny statute in a series of odometer rollback prosecutions, by proving that the fraud caused the victim to pay at least \$75 more for the car than he would otherwise have paid, or caused him to purchase a car he otherwise would not have purchased. This approach received national attention in the media and a consumer magazine.

(4) *Provision of liberal discovery.* The Fraud Division believes that a defendant who is confronted at an early stage by overwhelming evidence, accumulated by thorough investigation, will be likely to plead guilty. It is thus the Division's policy to provide early and liberal discovery to a defendant so that the defendant and the defendant's attorney can make a fully-informed

judgement on the risks of trial and attendant publicity. A high guilty plea ratio is important, since the resources saved when a case does not go to trial can be used to prepare other cases. Early provision of liberal discovery is a key factor in maintaining the Division's high rate of guilty pleas.

In one case, thorough investigation and early discovery resulted in the prearranged handling of a case in which a corporation was charged and arraigned, pleaded guilty, and was sentenced all in the same day. This technique has been effective in civil cases as well. In one civil action, the Fraud Division obtained an uncontested injunction three weeks after filing suit against a major supermarket chain alleging false and misleading advertising and labeling of meat and poultry. Before the suit was filed, a simultaneous sweep of all the chain's stores in the county collected numerous mislabeled meat items, which were laboratory tested for fat content. When this evidence was provided to the defendant's attorneys, the success of the injunction lawsuit was almost immediate. Further, the corporation entered guilty pleas to attendant violations of state and county laws regulating fat content in ground beef, and was fined the maximum allowed under the statutes.

(5) *Publicity.* For many defendants and potential defendants, the most effective deterrent is the loss or potential loss of respect and sales which can result from public knowledge of fraudulent activities. For example, at a press conference held to announce the filing of a suit to enjoin the deceptive advertising and meat mislabeling of a supermarket chain, the District Attorney accused the chain of "wanton disregard" of local laws prohibiting mislabeling and false advertising of meat and poultry. The supermarket chain's lawyer lamented in court that the stores had lost \$100,000 in sales during the week after the suit was filed, and that several store employees had been subjected to harassment by irate customers.

The Fraud Division has reasons other than the anticipated deterrent effect for seeking publicity. As noted above, the Division publicized its cases to reward cooperating agencies with public recognition. The Division also uses the threat of publicity to encourage civil defendants to bring their cases to a close quickly through settlement by consent decree. To generate publicity on specific cases, the Division may provide a background story



to a friendly reporter during the investigation of the case, issue a press release when the charge is brought, and hold a press conference. Moreover, in order to inform the public of fraudulent practices in general and to encourage reporting of such practices, Division personnel give speeches\*, grant interviews and distribute materials such as a pamphlet on economic crime. A sheaf of newspaper clippings testifies to the Division's accomplishment of its publicity objective.

### 2.4.3 Case Disposition

Throughout the development of a case, program staff consider what the most effective resolution will be in terms of deterring other would-be defrauders, deterring the defendant from further misconduct, promoting pleas and out-of-court settlements, and developing a resolution which is practically obtainable, through either negotiation or trial. Resolutions sought by the Division vary considerably, departing from the traditional sanction of jail sentences and fines, and include forfeiture of state or local licenses, civil injunctions, and restitution to victims.

License forfeiture is an effective deterrent both to the individual defendant and to potential defendants. Recent cases have included the surrender of a real estate license, an escrow company license and a security salesman's license. In other cases, such as odometer rollbacks, successful prosecution by the Fraud Division has led to independent state proceedings to revoke licenses.

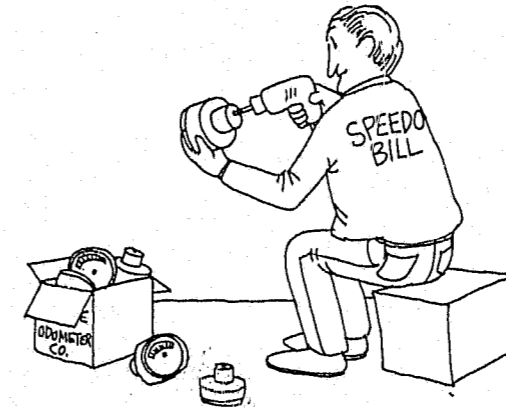
The Fraud Division has also used civil remedies successfully in consumer fraud cases. Civil injunctions, for example, may provide a speedier, more effective or more easily obtained remedy than criminal action. An injunction prevents the injurious behavior from continuing and informs the public of the potentially fraudulent activity. Moreover, criminal prosecution remains available to the prosecutor in cases where the enjoined conduct also constitutes a crime, and criminal contempt may be charged if the injunction is violated. The Fraud Division often spells out all

\* For example, to the Seattle Garage Owners Association and the Washington Association of Realtors.

these potential penalties in an injunction, thereby increasing its impact. In certain circumstances, the prosecutor may also obtain restitution for fraud victims as part of a civil remedy.

The following are examples of various types of dispositions obtained by the Fraud Division:

- For a promoter selling circus tickets by alleging that charity was to benefit from the proceeds: a temporary restraining order freezing the funds collected, and an agreement to mail a refund offer to every purchaser and to cease the misrepresentations.



- For a car dealer found guilty of turning back odometers on second hand cars: a \$5,000 fine, \$2,700 of which was suspended on the condition that the company pay that sum as restitution to customers it defrauded.

- For a sporting-goods store operator found guilty of the theft of merchandise: a sentence to serve seven days in jail, make restitution, pay court costs, and donate one hundred hours of community service.

- For a five-and-dime store accused of selling children's nightwear which failed to conform to state and federal laws regarding flammable children's nightwear: an agreement to donate \$5,000 to the Burn Unit of a children's hospital.

- For an investment counselor accused of offering and selling stock in a fictitious company: a fine of \$5,000 deferred for five years on the conditions that the defendant pay the fine at the rate of \$90 per month and reimburse all the stock purchasers whom he has defrauded.

## 2.5 Project Monitoring and Costs

The program keeps careful records on each of its cases and collates the case data each month. Information collected includes number of cases investigated and filed, number of defendants and victims in each case, case dispositions, amount of restitution and fines, and estimated economic loss to victims. The following reporting forms are used:

- A *complaint report form* which is completed when a complaint is received, indicating the source and nature of the complaint and the action to be taken (or already taken).
- A *case information card*, which summarizes case data from the complaint to the sentence.
- An *investigation information form*, which is filled out each month, recording the name of the investigator, the type of investigation, and the source of the case.
- A *weekly summary sheet*, for totaling the number of inquiries and complaints received each day from telephone calls, walk-ins or other agencies and recording the number of investigations and case filings which result.
- Four *case status sheets*, one for each category of fraud (consumer, business, government and real estate/investor), which provide relevant data for each case and running totals of estimated economic loss and amount of restitution ordered. The statistical sheets are used to compile monthly summary reports.
- A *monthly summary report*, which summarizes all case data, describes new cases and investigations, and provides a narrative description of new developments in the program's activities.

Copies of these forms are contained in the Appendix. In addition to the records described above, the Division keeps a file on each case which contains all relevant documents.

## 2.5.1 Project Data

The first major goal of the Seattle Fraud Division is to successfully prosecute economic crimes. In its first two-and-a-half years of operation, from July, 1972, to January, 1975, the Division prosecuted approximately one hundred criminal cases. This relatively modest volume of cases was the result of a deliberate policy of emphasis on major matters. The Division has successfully prosecuted approximately 96% of the cases which have been concluded. Of the defendants who were convicted, 89% pleaded guilty. Figure 3 displays the data for the period July 1, 1972 through December 31, 1974.

Figure 3  
Case Activity 7/1/72 - 12/31/74

Active Criminal Cases (129 Defendants; 849 Victims)	106*
Guilty Pleas	84
Convictions	10
Dismissals/Acquittals	3
Warrant Outstanding	4
Cases Pending	5
Restitution Ordered	\$1,511,008
Fines	\$ 32,352
Jail Sentences	35

\* Some of these cases are still pending.

In addition to keeping track of case initiations and dispositions, the Division estimates the dollar value of the frauds it prosecutes. This is simple when it involves merely counting the number of victims in a fraudulent real estate scheme and totaling the price paid by each person for a lot. Economic loss estimates are more difficult to compute when they involve, for example, estimating financial loss to consumers who pay inflated prices for second-hand cars because the odometers have been rolled back. Moreover, accurately measuring the non-economic costs of frauds is virtually impossible. Accordingly, the Division has restricted its calculations to direct and verifiable costs. Nevertheless, the estimated total economic loss involved in the 106 cases which the Division has filed is over \$3.4 million. The \$1.5 million ordered in restitution represents a sizeable proportion of this estimate.

It is considerably more difficult to document the Division's success in achieving its other major objectives: deterring crime and increasing respect for the criminal justice system. Subjective data in the form of testimonials from individuals in the Seattle community may indicate that the Division has been somewhat successful in deterring economic crime:

- After a well-publicized case involving a supermarket prosecuted for fraudulent meat pricing, another large food chain telephoned the Fraud Division to get information on meat pricing lest it be prosecuted.
- The Director of the Washington Department of Motor Vehicles has written that ". . . the action taken (by the Fraud Division in prosecuting the odometer roll-back cases) has had a dramatic impact on dealers, not only in our state, but in neighboring states as well. Actions which are widely publicized provide a strong deterrent effect. . . ."
- The reputation of Washington State as a good location for securities fraud has reportedly vanished as a result of King County Fraud Unit's efforts to upgrade the capability of the state securities regulatory agency.

Division personnel believe that if the Division succeeds in the prosecution of major economic crime, including powerful and influential people, public respect for the criminal justice system will be enhanced. Although the accomplishment of this goal is difficult to verify, the hypothesis on which it is based is intuitively credible.

### 2.5.2 Project Costs

In 1974, the Seattle Fraud Division received funding of \$145,132. Of this total, \$51,000 was supplied by the Washington State Planning Agency from Law Enforcement Assistance Administration block grants, \$2,834 consisted of State matching funds, and \$91,298 was provided by King (Seattle) County. These figures do not include several overhead items including free space and utilities in the District Attorney's Office and some services available to all divisions in the prosecutor's office, such as an MTST system.

Funding and evaluation issues are discussed further in the concluding chapter of this manual.

## CHAPTER 3 THE SAN DIEGO FRAUD DIVISION

### 3.1 Project Overview

Prior to the election campaign in 1970, no emphasis was placed on the prosecution of fraud cases and no fraud division existed in the D.A.'s office. In the 1970 election campaign, the lack of fraud prosecution became a prominent campaign issue. At this time a small fraud prosecution detail was initiated and began investigating this type of crime on a very limited scale. A new district attorney was elected and began his term of office in January, 1971. He immediately initiated steps to develop a consumer fraud division and created a staff of attorneys and investigators to prosecute fraud cases. This has since grown to include a staff of 8 attorneys, 16 investigators, and 6 clerical support positions.

The San Diego Fraud Division's primary goals are to prosecute economic crime successfully, to deter economic crime, and to secure redress of grievances for victims of economic crime. In relation to the latter goal the program has, in 1974 alone, returned over \$90,000 in property and cash to victims of frauds without filing cases; and it has returned over \$200,000 to victims through criminal and civil case actions in that same year.

The program handles a large volume of consumer complaints (1,182 computed in 1974), as well as a fairly heavy caseload of major cases (39 criminal and seven civil cases filed in 1974). Major cases have included real estate, securities, insurance and other frauds, as well as embezzlement, corruption, false-advertising and bribery cases.

\* Data on the total dollar value of frauds perpetrated are not available.

The Division has developed a number of operating principles with which to pursue its goals. Many of them are similar to those adopted by the Seattle Division, such as hiring expert staff, developing working relationships with other agencies, filing major impact cases, winning cases economically, publicizing its activities, making full use of existing statutes, and pressing for legislative change. In addition to these objectives, the San Diego Division attempts to make effective use of a computer-based complaint filing system, which allows it to identify persistent suspects, or persistent victims, and to detect other patterns in criminal activity.

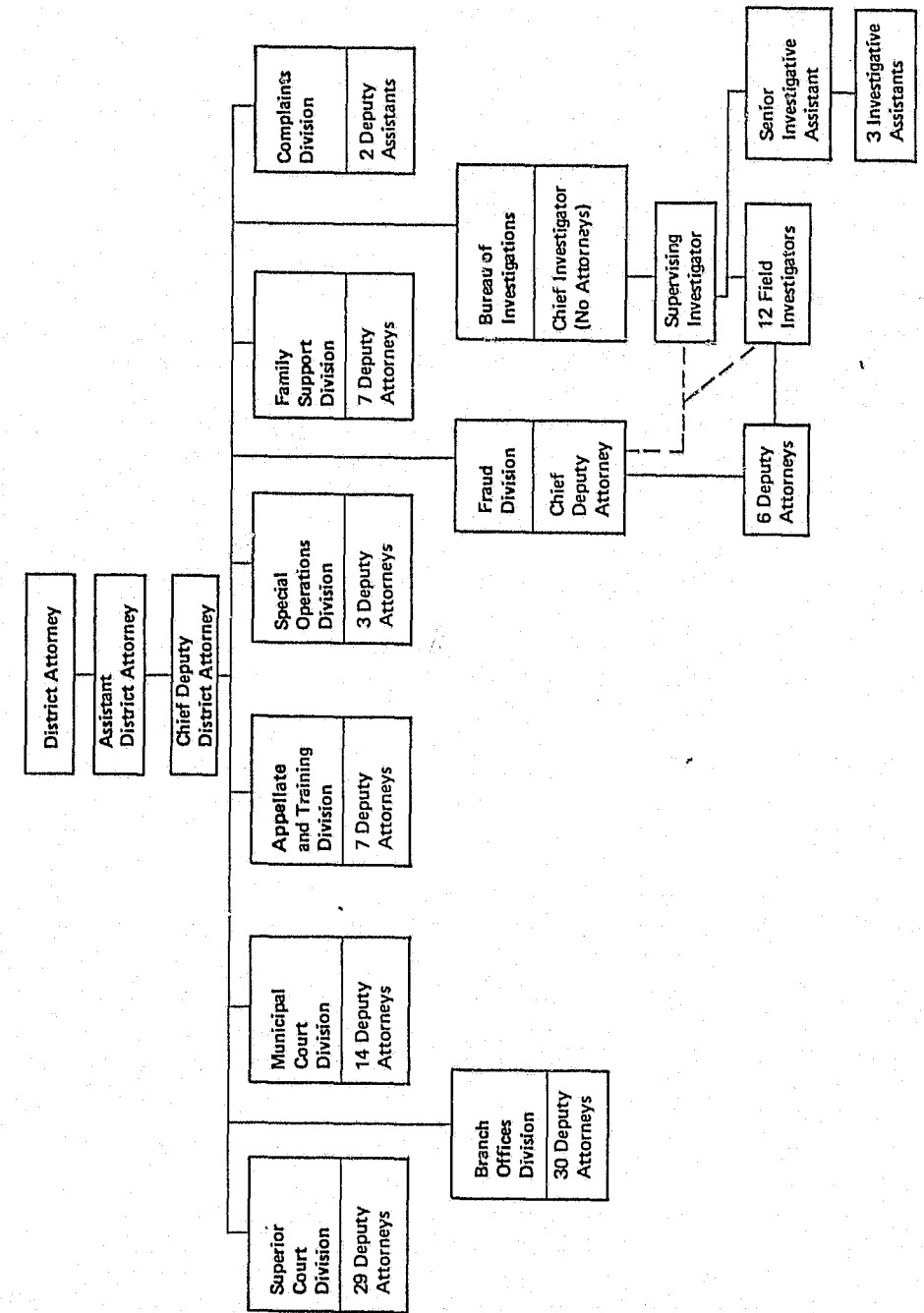
The remainder of this chapter describes the organization, staff, operational process, monitoring procedures and costs of the San Diego Fraud Division, and portrays the various features which have contributed to the success of this program's efforts to combat economic crime.

### 3.2 Project Administration

The San Diego County Fraud Division is organizationally and physically separate from the other divisions of the District Attorney's Office. The Division's investigators, however, report to the Chief Investigator, rather than to the Fraud Division Chief Deputy. This dual allegiance makes the investigators functionally responsible to both the Chief Deputy and the Chief Investigator, but administratively responsible only to the Chief Investigator. The overlap of responsibility has apparently not detracted from the Fraud Division's efficiency or success, and represents another approach to avoiding possible pressure on investigators to make cases for the Chief Deputy. All staff are full-time, including the Chief Deputy, six attorneys, seventeen investigators, and six clerical staff. Figure 4 illustrates the office organization.

Generally, each major case is assigned to one attorney and one investigator, in order to provide continuity from case development to trial. Cases are assigned primarily on the basis of time availability, but skills, preferences and experience are considered whenever possible.

Figure 4  
Office of the District Attorney: Organization and Distribution of Attorneys



The Chief Deputy manages his staff in a way that promotes initiative and independence, allowing them to make their own decisions and holding them responsible for the quality and timeliness of their investigative and prosecutorial work. There are few formal meetings with the attorneys. The Chief Deputy also fosters a close working relationship between attorneys and investigators, encouraging them to work together to develop complete cases, rather than dividing all their tasks into separate attorney and investigator responsibilities.

The Chief Deputy spends about three-quarters of his time on administrative tasks and the rest on investigation and prosecution. Until recently, he handled all the administrative duties of the Fraud Division; now, some of this work is delegated. The Supervising Investigator assigned to the Fraud Division monitors the work of the four assistant and twelve field investigators, and one of the assistant investigators spends approximately one quarter of his time supervising the work of the other three assistants. The other assistants work nearly full-time on substantive rather than administrative tasks, except for one assistant investigator who tabulates caseload figures every month.\* There is a moderate amount of paperwork which all staff must complete, including updating information on new case developments and completing time slips, investigation reports, witness lists and progress reports.

### 3.3 Staffing

Since its inception, the Fraud Division has expanded considerably. The staff increased from one attorney and two investigators in late 1970 to eight attorneys, twelve investigators, four assistant investigators and six clerical staff five years later. The ratio of investigators to attorneys has remained constant at about 2:1.

\* Assistant investigators do not actively participate in the investigations, but handle phone complaints and walk-ins and investigate cases through telephone calls.

This high ratio of investigators to attorneys reflects the Division's stated policy of relying primarily on its own investigative capabilities, so that it can avoid the complications involved in securing assistance from other sources. Prior to the new District Attorney's first election in 1970, and the start of his term of office in January 1971, the office had used its own investigators only to complete cases brought to it already investigated by other law enforcement agencies. The new District Attorney's contention has been that the office should investigate cases which other agencies do not handle.

The Division's Chief Deputy has considerable expertise in criminal law, a strong commitment to prosecuting fraud cases, and approximately two years' experience in crime investigation and the prosecution of economic crime. To continue to develop his skills, he still attends meetings or training sessions conducted by NDAA's Economic Crime Project and seeks advice from colleagues in other jurisdictions.

The Deputy Attorneys and the investigators in the Division are also individuals who have acquired a considerable amount of expertise. The high quality of the staff is due to several factors, including the following:

- strong support from the District Attorney, who has appointed experienced investigators and attorneys to the Fraud Division;
- relatively high pay, which contributes to motivation and reduces turnover;
- recruitment of attorneys who already have extensive trial experience (e.g., attorneys from the office's Appellate Division);
- hiring investigators who have criminal investigation backgrounds (e.g., former police officers, military intelligence officers, a former fire department arson investigator);
- the fact that the Fraud Division Chief has the opportunity to observe most of the candidates in action in the Appellate and other divisions of the office prior to their transfers to the program; and
- the Chief Deputy's control over assignments to the Division.

Even the assistant investigators have extensive backgrounds in investigation and law, and can handle most of the problems which they confront without relying on the assistance of the field investigators or the deputy attorneys.

One Certified Public Accountant and one auditor have been employed with funds provided by NDAA's Economic Crime Project, and one full-time CPA/attorney has been assigned to the division by the County Auditor's office. The Economic Crime Project has also funded an investigator for one year who has a background in economic crime. The District Attorney's Intelligence and Special Operation Division and the Organized Crime Task Force also contribute expertise as needed.

*Staff Training* consists of both on-the-job and formal instruction. New field investigators are assigned to an experienced investigator in an apprenticeship fashion. In addition, new investigators attend bi-weekly training sessions on investigative techniques. Assistant investigators, who frequently have prior experience in fraud work, are trained by spending two or three days listening in on phone calls and walk-in sessions conducted by an experienced assistant. They then begin to take their own calls and handle their own walk-in cases, requesting advice from other assistant investigators as needed. Deputies also learn while on the job, working initially on straightforward cases under the Chief Deputy's supervision.

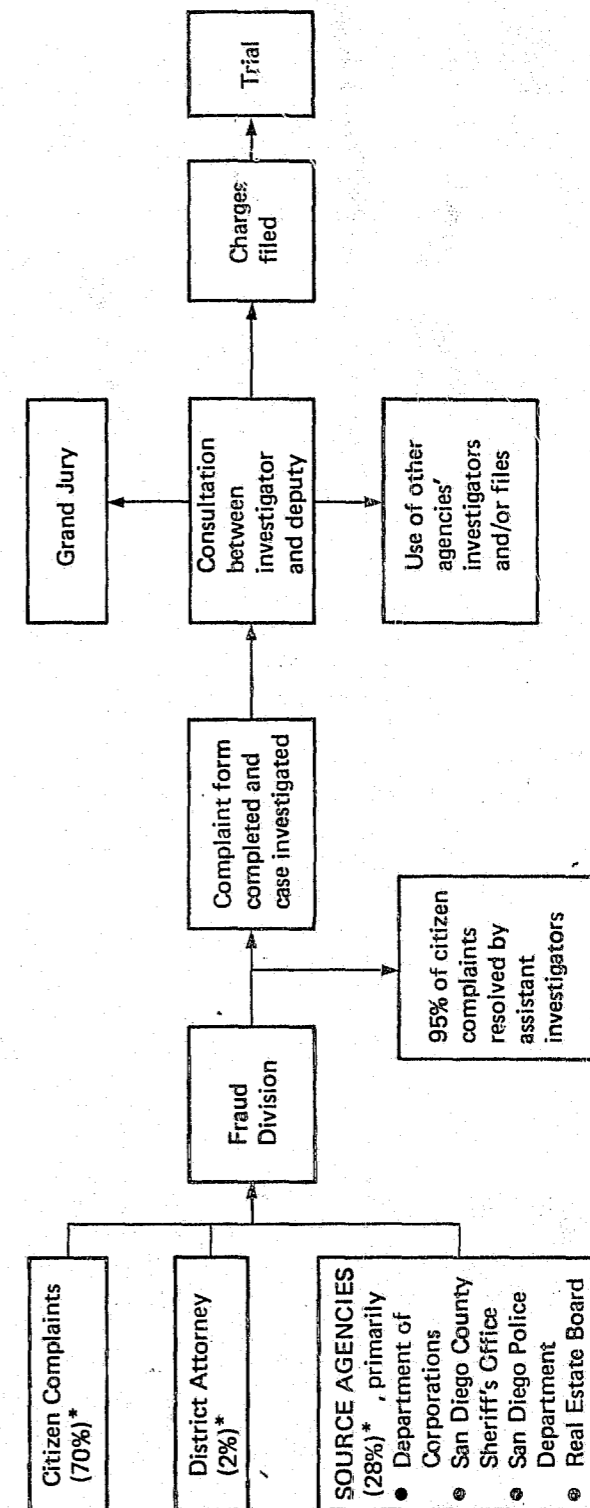
### 3.4 Operations

Figure 5, on the following page, illustrates the processing of typical cases. Each stage in this process is described briefly below.

#### 3.4.1 Case Intake and Screening

Complaints are generally received by the Fraud Division from two sources: telephone calls and walk-ins, or referral from other

Figure 5  
Processing Overview



\* Indicates percent of filed cases referred from each source.

agencies. Over 90% of the former complaints are resolved by assistant investigators immediately, or with an additional call or two. In the unresolved cases, citizens fill out written complaint forms and these cases receive further attention from Division Investigators. In cases referred from other agencies, written complaints are registered directly by Division Investigators.

- In 1974, the Division received 13,523 phone calls, over 50 a day, and 747 walk-ins, three a day. Most of these contacts related to one of five areas: automobile and appliance purchase and repair problems; landlord-tenant disputes; contractual problems; complaints against home improvement and furnishing companies; and misleading advertisements.
- During the same year, 1,812 written complaints were received, most of which involved either one of the above problems or theft. Figure 6, on the following page, provides a partial breakdown of written complaint by type of case for a six-month period in 1973.

Filed cases which result from these complaints consist primarily of fraud (theft) cases, but also include corporate securities cases, land frauds, and false advertising. Figure 7, also on the following page, is a breakdown by subject area of criminal cases filed over a six-month period in 1973.

Both civil and criminal cases are handled, although only high impact civil cases are filed because of the resource commitment required. Nearly 30% of total attorney time is devoted to civil cases, while two out of the twelve field investigators work on civil cases.

The Division has primarily reacted to complaints in obtaining its cases. Because of its high public visibility, it is constantly supplied with complaints from citizens and from other agencies. Nevertheless, it has also taken the initiative in several important and successful activities, including the following:

Figure 6  
Complaint Breakdown by Cases over Six-Month Period in 1973

Auto Repair -----	42	Solicitation (telephone, door-to-door, etc.) -----	33
Auto Sales (including leasing--all types of vehicles) -----	62	Personal Property (Theft) -----	62
Appliance Repair -----	17	Advertising -----	89
Appliance Sales -----	14	Schools (Private) -----	6
Employment Agencies -----	3	Pyramid Clubs -----	7
Real Estate Fraud -----	48	Mails -----	9
Deposits, Rental Agreements -----	5	Magazines (Books, etc.)--	7
Contractors (Building, etc.) -----	24	Financing -----	13
Home Furnishings (includes interior decorating) -----	40	Department Stores (Miscellaneous merchandise; see also home furnishings, clothing, and advertising) -----	1
Clothing (includes cleaning) -----	6	Corporate Securities, Franchises -----	9

Figure 7  
Criminal Cases Filed  
(may include multiple defendants)

Fraud (Theft) -----	25
Corporate Securities -----	5
Land Fraud (Major: 1 to 9 defendants per case) -----	5
Auto Repair Fraud -----	5
Medical Frauds (Medical Quackery) -----	3
Franchise Violations -----	2
TOTAL -----	45

- investigating possible frauds within organizations seeking charitable contributions;
- monitoring newspapers for false advertising of silver and gold futures;
- collaborating with the Department of Weights and Measures during the gasoline shortage to collect samples of gasoline for octane analysis, to detect dilution (none was found);
- using an undercover automobile to determine the honesty of car repair shops (five criminal charges resulted) and transmission shops (no fraud was found);
- promoting the passage of legislation, including the recommendation of a provision in the Business and Professional Code making it illegal to misrepresent facts in real estate transactions, with a penalty of \$2,500 for such misrepresentation. (The Chief Fraud Deputy and another deputy also testified before the State Legislature on a cancer quackery bill, which was passed, making it a felony to misrepresent a method or device as a cure for cancer.)

*Case Screening.* The Division's general approach is to process all consumer complaints which are within its jurisdiction. There are two reasons for this policy: (1) the Division tries to provide services to all victims of consumer fraud, large or small; (2) Division personnel have found that many major fraud cases come to their attention from everyday consumer complaints. There are certain exceptions to this policy. Bad check cases are referred to the sheriff and to the San Diego Police Department. Misdemeanors are referred to the City Attorney. Cases solely within another agency's jurisdiction (e.g., weights and measures cases) are referred to that agency. Corruption cases are usually handled by the District Attorney's Special Operations Division instead of the Fraud Division, although some corruption matters have been prosecuted by the fraud unit when linked to larger fraud cases. The Division also attempts to refer to the Superior Court Division some simple fraud cases such as minor embezzlements against businesses, so that Fraud Division staff can concentrate on more complex cases.

Four major criteria are used to decide which of the remaining cases to file:

- potential for publicity and deterrence;
- amount of money involved;
- number of victims; and
- possibility of successful prosecution.

The Fraud Division has no guidelines stipulating exactly what the actual extent of the publicity, the dollar value, or the number of victims must be for a case to be filed. Civil actions are generally brought only against repeated and flagrant violators because of the cost in time and labor of seeking civil remedies.

Assessing a matter for its suitability as a court case is a continuous process with every attorney and investigator attempting to resolve problems out of court whenever possible, and reserving cases for litigation when other solutions fail. Assistant investigators attempt to resolve all the initial call-ins and walk-ins, usually by telephone calls or letters (which include copies of appropriate laws) to the alleged offender. But each complaint for which a form is completed is also checked against the computer-listed roster of previous complaints; if the suspect has been the subject of several complaints, further investigation is usually made and a summary of the results is reviewed by the Supervising Investigator and then by a deputy prosecutor, who considers the suitability of prosecution. The assistant investigators may consult with attorneys early in their investigations to make sure the case warrants continued attention, but the decision to discuss a case with an attorney lies with the investigator. The field investigators make the same type of screening decisions. The attorneys ultimately decide which cases to file, briefing the Chief Deputy on their decisions. The Chief Deputy must approve every case before it is filed. Because the investigators usually consult attorneys early in their investigations, only rarely does an attorney or the Chief Deputy decline to file an investigated case.

An average of six civil and 53 criminal cases per year (1971-1974) have been initiated. Almost three-quarters of all cases which actually go to court, including most major fraud cases, begin with complaints made by private citizens. About 2% of the cases filed are referred to the Division by other members of the District Attorney's



Office. The remaining cases filed result from referrals by other agencies, primarily the Department of Corporations, the San Diego County Sheriff's Office, and the San Diego Police Department.

### 3.4.2 Case Processing

There are five major steps in the Fraud Division's processing of cases, though not all of them apply to every case. These steps are:

- (1) Investigation of complaints to resolve minor cases and preparation for major cases;
- (2) Use of a computer-based complaint file to identify patterns in fraudulent activities;
- (3) Cooperation with other agencies in investigative work;
- (4) Publicity in appropriate cases; and
- (5) Securing meaningful dispositions in cases that are litigated.

*Investigation.* Four assistant investigators handle phone calls and walk-ins on a rotating basis, with two accepting complaints and two investigating cases every day. As many as 90-95% of these complaints are apparently resolved by the assistant investigators during the call or meeting, or shortly thereafter. Common methods for handling cases include:

- telephoning an alleged wrongdoer and recommending reimbursement or some other resolution satisfactory to the complainant;
- recommending small claims court, if there has been no criminal activity and the amount in dispute is under \$500, or consulting a lawyer if it is over \$500;
- determining that no crime or cause for civil action is involved and so informing the complainant;
- writing a letter to the offending party citing the complaint and proposing an appropriate resolution; or
- sending a letter to an apparent repeated violator,

over the Chief Deputy's signature, indicating that a subsequent complaint or failure to resolve the pending complaint(s) satisfactorily will result in prosecution.

If the complaint is apparently legitimate and has not been resolved, the investigator mails the complaining party a complaint form to complete and return. Information requested on the complaint form includes the name and address of the victim(s) and suspect(s) and the basic facts of the case. In addition, the assistant investigator requests all documents--deeds, contracts, etc.--and duplicates them, returning the originals to the complainant and inserting the duplicates in the case file. The Supervising Investigator then reviews the complaint and, if he determines it to be valid, passes it on to a clerk who indexes it by year, month and number. The clerk fills out a computer form with the names of the victim(s) and suspect(s) and searches the computer file for previous complaints against the same suspect and for aliases. This information is passed back to the investigator and is included in the case file. If the computer information indicates prior complaints against the same suspect(s), the case is assigned to the investigator who handled the previous victims.

When the case file is complete and includes the complaint form, duplicates of all relevant documents, and the results of the computer cross-check, the assistant investigator turns the file over to the Supervising Investigator, who reviews it. The case is then assigned to a field investigator if it seems to require immediate attention--for example, because of the imminent expiration of the statute of limitations, or the seriousness of the case. Virtually all of the cases, however, are not immediately assigned, but placed in a chronological file of unassigned cases. Whenever the investigators have time to take up new cases, they take the oldest case from the file. There has been a fairly constant six-week backlog of cases for the past year.

When field investigation is required, an assistant investigator must obtain the services of a field investigator through assignment by the Supervising Investigator. Early in the investigation, the assistant or field investigator consults an attorney assigned by the Chief Deputy to the case to make sure the inquiry is proceeding appropriately and that the case should, indeed, be further examined for eventual filing. After this initial consultation between investigator and attorney, the necessity or frequency of

further consultation with a Deputy depends on the case. The investigator provides the relevant details of each major case development--new victims, new suspects, new aliases, or disposition--to the computer file. A transcript of the data is provided for the Supervising Investigator and the appropriate Deputy and becomes part of the permanent case file. Investigators also submit weekly progress reports that update each case they are developing.

When the investigation is complete, the Supervising Investigator reviews the complete case folder and then passes it on to the Chief Deputy. He may review it himself or pass it directly to another deputy. If he or a deputy decides that more investigation is needed, a work request sheet is completed and routed to the investigator via the Supervising Investigator.

The cases which do not originate from telephone calls or walk-in complaints but are referrals from other agencies or from the District Attorney are initially assigned to a field investigator by the Chief Deputy, in consultation with the Supervising Investigator.

*Use of the Computer.* As noted above, the Fraud Division staff add certain items of information to a computer file as cases are developed. A print-out, distributed to every staff member, includes the names and aliases of suspects and victims, the nature of the alleged crime, the disposition and date, the current status of the case, and a cross-reference that relates the case to other cases. A sample print-out page is provided in the Appendix.

The print-out serves two major purposes. First and most importantly, it enables the Division staff to detect patterns of victims and/or suspects so that they know whether the case involves an isolated incident or an extensive and repeated pattern of abuse. The print-out also enables the Division staff to identify chronic complainers.

Second, the print-out allows the Division to coordinate its investigations with other agencies to ensure that there is no overlap in their work. Copies of the print-out are routinely distributed to the City Police and the Sheriff, and are available to the

Attorney General and City Attorney as well. Also, when another agency inquires about a particular suspect, project staff can produce the information immediately.

The print-out is published monthly, but updated weekly. Whenever an investigator has a new development on a case, a form to update the computer file is immediately filled out. The print-out is periodically purged of dead cases, but a dead file is kept in the event that new complaints are received.

*Liaison.* The Division receives assistance from other agencies in approximately 20% of its investigations. This aid comes from agencies such as the State Department of Corporations and Department of Consumer Affairs, the County Auditor, the San Diego County Sheriff's Department, the Federal Bureau of Investigation and the Securities and Exchange Commission.

Although the Division prefers not to rely extensively on the investigative assistance of other agencies, cooperation from regulatory and law enforcement agencies in appropriate cases does enable the Fraud Division to prosecute a greater number and variety of cases. Other agencies can provide the Division with additional investigative resources and certain important types of expertise--for example, the expertise which the Department of Corporations attorneys can provide on the corporation laws. These outside agencies can also supply administrative subpoena powers, which reduce the Division's reliance on the grand jury; knowledge of the law and precedents, which saves the Division the time which would be required to research them; and intelligence files, which provide the Division with useful background information.

The Division collaborates most frequently with the Department of Corporations. This Department becomes involved immediately in Division cases that involve businesses, performing essential investigative tasks, providing expertise on corporate law, and supplying information on other complaints against the same suspect. The Fraud Division also telephones the Department for advice, for example to learn if a particular activity constitutes a corporate securities violation. Finally, the Fraud Division takes advantage of the Department's subpoena power for obtaining business records.

The Division has working arrangements with several other agencies. It makes use of the County Auditor's staff for investigative assistance when professional accounting skills are required. At the request of the City Attorney, the Division investigates selected misdemeanors. The City Police Department frequently refers cases to the Division.

The Chief Deputy's approach to establishing relationships with other agencies has been to make initial contact with the investigative staff, rather than administrators. On appropriately limited matters, one-to-one cooperation between staff of the outside agency and fraud unit staff has provided good results without posing political or administrative problems.

In addition to seeking help on its own cases, the Division provides investigative assistance to other agencies whenever it is requested, for example, loaning two investigators to the City Attorney on a part-time basis. While it is an accepted policy of the Division to provide such assistance, demands for help by other agencies have not been excessive.

*Publicity.* The Fraud Division's efforts to attract publicity include issuing press releases, making television presentations and speeches, and publishing written materials. These efforts are designed to provide information about the Division's services, to increase public awareness of consumer fraud,\* and to deter would-be defrauders. The District Attorney's office has a full-time press relations officer who attends regular meetings between the District Attorney and the Fraud Division Chief Deputy, interviews investigators and deputies, and writes press releases. Each week, reporters assemble in the District Attorney's office for an off-the-record preview of the week's activities, so they can keep space and time available.

\* For example, during the Christmas holidays of 1974, a local television channel produced an interview with a Fraud Division investigator on how to detect charity frauds.

### 3.4.3 Case Disposition

The San Diego Fraud Division's success in civil cases has been facilitated by three particular statutes in the California penal code. First, a new state law provides a \$2,500 penalty for every instance of unfair business practice and states that violation of any law may be charged as an unfair business practice in a civil complaint. Second, the Business and Professions Code provides for civil remedies for each instance of false or deceptive advertising, regardless of intent to deceive. Third, a recent (1973) law permits restitution to victims in civil cases brought by the County. It should be noted that although these statutes are particularly valuable to the Division's prosecution of cases, they are not indispensable. As in most other jurisdictions, San Diego's fraud unit operates under other laws that would enable any aggressive fraud program to seek damages and restitution.

An interesting example of a civil disposition obtained by the Division is demonstrated by a price fixing and unfair competition case involving a medical laboratory. In that case, while the parties in the settlement denied any wrongdoing, they did agree to payment of a civil penalty of \$75,000, of which \$35,000 went to the county treasurer, \$18,000 to the District Attorney to cover expenses and costs incurred, and \$22,000 to the District Attorney to be refunded to patients allegedly overcharged for laboratory tests. In addition, the judgement stipulated that all contractual relationships between the laboratory and the physicians also named as defendants would be terminated.

In criminal cases, the Division uses plea bargaining to help reduce the number of trials required. Typical bargained resolutions involve accepting a plea on one count and dismissing all other counts. However, many nolo contendere pleas and a few plea bargains reducing felonies to misdemeanors are also accepted. The Division seeks jail sentences in most criminal cases and occasionally plea bargains over sentencing recommendations. Such bargains normally occur in cases where the judge is unlikely to sentence the defendant to jail and the defendant has agreed to full restitution.

The Division tries to investigate every case thoroughly so that by affording the defense complete discovery at an early stage (as required by state law) the suspect can be persuaded of the futility of court proceedings and agree to plead guilty or otherwise resolve the complaint without a court appearance.

### 3.5 Project Monitoring and Costs

The San Diego program collects extensive data on each of its cases, including the names of the suspects and victims, the nature of the alleged offense, the results of the investigation, the amount of time spent on investigating each case, the disposition, and so forth. In addition, the program utilizes various forms for updating computer print-outs, for registering complaints, etc. The following case monitoring forms are used:

- *Complaint forms*, filled out by victims, which record the name and address of the victim and suspect(s) and the details of the alleged offense. The disposition of the case is also recorded on this form by the fraud staff member who handles the complaint. The form is printed in both English and Spanish.
- *Investigative services request forms*, which are filled out (1) by an attorney, to request evidence from an investigator; (2) by the Supervising Investigator, to outline the investigative tasks required from a field investigation on complaints which are not resolved by an assistant investigator; and (3) by the Supervising Investigator to describe the informational needs required in cases which are being investigated by police or other outside agencies.
- *Case rejection forms* which are filled out by attorneys when a case referred by another agency is refused by the Division. This form is also used on those rare occurrences when a case already investigated by a Division staff member is rejected. Case rejections must be approved by the Chief Deputy.
- *Case action reports* which are filled out by attorneys to record any developments in cases, such as grand jury hearings, motions, depositions, dismissals, and so forth. The action reports are used to compile monthly reports on Division activities.

- *Disposition slips* which are filled out by investigators or assistant investigators on the disposition of complaints received by telephone. The information recorded on this form includes the case number, nature of the complaint, the amount of money or property recovered, the type and date of the disposition, and the name of the investigator.
- *Time sheets* which are filled out by investigators to record the amount of time spent on each case. This information is used for internal monitoring purposes.
- *Statistical sheets* which are filled out by investigators to enter information to the computer. Case data used for this purpose include the names of the victim(s) and suspect(s), the nature of the complaint, the type and date of the disposition, and the name of the investigator assigned to the case.

In addition to the information recorded on the forms described above, the program maintains case files, which contain relevant documents and other information, and keeps a running total of telephone and walk-in complaints and case actions. Copies of the Division's case monitoring forms are included in the Appendix.

#### 3.5.1 Project Data

The San Diego Fraud Division is both a high volume operation which processes all consumer complaints it receives, and an impact case program which prosecutes major fraud activity. Figure 8 shows the number of consumer complaint cases handled in 1974.

Figure 8  
Complaints Handled in 1974

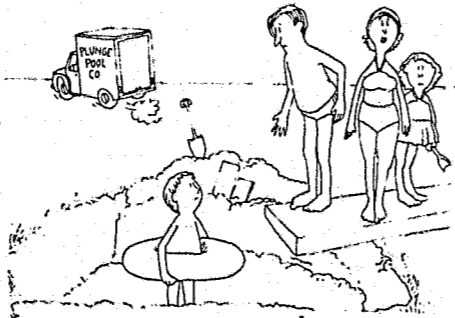
Phone Complaints Received	13,523
Walk-in Complaints	747
Formal Complaints Received	1,812
Completed	1,639
Cash Returned to Victims (without filing)	\$ 78,426
Property Returned to Victims (without filing)	\$ 15,062

More than ninety percent of the phone call complaints and the vast majority of the walk-in complaints are addressed and solved to the complainant's satisfaction by the assistant investigators. Those not successfully resolved become filed cases.

In four years (1971-1974) the Fraud Division filed 211 criminal cases and 22 civil actions. In 1974, 56 criminal cases and 79 defendants reached final disposition: 71% of the defendants and 79% of the cases resulted in findings of guilty after plea or trial. Some 79% of the guilty defendants entered pleas of guilty or nolo contendere instead of going to trial. Figures 9 and 10 on the following page display details. Though the total dollar loss associated with the cases filed is not known, these data provide some indication of the accomplishments of the San Diego Fraud Division in resolving consumer complaints, providing redress for the victims of economic crime, obtaining favorable results in criminal prosecutions, and obtaining major civil judgments.

Like the Seattle program, the San Diego program has been unable to verify its deterrent effects. A series of testimonials and other subjective data do, however, provide some evidence of the Division's achievements in this area:

- Due to much adverse publicity and \$45,000 in settlements against several swimming pool contractors resulting from a civil suit brought by the Fraud Division, a pool contractor association was formed to help restore the reputation of the industry.



- New complaints against swimming pool manufacturers are routinely referred by the Fraud Division to the dealer association's arbitrator, a position established as a result of the settlement noted above. These complaints have apparently been settled to the complainants' satisfaction, since the Division has not been re-contacted.

- Several other business associations have become more organized and conscientious, including the carpeting industry, garage owners, and television repair companies. (However, this banding together may not reflect an attempt at self-policing but rather a method of uniting to protect themselves against the Fraud Division.)

Figure 9  
Cases Initiated 1971-1974

	1971	1972	1973	1974	Total
Criminal Cases Filed	46	55	71	39	211
Defendants	70	68	81	66	285
Civil Cases Filed	10	2	3	7	22

Figure 10  
Case Activity 1974

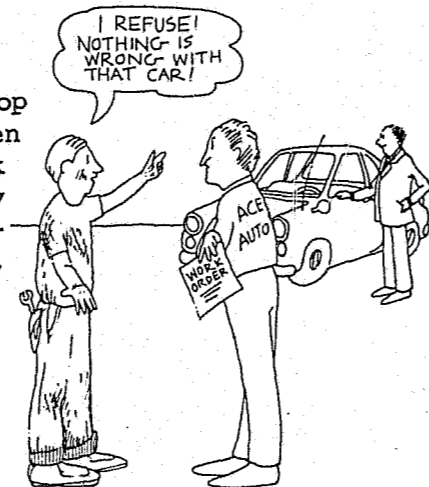
<u>Defendants</u> (includes 52 defendants from cases filed in previous years)	
Guilty by plea or nolo	44
Guilty after trial	12
Not guilty after trial	1
Dismissed	22
Warrant Outstanding	18
Pending (including fugitives)	<u>21</u>
<b>TOTAL</b>	<b>118</b>
<u>Criminal Cases</u> (includes 36 cases carried over from previous years)	
One or more defendants convicted	44
Dismissed against all defendants*	12
Pending	4
Warrant Outstanding	<u>15</u>
<b>TOTAL</b>	<b>75</b>
Criminal Fines	\$ 20,625
Restitution (criminal cases)	\$138,287
<u>Civil Cases Filed</u>	7
Civil Recoveries (3 cases settled)	\$ 95,000

\* Includes some cases in which restitution was obtained

• When the Fraud Division filed against one industry for failure to obtain the requisite business licenses, other businesses called the Division to find out if they needed to be licensed.

• The Independent Garage Owners' Association conference cited the Fraud Division program and invited the Chief Deputy to speak. In addition, the Division now gets quick results when it calls a garage on a consumer complaint. One mechanic reportedly lost \$100,000 during the year following his prosecution by the Fraud Division.

• After filing five cases against automobile repair shops the Division sent its decoy car to yet another repair shop to determine whether an impact had been made. A long order of unnecessary work was written which the mechanic on duty refused to fill. After trying to persuade another mechanic to do the work, the writer admitted to the undercover agent that the car needed no repairs and was successfully prosecuted with the aid of testimony from the two mechanics and the shop's owner.



### 3.5.2 Project Costs

In 1974, the Fraud Division's budget was approximately \$500,000 out of a total departmental budget of \$5,625,848, or nearly 10% of the entire District Attorney's budget. The project also received \$45,000 in 1974 from the Economic Crime Project of the National District Attorneys Association. The cost of using the county-owned computer is a budget item which is fairly unique to San Diego. Two thousand dollars were spent on the initial conversion of files, and current maintenance costs are \$200 per month.

A more thorough discussion of evaluation and cost issues is provided in Chapter 5.

## CHAPTER 4 SUMMARY OF MAJOR ORGANIZATIONAL ISSUES

This chapter discusses several issues which must be addressed in implementing an economic crime program. Based on the experience of the two projects described in previous chapters, the discussion covers four specific areas: program organization; personnel (qualifications, recruitment, training); relationships with related agencies; and subsidiary unit activities (public information and legislative reform).

Throughout this chapter, references are made to a report which has summarized the first-year experiences of the fifteen participating units in the NDAA's Economic Crime Project (Battelle First Year Report).<sup>\*</sup> Based on considerable on-site observations and review of project materials, this report offers a useful synthesis of operating experiences in a range of jurisdictions including Seattle and San Diego. Thus, in addition to including relevant comments in this chapter, a section of that report entitled "Establishing An Economic Crime Unit: Lessons Learned from the NDAA Economic Crime Project," has been reproduced in its entirety in the Appendix. While this chapter highlights the experiences of the two exemplary projects, the Battelle report should be consulted for a more comprehensive review of a range of replication issues. In addition, since many issues related to case screening and development are beyond the scope of this manual the reader is again referred to the forthcoming LEAA publication cited in Chapter 1. That publication will contain current information on white collar criminal investigation and prosecution techniques, and resources available to train law enforcement personnel in this area.

<sup>\*</sup> Battelle Institute, Law and Justice Study Center, Human Affairs Research Center, Research and Evaluation Report on the First Year of the Economic Crime Project, National District Attorneys Association, July 1, 1973 to June 30, 1974.

#### 4.1 Project Organization

Maximum physical separation and operational independence within a prosecutor's office appear to be highly desirable for a fraud unit. There are a number of factors which support this contention. First, a completely new division is likely to be more innovative in its approach, which is particularly important for the success of an economic crime division. A majority of the new division's staff members would probably be dealing with an unfamiliar set of investigative problems and laws, as well as a different type of case. Dealing with economic crime generally demands some degree of creativity, as well as experience with standard criminal law practices.

A separate organizational structure would also discourage possible interference from other divisions in the prosecutor's office, and ensure the full-time availability of fraud division staff. Other units, which usually handle a very large volume of cases, might otherwise make continual demands for fraud division staff time, since the latter's caseload would probably be relatively small. Both the Seattle and San Diego Fraud Divisions illustrate how independence from the other divisions in the Chief Prosecutor's office has enabled them to function effectively without being distracted by the demands of the other divisions.

In small prosecutor's offices, such separation may be difficult or impossible to achieve; it may also be a problem in large offices when a fraud program is first established. If a separate unit is not feasible, the problems described above might be avoided, to some extent, if the Chief Deputy selected to head the unit is a full-time prosecutor of economic crime.

Although a separate identity appears critical, cooperation among Divisions is nonetheless important. The Battelle First Year Report has noted that:

"In those instances in which jurisdiction is limited, in whole or in part, we regard it to be essential that there be a maximum of interaction between the project's economic crime units, and other units within their offices which have overlapping subject matter jurisdiction, because,

- (1) Where the unit is limited to civil cases and consumer complaint servicing, the work of the

unit can be an invaluable source for identification of patterns of activity warranting the attention of major fraud or other felony divisions of the office.

- (2) It is usually good prosecutive practice, in economic crime cases, to use the services of investigators at all stages of proceedings. There is no reason to assume that this should not apply in the case of unit investigators and attorneys.
- (3) There may be cases, or aspects of cases, which come to the attention of other divisions of the district attorney's offices which should be referred to the economic crime unit. Visibility and good communication should promote this.\*\*

#### Staff Roles

There are several factors involved in the definition of specific unit staff responsibilities and the development of a program's internal administrative procedures. Two of the basic elements are:

- establishing staff working arrangements -- How closely will attorneys and investigators work together? Will individuals specialize in certain prosecutorial functions, or develop single cases from inception to verdict?
- defining staff responsibilities -- Who is responsible for making decisions about individual cases (e.g., whether to prosecute, what charges to bring)? Who is responsible for specific tasks (e.g., court appearances, paperwork)? Who handles what type of cases (e.g., civil cases, bribery cases)?

#### Attorney/Investigator Relations

Defining appropriate attorney/investigator relations is particularly important for fraud programs, especially when thorough investigation

\* Battelle First Year Report, pp. 45-46.

is a crucial element of the program's case development procedure. Two types of organizational relationships between investigators and attorneys have been described by the Battelle report:

"The sequential approach is probably the most common investigative arrangement. Under this approach, the investigator consults with an assistant district attorney regarding initiation of an investigation, and after laying the groundwork and probable direction of the investigation, acts on his own until he believes the investigation is completed. The investigation file is then turned over to the unit chief or trial assistant for review and further action. Of course, in practice there will always be at least intermittent consultation with attorneys during the investigative process, particularly in major or complex cases, but in general the investigation becomes the primary responsibility of the investigator until completed under this approach.

"Under the team approach, an attorney and an investigator (at a minimum) work together from beginning to end on a case...particularly on cases in which special investigative skills are needed. These skills might include accounting, expert mechanical experience, or computer expertise. Some economic crime units have been able to hire investigators with legal background who can serve as one-person teams, achieving the economy of effort of the sequential approach to investigations and the broad perspective of the team approach."\*

In relatively simple cases, such as certain consumer complaints, it would probably be most efficient for investigators to complete cases and turn them over to attorneys for prosecution. Most major fraud cases are complex, however, and require intricate investigation and careful review and interpretation of statutes. The investigators would be wasting considerable amounts of time if they did not consult with attorneys early in their investigations, to make sure that the cases will not be summarily rejected when they are reviewed by the attorneys. Moreover, since full-scale prosecution of economic crime is relatively uncommon, and most people

\* Battelle First Year Report, see Appendix E, p. 149 of this manual.

are new to the field, it would probably be useful for attorneys and investigators to share their knowledge and skills. In addition, close working relationships between attorneys and investigators could conceivably increase their understanding of one another's roles and, therefore, contribute to more effective performance.

#### Case Assignment

Staff assignments may be made on a task basis (staff members specialize in certain functions), or on a case basis (staff members develop complete cases). The choice between these, or other, approaches would depend on many factors including the experience and abilities of the staff, the types of cases, and the organizational structure of the division. In Seattle, case continuity is seen as an important factor; thus specialization developed along case types rather than functional lines.

A related issue is whether or not fraud programs should try their own cases or leave trial work to general trial bureaus. While both Seattle and San Diego try their own cases, the Battelle Report has indicated that the question deserves careful consideration.

"Those who oppose general trial bureaus argue that economic crime cases are complex and require mastery of a substantial body of fact, and thus should be handled in court by the economic crime unit attorneys who have studied the relevant law and thoroughly know the case. Those who support assigning trials to a general trial bureau argue that effective trial work requires familiarity with and experience in the courtroom, which economic crime unit staff generally lack because they do not try a large number of cases, and that putting the staff in the courtroom would remove them for too long from the other activities of the unit because of the length of many cases. If the economic crime unit staff will not try its own cases, it is essential that it still participate to the maximum extent possible with the assistant trying the case -- at all stages of the proceedings. If the unit staff cannot see, feel, and understand how its work product is being used, it is questionable whether it can effectively investigate and prepare cases for prosecution."\*

\* Battelle First Year Report, see Appendix E, pp. 126-7 of this manual.



An important task assignment problem, particularly for programs designed to handle consumer complaints in volume, is the designation of responsibility for numerous citizen complaints which any fraud program can expect to receive. The Battelle report has made the following comments about handling citizen complaints:

"Handling of citizen complaints is a time consuming task which many unit chiefs and assistant district attorneys have sought to avoid; however, to free themselves from this activity, attorney staff often pass the responsibilities on to their investigators, burdening, in turn, the investigators with the same restrictive task. Investigators who have major responsibilities for complaint handling will find it difficult to take on the tasks of detailed information gathering and analysis which are necessary to the development of cases.

Most of the units in the Economic Crime Project have experimented with different ways of assigning staff responsibilities for handling complaints, with the dual objectives of (1) maximizing the information about criminal violations which derived from complaints, and (2) freeing staff time.

Many Units which have taken on the responsibility to adjust non-criminal citizen complaints consider it important to isolate investigators from complaint handling. Units which pursue only potentially criminal matters tend not to have so large a complaint load and use investigators to handle the ones they receive. In either instance, the challenge is to find a way in which the complaints can be used as sources of intelligence or leads for development of cases, yet not be a burden on professional staff. That is, the investigators must not become so removed from the complaint-handling system that they are unaware of the information that has been received."\*

The San Diego Fraud Division receives a large volume of complaints (approximately 13,500 phone calls and 750 walk-ins per year), and has a large staff (16 investigators). This program utilizes four assistant investigators to handle citizen complaints (as

\* Battelle First Year Report, see Appendix E, p. 144 of this manual.

described in Chapter 3). Most cases are resolved by an assistant investigator, but a small percentage of the cases, which cannot be resolved, are turned over to the Supervising Investigator for review and possible filing.

The Seattle program, on the other hand, receives five to ten consumer complaints per day, and they are handled by legal interns (as described in Chapter 2). The vast majority are referred or resolved, and a small percentage are turned over to attorneys.

The assignment of individual cases will depend on factors such as staff experience, personal preference and availability. Staff members may either specialize in certain types of cases, or handle a variety of cases. Specialization among staff members may result in the most efficient and effective handling of cases. On the other hand, the opportunity to manage a variety of cases may be preferable to staff members, and generalization would facilitate more even distribution of the workload. Needless to say, in small units, specialization versus generalization becomes a moot issue.

The actual staffing pattern of a fraud unit, i.e., the number of attorneys, investigators, interns and clerical staff which the program needs, depends on its goals, its jurisdiction, its caseload, the extent to which it plans to investigate and/or try its own cases, and, most importantly, its budget. A variety of staff sizes and attorney/investigator/intern ratios are illustrated in Figure 11, which portrays the staffing patterns of the fifteen fraud programs included in the NDAA Economic Crime Project.\* Generally, if a Fraud unit has jurisdiction under the Consumer Protection Act, it will have higher investigative resource requirements.

#### 4.2 Personnel

It may be especially important for a fraud program to have highly competent and experienced staff, due to the special difficulty of prosecuting economic crime and the potential high visibility of economic crime units. Personnel qualification and recruitment sources are discussed briefly below.

\* Battelle First Year Report, p. 13. Some of these data have changed since the publication of this table.

Figure 11  
 Characteristics of Project Units  
 (Including Population of Jurisdiction; Date Office Established, Function  
 and Size of Office; Experience of Unit Chief)

PROJECT UNIT	COUNTY POPULATION	U.S. RANK OUT OF 3049 COUNTIES	DATE UNIT ESTABLISHED	SERVICES CONSUMER GRIEVANCES	JURISDICTION	RESPONSIBILITY FOR CIVIL TRIALS ASSUMES	SIZE D.A.'S OFFICE (ATTYS)	UNIT STAFF			UNIT CHIEF EXPERIENCED PROSECUTOR
								ATTYS.	INVS.	LEGAL ASST.	
BALTIMORE CITY	905,759	30	Nov 1973	No	Criminal	Yes <sup>2</sup>	91	3	4	2	Yes
BROOKLYN	2,602,012	4	Sep 1973	No	Criminal	Yes	208	3	1	1	Yes
BUFFALO	1,113,491	20	Apr 1973	No	Criminal	Yes	55	2	2		Yes
BURLINGTON	99,131	353	Sep 1973	Yes	Civil Criminal	No	4	1	1		No
COLUMBUS	833,249	33	Dec 1973	No	Criminal	Yes	32	2	1	1-1/1	No
FLINT	444,341	91	Jul 1971	Yes	Criminal	No	31	4	6	15	Yes
HOUSTON	1,741,912	7	Oct 1971 <sup>1</sup>	Yes	Civil Criminal	No	92	1	2	7	Yes
LOS ANGELES	7,036,463	1	1970	Yes	Civil	No	520	9	3		Yes
MIAMI	1,267,792	17	Oct 1973	Yes	Civil Criminal	No	72	2	1	3	Yes
MASSAU	1,428,075	12	Jan 1969	No	Criminal	No	92	4	2		Yes
OMAHA	389,455	99	Mar 1973	Yes	Civil Criminal	Yes	15	2	2		Yes
SACRAMENTO	931,498	52	May 1969	Yes	Civil Criminal	Yes	58	2	3	2	Yes
SAN DIEGO	1,357,782	15	Dec 1969	Yes	Civil Criminal	Yes	92	6	10	3	Yes
SEATTLE	1,156,633	18	Jul 1972	No	Civil Criminal	Yes	60	5	1	2	Yes
WICHITA	350,694	109	Nov 1970	Yes	Civil Criminal	Yes	17	2	2	1	Yes

<sup>1</sup> Established as a separate division in September 1973

<sup>2</sup> As a matter of policy usually retains only important cases for trial.

<sup>3</sup> Worked in prosecutor's office for two or more years.

Note that new staff have been added in Seattle and San Diego since this table was prepared.

### Chief Deputy and Attorneys

It is essential that the Chief Deputy and staff attorneys possess sound knowledge of court proceedings; substantial background in criminal law; well-developed trial skills; and the ability to judge the likelihood of winning a case and to assess the suitability of the charges lodged and the disposition sought. In addition, of course, leadership, organizational and administrative skills are important.

A person who is an experienced prosecutor of economic crime is clearly an asset to a new program, but this type of experience is not necessarily requisite to the Chief Deputy position. The Chief Deputy of the Seattle Fraud Division had experience with economic crime prosecution when he was recruited, and his background has proven to be a valuable resource for the division. The San Diego Chief Deputy, on the other hand, had only worked on a few economic crime cases, but was able to build up his experience quickly and to administer the Division quite successfully. The Seattle Chief Deputy was on the staff of the U.S. Attorney's Office in the District of Columbia before assuming his present position. The San Diego Chief Deputy was already a staff member of the District Attorney's office. Both had developed sound generalizable prosecutorial skills and an interest in the special problems of economic crime prosecution.

Similarly, staff attorneys, in the absence of prior experience in the area of economic crime, might simply be expected to possess the same skills desired of any experienced prosecuting attorney including:

- mastery of rules of evidence;
- careful legal research and trial preparation techniques;
- ability to make sound judgements about cases; and
- an aptitude for communicating clearly to a judge and jury.

## Investigators

One of the key tasks of an investigation of an alleged economic crime is to demonstrate that the occurrence or transaction in question was indeed illegal. The identity of the individuals as the "perpetrators" is rarely at issue, in contrast to the situation with common crime. Thus investigative skills must reflect an understanding of what constitutes illegal business practices. From this, it can be deduced that backgrounds in accounting and business administration are particularly valuable assets for investigative personnel within a fraud unit.

Investigation of economic crime may require unusual perseverance and attention to details, since the evidence is often fragmented and obscure. The abilities to foresee trial situations and to recognize equivocal legal violations are also highly desirable.

The Battelle report also points out that:

"In addition to providing investigative expertise.... investigators who know and have experience in working with local agencies and officials should be sought. More than one investigator involved in the economic crime project has described himself, in this way, as a 'shortcutter' who can cut red tape with local agencies. When it comes to obtaining certain necessary information for an investigation from state or municipal records, for instance, the 'shortcutter' knows whom to call to get the information quickly, often unofficially. After a number of such unofficial checks, he knows where to return to obtain formal, official information with little wasted time, and to avoid blind alleys. The most common background for such an investigator is experience in the local or state police or sheriff's office. The ability to succeed as a 'shortcutter' requires a personal reputation for discretion and for keeping one's word, a trait pertaining more to the individual than to his background."\*

\* Battelle First Year Report, see Appendix E, p. 132 of this manual.

In any fraud division, however, the particular expertise of its investigators will vary depending on the extent to which a program can rely on the assistance of consultants and skilled investigators from other agencies. This issue is discussed further in Section 4.3.

## Interns, Legal Assistants and Volunteers

A fraud division can save considerable expense by using the services of law students, legal assistants, or volunteers on a part-time or full-time basis. These may be elderly citizens in the community; law students with free time and an interest in prosecution; or local residents who want to protect consumers' rights. For example, the Seattle Fraud Division employs three law student interns to handle telephoned consumer complaints and to try cases in District Court. These students earn only a small salary for the learning experience and academic credit.

The Battelle report has noted the following concerning volunteers:

"Because they usually work only part-time and have high enthusiasm, volunteers may overcome their lack of experience and substantive knowledge by having a natural sympathy for the complainant, by not having heard the same old story every day, every week, and by having the time to follow through on the cases they handle. Servicing citizen complaints is such a demanding job, mentally and emotionally, that someone working part-time and for a limited duration like most volunteers, can possibly do a better job than a person assigned to the task full-time".\*

Needless to say, it is advisable to limit the role and responsibilities of paraprofessional staff and to define appropriate supervisory arrangements.

\* Battelle First Year Report, see Appendix E, p. 133 of this manual.

## Staff Recruitment and Training

The most obvious staffing sources, and perhaps the most desirable, are the other divisions in the prosecutor's office. The Seattle and San Diego programs have received many applications for transfer from other divisions, perhaps because of the publicity which the divisions attract and the innovative aspects of the work. Again, mutual familiarity -- that of the staff members with the local system and with the new division, and that of the Chief Deputy with the work of the staff members -- is a primary benefit of internal recruitment. A negative result of internal recruitment, however, may be the depletion of the most capable staff in other divisions.

Other law enforcement and regulatory agencies are another source for recruitment. One of the attorneys in the Seattle program, for example, had handled consumer protection cases in the Washington Attorney General's office prior to joining the Fraud Division. The advantage of this source is that it can bring to the unit people who have developed specialized skills in investigating or prosecuting economic crime. Another common, and often obligatory staff source, is the civil service list.

A final, but relatively inefficient, method by which to recruit staff is to place media advertisements. Nothing is initially known about the respondents, even when the job specifications are very narrow. Only by careful examination of resumes, calls to several references, and prolonged interviews can such individuals be evaluated. Nevertheless, this approach may identify qualified persons omitted by the other recruitment methods, and may facilitate minority recruitment. The importance of the latter point should not be overlooked. Beyond the necessity of meeting requisite equal opportunity standards, non-English speaking people are particularly susceptible to fraudulent schemes and could obviously communicate more easily with an investigator or attorney who speaks their own language. According to the Battelle report:

"It was regarded as important by a number of unit heads that there be someone on the staff, usually an investigator, who speaks a prominent minority language, such as Spanish, and that someone on the staff be Black or Chicano, or representative of other minority groups

where appropriate, possibly American Indian. Not only does having such investigators aid in the development of cases, but it contributes to the objective held by all units of making a particular contribution to economic crime problems of disadvantaged groups in the population.\*

Given the small number of attorneys and investigators experienced in economic crime, a new fraud program will have to address the issue of formal staff training. Training on-the-job can be a formidable task, and should generally be supported by a well-defined apprenticeship or supervisory system. An initial orientation period, when new staff either do not handle any cases or are assigned cases with relatively simple investigative requirements, is often necessary.

### 4.3 Liaison with Other Agencies

Establishing working relationships with other law enforcement and regulatory agencies is essential to the success of an economic crime unit. Most project work will require a great deal of investigation, as well as an enormous amount of trial work. Shifting some of the investigative burden to other agencies will enable a program to concentrate its limited resources on prosecution and thereby increase its caseload. For example, the Seattle Fraud Division, which employs only two in-house investigators, relies primarily upon other agencies for investigative activities.

Other agencies can provide a program with scarce or expensive investigative expertise. For example, a program may be able to rely on the consulting services of an accountant employed by the local Department of Corporations, rather than hiring its own full-time accountant. Other agencies may also provide services by performing tasks which a fraud program is not authorized to handle. For example, local police agencies could serve warrants if an economic crime unit did not have this authority. The

\* Battelle First Year Report, see Appendix E, p. 132 of this manual.

Seattle Fraud Division has used the investigative expertise of other agencies in the Seattle community and from many other cities. As a result, it uses only two regular staff investigators to complement its staff of five attorneys.

Working closely with other investigative agencies can be an effective method for training new staff. Agencies may also be useful sources of new cases. The Seattle Fraud Division, for instance, obtains the majority of its cases through referrals from other agencies. Such a service is especially important for a program which does not receive volume consumer complaints and cannot rely on automatic availability of cases. Conversely, a fraud program can refer cases to other agencies.

Liaison with other agencies can avoid duplication of effort. If an effective communications network has been established, a program will be aware of cases which another agency intends to press. This knowledge is especially important when federal and state statutes create overlapping jurisdictions, or provide for a dual prosecution. Adequate communication can thus help avoid unnecessary duplication.

Agencies can provide a fraud program with access to valuable data, which may be useful as evidence or as a means of detecting patterns in criminal activity. Some agencies can provide rapid access to defendants' business records through the use of administrative subpoena powers, obviating judicial proceedings for this purpose. For example, the Department of Licenses in Seattle can inspect the records of businesses in a matter of hours.

Along with the benefits which liaison can afford a fraud program come certain liabilities. These drawbacks fall into three major categories: problems of control, problems of confidentiality, and problems of responsiveness. Reliance on the investigative staff of other agencies necessitates working with people whose primary allegiance and responsibility are to another office. As a result, it may be difficult for a fraud unit to foresee or to control any undesirable behavior on the part of outside investigators, such as poor quality work or tactless confrontations with people in the community.

A second problem involved in liaison is ensuring the confidentiality of information shared with other agencies. Leaks, particularly in newsworthy cases, can destroy a prosecutor's case. Such indiscretion should not occur when a fraud program investigates corruption and other politically sensitive cases completely independently, as does Seattle.

Finally, liaison can involve problems of responsiveness for a fraud unit -- both in terms of referring cases and receiving them. An agency to which a fraud program refers a case may neglect to follow it up and public attention may be focused in some way on the failure to act. The Battelle report has reported an instance where a fraud division received complaints about the failure of a local nursing home to meet local building and fire codes; the division referred the matter ". . . to another local agency, which took no action. The nursing home subsequently burned in a dramatic fire. The incident stimulated a press investigation which uncovered and publicized the fact that the violations had been brought to the program's attention earlier and that it had taken no action other than to refer the case elsewhere."\*

On the other hand, a program which encourages other agencies to transfer appropriate cases to it may find itself deluged with referrals. A Chief Deputy can avoid this problem by specifying the types of cases which the agencies should refer, and indicating that the fraud program will be selective about which cases to accept. Clearly, the advantages of developing close working relationships with other agencies vastly outweigh the liabilities.

#### Approaches to Liaison

The Seattle and San Diego programs illustrate two different approaches to liaison, which are based on each Division's goals and budget. San Diego relies primarily on full-time in-house investigators, but finds it useful to enlist the investigative services

\* Battelle First Year Report, see Appendix E, p. 139 of this manual.

of other agencies, thereby increasing its case-handling capacity. Seattle has only two in-house investigators, and relies extensively on other agencies for their investigative time and expertise, while it concentrates primarily on trial work.

The specific ways in which the investigative services of other agencies can be utilized will vary according to the agency and the individual case. Some agencies may find it acceptable to loan an investigator to a fraud unit for a period of time, on a full-time or part-time basis. The investigator might then work closely with the attorney who will be prosecuting the case or with the program's own investigator. Other agencies may prefer to investigate a case on their own and then present the fraud program with a virtually completed case ready for prosecution. Investigative assistance may also be arranged for finite tasks, such as service of warrants or undercover assignments.

#### Agencies With Which to Establish Liaison

In determining appropriate agencies with whom to establish liaison, fraud programs have a wide range of possibilities, including state, city and county police or sheriff's departments, consumer protection units, state or federal securities regulation agencies, and, of course, the other prosecutorial offices of the Attorney General, City Prosecutor or County Prosecutor. Of the many potential coordinate agencies, the Economic Crime Project has identified two as deserving special mention because of their prominence in dealing with local prosecutor's offices. These agencies are the state Attorneys General and the local police. As the Battelle report points out:

"Failure to develop close working relationships with the Attorney General's office can mean the loss of significant assistance in developing aspects of a case, or a restricted ability to participate in a coordinated program to attack patterns of economic crime rather than isolated offenses. Even if joint prosecutions are not undertaken, joint investigations can often greatly expand the utility of the individual remedies available to each agency. For instance, in one recent case the attorney general was able to attach the corporate funds of an alleged

pyramid franchise scheme, while the prosecutor's economic crime unit charged the principals in the scheme, thus blocking further bilking of victims.

In another case, the attorney general conducted the consumer victim interviews, which the economic crime unit in the district attorney's office was subsequently able to use to determine which internal company records it should obtain to develop evidence for its criminal prosecution.

Cooperation with local police is another important form of liaison for a new unit. It is another situation in which there is very little common practice among units, other than agreement on its importance. Police can assist units by handling investigations of routine economic crimes, such as bad check cases, so that units are not burdened with large numbers of these cases. More importantly, local police can serve as a very important supply of investigative talent and resources, both because of the range of local contacts police officers are likely to have and because of their skill in certain investigative techniques, such as undercover operations. For example, one unit was having no success in using its own staff to infiltrate a suspected pyramid sales operation. It enlisted the assistance of the local police department, which supplied undercover agents. The police investigators were prepared to set themselves up quickly with background credentials such as bank accounts and credit ratings, and succeeded in penetrating the offender's sales meeting, gaining important information about the scheme.\*

#### Methods for Establishing Liaison

Given the importance of a fraud program's development of working relationships with other agencies and the likelihood that a fraud program will ask for more favors than it can hope to reciprocate, serious thought should be given to the means of building these relationships.

\* Battelle First Year Report, see Appendix E, p. 142 of this manual.

Very often established agencies look with skepticism upon newly funded prosecutorial agencies. A direct personal relationship between a member of the investigative agency and the fraud unit might help dispel these concerns. A feeling of confidence in the fraud unit might move up through the chain of command and provide a solid foundation on which a more formal agreement for mutual cooperation could be established between the two agency chiefs. Direct personal contacts between fraud staff and persons from other agencies have been the primary basis of San Diego's approach to liaison.

A division chief can also pursue the strategy of formally calling on the leaders of other agencies to speak to them about the problems and goals which the agencies share and how they can be of service to each other. This has been the Seattle program's approach to establishing liaison. If an agency's response is positive, the program, soon after a commitment is offered, can request the performance of a task. If it is well executed, the relationship may be furthered by showing appreciation for the favor and calling it to the attention of the public.

In cases in which agencies are not responsive to a program's overtures, an aggressive approach can sometimes be effective.

"One unit has adopted a policy of "building fires" under agencies with which liaison contacts are desirable, but have not been fruitful. This approach typically involves encouraging efforts at cooperation, carefully (and discreetly) documenting by letter the failure of such cooperation to occur, followed by aggressive action by the economic crime unit against offenses which the agency should be responding to. Subsequent press coverage will often put pressure on the agency involved to take a more aggressive approach in the future. If the economic crime unit gives credit to the agency for assistance in its prosecutive undertaking, saving it from public embarrassment, even though such assistance was hardly delivered, the agency is likely to be far more cooperative in the future. Furthermore, the unit, by rousing the agency, may have strengthened enforcement in a whole area of potential economic crime by action in one or two cases."\*

\* Battelle First Year Report, see Appendix E, pp. 140-41 of this manual.

Although the specific tactics used to solicit the cooperation of various agencies will vary, the incentives for cooperation from the agency's point of view may often be similar. Publicity, for example, might be a chief impetus for many agencies. Other agencies might be attracted by the prospect of reducing their workload, through the referral of certain cases to the economic crime unit. Certainly, the most straightforward technique for establishing liaison is simply to have members of the program and related agency work together on a simple task. This engenders mutual respect between the two groups, encourages the development of person-to-person rapport necessary for ongoing cooperation, and allows the fraud unit to compliment the other agency publicly.

#### 4.4 Public Information and Legislative Reform

##### Public Information

The nature of the publicity sought by a fraud program is generally dependent on the program's goals. For example, if a program's major objective is to deter economic crime, wide publicity of major cases in which defendants experienced serious damage to their reputation and financial status may be effective in deterring other would-be defrauders from committing economic crime. If a program goal is to service the needs of minorities and the poor, a special public awareness campaign may be conducted which would include speaking engagements, publication of foreign language literature, and liaison with local poverty agencies. If soliciting consumer complaints is a program objective, publicity in the news media describing the program's purposes may be advisable.

Special information bulletins about fraudulent schemes which may occur in response to new legislation or changes in the economy may effectively minimize victimization if broadly publicized.

"This public information technique (media coverage) was particularly adopted during the recent energy crisis to help smooth the disruption caused by the crisis, by emphasizing that public rules would be enforced, and, where possible, to aid those citizens and businessmen most aggrieved by the crisis. An example of this activity

in one unit was the publication of strong warnings that sale of motor fuel only to preferred customers was considered a violation of state law, and that fuel, which at the time was being rationed, had to be sold equally to all customers. The unit also stressed that it would entertain complaints about practices in violation of its interpretation of the law and that it would prosecute violators."\*

There are three major approaches to obtain publicity. Use of the media, dissemination of literature, and public appearances by fraud program staff.

The person who controls the flow of information to the media would probably be the Chief Prosecutor, the Chief Fraud Deputy or a public relations officer. The division staff member responsible for liaison might work closely with the press to develop articles or television and radio communiques and to provide background information on cases so that reporters will be aware of potential developments and matters of public interest. The liaison person might also prepare press releases on the filing of cases, the return of indictments and the dispositions of cases.

It may be advisable to send press releases to groups who are potential victims of fraud, but might not be reached by conventional media channels. For example, press releases could be sent to local newspapers or social service agencies which cater to ethnic groups, the elderly, the poor, or rural citizens. In addition, a program could publish pamphlets and newsletters for a wide variety of relevant groups, from the business community to local consumer protection agencies. Businesses could be counseled on how to detect embezzlement, fraudulent investment schemes and other matters which are of particular interest to them. Consumer groups could be made aware of schemes such as price fixing operations and violations of health regulations.

However, excessive or insensitive publicity can have damaging consequences. The publication or discussion of information

\* Battelle First Year Report, see Appendix E, p. 152 of this manual.

relating to a potential or on-going trial, for example, is not only a violation of the legal code of ethics, but may invite objections from defense counsel and resentment from judges. It would be the responsibility of a fraud division to control the flow of information carefully.

Publicity can be a drain on staff time and program finances; the preparation and delivery of speeches and press releases, and the writing and dissemination of literature could obviously be over emphasized. Publicity can also inundate a program with consumer complaints if a case touches on an area of great concern to the public. One fraud program, after publicizing the indictment of 13 persons in a cemetery fraud, received 1,500 complaints regarding the scheme the following week.

In general, however, high visibility appears to be a valuable asset to a fraud program. If properly managed, publicity may contribute substantially to the achievement of program goals. Moreover, it is clearly desirable to maintain effective communications with law enforcement and criminal justice agencies whose personnel may be specifically aware of the nature and effects of economic crime.

#### Legal Issues

Any program for the prosecution of economic crime will need to consider a variety of legal issues related to its function both before and after its inception. Two important areas of program activity relating to these issues are the examination and full use of existing statutes and the possible need to press for new legislation.

A new prosecutorial program may well begin the planning process with a thorough examination of the current laws of the jurisdiction in which the program will function. The focus of such a review for an economic crime unit would be to determine which laws, including those of historical vintage, might be relevant to the investigation and prosecution of economic crime. Often statutes that seem, on superficial examination, to be irrelevant to the area of economic fraud, will be found to encompass at least some fraudulent practices. The San Diego Fraud Division has effectively



pressed grand theft charges in cases of economic fraud where larceny was involved, for example, although theft was only one aspect of the fraudulent scheme. State Blue Sky laws and consumer protection statutes may also be appropriate in certain cases. Often, several statutes are applicable to the facts of a single case.

Another way in which existing legal authority might be more fully exercised is by increased use of conditional sentences and remedies. Injunctions, of course, are available only in civil cases, and even then are unsatisfactory remedies. If a project pursues civil cases, it might explore the willingness of courts in its jurisdiction to enjoin continued fraudulent activities by defendants. The violation of injunction would make the defendant liable to criminal and civil contempt proceedings.

In criminal cases, a similar effect can be obtained through the imposition of conditional sentences and conditional probation. When a sentence of imprisonment or a fine is suspended and a term of probation is imposed on the explicit condition that the defendant abstain from certain activities, subsequent violation is all that need be proven to justify revocation of the sentence suspension.

If an economic crime program finds that existing statutes are inadequate to achieve its goals expeditiously and effectively, it may consider campaigning for legislation designed to remedy existing gaps in the law.\* In addition, statutes which authorize alternative dispositions such as restitution, product recall, loss of license, and conditional sentencing may be necessary if present law does not provide for these sanctions.

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\* A project may want to request legislative change on behalf of a group of prosecutor's offices, not only because all prosecutors may benefit, but because the project will have more force behind its requests if it speaks with the support of other prosecutor's offices. Examples of legislative changes promoted by the Seattle and San Diego Divisions may be found in Chapters 2 and 3.

### Note on the Use of the Criminal Sanction

Recently, the advisability of concentrating limited resources on the application of criminal as opposed to civil sanctions has been opened to serious question. Indeed, some commentators have concluded that the use of consumer class actions and actions filed by the government seeking compensation for entire groups of purchasers are, in the long run, more effective remedies.

Some of the weaknesses which inhere in the use of the criminal law to attack the fraud problem include the following:

- the difficulty of "penetrating the corporate veil;" i.e., identifying and holding liable those individuals within corporations actually responsible for the criminal actions;
- stiff legal requirements for using criminal sanctions; i.e., problems of proof--"beyond a reasonable doubt"--and *mens rea* (state of mind of defendant when taking action or issuing statement);
- ease of using "incompetent business judgment" as a defense;
- reluctance of judges to use criminal sanctions in cases involving commercial sales.

Nevertheless, the Fraud Divisions under review by and large have opted to concentrate their energies and resources upon criminal prosecution. Though both states appear to have sufficient legislation to support an office prepared to handle civil prosecution,\* the emphasis on criminal prosecution is due largely to the philosophy of the Fraud Division attorneys. There is a strong feeling that the threat of prison will be an effective deterrent in this most conscious and intentional area of criminal activity, and that fairness dictates that these offenders receive

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\* California, for instance, passed legislation to enable restitution to victims in lieu of a fine to the State Treasury in civil cases.

severe penalties for their anti-social conduct. A recent special edition of the Economic Crime Project Center's Monthly Newsletter states:

" While the investigation of fraud is time-consuming and complex, and court action generally protracted, the cost-benefit factor vis-a-vis other crime is extraordinarily high. The prosecution of one fraudulent scheme may not only save millions in terms of future potential losses, but the prosecutive results are lasting in terms of the relatively low rate of recidivism. Hard-core professionals do play the field, but the majority of those prosecuted for fraud and related economic crimes find the experience and the attendant community disgrace a greater cause for pause than does the average thief, rapist, or burglar. Above all, prosecutions in this area tend to restore some of the waning public respect for governmental functions in general. It is heartening to observe a white collar 'fat cat' receive 'equal treatment under the law.' "

Both the Seattle and San Diego Units believe that criminal sanctions will yield the most positive and powerful results. Since perpetrators of fraud can often afford financial penalties or other civil remedies, both units have reasoned that criminal sanctions may have greater deterrent effects. Moreover, speedy trial requirements make it possible to control criminal cases more effectively. Due to greater civil case backlogs, civil procedures may often require expending more financial and staff resources, without any assurance of measurably better results. Finally, the lawyers involved in the Fraud Divisions are all former prosecutors familiar with criminal procedures and committed to the prosecution of fraud as a criminal activity.

Though both Seattle and San Diego have used the criminal sanction almost exclusively, as the Economic Crime Project has noted, the issue is not an either/or proposition for any unit: units may choose to begin with criminal prosecutions, supplementing their activities with civil remedies as appropriate.

\* Charles A. Miller, *Economic Crime: A Prosecutor's Hornbook*, March 1975, p. 6.

## CHAPTER 5 COST AND EVALUATION

This chapter presents some general guidelines for costing and evaluating a fraud program. Once certain basic program design decisions have been made, costing is a relatively straightforward process. Evaluation of a fraud program, however, is severely limited by the nature of economic crime. The evaluation section which follows (5.2) addresses some of the difficulties involved in evaluating a fraud program, and provides some guidelines for assessing program effectiveness and efficiency.

### 5.1 Costs

The difference in the budget between the Seattle and San Diego programs suggests that costs can vary greatly from one fraud program to another. Seattle's total budget of \$145,000 for 1974 compares to approximately \$500,000 for San Diego in the same year. The table below summarizes the difference between the two programs in terms of personnel.

	Seattle (\$145,000)	San Diego (\$500,000)
Attorneys	5	7
Investigators	1	16
Clerical	2	6

It can be noted from the table that the percentage of professional staff is approximately the same for the two programs: 75 percent for Seattle, compared to 79 percent for San Diego. The major difference is in the number of investigative staff, reflecting the emphasis of the San Diego program on maintaining and using in-house investigative resources.

Five major factors affecting program cost can be derived from an analysis of the structure and operations of fraud programs. These are discussed briefly below:

#### Types of Cases Handled

This is clearly one of the most important factors affecting program cost. A program which focuses on a limited number of different types of economic crime will have less of a caseload to deal with and will require a narrower range of staff expertise than will a program designed to handle any type of economic crime. Moreover, even if programs deal with the same number of case types, staff mixes may differ. For example, staff requirements for a program which deals exclusively with consumer grievances will be widely different from one which focuses solely on securities frauds.

#### Scope of Program Activity

This factor affects the cost of a fraud program in two ways. First, a program which performs a prosecutorial function only -- leaving investigative duties to other agencies -- will have fewer personnel requirements than will a program which encompasses both investigative and prosecutorial services, other things being equal. Second, a program which is designed to seek out cases of economic crime will require greater resources than one which simply receives complaints from outside sources. For example, the former may undertake a comprehensive public information and education effort in order to encourage people to make a complaint if victimized, or to recognize and avert a possible victimization, whereas the latter may need only to coordinate with case sources.

#### Specificity of Relevant Statutes

This factor pertains more to cost per case considerations than to staffing requirements, but it must be recognized as having a significant impact on cost-effectiveness when programs in different jurisdictions are compared. For jurisdictions in which statutes are vague or ambiguous, case screening and case preparation are likely to be more time-consuming than in jurisdictions where relevant statutes are highly specific. Furthermore, trials may take longer, and restitution may be more difficult in jurisdictions

having statutes under which prosecution is more difficult. Other things being equal, staff costs may be higher in such jurisdictions due to the greater level of investigative or prosecutorial expertise which might be required to make a successful case.

#### Availability of Existing Services and Facilities

It is natural for an economic crime program to be implemented under the aegis of a general prosecutorial office. Thus it is very possible that office space, telephone service, reproduction equipment, and general office supplies will be available to the program without explicit cost -- particularly if the fraud program represents a relatively small proportion of the overall office's activities. "Free" consultation services with staff from other divisions represent yet other services which might reduce cost. If a fraud program is designed to utilize data processing equipment, and such equipment is already available to the prosecutor's office, significant hardware (and possibly software) cost savings may be realized.

In making comparisons of economic crime programs, or in using an existing program as a model in planning a new one, it is important that hidden or implicit costs be recognized. No-cost service and facilities in one jurisdiction may represent substantial costs in another. Hence, particular care should be taken to identify these elements and to estimate their value when making comparisons or planning a new program from an existing one.

#### Prevailing Salary Rates of Necessary Personnel

It is obvious that this factor will account for differences in the cost of any type of program. Yet in planning a fraud program, the types and scope of cases to be considered may be affected by salary rate differentials between attorneys, investigators, paraprofessionals (e.g. law students), and clerical staff. If salary rate differentials between these labor categories are widely different between jurisdictions, it may significantly influence program design and thrust, resulting in differing program goals and staff mixes for similar total budgets.

The factors affecting program cost described above were presented in somewhat abstract form, as they are not likely to lend themselves to analysis in isolation as the discussion may have implied. Moreover, there is a certain degree of overlap among the factors

in their ultimate effect. Rather extreme examples were used to illustrate points; such examples would probably not be encountered in practice. However, considering these issues and recognizing their potential impact is seen to be an essential step in planning and costing a fraud program.

### 5.1.1 An Approach to Costing a Fraud Program

In view of the discussion of the previous subsection, it would be fruitless to plan the cost of a new fraud program by attempting to estimate cost per case from existing programs, and to multiply that estimate by the number of cases anticipated within a designated time frame to obtain a total cost. A more rational approach would be to determine the relationship between the program goals and its design, and the influence that each of the five factors described will have on these, with respect to program cost. This would be a cyclical process in which goals may be modified within a range defined by needs and priorities, the design of the program modified accordingly, and the influence of the factors re-examined. This procedure will eventually result in some compromise of goals, program design, and cost which would reflect a suboptimal (or possibly optimal) combination of these for meeting pre-established needs and priorities. While it is recognized that this procedure is difficult to implement in practice, the systematic approach which it represents is seen to be an important element in program costing.

Some additional examples may serve to illustrate further the difficulties associated with costing a fraud program. The labor needed to investigate and prosecute a simple embezzlement by an employee against a business may consist of recording testimony from a company vice-president and the employee's supervisor, spending half of a day examining false entries in a cost ledger, confronting the employee with the evidence, and agreeing on an equitable out-of-court settlement a week later. In contrast, prosecution of a major land fraud case may require several months of painstaking questioning of victims, subpoenaing witnesses and company records, tracing fugitives, poring over complex and deliberately confusing financial records and sales and purchase contracts, and a protracted series of court appearances. Still another case may involve only a ten-minute telephone call.

Cost elements of a fraud program fall into two categories:

visible components, such as staff salaries and overhead; and hidden components, such as utilization of other prosecutorial staff, provision of space and utilities in the Prosecutor's Office, and program efficiency. There may be as many as five major categories of visible costs of a fraud program:

- staff,
- direct costs (travel, supplies, etc.),
- consultants,
- fringe benefits,
- overhead.

As with most programs, staffing represents the bulk of program costs. In Seattle, for example, staff salaries account for 90 percent of the budget. As the largest and most important cost item, personnel will merit the most attention from program planners. Options such as using consultants, who do not require fringe benefits or involve overhead charges, or hiring relatively inexperienced staff, whose salaries may be correspondingly low, may be considered. In this latter case, however, the cost savings realized by hiring inexperienced staff may be more than offset by the initial loss in efficiency and effectiveness as these individuals gain practical experience in dealing with economic crime and use the time of experienced staff and the Chief Deputy with questions and requests for assistance.

Direct costs include standard items, such as telephone, travel (including per diem charges), duplication, postage, office supplies, and possibly, computer time. Another direct cost that fraud programs may incur is the expense of professional services to obtain evidence of fraudulent activity. Examples are testing or analyzing a product that has been falsely advertised, showing that a product has been dishonestly serviced, or using the skills of a certified public accountant in an embezzlement case. (For instance, the San Diego Fraud Division purchased aerial photographs in obtaining evidence for a land fraud case.) In addition to payment for services, the court time of expert witnesses may also need to be compensated.

As discussed in the previous section, program costs will also include the utilization of existing services and facilities within the prosecutor's office. Estimates of the value of these are difficult to make because of their "hidden" nature. However, recognition of their presence should be made in developing program cost estimates.

### Costing Methodology

The costing form on the following page serves to illustrate the breakdown of major cost categories discussed above. It will, of course, be necessary to tailor this form to suit local conditions and the specific characteristics of program design. The form has been completed with hypothetical data to explicitly identify both visible and hidden cost components.

### 5.1.2 Funding Issues

Budget analysis for a new program presents something of a "chicken and egg" problem: inquiring about resource availability necessitates furnishing a rough estimate of program funding requirements, yet making even a rough cost estimate requires a certain amount of program planning. On the other hand, planning a fraud program is contingent upon knowing what resources are available to support it, since the program design will have to meet financial realities. This circularity can be defeated by mapping out alternative program designs with just enough detail to derive cost estimates for each. These alternative budgets can then be presented to possible support sources and discussions can be directed in specific areas.

In seeking support for a new fraud program, planners have four financing alternatives:

- Transfer funds (or equivalently, staff) within the Chief Prosecutor's Office to the fraud program;
- Secure additional funds from the governmental unit which already finances the prosecutors' basic operations;
- Secure outside funding from other state or federal sources;
- Use some combination of the above.

## Hypothetical Cost Estimate Form

### I. Direct Labor Salaries

#### Attorneys:

Chief Deputy @ \$21,000/year

Deputy @ \$18,000/year

Deputy @ \$14,000/year

#### Investigators:

Investigator @ \$15,000/year

#### Other Professionals:

1 Law Student @ \$3,500/half-time

#### Clerical:

Secretary @ \$7,500

<u>Total Salaries:</u>	\$79,000	\$79,000
x Fringe benefits @ 20 %:		<u>15,800</u>
<u>Total Salaries and Fringes:</u>		\$94,800

### II. Direct Costs

Consultants: 2 @ \$500 each = \$1,000

Telephone: paid by office

Travel: \$1,675

transportation: 10 trips @\$100/trip = \$1,000

local transportation: \$15 x 15 days = \$225

per diem: \$30/day x 15 days = \$450

Duplication: paid by office

Postage: paid by office

Office Supplies: paid by office

Computer: will not be used

Training course: 2 @\$250/each = \$500

Product and Appliance Testing: \$2,000

<u>Total Direct Costs:</u>	\$5,175	\$ 5,175
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### III. Total Salaries, Fringes, Direct Costs:

99,975

x-overhead @ 35 %:

34,991

### IV. Total Program Costs:

134,966

Intra-office transfers are perhaps the best solution to the problem of financial support. Often the Chief Prosecutor has substantial discretion within the office budget to reallocate staff. This, indeed, was the method by which the San Diego District Attorney funded the Fraud Division there. Staff shifts were possible, partly because of public support for the District Attorney's campaign position against consumer fraud, partly because other divisions had some available staff, and partly because the large budget (over five million dollars) and staff made it possible to make shifts without visibly or materially reducing the effectiveness or morale of other divisions.

On the question of what can be done without a large staff or budget and without public support, the Battelle report notes:

"Several prosecutors resolved this question by appointing one or two assistants, or even legal interns, to begin initial legal research, establish liaison, and proceed with case development before a program is formally established, so that momentum is achieved before final funding is arranged. This process does not preclude tapping any particular source of funds, and has the added advantages of permitting the unit to start up with such groundwork out of the way, with some continuity in staff, and with some immediate experience to apply for budget justification. Publicity from one or two significant indictments or convictions; which illustrate financial savings to the public or service to citizens, can go a long way toward substantiating the need and potential for an economic crime unit in the eyes of funding authorities.\*"

Using this approach, sufficient experience can be gained to justify an application for outside funds. Using these resources to build up a full-scale operation, unit management would then begin planning for eventual permanence within its parent administrative structure.

\* Battelle First Year Report, see Appendix E, p. 134 of this manual.

## 5.2 Evaluation

There are several issues and problems associated with the evaluation of an economic crime program. In some instances, they are issues and problems common to the evaluation of any program in law enforcement and criminal justice, or for that matter, common to evaluation in general. This section will focus, however, on those which are specifically encountered in evaluating an economic crime program and will present some guidelines for program evaluation.

Because fraud is intended to be perpetrated without the knowledge of its victims, estimating the extent of such crime from reports by victims is at best an uncertain undertaking. Even if a victim is aware that he has been defrauded, he may choose not to report it, possibly because he feels nothing can be done. In the short run, then, successful prosecution of economic crime may serve to increase reporting rates, making them a totally unreliable measure of program effectiveness. Though reduction in economic crime activity cannot be measured with any certainty, conviction rate and degree of restitution give some indication of project success. These notions are discussed below.

### 5.2.1 The Formulation of Impact Goals

A distinction needs to be drawn between general published goals which reflect project philosophy and specific quantitative achievement standards against which to assess productivity. One specific goal may be stated in terms of the conviction rate. Coupled with a reasonable goal for the number of cases handled, the conviction rate can be calculated in a relatively straightforward manner. Given an opportunity for careful case screening which is considerably greater than that for common crime, fraud programs should set reasonably high expectations for conviction -- generally around 90 percent. If staff prosecutors and investigators are relatively inexperienced in the area of economic crime, a lower initial rate may be appropriate, but after some experience, the goal should be set higher.

In measuring a quantity such as conviction rate, care must be taken to specify the variables which are used to make the calculation. The unit of count could be cases, offenders, or victims, depending on individual recordkeeping systems. Whatever the unit of count, it must be used for both:

- (a) the number of "occasions" found or pled guilty, and
- (b) the total number of "occasions",

the rate being derived by dividing (a) by (b). Here, the word "occasions" is used to denote one of the following:

- the number of defendants;
- the number of cases (in which at least one defendant was found or pled guilty);
- the number of victimizations (in which at least one defendant was found or pled guilty).

The actual unit of measurement selected is arbitrary, as long as it is reflected in the choice of the target conviction rate.

Another question which often arises when dealing with trial activity which spans non-negligible periods of time is how the time frame should be specified to produce meaningful conviction rates. Some base point for each case (or other counting unit) must be established; preferably this should be at the point of arraignment (or other point which represents official action taken to handle the case for civil or out-of-court settlement).

For example, suppose quarterly reports of conviction rates are to be made. Each quarter, the number of new cases entered can be tabulated and accumulated with previous quarters. Trials (or other official actions) for only some of those cases are likely to appear in the same quarter's statistics. However, as dispositions are rendered each quarter, the cumulative conviction rate should settle down to a fairly constant level. A simplified version of such a report appears on the following page.

Summary of Dispositions for Quarter ending \_\_\_\_\_

	This Quarter	To Date
1. Cases Pending, beginning of quarter	_____	(NA)
2. New Cases Entered	_____	_____
3. Cases Pending, end of quarter	_____	_____
4. Cases for which there is at least one guilty plea	_____	_____
5. Cases tried with at least one person convicted	_____	_____
6. Conviction Rate	_____	_____
	$\frac{(4)+(5)}{(1)+(2)-(3)}$	

(Note: Cases are used as the unit of count in this sample table.)

Of course, the procedure outlined above can be refined to reflect criminal/civil differences, or more detailed breakdowns of case dispositions. Again, it is emphasized that consistency of measurement is critical to evaluation, particularly for measuring phenomena (such as conviction rate) which are presumed to be understood by most people.

Other specific goals may be formulated relating to restitution, fines, and imprisonment, but it is considerably more difficult to set target levels for these without significant experience from which expectations may be drawn.

Measurement of public information and education goals would probably involve survey of the public's understanding and awareness of economic crime as a result of the fraud program. This would be a difficult task from the point of view of designing the survey in such a way as to link survey findings to program activity. An indirect measure of the increased awareness of the public might be indicated by increased reporting of victimization. However, it would be difficult to separate the two possible causes of such an observed increase: namely, increased awareness and higher incidence of victimization. Moreover, the quality of reports of victimization would have to reflect a genuine understanding of what constitutes economic crime, rather than superfluous or petty complaints.

In summary, it appears that conviction rates represent one of the only major measures of effectiveness amenable to quantitative analysis. Most other measures of program effectiveness and impact are difficult to make or interpret (in terms of concrete goals); cannot be made due to the definitional dilemma presented by economic crime; or are testimonial or anecdotal in nature.

### 5.2.2 Process and Activity Analysis

In order to build a body of knowledge which the impact evaluation of future fraud programs can utilize, and to provide comparative data relating to different programs, it is important that certain process or activity statistics be maintained. These comprise a "snapshot" of the program at any point in time and can be useful in monitoring a program's progress or growth. Further, the joint analysis of process and activity data with financial data can provide a useful perspective from which a program may be assessed in terms of its own cost-benefit achievements.

Process and activity data are collected initially for individual cases, defendants, or victims. These individual records can be tallied (reduced) periodically -- the length of the period depending on caseloads -- to produce statistical management reports.

For each complaint, a complaint report form should be kept showing the date received, a brief description of the problem, the name

of the complainant, and what action was initially taken on the complaint. Such a form is kept by the Seattle Division and, with other forms used by Seattle and San Diego, is exhibited in the Appendix. Thereafter, investigative work can be indicated in a report similar to the Inquiries Report Form used in Seattle.

Once beyond the inquiry stage, each individual case should have a case information sheet, summarizing each event beginning with the initial complaint. Such a sheet would contain the following information: date complaint received; date of arraignment, date on which discovery motions, if any, were argued; date of trial or change of plea; date of disposition; and the nature of the disposition.

A complete file should be developed for each case, kept ordinarily in a single master case filing system. Each file should include all investigative reports, police reports, documentary evidence (if any), case dispositions, depositions (if any), and other legal papers that are used in the prosecution of the case.

Individual case file information should be tallied periodically--monthly, quarterly, semi-annually, or annually, depending on workload and clerical or data processing resources available--to obtain the following types of statistics:

- number and nature of complaints received;
- disposition of non-filed cases;
- reasons for not filing by type of offense;
- number of cases filed, by type:
  - criminal
  - civil
- number of defendants, by type of offense;
- number of victims, by type of offense\*;
- dispositions, by type of offense, for each offender;
- estimate of total monetary loss, by type of offense;



- amount of restitution and fines, by type of offense;
- number of civil cases won, by type of offense, and amount of settlement or restitution;
- conviction rate, by type of offense;
- average length of time from case opened to disposition, by type of offense;
- number of offenders sentenced, and average length of sentence, by type of offense; and
- number of consumer complaints received, if appropriate, by type of complaint.

Most programs will not initially, and perhaps not ever, have access to the services of a computer to assist in record-keeping and tallying. Nevertheless, the possibility exists, as the San Diego Fraud Division has clearly demonstrated, that computers can be used effectively to process program data. The advantages that unit derives from using a computer are described in Chapter 3 of this manual, and will not be repeated here. It will suffice here to point out that the San Diego program initially obtained the use of the county computer gratis, because the machines were underused. If a similar situation occurs in another community, it may be possible, at least initially, to computerize a program's record keeping at virtually no expense beyond the staff time needed to input the data. Once use of the computer can be justified on the basis of experience, budgeting its continued use may be more favorably viewed by funding agencies.

#### Cost-Benefit Assessment

Measures of restitution, obtainable from case dispositions, can be compared to the total cost of the program to provide one indicator of the project's effectiveness. Although benefits other than monetary restitution can be derived from the activity of a fraud program -- it is difficult, if not impossible to measure

---

\* This will probably be an estimate in most cases.

# CONTINUED

## 1 OF 2

- amount of restitution and fines, by type of offense;
- number of civil cases won, by type of offense, and amount of settlement or restitution;
- conviction rate, by type of offense;
- average length of time from case opened to disposition, by type of offense;
- number of offenders sentenced, and average length of sentence, by type of offense; and
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#### Cost-Benefit Assessment

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these benefits in quantitative terms, or to attach a monetary value to losses prevented. Thus, in view of the fact that the total amount of restitution understates the total benefit, a project is likely to be "cost-beneficial" if restitution (benefits to victims) exceeds costs (costs to taxpayers).

#### Productivity Analysis

One of the most important questions continually before a unit with the discretion and autonomy of a Fraud Division is how to allocate resources to ensure the highest possible total return for its effort. For reasons already discussed, quantification is only part of the answer to this question. The number of intangible factors which must be considered in deciding which kinds of prosecution deserve increased effort and which can be reduced requires that decisions be based on more than simple case statistics.

If their limitations and potential biases are clearly understood, however, productivity statistics can provide a vital management tool. Without a clear indication of how the unit's time has actually been spent on past cases it is difficult to decide which kinds of activities were worth the effort and which should be avoided in the future. Based on the statistics gathered by the two units described here, the number of cases any given staff member will pursue will not be large. Accordingly, the burden of record keeping should stay within tolerable proportions. There are two levels of allocation decisions for which information may be collected, corresponding to balancing of caseloads and apportioning staff time within a case, respectively. To make these two decisions managers need to be able to aggregate time expended by functional area (e.g., Case screening, Investigation, Direct dealings with potential defendants, Trials, and Appeals) as well as by case. This information can be collected at weekly intervals from each staff member by use of a simple charge matrix which lists active cases as rows and functions as columns. The entries in the cells of the matrix are then simply the number of hours devoted to that activity during the week.

For cases too minor to justify such elaboration, simple summary categories may be established in which a number of similar categories are grouped. In any case, the principal use of the

system as a decision tool will involve examination only of aggregate statistics to determine exactly how present resources are being spent.

#### **Anecdotal Evidence**

Case testimonials can provide some feeling for the extent of the impact of the activity of an economic crime unit. For instance, sales lost as a result of publicity given to charges of false advertising practices, or an increase in the number of used cars with high odometer readings might provide an indication of some impact. There may also be some evidence of a reduction in some of the riskier schemes which may not be directly measurable, but are detectable by experienced individuals who are involved in the kinds of businesses in which such schemes are perpetrated.

Achievement of intermediate objectives can sometimes also be weighed on the basis of this type of evidence. For example, most successful economic crime units see the commitment of the Chief Prosecutor as a key instrumental step toward project success. Such commitment may take a form ranging from provision of other resources within the District Attorney's office to recognition for work well done.

#### **Concluding Remarks**

It would be presumptuous to attempt to present a single evaluation scheme for use by all economic crime units. Many of the issues involved are so complex as to escape measurement entirely, and questions of value which are difficult to weigh quantitatively play an important role in assessing program performance. Precisely because evaluation is so difficult, it is important that those aspects of a unit's productivity which are subject to measurement and monitoring be given careful attention. The ability of decisionmakers both in and out of the unit to allocate resources wisely is significantly enhanced by maintaining an accurate history of how past resources have been used, and what their demonstrable results have been. To capture the full development of a project, data to create such a history should be collected from the very beginning of project operation.

#### **APPENDICES**

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**APPENDIX A**

**KING COUNTY (SEATTLE) FRAUD DIVISION  
FEDERAL, STATE AND LOCAL SUPPORT AGENCIES**

### Federal, State and Local Support Agencies

Listed below are a number of agencies which complement and support the work of the Seattle Fraud Division.

#### I. Case Development Agencies\*

##### A. U.S. Securities and Exchange Commission

1. Referring significant, well prepared cases for prosecution through cooperative law enforcement program.
2. Lending both attorney and investigative assistance, including expert accounting work in securities fraud matters, including witness interviews, depositions, and expert testimony.
3. Capability for gathering information worldwide relating to specific investigations and/or area of regulation generally through facilities of major regional offices.
4. Excellent computer data relating to promoters, company names, and other individuals associated with any SEC civil or administrative proceeding including criminal referrals with cross-indexing.
5. Agency subpoena power when authorized by the Commission with excellent knowledge of records and documents to be obtained.
6. Providing legal materials in area of regulation including memoranda of law, briefs, jury instructions, sample pleadings.
7. Sponsor regional securities enforcement seminars tying together state and federal agencies for discussion and confidential exchange of information in broad area of securities and related real estate promotions.

##### B. State Securities Administrator

1. Administrative subpoena power (limited to some extent by automatic immunity provisions).
2. Attorney, investigator and some "light" accounting expertise available for intra-agency case development.
3. In limited instances (small offices) available for assistance at trial, including drafting of pleadings, witness preparation, legal memos and jury instructions.
4. Accepting complaints in agency's area of regulation.

\*Agencies with in-house capability to detect, investigate and refer a completed case to prosecutor for filing.

##### C. Seattle Police Department

1. Complete case development in area of simple embezzlements, buncos and check schemes.
2. Assistance on a case assignment basis on more complicated frauds under direction of deputy prosecutor.
3. Intelligence and informant information in a variety of fraud areas, e.g., trading-in stolen securities, insurance frauds (arson fires).
4. Vehicle and personpower support for taskforce operations involving surveillance interviews, arrests and search warrants on case assignment basis.
5. Expert lab work and testimony including handwriting, document examination, typewriter identification and polygraph.
6. Service of subpoenas and execution of search warrants on case by case basis; arrest warrant execution at all times.
7. Special requests including radios, undercover vehicles, aerial photos and helicopter surveillance.

##### D. King County Police

1. Limited case development capability in midrange fraud matters and minor embezzlements.
2. Vehicle and personpower support for taskforce operations on a case by case basis.
3. Serving subpoenas and warrants.
4. Some intelligence and informant information in fraud area.
5. Special equipment on as needed basis, e.g., cameras, scopes, radios, videotape equipment.

##### E. Department of Social and Health Services

(multi-faceted agency encompassing welfare and public assistance programs)

1. Capability for detection and case development of mid-range vendor\* fraud cases in public assistance area, including nursing homes.

\*"Vendor"--individual or entity providing a service usually by contract with agency as opposed to a recipient of public assistance. The Fraud Division does not as a matter of policy handle welfare-recipient fraud although DSHS investigators are experts in developing these cases and regularly present these matters to the criminal division.

2. Agency investigators and auditors available for intra-agency case development as well as for task-force operation in major fraud investigation under direction of deputy prosecutor.
3. Agency administrative subpoena power and auditor access to vendor records.
4. Agency expertise relating to standards of care, need for care and other licensing requirements for nursing homes or care for aged.

## II. Limited Case Development Agencies\*

### A. State Attorney General/Consumer Protection Division

(Consumer Protection Act jurisdiction, civil suits only)

1. Detection and referral of aggravated consumer frauds uncovered through consumer complaint processing.
2. Attorney and investigative staff available on selected matters for joint development.
3. Information concerning patterns of fraudulent business practices for use in targeting prosecutions.
4. Primary receiver of "walk-in" consumer complaints.

### B. City of Seattle, Office of Consumer Affairs

1. Detection of aggravated consumer frauds through complaint processing.
2. Referral agency for "walk-in" consumer complaints where activity located in city.
3. Some investigative aid on short-term basis where relatively simple fast-developing fraud involved, e.g., door to door solicitations, charity fraud promotions.
4. Some access to business records under licensing ordinances.
5. Case development capability in area of unlicensed contractor activities (home improvement fraud) where coupled with a consumer injury.

### C. State Auditors

1. Excellent investigative accountants and audit staff.
2. Administrative subpoena power.

\*Limited Case Development Agencies are those that principally need prosecutor direction in further developing cases or do not continue working with the prosecutor after referring information of criminal activity to the Division.

3. Access to records of all public agencies.
4. Excellent source of information relating to criminal fraud activities within public entities.
5. Compile reports of irregularities and work with prosecutor staff in any follow-up criminal investigation.
6. Authority to conduct unannounced fiscal and physical inventory audits (e.g., police evidence and property rooms).

### D. State Department of Motor Vehicles

1. Liaison for consumers with title problems, new and used car dealer complaints.
2. Detection of odometer rollbacks and investigative support of prosecutor staff on any follow-up.
3. Access to auto dealer records coupled with administrative subpoena power.
4. Capability for designing and layout of exhibits, charts and graphs.

### E. State Real Estate Division

1. Access to broker trust account records and escrow records.
2. Administrative subpoena power.
3. Investigative assistance in real estate and broker frauds.
4. Compile disclosure information under state law relating to real estate developments.
5. Regularly supply information relating to possible criminal frauds occurring in agency's area of regulation to prosecutor's staff.

### F. Seattle-King County Health Department

1. Meat inspectors and lab personnel with capability of developing misdemeanor prosecutions relating to meat adulteration.
2. Provide consumer information and education in areas of expertise, e.g., meat labelling, pull-dates and codes, grading of meats, chain store advertising.

### III. Primary Source Agencies\*

- A. Post Office Department (U.S. Postal Inspection Service)
  - 1. Information relating to mailing addresses, P.O. boxes, change of address, location of witnesses, mail forwarding services, and other postal records.
  - 2. Information on individual suspects, defendants or business entities, subjects of post office investigations.
  - 3. Mail cover surveillance where strict agency guidelines are met.
- B. Federal Trade Commission (Regional Office)
  - 1. Publications and newsletters of recent administrative actions taken by the Commission.
  - 2. Information relating to subjects of investigation where some FTC action has been taken or is underway.
- C. Internal Revenue Service (Intelligence Division)
  - 1. Liaison agency for follow-up tax investigations on major frauds.
  - 2. Conduct investigative training seminars on auditing, bank records, investigative accounting methods.
- D. Secretary of State
  - 1. Corporation records including articles of incorporation and amendments.

### IV. Source Agencies\*\*

- A. State Supervisor of Banking (Savings and Loans)
  - 1. Detection of bank frauds, e.g.; self-dealing loans, installment loan frauds, siphoning of bank assets.
  - 2. Trained examiners capable of analyzing and documenting fraudulent transactions.
  - 3. Case referral potential limited by confidentiality associated with joint federal/state bank examination reports.

\*Primary Source Agency--agencies which regularly and frequently provide information and investigative data on an "as requested" basis.

\*\*Agencies infrequently solicited for information but which make a number of services available if case within agency's area of regulation.

- B. Federal Home Loan Bank Board
  - 1. Trained savings and loan examiners.
  - 2. Savings and loan record access, agency subpoena power, witness depositions associated with supervisory powers.
  - 3. Examination reports available to prosecutor through procedure set forth in Code of Federal Regulations.
- C. State professional licensing agencies
  - 1. Liaison for reference of non-criminal consumer complaints related to a licensed profession or activity.
  - 2. Records maintained on licensed professionals, including prior complaints.
  - 3. Some investigative capability for specific tasks assignment.
  - 4. Where contractor registration required by law:
    - a. Misdemeanor case referral for unlicensed contractor operation.
    - b. Assist in providing a criminal remedy for small dollar amount home repair frauds where contractor is unlicensed.
- D. Federal Bureau of Investigation
  - 1. Extensive federal law enforcement function.
  - 2. On "as needed" basis where common interests are present; information on background of FBI investigation subjects.
  - 3. Location and apprehension of fugitive defendants where federal unlawful flight warrant obtained.
- E. United States Attorney's Office
  - 1. Information relating to defendants and/or fraud activities that are subject of federal investigation and/or prosecution.
  - 2. Access to federal agency investigative reports on a "prosecutor to prosecutor" basis on "as needed" basis.
  - 3. Support in obtaining unlawful flight warrants before U.S. Magistrate.

- F. Public Disclosure Commission (where state law provides for such an agency)
1. Maintains political campaign contribution disclosure forms.
  2. Limited investigative capability primarily concerned with non-disclosure violations.
- G. State Department of Revenue
1. Tax returns of all types (including federal income tax returns where federal-state compact in existence); access limited by state confidentiality statutes but normally obtainable by subpoena.
  2. Trained auditors available to work on criminal tax investigations.

APPENDIX B

KING COUNTY (SEATTLE) FRAUD DIVISION

PROJECT FORMS



COMPLAINT REPORT FORM

DATE: \_\_\_\_\_

SOURCE OF COMPLAINT: \_\_\_\_\_

NATURE OF COMPLAINT: \_\_\_\_\_

DISPOSITION: \_\_\_\_\_

INVESTIGATOR \_\_\_\_\_

KCPA 184

102

CASE INFORMATION CARD

Complaint Against: \_\_\_\_\_

Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

Person or Agency Complaining: \_\_\_\_\_ Phone #: \_\_\_\_\_

Nature of Complaint: \_\_\_\_\_

Complaint: \_\_\_\_\_ Investigation: \_\_\_\_\_ Investigator: \_\_\_\_\_ Case Filed: \_\_\_\_\_

Cause #: \_\_\_\_\_ Charges: \_\_\_\_\_

Attorney for Defense: \_\_\_\_\_ Phone #: \_\_\_\_\_

Deputy: \_\_\_\_\_ Arraigned: \_\_\_\_\_

Plead guilty or trial date: \_\_\_\_\_ Results of Trial: \_\_\_\_\_

Sentence Date: \_\_\_\_\_ Judge: \_\_\_\_\_

Sentence: \_\_\_\_\_

No. of Complaints: \_\_\_\_\_

(This is filled out for each complaint, investigation, case, etc.)

103

INVESTIGATION INFORMATION FORM

Name: \_\_\_\_\_ Month \_\_\_\_\_

Investigations Opened During Month

Name of Invest.: \_\_\_\_\_

Date Opened: \_\_\_\_\_

Type: \_\_\_\_\_

Source: \_\_\_\_\_

Name of Invest.: \_\_\_\_\_

Date Opened: \_\_\_\_\_

Type: \_\_\_\_\_

Source: \_\_\_\_\_

Name of Invest.: \_\_\_\_\_

Date Opened: \_\_\_\_\_

Type: \_\_\_\_\_

Source: \_\_\_\_\_

Name of Invest.: \_\_\_\_\_

Date Opened: \_\_\_\_\_

Type: \_\_\_\_\_

Source: \_\_\_\_\_

(Source, e.g. citizen, SPD, State Auditor's Office, etc.)

(to be filled out by attorneys, interns and investigators)

WEEKLY SUMMARY SHEET

Week of: \_\_\_\_\_

INQUIRIES

Day	Individuals		Other Agencies	TOTAL
	Phone	Walk-in		
Monday				
Tuesday				
Wednesday				
Thursday				
Friday				

COMPLAINTS

Day	Individuals			Other Agencies	TOTAL
	Phone	Walk-in	Ltrs		
Monday					
Tuesday					
Wednesday					
Thursday					
Friday					

INVESTIGATIONS

Date	Name	Description of Violation

CASES FILED

Date	Cause No.	Name	Felony	Civil	Misd

CASE STATUS SHEET  
(One sheet for each Fraud category)

Date Filed	Defendant	Cause No.	No. of Victims	Est. Economic Loss	Cumulative Loss	Date Pleaded Guilty	Date Found Guilty/Not Guilty	Date Sentenced	Term	Jail	Fine	Restitution	Cumulative Restitution

UNIT STAFFING

\_\_\_\_ ATTORNEYS COUNTY \_\_\_\_\_  
 \_\_\_\_ INVESTIGATORS MONTH \_\_\_\_\_  
 \_\_\_\_ LEGAL ASSISTANTS/STUDENT INTERNS  
 \_\_\_\_ CLERICAL

A-1

COMPLAINT HANDLING ACTIVITY

INQUIRIES

Inquiries or citizen contacts made during month \_\_\_\_\_

CITIZEN COMPLAINTS

Complaints pending action at end of last month  
(Copy figures from last month's report) \_\_\_\_\_

Complaints received during month \* \_\_\_\_\_

Complaints closed during month \_\_\_\_\_

Complaints pending action at end of this reporting month \_\_\_\_\_

IMPACT

Number of complaints yielding financial recovery, restitution or property \_\_\_\_\_

Approximate dollar value \_\_\_\_\_

RESOURCES EXPENDED ON COMPLAINT HANDLING (In man-months)

Attorney \_\_\_\_\_

Investigator \_\_\_\_\_

Legal assistant, student intern \_\_\_\_\_

Clerical \_\_\_\_\_

\* If there was a large number of complaints in one category, identify the category and describe what this might be attributed to, e.g., press, radio, T.V. releases, lectures, etc.: \_\_\_\_\_

COUNTY \_\_\_\_\_  
MONTH \_\_\_\_\_

Participating

A-II

SPECIAL INVESTIGATIONS<sup>1</sup>

Special investigations in progress at end of last month (copy figures from last month's report) \_\_\_\_\_  
Special investigations opened during month \_\_\_\_\_  
Special investigations completed during month \_\_\_\_\_  
Special investigations in progress at end of this reporting month \_\_\_\_\_

INDICTMENTS

Indictments obtained this month \_\_\_\_\_

CIVIL COMPLAINTS

Civil complaints pending disposition at end of last month (copy figures from last month's report) \_\_\_\_\_  
Civil complaints filed this month \_\_\_\_\_  
Civil complaints closed this month \_\_\_\_\_  
Total civil complaints pending disposition at end of this reporting month \_\_\_\_\_

CRIMINAL CASES - MISDEMEANORS

Filed misdemeanor cases pending disposition at end of last month (copy figures from last month's report) \_\_\_\_\_  
Misdemeanor cases filed this month \_\_\_\_\_  
Misdemeanor cases closed this month \_\_\_\_\_  
Misdemeanor cases pending disposition at end of this reporting month \_\_\_\_\_

CRIMINAL CASES - FELONIES

Filed felony cases pending disposition at end of last month (copy figures from last month's report) \_\_\_\_\_  
Felony cases filed this month \_\_\_\_\_  
Felony cases closed this month \_\_\_\_\_  
Felony cases pending disposition at end of this reporting month \_\_\_\_\_

NUMBER OF ECONOMIC CRIME CASES FILED BY OTHER UNITS IN YOUR OFFICE

Civil cases \_\_\_\_\_  
Misdemeanor cases \_\_\_\_\_  
Felony cases \_\_\_\_\_

<sup>1</sup>Special investigation in the context of these reports means the gathering of facts with the intent to prosecute, or "proactive" investigations designed to uncover violations or patterns of violations based on potential for major interest.

COUNTY \_\_\_\_\_  
MONTH \_\_\_\_\_

Participating

A-III

NARRATIVE

- I. Development in important or significant investigations and cases.
  
- II. Cases and investigations that involve schemes that may be occurring in other jurisdictions or which, for any reason, should be mentioned in a confidential bulletin to other participating units.
  
- III. Significant court decisions, legislation, or administrative rulings in your jurisdiction.
  
- IV. Other informations, comments or suggestions.

COUNTY \_\_\_\_\_

MONTH \_\_\_\_\_

B-1

SPECIAL INVESTIGATION OPENED

- Investigation name or number: \_\_\_\_\_
- Date investigation opened: 

Month	Day	Year
- Describe the economic crime category of this investigation according to each of the following headings:  

Product or service _____	Example: Home improvement, auto, securities
Transaction _____	Repair, credit and loans, investment
Scheme _____	Failure to perform service; pyramid (partial or total), failure to register securities
- Source of investigation:  
 Single citizen complaint  
 Several citizen complaints  
 Private counsel  
 Referral from outside source. Name source \_\_\_\_\_  
 Referral from economic crime project center or participating or associating office. Name office \_\_\_\_\_  
 Referral from another part of your DA's office  
 Initiated by your unit ("proactive")  
 Other. Describe: \_\_\_\_\_
- Is there an identifiable predominant victim group with any of the following characteristics? Answer yes or no. If yes, please identify.  

<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> Racial and ethnic minority group	<input type="checkbox"/> Elderly
<input type="checkbox"/> Businessmen	<input type="checkbox"/> Women	<input type="checkbox"/> Other. Specify _____	

INVESTIGATOR \_\_\_\_\_ COUNTY \_\_\_\_\_

ATTORNEY \_\_\_\_\_ MONTH \_\_\_\_\_

B-2

SPECIAL INVESTIGATIONS COMPLETED

- Investigation name or number: \_\_\_\_\_
- Date investigation opened: 

Month	Day	Year

  
Date investigation closed: 

Month	Day	Year
- Were inquiry judge or grand jury used?  Inquiry judge  
 Grand jury  
 Indictments returned \_\_\_\_\_
- Disposition:  
\_\_\_\_\_ Cases were filed arising out of this investigation.  
Enter number of cases filed below:  
\_\_\_\_\_ Felony \_\_\_\_\_ Misd. \_\_\_\_\_ Civil Penalty \_\_\_\_\_ Civil Injunction  
\_\_\_\_\_ Investigative results turned over to another agency  
Name agency: \_\_\_\_\_  
\_\_\_\_\_ Case deemed without merit to prosecute  
\_\_\_\_\_ Case deemed too expensive to merit prosecution  
\_\_\_\_\_ Too expensive in terms of man-hours required  
\_\_\_\_\_ Too expensive in terms of actual cash expenditure  
Other: Describe \_\_\_\_\_
- Was financial recovery or restitution obtained without prosecution?  
 Yes Enter dollar value: \$ \_\_\_\_\_  
 No
- A. Name any agency which assisted you in this investigation  
(1) \_\_\_\_\_ (2) \_\_\_\_\_  
(3) \_\_\_\_\_ (4) \_\_\_\_\_
- B. Did the project center assist or advise you on this investigation?  
Yes \_\_\_\_\_  
No \_\_\_\_\_
- Estimate resources expended on investigation to date:  
\_\_\_\_\_ Attorney man-weeks \_\_\_\_\_ Investigator man-weeks  
\_\_\_\_\_ Legal Assistant man-weeks \_\_\_\_\_ Total costs of special services or equipment  
(Use the conversion 1 man-day = .2 man-weeks; 1 man-month = 4 man-weeks.)
- Was a press release issued? \_\_\_\_\_ Yes \_\_\_\_\_ No
- Was there media coverage on this investigation? \_\_\_\_\_ Yes \_\_\_\_\_ No



SUPPLEMENTAL FRAUD INDEX BY SUSPECT AND VICTIM NAME

FOR 5-13-75

ERAUD.#	SUSPECT OR VICTIM NAME	COMPL TYPE	DISP. CODE	DISP. DATE	INV/ ASST	STATUS	CROSS-REFERENCE
V 75 E 0526							PLE*
V 75 E 0528							FOU
V 75 E 0529							ECK
V 75 E 0530							HOL
V 75 E 0536							AAA
A 75 E 0534	AAA**						TUR
S 75 E 0534	AAA		100	5-13-75	CANN	OPEN	
A 75 E 0499	ACE						HAR
S 75 A 0086	ALL	00	150	4-30-75	LUNG	CLOSED	
A 73 I 1208	AMEI						DAV
S 75 D 0492	AMEI	10	SD	5-09-75	HERP	CLOSED	
S 75 D 0493	AMEI	10	SU	5-09-75	HERP	CLOSED	
S 75 D 0494	AMEI	10	SO	5-09-75	HERP	CLOSED	
S 75 D 0495	AMEI	10	SO	5-09-75	HERP	CLOSED	
V 75 E 0518	ARAI						SPA
A 74 C 0333	AVEI						HAR
A 75 E 0506	AVE						LIN
S 74 H 1167	BAS	09	100	10-07-74	TUCK	OPEN	
V 75 E 0515	BAY						BRO
A 75 E 0502	REE						REA
S 75 A 0046	BIL	05	140	5-07-75	CRUD	CLOSED	
V 75 E 0507	BLA						CHA
V 75 E 0512	HLA						PRD
V 75 E 0519	BOL						COS
A 75 E 0499	BOW						HAR
S 74 L 1698	BRA	13	PA	5-02-75	CRUD	CLOSED	
V 75 E 0499	BRA						HAR
V 75 E 0514	BRI						PRD
S 75 C 0309	BRO	08	100	5-01-75	LONG	OPEN	
S 75 C 0341	BRO		100	5-01-75	LONG	OPEN	
S 75 D 0476	BRO		100	5-01-75	LONG	OPEN	
S 75 E 0515	BRO		100	5-12-75	LONG	OPEN	
S 75 A 0049	BUL	01	140	5-06-75	CRUD	CLOSED	
S 75 B 0183	CAL	21	565	5-05-75	FUX	CLOSED	
S 75 E 0525	CAL		000	5-12-75		OPEN	
S 75 A 0051	CAP	10	100	5-12-75	CRUD	OPEN	
S 75 C 0272	CAP		100	5-12-75	CRUD	OPEN	
S 75 E 0507	CHA		100	5-05-75	FUX	OPEN	
S 75 E 0522	CHA		100	5-09-75	FOX	OPEN	
A 75 E 0500	CHA						INTL ASSOC OF SALES PRSNL
V 75 E 0505	CHU						CONWAY ERNEST J
A 75 E 0516	CIN						LINCOLN WEST INTL
A 75 E 0505	CL						CONWAY ERNEST J
A 75 E 0505	CON						CONWAY JOANNE I
A 75 E 0505	CON						CL DEVELOPMENT CO
A 75 E 0505	CON						SIMS INC

\* Full names deleted

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SAN DIEGO FRAUD DIVISION  
PROJECT FORMS  
APPENDIX D

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COMPLAINT FORM  
 THE OFFICE OF THE DISTRICT ATTORNEY, COUNTY OF SAN DIEGO, EDWIN L. MILLER, D.A.  
 FRAUD DIVISION  
 220 W. BROADWAY, P.O. BOX 2031, SAN DIEGO, CA 92112  
**PLEASE PRINT** REQUEST FOR INVESTIGATION AND COMPLAINT

VICTIM: Date .....  
 Your name ..... Occupation .....  
 Address ..... Phone (Residence) .....  
 Phone (Business) .....

SUSPECT: List name of firm or individual complaint is being made against.  
 Identify salesman or representative dealt with.

1. Name .....  
 Address ..... Phone .....  
 2. Name .....  
 Address ..... Phone .....

Date of occurrence ..... Amount of Loss .....  
 Location of occurrence (City and County) .....  
 Do you have any witnesses? .....  
 Have you contacted an attorney? ..... Who? .....  
 Are any civil actions (law suits) pending? .....  
 Have you contacted any other agencies? ..... Name agency .....  
 Do you know any other victims? .....  
 Are you willing to sign a formal (criminal) complaint and testify in Court regarding this matter? .....

Briefly explain the facts upon which you are basing your complaint, including first contact with suspect: **PLEASE PRINT**  
**DECLARATION**  
 .....

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed  
 on ..... at ..... California.  
 \*Attach additional remarks and copies of contracts and correspondence to this form. - DO NOT WRITE ON REVERSE SIDE.

NOTICE: The legal staff of the District Attorney's Office is not permitted to engage in the private practice of law or to furnish legal advice in civil matters. signed

DO NOT WRITE BELOW THIS LINE

Date Received ..... By Victim .....  
 Disposition.....  
 INY 73 (Rev. 4-71)

DISTRICT ATTORNEY  
 COUNTY OF SAN DIEGO, CALIFORNIA  
 BUREAU OF INVESTIGATION  
 INVESTIGATIVE SERVICE REQUEST

All service requests must be legible, specific and complete.

Please forward all copies of this form to a supervising investigator for assignment.

Felony File No. ....

Date of Request .....

Misdemeanor File No. ....

People vs. ....

Investigator's File No. or Other .....

Court Date .....

File Location .....

GJ ..... Municipal ..... Superior ..... (check one)

Type of Offense .....

Requester .....

Location of Offense .....

Service desired (Please be specific):

Investigator assigned ..... Date ..... By .....

Estimated Completion Time (hrs.) ..... Date ..... By .....

Date Completed ..... Time Expended (hrs) .....

Page ..... of .....



CASE REJECTION FORM  
OFFICE OF THE DISTRICT ATTORNEY  
SAN DIEGO COUNTY

Name of Defendant(s) \_\_\_\_\_  
 \_\_\_\_\_  
 Crime Charged \_\_\_\_\_  
 Date of Offense \_\_\_\_\_  
 Officer Requesting Complaint \_\_\_\_\_  
 Department \_\_\_\_\_

Upon review of evidence submitted in the above described matter, it is found that a complaint cannot be issued at this time for the following reasons:

Date \_\_\_\_\_

By: \_\_\_\_\_  
 Deputy District Attorney

White - Officer requesting complaint  
 Yellow - District Attorney  
 Pink - Deputy District Attorney

MIS 8 (7-71)

CASE ACTION REPORT

Date:	Court:	Judge:	Def. Atty.:	ACTION TAKEN
D.A. #	NAME OF DEFENDANT	CHARGE		

DEPUTY: \_\_\_\_\_  
 SUBMIT PROMPTLY ON DATE OF OCCURRENCE

MIS-4

TIME SHEET  
CASE NUMBER:

Date: \_\_\_\_\_ Time: \_\_\_\_\_


DISPOSITION SLIP

CASE NUMBER \_\_\_\_\_

TYPE OF COMPLAINT \_\_\_\_\_

MONEY RECOVERED: \$ \_\_\_\_\_

VALUE OF PROPERTY RECOVERED \$ \_\_\_\_\_

DISPOSITION CODE \_\_\_\_\_

DISPOSITION DATE \_\_\_\_\_

INVESTIGATOR \_\_\_\_\_

Criminal ( ) Consumer ( )

Approved by Supervisor: \_\_\_\_\_

APPENDIX E

**ESTABLISHING AN ECONOMIC CRIME UNIT  
LESSONS LEARNED FROM THE NDAA ECONOMIC  
CRIME PROJECT**

Reproduced from a document prepared by the Battelle Institute Law and Justice Study Center, Human Affairs Research Center, *Research and Evaluation Report on the First Year of the Economic Crime Project*, National District Attorneys Association, July 1, 1973 to June 30, 1974 (pp. 92-131).

## INTRODUCTION

This section of the report addresses major issues in the planning, development, and early operation of an economic crime unit in a local prosecutor's office. It is based on extensive discussion with local prosecutors who have developed and operated such units and who are participating in the NDAA Economic Crime Project, and on observation of their programs. Although there is wide diversity among the economic crime units in prosecutors' offices participating in this project, there is a substantial agreement on most of the aspects of the development of a unit discussed in this section.

This report presents a composite picture of the experiences of those units, indicating where they agree on particular approaches, where there have been different approaches taken, and the evident implications of those differences. The formation and operation of an economic crime unit is, of course, a continuous process. Policies established to deal with problems of the moment can have long lasting effects on the performance of a unit. Consequently, each specific point discussed in what follows is interconnected with all of the other activities of a unit.

Two basic considerations must always be kept in mind. The first is the importance of setting up and operating an economic crime unit in such a way that administrative and organizational issues interfere as little as possible with actual operations--with the investigation and prosecution of economic crime. The challenge faced in setting up an economic crime unit is not knowing how to solve organizational problems--solutions can be found; rather, it is charting the course of the unit in such a way that as little time, effort, and money as possible is spent having to solve them.

The other consideration is that priorities and unit policies must be determined from the outset of the unit, to guide its growth and program. Such planning need not be detailed or restrictive; it is essential that an economic crime unit be flexible. The absence of planning will not preclude an economic crime unit from having all the work it can handle. But, without planning, a unit's approach is likely to be wholly reactive, uncoordinated, and inefficient.

The main points dealt with here, then, are not matters of technique in the investigation or prosecution of economic crime, but are key issues in the formation of a unit to conduct those activities, in the identification and acquisition of resources to make it possible, and in the organization of those activities to perform more effectively.

There has been little commonality among the economic crime units in the NDAA project in the way in which they were conceived and established. Some were developed as a result of careful planning by the district attorney; others began operations with staff assigned before they had figured out what they were going to do; others are the result of a slow accretion of resources without any particular date of birth.

Two units about equal in size illustrate this diversity. Each is a successful office, highly regarded by other prosecutors in the project. In the first example, the district attorney requested a young assistant to make a study of the relevant state laws, to visit other units within the state, and to write a report about the possible form which an economic crime unit could take and the sources of funding available. Based on this report, a grant application was prepared for LEAA block grant funding, and in due course the unit was funded. In the interim, the assistant who prepared the study, for personal reasons, had to take a temporary leave of absence from the office. A law intern began the process of establishing liaison, exploring potential cases, and undertaking some investigations. By the time the grant had been approved, the assistant who had planned the unit had returned. Much of the investigation had been done on several cases by this time. When the unit formally began operations, it was in a position to return six indictments very quickly.

In the second example, the district attorney and a young assistant prepared a grant application for LEAA block grant funding to support an organized crime control unit. At that time a policy decision was made in the funding agency not to release funds for that purpose, but it was learned funds were available in the state plan for economic crime and consumer protection. The grant application was revised and the unit suddenly came into existence. After a period of organization and exploring possible directions it could take, the unit has begun to develop major criminal cases.

As these examples indicate, a local prosecutor's office can develop a good economic crime unit regardless of how it originates. Of paramount importance is the quality of the unit staff, and the sustained commitment to the new unit on the part of the district attorney himself. Nevertheless, the experience of assistant district attorneys who were responsible for setting up economic crime units points up several approaches which they would follow if they were to start again. One of the first matters to be dealt with in initiating a unit is policy planning.

#### A. Policy Planning

There are five major policy questions which should be considered at the planning stage of the unit, which affect in greater or lesser degree the way in which the unit might be set up. These are:

- the type of crimes or abuses to be dealt with;
- the approach towards handling citizen complaints;
- the stress placed on different available remedies, particularly whether there will be emphasis on civil as well as criminal action;
- the type and manner of disposition of cases; and
- combining non-economic crime functions with the economic crime unit.

#### Crimes and Abuses

The major decision to be made regarding the types of crimes and abuses to be dealt with is whether the unit will specialize in certain types of crimes, such as consumer frauds, or business frauds (usually meaning crimes which involve substantial dollar loss committed by businesses on other businesses), or will handle all forms of economic crime which come to the attention of a large office.

Whether the emphasis will be on all economic crime, or just on consumer frauds, business frauds, or other special types of frauds such as securities or welfare, has major implications for determining what background and skills the staff will need, office space to be assigned and relationships which have to be established with local, state, federal, and private agencies.

#### Citizen Complaints

The approach the unit takes towards handling citizen complaints is clearly related to the first policy decision, regarding types of economic crimes dealt with. Opinions differ strongly among prosecutors about what is the best posture for an economic crime unit with respect to handling citizen complaints. Some argue that this is a time-consuming and hopelessly inefficient method of uncovering and responding to economic crime, preventing the unit from adopting a proactive, preventive approach to combatting economic crime. Others argue that it is an important public service to provide a place to which citizens can complain, and receive prompt attention, if not always recourse, from their government, and that this activity provides intelligence about abuses and patterns of abuses that could not be obtained elsewhere. (One office claims that it has received wind of just about every current scandal in the city, before they became public, through its consumer complaint telephone lines!).

Ways in which units have solved some of the problems inherent in complaint-handling are discussed in detail below. It should be kept in mind that the penalty for not preplanning an approach to handling citizen complaints can be a crippling loss of time from other investigative and prosecutive undertakings. It is therefore essential that this issue be resolved before the unit is established.

#### Criminal and Civil Remedies

There should be flexibility in the approach the unit takes toward adopting various available remedies during its early operation.

Many unit chiefs argue that it is important for the unit at first to gain recognition and the respect of other agencies through criminal prosecutions. Many units have, after acquiring a record for criminal prosecution, then supplemented their activities with the use of civil remedies. For instance, one unit found that repeated criminal prosecutions of a supermarket chain for weights and measures violations which permitted only minor criminal penalties, failed to deter the firm from subsequent violations. It therefore undertook a civil consumer protection suit against the firm (this was the unit's first use of civil remedies) which resulted in a substantial penalty against the firm, substantial publicity about its actions, and an agreement by the firm to install fat analyzers in all of its markets. In this instance, the effectiveness of the civil remedy was greater because there had been earlier criminal prosecutions.

Remedies are not limited to criminal and civil litigation. Every prosecutor should, in cases where litigation is not appropriate, refer matters to other agencies, use moral suasion, encourage resolution of disputes through binding arbitration, or adopt a host of other approaches. These alternatives can be explored as the unit develops; many are discussed in following sections of this report.

### Trial Responsibility

Prosecutors do not agree whether economic crime units, or other specialized divisions within their offices, should try their own cases, or whether all trial work should be handled by a general trial bureau. Those who oppose general trial bureaus argue that economic crime cases are complex and require mastery of a substantial body of facts, and thus should be handled in court by the economic crime unit attorneys who have studied the relevant law and thoroughly know the case. Those who support assigning trials to a general trial bureau argue that effective trial work requires familiarity with and experience in the courtroom, which economic crime unit staff generally lack because they do not try a large number of cases, and that putting the staff in the courtroom would remove them for too long from the other activities of the unit because of the length of many cases. If the economic crime unit staff will not try its own cases, it is essential that it still

participate to the maximum extent possible with the assistant trying the case--at all stages of the proceedings. If the unit staff cannot see, feel, and understand how its work product is being used, it is questionable whether it can effectively investigate and prepare cases for prosecution.

### Other Unit Functions

The prosecutor setting up a unit must decide whether to combine other functions with those ordinarily assigned to economic crime units. Usually such mergers involve environmental protection units. This approach may occasionally lead to distractions from the mission of either unit as two sets of responsibilities compete for attention, but it may also provide an office with opportunities to supplement its resources in either area by permitting a relatively easy shift of manpower from one to the other as needs arise. For example, one unit, which handles large numbers of consumer complaints, was set up in a building separate from the main office of the district attorney. This location was desirable for dealing with walk-in complainants, but the single attorney in the unit found he was quite isolated from contact with other attorneys for informal discussion of development of criminal cases and other legal matters. The district attorney did not have the resources at the time to assign another attorney to the unit (and if he had it probably would have had to be an inexperienced new assistant). He was, however, able to transfer the environmental protection division to the same building. This shift indirectly and temporarily solved the problem of providing the unit chief with contact with other attorneys who were dealing with similar legal problems. It is an option which every district attorney should consider in a similar situation.

### B. Staffing a New Unit

Many prosecutors with experience setting up economic crime units recommend approaching economic crime on a part-time or intermittent basis to develop gradually a coherent, effective program against economic crime, or to operate in a manner which consistently responds to and interacts with other economic crime control

agencies. Sooner or later, however, larger prosecutor's offices realize that to achieve an effective program for dealing with economic crime it is necessary to set up a separate division devoted to it. Aside from limitations arising from lack of funds or other resources, many experienced prosecutors would argue that the minimum staff should be three staff members plus a full-time secretary. (Clearly, this minimum does not apply to so-called 'small' offices, which are discussed in a separate section below.

### Staff Composition

The composition of the staff will, of course, be related to the types of tasks which the unit has set out for itself. The unit is usually headed by an attorney.\* Units choosing to make a major commitment to servicing citizen complaints face something of a dilemma in determining the composition of their staff. It is clearly a waste of resources to assign attorneys to routine complaint resolution processes, which should predominantly be the responsibility of investigators or paralegals. Where investigators and paralegals are used, however, attorneys who are assigned to the unit will have increased demands on their time, supervising their activities, making determinations of which cases may be criminal or actionable violations, and attempting to prosecute cases in order to maintain the credibility of the prosecutor's office in its attempts to resolve other disputes. If volunteers, legal interns, or other inexperienced staff are employed in complaint handling or investigatory positions, the supervisory demands on attorney staff can outweigh the gains achieved by freeing attorneys from complaint handling in the first place. Some offices have attempted to resolve this dilemma by creating a three-tiered relationship involving attorneys, experienced professional investigators, and lower level staff directly handling complaints. This approach will be effective if there are adequate resources to hire such a diversified staff. With inexperienced staff at each of the two non-attorney levels, such an approach will actually increase the burden on the attorneys.

\* An exception to this general rule is described below.

There are other ways to relieve attorneys from some of the administrative demands not related directly to investigation and prosecution of economic crime. One is to use non-attorney administrative assistants. Units do not need such assistance on a full-time basis. They can make use of part of the time of the administrator who services the whole office. While generally this administrative assistance can be highly beneficial to the unit chief, by relieving him of certain management chores, it can also result in interference with unit policies. For example, in one unit the district attorney's administrative officer assumed certain responsibilities for managing the complaint-handling procedures of the unit. One of the procedures he instituted was to mail complaint forms to complainants, rather than have the secretaries take the complainant's story over the telephone. This procedure did cut down the time secretaries spent on the phone, but it had two side effects the unit chief regarded as counter-productive. First, 35 percent of the complainants who called the unit and were asked to fill out a written complaint form never returned them; because of the new procedure these people were effectively shut off from the services the district attorney promised his constituents, and information about alleged ongoing schemes may have thus been cut off from the unit. Moreover, secretaries who had felt they were an important part of the unit's operation became demoralized because they felt that they were only shuffling papers and were not allowed to use the skills they had developed in talking with complainants. However, even though these administrative changes strongly interfered with policies of the unit, they have been retained, partly because the workload of the unit has grown to a point where the unit is simply not geared to handle the 35 percent of the complaints that stopped coming in.

Another method for more effectively allocating staff time between administrative and other responsibilities that has been tried in one economic crime unit, which is not participating in the economic crime project, is use of a non-attorney to head the unit, working closely with an attorney who acts as legal counsel. Unusual circumstances make this unit particularly appropriate for management by a non-attorney. It operates as the complaint-handling and consumer fraud investigative arm of a consortium of five district attorneys, each of which carries out in his own office prosecution of cases developed within the combined unit. The unit stresses use of volunteers and paralegals to handle citizen complaints as well as an active program of public education and community involvement. Consequently, major administrative matters

and policy decisions in this unit can be handled by a non-attorney, and operations are enhanced by having as chief someone who is experienced in recruiting and managing volunteers, in organizing effective public education programs, in working with and developing community resources, and in interpreting what local issues in consumer protection require primary attention. The attorney assigned to the unit devotes her time to reviewing potential criminal matters and to development of criminal cases.

If the approach of an economic unit is to investigate and prosecute major cases, eschewing citizen complaints, it is more important, if possible, that it be composed of a relatively large attorney staff, and the unit chief must obviously be an attorney. A larger attorney staff is necessary because of the substantial time it can take to prepare and present major criminal cases. In any unit in which developing criminal cases (or civil cases where appropriate) is a primary commitment, there should be at least two attorneys or one attorney and another experienced staff member with substantial responsibility for unit operations. One attorney cannot both follow through on complex cases and maintain continuity in the regular operations of the unit. Of course, very small offices will not be able to allow even one full-time attorney to devote full time to these tasks.

#### Experience

Assistant district attorneys and investigators in existing economic crime units have widely differing opinions on the level or nature of experience needed for economic crime unit staffs--often expressing strong preference for particular backgrounds wholly different from the preferences of their colleagues in other units. A few general comments can be made about experience and background for economic crime unit staff.

Many difficulties encountered in setting up an economic crime unit, or probably any new bureau within any prosecutor's office, can be resolved by appointing a unit chief who has prior experience within the office. A chief who is known by others in the office, and who has their confidence, can easily work out the informal liaison within the office which is often a necessary supplement to a limited initial budget for a new unit. A unit chief

who has had substantial time in the office also will have made important contacts with local outside agencies and court personnel with whom he will be working regularly.

Other prosecutors feel it is important to have an economic crime unit headed by someone who has specific experience in dealing with economic crime. In some instances, it is possible to find such an individual on the district attorney's existing staff. Some units have come into existence precisely because one assistant began to acquire economic crime prosecution experience, and brought the potential of an economic crime bureau to the district attorney's attention. For example, one unit in the NDAA Economic Crime Project was established wholly with personnel already in the office. An attorney with an accounting background had developed substantial experience over a period of years with handling economic crime cases in his position within his office's rackets bureau. The possibility of a separate economic crime unit was discussed informally with the district attorney and several months later the district attorney announced that that assistant was to head the operations of a new economic crime bureau. Administration of the new unit was assigned to another deputy with executive responsibilities, and other staff were "borrowed" from elsewhere in the office. After several years of operation, the unit applied for and received a state block grant, which will permit expansion of its operations.

In other instances, a unit chief with appropriate experience may be recruited from outside the office, or even outside the jurisdiction, as was done for one of the participating units. He or she is likely to be assigned assistants from other bureaus in the office to provide the continuity and internal contacts the new unit needs in its relations with the rest of the office.

All desirable forms of experience can rarely be found in a single unit chief. Few people are simultaneously familiar with the overall prosecutor's office, with outside city, state, and federal agencies, with the field of economic crime, and with the state statutes which are appropriate for its prosecution, unless they are already involved in an economic crime unit in a local prosecutor's office. The response which most existing units have made to this matter, in setting up their own units, is to organize

a unit staff which includes a mix of as many of these factors as possible.

Often investigators can be hired who supply part of the overall experience that is desired to complement the skills and experience of the unit's attorney staff. In addition to providing investigative expertise, such as that acquired from working with investigative components of the armed forces or federal agencies, investigators who know and have experience in working with local agencies and officials should be sought. More than one investigator involved in the economic crime project has described himself, in this way, as a "shortcutter" who can cut red tape with local agencies. When it comes to obtaining certain necessary information for an investigation from state or municipal records, for instance, the "shortcutter" knows whom to call to get the information quickly, often unofficially. After a number of such unofficial checks, he knows where to return to obtain formal, official information with little wasted time, and to avoid blind alleys. The most common background for such an investigator is experience in the local or state police or sheriff's office. The ability to succeed as a "shortcutter" requires a personal reputation for discretion and for keeping one's word, a trait pertaining more to the individual than to his background.

It was regarded as important by a number of unit heads that there be someone on the staff, usually an investigator, who speaks a prominent minority language, such as Spanish, and that someone on the staff be Black or Chicano, or representative of other minority groups where appropriate, possibly American Indian. Not only does having such investigators where appropriate aid in the development of cases, but it contributes to the objective held by all units of making a particular contribution to economic crime problems of disadvantaged groups in the population.

Few units are fortunate enough to begin with a staff which is experienced in the nature of economic crime and in the statutes and investigatory approaches appropriate to it. Whether or not this nucleus of experience is available, some units have attempted to tailor their early operations to promote training of unit personnel. This has been done by initial selection or investigations and cases which are not unduly complex and which are illustrative of some of the basic skills needed in economic crime investigation.

Another problem related to the question of training, and of developing experienced staff, is that of maintaining continuity of staff in the unit. Many units rely on legal assistants and interns to round out their staffs on low budget. Often these are law students who have completed their schooling and are awaiting bar results. When they do pass the bar, they are usually reassigned to another division or leave the office altogether--just at the time when they have acquired the experience necessary to take real initiative in the activities of the unit and assume some of the burdens of the unit chief. Because of their experience, such new attorneys are desirable recruits for economic crime units, and should be seriously considered for hiring if assistant district attorney slots can be made available.

### Augmenting Unit Staff

Other staff support for units can come from flexible use of existing resources. With the blessing of its district attorney, one unit takes advantage of other staff in its office when major investigations or prosecutions are under way, employing what it calls the "taxi-squad", assistants from another division to help out at critical moments. This process can have dual benefits to the office, for not only is manpower used efficiently, but the talent developed among the "taxi-squad" in working on economic crime cases can be equally useful in prosecutions of rackets, organized crime, and other complex criminal cases.

Many units have also augmented their programs by the use of student volunteers or low paid legal interns for investigations and for complaint servicing. For the task of complaint-handling, many unit chiefs will argue that volunteer students or law students, working on a part-time basis, have some advantages over the use of regular investigative staff. Because they usually work only part time and have high enthusiasm, volunteers may overcome their lack of experience and substantive knowledge by having a natural sympathy for the complainant, by not having heard the same old story every day every week, and by having the time to follow through on the cases they handle. Servicing citizen complaints is such a demanding job, mentally and emotionally, that someone working part-time and for a limited duration like most volunteers, can possibly do a better job than a person assigned to the task



full time. Use of this "free" resource can have significant costs, however. Experienced staff can be tied up monitoring and advising the volunteers, and in salvaging their investigations, as is occasionally necessary.

### C. Financial Resources For A New Unit

Finding resources to support an economic crime unit is a task which every district attorney must necessarily face. The availability and source of funds can help to determine the size of a unit, the scope of its ability to investigate, the approach it takes towards citizen complaints, the cooperation it will have with other agencies and other units within the prosecutor's office for key aspects of its task, and many other operational and policy matters.

It is obviously impossible to generalize about the ease or difficulty which a local prosecutor may have in obtaining funding for an economic crime unit. Only rarely does the prosecutor have the opportunity to allocate funds for a unit wholly at his own discretion, without shortchanging some other prosecutive activity of his office. As a result, the prosecutor is faced with the decision of whether to postpone initial operation of the unit until funding is clearly obtained, from whatever source, or to begin operations with shifts in his existing internal budget until more substantial funds can be obtained.

Several prosecutors resolved this question by appointing one or two assistants to begin initial legal research, establish liaison, and proceed with case development before the unit was formally established, so that momentum was achieved before final funding was arranged. This process does not preclude tapping any particular source of funds, and has the added advantages of permitting the unit to start up with much groundwork out of the way, with some continuity in staff, and with some immediate experience to apply for budget justification. Publicity from one or two significant indictments or convictions, which illustrate financial savings to the public or service to citizens, can go a long way toward substantiating the need and potential for an economic crime unit in the eyes of funding authorities.

When justification for authorization of funds for an economic crime unit cannot be based on prior accomplishments of the unit because there has been no previous activity, or if the request for funding is for a completely new type of activity for the unit, many units have contacted other prosecutor's offices which do have the requisite experience and made estimates of their own future performance on the basis of such contacts.

Some units do not rely on a single source of support for their operations. External funds, such as LEAA block grants, federal training funds, or other financial support can sometimes be obtained. Non-financial resources can also be tapped, such as student volunteers or diversion of other staff within the office to the unit at times of peak unit activity.

The recent availability of LEAA state block grant funds has supported the creation of economic crime and consumer protection units in some local prosecutor's offices, although these grants represent only a small part of overall LEAA support to prosecutors' offices.\*

Support of operations of an economic crime unit with an outside grant is ultimately dependent on the ability of the prosecutor's office to absorb the program cost into the regular budget after one or a few years. While this is a consideration many units will postpone, it can and should affect their earliest decisions. County councils, or other budget approving authorities, will often raise the issue at very early stages of the grant approval process. Several units have reported difficulty in getting their county councils to approve outside grants because of their council's expressed unwillingness to be confronted with the decision of picking up the costs when the grant is terminated. In these situations the unit must either refuse the grant, or declare to the council that a request for local takeover of funding will not be made when the grant terminates.

\* See, for instance, National Association of Attorneys General, Survey of Local Prosecutors: Data Concerning 1,000 Local Prosecutors (The Association: Raleigh, N.C., 1973), p. 29.

Even if the question of what to do after the grant terminates is not raised during the grant approval process, the question should be considered when the first grant application is being prepared. It is possible that a unit will not survive financially when a grant is terminated. While we are not aware of any cases in which economic crime units have been terminated because outside funds were cut off, other kinds of prosecutive units have not been so fortunate. The National Association of Attorneys General reports that in the case of organized crime control units at the state level, "There is little indication that state funds are replacing federal grants" to attorneys general; the units are being terminated as the grants expire.\* To repeat, while no cases like this are known regarding economic crime units, it is clear that simply finding funds to set up a unit will not guarantee future support.

#### D. Unit Location And Physical Set-Up

A common difficulty encountered by new prosecutive units, not peculiar to economic crime units, is inadequate office space. Several economic crime units in the NDAA Economic Crime Project commenced operation with staff scattered in several different office locations--some in opposite ends of an office, some even in different buildings. This should be avoided. Economic crime investigation and prosecution requires too much dialogue between investigator and prosecutor, too much checking with a colleague to see if a suspect name sounds familiar, to be conducted in offices that are in different buildings or on different floors.

More unit chiefs have found, however, that although it is important to have the unit together in one place, it is not necessary to have the unit physically a part of the central prosecutor's office. Separation may even be an advantage. Where the unit is centrally located within the district attorney's office, and can only be reached through the main reception area, walk-in complainants, witnesses, or other citizens important to cases may be deterred from showing up, or become reticent and uncooperative. The high security consciousness of many district attorneys offices, particular when they are located in the same building as the courts where tempers sometimes run high, may deter complainants or witnesses from coming to the economic crime unit.

\* National Association of Attorneys General, Organized Crime Control Units (The Association: Raleigh, N.C., 1974), p. 32.

#### E. Initial Operations

The first objective of a new unit should be to develop investigations and cases which not only represent significant prosecutive activity, but which will enhance the ability of the unit to develop more and better cases, and which fit into overall policies established by the unit. Clearly every unit will have to deal with what might be called cases of opportunity--criminal cases so prominent or so egregious that no one would think of passing them up just because they weren't part of a plan. Such cases can come to light from the press, from other agencies, from tips or informants, or from victim complaints. The problem is that in some units every complaint which comes to the unit may appear too important to pass up.

As one unit chief put it: "The first thing you have to learn is how to say no," meaning that the prosecutor must use his discretion in utilizing his limited resources so as to have maximum impact on economic crime.

There are some organizational approaches which units have followed which have increased their abilities to select the cases they consider most important, without appearing unresponsive. One approach is to maintain liaison with a range of other agencies to which various matters can be referred. This approach carries some risks; if the agency to which the unit refers a case fails to follow through appropriately, the unit as well as the agency may suffer the blame.

As well, some units have found ways to screen cases by attempting to develop a reputation for handling only certain types of economic crime, thus discouraging other complaints or referrals. This specialization appears most often in the distinction between major or business frauds, and consumer frauds. Certainly, one of the considerations in making a policy decision to specialize is whether other agencies exist to handle the crimes or abuses which the unit will not handle.

The actual criteria to be used for determining what crimes will be concentrated on, or what level of loss constitutes a serious

offense, are of course matters to be resolved at the discretion of the prosecutor. Supporting such policy decisions, however, are a number of ways in which case selection can be used to resolve problems of liaison, resource development, training, and strategic investigations, which the prosecutor should consider.

Some units have indicated, as mentioned above, that they have selected for investigation cases such as embezzlements which have a high degree of value for training new staff. Such cases are also often easy to prepare and win, providing an initial boost to unit morale, and publicity about the unit. In turn, cases selected for their training value, and their high likelihood of success, can also contribute to the development of desired liaison ties, because of the importance of gaining the recognition of other agencies.

The easiest way in which a unit can identify cases with a high likelihood of success and with maximum potential for press exposure and publicity, is to take on cases which have already broken, in which the victims have already been taken, and the work is already out. In other words, a unit can meet many of its initial needs simply by being reactive, stepping in after the crime has been committed and exposed. And almost every unit in this project has started with this approach.

A problem can arise for the new unit, however, often without even being apparent, if the excitement of reacting to such cases prevents the unit from undertaking a proactive approach, seeking out economic crimes which have not completed their pattern of victimization or which are incipient.

Many units which have found the middle ground between a wholly reactive approach and a wholly proactive one have done so through a developmental sequence of cases, beginning with a largely reactive approach until experience, credibility, and resources in the unit could be built up to permit a proactive approach.

## F. Liaison

All economic crime units operate, to a greater or lesser degree, in conjunction with other investigative and prosecutive agencies at the local, state, and federal level. A crucial task for a new unit is to establish working contacts with such other agencies as early as possible.

Referrals from other agencies, particularly those without their own investigative and prosecutive authority, are an important source of information about new and ongoing economic crimes or related abuses, as well as a valuable source of assistance in investigations. Other agencies can also provide a practical point of disposition for matters which the economic crime unit does not have authority or interest to pursue. In particular, many economic crime units refer non-criminal matters, or matters which are prosecutorially unattractive, which come to their attention, to agencies such as the Better Business Bureau or local consumer protection agencies. Those agencies in return will refer matters which have a potential for criminal prosecution to the economic crime unit.

There can be substantial costs, however, in using other agencies as a means of disposing of matters which come to the attention of the unit, for example, when the agency to which the matter is referred fails to act, and public attention in some way is focused on the lack of action. One unit received complaints about failure of a local nursing home to meet local building and fire codes. The matter was referred to another local agency, which took no action. The nursing home subsequently burned in a dramatic fire. The incident stimulated a press investigation which uncovered and publicized the fact that the violations had been brought to the unit's attention earlier and that it had taken no action.

Liaison with other agencies can make up for the absence of a "shortcutter", as discussed above, on the staff. Good liaison makes it possible to call on appropriate investigative or regulatory agencies for specific information not available to the unit. As a case is being developed, for example, other agencies such as the Better Business Bureau can be contacted to see if they are aware of additional claimants and possibly victims whose testimony will strengthen a case.

Some units have found it possible to avoid most contact with citizen complaints, and conserve unit resources for major investigations and prosecution, because other agencies in the community with which they have liaison are effectively responding to complaints and are willing to share with the unit significant intelligence derived from complaints. Other units have worked out informal relationships with their attorneys general or the city attorneys, with similar benefits.

Working closely with investigative agencies has been found by several units to be a very effective training procedure for new staff. There is no substitute, unit personnel say, for learning from working closely with an experienced investigator.

Cooperating agencies occasionally provide economic crime units with essentially completed investigations ready for trial. Once a unit has developed confidence in the agency's investigative abilities, this arrangement can save significant amounts of time for the unit, even if some of its own investigative effort is also required. It can increase the output of both the unit and the agency. This process mostly occurs in working with investigative agencies which have no prosecutive jurisdiction of their own, such as the U.S. Postal Service, the local police, consumer protection agencies, or trade associations.

Simply to recognize the various forms of benefits from establishing liaison with other agencies is, of course, not equivalent to establishing such liaison. While on the whole, existing economic crime units report few substantial difficulties with establishing the liaison they desire, it requires care and tact. For example, credit for joint activities must be shared liberally with other agencies if profitable liaison is to be maintained.

Developing support from agencies which are non-responsive sometimes requires an aggressive approach. One unit has adopted a policy of "building fires" under agencies with which liaison contacts are desirable, but have not been fruitful. This approach typically involves encouraging efforts at cooperation, carefully (and discreetly) documenting by letter the failure of such cooperation to occur, followed by aggressive action by the economic crime unit against offenses which the agency should be responding to.

Subsequent press coverage will often put pressure on the agency involved to take a more aggressive approach in the future. If the economic crime unit gives credit to the agency for assistance in its prosecutive undertaking saving it from public embarrassment, even though such assistance was hardly delivered, the agency is likely to be far more cooperative in the future. Furthermore, the unit, by rousing the agency, may have strengthened enforcement in a whole area of potential economic crime simply by action in one or two cases.

Units should be alert to an unusual problem which can arise from an aggressive program of liaison with other agencies. One economic crime unit expressed concern about the danger that they might become "captured" by certain other agencies, particularly investigative agencies associated with private trade associations, e.g., such as those representing insurance and credit card businesses. What they mean is that a unit will undertake to prosecute cases developed by an investigative agency, and then find that the agency has developed so many cases that the unit's attorney staff could work full time just trying them. Clearly, this disrupts any balanced prosecutive program a unit may have. The unit, however, often is under pressure to continue to respond to the investigative agency in order not to appear to be falling down on commitments it has made, or to be stalling the other agency. There is probably no protection against this, other than firm and alert management of one's own program.

It is impossible to generalize about liaison relationships with specific agencies that economic crime units come in contact with. Two agencies, however, deserve special mention because of their prominence in dealing with local prosecutors' offices. These agencies are state attorneys general offices and the local police.

Statutory relationships between the local prosecutor and the state attorney general vary widely among states. The substance of these relationships is discussed in detail below. Units in the NDAA Economic Crime Project have developed widely varied working relationships with their attorneys general--ranging from highly cooperative arrangements culminating in joint trials to virtual disregard for the others' presence.

The failure to develop close working relationships with the attorney general's office can mean the loss of significant assistance in developing aspects of a case, or a restricted ability to participate in a coordinated program to attack patterns of economic crime rather than isolated offenses. Even if joint prosecutions are not undertaken, joint investigations can often greatly expand the utility of the individual remedies available to each agency.

For instance, in one recent case the attorney general was able to attach the corporate funds of an alleged pyramid franchise scheme, while the prosecutor's economic crime unit charged the principals in the scheme, thus blocking further bilking of victims.

In another case, the attorney general conducted the consumer victim interviews, which the economic crime unit in the district attorney's office was subsequently able to use to determine which internal company records it should obtain to develop evidence for its criminal prosecution.

Cooperation with local police is another important form of liaison for a new unit. It is another situation in which there is very little common practice among units, other than agreement on its importance. Police can assist units by handling investigations of routine economic crimes, such as bad check cases, so that units are not burdened with large numbers of these cases. More importantly, local police can serve as a very important supply of investigative talent and resources, both because of the range of local contacts police officers are likely to have and because of their skill in certain investigative techniques, such as undercover operations. For example, one unit was having no success in using its own staff to infiltrate a suspected pyramid sales operation. It enlisted the assistance of the local police department, which supplied undercover agents. The police investigators were prepared to set themselves up quickly with background credentials such as bank accounts and credit ratings, and succeeded in penetrating the offender's sales meeting, gaining important information about the scheme.

Cooperation with police can also occur on a broader level than referral or assistance on individual cases, however. One unit, for example, has established cooperation with its police department's community relations program, making use of police community

storefronts as a resource for reporting consumer complaints. Others have included police officers in training conferences on economic crime, to inform the police department generally that a unit now exists which can follow up on economic crime, and to help to train the police in identification of the elements of these crimes.

## G. Investigations

Investigation is central to the activities of an economic crime unit. Only rarely do units prosecute cases for which they have not conducted their own investigations, and never will they prosecute a major case in which they have not at least attempted to corroborate with their own efforts investigations conducted by others. The following discussion deals with certain aspects of the ways in which economic crime units are organized to conduct investigations. It is not a discussion of investigative techniques, a topic which requires its own detailed consideration and which has been discussed in the Economic Crime Hornbook prepared by Charles Miller for the NDAA Economic Crime Project.

Unit chiefs differ on such questions as what proportion of the overall staff of an economic crime unit should be investigators, or what expertise the best investigators should have, or how investigators should work in relationship to others in their office. Such questions are not peculiar to economic crime units, but exist whenever the investigative function is associated with responsibilities for litigation. A recent study of public defender offices raises some of these same questions about the role of the investigator, for instance. The study states that: "a difficult question facing many public defender offices when new funds are made available is whether to allocate them for additional lawyers or for more investigators." The study continues "the availability of investigators is frequently a contributing factor to the ultimate success of the public defender's performance in the courtroom" based on field observations which seem to indicate a strong relation between investigators and program success.\*

\* Paul B. Wice and Peter Suwak, "Current Realities of Public Defender Programs: A National Survey and Analysis," Criminal Law Bulletin, 10 (March 1974), p. 167.

The role of the investigator in an economic crime unit is determined in large part by the policies of the unit towards type of cases handled and its attitude toward citizen complaints. Investigations are conducted in various ways in different units, ranging from initial winnowing of citizen complaints as a source of leads, to the most traditional kinds of criminal inquiries.

### Use of Citizen Complaints in Investigations

Handling of citizen complaints is a time consuming task which many unit chiefs and assistant district attorneys have sought to avoid;\* however, to free themselves from this activity, attorney staff often pass the responsibilities on to their investigators, burdening, in turn, the investigators with the same restrictive task. Investigators who have major responsibilities for complaint handling will find it difficult to take on the tasks of detailed information gathering and analysis which are necessary to the development of cases.

Most of the units in the economic crime project have experimented with different ways of assigning staff responsibilities for handling complaints, with the dual objectives of (1) maximizing the information about criminal violations which derived from complaints, and (2) freeing staff time.

Many units which have taken on the responsibility to adjust non-criminal citizen complaints consider it important to isolate investigators from complaint handling. Units which pursue only potentially criminal matters tend not to have so large a complaint load and use investigators to handle the ones they receive. In either instance, the challenge is to find a way in which the complaints can be used as sources of intelligence or leads for development of cases, yet not be a burden on professional staff. That is, the investigators must not become so removed from the complaint-handling system that they are unaware of the information that has been received.

\* See p. 95.

There are two important types of information which the investigator must be aware of if complaints are to be used as a source of intelligence. The first of these is the content of individual complaints--does the story which the complainant relates indicate that there has been conduct which may justify criminal or civil action by the district attorney. The second is information about the pattern of all the complaints which come in suggesting the need for investigation into particular product or service areas, or into the behavior of particular individuals about whom there are numerous complaints, each one of which alone is minor.

The following examples are presented in the context of the way in which handling complaints can contribute to the initiation and conduct of major or special investigations based on these two types of intelligence. The definition of "special investigation" adopted here is that used in the reporting format established for the economic crime project...That definition is: "the gathering of facts with the intent to prosecute, or to uncover violations or patterns of violations based on potential for major impact."

An approach adopted by one unit which has a large volume of complaints and a large staff, is to free investigators from complaint handling by use of specially trained investigative assistants. All complaints directed to the unit are received by these investigative assistants, who attempt by phone or letter to mediate any problems which can be resolved by such attention. For example, the investigative assistants will attempt to get a consumer and a merchant to agree on an amount of restitution or recovery as resolution of a dispute in which it is agreed the consumer is due something. Those citizen complaints which appear to the assistant investigators possibly to involve criminal violations, or to deal with matters which are serious enough for in-depth attention, are directed to the professional investigative staff. This screening process then provides the unit with the benefit of use of complaints for identification of individual offenses, without overburdening professional investigators.

Under this arrangement, identification of patterns of abuses and location of multiple complaints against an individual suspected offender, is more difficult, since all complaints never are read by the same individual, and since the volume of complaints tends

to be very great. To facilitate the identification of patterns from these complaints, among other reasons, this unit has developed a computerized complaint records system. This system, in addition to permitting careful monitoring of the overall performance of the complaint-handling function, permits identification of multiple complaints against the same individual. It also permits identification of multiple complaints of particular types of abuses, which may suggest that in-depth investigations be undertaken, or that public education campaigns be mounted. The unit chief reviews the computer printout regularly, and can call for special reports from the system on particular topics.

Few new units will be fortunate enough to afford such an arrangement. It is the product of the growth of a unit in a large county, which began operations in 1969 with a half-time assistant district attorney and a half-time investigator and has expanded to six attorneys, ten investigators, and three investigative assistants. Its plan is based on careful consideration of how a complaint-handling function can be meaningfully integrated into a proactive approach to investigations and prosecutions.

Another example of how a new economic crime unit can integrate complaint-handling into a prosecutive program is the approach taken by a new multi-county coordinated economic crime program surrounding a major metropolitan area. This new unit has a basic commitment to aiding individual consumers and other complainants as well as to preparing criminal cases for prosecution by several cooperating district attorneys' offices. It consequently has stressed development of the necessary resources to manage a large and growing complaint load, primarily making use of part-time student volunteers and paralegal consumer specialists. The volunteers work in teams with the paralegals to handle incoming phone calls and to follow up (within a day) on arranging whatever disposition is possible of non-criminal disputes. In order to assure that all complaints are reviewed both for potential criminal violations and for identification of patterns of abuses, each day's batch of complaints is reviewed by the unit's staff attorney. This review also is a means of monitoring the activities of the volunteers, and of providing suggested responses to the complaints. Based on review of the complaints received, special investigative projects are undertaken into areas of special prominence, such as auto repair, rental housing, and weights and measures in food. These investigations, when not leading to criminal cases, are used

for development of new legislative recommendations and public education.

In this way, a new unit, with limited resources, can use complaint-handling as part of its intelligence function supporting major investigations. In fact, this unit, as mentioned, has found the complaint telephone lines surprisingly informative, taking phone calls which have led to investigations and major indictments for kickbacks and bribery.

### Review of Intelligence and Patterns of Offenses

Even if citizen complaints are not a major part of a unit's workload, existing units have developed ways to assure that patterns of information that come to the attention of investigators are recognized and acted upon. Two related approaches have been taken for assuring that sharing and analysis of intelligence takes place. One of these approaches is to prepare weekly investigative summaries submitted to the unit chief by each investigator showing significant progress on investigations and cases; the other is to hold regular staff meetings at which ongoing investigations and intelligence are reviewed.

Preparation of periodic investigative summaries for review by the unit chief provides both a management tool for monitoring progress of unit activity and a centralized record of current activity. The unit chief can use such summaries to detect patterns of violations being considered, to coordinate investigations which overlap or are relevant to each other, and to determine unit policies by controlling the effort which is given to different areas of investigation. The weekly case load analysis procedure in one office, for example, involves a brief paragraph, generally four or five typewritten lines, about each active, inactive, and new investigation prepared by each investigator. Active cases are defined as being "1) In some current state of investigation; 2) Submitted to a Deputy District Attorney for issue or rejection; 3) In trial." Inactive cases are "1) Not investigated this reporting period (week) due to other priority investigations and the time limitation produced by active investigations; 2) Cases awaiting trial or settlement; 3) Cases awaiting victims, witnesses and other agen-

cies." New cases, either active or inactive, are set off from the others.

Preparation of the weekly caseload analysis is a matter of updating earlier information and is not a time-consuming activity. Cases which have been investigated, or which have changed during the week, are specially marked on the form, making possible a quick review of the week's activities, yet still leaving current activity within the context of a report on overall unit workload.

The unit chief, who receives a compiled version of each investigator's summary, can, in turn, prepare a biweekly or monthly report for the district attorney, detailing current progress and activity to assist in his policy leadership. The unit chief or others in the unit are also in a position to know in summary form the status of any investigation or case from the weekly reports.

A second, related, form of sharing and analyzing intelligence about offenses and patterns of offenses is to hold regular unit staff meetings to discuss current workload. Economic crime units in local prosecutor's offices are, as a rule, small enough that personal interchanges about particular cases or offenders can be informally carried out. It is, incidentally, for this reason that many unit chiefs argue that a cardinal rule of office location for the unit is to have everyone in the unit working together in adjacent offices, so that this informal interchange can take place.

The typical content of meetings held to review investigations and current intelligence includes conversations of the following sort: "I'm currently investigating a complaint about a merchandising scheme operating as Ace Food Freezer Plan, Inc. The salesman is John Doe. His name seems familiar; has anyone heard of him?" "I think so. I think he was a vice president of the pyramid franchise scheme I investigated last year. The attorney general's office should have a report on him." On the basis of such a discussion, the Food Freezer case would probably be elevated to a higher priority than it would otherwise have because there is evidence of a pattern of offenses by the individual complained against.

## Investigator-Prosecutor Relationship

In addition to the variety of means of using citizen complaints as sources of intelligence for economic investigations, and for identification of patterns of offenses from investigative leads discussed above, economic crime units have adopted different approaches to the organizational relationships between investigators and attorneys in the conduct of the investigations. The two primary forms of investigation can be called the sequential approach, and the team approach. Rarely, of course, is any actual investigation a "pure" form of one approach or the other.

The sequential approach is probably the most common investigative arrangement. Under this approach, the investigator consults with an assistant district attorney regarding initiation of an investigation, and after laying the groundwork, and probably direction of the investigation, acts on his own until he believes the investigation is completed. The investigation file is then turned over to the unit chief or trial assistant for review and further action. Of course, in practice there will always be at least intermittent consultation with attorneys during the investigative process, particularly in major or complex cases, but in general the investigation becomes the primary responsibility of the investigator until completed under this approach.

Under the team approach, an attorney and an investigator (at a minimum) work together from beginning to end on a case. This approach is definitely required on major investigations, particularly in which special investigative skills are needed. These skills might include accounting, expert mechanical experience, or computer expertise. Some units have been able to hire investigators with legal background who can serve as one-person teams, achieving the economy of effort of the sequential approach to investigations and the broad perspective of the team approach.

The role of the investigator and the investigative process is clearly central to the activities of an economic crime unit. Units can only benefit from careful and thoughtful consideration of the ways in which the capabilities of investigators can be used to the best advantage of the unit in achieving its long-range goals.



## H. Community Relations

An important element of the activity of an economic crime unit is the relationship which the district attorney establishes with the public with respect to his activity in the economic crime area. The importance of this relationship stems both from the mission of combatting economic crime and from the need for elected local prosecutors to be responsive and accountable to their electorate. Community relations is particularly important today when trust in public institutions and confidence in the responsiveness of public agencies are questioned. In the final analysis, investigation and prosecution of economic crime, the central mission of economic crime units in local prosecutors' offices, is public service; carefully designed programs of public participation and community relations can significantly enhance the ability of economic crime units to provide that service.

Community relations and public participation can take many forms, grouped here under two main headings: a) informing the public, and b) involving the public in operations and policy.

### Informing the Public

The public can be informed of its district attorney's activities in the area of economic crime in many ways. Whatever course is adopted, there should be general descriptions about the role and activities of the local district attorney in the area of economic crime and specific reports about ongoing schemes or abuses. The public should be given information about how to avoid victimization, and what to do if they become victims of economic crime. Victims and witnesses involved in specific offenses under consideration by the prosecutor should be informed about the disposition of their cases, and whenever possible should be given explanations of the reasons for dismissals, plea bargains, or other outcomes.

Virtually every unit chief is called upon as a public speaker sooner or later. Public speaking engagements have helped unit chiefs to think through the role of their units, encouraging them to detach themselves momentarily from day-to-day operations and to observe their activities and their role from an outside perspective. It is an opportunity to consider recommendations for

new legislation, and to tap citizen awareness of ongoing forms of economic crime. Public speaking can also generate consumer complaints or other leads on economic crime.

The penalty of accepting such engagements can be a burden on staff time, especially in a smaller unit in which there are few assistants and investigators to share such assignments. Some units have found it necessary to limit the number of speaking engagements accepted by their staffs.

A regular program of press releases by the district attorneys, announcing significant unit activities, will contribute to achievement of many of the objectives of a community relations program. Most unit chiefs have found relations with the press and other media very easy to establish. Economic crime news is eagerly sought by most reporters. Units with an aggressive public relations policy generally have a routine system of preparing press releases on major events, such as the returning of indictments or filing of cases. In some offices which have a full-time press official, standard forms are used to provide the essential facts for preparation of a release.

In addition to providing general exposure to the unit and its activities, regular press coverage can serve to inform the public about fraud schemes. It can help to develop public understanding and support for the district attorney's unit and its goals; and it may help to deter economic crimes by publicizing the fact of aggressive investigation and prosecution. Press and other media coverage of unit activities is also central to the process of generating the support and confidence of other agencies, and funding sources, to assist and sustain the unit. Similarly, these media relationships can be used by the unit chief to provide generous credit to other agencies which have assisted the unit in investigations, as discussed above with regard to liaison. Some prosecutors have also adopted a policy of using names in the press releases of unit staff such as investigators or assistant prosecutors who developed the case, as a recognition of their efforts.

Many units have developed ties with television and radio, including arranging for regular appearances to present information on types of economic crimes currently prominent in the community, or information relevant to public education about the deterrence of economic crime. Such media coverage has its strongest impact on alleged offenders who operate established businesses or other

practices in the community, and who cannot afford to acquire a bad public reputation. Economic criminals with no claim to legitimacy or stake in a particular community are relatively invulnerable to adverse publicity. They may be forced to move on, but they will not be deterred. Media publicity about investigations can educate the public and can sometimes assure compliance with the law by some offenders, but the district attorneys in the economic crime project are aware that there is substantial power in the use of the media which if used carelessly or improperly can destroy a firm or individual reputation.

Media coverage has been an effective avenue for dissemination of special informative bulletins about current schemes or practices. This public information technique was particularly adopted during the recent energy crisis to help smooth the disruption caused by the crisis, by emphasizing that public rules would be enforced and, where possible, to aid those citizens and businessmen most aggrieved by the crisis. An example of this activity in one unit was the publication of strong warnings that sale of motor fuel only to preferred customers was considered a violation of state law, and that fuel, which at the time was being rationed, had to be sold equally to all customers. The unit also stressed that it would entertain complaints about practices in violation of its interpretation of the law and that it would prosecute violators.

In addition to programs of public information about current schemes or unit activities, many district attorneys have prepared general information about economic crime for the public. One common form this takes is the publication of brochures, directed towards potential victims of consumer and economic crime. These publications typically include descriptions of the common types of consumer fraud or economic crime and what to look for in spotting them, a discussion of what a person should do if he or she suspects having been victimized or abused, and a list of agencies to which complaints can be directed or from which assistance can be obtained.

While most public information pamphlets are prepared for the consumer, they have also been prepared for the business community. These pamphlets generally emphasize economic crimes which commonly victimize businesses, such as passing worthless checks, embezzlement, charity fraud, or advertising frauds. In addition to listing agencies from which businesses can seek assistance if they

are victimized, the pamphlets often provide information about state laws on fraudulent or deceptive business practices, so that businessmen can be sure their own practices are legal with regard to credit advertising, use of trading stamps, deceptive pricing, and other practices.

To achieve the purposes both of the timeliness of regular public announcements and the educational value of a brochure, one unit has published a regular newsletter, distributed to local citizens and citizens groups, consumer protection agencies and other public agencies. A recent edition of the newsletter lists sources of help for consumer abuses and victimization from economic crime in the community, outlines several economic crime schemes which had recently been detected in the city and what to do if a citizen had been victimized, and summarizes state law about fair credit reporting. The newsletter also notes the time and channel when current "consumer alerts" are announced on television. The cost of preparing and distributing the newsletter, currently running seven pages, is estimated by the unit to be approximately 9¢ per copy, plus postage. The unit currently has a mailing distribution of 650 copies. The cost is supported by an LEAA block grant.

Direct public contact by an economic crime unit may involve significant costs. Part of the cost is the staff time required for preparation and presentation of the materials. A more substantial cost, for the unit which is not prepared, can be time and resources devoted to handling the substantial influx of citizen complaints which sometimes result from publicizing a particularly widespread scheme. One unit, after publicizing the indictment of 13 persons in a cemetery fraud, received 1500 complaints regarding the scheme in about a week.

Many units have participated in or initiated campaigns to educate their public generally about economic crime, employing various combinations of the approaches noted above. It is sometimes argued that the people most in need of protection, or self-protection, against economic crimes and consumer abuses are the ones least likely to be able to take advantage of educational opportunities and that education alone is unlikely to be effective in reducing victimization. Several economic crime units which have stressed public education argue, however, that the local prosecutor's office, particularly in smaller cities, can bring education directly to the local level with specific examples and early

warnings, and that such local education is more effective than national campaigns.

### Involving the Public

Greater stress is currently being placed on involving the public in all aspects of criminal justice including prosecutions. Economic crime units are exploring various ways in which such involvement can be related to unit activity, and to further the unit objectives. There are primarily three forms of such public participation: the use of volunteers within the units, which has already been discussed; the use of community centers and agencies as regular extensions of the unit, particularly for taking and handling citizen complaints; and the formation of a citizen advisory committee to assist the district attorney in establishing an economic crime prosecution program.

The use of established community agencies as an outreach program for contracting and aiding citizen complainants is achieved in several ways. One unit sends an investigator, on a regular schedule, to visit union halls on the days retired workers meet there, to take economic crime or consumer complaints and to learn about and discuss generally economic crime and consumer problems which are important to them. As noted earlier, another unit has established a program with both police community relations storefront offices and neighborhood poverty program centers, in which the unit trains the agency staff to handle consumer complaints. The training includes methods for identifying and servicing those complaints which require simply an intermediary to recommend appropriate adjustments, and to identify and send to the unit those complaints which describe potential criminal law violations. This program keeps many neighborhood matters at the neighborhood level, makes neighborhood leaders sensitive to the nature of and remedies for civil and criminal consumer and economic crime abuses, and provides a method of obtaining general information about patterns of abuses and complaints throughout the city. Again, one of the major costs of this approach is training and organizational time. It has the advantage, however, of combining the efforts of the prosecutor's office and community groups in a common endeavor without each organization losing its autonomy or becoming unduly vulnerable to controversial policies of the other.

Formation of citizen advisory committees to assist prosecutors in establishing prosecution priorities in the economic crime area is a less common practice than other forms of community outreach, although it has occurred in the context of overall prosecutorial activities. The intent of this approach is to assure a balanced, representative commentary from citizens speaking for groups who face victimization from various forms of economic crime, to help the district attorney direct his efforts into the most important areas. Generally there should be a special effort to include representatives from groups in the population particularly vulnerable to economic crimes generally, such as the poor, senior citizens, the technologically unsophisticated, and the poorly educated. Plans have been made in several units to make more use of such citizen advisory committees than has been the case in the past, and as such relationships develop they should be watched closely for analysis of the costs and benefits to the units.

### I. The Small Office

District attorneys' offices in less populous jurisdictions face special problems in establishing and operating an economic crime unit, which are not appropriately covered by the discussion above. These preliminary observations on the role of a small office in the area of economic crime are speculative, and are not based on examinations of small offices.

A precise definition of what constitutes a small office is difficult. Offices which appear small by some standards often seem large by others. For example, one of the units in the NDAA economic crime project, in comparison with other units in the project clearly qualifies as a small unit. Its county has less than two percent of the population of the largest jurisdiction in the project, and nine percent of the median population of the other units in the project. Yet that unit, compared to all prosecutors' offices in the country, is actually rather large. It is in a county which is larger in population than 88 percent of all counties in the United States. The office staff, four attorneys in addition to the State's Attorney, is larger than 74 percent of all local prosecutors offices in the country.\*

\* The estimate of the percent of all local prosecutors' offices

Consequently, it may not be appropriate to base detailed recommendations about small units on observations of economic crime units participating in the NDAA economic crime project. We would make a number of observations, however, in view of analyses which will have to be made in connection with the adopted office plan in the second project year.

Three considerations important to the setup and operation of a small unit are: (1) the ability to provide necessary staff levels, (2) the uses of liaison as a means of supplementing staff efforts, and (3) the stress placed on different types of remedies.

#### Staff Level

It is difficult to judge the appropriate size for an economic crime unit in a small office because most prosecutors' offices would clearly be unable to free the full time of even one attorney to deal exclusively with economic crime. It is probably highly desirable for an office which intends to make a commitment in the economic crime area to assign at least one person with full time available for unit operations, if at all possible. The unit may choose to assign such a full-time role to an experienced investigator, if only part of an attorney's time can be made available. If this is done, the unit may have to stress many remedies such as complaint servicing, citizen education, legislative proposals, and media exposure which can be managed by a non-attorney.

#### Liaison

Active and widespread use of liaison contacts is particularly essential to development of a program of economic crime investiga-

with fewer than four assistants is from the survey conducted by the NDAA National Center for Prosecution Management, reported in its First Annual Report, 1972, Appendix I. A larger estimate, of 86% of all local prosecutors' offices having fewer than four assistants, can be found in the Survey of Local Prosecutors: Data Concerning 1000 Local Prosecutors, prepared in 1973 by the National Association of Attorneys General.

tions and prosecution by small offices. These contacts can provide the equivalent of extended manpower for the unit and can be a source of specialized expertise that it is impractical for the unit to acquire on its own.

A small unit can often accomplish a great deal with limited resources by acting as the coordinating body for elements of an overall investigation carried out by other agencies. Examples would be situations in which the unit will lack technical expertise such as investigations which involve professional testing of products like gasoline or hamburger meat. In such investigations, assistance can often be obtained from laboratories in nearby universities or from a state agricultural department.

In particular, the small unit should seek liaison locally with the police, consumer protection agencies, Better Business Bureaus, and weights and measures officials. At the state level, liaison with the attorney general, and with state regulatory and licensing agencies is important. Success of liaison with state agencies by a small unit may be partially dependent on the size of the district attorney's jurisdiction compared to other jurisdictions in the state. For example, the smallest unit in the NDAA economic crime project is in the largest county in its state, which may account in part for the success it has had in developing liaison with state agencies. This is a question which should be examined more closely in the second year of the economic crime project.

Another matter calling for further examination is the potential for liaison by small units with federal agencies. A small unit may have greater difficulty attracting the attention and sustained cooperation of a federal agency than a unit representing a larger jurisdiction. Methods of encouraging and developing fruitful liaison between small units and federal agencies deserve particular attention as more and more small offices develop economic crime programs.

#### Remedies

The limitation of resources available to a small unit has an effect

on remedies which the unit is likely to stress in meeting its objective of combatting economic crime. Being tied up in even one lengthy case may bring to a halt all other investigations and programs.

Partly for this reason, the smallest unit in the NDAA Economic Crime Project developed programs which include public education, formulation of legislative recommendations, and a small scale complaint servicing and consumer ombudsman role, rather than emphasizing criminal prosecutions. A member of that smaller unit argues that community education programs are not only necessary in small units so that they can spread their services around, but that such programs have an effectiveness in small communities which might not be possible in larger jurisdictions. Because of the smallness of the community, a prosecutor can potentially learn about most ongoing schemes from citizen complaints. The utility of handling complaints is enhanced if citizens are informed both about the nature of economic crimes, and the availability of the district attorney's office to combat them.

District attorneys should be alert to the fact that the success of building a program around non-prosecutive remedies, such as complaint referral and public education, can only be achieved if the unit does not ignore its prosecutive responsibilities. Even though the mix of criminal and non-criminal remedies may be different in small units and larger ones, in all instances a balance of such remedies must be found which includes criminal prosecution.

#### J. Performance Evaluation

From the outset in the operation of an economic crime unit, it is important to maintain an informal process of monitoring ongoing performance of the unit. Such performance evaluation can contribute to budget justification efforts, to more effective administration of unit resources, to periodic review of unit policies, and to assessment of the value of particular prosecutive services to the community.

It is not necessary to make such an evaluation of activities a formal or cumbersome process. It can be done internally by unit personnel, either for use entirely within the unit or as a form of reporting to the District Attorney. Part of this process is a periodic assessment of the objectives and direction of the unit; part of it is a matter of keeping a record of what activities have been undertaken in a manner which illustrates the benefits of such activities.

Part of such record-keeping should be a systematic recording of ongoing activities and their known impact, as in compiling losses and restitution from servicing complaints, or simply in counting the number of telephone calls that are received from the public. Such record-keeping may involve description of more complex activities, such as lengthy criminal cases, in a capsulized format which makes review of past activities easy to undertake, and which facilitates reporting of unit accomplishments to the media or to other agencies. The key to meaningful performance evaluation, and to effective budget justification, is to relate to each other those two aspects of unit operations--goals on the one hand, and accomplishments on the other.

To the degree possible, units adopting these techniques have also taken steps towards monitoring the effect of their operations on the public. The most common method employed is to measure the amount of restitution obtained for victims; one unit has attempted, though with little success, to record certain factors about complainants such as race and income, to see if they are helping low-income and minority groups. This latter effort did not succeed because of reluctance of many people to provide such personal information. Nevertheless, we consider it desirable to continue to seek information on the types of people who request assistance from the prosecutor, if methods can be found which do not antagonize complainants or deter them from seeking assistance from the unit.

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