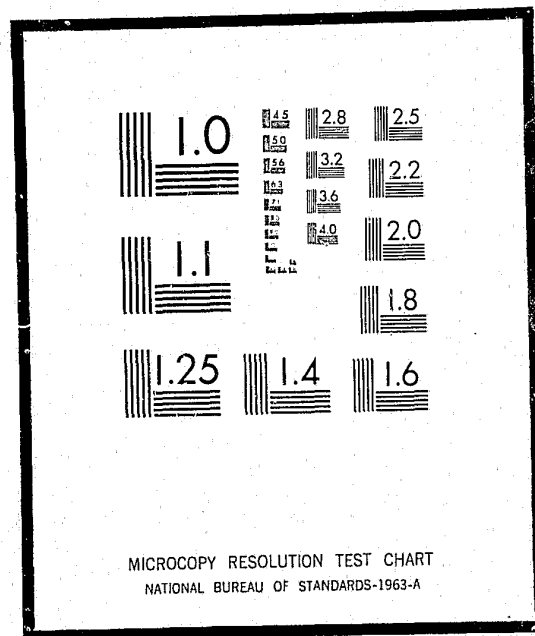


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Project Candidate
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ACQUISITIONS

Project Candidate:

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Bronx, New York

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EXEMPLARY PROJECT VALIDATION REPORT

Project Candidate:

Major Offense Bureau
Bronx District Attorney's Office
Bronx, New York

Submitted to:

Ms. Mary Ann Beck
U.S. Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement
and Criminal Justice
Washington, D.C. 20531

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1.0 Introduction

The Major Offense Bureau (MOB) of the Bronx County District Attorney's Office, New York, is a project which concentrates the resources of ten full-time Assistant District Attorneys on prosecuting the serious offender--the recidivists, the "career criminals," the especially violent or dangerous offenders. One of ten bureaus designed to specialize the functions of the District Attorney's Office, MOB was created as a response to three problems:

- (1) the increasing delays between the apprehension and trial of felony defendants in Bronx County;
- (2) the resulting loss of witnesses or effective testimony, and lack of continuity in case preparation; and
- (3) the belief that a relatively small percentage of offenders in Bronx County were responsible for a disproportionate share of the serious crime.

MOB staff are assigned specially screened major offense cases (excluding homicide, narcotics, rackets, and arson for which there are separate special bureaus within the District Attorney's Office) and are responsible for all stages of the prosecution--starting from an initial interview at the time of arrest, through Grand Jury indictment and ending in trial in cases where plea bargaining proves unsuccessful.

The Major Offense Bureau was visited by two Abt Associates staff members on April 5 and April 6. Ms. Carolyn Burstein of the National Institute accompanied the on-site team on the final day of observation.

This validation report incorporates information from the following sources:

- the project submission documents forwarded to the National Institute;
- a series of on-site interviews with MOB staff, District Attorney staff, judges, and defense attorneys;
- an LEAA publication and a National District Attorney's Association (NDAA) publication which deal with case screening and selected case prosecution.

A list of documents reviewed and persons interviewed is contained in the Appendix.

1.1 Project Development and Organization

The Bronx County District Attorney's Office is organized under the leadership of the District Attorney and one Chief Assistant District Attorney (see Figure 1). Each of the 10 separate bureaus of the District Attorney's Office are administered by a Bureau Chief and one or two Deputy Bureau Chiefs. The MOB has one Deputy Bureau Chief. In addition to the major bureaus, the D.A.'s Office also has staff assigned to the Supreme Court Calendar Control Part, a part reserved for non-trial matters, including arraignments, motions and hearings,* and a special Early Case Assessment Project which works in conjunction with MOB's own early screening program. In total, the Bronx County District Attorney's Office employs roughly 300 employees.

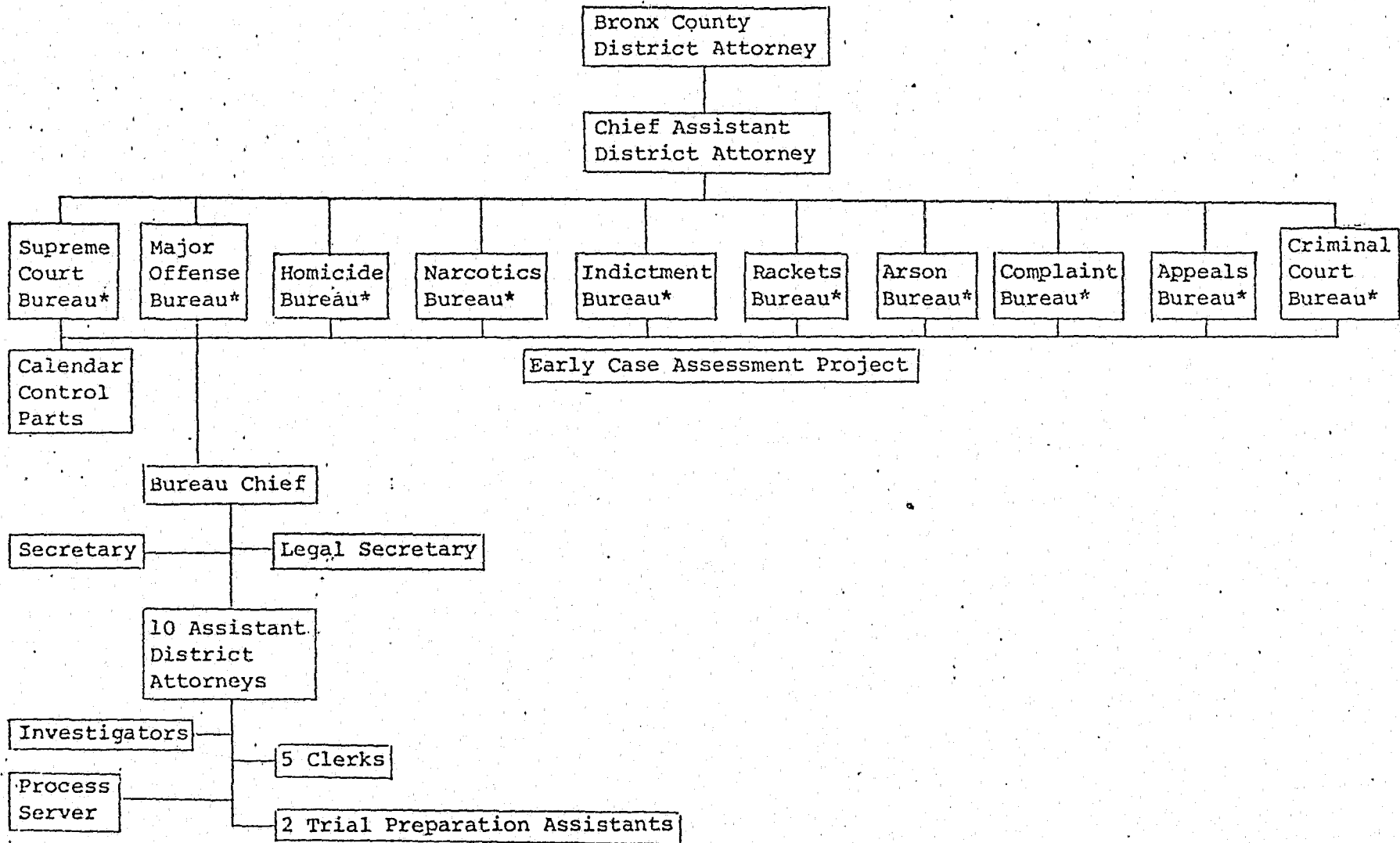
When the new District Attorney for Bronx County took office in January of 1973, a person who was arrested and indicted in Bronx County had to wait 24 months or more in jail before his case could be litigated. This situation encouraged the imposition of extremely low bail, promoted a high incidence of bail jumping, and increased the probability that the serious offender would commit new crimes while awaiting disposition of outstanding charges. Moreover, the long delays substantially diminished effective prosecution of the cases--witness availability decreased or they could not accurately recall events, witnesses lost their interest in the case or became reluctant to become reinvolved after such long delays, and the case became weakened as it might be handled by a number of Assistant District Attorneys, each forced to re-work the contents of the file he received. Finally, in order to deal with tremendous caseload pressures, more than 90 percent of all matters were being disposed of by plea or dismissal.

The Bronx District Attorney believed that through proper intake control, comprehensive case preparation, full disclosure practices, and strict guidelines on plea bargaining determinations, the "persistent felony offender would receive just and certain punishment" and the system would finally begin to provide regular assurance of a speedy trial. The Major Offense Bureau, as a trial bureau, fully prepares each case so that the prosecution is actually ready for litigation at the time of arraignment.

In order to secure the necessary manpower to initiate action against major offenders, the District Attorney applied for a grant from the Law Enforcement Assistance Administration. An award was made in April, 1973, and, following three months of preparation, the first MOB case was filed in July.

* The judicial terminology used in New York is sufficiently unique to cause confusion. The reader should be mindful of the fact that the Supreme Court is not the highest court in New York but rather is a trial court of original jurisdiction (in many jurisdictions, its counterpart is Superior Court). Also, "part" refers to a judicial session.

Figure 1: MOB Organization Chart



* Each Bureau is administered by a Bureau Chief and one or more Assistant Bureau Chiefs.

During the preparation and planning phases, the District Attorney appointed a MOB Bureau Chief to head the effort. The Bureau Chief contracted for the services of the National Center for Prosecution Management, the research arm of the National District Attorney's Association. The Center assisted in the development of a numerical case screening and evaluation system and a case record system which would insure that the appropriate cases were identified for MOB assignment and thoroughly documented.* Formal guidance and control procedures over intake and case screening were also established to frame the assessment of each case. Cooperation from the New York City Police Department, the Housing Authority Police, and the Transit Police was formalized by directing the arresting officer to notify the District Attorney's Office immediately upon the arrest of a person charged with committing a "serious crime," so that investigation and case preparation could begin immediately.

Early and complete case preparation might have no impact on pre-trial delay without immediate availability of an adequate forum. Recognizing this, the District Attorney successfully negotiated with the Administrative Judge of the Supreme Court (the felony trial court in New York) so that the Appellate Division of the State Supreme Court designated (in September 1973) two trial parts (sessions) and three judges for the exclusive litigation of Major Offense Bureau cases. Thus, MOB cases are not subject to the calendar delays that currently exist for other felony cases in the Bronx.

MOB cases are assigned to one of ten Assistant District Attorneys. The Bureau Chief does not carry a caseload and concentrates his attention on supervising staff and providing technical assistance in the preparation and prosecution of more difficult cases. The Major Offense Bureau also has a non-legal staff of two trial preparation assistants, one detective investigator, one process server, one legal secretary, five clerks, and one clerical secretary. Attorneys who serve with the Major Offense Bureau are selected by the Bureau Chief primarily from the Criminal Court Bureau, or main trial bureau, of the District Attorney's Office.

The highly specialized nature of MOB efforts requires that the Assistant District Attorneys be relatively experienced, or more senior, attorneys. By-and-large an attorney will not be selected for MOB assignment unless he has served at least one and a half or two years in another bureau of the District Attorney's Office. The MOB Bureau Chief attempts to avoid "creaming" the best attorneys from other divisions in the staff selection process, but the District Attorney has given the MOB Bureau Chief a relatively free hand in selecting staff across other bureaus. As a result,

* Appendix C contains copies of the case evaluation and case management control forms.

the MOB attorneys generally tend to be among the most experienced attorneys in the District Attorney's Office.

Since the attorneys working in MOB are relatively experienced, there is no formal training program. New attorneys are oriented by the Bureau chief and are generally assigned some of the most difficult cases early in their tenure. The Bureau Chief believes that the strategy of assigning difficult cases to new attorneys helps acquaint them with the nuances of their jobs quickly and thoroughly. Since the MOB staff work closely and frequently (although informally) meet as a group, training is largely accomplished on-the-job by peers.

1.2 Case Management

The major thrust of MOB is to (1) establish a means of identifying cases which require special prosecutorial attention because they involve a recidivist defendant or a particularly violent crime, and (2) to push for a speedy disposition that will result in a high number of convictions and long sentences.

Once cases have been identified as MOB targets (cf. Section 1.2.2), they are indicted, arraigned and tried (if necessary) in a manner similar to other felony cases handled by other bureaus of the District Attorney's Office. The primary distinction is that the dispositional process is telescoped into a dramatically shorter time frame, and the case is tried in one of the two felony parts which are set aside solely for the disposition of MOB cases. The following sections describe the essential components of MOB case processing.

1.2.1 Notification

The early involvement of an Assistant District Attorney in the major offense case is critical to MOB's performance. Traditionally the complaint room of the Bronx District Attorney's Office was where an Assistant Prosecutor handled all initial charging decisions and reviewed the facts of each case with the witnesses and police officers. The Assistant Prosecutor would complete a folder on the case with a recommendation for referral to the grand jury, a diversionary program, or other appropriate action. Prior to MOB, the Assistants who worked on complaint room duty lacked felony trial experience and were relatively new to the District Attorney's Office.

With the advent of the MOB and the Early Case Assessment Project of the District Attorney's Office,* Assistant Prosecutors were replaced in the complaint room with clerks who provide 16-hour-a-day coverage, seven days a week. One Assistant District Attorney is also on-call 24 hours a day. The Assistant carries an electronic "beeper" which is a signal receiver to insure that he can be immediately contacted by the clerks in the event any case is likely to be of MOB concern.

Assistant District Attorneys assigned to MOB receive notifications either from the complaint room clerk or directly from the New York City Police Department, the Housing Authority Police, or the Transit Police by way of an emergency phone number which hooks directly into the Office of the District Attorney. Notifications are made by the police immediately upon apprehension. The circumstances which require immediate notification by police to the District Attorney's Office are the following:

- Robbery arrests when
 - defendant was armed with a firearm, or
 - assault occurred and the victim required hospitalization (other than treated and released), or victim received multiple wounds, or victim received numerous stitches, or
 - defendant has been identified as having committed a series of robberies.
- Attempted murder or serious assault arrests when
 - victim is shot or has received multiple stab wounds which require hospitalization (other than treated and released), or
 - a police officer is the victim of a shooting or stabbing, NOT AN ATTEMPT.
 - DO NOT notify the District Attorney of assaults between members of the same household, family or commonlaw, UNLESS VICTIM IS LIKELY TO DIE.
- Burglary arrests when
 - committed in a dwelling and there is no prior relationship between the defendant and the complainant and the burglary is coupled with a sex crime, assault, or robbery, or
 - when the defendant has been identified as having committed a series of burglaries from dwellings.

* The Early Case Assessment Project (ECAP) is another special unit of the District Attorney's Office which concentrates on early case screening and assignment. The cooperation between MOB clerks who perform the initial screening function for MOB and ECP clerks has evolved into a highly efficient screening process for all cases. Currently, both units utilize the MOB case evaluation worksheet in screening.

- Arson arrests when
 - a fire of considerable proportion results in the serious physical injury of an inhabitant, or
 - there is considerable damage to a building.
- Kidnapping arrests when
 - committed for sexual, monetary or political reasons and the persons are unknown to each other.
- Rape or sodomy arrests when
 - force or threat of force is used and the parties are unknown to each other.
- Child abuse arrests when
 - a child under seven (7) years of age is tortured or receives serious physical injuries.
- Any arrest when
 - there is considerable community or public interest in either the type of crime committed or the defendants, or
 - a prominent person is involved, or
 - there is a likelihood of extensive media coverage, or
 - defendant wishes to make a statement to District Attorney relative to a felony case, or
 - a police officer, under any circumstances, shoots another person.
- Homicide arrest or investigation (at discovery of body) when
 - a victim of a crime is likely to die or is dead.

Clerks also periodically telephone the Police Department Emergency Notification Unit--a special police unit designed to quickly screen and access cases for referral-in case the individual officer failed to notify the District Attorney's Office. By and large, however, the most common form of notification for MOB cases occurs when the arresting officer simply brings the witnesses to the complaint room of the criminal court so that a complaint can be drawn by the regular Assistant District Attorney on duty. In the complaint room the MOB clerk completes a MOB case evaluation form and, if appropriate, alerts the on-duty MOB Assistant District Attorney.

Since the beginning of MOB, the case evaluation procedure has been performed on all cases referred to the District Attorney's Office. MOB, in concert with the Early Case Assessment Project, attempts to insure that the referral of cases to each of the 10 bureaus of the District Attorney's Office is consistent and timely.

1.2.2 Screening

The screening approach employed by the MOB and devised by the National Center for Prosecution Management attempts to remove the element of subjective evaluation in selecting cases for special prosecutorial attention.* Under this system a case is evaluated using a numerically weighted set of criteria. The criteria assess four essential aspects of each case:

- the nature of the crime charged;
- the heinousness of the offense--based primarily on the extent of personal injury and property loss or damage;
- the propensity of the defendant to commit additional violent crimes--based primarily on the nature of his prior criminal record and background; and
- the strength of the case--based primarily on the facts and evidence available.

A Major Offense Bureau clerk utilizes the Case Evaluation worksheet, exhibited on the following page, in deriving a ranking score on each case. Points are accumulated given the nature of the case, the nature of the defendant, the extant conditions surrounding the case, and supporting evidence. If the felony committed is a Class A felony (felonies punishable by 25 years to life imprisonment), 20 points are needed in order to trigger a phone call to an Assistant District Attorney. If the felony committed is a Class B felony (felonies punishable by 15 to 25 years imprisonment), 15 points are needed. Regardless of the number of points derived on the case, immediate referrals are made to the District Attorney's Office in cases which involve forcible sexual offenses between unrelated parties, arson where there is substantial damage or high potential for injury, child abuse involving children seven years of age or under, and cases involving multiple robberies or burglaries.

The institutionalization of effective case evaluation and screening procedures concentrated early attention on isolating the recidivist--or "career criminal"--as well as monitoring the flow of cases into the District Attorney's Office so that only the most serious offenders are selected for prosecution. In addition, instituting an objective procedure for case assessment was intended to preserve the integrity of the District Attorney's Office and to raise MOB above accusations of uncontrolled selective prosecution.

* The National Center was selected for this task because of their prior involvement with the D.C. Government Office of Crime Analysis, which initiated the prototype prosecutorial information system known as PROMIS for the Superior Court Division of the U.S. States Attorney Office in Washington. The case weighting systems developed initially for PROMIS were modified for the Bronx MOB. The Bronx system differs from others previously developed in that it objectively considers the evidentiary strength of each case.

BRONX CASE EVALUATION

DOCKET NO. _____ INDICTMENT NO. _____

PEOPLE v. _____ CHARGE _____ DATE _____

Please record those points which apply to your case. Where there are multiple defendants, compute a base on the defendant with the most serious offense(s).

A. NATURE OF CASE

	check if applicable	pts.
VICTIM one or more persons	<input type="checkbox"/>	2.0
VICTIM INJURY received minor injury	<input type="checkbox"/>	2.4
treated and released	<input type="checkbox"/>	3.0
hospitalized	<input type="checkbox"/>	4.2
INTIMIDATION one or more persons	<input type="checkbox"/>	1.3
WEAPON defendant armed	<input type="checkbox"/>	7.4
defendant fired shot or carried gun, or carried explosives	<input type="checkbox"/>	15.7
STOLEN PROPERTY any value	<input type="checkbox"/>	7.5
PRIOR RELATIONSHIP victim and defendant - same family	<input type="checkbox"/>	-2.8
ARREST at scene	<input type="checkbox"/>	4.6
within 24 hours	<input type="checkbox"/>	2.9
EVIDENCE admission or statement	<input type="checkbox"/>	1.4
additional witnesses	<input type="checkbox"/>	3.1
IDENTIFICATION line-up	<input type="checkbox"/>	3.3
TOTAL CASE SCORE	_____	

B. NATURE OF DEFENDANT

FELONY CONVICTIONS one	<input type="checkbox"/>	9.7
more than one	<input type="checkbox"/>	18.7
MISDEMEANOR CONVICTIONS one	<input type="checkbox"/>	3.8
more than one	<input type="checkbox"/>	8.3
PRIOR ARRESTS - SAME CHARGE one	<input type="checkbox"/>	4.5
more than	<input type="checkbox"/>	7.2
PRIOR ARRESTS one	<input type="checkbox"/>	2.2
more than one	<input type="checkbox"/>	4.2
PRIOR ARREST-WEAPONS TOP CHARGE more than one	<input type="checkbox"/>	6.4
STATUS WHEN ARRESTED state parole	<input type="checkbox"/>	7.1
wanted	<input type="checkbox"/>	4.2
TOTAL DEFENDANT SCORE	_____	

C. REFER TO M.O.B. IF ANY OF THE FOLLOWING CONDITIONS APPLY:
(check those applicable--offense is most serious charge)

FORCIBLE SEXUAL OFFENSES BETWEEN UNRELATED PARTIES

ARSON WITH SUBSTANTIAL DAMAGE OR HIGH POTENTIAL FOR INJURY

CHILD ABUSE, CHILD SEVEN OR UNDER

MULTIPLE ROBBERIES OR BURGLARIES

D. SUMMARY INFORMATION

NO. OF VICTIMS _____

received minor injury

treated and hospitalized

hospitalized and/or permanent injury

law officer

attempted murder of officer

WEAPON

gun

knife

bomb or explosive

other _____

BURGLARY

night-time

evidence of forcible entry

Church, School, Public Bldg.

no. of premises burglarized _____

VALUE OF STOLEN PROPERTY recovered not

<input type="checkbox"/> under \$250	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> \$250 to \$1499	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> \$1500 to \$25,000	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> over \$25,000	<input type="checkbox"/>	<input type="checkbox"/>

PRIOR RELATIONSHIP

other family

neighbor

friend

acquaintance

other

IDENTIFICATION

photograph

on or nearby scene

other

no. of persons making I.D. _____

time delay of I.D. _____

SUPPORTING EVIDENCE

crime observed by police officer

fingerprints recovered

E. DISTRICT ATTORNEY'S EVALUATION

TOTAL SCORE _____

RANKING CLERK _____

A.D.A. NOTICED yes no

ACTION BY A.D.A.:

accepted furthered

rejected referred to M.O.B.

reasons: _____

1.2.3 Acceptance and Disposition

Once the MOB Assistant District Attorney on call has been notified of the occurrence of a serious crime he makes contact with the duty clerk. After a quick determination of the appropriateness of the case for MOB (based on the results of the case evaluation), the attorney contacts a special stenographer (who is also on-call 24 hours each day). The stenographer and the attorney immediately go to the central booking station in the Bronx to interview officers, to insure that all evidence has been legally obtained and is complete, to direct laboratory tests or photographs, to direct line-ups, and to interview the defendant and each witness. During these initial interviews all witnesses are immediately served with Grand Jury subpoenas and a schedule for appearance is established. Arrangements are normally made so that all MOB cases can be heard by a Grand Jury within 24 hours of arrest. In non-MOB cases, it usually takes about one month to reach the Grand Jury.

Once all witnesses and police officers have been interviewed, the assistant meets with the defendant and asks if a statement can be taken. Because a number of these interviews have resulted in confessions, the MOB has also instituted a new procedure for video-tape recording of defendant interviews. All defendants are made aware of their constitutional rights and are given the opportunity to refuse recording the interview.

The final case acceptance decision is not made until all the facts of the case have been recorded and a criminal record check has been performed. At that point, the Assistant District Attorney who conducted the initial interviews determines whether to accept the case for MOB prosecution. If the case is accepted, the same Assistant Attorney will handle the case through disposition.

If the case is accepted, the Assistant District Attorney proceeds from the central booking station to the Criminal Court where he directs the filing process and personally handles the preliminary arraignment, which includes a bail recommendation. The same District Attorney will also present the case to the Grand Jury. To increase the speed and efficiency of the indictment process, magnetic tape typewriters are used to prepare the formal indictment, which is then presented for signature and filed with the court. This procedure was instituted to reduce waiting time in the Grand Jury and to insure that the victim need only tell his story once and deal with only one Assistant District Attorney all the way through disposition.

Frequently a Grand Jury hearing can be held the same day the Assistant files for a hearing appointment. The usual procedure, however, is to have the Grand Jury hearing within three days of arrest and the indictment drawn and handed up to the Supreme Court the same day the jury votes a true bill.

Following indictment by a Grand Jury, a date is set for arraignment. To expedite the case, the policy of the District Attorney's Office is to offer a plea at the earliest possible moment. Plea negotiations are an important part of the MOB approach. The offered plea is established at a conference between the Assistant District Attorney handling the case and the MOB Bureau Chief. Based on internal MOB guidelines, the offered plea is always either the top count of the indictment or one count below. Thus the scope of plea bargaining is severely limited, insuring that, even when accepting a plea, the defendant's record will accurately reflect the nature of his offense.

When the plea is offered, the defense attorney is invited to discuss all the evidence of the case. Consistent with the full disclosure policy of the District Attorney, the conference allows the defense attorney access to all the information available to the prosecuting attorney. If, at this time, the defendant does not accept the plea, a date is set for trial.*

Once proceedings begin, the MOB District Attorney will not entertain defense overtures to reconvene plea negotiations. This fact is made clear at the original conference when the weight of the prosecution's case is made known. If the defendant does choose to "take his chances" with a jury, he is locked into his commitment and cannot reconsider based on the conduct of the trial (the usual defense tactic).

From July, 1973, through January, 1975, MOB accepted 733 indictments for prosecution covering 1,087 defendants. The yearly totals for MOB break down into the following:

<u>Year</u>	<u>Cases</u>	<u>Defendants</u>
1973	141	206
1974	339	513
1975	253	368

A summary of MOB's total caseload in contrast to the caseloads of other bureaus in the District Attorney's Office is presented in Appendix D. As that summary indicates, in 1975 MOB's caseload accounted for roughly 13 percent of the total number of defendants processed through the office.

* The rules of the First Judicial Department of the Appellate Division of the State of New York prohibit the trial of a case within thirty days of arraignment without the defendant's consent. Thus under the speediest of circumstances, the first five weeks of every case must be considered its period of gestation.

2.0 Selection Criteria

Having provided a descriptive overview of the Bronx Major Offense Bureau, this section discusses the project against each of the five exemplary project selection criteria.

2.1 Measurability

Given MOB's aim of effective selection, quick processing, and successful prosecution (with resulting high sentences) of serious offenders, the major issues in measuring the bureau's goal achievement are the following:"

- How effective is MOB in identifying and selecting the caseload which meets the criteria established by the project?
- How effective has MOB been in accelerating the processing of its cases?
- How effective has MOB been in obtaining convictions and insuring that defendants receive appropriate sentences?

Statistics are available on project operating characteristics relating to each of these three questions. The project records the number and types of cases screened into the project, elapsed time for each stage of prosecution, number and type of pleas obtained, conviction rate, and type and range of sentence. These statistics can be viewed as a measure of the combined effects of selection, acceleration, and case preparation. Because selection is one of these components, there is no way to infer from these statistics alone whether there is any net impact in the total Bronx caseload. A difference between MOB cases and others may simply mean that MOB has selected those most easily processed or most promptly convicted. If MOB could be compared to a control group of cases from the Bronx which are identical to MOB cases in every respect, except that they are not prosecuted by a MOB Assistant District Attorney, the effect of selection could be isolated from the presumed effects of swifter and more thorough prosecution.

In fact, MOB has attempted to establish a pseudo-control group comparison. Each month the MOB project selects cases from the regular caseload files of other bureaus within the District Attorney's Office. Comparison cases are matched with MOB cases with the same date of offense, type and class of offense, and number of defendants involved in the case. There is, however, an inherent flaw with this comparison group. The selection of

the comparison group follows all case screening and assignment of cases to the D.A.'s Office. Since MOB cases have already been screened and referred, the comparison cases clearly have been determined to be either (1) not serious enough or sound enough for MOB treatment, or (2) not involving a recidivist defendant who would qualify (under MOB's evaluation system) as a career criminal. That is, since MOB's screening criteria not only weigh seriousness but also soundness of case,* MOB's cases are more likely to be prosecuted successfully than the bulk of cases falling in the comparison group. Any resulting comparison of cases rejected by MOB screeners with cases which meet the criteria of severity and probable successful prosecution clearly fails to provide adequate statistical control for characteristics of the case directly related both to mode of selection and to outcome measures.

This incomparability is a consequence of the perennial dilemma between full treatment of all eligible cases and ability to predict what would have happened in the absence of such treatment. Only by sacrificing some of its selectivity in screening cases for MOB, prosecution could a reliable control group be constructed. Since the project's primary concern is insuring that these major offenders are successfully prosecuted, and since the resources of MOB are necessary to insure this, the assignment of MOB cases outside the bureau for statistical purposes represents a compromise certain to meet resistance from the District Attorney, other bureaus, and certainly MOB staff.

This source of bias is more grave in comparing conviction rates than in evaluating the effects on processing times, since the selection is more directly related to probability of conviction than to delays in system handling. In general, process measures which reflect only the actions of MOB as compared to those of other prosecutors can be reasonably interpreted by using the reference group selected by the bureau as a standard. Measures likely to be influenced by case characteristics, by contrast, are not to be so easily compared.

2.2 Goal Achievement

The ability of the Major Offense Bureau to reduce the incidence of major crime by successfully prosecuting the career criminal is dependent on the accomplishment of three primary objectives:

- To carefully screen major felony cases and select those cases which are perpetrated by the recidivist defendant

* See the Case Evaluation Sheet, Section A, where time and place of arrest, the nature and amount of evidence, and the presence of a positive identification are weighted in favor of MOB selection.

and which have a relatively high probability for successful prosecution and concomitant lengthy incarceration:

- To carefully prepare each case by assigning a single assistant prosecutor to be responsible for all aspects of trial preparation, beginning with interviewing the defendant and witnesses, collecting and vouchering physical evidence, subpoenaing and filing criminal, medical, and other official records, and making grand jury presentations, arraignment conferences, and other necessary appearances through complete case disposition; and
- To speedily process each case by utilizing separate trial parts for the exclusive disposition of MOB cases and by adhering to a full disclosure policy which encourages early conferences between defense counsel and prosecution and which pushes for the defendant to take advantage of the prosecution's readiness for a speedy trial.
- To adhere to a limited scope in plea bargaining by making plea offers which never exceed one count lower than the original charge (or, in the case of multiple charges, the scope of bargaining is determined by the most serious charge) and which often result in recommending to the court maximum sentencing.

Each of these three objectives is discussed separately in the following sections.

2.2.1 Screening and Case Selection

Identifying appropriate cases for "MOB treatment" is central to the project's ability to accomplish its major goal. The case evaluation procedure used for this purpose appears to offer an objective, consistent means of selecting prosecutable major offense cases.

During the course of the site visit, the Bronx Public Defender's Office did, however, suggest that MOB is not identifying such a class of offenders, and that the defendants that do get selected are, therefore, unduly punished. Specifically, these objections are based on one of two arguments: either that a less dangerous co-defendant suffers by his inclusion in a MOB case, or that MOB cases are chosen with greater emphasis on the weight of the evidence than the weight of the crime. As discussed below, neither of these objections is convincing.

In cases which involve co-defendants, one of whom is less of the "career criminal" type than MOB is designed to handle, defense attorneys have suggested that the co-defendant may receive more severe treatment than he might otherwise in another trial part of the Supreme Court. In some cases co-defendants may have criminal records and be involved in indictments which are quite dissimilar. Nonetheless, since they are processed as a "case," a defendant who might not otherwise be selected by MOB for prosecution becomes a MOB case by virtue of his involvement in the case.

MOB prosecutors respond to this criticism by stating that co-defendants who are obviously not the career criminal and are present only because of association with a more serious defendant actually receive more lenient treatment than they would in another trial part because they are, by comparison with the other defendant, not very serious. Moreover, since the co-defendant was involved in the commission of a serious felony with a recidivist felon, the circumstances of the crime and the association mitigate against the removal of the entire case from MOB consideration as a way of protecting the defendant from the possibility that harsher treatment may result from MOB involvement. Although comparative data are not available to resolve the debate, the concern for co-defendants is not persuasive for two reasons: first, it is premised on the unfounded notion that the sentencing judge will ignore the less serious individual in favor of the other; and, second, it ignores the fact that the co-defendant, if he reaches the sentencing stage, was guilty of the commission of a relatively serious offense.

Beyond the importance that the screening mechanism for MOB correctly identify the serious "career" criminal for MOB prosecution, the screening process must also take into account the relative probability that the case can be successfully prosecuted. This intentional focus on prosecuting fairly "good" cases is reflected in a section of the Case Evaluation Form which, among other considerations, weighs each case according to criteria related to "Strength of Case." Factors such as prior relationship, positive identification, weapon recovery, property recovery, arrest at the scene, and other scientific or incriminating evidence are all taken into account before a case is accepted as a MOB case. However, these factors alone cannot result in the case being selected by MOB, as the numerical value of such criteria is insufficient.

Since one of the objectives of the project is to develop a strong reputation with regard to convictions and harsh sentences, the need to focus on cases with relatively high conviction possibilities is not unrealistic. Moreover, the cases prepared by MOB are intentionally made strong by the diligent preparation of the Assistant District Attorney assigned to the case. The selection of the case, therefore, is not based entirely on the immediate strength of the case but rather takes into consideration the potential for preparing a strong case and bringing a conviction if promptly and properly developed.

Finally, it must be remembered that MOB is but one bureau of ten within the Bronx D.A.'s Office. Its particular mandate is to insure swift and sure prosecution to a defined area of cases amenable to removal from the hindrances and implications of long delays and the usual range of plea bargaining. Cases that are thus screened out of MOB because of a lower likelihood of conviction are neither ignored nor dropped. They are simply not the subject of MOB's particular, but limited, resources.

2.2.2 Case Preparation and Trial Readiness

The Bronx Major Offense Bureau Chief maintains that case preparation and trial readiness are the keystones to successful case prosecution. Not only are better prepared cases stronger cases, but better prepared cases offer benefits in time saved by the police, courts, and witnesses. The Bronx District Attorney emphasized his own commitment to better case preparation when he mandated a decrease in felony indictments by 42 percent at the end of 1974. The bulk of the initial cutback in felony indictments was the result of a no-indictment policy relative to bail jumping and welfare fraud offenses. The decision to cut back in these areas was precipitated not only by the relative lack of seriousness, but also the availability of alternative remedies. Bail jumping can result in incarceration without the additional charge, and welfare fraud is being successfully dealt with through a civil restitution program. The effect of decreased indictments was to enforce greater attention on developing solid cases and focussing resources on "serious" crime.

Several features of MOB's project design reflect the importance of careful case preparation and trial readiness. The assignment of a single attorney to handle the case from arrest through disposition lends continuity to case preparation which avoids the common problems of "attorney read-in" at critical stages in the proceedings, of witnesses having to tell their story over and over, of links which disintegrate with each new attorney involved in the case. The use of video tape to record confessions and careful case documentation procedures also insure thoroughness at each step in case development. Judges interviewed for this validation indicated that MOB cases are usually better prepared than most cases heard at that level. One additional effect that this type of preparation has engendered, according to both judges and D.A.s, is that defense counsel are also forced to prepare more diligently, thus providing an additional guarantee of a fair trial.

At the end of two years of operation the MOB had established a 90-day average time span from arrest to sentencing. This contrasts to the processing average for other felony defendants of 400 days to sentencing. Moreover, MOB reports that 99 percent of the indictments are voted and presented to the Supreme Court within three days of arrest, in contrast

to the ordinary procedure (used with control cases) which takes as long as four weeks. MOB's ability to cut processing time and to expedite their cases is further magnified by the fact that an unusual number of MOB's cases obtain 60-day delays for psychiatric examinations.

MOB currently claims that they are able to research and document cases so that prosecution is ready for trial immediately following the mandatory conference between defense and prosecution (at the time of arraignment). This increases the likelihood of an early trial and compares favorably to the common practice of completing case preparation just prior to the trial date. MOB's preparedness of cases dictates the scheduling of an early trial rather than the trial date dictating when the prosecution will begin case preparation. Certainly the achievement of MOB in expediting cases is, in no small part, due to the project's initiation of two separate trial parts for the exclusive attention to MOB cases. When MOB was begun in 1973, there was a 16-18 month backlog of untried Supreme Court cases. Currently MOB faces no backlog.

It is also important to point out that efficient case processing substantially reduces the amount of time a defendant is "at risk." Judges are much more likely to set high bail requirements when they are assured that the defendant's case will quickly mature to disposition. Thus, rather than the possibility of being at risk to the community for 16-18 months, the MOB defendant is typically not at risk at all; furthermore, even when the defendant is able to make bail, the risk time is shortened to about three months because of MOB's accelerated case processing.

2.2.3 Plea Bargaining and Sentencing

The MOB has been able to adhere to its strict guidelines concerning plea negotiations--accepting only pleas to the highest charged offense or to a plea at one count lower. The ability of the project to maintain plea negotiation standards is, in no small part, linked to the preparation of "solid" cases. When the prosecutor lays open the evidence (under the full disclosure practices of the D.A.'s Office), there is full confidence that the strength of the case will guide the plea negotiations. Therefore, MOB prosecutors are severely limited in the permissible scope of plea bargaining. Prosecutors are forbidden to offer any defendant a plea lower than one interval on the scale of seriousness and no further bargains can be made (if the original plea offer is rejected) once the trial begins. In many cases, the only offer made to the defendant is that of a plea to the most serious charge. Over 90 percent of MOB's convictions were for felonies at the same level of the original charge or one interval lower.

The following table breaks down the disposition of defendants handled by MOB and defendants in the control group from July, 1973, through December 31, 1975.* Of the 944 defendants disposed of by MOB, 864 defendants (representing 611 indictments) were convicted. Of these, 504 defendants were convicted of the top count of the indictment. Therefore, MOB's overall conviction rate--including the 41 defendants with cases which are pending sentencing--was 92 percent. Although the two groups are not strictly comparable, (as discussed in Section 2.1), not one defendant in MOB's comparison group has been convicted of a Class A felony, and only 23 have been convicted of Class B felonies. Moreover, only 33 defendants in the comparison group were convicted of the top count. By-and-large, cases disposed of by MOB are two grade levels above those dispositions in the comparison group.

The limited scope of plea negotiation has other obvious implications on the latitude of plea decisions for the defendant. In instances where the prosecutor enters plea negotiations asking for a plea to the top count, the major element for negotiation becomes one of sentencing recommendations. If a defendant is willing to plea to the top count, prosecution will offer to recommend to the court a difference in the minimum number of years for sentencing. If the defendant goes to trial and is convicted, the prosecution will recommend the maximum sentence on the lower end of the scale. For example, if the defendant pleads to the highest count, the prosecution may recommend 8-1/3 to 25 years; if the defendant is convicted after going to trial, the prosecution may recommend 12-1/2 to 25 years. Obviously, from the defendant's point-of-view the negotiation over the minimum (which is linked to when the defendant is eligible for parole) is often sufficient incentive to plea to the highest count and avoid a trial.

In addition, MOB's tough record on convictions in cases going to trial encourages early pleas. As of December 31, 1975, 161 cases, involving 207 defendants, were brought to trial. During trial, 86 defendants pleaded guilty to the charges. Of those remaining, 95 were found guilty, 16 were acquitted, 2 were dismissed by the court, 2 were in process of trial, and 6 were awaiting retrial. Accounting only for those defendants who pleaded guilty or were found guilty, the MOB obtained a conviction rate of those defendants brought to trial of 87 percent. During the same period, 81 control group defendants were brought to trial; 31 were acquitted, 33 were convicted, 6 pleaded guilty, and 3 are awaiting retrial, while 8 were dismissed. This represents a conviction rate of those control group defendants brought to trial of 48%.

* The total number of defendants in the control group is not exactly equivalent to the total number of MOB defendants as some controls get "lost" due to the dramatically slower disposition of their cases. In general, extremely accurate case-by-case dispositional records are kept, but aggregate statistical summaries suffer from occasional error, so that the totals on numbers of defendants or numbers of total indictments may vary slightly.

Defendants from July 1, 1973 through December 31, 1975

	<u>Major Offense Bureau</u>	<u>Control Group</u>
<u>Felony Convictions:</u>		
Class A	3	0
Class B	434	23
Class C	298	106
Class D	105	219
Class E	22	172
Misdemeanors	2	26
Disposed of by Grand Jury	2	37
Disposed of by Court	2	21
Bench Warrant	15	78
Acquitted after Trial	16	31*
Psychiatric commitment	20***	6****
Transferred to Family Court	4	2**
D.O.R.	18	14
Abated by Death	3	7
Subtotal	944	742
<u>Cases Awaiting (as of Dec., 1975)</u>		
Preliminary Hearing	0	0
Grand Jury	2	1
Arraignment on Indictment	16	18
Pre-trial Conference	9	9
Trial	78	225
Sentence	41	72
Sub-total	146	325
<u>Total</u>	1090	1067

* Only 81 defendants brought to trial in Control Group.

** One case previously referred to Family Court was returned to Supreme Court for prosecution.

*** 15 returned to Supreme Court for trial.

**** One returned to Supreme Court for trial.

With regard to sentencing, MOB has secured incarceration in 94 percent of its cases. Moreover, MOB has been successful in securing the imposition of a relatively high average minimum sentence. In 1975, MOB obtained an average maximum sentence of 10 years, as opposed to the control group average of 3 years. MOB's average minimum sentence obtained was 3 years and the control's minimum was 6 months. Therefore, MOB was able to obtain an average *minimum* sentence for its cases which was equal to the *maximum* average sentence handed out to control defendants. Again, although the comparison is flawed due to the differences in MOB and non-MOB cases, MOB has clearly been able to secure sentences consistent with its goal of obtaining severe dispositions. The following chart displays the distribution of maximum and minimum sentences for a sample of the last 499 MOB defendants sentenced. Unfortunately, data are not available to provide further details regarding the nature of the offenses.

MOB Sentences Between July 1, 1973 and December 31, 1975

<u>Maximum</u>	<u>Minimum</u>	<u>No. of Defendants</u>
Life	15-25 yrs.	4
25	12½ yrs.	14
25	8-1/3 yrs.	11
22	11	1
21	7	2
20	10	4
20	6-2/3	1
18	9	2
18	6	5
18	0	1
16	8	2
15	7½	16
15	5	29
15	4	1
15	3	1
15	0	6
14	7	7
13½	4½	1
13	6½	1
12	6	17
12	4	16
12	3	1
12	0	4
10	5	28
10	3-1/3	34
10	2½	2
10	0	32
9	4½	5
9	3	8
9	2	2
9	0	7
8	4	13
8	2-2/3	7
8	0	14
7	3½	8
7	2-1/3	15
7	2	2
7	0	16
6	3	9
6	2	5
6	0	10
5	2½	2
5	0	42
4½	2½	1
4	2	6
4	0	19
3	1½	3
3	0	16
1	3	3
10½ mos.	Reformatory (4 yrs.)	10
	Probation (5 yrs.)	33
TOTAL		499

2.3 Efficiency

The Major Offense Bureau is a totally institutionalized division of the Bronx District Attorney's Office. In fiscal year 1975, the operating budget of the Office was slightly more than \$4 million. With the six grants the Office operates, the budget exceeds \$6 million. Although the MOB project is technically funded through the New York State Division of Criminal Justice Services (the SPA), project funds are administered with those of the District Attorney's Office at the Bronx County level. From April, 1973, through December, 1976, MOB will have expended \$1,250,184 in federal funds, and \$389,859 in local matching cash, for a total expenditure of \$1,640,043.

Currently in the third grant cycle, the MOB grant budget allocations were the following:

<u>Grant Cycle</u>	<u>Federal Share</u>	<u>Local Match</u>	<u>Total</u>
1st (Roughly 18 months)	\$461,551	312,556	774,107
2nd (Roughly 15 months)	\$410,282	35,264	445,546
3rd (Roughly 12 months)	\$378,351	42,039	420,390

The annual operating cost of the project is estimated to be \$436,000. During the first year, MOB spent \$36,590 in one-time expenditures: consultant services of the National Center for Prosecution Management, file cabinets and office equipment, and the cost of space renovations necessary to house the MOB staff in the District Attorney's Office. Most important, however, the first year budget of \$775,107 allocated nearly \$300,000 to setting up the two trial parts which would be used exclusively for MOB cases. Although totally a local cash contribution, the cost of designating separate trial parts--an essential element of MOB's design--is a significant cost item related to the project's current operations and to the preparation of the initial grant application.

The bulk of all overhead expenses--including the costs of space, utilities, and certain expenditures--are absorbed by the regular budget of the District Attorney's Office. The MOB operating budget does not allocate funds directly for overhead or general and administrative expenses, and budgets only a small percentage of the funds for the rental of typewriters and office equipment, telephone, and the like. By-and-large, these items are "donated" by the D.A.'s Office.

Since witnesses are an important resource to the MOB, the MOB budget provides reimbursement to witnesses for meals and other minor expenses (e.g., transportation). In addition, since project staff are often required to travel (to interview witnesses, to conduct investigations, etc.), the budget allocates a small part of direct charges for the rental of a car. The largest single budget item, however, is staff salaries and staff benefits. In the first year budget, the labor category accounted for roughly 50 percent of the total budget (including the significant cost of two trial parts).

The major efficiency of the MOB should be realized in the project's ability to process major felony cases more quickly, with fewer delays, and with less frequent involvement of the police, courts, and judges in the process. In the Bronx, a Supreme Court appearance costs roughly \$150* and a policeman/witness costs \$84 per day (\$18,500 per year divided by 221 working days). For each day that a MOB case does not require a court appearance, a potential savings in court and police time may be realized. In an ordinary case, prior years indicated that roughly 30 court (non-trial) appearances are necessary. MOB reports that the average MOB case requires only 12 appearances. The fewer the number of appearances, theoretically the lower the total cost of processing MOB cases. However, since three judges have been assigned to two trial parts that deal exclusively with MOB cases, the relative number of appearances per case has less of a total cost savings implication because the court would be in operation in any event. The real savings, then, is not in actual dollar costs but in resources, the ability of D.A.'s, police, judges, and even defense attorneys to increase their workload capacity by decreasing the workload of individual cases.

MOB's ability to expedite the disposition of its cases also has immeasurable effects on the costs of detaining defendants, the costs associated with securing the cooperation of complainants and witnesses, and personnel costs in general case processing. Since comparable cost data are unavailable, the absolute efficiency of MOB remains undetermined. Clearly, however, a more speedy disposition of cases positively impacts expenditures and results in a number of cost efficiencies which are not available to normal case processing systems in other courts. The use of paralegal screening clerks, the assignment of cases to a single assistant prosecutor who stays on top of the case from arrest through disposition, and the use of the most experienced attorneys all contribute to the relative efficiency with which the office can operate.

* According to a report of the Administrative Judge, New York City Judicial Department, the court cost of \$150 excludes the cost of the judge, prosecutor, and defense counsel and is determined on the basis of 10 cases per day, 200 calendar days, at a cost of \$300,000.

2.4 Replicability

The right of the prosecutor to establish case priorities and perform a basic selective prosecution function has been well established.* In many respects, the Major Offense Bureau of the Bronx is not unlike a number of other District Attorney's Offices throughout the country which decided, early in the 1970's, that early screening and case selection procedures would aid the district attorney in case preparation and would improve the performance of the prosecutor's office by increasing conviction rates. Moreover, case screening procedures give the prosecutor the opportunity to decide which cases and types of offenders require concentrated efforts and which strategies and alternatives are most consistent with the stated (public) priorities of the district attorney's office. The PROMIS system developed by the U.S. Attorney's Office of the District of Columbia, for example, provides a computer-based system for identifying and prioritizing important cases and assisting the state's attorney in systematically allocating prosecutorial resources on a more rational basis.**

The Major Offense Bureau of the Bronx differs from other case screening projects in one extremely important respect: it represents a major attempt to establish case priorities which not only consider the seriousness of the offense but which also weigh the characteristics of the defendant. The MOB, therefore, places a special focus not only on major offenses but on major offenders.

At the time that the Bronx District Attorney conceived of MOB, there were apparently no similar projects which actually considered their priority to be the "career criminal" of the "major felony offender."*** Rather, the projects which did operate some form of selective case screening procedure concentrated their attention on crimes of violence and other

* A thorough discussion of the basic policy considerations and practices, and the constitutional and legal considerations in regard to the prosecutor's decision to prosecute is contained in *Screening of Criminal Cases*, a publication of the National District Attorneys Association, 211 East Chicago Avenue, Chicago, Illinois.

** The most up-to-date discussion of prosecutor screening programs is found in *Pre-Trial Screening Projects* by Joan Jacoby, produced under the National Evaluation Program of the National Institute of Law Enforcement and Criminal Justice, LEAA, January, 1976.

*** In October, 1974, the Office of National Priority Programs, LEAA, undertook a survey of every district attorney's office, or equivalent, in the country as a planning exercise for the development of the Career Criminal Program. The project, which was funded for \$3 million in fiscal year 1975, will support a total of 18 projects designed to focus prosecutorial resources on the major violator.

specific major offenses. Indirectly their efforts did serve to screen out and prosecute the major offender, but emphasis was lacking on the defendant's criminal career as a criterion for selection.

In 1975 LEAA initiated the Career Criminal Program, utilizing the Bronx Major Offense Bureau as the prototype for the design specifications and grant applications. There are currently 15 Career Criminal Projects, with three more grants awaiting final award.* The projects range in size from approximately \$100,000 to \$600,000 per year, have a staff range of 2 to 14 full-time assistant district attorneys, and have an average caseload of roughly 200 to 600 per year. Only eight of the projects (Houston, New Orleans, Detroit, Columbus, San Diego, Boston, Indianapolis, and Dallas) have been operating since July of 1975. For purposes of comparison with the Bronx Major Offense Bureau, a skeletal outline of the major elements of five of these projects is displayed on the following page. (This information was gathered through an informal telephone survey conducted on April 26.)

One of the obviously unique characteristics of the Bronx MOB is the fact that it actually has separate trial parts designated to handle its cases. Even though other projects may have procedures for insuring special case handling, none have the advantage of exclusive attention by the courts. This is probably due, in part, to the severity of the major crime problem in the Bronx and the caseload requirements of the Bronx District Attorney's Office in relation to other prosecutor's offices in the sample.

Another apparent difference between the Bronx MOB and the Career Criminal Projects is that MOB is a separate bureau which assigns full-time attorneys to the exclusive prosecution of the major offender. In other offices, the assistant D.A.'s also have regular caseload responsibilities, and, in some instances, the cases may be assigned at different stages to different attorneys.**

* Projects currently funded are located at Houston, New Orleans, Detroit, Columbus, San Diego, Salt Lake City, Manhattan, Boston, Kalamazoo, Indianapolis, Dallas, Miami, Saint Louis, Rhode Island, and Albuquerque. Los Vegas, Louisville and Memphis are currently pending final grant approval.

** The further comparison of the MOB in the Bronx to the newly emerging Career Criminal Program is premature given that so few projects have been in operation for at least one year. However, future comparisons may become more meaningful given two major activities in this area. First, MITRE Corporation is scheduled to perform evaluations of five Career Criminal programs in fiscal year 1977. Second, the National Legal Data Center, Thousand Oaks, Calif., is under contract with LEAA to install an automated data processing system for all Career Criminal programs. Based on the submission of specially designed Case Data forms, the Center will perform statistical analyses. *Verdict*, the quarterly newsletter published by the Center for prosecutors participating in the Career Criminal program, reaches over 2500 law enforcement officials and will contain statistical and programmatic developments on Career Criminal projects throughout the country.

Project	Start-Up Date	Organization	Criteria	Screening Process	Process	Flow
Detroit PROB Prosecutor's Repeated Offenders Bureau	July 1975	Staff: 10 ADAs 2 Investigators 1 Director Operates as separate bureau with ADAs having responsibility only to this project. Staff are among the most experienced in the DA's office.	Informal process, with DAs making final decision on cases brought to attention because of defendant's record and/or nature of present offense.	Cases get to Bureau either by police referral or DA's warrant bureau referral; then bureau DAs pick from those forwarded to them informally.	1. No particular speedy trial program, but facilitated by another program that speeds cases for defendants who can't make bond (here, bond usually set very high). 2. Benefit is the fact that it gets the attention of a single DA and special resources in preparation.	550 cases 98 percent conviction (estimated)
Columbus, Ohio Career Criminals	July 1975	Staffing: 6 ADAs "Informal" Bureau. These attorneys have responsibility first to cases which are screened for this program, but <u>not</u> exclusively. 2 yrs. trial experience required.	To be eligible, a case must either involve: 1. a violent crime (or threat of same); or 2. a defendant with <u>two</u> prior convictions.	Takes all cases that meet criteria, but may or may not get case immediately. Only initial screening is by police. If they don't alert DA's office, the case is picked up when office is mandatorily involved in process.	1. Skips preliminary hearing (if police notification). 2. One ADA handles case from start to finish.	225 cases 98 % conviction Through March, 45 trials and 41 convictions.
Kalamazoo, Michigan Career Criminals Priority Prosecution	Oct. 1975	Staff: 2 attorneys 1 legal intern Operates as separate bureau with exclusive responsibility.	10 Threshold Criteria (D=defendant): 2 felony convictions; 5 prior felony arrests and present charge is "part 1" crime; D=parolee; D=probationer; D=escapee; D free on post-conviction bond; D free on pretrial bond; D armed with gun and has felonies pending; actual delivery of heroin; rape. These are subject to <u>secondary criteria</u> by DAs; numerical system fashioned after Bronx, based on prior record.	Referral from warrant section.	DA intervenes in process earlier than usual (i.e., arraignment); open discovery; priority at all stages but no special mechanism.	Information not currently available.
Indianapolis Career Criminals	Oct. 1975	Staff: 2 screening attorneys 6 trial attys Separate bureau.	Two-tier system. First case must be either burglary, robbery, arson or violent assault. Then a point system which considers prior arrests/convictions, use of weapons, injury to victim and pending cases.	Alerted by Bureau's screening attorneys.	Early intervention leads to early case preparation, then priority on trial calendar.	28% of all felonies in office. 100 pending cases Dispositions: 13 guilty pleas as charged 25 guilty by jury 4 guilty by judge 5 nolo contendere 3 not guilty.
Boston Major Violators	Sept. 75	Staff: 4 screening attys 6 trial attys 2 investigators Separate Bureau; office and telephone are different than County DA's.	Numerical system adapted from the Bronx; includes crime, defendant, and evidentiary considerations.	Screening attys stationed at police hqs. monitor cases as they come in and apply screening criteria.	Program eliminates the preliminary hearing stage. Therefore cases go from grand jury indictment to trial. Supposed to be done within 90 days. Practices open discovery.	Sept. 8, 1975-April 2, 1976, 135 defendants referred to bureau. Dispositions on 72 of those defendants: 40 guilty pleas 5 jury trial convictions 25 trial convictions 2 acquittals

Special Features

Certainly one of the most essential ingredients to establishing a Major Offense Bureau is obtaining a clear commitment on the part of the district attorney to the assignment of staff and resources to a special unit responsible for the identification, processing, and prosecution of the career criminal. The need to establish a special unit is dictated by the level of concentration required of staff; they must be free of other duties in the office and they must be willing to be assigned full-time to the unit. Without a special unit, no matter how small relative to other activities of the district attorney's office, the emphasis on careful case preparation may be sacrificed to new office priorities as they emerge. Moreover, the existence of a special unit in the Bronx District Attorney's Office has had the effect of making a clear statement about the priority concerns of the District Attorney and about the seriousness with which the Office will pursue the major felony recidivist.

The MOB lends itself easily to a number of case screening and case prioritizing systems. Whether manual or computerized, the case screening system must emphasize not only objectively weighted criteria in the direction of the seriousness of the crime but must also respond to such factors as prior record of the defendant and probability of conviction. The standards established and used by the Bronx MOB could be readily adapted to other jurisdictions and, in fact, have been incorporated into the design of other Career Criminal projects. By-and-large, the selection criteria permit independent case evaluations to be performed without relying too heavily on subjective judgments by clerks or assistant district attorneys. Therefore, the screening function can be readily performed without a heavy staff resource or staff training commitment, and case evaluation can be done *outside* the immediate purview or potential bias of individual D.A.s.

One of the cornerstones of the Bronx MOB is, of course, the accessibility to immediate trial. No matter how comprehensive, complete, and expeditious the case preparation, if the assistant district attorney meets with delays and backlog difficulties in scheduling a trial, a large part of the MOB's impact could be mitigated. Quick and comprehensive case preparation relies exclusively on the court's responsiveness to the case scheduling needs of the special bureau. Although the Bronx has the luxury of separate trial parts, most jurisdictions may be able to establish a priority scheduling procedure with the courts. In contemplating replication, fostering such a relationship and understanding with the courts is essential. The ability to secure the cooperation of the courts will rely, in part, on the district attorney's reputation and his ability to make the advantages of a major offense bureau apparent.

The open discovery policy and the limited plea bargaining stance of the Bronx District Attorney are equally pivotal to the need for swift processing and comprehensive case preparation. Open discovery not only prevents the defense attorney from introducing stalling tactics by way of prolonged discovery

motions, but also circumvents any constitutional challenges that might be raised relative to the adequacy of the defendant's ability to prepare for trial. One final, but not unimportant aspect of open discovery is the strategical impact of laying bare the prosecution's entire case for defense inspection.

Limited plea bargaining helps to speed up case processing by placing clear parameters on the prosecutor's intentions in the case and willingness to dispose of the case without the need to go to trial. Since both limited plea bargaining and open discovery are matters of policy, there should be no major constraints on the replication of these procedures elsewhere.

In short, the Bronx Major Offense Bureau is a highly replicable model for the development of projects which focus attention on the major offender, or "career criminal." The project's potential for replicability has been demonstrated both in the broad applicability of the concept to the needs of prosecutor's offices throughout the country and in the use of the Bronx MOB as the prototype for the current LEAA Career Criminal Program.

Legal Considerations

Because of our legal system's sensitivity to the rights of the accused, instances where a criminal defendant receives extraordinary consideration or treatment from prosecutorial or law enforcement personnel are often the focus of close judicial scrutiny. This, of course, would be relative to constitutional issues raised by defense objection either at trial or on appeal. That such a challenge has not yet occurred in the Bronx despite allusions to the constitutional improprieties of the "special treatment" alleged by defense representatives, speaks to the improbable merit and weight of the arguments. However, in order to prevent this issue from becoming more conspicuous and meritorious by its absence, the possible areas of constitutional objection and arguments supporting the constitutionality of the program are summarized below.

Generally, these issues involve either due process or equal protection, and fall into one of the following three areas:

- *Would a program of accelerated prosecution be susceptible to a due process challenge on the ground that it might not allow sufficient time for preparation of an adequate defense?* Fundamental to the notion of due process is the right to obtain counsel and prepare a defense. There is no indication the MOB abridges this right. In fact, by adhering to the rules of the First Judicial Department of the Appellate Division of the

State of New York--which require 30 days between arraignment and trial--this right is clearly protected. At the very least, it is not impinged by some inherent impropriety of MOB.

- *Is the procedure of exclusively assigning particular judges to MOB cases subject to due process challenge?* The nature of this challenge would rest in the inability of the judge to provide a fair trial to the defendant because of the judge's knowledge of the defendant's record. The more persuasive countervailing arguments are: (1) the judge's conduct is preserved by the record and subject to close scrutiny;* (2) a major function of the bench is to weight evidence (in fact, facts which the judge excludes especially because of their prejudicial value which must be known to be excluded); and (3) this premise has been more broadly advanced on the issue of habitual criminal statutes. The controlling case, *Spencer vs. State of Texas* 385 U.S. 554 (1967), held constitutional a procedure whereby the defendant's prior criminal history becomes known (with instructions to disregard when considering guilt or innocence of the offense charged) to both the judge and jury.
- *Does a program of accelerated prosecution for recidivist offenders violate the defendant's right to equal protection?* There does not appear to be any argument to sustain an objection under this heading. First, the defendant is not being subjected to any procedures or sentences that are not already statutorily mandated; second, this is not a case of selective enforcement, since those defendants not chosen for MOB consideration will ultimately be prosecuted in any event.

Undoubtedly the continued growth of LEAA's Career Criminal Program will precipitate further examination of these and other legal issues. The suit brought by the Legal Aid Society of the City of New York against MOB* may be only a signal of the objections which may be pursued by defense counsel in the future. Confrontations between Career Criminal Programs and the defense bar are, however, likely to root MOB-like programs in exceptionally firm legal ground.

* In this regard, it can tangentially be noted that through the first year of operations, no MOB convictions were reversed on appeal; a fact which speaks as much to the competence of the trial judge as it does to the D.A.'s preparation.

** The suit, which was filed in June, 1974, was a writ of Mandamus which sought to prohibit the transfer of a major felon into MOB and which argued violation of Due Process and Equal Protection; the suit also argued that having separate MOB trial parts violated the doctrine of Separation of Powers. The motion was subsequently dismissed.

2.5 Accessibility

The Bronx Major Offense Bureau has expressed its willingness to submit to evaluation, publicity, and visits from qualified personnel interested in understanding the project's goals and operations. During the on-site visit, all staff were extremely willing to discuss the project in a straightforward manner, and the interviewees made available represented the broadest perspective possible on the strengths and weaknesses of MOB.

Inquiries to the project are welcome by the Bureau Chief and Assistant District Attorney staff, although the project lacks any written materials which would aid in orienting either new staff or visitors. The lack of descriptive materials makes it difficult to gain a quick and full perspective of program operations.

MOB is an institutionalized part of the Bronx District Attorney's Office. As the current fiscal crisis eases in New York, and with the end of the current grant in December, 1976, the Bronx D.A. fully expects to make the Major Offense Bureau one of the ten permanent bureaus (separate budget items) of the D.A.'s Office.

3.0 Project Strengths and Weaknesses

3.1 Project Strengths

(1) The primary strength of the Bronx Major Offense Bureau is the organizational independence the project has established--both its operational independence as a bureau of the District Attorney's Office and its ability to secure separate trial parts to process its cases.

(2) The MOB has a case screening procedure which is both efficient and objective. The case screening evaluation sheet developed and used by the MOB removes a large part of the subjective decision-making and personal bias which might affect the case selection process for the prosecutor's office. Since the evaluation sheet numerically weighs the criteria selected by the District Attorney's Office as important (severity of case, severity of crime, and strength of the evidence), the screening function is not only more objective, it is also more efficient. Case screeners can be paralegal personnel, whose training can be confined to a simple orientation about filling out the evaluation sheet and procedures to be followed in contacting the Assistant District Attorney on duty.

(3) The MOB insures early prosecutor case involvement and speedy processing which concentrates the resources of the prosecutor's office on careful and thorough case development. The involvement of the Assistant District Attorney almost immediately following arrest--and the assignment of one attorney throughout the case--provides the prosecution with the best possible case; witnesses are available, the events are clearly in the minds of those involved, and defendants are sometimes willing to offer a confession. Moreover, early case intervention greatly expedites the overall processing of the case. MOB has successfully demonstrated its ability to speed up case processing while developing and presenting the most comprehensive and complete case possible. From the point of view of the prosecution, MOB attorneys develop "model" cases of thoroughness. Finally, the MOB's accelerated prosecution program has greatly reduced the time-at-risk of many potentially dangerous criminal offenders.

(4) The MOB has effectively limited the scope of plea bargaining, obtaining a high conviction rate and severe sentences. Because MOB cases have been thoroughly prepared, the prosecution is able to adopt a full disclosure policy, is able to negotiate for tough pleas which reduce bargaining to issues of minimum range on a maximum sentence. The project has established a reputation for a high rate of convictions (92 percent), which result in long sentences (an average minimum of three years and maximum of ten), and which enable project attorneys, at the time of plea negotiation, to limit the defendant's options.

(5) The MOB has focussed attention on the career criminal and the serious offender and has given the District Attorney's Office a positive prosecutorial image. The defense bar, and even other attorneys in the District Attorney's Office, recognize that defendants who become "MOB cases" will be prosecuted swiftly and under the full weight of the law. One of the important accomplishments of the project has been its ability to achieve a reputation as an aggressive Bureau that is "tough with criminals."

3.2 Project Weaknesses

(1) The Major Offense Bureau lacks any written program description or operational guidelines beyond the Standard Operating Procedures established to govern police referral.

(2) The monitoring and data collection procedures of MOB, and the reporting format for their performance reports, do not permit a full and readily accessible means for assessing project accomplishments. The narrative and illustrative tables created for reporting purposes are somewhat incomplete.

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Screening of Criminal Cases, National District Attorneys' Association, 211 East Chicago Avenue, Chicago, Illinois.

The Prosecutor, journal of the National District Attorneys' Association. "The Major Offense Bureau: A Blueprint for Effective Prosecution of Career Criminals" by Mario Merola, District Attorney of Bronx County, Vol. 11, No. 1.

Report to the Bronx District Attorney on the Case Evaluation System, National Center for Prosecution Management, 1900 L. Street, N.W., Washington, D.C., November 30, 1974 (as part of the Exemplary Project Submission appendices).

APPENDICES

Appendix A: Exemplary Project Submission

Appendix B: Letters of Recommendation

Appendix C: Case Evaluation and Case Management Control Forms

Appendix D: Bronx District Attorney's Office 1975 Summary



MARIO MEROLA
DISTRICT ATTORNEY

OFFICE OF THE
DISTRICT ATTORNEY
OF BRONX COUNTY

851 GRAND CONCOURSE
BRONX, N. Y. 10451
LU 8-9500

February 18, 1976

Ms. C. Burstein
Model Program Development Division
Office of Technology Transfer
National Institute of Law Enforcement and
Criminal Justice
Law Enforcement Assistance Administration
Washington, D.C. 20531
Dear Ms Burstein:

I am submitting the attached copy of our application to have The Bronx Major Offense Bureau endorsed as an Exemplary Project to you based on the several conversations that you have had with Seymour Rotker, Chief Assistant District Attorney in The Bronx. We have submitted the same package to the Regional Administrator, Mr. Tesler.

Please feel free to call upon Mr. Rotker, Paul Gentile, or me if there are additional facts or information that will assist you in your consideration of this application.

Sincerely,
Leroy A. Brown
Leroy A. Brown
Business Manager

Appendix A: Exemplary Project Submission

OFFICE OF THE
DISTRICT ATTORNEY
OF BRONX COUNTY

851 GRAND CONCOURSE
BRONX, N. Y. 10451
LU 8-9500

MAJOR OFFENSE BUREAU

Exemplary Program Application

Table of Contents-

I Project Description

II ATTACHMENTS:

- A. Program Review Memorandum
 - a) Project Summary
 - b) Criteria Achievement
- B. Endorsements
- C. Grant Applications and Reports
- D. Fiscal Reports
- E. Community Comments
- F. Report -- National Center for Prosecution Management
- G. Bronx Case Folder and MOB forms

EXEMPLARY PROJECT RECOMMENDATION

I. Project Description

1. Name of the Program

MAJOR OFFENSE BUREAU

2. Type of Program (ROR, burglary prevention, etc.)

Career Criminal

3. Name of Area or Community Served

Bronx County, New York

(a) Approximate total population of area or community served

1,450,000

(b) Target subset of this population served by the project (if appropriate)

No. Served	Period	Population
------------	--------	------------

N/A

4. Administering Agency (give full title and address)

MARIO MEROLA,

Bronx County District Attorney

851 Grand Concourse

Bronx, New York 10451

(212) 588-9500

(a) Project Director (name and phone number; address only if different from 4 above.)

Leroy Brown

(212) 588-9500

(b) Individual responsible for day to day program operations (name and phone number)

Paul Gentile

(212) 588-9500

5. Funding Agency(s) and Grant Number (agency name and address, staff contact and phone number)

New York State

Division of Criminal Justice Services-Project# C-68571

270 Broadway

New York, NY 10007

Mr. S. Mendelsohn (212) 488-5882

6. Project Duration (give date project began rather than date LEAA funding, if any, began)

April 1973 - to present

7. Project Operating Costs (Do not include costs of formal evaluation if one has been performed. See Item 8)

Breakdown of total operating costs, specify time period:

Federal: 7/1/73 to 12/29/75 - \$871,833.00 + 4
 State: -- 0
 Local: - \$347,820.00
 Private: - 0
 Total: -\$1,219,653.00

Of the above total, indicate how much is:

(a) Start-up, one time expenditures: \$36,590.00
 (b) Annual operating costs: \$436,000.00

(A complete budget breakdown should be included with the attachments to this form)

8. Evaluation Costs (Indicate cost of formal evaluation if one has been performed)

Total Cost	Time Period	Principal Cost Categories
none		

9. Continuation. Has the project been institutionalized or is it still regarded as experimental in nature? Does its continuation appear reasonably certain with local funding?

The Major Offense Bureau is institutionalized in that its operation is standard procedure in the office; it is no longer considered experimental. The inclusion of the cost of operating the Major Offense Bureau within the standard New York City tax budget would be an accomplished fact if the city were not caught up in a fiscal crisis. We have every confidence that the project costs will be included in the budget.



MARIO MEROLA
DISTRICT ATTORNEY

OFFICE OF THE
DISTRICT ATTORNEY
OF BRONX COUNTY

851 GRAND CONCOURSE
BRONX, N. Y. 10451

Attachment 'A'
Program Review Memorandum

EXEMPLARY PROGRAM

1) Project Summary -

Bronx County, one of the 5 boroughs of New York City, has, over the last 10 years, achieved unwelcome notoriety as the classic example of an urban area being destroyed by crime and blight. During the years when the Bronx was populated primarily by the middle class, and crime was just an ordinary problem the traditional methods for operating an urban District Attorney's Office were followed. When the crime rate escalated, the prosecutor's office could not, with the resources available, cope with the rapidly increasing flow of cases.

The Major Offense Bureau in the Bronx was organized with several objectives in mind; in the forefront was the effort to increase the probability of a successful prosecution of career criminals who might have, by dint of their considerable knowledge of the criminal justice system, avoided punishment by society.

The Major Offense Bureau was also designed to improve the prosecution of those committing major offenses (see p. 32, Appendix F) and to speed the just disposition of their cases in conformity with the seriousness of the crime committed. This was accomplished by the development of: An objective system for identifying and ranking of specific crimes for special handling (see Appendix F). Different clerical procedures — established and maintained with the courts, the

police, and the other agencies in the criminal justice system including new procedures for notifications and document processing to — accomplish that special handling.

The functioning of the Major Offense Bureau (MOB) is best understood through its history. The initial contract was signed and delivered early in 1973. District Attorney Merola had already appointed Assistant District Attorney Paul Gentile as the MOB chief, and a plan of action was developed, which included: selection of assistant district attorneys from the office staff; visits to other jurisdictions with pertinent office procedures (Washington, D.C. and Detroit, Michigan); devising of a numerical case evaluation system; designing of forms and procedures for project control; acquisition and renovation of space for the bureau; staff; development of an overall scheme for phasing in the new system.

District Attorney Merola, Paul Gentile and other staff chose the standards to be used in identifying those cases serious enough for special attention; these cases were then analyzed in an attempt to identify the common factors in each — those objective elements that could be used to determine the relative gravity of a case.

This data finally became the basis of a unique ranking scheme, a statistically reliable, elegant system for carrying out prosecutorial priorities.

The National Center for Prosecution Management had been retained, and now performed the formal data analysis with computers, necessary to arrive at the objective screening and ranking method (see attachment 'F').

The bureau chief was given his pick of the entire legal staff and selected personnel with several requirements in mind:

- a) Adequate Supreme Court trial experience (in New York State all felonies are tried in the Supreme Court).
- b) Willingness to work nights and weekends.
- c) Competability.
- d) Strong motivation to excel.

After acceptance into the program, salary increases were provided for lawyers. Nonlegal employees were hired and/or selected under Civil Service rules.

Until the consultant's work could be completed, a temporary ranking form and other documentation were designed and reproduced for use by the District Attorney's staff.

Separate office space could not be obtained therefore partitions were erected to divide existing space creating, small, barely adequate offices.

The bureau chief spent considerable time and energy working with the consultants, the District Attorney, and the new staff. Much time also went into explaining the new scheme to the numerous city departments from whom he would need additional cooperation, e.g., the police forensic units, the borough command for the Police Department, The Transit Authority and Housing Authority police, other New York City District Attorneys, the Criminal Court clerks and the officials of the Supreme Court, etc.

The bureau operates as follows:

Upon making a summary arrest (in the Bronx) at or near the

scene of a crime, the arresting officer brings the prisoner into a police facility for booking, fingerprinting, etc. If the circumstances of the crime and/or the prisoner meet certain general criteria established by MOB, a call is promptly made to a special telephone number at the District Attorney's Office. The telephone is manned around the clock by a police officer who then alerts the on-duty assistant district attorney (ADA). Usually the call goes out over a commercial radio alert system to a belt-worn receiver. Upon getting the "beeper" call, the ADA contacts the police facility, discusses the case, and decides whether to go to the scene or the stationhouse, or just to give instructions to the police officer and then meet him at his office with the witnesses. The alternative to the above alert, and the most common route for MOB action, occurs as the result of the arresting officer going to the Criminal Court with the witnesses for the purpose of having a complaint drawn by the assistant district attorneys on duty. In the complaint room a clerk from MOB completes the MOB ranking form. If the total score is within the pre-set range the clerk alerts the on-duty assistant district attorney using the above described telephone system. The ADA will then, if appropriate, come over to the complaint room (1 mile away) and direct the drawing of the initial complaint and question the witnesses that the arresting officer has with him. If the assistant district attorney decides presentation is to be made to the Grand Jury he then makes a grand jury hearing appointment and issues subpoenas to all parties. Frequently, the Grand Jury hearing can be held that same day. The usual procedure (95%) is to have the Grand Jury hearing within 3 days of arrest and the indictment drawn and handed up to the Supreme Court (Court of

Felony trial jurisdiction) the same day the Grand Jury votes a true bill.

During this initial period the ADA directs the preparation of the case in as thorough a manner as possible. Witnesses are found and questioned, physical evidence is collected and vouchered, medical records and other officials records are subpoenaed and filed. Much of the work of obtaining official information is done by one of the paralegals assigned to the Major Offense Bureau.

Arraignments on the indictment charges are held by the Supreme Court in a Part reserved for non-trial matters, (arraignments, motions, hearings,) called a Calendar Control Part. The case will also be discussed by the judge, prosecutor, and defense in order to determine if a plea can be agreed upon. During the conference between the defense attorney and the prosecution, the MOB assistant district attorney will "open" the file to the defense and, based upon Mr. Merola's full disclosure policy, provide complete information. The only information not given is the names' and addresses' of witnesses. An offer is made by the ADA to accept a guilty plea on the most serious charge or sometimes one count lower than that charge, i.e., if the indictment is for a "B" felony (up to 25 years) the offer will be for a "C" felony (up to 15 years). This is the only plea offer which can be made and it will be withdrawn prior to the time of trial.

After one or two conference dates the judge will assign the case for trial to one of the two parts designated solely for MOB cases.

During the entire life time of the case, if at all possible, the same assistant district attorney is assigned and personally appears for the various court and jury proceedings.

At the end of two years the record of the Major Offense Bureau show a conviction rate of 95% of those indicted; a 90 day median time span from arrest to sentencing in contrast to the previously existing average of 400 days to sentencing; 92% of those convicted are sentenced to incarceration rather than the less than 50% usually incarcerated; 99% of the indictments are voted and presented to the Supreme Court within 3 days of arrest in contrast to the ordinary procedures which take several weeks.

2) Criteria Achievements:

a) Goal Achievement--

GOAL: Reduce the elapsed time between arrest and disposition.

Measures: Disposition is date of sentencing

Outcome: Prior to the beginning of the project the average length of time from arrest to sentencing for a convicted defendant in Bronx County was 400 days, the median time from arrest to conviction under the Major Offense Bureau is 90 days, a 444% improvement. This is accomplished despite the unusual number of MOB defendants who are given 60 days psychiatric examinations.

GOAL: Improve the rate of conviction.

Outcome: The average conviction rate for the office was 65% the MOB rate is 95%. A similar group of cases contemporary with the MOB cases have a conviction rate of 50%. In regard to trials the office average is approximately 70% convictions MOB has a 90% conviction rate.

GOAL: Reduce the scope of plea bargaining.

Measure: The prosecutors were forbidden to offer any defendant a plea lower than one interval on the scale of seriousness and no bargains after the trial commences. In many cases the only offer made is that of a plea to the most serious charge.

Outcome: A substantial number of defendants pled to the original indictment charge, which is very rare occurrence outside the bureau. It became known in the defense community that no bargaining tactics or delays would convince the prosecutor to make a better bargain than the

Outcome cont'd-

initial offer and further there may be a penalty in not taking the original offer in that conviction based on the original charge was the most frequent result.

GOAL: Increase the efficiency of clerical processing:

Outcome: The usual clerical foulups were for the most part prevented or circumvented by the use of full time employees, who were also law students, as paralegal assistants. Specific additional steps were taken to bypass delays in typing complaints; tracking court appearance dates; ensuring the delivery of prisoners to court; obtaining police reports and medical reports; clear and precise standard record keeping for each case was promoted by development of new forms and reports.

GOAL: Develop an "alert" system for notification to the bureau when a suspect is apprehended.

Measure: Only in the case of homicides or in obviously serious cases were calls made to alert the District Attorney. No objective criteria existed.

Outcome: Specific instructions were issued to all Bronx police officers by the police department in addition to the transit authority police and housing police to call an especially established phone number whenever a crime occurred or an arrest was made which met the project criteria. A duty roster of experienced ADAs responds to these calls 7 days/week 24-hours a day.

GOAL: Permit the MOB cases to be reached for trial separately in advance of the existing backlog of untried cases.

Measure: At the time the bureau started there was a 16-18 month backlog of untried Supreme Court cases.

Outcome: A formal agreement between the Bronx District Attorney and the presiding Justice of the New York State Supreme Court, First Department, was made assigning 2 Supreme Court Parts to the exclusive purpose of trial of MOB cases. This effectively allowed MOB cases to be advanced, as all other cases (the existing backlog) were in queues for the remaining trial parts.

GOAL: Develop and use an objective screening and ranking method which can be completed by non-legal staff.

Measure: Only subjective screening was done.

Outcome: See attached report by the National Center for Prosecution Management. (Attachment 'F').

GOAL: Obtain convictions and therefore sentences which are closely related to the original crime charged.

Measure: As a result of the system inefficiencies and plea bargaining practices subordinate charges of less importance were usually the conviction charge and sentences were based on the conviction charge.

Outcome: A full examination of the MOB case files (all are felony indictments) shows over 90% of the convictions were for felonies at the same level of the original charge or one interval lower. In a group of similar non-MOB cases less than 20% were felony convictions

Outcome cont'd -

punishable by up to 15 years imprisonment while 89% of the MOB felony convictions were punishable by 15 years imprisonment or longer.

GOAL: Demonstrate that specific crimes are committed repetitively by the same criminals and if these criminals are removed from society the occurrence of their crime speciality is reduced.

Measure: Number of Supermarket "holdups".

Outcome: From a frequency of 30-35 supermarket holdups a month we have gone to less than 5 per month, we are certain this is the result of the successful prosecution of several groups of supermarket hold-up specialists.

GOAL: Develop a complete case folder.

Measure: The previously existing case folder used in criminal court was blank manila, the Supreme Court folder was printed with an outdated and inefficient format.

Outcome: A new criminal court folder with specific space requiring the users to provide complete prosecutorial information was implemented with a very favorable reception by all. A case folder with complete information was also developed for the Supreme Court with the same effective results. The designs are specifically for the Bronx District Attorney's Office data collection problems but apparently the folders are superior enough in design to be copied by other jurisdictions. (see attachment 'G')

GOAL: Prepare cases for trial as close to the origination date as possible.

Measure: Existing practices were to complete the preparation of the case just prior to the trial date.

Outcome: All MOB cases are fully researched and documented at the outset. As the cases are completely prepared the prosecution is able to answer "Ready for trial" as soon as the mandatory conference between defense and prosecution is finished. This increases the likelihood of an early trial date.

b) Replicability:

1) This project has been cited as an example of a successful law enforcement innovation by Attorney General William Saxbe and by President Ford in his message of June 19, 1975 to Congress concerning crime.

2) It has been our pleasure to provide many prosecutors (at their request) throughout the country with detailed information as to the operations of the Bronx Major Offense Bureau. We have hosted visits by many prosecutors from cities such as Las Vegas, Los Angeles, Detroit, Washington, D.C., Nassau County, etc., and provided them with materials, tours, and demonstrations. It is our understanding that several similar major offenders bureaus have been established.

3) The most important factors in replicability of this project are adequate resources and staff proficiency. Other important factors: Cooperation with other law enforcement agencies, staff commitment, administrative expertise, court cooperation, and long term fund commitment.

This program or some modification of it will be effective in any jurisdiction in which there is a problem of excessive delay in reaching trial after arrest. In addition, in those prosecutors' offices in which it is desired to allocate resources based upon the policies of the chief prosecutor, the principles developed by the Bronx Major Offense Bureau will be effective. We have shown that scarce resources (experienced prosecutors, time and people for Supreme Court trials) can be responsibly apportioned on to those problem cases which the chief prosecutor deems of greatest importance.

c) Measurability:

1) The project is still operating and is assured of operation until 12/31/76.

2) The project has not been formally evaluated by an outside group.

3) There is, we believe, excellent objective evidence of the project's worth. The information concerning some of this evidence is included in several places in this report and Attachment 'C' "project reports". The evidence includes records of convictions versus those of similar cases in this office or other. The dispatch and efficiency of the MOB operation can be objectively measured against the general run of cases not handled by MOB. The severity of sentences of MOB convictions can be compared to convictions to the same charges elsewhere in New York State or New York City. Other measures of success could be the attitude of the media and the public towards the individual results of MOB prosecution as evidenced by the editorial and news comments included under Attachment 'E'.

d) Efficiency:

The efficiency of the project may be measured in several ways, the most direct are the savings obtained by the rapid conclusion of a prosecution.

In the Bronx, a Supreme Court appearance for any purpose costs approximately \$150, in court costs. ⁽¹⁾ It also cost approximately \$42 ⁽²⁾ a day to maintain a prisoner in detention, in addition, a policeman/ witness costs approximately \$84 ⁽³⁾ per day. During the course of 2 years 794 defendants have been completely processed. Prior years indicate that it would have taken approximately 30 court appearances (not including trial days) to dispose of a defendant's indictment in an ordinary case. Under MOB the number of non-trial court appearances is approximately 12 and the time span is 90 days versus 14 months. The difference in costs would therefore be (for prisoner) \$18,072 less per indictment for MOB. Most of the defendants prosecuted were kept in detention, therefore, using a modest figure of 400 prisoner defendants processed, the total costs savings generated by MOB have been \$7,228,800 at a minimum.

Other savings in property losses, and personal injury not inflicted because of these convictions cannot be measured. The convenience and savings to the complainants and witnesses also cannot be calculated. Overall we have no doubt that this program's cost/benefits are substantial.

-
- (1) Court cost excluding judge, prosecutor, defense counsel is \$300,000/annum: average calendar day 10 cases, average number of court days 200. Source New York City office, administrative Judge.
- (2) Source - New York City Department of Correction.
- (3) Average salary of New York City patrolman \$18,500 (not including fringe benefits) Divided by 221 working days.

e) Accessibility:

1) District Attorney Merola and his staff are available for evaluation, publicity and visitation.

2) The project is certain to exist relatively unchanged for the remainder of 1976.

3) Outstanding Features:

a) This project demonstrates the capacity of the criminal justice system to overcome the disabilities of the past and the pressures of their overcrowded calendars to provide the accused and the community with swift and sure justice under the law.

b) We have proven that the diverse and complex character of circumstances surrounding the commission of a crime and the prosecutors policies can be reduced, to some degree, to non-technical, objective questions which allow a lay person to determine with high certainty whether the prosecutor wishes to direct extra resources to a specific criminal act.

c) We have proven that the laborious manual generation of criminal complaints can be speeded up by the application of data processing techniques.

d) We have demonstrated that paralegal personnel can provide invaluable assistance to the prosecutor.

e) We have demonstrated that up-to-date court calendars can be maintained without making inordinate concessions to the defendant by generous plea offers.

4). Weaknesses:

There are a number of problems in operating this project. The most significant being the small number of assistant district attorneys (10) assigned initially. Because of the 24-hour 7/day coverage the ADAs were overworked. At least 15 ADAs were needed to lessen the burden on the staff, as Bronx County has enough crime so that there were no days when a call was not received.

A difficult problem for the Bronx District Attorney is the small number of experienced assistant district attorneys on his staff. This is caused by high turnover stemming from low salaries. Because of this problem it is impracticable to always assign the most highly qualified ADAs to the Major Offense Bureau as that would have resulted in inadequate coverage of other responsibilities of the office. A number of compromises had to be made.

Additional problems stem from lack of physical resources. The Bronx County District Attorney's funds come from the New York City budget as a result we have been seriously underfunded for a long time. Ordinary supplies (paper, etc.,) are very hard to get; Office space is impossible to obtain. MOB operates without office space in the criminal court and inadequate space elsewhere. If the grant system would allow renovations of space in a less restrictive way we could have obtained more satisfactory working conditions. Additional difficulties are caused by the slow bureaucracy involved in releasing funds to the project, which caused frequent bookkeeping crisis.

5) Degree of Support:

See attachment 'E' newspaper clippings file for details.

The only formal complaint has been from the defendants in which their lawyers petitioned the court to prevent the District Attorney from prosecuting their cases "out of turn".

Community organizations including the Bar Association, various merchant groups, religious organizations, various private parties, the local community newspapers, and the "New York Times" and the "Daily News" have praised this program and called for expansion.

The Journal of the National District Attorney's Association vol. 11, No. 1 carried a feature article describing the Major Offense Bureau and as a result we have received numerous favorable comments. (see attachment 'E').

Appendix B: Letters of Recommendation

Bureau of Social Science Research, Inc.
1990 M Street, N.W., Washington, D.C. 20036
(202) 223-4300

March 3, 1976

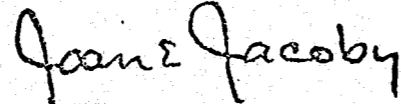
Ms. Mary Ann Beck
Model Program Development Division
Office of Technology Transfer
633 Indiana Avenue, N.W.
Washington, D.C. 20531

Dear Mary Ann:

I understand the Major Offense Bureau program in the Bronx, New York District Attorney's office is under consideration for Exemplary Program status. I would like to take this opportunity to endorse this program as a successful example of how the limited resources in a prosecutor's office can be restructured to meet the demands of the workload and reflect the prosecutor's policy.

I am familiar with this operation, having been involved with its establishment through the National Center for Prosecution Management, and have kept in touch with its progress over the years. I think that this is an outstanding example of how large offices can attack the problems of prosecuting larger caseloads of increasing seriousness by the proper allocation of staff resources and supported by the latest techniques derived from the fields of criminology and statistics. This type of program lends itself easily to transfer to other offices facing similar problems and certainly should be set forth as an example to other prosecutors. I heartily recommend it to you.

Yours truly,



Joan E. Jacoby
Adjunct Research Associate

JEJ:evm

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
36 WEST 44TH STREET
NEW YORK 10036

DRUG LAW EVALUATION PROJECT

SUITE 806

(212) 609-6235

February 11, 1976

Mr. Gerald M. Caplan, Director
National Institute of Law Enforcement
and Criminal Justice - LEAA
633 Indiana Avenue, N.W.
Washington, D.C. 20539

Dear Jerry:

During its first year, the Drug Law Evaluation Project has collected much information and conducted preliminary analysis relevant to a number of issues raised by the enactment of New York State's 1973 drug and sentencing laws. Dominant provisions of these statutes impose plea bargaining restrictions and mandatory prison sentences on offenders convicted of certain drug felonies and on all second felony offenders. The objective of the Drug Law Evaluation Project is to determine, as definitively as possible, the effects the 1973 laws have had on the prevalence of drug abuse and drug-related crime, and on the administration of justice in New York State.

These questions raise issues central to the problem of controlling crime and are extremely complex. During the first several months of the Project, much time was spent in recruiting staff and in developing methodologies and sources of information. Early analytic work has not addressed every issue, and so the results described here do not represent the full breadth of findings we are looking forward to developing. Nevertheless, some consistent directions are evident. Because of the preliminary nature of the evidence, the results have not been reviewed by the full Committee on New York Drug Law Evaluation.

Greatest progress has been made in evaluating the impact of the new laws on the operation of the courts. Latest available figures show that during the first

two years of operation, there were approximately 4,900 new law drug cases fully processed in the State's superior courts. Of these, 3,550 resulted in convictions (regardless of charge). By contrast, during the last two years in which the old drug laws were in effect (1972 and 1973), the courts processed over 12,000 drug cases of which over 10,000 resulted in convictions. Of the 3,550 convictions under the new drug laws, nearly 1,500 prison sentences have resulted, and nearly 900 of these were indeterminate lifetime sentences.

There have been severe problems of implementation in the courts of New York City, while other counties in New York State have generally been successful in dealing with the new provisions.

Difficulties in implementation can be traced to the combination of plea bargaining restrictions and mandatory sentencing provisions. These have combined to raise the demand for trials in drug felony cases from 6.5% of all New York City drug dispositions in 1973 to 15% in the first half of 1975. A substantial part, though not all, of the increase is attributable to restrictions imposed by the 1973 laws.

In non-drug cases, trial rates in New York City have also increased, from 6.5% in 1973 to 10.5% in 1975. The judge responsible for the administration of the City's courts feels sure that much of the increase in non-drug trials is attributable to the fact that second felony offenders, who are subject to restrictions on plea bargaining and face mandatory prison sentences similar to those faced by defendants under the new drug provisions, demand trials at a high rate.

The result of the increased demand for trials, combined with somewhat lagging productivity of the new courts established to deal with the 1973 laws, has been a rapid rise in the backlog of new drug cases. During 1974 and the first half of 1975, the entire increase in the pending caseload in the New York City Supreme Courts (roughly 1,000 cases) was accounted for by new drug cases. After 27 months, only half the City's new law drug indictments had been disposed of. The backlog of these cases finally fell, though by a very small number, during the last quarter of 1975.

This backlog has developed despite the addition of 31 new court units (a judge and associated clerical, prosecutorial and defense staffs), at an annual cost of approximately \$23 million. Throughout the State, a total of 49 new court units have been provided, at an annual cost of \$35 million.

In upstate areas, problems of implementation have been less severe. We think this is due to the relatively small number of cases upstate which are serious enough to fall under the plea bargaining and sentencing restrictions. In New York City, 75%

of indictments fall into this category, compared to 25% outside the City. There has been no general increase in the demand for trials in drug cases upstate.

As for potential general deterrent effects, the likelihood of a prison sentence (imposed in a superior court) following arrest for a drug felony increased during 1974 in only two of the seven jurisdictions (New York City and six upstate counties) we examined. The likelihood of a prison sentence following arrest for a non-drug felony did not increase in any of these jurisdictions in spite of the mandatory sentencing provisions facing recidivists. Our survey of sentences under the new laws revealed that because the most serious cases lagged so badly in the courts during 1974, the statewide frequency of prison sentences following conviction for a drug felony did not increase between 1973 and 1974.

It is doubtful that the new drug laws could have had beneficial effects through incarceration of dangerous offenders during their first 16 months of operation. Statewide, the total number of convictions in drug felony cases actually declined during 1974, to 3,100 convictions compared to 4,700 convictions a year earlier. There were 1,100 prison sentences in drug cases during 1974 compared to 1,700 sentences in 1973. Once again, much of the decline can be attributed to the slow processing of serious cases. As these cases eventually become a larger component of the courts' product, the frequency of prison sentences will also increase, and the probability of punishment is likely to go up. But additional data for 1975 and 1976 is required to confirm or deny these speculations.

There is one positive indication that the new drug laws are having an effect on the behavior of offenders. Police officials around the State are in broad agreement that informants have been easier to obtain with the threat of severe penalties as a lever. The potential of long prison terms has apparently made offers of leniency more attractive to some offenders.

The available evidence regarding prevalence of heroin abuse does not indicate significant changes in abuse patterns following enactment of the 1973 laws. Numerous indicators of heroin abuse, including data from drug treatment programs, police reports, and medical sources, have been followed over several years. Many of the indicators are weak in themselves but there is general agreement in what they show as a group. A decline in heroin abuse began in the 1971-72 period, before introduction of the new laws in early 1973. The decline continued during most of 1973, and levelled off toward the end of that year, just when the new laws became effective.

The indices of heroin abuse did not show notable changes during 1974, the first full year the new laws were in effect. In New York City, narcotics deaths, incidence of serum hepatitis, reports to the Narcotics Register, and admissions to treatment

were all fairly stable during the year. There have been numerous news accounts of increasing heroin activity during 1975. The meager evidence we have seen suggests a slight expansion of heroin use once again, but not of major proportions. According to the Drug Enforcement Administration, heroin from Mexico became widely available in the City last year. Additional data for 1975 are needed.

Information from drug treatment programs indicates that there was no sustained increase in the inflow of clients to the programs following implementation of the laws in 1973. After a very fast expansion during 1971 and 1972, the population in treatment has been quite stable. As far as we know, lack of capacity has not been a constraint to further expansion of the programs.

While there is nothing in New York State's recent experience to indicate a significant impact of the new laws on the course of heroin abuse, the observations cited above have not yet been compared to comparable data regarding drug abuse from nearby states to assess whether the mild fluctuations seen here differ from patterns in other areas.

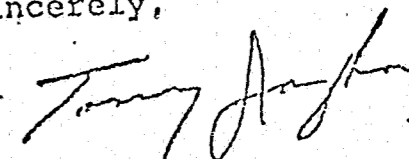
Two indicators of drug-related crime are being tracked. Though the results are still particularly tentative, neither of the indicators suggests unusual movements in New York State. The most direct indicator of crime attributable to heroin users is the volume of defendants who require detoxification from narcotics while in detention awaiting trial. Data are available only for New York City and are currently being analyzed to determine their reliability. The raw data show surprising stability between mid-1973 and mid-1975 in both the number of defendants and the proportion of all defendants who require detoxification. Since mid-1973, between 20% and 25% of all detainees have been processed through the program.

An indirect and rather rough index of how New York State is performing in controlling non-drug crime is obtained by comparing changes over recent years in the movement of non-drug crime with similar crimes in other states which previously exhibited similar movements. Data from only one post-law year, 1974, are available. Comparison of changes in index crimes (primarily property crimes) here and in other states, both on a statewide basis and for cities individually, reveals that similarities are still evident where they were evident before 1973. There is no clear divergence between crime trends of New York State and nearby states.

As you know, the Project will continue its work long enough to resolve many of the uncertainties uncovered in the early phase

of our study. As a result of that process, I am confident we can in time make a contribution to the understanding of the effects of mandatory sentencing provisions in general, and of the New York State drug laws in particular.

Sincerely,



Anthony F. Japha

AFJ la

Appendix C: Case Evaluation and Case Management
Control Forms

BRONX CASE EVALUATION

DOCKET NO. _____ INDICTMENT NO. _____

PEOPLE v. _____ CHARGE _____ DATE _____

Please record those points which apply to your case. Where there are multiple defendants, compute a base on the defendant with the most serious offense(s).

A. NATURE OF CASE

	check if applicable	pts.
VICTIM		
one or more persons	<input type="checkbox"/>	2.0
VICTIM INJURY		
received minor injury	<input type="checkbox"/>	2.4
treated and released	<input type="checkbox"/>	3.0
hospitalized	<input type="checkbox"/>	4.2
INTIMIDATION		
one or more persons	<input type="checkbox"/>	1.3
WEAPON		
defendant armed	<input type="checkbox"/>	7.4
defendant fired shot or carried gun, or carried explosives	<input type="checkbox"/>	15.7
STOLEN PROPERTY		
any value	<input type="checkbox"/>	7.5
PRIOR RELATIONSHIP		
victim and defendant - same family	<input type="checkbox"/>	-2.8
ARREST		
at scene	<input type="checkbox"/>	4.6
within 24 hours	<input type="checkbox"/>	2.9
EVIDENCE		
admission or statement	<input type="checkbox"/>	1.4
additional witnesses	<input type="checkbox"/>	3.1
IDENTIFICATION		
line-up	<input type="checkbox"/>	3.3
TOTAL CASE SCORE		_____

B. NATURE OF DEFENDANT

FELONY CONVICTIONS		
one	<input type="checkbox"/>	9.7
more than one	<input type="checkbox"/>	18.7
MISDEMEANOR CONVICTIONS		
one	<input type="checkbox"/>	3.6
more than one	<input type="checkbox"/>	8.3
PRIOR ARRESTS - SAME CHARGE		
one	<input type="checkbox"/>	4.5
more than	<input type="checkbox"/>	7.2
PRIOR ARRESTS		
one	<input type="checkbox"/>	2.2
more than one	<input type="checkbox"/>	4.2
PRIOR ARREST-WEAPONS TOP CHARGE		
more than one	<input type="checkbox"/>	8.4
STATUS WHEN ARRESTED		
state parole	<input type="checkbox"/>	7.1
wanted	<input type="checkbox"/>	4.2
TOTAL DEFENDANT SCORE		_____

C. REFER TO M.O.B. IF ANY OF THE FOLLOWING CONDITIONS APPLY:
(check those applicable-offense is most serious charge)

- FORCIBLE SEXUAL OFFENSES BETWEEN UNRELATED PARTIES
- ARSON WITH SUBSTANTIAL DAMAGE OR HIGH POTENTIAL FOR INJURY
- CHILD ABUSE, CHILD SEVEN OR UNDER
- MULTIPLE ROBBERIES OR BURGLARIES

D. SUMMARY INFORMATION

NO. OF VICTIMS _____

- received minor injury
- treated and hospitalized
- hospitalized and/or permanent injury
- law officer
- attempted murder of officer

WEAPON

- gun
- knife
- bomb or explosive
- other _____

BURGLARY

- night-time
- evidence of forcible entry
- Church, School, Public Bldg.
- no. of premises burglarized _____

VALUE OF STOLEN PROPERTY

	recovered	not
<input type="checkbox"/> under \$250	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> \$250 to \$1499	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> \$1500 to \$25,000	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> over \$25,000	<input type="checkbox"/>	<input type="checkbox"/>

PRIOR RELATIONSHIP

- other family
- neighbor
- friend
- acquaintance
- other

IDENTIFICATION

- photograph
- on or nearby scene
- other
- no. of persons making I.D. _____
- time delay of I.D. _____

SUPPORTING EVIDENCE

- crime observed by police officer
- fingerprints recovered

E. DISTRICT ATTORNEY'S EVALUATION

TOTAL SCORE _____

RANKING CLERK _____

A.D.A. NOTICED yes no

ACTION BY A.D.A.:

- accepted furthered
- rejected referred to M.O.B.

reasons:

BRONX DISTRICT ATTORNEY'S OFFICE
1975 SUMMARY

Office Totals - Indictments - 3835 (defendants)

" " Trials - 473 "

Defendants pending beginning of year - 2494

" " end of year - 2896

Number of employees - 1/1/75 - 323

" " " " - 1/1/76 - 315

Bureau Totals-

Criminal Court Bureau:

Arraignments -42,530

Executed Warrants - 9,689

Felony Hearings - 2,376

Jury Trials - 69

Court Dispositions -41,845

No complaint ordered - 1,109

Indictment Bureau-

Total presentations - 1,197

Total Indictments - 3,835

Supreme Court Bureau-

Trials - 401*

Acquitted - 159

Convicted - 242

Pleas - 1,773

Dismissals - 617

*Does not include Homicides

PAGE 2

Re: 1975 Statistical Summary cont'd

Supreme Court Bureau cont'd from page 1-

Returned on Bench Warrants - 590

Arraigned on Arrest Warrants - 591

Major Offense Bureau Cases Accepted* - 253

Indictments (Defendants) - 368

Dispositions - 453

Convictions Rate - 90%

Homicide Bureau-

Number of Homicides Reported - 396

Defendants Indicted - 296

Pleas - 214

Trials - 71

Convictions - 53

Acquittals - 18

Dismissals - 23

Narcotics Bureau*-

Indictments - 422

Pleas - 211

Trials - 97

Convictions - 61

Acquittals - 36

Complaint Bureau-

Office Visits - 2,204

Investigations - 353

Referrals - 1,853

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Re: 1975 Statistical Summary cont'd-

Police Department-

Investigations	- 1,052
Arrests	- 206
Polygraph Examinations	- 213
Tested	- 75
Extraditions	- 40
Lineups	- 93
Bodyguard Assignments (man hours)	- 4 - 837
Court ordered Wire Taps	- 12
Court orders processed	- 1,123
Prisoners moved	- 610

Detective Investigators Bureau-

Investigations	- 215
Arrests	- 112
Background checks	- 87
Bodyguard Assignments	- 31
Welfare Fraud Arrests	- 91
Recovery Value	-\$574,987

Welfare Fraud-

Arrests - 1975	- 183
Fraud value	-\$720,541
Cash Recovery	-\$573,721

END