

EVALUATION OF  
THE SUFFOLK COUNTY  
MAJOR VIOLATORS PROJECT

*a report to the*

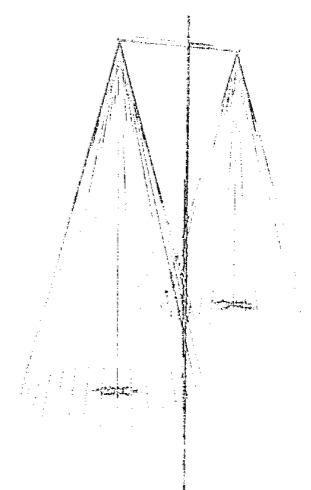
MASSACHUSETTS COMMITTEE  
ON CRIMINAL JUSTICE

MAY 1977

U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
NATIONAL CRIMINAL JUSTICE TRAINING CENTER  
WASHINGTON, D.C. 20535

42096

performed by  
THE NEW ENGLAND BUREAU  
FOR CRIMINAL JUSTICE SERVICES



EVALUATION OF  
THE SUFFOLK COUNTY  
MAJOR VIOLATORS PROJECT

This evaluation was performed by The New England Bureau for Criminal Justice Services under contract to the Commonwealth of Massachusetts Committee on Criminal Justice. The New England Bureau for Criminal Justice Services is a not-for-profit corporation organized to provide technical assistance and professional services to the national criminal justice community. Since 1972, The New England Bureau has performed assignments for police, court, and prosecutive agencies as well as for the Law Enforcement Assistance Administration (LEAA) and the National Institute of Law Enforcement and Criminal Justice. Among its projects have been assistance in the planning and performance of the National Level Evaluation of LEAA's High Impact Anti-Crime Program, the design and installation of the Prosecutive Management Information System (PROMIS) for the Rhode Island Department of the Attorney General, and the development of a police resources management analysis capability for the State of Vermont. The Principal Investigators for this evaluation were:

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NO. 100

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MAY 1977

THE NEW ENGLAND BUREAU  
FOR CRIMINAL JUSTICE SERVICES

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FOREWORD

The field of Criminal Justice is replete with mythology and its traditions are often set in cement. Many of the persons working within it know things are true solely because they believe them to be true, rather than because evidence has established their verity. In short, subjectively derived answers to problems are in much greater supply than quality research. There is an almost inevitable tendency to over-generalize conclusions and too frequently an interest in immediate solutions to serious problems.

The Suffolk County Major Violators Project is but one of 20 Federally funded prosecution programs directed at accelerating the disposition of serious criminal offenders. Based upon the literature available about other programs of its type, the MVP is generically similar, but not identical to all the others. Each of these programs is permitted certain flexibility in design and operation and, most importantly, has reasonable freedom to establish its guidelines for categorizing those cases it may choose to pursue. Again, with regard to the selection criteria employed, there is similarity but not identity among the projects currently functioning with Federal support.

The underlying thesis of the national effort - the Career Criminal Program - is that a disproportionate number of serious offenses are committed by a relatively small number of repeat offenders. Such persons can and should be quickly identified, rapidly prosecuted and incarcerated for substantial terms. The result, it is postulated, will be a reduction in serious criminality and a positive enhancement of the public's sense of security.

This evaluation does not confirm or refute that hypothesis. Rather, what it does is assess the performance of the Major Violators Project (MVP) in terms of the goals it articulated for its operations in Suffolk County, Massachusetts.

The Authors  
May 1977

## ACKNOWLEDGEMENT

Although this report was principally authored by three persons, it would not have been possible without the cooperation and assistance of many others within and without the Massachusetts criminal justice system. A complete list of people who provided assistance is too long to detail here. However, special recognition must be made of several who committed substantial time and energy to assisting this effort.

We are particularly grateful to Dr. Floyd J. Fowler, Jr. and the staff of the Survey Research Program, a facility of the University of Massachusetts/Boston and the Joint Center for Urban Studies of M.I.T. and Harvard University. Once again, his staff and that of The New England Bureau collaborated effectively in a difficult joint effort. We especially wish to acknowledge the assistance of Dr. Thomas W. Mangione, Assistant Director of the Survey Research Program, and his colleague, Dr. Frederick E. Pratter (who authored Section 5.2 and Appendix A).

Data Collection for the statistical analyses was performed by Mr. Larry Kletter and Mr. Samuel Lazarus of The New England Bureau. It was a difficult task, made more so by the disarray of records. Both worked successfully to overcome the obstacles they faced. Ms. Shirley A. Elliot bore cheerfully and tirelessly the responsibility of typing this report.

We benefited significantly from the constructive criticisms and insights of Mr. Cicero Wilson, Director of the Evaluation Unit of the Massachusetts Committee on Criminal Justice (MCCJ) and Ms. Karen E. Joerg, who served as program manager for this evaluation. Ms. Joerg was a stern, but fair taskmaster. Mr. Frank Chasen (of the Mayor's Safe Streets Committee) and Mr. Stephen Limon (MCCJ) also reviewed and made valuable comments on interim and final drafts of this report.

We are most grateful to Ms. Patricia Clarke, Administrative Assistant for the Major Violators Project. During every evaluation, there is invariably one person who bears the burden of fulfilling evaluators' nearly endless requests for additional information and records. Ms. Clarke was that person and was unfailingly helpful. We are also appreciative of the assistance of D. Lloyd MacDonald, Senior Trial Counsel, who provided guidance concerning our evaluation methodology and reviewed the draft reports.

Finally, the authors would like to acknowledge the total cooperation of District Attorney Garrett H. Byrne and members of his staff. We were afforded complete and open access to all District Attorney personnel and records. Without such access, this evaluation would not have been possible.



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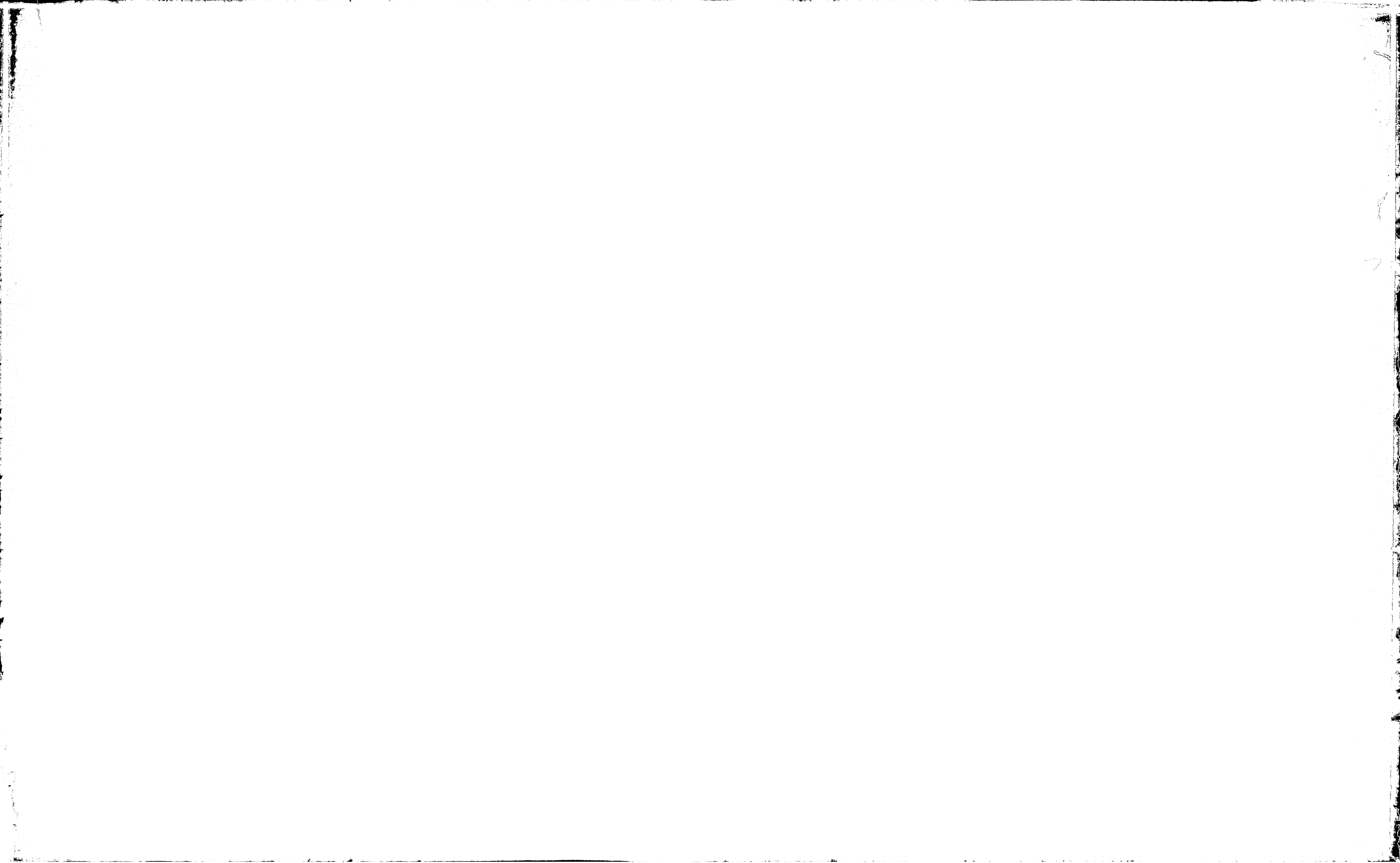
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## EXECUTIVE SUMMARY

This document is the final report of the evaluation of the Suffolk County Major Violators Project (MVP). The study was chartered by the Massachusetts Committee on Criminal Justice (MCCJ) and performed by The New England Bureau for Criminal Justice Services.

Although the MVP commenced operations in July 1975, it was not fully operational until September of that year. This evaluation covers the period from September 8, 1975, to August 31, 1976. While statistical data collection from the Project was limited to that period, observations and interviews related to Project procedures and impacts extended through April 30, 1977.

The Major Violators Project is, for Massachusetts, a radical departure from traditional prosecutor approaches to processing serious criminal offenders. Within its environment, it represents an important and creative departure from the status quo. The essence of this program is to focus personnel and fiscal resources upon that distinct category of offenders whose conduct threatens and negatively impacts the public's sense of security.

The MVP, funded primarily by the Law Enforcement Assistance Administration (LEAA) with matching funds from Suffolk County, has been fully operational since September 8, 1975. At an annual direct cost of approximately \$450,000, this autonomous unit composed of lawyers, investigators and administrative personnel is responsible for identifying and prosecuting major violators. Its targets are defined as repeat offenders who commit serious crimes and/or persons whose conduct terrorizes or shocks the community. In addition, and of critical importance to understanding the program, it should be noted that the Project deliberately seeks to select from within that class of offenders those who are likely to be

convicted. This Project feature represents the rational allocation of limited prosecutorial resources to implement an explicitly articulated prosecutive policy. Such a process is rare in Massachusetts.

#### MVP Achievements

In terms of success as defined in the Project design documents, the direct positive results of the MVP are:

- o A 67% reduction in the time required to process an offender from arrest to verdict - from 341 days to 112 days (Section 5);
- o An increase in the conviction rate for target offenders from 87.2% to 96.4%\*(Section 5); and
- o More severe sentences for target offenders: the average minimum sentences increased from 6 years, 11 months, to 8 years, 5 months; and the average maximum sentence increased from 9 years, 8 months, to 12 years, 2 months (Section 5).

Other Project results include a one-third reduction in the percentage of target offenders at liberty as a consequence of posting bail or being released on personal recognizance in the pre-trial period. Approximately 18% of the MVP defendants were able to make bail or secure release on personal recognizance. The average bail for this class of defendants increased from \$14,000 to \$49,300. These analyses are presented in Section 7.

Guilty plea rates have also changed since implementation of the Project. The percentage of guilty pleas before trial declined by 12% while such pleas during trial increased 11%. The percentage of pleas of guilty to the offense originally charged by indictment has also increased (Section 7).

The Project has confirmed the necessity for adequate administrative support in the prosecutive process, support patently absent in the Main Office of the Suffolk County District Attorney. The MVP dramatically illustrates the benefits of specialization and centralization of accountability in achieving prosecutive success as defined by the District Attorney. The Project functions with full-time personnel operating under tight management controls and job functions are routinely reviewed for performance effectiveness. Statistical data and critical case management information are routinely collected and analyzed which permits on-going assessment of Project performance.

\* Unless otherwise noted, all percentage differences presented in this report are statistically significant.

#### Key Features/Procedures

The Project has instituted several procedures designed to reduce the time required to process felony cases. These procedures include:

- o Elimination of Probable Cause Hearings in District Courts by presenting witnesses and evidence directly to the Grand Jury;
- o An "open-file, full-disclosure" policy which eliminates the need for most pre-trial conferences;
- o Priority ranking for MVP cases at the Assignments Session;
- o "One Assistant District Attorney - One Case" policy which places full responsibility for the preparation and processing of a Project case on the trial assistant assigned to that matter;
- o Limited plea bargaining policies which reduce the time permitted for plea negotiations and effectively eliminate negotiations for reduction in seriousness or number of charges; and
- o Stricter, standard bail policies.

The most original or innovative element of the MVP is the screening process. Conceptually, the key to this successful special prosecution effort is the accurate identification of potential target defendants and more comprehensive pre-trial preparation of individual cases. Within the MVP, those functions are the responsibility of the Screening Unit. The intervention of the MVP Screening Unit at an early point in the process served several important purposes:

- o Defendants/cases are objectively and subjectively screened at an early stage (usually less than 24 hours after arrest) thereby permitting early identification of offenders who will be categorized as "major violators";
- o Evidence in the case, such as eyewitness testimony, police statements, physical evidence, victim statements, and offender admissions, are collected and preserved by Assistant District Attorneys while recollections are vivid;
- o Victims and witnesses are more accurately identified and become participants in the prosecutive process virtually immediately following the crime and/or arrest of the alleged offender(s);

- o Early and more complete case preparation is possible;
- o There is greater standardization in preliminary case preparation and a greater capability for quality control on the part of the prosecutor; and
- o Interaction and cooperation between police and prosecutors is significantly increased during a critical phase of the prosecutive process.

We found the Screening Unit to be an effective tool for analyzing and prioritizing cases for prosecution; and Screening Unit assistants have improved the quality of case preparation in Suffolk County (Section 4).

However, full realization of the potential benefits of the screening mechanism were not realized during the period evaluated. The criteria employed for identification of potential target offenders were and remain too subjective. As such, they are insufficiently predictive of success in achieving MVP goals and implementing policies. They require revision. The suggested substantive revisions and procedural changes recommended in this report will increase the objective character of the selection process and will centralize discretionary authority in the Project Director where it properly belongs.

#### Other Findings and Recommendations

Some additional salient findings and recommendations, discussed in greater detail in Section 9, are:

1. If case-processing time is to be further reduced, with limited exception, necessary system modifications will be external to the MVP.
2. The analysis and comparison of the 25 fastest and 25 slowest MVP cases suggests that there exists a minimum time below which increasing speed of disposition may be counterproductive.
3. The MVP has reduced plea bargaining. When bargaining takes place, such negotiations do not ordinarily delay trials.
4. The MVP has a crime preventive effect, even though it appears to have no deterrent impact on major violators.
5. The results of the MVP are more likely, over time, to enhance the Suffolk County citizens' sense of security than those of any other current function of the District Attorney's Office.

6. The MVP process reduces victim/witness disenchantment with criminal justice in Suffolk County.
7. In counties where major violators present a serious problem, the MVP presents an interesting model for district attorneys to consider.
8. The MVP has developed and successfully tested a pilot model for determining priorities and allocating resources for the prosecution of all persons charged with crimes.
9. MVP cases involved defendants whose crimes were more serious, who had more extensive arrest and conviction records, and who were more often in either pre- or post-trial release status than defendants in the cases screened and rejected by the MVP.
10. The MVP should employ trained paralegals to perform various tasks presently handled by Screening Unit attorneys.
11. The Screening Unit could undertake additional preliminary investigative work on cases which will be rejected for MVP status without adversely affecting its primary objectives.
12. The selection criteria presently used and the weights assigned to each criterion should be modified to make them correspond in a more accurate way to the special prosecution goals of the District Attorney and to permit totally objective screening.

In terms of its declared objectives, the Suffolk County Major Violators Project has achieved substantial success. Its impacts upon the Main Office of the District Attorney are less clear. In part, this is a function of the Project's structural design as an autonomous element of the Main Office, as well as its operational focus. Put simply, the MVP was not an operations research or systems analysis capability with a mission to produce recommendations for improving performance in the Main Office. Nevertheless, certain of its positive operating characteristics and results have influenced changes within the District Attorney's apparatus. In conjunction with new administrative and system approaches conceived at the Main Office, MVP procedures are important models for improving the quality of criminal justice services in Suffolk County.

## SECTION I THE EVALUATION

### 1.1 Research Objectives

The Suffolk County Major Violators Project (MVP) is the first, well-funded program in Massachusetts designed to select and prosecute a class of repeat offenders believed to be responsible for a disproportionate number of serious crimes. The Project represents a policy determination by Suffolk County District Attorney Garrett H. Byrne that this small class of offenders has been able to manipulate the current prosecutive process by taking advantage of crowded court dockets, overworked Assistant District Attorneys, and liberal bail policies. That policy determination culminated in the creation of a separate trial unit which would select and prosecute those defendants. The Project is funded by a discretionary grant from the U. S. Department of Justice, Law Enforcement Assistance Administration.

This evaluation was conducted by The New England Bureau for Criminal Justice Services on behalf of the Commonwealth of Massachusetts Committee on Criminal Justice (MCCJ). The evaluation focused on a description of the Project, the changes it has made in the way a select class of offenders is prosecuted, and the viability of such a program. More specifically, the evaluation had the following objectives:

- o To provide a description of the Suffolk County case processing system before and during the Major Violators Project;
- o To determine whether the MVP achieved its goal of selecting those offenders who met the criteria for classification as "major violators";



- o To evaluate whether the MVP achieved its goals of speeding the processing of cases involving major violators, increasing the certainty of conviction for those selected, and obtaining more severe sentences for offenders who have committed serious crimes;
- o To analyze selected MVP cases and isolate factors which significantly relate to success or failure;
- o To compare the performance of the MVP with the performance of the prosecutive system in processing serious felony cases prior to the implementation of the MVP;
- o To examine the indirect effects, if any, of the MVP on the processing of less serious felony cases;
- o To assess the impacts of the MVP on the criminal justice system; and
- o To assess the costs and benefits of the MVP.

By achieving the above evaluation objectives, the New England Bureau for Criminal Justice Services would provide the Massachusetts Committee on Criminal Justice with information which could be used in deciding whether to continue funding for the MVP. The Suffolk County District Attorney and the Boston City Council (the County's governing body) would have available data necessary for an informed decision on institutionalizing the MVP after Federal funds are exhausted. And, other Massachusetts District Attorneys would have guidelines available for the establishment of similar units in their jurisdictions.

#### 1.2 Tasks

To perform this evaluation, we carried out the following tasks:

1. Documented the case processing system;
2. Created a baseline data file of MVP cases;
3. Analyzed the fastest and slowest (in terms of time from arrest to disposition) MVP cases;
4. Drew samples of serious pre-MVP felony cases, less serious pre-MVP cases, and less serious concurrent-with-MVP cases;

5. Performed a comparative evaluation of MVP cases and pre-MVP serious cases;
6. Performed a comparative evaluation of less serious concurrent-with-MVP cases and less serious pre-MVP cases;
7. Assessed the screening and selection process;
8. Assessed the impact of the MVP on the criminal justice system;
9. Tested a "punishment fits the crime" hypothesis; and
10. Analyzed the costs and results of the MVP.

For Task 1, we reviewed primary and secondary source materials related to MVP and non-MVP case processing in Suffolk County, interviewed persons involved with each of the criminal justice system components, and documented the manner in which a felony case is processed in the County.

In Task 2, we constructed a baseline data file for all cases accepted for prosecution by the MVP between September 1, 1975, and August 31, 1976. The file was created by capturing and coding case data concerning: defendant, victim, and victim demographics; case processing and tracking; evidence availability; sentencing recommendations; case and charge outcomes; selection criteria scoring; and defendant criminal history.

After the baseline data file was constructed, we performed an analysis of the 25 fastest and 25 slowest MVP cases (Task 3). The analysis involved cross-tabulating case input variables in the two classes, to isolate and measure those variables impacting on the success/failure of a case and case speed. We sought to determine whether fast cases are really more successful than slower cases. For this task, measures related to speed of processing, certainty of conviction, and severity of sentence were used to determine success.

For Task 4, a sample of serious cases was drawn from matters prosecuted prior to the MVP but which would have qualified for MVP prosecution, had the Project been operating at the time. To draw the sample, approximately 1900 indictment felony cases, prosecuted and settled by the Suffolk County District Attorney's Office in the year prior to the MVP, were screened using the MVP's objective criteria.<sup>1</sup> Those cases

<sup>1</sup> Only settled cases were used. Pending case files would have been difficult to locate in the Main Office and data in those files would not have been complete.

most comparable in terms of the offender, the crime, and the victim were selected and isolated. There were only 149 such cases and therefore, all were kept in the sample. A random sample was then drawn of the remaining cases for the pre-MVP less serious group. Random sampling was also used to create the less serious concurrent-with-MVP comparison group of cases.

In Tasks 5 and 6, we measured changes in system performance for the four groups of cases<sup>2</sup> to perform the required comparative evaluations.

Task 7 required on-site observations of the MVP Screening Unit as its members performed their assigned tasks, interviews with Unit personnel, and an analysis of the Unit's application of the selection criteria in accepted cases. We also randomly selected a sample of 50 rejected cases and applied the selection criteria to them to determine if cases which should have been selected were slipping through the screening processing. An analysis was also made of the appropriateness of specific selection criteria and the weights assigned thereto.

In Task 8, interviews were conducted with police, non-MVP prosecutors, MVP personnel, judges, defense attorneys, corrections and probation personnel, victims, and defendants to identify MVP impacts on the criminal justice system and the perceptions of system personnel.

To test the hypothesis that "punishment fits the crime", we used data collected from the baseline data files to determine if more serious crimes are punished by more serious sentences (Appendix A).

Task 10 was to be a cost benefit analysis of the MVP. To perform the analysis, cost data were assembled from the MVP funding documents. Similar data, to the extent possible, was to be gleaned from the budget files of the Suffolk County District Attorney (Appendix B).

### 1.3 Problems and Limitations

The problems encountered during this evaluation were those normally associated with primitive data collection and storage systems (or non-systems). We anticipated that the type and quality of information we desired would not be easily obtainable and, with a few exceptions, we were not disappointed.

<sup>2</sup> The MVP group was a universe encompassing all MVP cases settled between September 1, 1975, and August 31, 1976. The remaining three groups were samples of non-MVP cases.

The Major Violator Project cases files were, for the most part, complete and in excellent condition. MVP trial assistants use case folders to record processing transactions and cross-reference other files. They rely heavily on criminal history data, not only in the screening process, but also at trial and, therefore, such data were quite complete. The MVP also maintains excellent statistics on all of its activities and we benefitted substantially from their data collection instruments.

The records system of the Suffolk County District Attorney's Office (Main Office) presented serious obstacles. Unfortunately, baseline data files for three-quarters of our sample cases had to be totally reconstructed from the Main Office files. When required data were not available there, we had to reconstruct the case files from alternative sources, including the Superior Court Clerk's Office, the Board of Probation, recollections of Assistant District Attorneys, Grand Jury minutes, court transcripts, and police reports. Although Main Office staff was extremely helpful and cooperative, system weaknesses made the data collection burdensome and time-consuming.

The Main Office began using case folders only three years ago. For the first year and a half, attorneys rarely recorded any information other than the defendant's name, a case number, a docket number, and the letter "S", to indicate that a case was settled or concluded. More recent folders carried entries which indicated that assistants were making a greater effort to record other data, including the type of disposition, sentence imposed and all applicable dates. There is, however, still no quality-control review of the folders prior to deposit in the settled cases file. Many of the folders inspected contained only a copy of an indictment.

Since January 1976, the Main Office has been preparing for the installation of a computerized management information system. Case data for 1976 have been entered and substantial information about those cases is now available at one location. Obviously, when fully operational, the system will be of great benefit to the Main Office and should eliminate many of the problems we encountered. We know, from our experience, that the system is badly needed and, even if it does nothing more than keep track of the many and varied matters handled by the District Attorney, it will be a major advance.

Difficulties also arose with respect to the sampling tasks. The universe from which we drew our samples was not as large as we had expected. For the year prior to the implementation of the MVP, we only found approximately 1900 settled cases. When we eliminated appeals and narcotics cases (the MVP does not accept narcotics cases and there were no appeals in the MVP universe), only 935 cases remained which were within the sample parameters. We had hoped to generate a sample of

approximately 200 cases. By applying the MVP objective selection criteria to the cases which remained, we identified only 149 which were comparable in most characteristics to the MVP cases and which probably would have been prosecuted by the MVP, if the Unit had been operational.

Another sampling problem resulted from the nature of the MVP selection criteria. Had the MVP used a totally objective scoring system, we could have replicated the screening process. However, two criteria are subjective (evidence and ADA discretionary points). It was thus impossible to match controls on these two factors. First, there were no records of exactly what evidence was available at the time of the arrest and, second, discretionary points toward selection had been awarded without any consistent guidelines for the exercise of that discretion. We did, however, have complete data on the objective criteria and the average scores for each category in the accepted cases. Therefore, we are confident that our procedure resulted in a sample which was comparable to the MVP cases.

Finally, police, prosecutor, and court cost data were not available in any form which permitted true cost benefit analysis. The Suffolk County District Attorney is funded from a number of sources (Federal, State, and City); Main Office ADAs were part-time employees and did not keep time records; there is no recording of the number of court appearances by ADAs; and administrative personnel in the Main Office provide some support to all units, including those which operate independently of the Main Office, without recording how their time was allocated.

The Boston Police Department maintains cumulative data on police overtime costs related to courts, but does not break out the location (what court) or what type of proceeding (Grand Jury, probable cause hearings, arraignment, etc.) caused the overtime costs. Court cost data are equally non-responsive to cost benefit analysis.

The problems we have cited were, in most cases, not insurmountable. Further, they were not completely unexpected, since we have performed similar evaluations and assessments in many criminal justice agencies with similar problems. Records-keeping deficiencies in Suffolk County are, unfortunately, typical of systems elsewhere, particularly in the Northeast. What was encouraging was the MVP information system. It could serve as a model for the Main Office. We were also encouraged by the computerized information system under development at the Main Office. Coupled with full-time Assistant District Attorneys, that system should do much toward solving many of the problems plaguing the Suffolk County case processing system. Were we doing this evaluation two years from now, our job would undoubtedly be easier.

## SECTION 2 THE MAJOR VIOLATORS PROJECT

The Suffolk County Major Violators Project is one of 20 Federally funded, special units organized to prosecute the most serious felony cases. The 20 units have all been funded by the Law Enforcement Assistance Administration (LEAA) under its Career Criminal Program.

### 2.1 The National Career Criminal Program

A study conducted in Washington, D.C., for the National Institute of Law Enforcement and Criminal Justice revealed that a very small number of arrested offenders (7%) was responsible for a disproportionate percentage (25%) of the serious crime in that jurisdiction.<sup>3</sup>

In 1973, the newly elected District Attorney of Bronx County, New York, concluded that the same situation existed in his county. Persons arrested and indicted for serious crimes went untried for at least 24 months. Cases were being lost due to witness non-availability or memory lapses and the number of cases being disposed of by pleas or dismissal was approaching 90 percent. The number of defendants committing additional crimes while on bail or after bail default was also increasing rapidly.

The Bronx District Attorney responded to the problems by creating a trial bureau to prosecute the most serious offenders. An LEAA grant was secured to establish a system for identifying and prioritizing cases involving repeat offenders who commit serious crimes and to support the special trial bureau. The grant was approved in April 1973 and the Major Offense Bureau (MOB) became operational in July of that year.

<sup>3</sup> Major Offense Bureau, Bronx County District Attorney's Office, National Institute of Law Enforcement, February 1977, p. 1.

Based upon an assessment that the MOB project had achieved its primary goal of improving prosecution of serious offenders, LEAA decided to encourage and support replication of the project. The MOB model became the exemplar for prosecutive programming under a large LEAA initiative to deal with serious repeat offenders known as the Career Criminal Program.

Initially, LEAA funded eleven Career Criminal Projects in major urban jurisdictions including Suffolk County. There are now 20 LEAA-funded projects and some jurisdictions have implemented similar units without Federal support. The National Legal Data Center in Thousand Oaks, California, was also funded to assist in the coordination, monitoring, data collection, technical assistance, and evaluation of the overall Career Criminal Program.<sup>4</sup>

## 2.2 The Suffolk County Major Violators Project

The Suffolk County Career Criminal Program was launched with a first-year grant from LEAA of \$463,192 and \$51,466 in matching funds provided by Suffolk County. Following the MOB model, a separate bureau was established to screen all felony arrests in the County, identify repeat offenders who commit serious crimes, and prosecute those defendants. This bureau was named the Major Violators Project (MVP).

As is discussed in greater detail elsewhere in this report, the Suffolk County MVP is not an exact replication of the MOB model. The MVP may accept cases characterized as heinous offenses or those which terrorize or inflame the community, whether or not the offender has a prior criminal record. Thus, throughout this report, defendants processed by the MVP are referred to as major violators and not career criminals.

The MVP was officially implemented on July 1, 1975, with the appointment of Assistant District Attorney Thomas Mundy, a veteran prosecutor, as the Project Director. Assistant District Attorney D. Lloyd MacDonald was designated Senior Trial Counsel. Mr. MacDonald had previously served as the Assistant Director of the Center for Criminal Justice at Harvard Law School. Once these appointments were made, implementation efforts shifted to recruiting qualified staff, securing office space, and developing new prosecutive policies and procedures.

The MVP became fully operational on September 8, 1975, when the Screening Unit was established in an office at Boston Police Department

<sup>4</sup> *Career Criminal Program: A How-to-do-it Guideline for Prosecutors*, National Legal Data Center, p.1.

Headquarters. In the period between the grant award and the establishment of the Screening Unit, the MVP selected and prosecuted three cases. All three defendants were convicted. Once the Screening Unit was operational, all subsequent cases were identified through the application of the screening criteria developed for the Project. The MVP also used the time between July 1 and September 8, 1975, to establish the coordination with other system components necessary for an effective program.

There are four municipal police departments in Suffolk County, as well as the Metropolitan District Commission Police, Massachusetts Bay Transportation Authority Police, and operating units of the Massachusetts State Police. MVP officials met with the Administrators of those departments and made them aware of the Project, its objectives and its procedures. The departments responded by informing their personnel about the MVP and directing that they cooperate with the District Attorney's effort to prosecute major violators. The response of the Boston Police Department, in particular, was quite noteworthy. It not only provided space for the Screening Unit, but made many of its other resources available.

Assistance from the Superior Court was sought and received. The Chief Justice of the Superior Court, when informed that the MVP would establish an "open file - full discovery" policy making all evidence available to the defense at the time of arraignment, agreed that that policy eliminated the need for pre-trial conferences. Previously, a pre-trial conference had been scheduled by the arraignment judge for a date approximately four weeks after an arraignment, in effect, delaying trial and/or plea negotiations for at least that period. The Chief Justice also directed that MVP cases be called first on the felony trial list.

From September 8, 1975, through May 17, 1977, the MVP screened 5326 felony cases in Suffolk County and accepted 425 for prosecution. The 425 cases involved 302 defendants categorized as major violators.

As of May 17, 1977, the MVP had disposed of 244 of those 302 defendants. Of the 244 defendants finally disposed of, 237 (97.1%) were convicted. Of the 237, 134 pled guilty, 91 were convicted after jury trials, and 12 were convicted after jury-waived trials; 7 defendants were acquitted. The median elapsed time from arrest to verdict for the completed cases was 88 days and the mean between arrest and verdict was 97 days.<sup>5</sup> Nearly all those convicted (99%) were incarcerated with the greatest number of those incarcerated sentenced to the maximum security prison at Walpole. The average term for defendants sentenced to Walpole was 12-18 years. Only 1 defendant was placed on probation.

<sup>5</sup> The above data were taken from MVP statistical reports and records and include all cases accepted between September 8, 1975, and May 17, 1977. They will not correspond to statistics presented in Sections 5 and 7 of this report since data in those sections were taken from 177 cases processed between September 1, 1975, and August 31, 1976.

2.3 Organization of the MVP

The structure of the Major Violators Project is shown in Figure 1. The Project, which employs 28 people, has three operating units: Screening, Trial, and Administrative. The MVP Director reports directly to the District Attorney. Although there is no officially designated Deputy Project Director, the Senior Trial Counsel is, in effect, the second ranking person in the MVP and acts for the Director in his absence.

The Screening Unit, which is supervised by the Senior Screening Counsel, "screens" all felony arrests in Suffolk County and tentatively selects cases which meet the selection criteria for prosecution by the MVP. The Unit is also responsible for early case preparation once a case has been tentatively selected. Four attorneys and the Senior Screening Counsel share the manning of the Unit on an 18-hours-per-day, 7-days-per-week basis. During the hours when no attorneys are on duty, one of the five is on call. Three investigators support the attorneys and there are two legal secretaries who perform the record keeping, typing and transcription tasks.

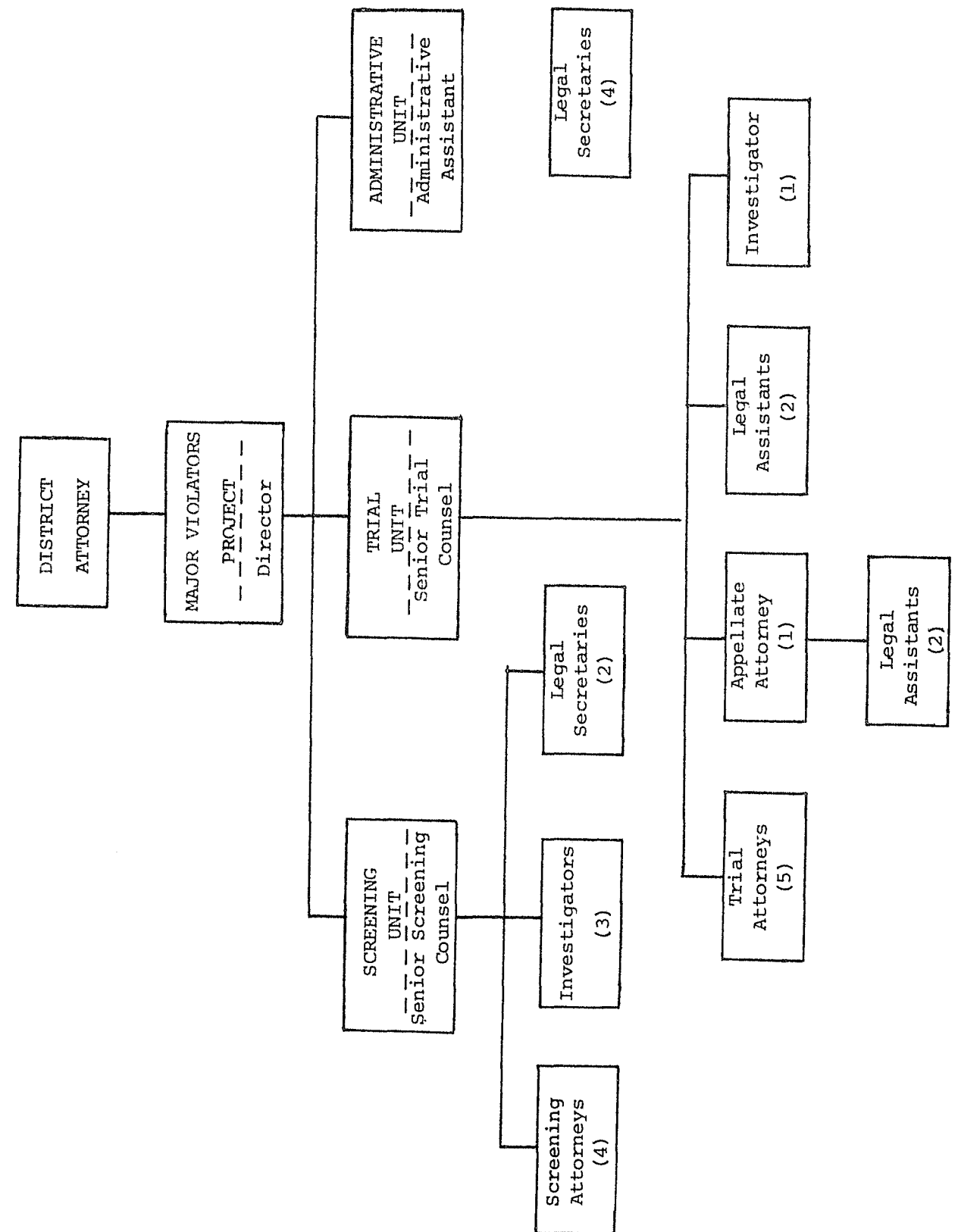
Cases selected for prosecution are assigned to one of the five trial attorneys or to the Senior Trial Counsel in the Trial Unit. Once assigned, a trial attorney handles a case from Grand Jury presentment to final disposition. Trial attorneys and the Senior Trial Counsel share the services of two legal assistants and an investigator.

The Project Director does not carry a full caseload, although he does prosecute cases. He maintains liaison with other sections of the District Attorney's Office and with other criminal justice system components. In addition, he reviews cases forwarded by the Screening Unit, evaluates the performance of MVP personnel, and has certain administrative functions.

During its first year, the MVP had no need for an Appellate Attorney. In the second year, however, approximately 25% of the MVP defendants appealed their cases. Consequently, an Appellate Attorney position was created and filled. That attorney is responsible for all tasks related to appellate matters and presently has two legal assistants working with him.

The Administrative Assistant supervises four legal secretaries. She assigns their work and monitors their performance. She also maintains records, manages the MVP budget, and prepares all statistical reports for monthly, quarterly and annual reports to LEAA and the National Legal Data Center. The Administrative Assistant also represents the Project Director in meetings held by the National Legal Data Center and is responsible for liaison with that organization.

FIGURE 1. MVP ORGANIZATION CHART



### SECTION 3 CASE PROCESSING IN SUFFOLK COUNTY

A principal goal of the MVP is the reduction of processing time for major felony cases and matters involving major violators. Prior to the implementation of the MVP, the average time for disposition of a serious case was 341 days, with a median disposition time of 291 days. It was evident during the genesis of the Project that the Suffolk County case processing system required modification to permit more rapid dispositions.

This section sets forth the current felony processing system in Suffolk County and describes the changes introduced by the MVP.

#### 3.1 The Suffolk County System

When a felony arrest is made in Boston, the alleged offender is booked at the police station in the patrol district in which the arrest occurred. The prisoner is transported to the Boston Police Department Identification Section at headquarters for fingerprinting and photographing, and is then returned to the arresting District Station. Prior to any court action, the arresting officer completes an incident report and a central booking officer will conduct a records search for any outstanding warrants against the defendant. If any are found, the District Station is notified. When arrests are made in the other Suffolk County cities, the arrestee is ordinarily booked at the police headquarters in the arresting city.

There are nine District Courts in Suffolk County with original jurisdiction over nearly all criminal cases arising within the County. If the District Court for the area in which the arrest was made is in session, the defendant will be taken there, arraigned, and advised of the charges against him and of his rights. Bail is set and a Probable Cause Hearing



is scheduled to be heard at a later date. If the Court is not in session, bail will be set by a Bail Commissioner upon the recommendation of an ADA authorized to do so. The defendant is arraigned when the Court is next in session.

Defendants have the right to appeal bail determinations and such hearings are held within one day by a Judge of the Superior Court. One ADA is regularly assigned to represent the Commonwealth at all such hearings.

A Probable Cause Hearing is held at the District Court on the previously established date. Ordinarily, an ADA who only handles cases in the District Courts presents the State's evidence. Upon completion of that presentation, the Court may exercise one of three options. It may find probable cause on the felony and bind the defendant over for action by the Grand Jury; it may fail to find probable cause and release the defendant; or, it can place the case on a calendar for trial on a lesser included offense falling within the jurisdiction of the District Court.

If the trial option is exercised, trial is conducted and guilt or innocence established. The defendant may appeal a guilty verdict to the Superior Court where there is a de novo review. If, however, the District Court has found probable cause and the defendant is held for the Grand Jury, a "bound-over" complaint is prepared and forwarded to the Clerk of the Superior Court. He then informs the District Attorney's Office of the District Court action.

An ADA prepares the case against a bound-over defendant and presents it to the Grand Jury. This "Grand Jury ADA" has responsibility for Grand Jury presentments. Subsequent proceedings and trials will be conducted by another ADA. In limited circumstances, the ADA who will try the case may also make the presentment, but this practice is limited to homicide or other complex matters. After presentment, the Grand Jury will return a "No Bill" or "True Bill".

The District Attorney has both constitutional and statutory authority to assume jurisdiction over any felony case and may seek Grand Jury action at any time during the early stages of the criminal justice process. He may do so prior to District Court action on the arrest complaint and, even if the District Court fails to find probable cause or accepts jurisdiction on a lesser included offense, the District Attorney may go directly to the Grand Jury.

If the Grand Jury returns a "True Bill", a report to that effect is forwarded to the Superior Court and an indictment is returned. The

Clerk of the Superior Court then places the matter on an arraignment list. The extent of the delay until the Superior Court arraignment will depend upon whether a defendant is able to meet the District Court bail. Should he not be able to do so and be held in custody, the arraignment is generally scheduled within 10 days of Grand Jury action.

At the Superior Court arraignment, the defendant is again advised of his rights and of the charges. Bail will be re-established by the Judge and a pre-trial conference date fixed. Only after arraignment will an ADA be assigned to try the case.

The pre-trial conference is a formal meeting between the prosecutor and defense counsel. Preliminary matters, including discovery, suppression of evidence and other relevant matters, are discussed. Should the parties fail to agree on any matter or should issues remain outstanding, appropriate pre-trial motions will be filed with the Court and hearings scheduled and conducted. All agreements reached between the parties must be reported to the Court and the prosecutor must complete a separate report for inclusion in the case file. A trial date will then be set.

On the trial date, the case is called in the Assignment Session (First Session) and, if both parties are ready for trial, the case will be sent to a Trial Session. If the defendant is prepared to plead guilty, the case is transferred to a "Plea" Session for disposition. If no plea is offered, the case will be heard in the assigned Trial Session after previously assigned cases have been heard and disposed of. Trials in the Superior Court may be before a jury or the Bench. The decision to waive jury trial rests exclusively with the defendant. If a conviction results, the defendant will be sentenced. Prior to sentencing, the Trial Judge receives a sentence recommendation from the prosecutor and, in most instances, a pre-sentence report.

Interlocutory appeals may be taken during the course of the trial and appeals from convictions (i.e., to the Appeals Court or, in limited instances, directly with the Supreme Judicial Court). The imposition of any sentence may be delayed by the Trial Judge until a ruling on an appeal is returned.

FIGURE 2. DISTRICT COURT PROCESS

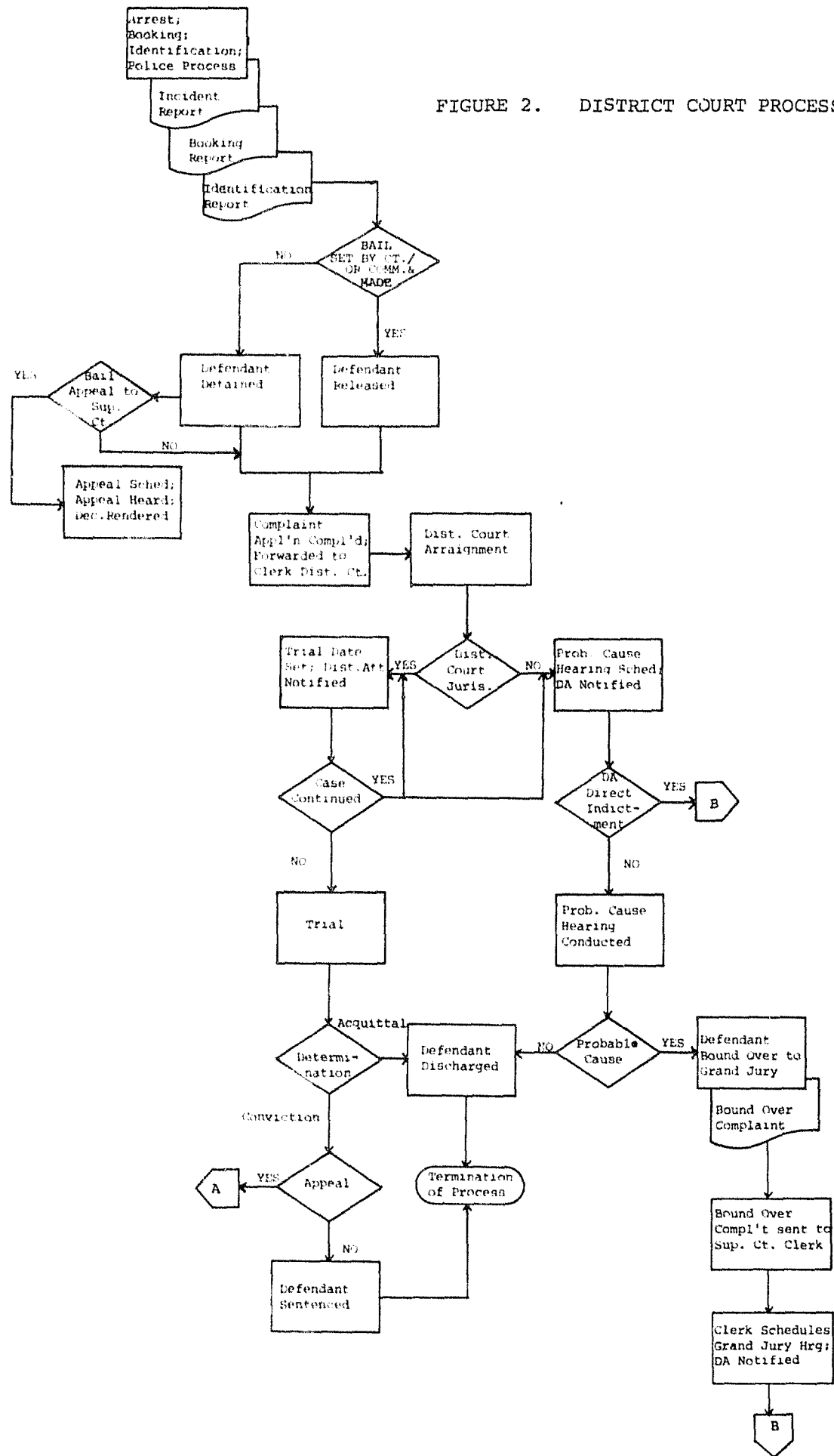
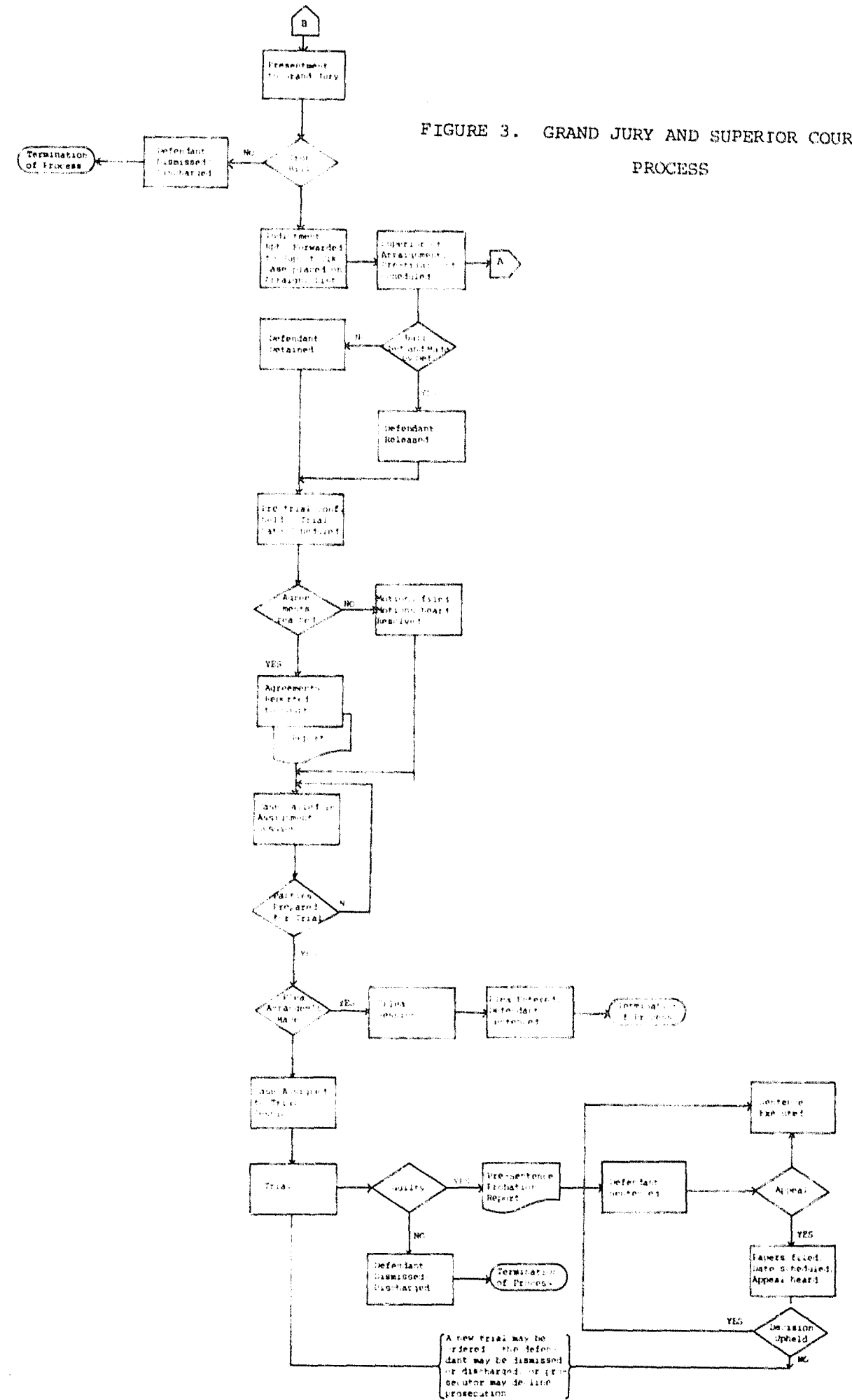


FIGURE 3. GRAND JURY AND SUPERIOR COURT PROCESS





## 3.2 The Major Violator System

### 3.2.1 The Screening Unit

There are four avenues by which felony arrests come to the attention of the Screening Unit. Two result in all referred cases being subjected to some screening, whereas the other two result only in selective cases being investigated by the Unit. Whichever of the four referral modes is utilized, when preliminary investigations have been completed, an initial decision to accept or reject will be made. The four avenues are discussed below.

1. When a felony arrest is made in Boston, the defendant will be booked at the District of arrest. If the courts and District Attorney's Office are closed, a District police officer will contact the Screening unit for a bail recommendation. Before making a recommendation, Screening Unit staff will attempt to determine the arrestee's past criminal record. This investigation will be the basis for the bail decision and will alert the Unit that the offender has a record which identifies him or her for consideration as a major violator.

If the offender's past record creates such an interest, a Unit attorney or an investigator will contact the arresting or investigating officer to gather information on the facts of the offense. When secured, that information and the offender's criminal record are forwarded to one of the Unit's attorneys for review and an initial determination on the issue of major violator status.

2. If, at the time of a felony arrest in Boston, the Unit is not contacted for purposes of recommending bail, the case may reach the Unit through another route. After the defendant is booked, he will be transported to the Boston Police Department Identification Section for fingerprinting.

Each morning the Identification Section prepares a list of all arrests in the preceding 24 hours and forwards a copy to the Screening Unit. The Unit attorney on duty reviews the list and selects "key" felonies and offenders with extensive criminal histories for further inquiry. Unlike the procedure described in 1, above, not all felonies referred to the Unit in this way receive a preliminary investigation; rather only those cases involving "key" felonies or serious prior records.

There are no formal guidelines defining "key" felonies, but certain parameters are noted. Felony charges for gambling, possession of stolen property, larceny, drug possession or dealing in narcotics are rarely subjected to further

inquiry. However, all robberies (armed and unarmed), firearm violations, assaults and batteries with a deadly weapon, and breakings and enterings are nearly always reviewed.

In evaluating breaking and entering offenses, if the location was a dwelling, case acceptance depends less on the offender's past record than if the location was a factory or business building. This highlights the fact that selection of an offender for major violator status depends upon a mix and balancing of past record and present offense. This same balancing occurs for sex offenders. A man charged with rape is more likely to be selected for major violator status with a less severe past record than a man charged with a lesser sex offense. Throughout the screening process, a balancing occurs between an offender's present offense and his past record; as the severity of one increases, the necessity that the other be severe diminishes.

In selecting key felonies, there are also "diplomatic" issues considered by the Unit. The District Courts have authority to take jurisdiction over breaking and entering cases. Thus, a Screening Unit attorney may see a particular matter as of interest to a District Court Judge who otherwise hears primarily minor cases. Understanding this, the Unit will not conduct preliminary investigations on all B&E cases referred to them by the Identification Section.

3. The third channel through which cases reach the Screening Unit is from police departments in Chelsea, Revere and Winthrop. Each day an attorney calls these departments for information on felony arrests; only key felonies are of interest. Initial screening occurs as described in 2, above.

A Unit attorney will attempt to talk with the arresting or investigating officer about the facts of the case. The arresting department may also be requested to forward whatever prior records they may have on the offender. Unit investigators conduct records checks through the Boston Police Department, State Police and FBI, as needed. This information is collected and reviewed by one of the Screening Unit attorneys.

4. The fourth route through which cases reach the Screening Unit is by referrals from other members of the criminal justice system in Suffolk County. A District Court Judge hearing a particular case, or an Assistant District Attorney handling a preliminary arraignment, may feel that a defendant might be of interest to the Screening Unit and refers

the case. Police Officers who know a particular defendant as a repeater may call the Unit and inform it of the recent or pending arrest of that person. Further, under a new program, Assistant District Attorneys are assigned to review all cases coming before the Boston Municipal Court. This is a further source of referrals to the Screening Unit.

Whatever the source, persons interviewed believe that all referred cases receive at least some investigation before a decision to reject or accept the case is made.

The type of case generally referred to the Screening Unit under route 4 is that which tends to "shock" or "outrage" the community - cases where a member of the criminal justice community feels that special prosecutive attention is warranted. When such circumstances occur and the crime is one that "shocks" the community, the offender's past record is of little or no importance in deciding upon major violator status.

Regardless of the referral avenue utilized, once a case has been accepted for review, two procedures are implemented. An investigator conducts a records check on the offender. These checks include review of Boston Police Department files and occasionally FBI and State Police records, if necessary. Probation records may also be referred to, but their perceived and actual disarray precludes any real reliance on such files at this early time in the process. Secondly, the Unit attorneys or an investigator will contact the District Station where the arrest occurred and seek to develop a fact squib on the offense. Once these tasks have been completed, the information will be collected and reviewed by a Unit attorney.

After this review, one of three decisions will be made. The attorney may reject the case. In that event, a pink "rejection" slip is completed. It identifies the defendant, the charges, the date of arrest, and the reason for rejection. The form is then signed by the screening attorney and the screening investigator.

If the decision is to accept the case, a yellow "acceptance" form is completed. This form requires identification of the defendant, the charges and a fact squib. Further, the names, addresses and telephone numbers of all witnesses who are to be contacted as the case file is developed are included. The acceptance form must also identify the District Court before which the case is to be heard, the probable cause/trial date, if known, the date of arrest, and when 90 days from the day of arrest will expire.

The third alternative is for the Screening Unit attorney to tentatively accept the case for major violator status. A tentative acceptance

requires that a yellow "possible acceptance" form be completed which names the arresting officers, their district and badge numbers.

A case is tentatively accepted where important information is missing and thus, no final decision is made. This usually occurs when the arresting officers are assigned to night shifts and unavailable during the day. If this occurs, the possible acceptance form is placed on the Unit bulletin board so that a night-duty attorney can contact the officers. The missing information will then be secured and a decision made on acceptance or rejection. In either instance, the appropriate form will be completed by a Unit attorney.

Even if the original decision was to accept the case, the Unit attorneys will still want to contact the arresting or investigating officers. The reason for this is to take a formal statement. Previously, the officers had been contacted at the time of the preliminary investigation, but only to develop a short fact squib on the case. A tentative acceptance that has been changed to a formal acceptance may or may not require that the police officers be contacted again, depending upon the extent of the information gathered prior to the acceptance decision.

The interview will be conducted by a Unit attorney and an investigator. The officer's statement will be tape recorded and later transcribed by a Unit secretary. If the case should be rejected at some later stage, the statement transcript will be forwarded to the Main Office Assistant District Attorney who is assigned the matter. The interview with the arresting or investigating officer and the detailed statement may raise issues which can lead to later rejection of a case.

Although a case may later be rejected, either by the Senior Screening Counsel or by the Trial Unit, once the formal statement is taken without disclosing negative issues, the accepted status is retained. At that point, the function of the Screening Unit shifts from screening to evidence collection. This is to insure that all available evidence, especially witness and victim statements, is collected while facts are still fresh.

At this stage, the Screening Unit arranges to interview the victim and witnesses to take formal statements. When possible, both an investigator and an attorney will be present at the victim interview. The arresting or investigating officer may be asked to participate as a matter of courtesy to prevent the officer from feeling "frozen" out of the case. The statement of the victim will be tape recorded and then transcribed.

As noted previously, the acceptance form states the witnesses' names and addresses. These are posted at the Unit's office. Investigators and attorneys will then contact and interview the witnesses (ordinarily, the police officer will not be present). Witness statements are also recorded and transcribed. The interviewing attorney will complete a witness data form for each witness. This form identifies the case, the witness' name, home address and telephone number, work address, telephone number and occupation. The form also calls for a witness evaluation where the interviewing attorney notes any problems that the witness may create on the stand. These problems may range from an inability to speak or understand English to certain evidentiary problems created by the witness' testimony. The witness data form will be attached to the front of the witness' statement.

Once the victim and witness interviews have been concluded and transcribed, the case file will be reviewed by the Senior Screening Counsel for confirmation of the acceptance. The file will then be hand-carried to the Trial Unit for assignment and trial preparation.

The Screening Unit maintains close contact with the Trial Unit. Each day a Trial Unit attorney telephones the Screening Unit to learn of cases accepted or possibly accepted. The fact squib, as it is known, will be read to the Trial Unit. The primary reason for this contact is for the Trial Unit to assign an attorney to appear at any bail reduction appeal, to preclude the early release of a potential major violator.

Once the victim and witness interviews have been completed and the Senior Screening Counsel has confirmed the acceptance, the Screening Unit will retain certain duties with respect to that case, although the case file has been delivered to the Trial Unit. Laboratory reports, photographs, ballistics tests and medical evidence may not be completed at the time that the case file is forwarded to the Trial Unit. The Screening Unit retains responsibility for gathering and forwarding this information to the Trial Unit.

### 3.2.2 The Trial Unit

The tentatively accepted case file and accompanying documentation is hand-carried from the Screening Unit to the MVP Director. He will confirm the tentative acceptance decision and forward the case file to the Senior Trial Counsel. No formal acceptance decision is rendered until a complete criminal history is received by the Trial Unit from the Board of Probation. For this reason, a case is not considered as accepted until a decision is made to present the matter to the Grand Jury.

The Senior Trial Counsel will then assign the case to one of the Unit's trial attorneys. That attorney will, with the assistance of the Unit's legal assistants and investigator, begin the construction of the case file in preparation for the presentment to the Grand Jury. Once a case is assigned to a trial attorney, he will have sole responsibility for the prosecution.

Upon receipt of a case, the trial attorney will inform the District Attorney's Office that the MVP is presenting the case to the Grand Jury. This alert is essential, because nearly all MVP cases bypass the District Court Probable Cause Hearing. The few cases that do proceed in the District Court are those in which the defendant was identified from a photograph. The Probable Cause Hearing gives the victim/witness the opportunity to see the defendant in person.

If a Probable Cause Hearing is held for a MVP defendant, MVP personnel will be responsible for the presentation. Further, if the MVP defendant appeals the District Court bail to the Superior Court, MVP personnel will also present the State's case.

In order to prepare for the eventuality of a bail appeal as well as to prepare the case, the Trial Unit legal assistants will acquire background information on the defendant (e.g., employment status, family and community ties, reputation, etc.). They will also seek information on the defendant's whereabouts and movements as the judicial process progresses. This is especially true where the defendant's attendance must be obtained by Habeas Corpus.

Finally, the assigned legal assistant will document the crime scene as well as assist the trial assistant in the analysis of the legal/evidentiary issues raised by the case.

The Trial Unit investigator also assists in the preparation of cases by securing all criminal histories for witnesses and victims. He will duplicate the files for the future discovery sessions as well as obtain police reports, FBI, MBI and BPD Identification Numbers for the defendant. Finally, the investigator is responsible for securing a certified copy of the defendant's criminal record.

As case preparation progresses, the trial attorney will prepare a presentment for the Grand Jury, arrange for the appearance of witnesses and police officers, and arrange for Grand Jury time.

Although the Main Office assigns ADAs to present regular cases to the Grand Jury, when a case has been accepted by the MVP, its trial attorneys are responsible for handling the presentations. After the presentation, the case folder is left with the Assignment Office

(although duplicate records in a "temporary" file will be retained by the trial attorney). When a "True Bill" is returned, a form letter is forwarded to the Assignment Office indicating that fact.<sup>6</sup> That Office will then construct the file and leave the completed folder in the trial attorney's box located at that Office for later pick-up.

Arrangements are then made for a Superior Court arraignment at the earliest possible date. The trial attorney must notify the appropriate District Court of the indictment and pending Superior Court action so that the District Court can terminate its proceedings on the case.

In preparing for the Superior Court arraignment, the trial attorney makes all arrangements necessary to produce the defendant in court at the appropriate time. If the defendant is out on bail or otherwise in the street, notice will issue that he must appear at the proper time. Under this latter procedure, a delay of one week in the processing is anticipated. This must be considered by the trial assistant in seeking an arraignment date.

The assigned trial attorney appears at the arraignment and will argue for appropriate bail on the basis of the previously obtained evidence. A trial date will be set pursuant to the directive of the Chief Justice of the Superior Court that these cases are to receive priority scheduling. The Unit seeks a trial date within four or five weeks of the arraignment.

Once the arraignment has been conducted, and oftentimes before, the trial attorney will prepare a file of discovery materials including: Grand Jury minutes, victim/witness statements, police reports, scientific and medical evidence, as well as copies of all photographs. This information is then transmitted to the defense. Because of this "open file" policy, the court is able to schedule trials without the pre-trial conferences generally necessary in cases prosecuted by the Main Office.

Prior to the trial, the trial attorney checks with the Main Office to determine if there are other charges pending against the defendant. If such are found, they will be transferred to the Project for disposition. These additional cases may not be presented at the trial with the one upon which MVP status was predicated because speed in processing may be impeded by the less well documented criminal incidents.

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<sup>6</sup>Formerly, Case Evaluation Forms were completed by trial attorneys after presentation of cases to the Grand Jury. As a result of recommendations in the Interim Report, that form is now completed by the Screening Unit prior to the transmittal of the case to the Trial Unit.

Even if such "pick-up" cases are not presented at trial, the great majority of MVP defendants will plead guilty to the "pick-up" charges after settlement of the principal charges.

When the trial date is reached, the case is called in the Assignment Session and placed at the top of the daily list. In fact, MVP cases are given highest priority and most are heard in one trial session. If an appeal is taken from a conviction, the case is transferred to the MVP Appellate Attorney who presents the Commonwealth's position on appeal.

### 3.3 Differences Between the MVP Process and the Suffolk County Process

Effective implementation of the Project required innovative procedures in Suffolk County. At many points MVP matters must proceed parallel to the normal flow of the Suffolk County criminal cases, but the rate of flow of MVP cases has been profoundly altered, resulting in the swifter disposition of its cases. The following discussion pinpoints where the MVP process diverges from the regular process and how that divergence impacts the speed of processing.

The most obvious manifestation of the MVP process is the Screening Unit, located at the Boston Police Headquarters. The Unit has two principal functions: screening and evidence collection. Both activities impact the speed of case processing. The action of screening or prioritizing influences other criminal justice actors (i.e., swifter completion of police reports). The screening process requires contacts with arresting or investigating police officers who are compelled by early requests for evidence to complete informational reports more rapidly than normally done.

The Main Office rarely puts this pressure on officers who, in turn, inhibit the speed of case processing by delaying completion of reports. There is no standard procedure for early case report preparation, as in the MVP.

The MVP process is unique because through the screening functions it collects evidence while it is still fresh. It is difficult to quantitatively measure the benefits of this process but, as later discussions indicate, MVP cases suffer fewer continuances resulting from witness or evidentiary problems.

The MVP process, in nearly every prosecution, bypasses Probable Cause Hearings in District Courts. The regular Suffolk County process incorporates such hearings in the majority of cases. By eliminating Probable Cause Hearings, the Project reduces the time from arrest to disposition by roughly eight weeks. The Project presents accepted cases to the Grand Jury as soon as practical. Because of the early

case preparation and the bypassing of Probable Cause Hearings, the Project makes such presentments in much less time than the Main Office.

Finally, MVP cases are accorded priority attention in both the Arraignment and Assignment Sessions. At arraignment, trial dates will be set and MVP cases receive priority in scheduling trial dates. That priority treatment carries over to the Assignment Session where MVP cases, when assigned to Trial Session, are placed at the top of the daily trial list. This attention in both Arraignment and Assignment Sessions has had a profound impact upon the speed of processing of Project cases.

FIGURE 4. MVP SYSTEM: SCREENING PROCESS

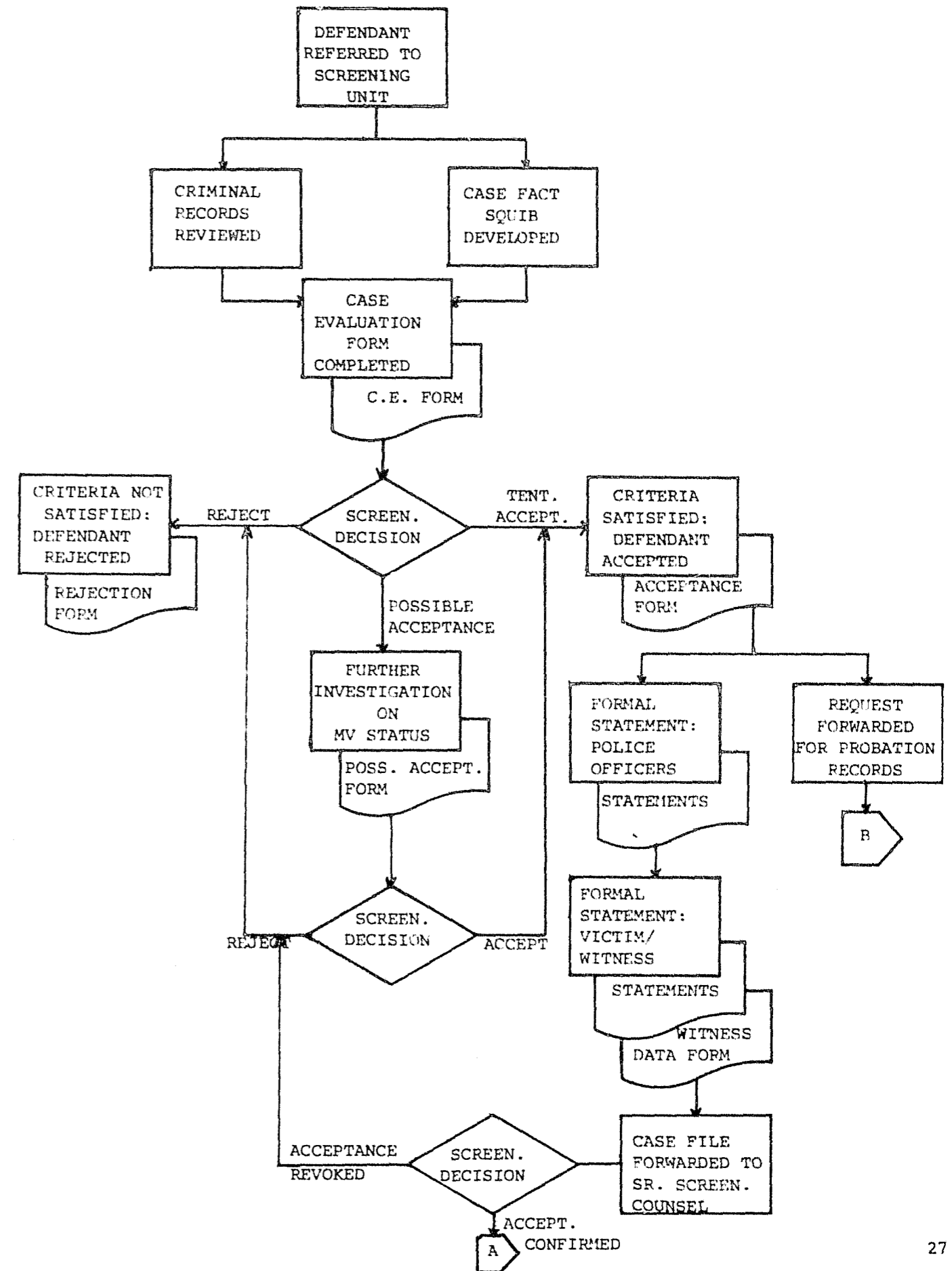


FIGURE 5. MVP SYSTEM: TRIAL PROCESS

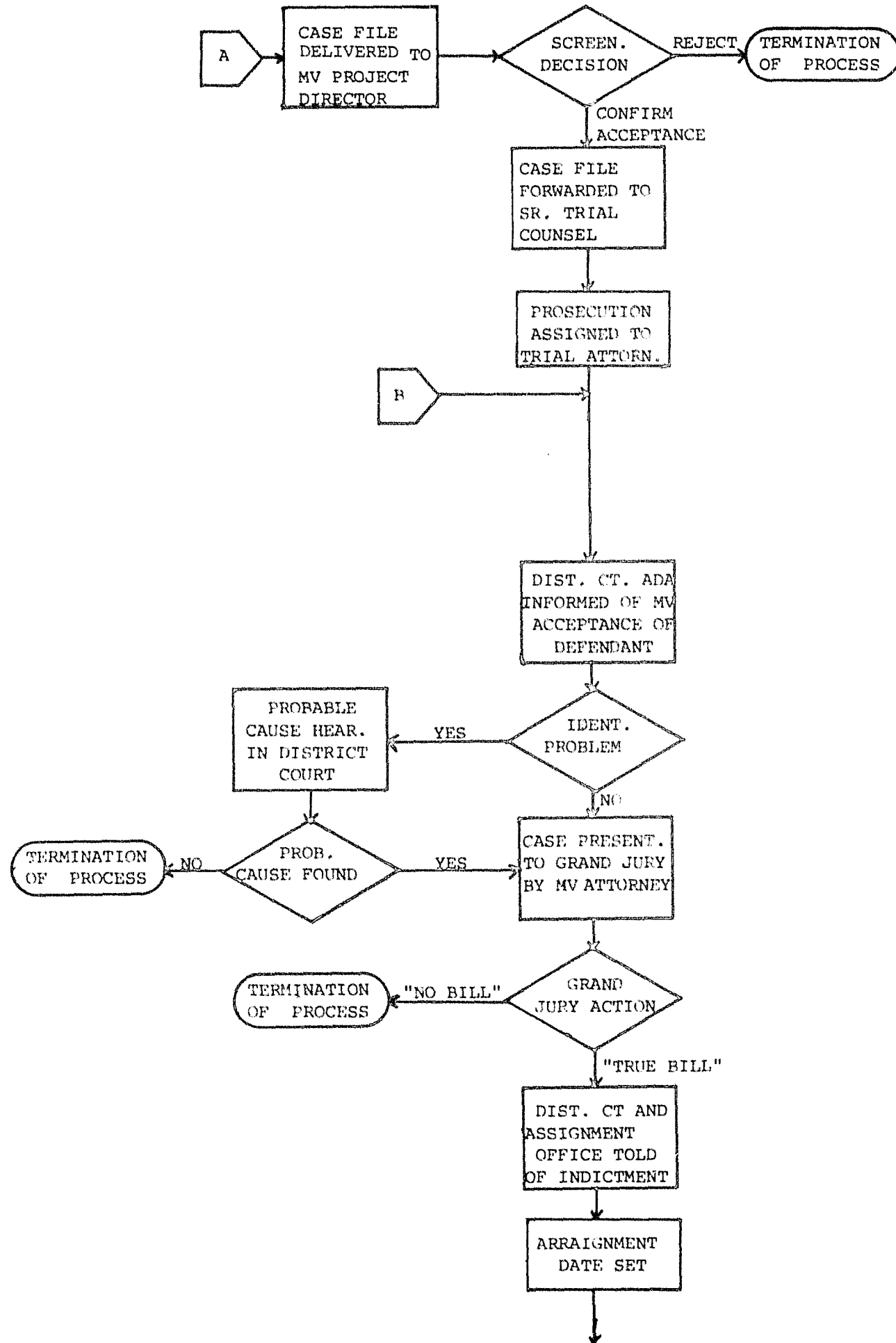
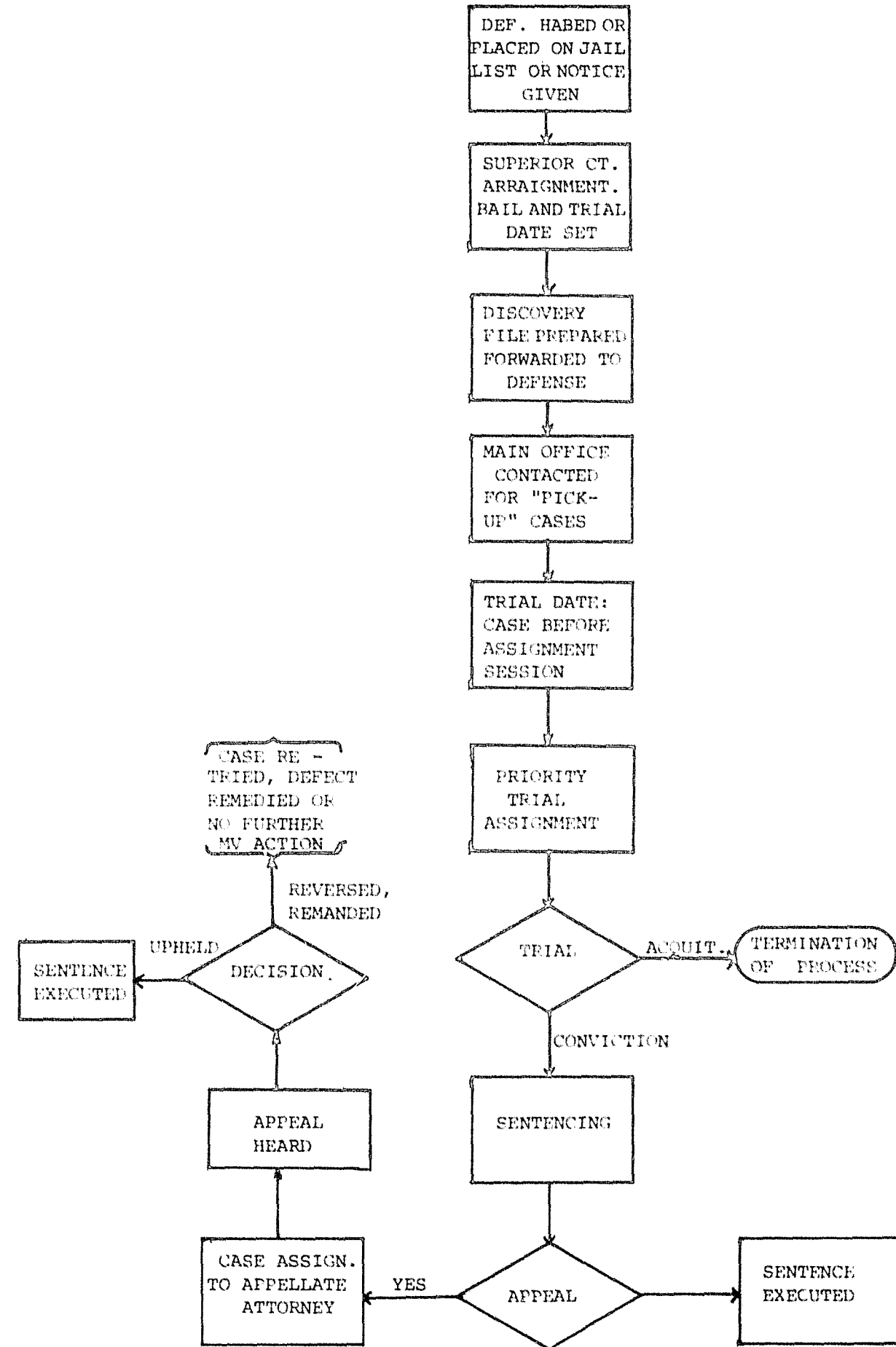


FIGURE 5 (Cont'd)



#### SECTION 4 THE MVP SCREENING PROCESS

One interesting feature of the Project is its case screening procedure. In Sections 2 and 3, the organization and functions of the MVP Screening Unit were described in detail and the stages at which screening intervenes in the criminal justice system were shown. The intervention of the MVP Screening Unit at an early point in the process served several important purposes:

- o Defendants/cases are objectively and subjectively screened at an early stage (usually less than 24 hours after arrest) thereby permitting early identification of offenders who will be categorized as "major violators";
- o Evidence in the case, such as eyewitness testimony, police statements, physical evidence, victim statements, and offender admissions, are collected and preserved by Assistant District Attorneys while recollections are vivid;
- o Victims and witnesses are more accurately identified and become participants in the prosecutive process virtually immediately following the crime and/or arrest of the alleged offender(s);
- o Early and more complete case preparation is possible;
- o There is greater standardization in preliminary case preparation and a greater capability for quality control on the part of the prosecutor; and
- Interaction and cooperation between police and prosecutors is significantly increased during a critical phase of the prosecutive process.



FIGURE 6. CASE EVALUATION FORM

A spill-over benefit from the presence of the Screening Unit - one which was not anticipated at the time the MVP began operations - is a greater consistency in bail recommendations at both the District Court and Superior Court level. Assistant District Attorneys assigned to the Screening Unit now have responsibility for presenting the District Attorney's recommendations for bail when the courts are closed. The purpose was to permit some "pre-screening" of felony arrests. Concomitant with the "pre-screening" benefit is the fact that one small group of ADAs makes a large percentage of the bail recommendations in felony arrests.

4.1 Screening Process Objectives and Selection Criteria

The primary objective of the screening process is to identify, shortly after arrest, those defendants who should be prosecuted by the MVP. To achieve this objective, the Project utilizes a case screening system which involves the assignment of points in an attempt to measure (1) the nature of the defendant - primarily the seriousness of his adult and/or juvenile records, his status (awaiting trial, on furlough or work release, etc.), history or reputation in the community, and his bail status; (2) the nature of the victim - primarily the seriousness of injury, age and extent of fear instilled; (3) the seriousness of the offense; and (4) the strength of the evidence. Additionally, two points may be added or deleted at the discretion of the trial assistant, although deletion is the exception rather than the rule. There are no written guidelines for the allocation of discretionary points.

A Case Evaluation Form, shown on the following page, is used by the MVP to reflect the accumulation of points for defendants. Defendants who receive 10 or more points (15 or more, if the offense is murder) are to be accepted by the MVP.

Additionally, the following "automatic rejection" criteria apply:

- o Defendant does not qualify in category 1, Nature of Defendant;
- o Defendant is a first adult offender without a serious juvenile record for violence which corresponds to the present case;
- o The offense is a narcotics offense; or
- o The evidence against the defendant is "weak".

Although the identification of major violators through the application of subjective and objective screening criteria is the primary objective of the Screening Unit, the Unit also has the following secondary objectives:

DATE \_\_\_\_\_ REJECTED \_\_\_\_\_ ACCEPTED \_\_\_\_\_ CASE NO. \_\_\_\_\_

COMMONWEALTH v. \_\_\_\_\_

CHARGE: \_\_\_\_\_

A. NATURE OF DEFENDANT

5 ( ) 1. Defendant was serving a sentence at the time of the offense and was on furlough, work release, or an escapee.

4 ( ) 2. Serious adult record and has a pending felony case(s) for which he is on bail awaiting trial.

4 ( ) 3. Serious adult record plus release from institution within one year.

3 ( ) 4. Serious adult record.

2 ( ) 5. Minor record but on bail for violent crime & present case is for similar crime.

2 ( ) 6. No adult record but serious juvenile record & present case is crime of violence.

1 ( ) 7. Minor adult record and police are aware that he is terrorizing the community & have been unsuccessful in bringing him to justice.

1 ( ) 8. Juvenile with a serious juvenile record of violent crime and present case is crime of violence.

1 ( ) 9. No criminal record but present case is one of violence and violence is atrocious as to shock the public conscience or a property crime of such magnitude as to indicate a highly organized continuing operation.

1 ( ) 10. No criminal record but is on bail or default for a crime of violence.

TOTAL: \_\_\_\_\_

B. NATURE OF VICTIM

5 ( ) 1. The victim sustained a permanent physical injury.

4 ( ) 2. The victim is elderly and received injuries requiring hospitalization.

3 ( ) 3. The victim, not elderly, received injuries requiring hospitalization.

2 ( ) 4. The victim received injuries that required medical treatment but not hospitalization.

1 ( ) 5. The victim is elderly and placed in fear.

TOTAL: \_\_\_\_\_

C. NATURE OF CRIME

5 ( ) 1. Felony, murder and murder of a law enforcement officer.

4 ( ) 2. Murder; assault/murder; Robbery; Mayhem; Rape; R&E dwelling, assault.

3 ( ) 3. Assault/Rob; Assault/Rape; Kidnapping; Assault & Batt. by means/dangerous weapons; Possession of machine gun; Possession of sawed-off shotgun; Larceny, Extortion of such magnitude that clearly indicates that said offense is of an "organized" nature involving a substantial amount of money; Manslaughter.

2 ( ) 4. R&E dwelling; larceny from the person; possession of firearm; assault/dangerous weapon; Arson.

1 ( ) 5. Larceny; Forgery; Uttering; R&E/bldg.

NOTE: Add one (1) point if offense committed by means of a firearm.

TOTAL: \_\_\_\_\_

D. NATURE OF EVIDENCE

4 ( ) 1. Overwhelming

3 ( ) 2. Strong

2 ( ) 3. Average

1 ( ) 4. Strong except constitutional question.

TOTAL: \_\_\_\_\_

E. TRIAL ASSISTANT'S DISCRETIONARY ASSESSMENT (2 points)

TOTAL: \_\_\_\_\_

TOTAL SCORE: \_\_\_\_\_ ADA: \_\_\_\_\_



- To maintain liaison with police departments in Suffolk County for the purpose of obtaining referrals;
- To move immediately to collect and preserve evidence and testimony in those cases where the defendant tentatively meets the criteria for classification as a major violator;
- To conduct preliminary case investigation and preparation tasks for the Trial Unit; and
- Appear at Probable Cause Hearings and/or arraignments when directed to do so.

#### 4.2 Assessment of the Screening Process

The assessment of the screening process was designed to answer the following questions:

- Are those prosecuted by the MVP truly "major violators", i.e., did they meet the existing criteria for special prosecution?
- Is the MVP following declared procedures in screening felony arrests and utilizing personnel resources effectively?
- Does the screening process ensure that all cases meeting the existing criteria are accepted?
- Are the screening criteria appropriate, i.e., do the criteria objectively identify those defendants who should be classified as "major violators" in accordance with the District Attorney's policy? and
- Has the Screening Unit achieved its secondary objectives?

##### 4.2.1 Major Violators Selected

To determine whether those prosecuted by the MVP met the criteria for selection, all available Case Evaluation Forms for MVP defendants in the sample were obtained. Table 1 presents scoring data as reflected in those Case Evaluation Forms. Only one defendant failed to accumulate the 10 points necessary for categorization as a major violator.

A random sampling of the Case Evaluation Forms was then drawn and relevant case files examined to determine whether the scores reflected

on the Forms were accurate based upon data available to the Project. The accuracy of scoring was verified only in the first three categories: nature of defendant; nature of victim; and nature of crime. The two remaining categories - nature of evidence and ADA discretionary points - are subjective and therefore the decisions of the scorers could not be validated from case file data. All scores shown on the sample of Case Evaluation Forms were verified as accurately reflecting case file data.

TABLE 1: TOTAL SELECTION CRITERIA POINTS ASSIGNED TO MVP DEFENDANTS

MVP Defendants	Total Points	%
1	9	( 0.7)
30	10	(18.4)
22	11	(13.3)
39	12	(23.9)
32	13	(19.6)
20	14	(12.3)
7	15	( 4.3)
12	16 & above	( 7.4)
164		99.9

No evidence was found which would indicate that the MVP is selecting and prosecuting defendants who do not meet the selection criteria.

The MVP selection criteria were designed to select for prosecution those offenders who: have a history which reflects continued involvement in criminal activities; commit crimes which are violent in nature or have the potential for violence; are not deterred from criminal activities by the results of their previous criminal justice system contacts; and, generally, by their current crime, put citizens in fear for their lives.

The profiles assembled for MVP defendants clearly indicate that those prosecuted during the sample year were persons who, in the aggregate, were the type of criminal the Project intended to selectively prosecute.

Prior Criminal History

Of the MVP defendants for whom verified criminal histories were obtained, 74% had more than one prior adult conviction for crimes against property, and 50.6% had more than one prior adult conviction for crimes against persons. For juvenile property crimes, 47.1% of the MVP defendants had prior convictions and 20.5% had previously been convicted for crimes against the person. The MVP defendants are persons who have a criminal or juvenile history which reflects prior experience with the criminal or juvenile justice system. First-time offenders are not ordinarily prosecuted as Project defendants. As Table 2 reflects, 91.5% of all major violators had a prior criminal and/or juvenile history. Further, 71.8% of the defendants had previously been incarcerated prior to selection by the MVP, and 52.8% had been imprisoned for two or more years. Tables 3 and 4 present further data.

TABLE 2: NUMBER OF PRIOR CONVICTIONS FOR MVP DEFENDANTS

Prior Conviction	Defendants N=	%	Cum %
None	15	( 8.5)	( 8.5)
1-3	16	( 9.0)	(17.5)
4-6	18	(10.2)	(27.7)
7-9	23	(13.0)	(40.7)
10-12	23	(13.0)	(53.7)
13-15	16	( 9.0)	(62.7)
16 and more	42	(23.7)	(86.4)
Not Ascertained	24	(13.6)	(100.0)
Total	177	100.0	

TABLE 3: NUMBER OF PREVIOUS INCARCERATIONS FOR MVP DEFENDANTS

Number of Incarcerations	Defendants N=	%	Cum %
None	42	(23.7)	(23.7)
1	10	( 5.6)	(29.3)
2	29	(16.4)	(45.7)
3	24	(13.6)	(59.3)
4	11	( 6.2)	(65.5)
5	16	( 9.0)	(74.5)
6	7	( 4.0)	(78.5)
7	3	( 1.7)	(80.2)
8	2	( 1.1)	(81.3)
9	1	( 0.6)	(81.9)
Ten or more	4	( 2.3)	(84.2)
Not Ascertained	28	(15.8)	(100.0)
Total	177	100.0	

TABLE 4: NUMBER OF YEARS PREVIOUSLY  
IMPRISONED FOR MVP DEFENDANTS

Number of Years	Defendants N=	%	Cum %
None	43	(24.3)	(24.3)
1 or less	24	(13.6)	(37.9)
2	21	(11.9)	(49.8)
3	14	( 7.9)	(57.7)
4	12	( 6.8)	(64.5)
5	7	( 4.0)	(68.5)
6	6	( 3.4)	(71.9)
7	5	( 2.8)	(74.7)
8	0	( 0.0)	(74.7)
9	1	( 0.6)	(75.3)
10 or more	9	( 5.1)	(80.4)
Not Ascertained	35	(19.7)	(100.1)
Total	177	100.0	

Violent Nature or Potential for Violence

The data also reflect that the Major Violators Project is prosecuting defendants who commit crimes of violence. Of the total charges brought against MVP defendants, 70.9% involved crimes of violence (armed robbery, assault and battery with a deadly weapon, assault with intent to murder, possession of a dangerous weapon, armed assault with intent to rob, rape, and attempted rape, as shown in Table 5). In 74.1% of the cases, the defendant possessed a weapon at the time of the offense (Table 6). The MVP defendants also "showed", threatened, or used a weapon and/or force in 80.2% of the cases (Table 7).

TABLE 5: CHARGES BROUGHT AGAINST MVP DEFENDANTS  
(All incidents where charges ascertained)

Type of Charge	Charges N=	%	Cum %
Armed Robbery	197	(35.7)	(35.7)
ABDW: Assault/Int/Murder	74	(13.4)	(49.1)
Possession of Dangerous Weapon	53	( 9.6)	(58.7)
Armed Assault/Int/Robbery	34	( 6.2)	(64.9)
Rape: Attempted Rape	33	( 6.0)	(70.9)
Unarmed Robbery: Unarmed Assault/Int/Robbery	25	( 4.5)	(75.4)
Other	24	( 4.3)	(79.7)
B&E Dwelling	22	( 4.0)	(83.7)
Kidnapping	14	( 2.5)	(86.2)
B&E Building	14	( 2.5)	(88.7)
Assault & Battery: Attempted A&B	12	( 2.2)	(90.9)
Possession Burglary Tools	12	( 2.2)	(93.1)
Larceny	8	( 1.4)	(94.5)
Accessory to Crime	6	( 1.1)	(95.6)
Use Without Authority	6	( 1.1)	(96.7)
Drug Violation	5	( 0.9)	(97.6)
Escape: Attempted Escape	5	( 0.9)	(98.5)
Receiving Stolen Goods	4	( 0.7)	(99.2)
Murder	2	( 0.4)	(99.6)
Uttering: Forgery	2	( 0.4)	(100.0)
Total	552	100.0	

TABLE 6: TYPE OF WEAPONS POSSESSED BY MVP DEFENDANTS  
AT TIME OF OFFENSE  
(Principal Incident)

Type of Weapon	Defendants N=	%	Cum %
None	45	(25.4)	(25.4)
Handgun	75	(42.4)	(67.6)
Rifle	1	( 0.6)	(68.2)
Shotgun	17	( 9.6)	(77.8)
Machine Gun	1	( 0.6)	(78.4)
Knife	24	(13.6)	(92.0)
Blunt Instrument	8	( 4.5)	(96.5)
Other	1	( 0.6)	(97.1)
Not Ascertained	5	( 2.8)	(99.9)
Total	177	99.9	

TABLE 7: TYPE OF FORCE USED BY MVP DEFENDANTS  
AT TIME OF OFFENSE  
(Principal Incident)

Type of Force	Defendants N=	%	Cum %
Weapon/Force Not Used or Threatened	35	(19.8)	(19.8)
Weapon/Force "Shown" or Threatened - not used	64	(36.2)	(56.0)
Weapon/Force Used - no contact with victim	9	( 5.1)	(61.1)
Weapon/Force Used - contact with victim	69	(39.0)	(100.1)
Total	177	100.1	

Status of Defendants

The MVP defendant profiles reflect that 72.4% of the defendants were in a criminal status at the time of their current offense. This indicated that they had been arrested and/or convicted for a previous crime but were not incarcerated when the present offense was committed (Table 8).

TABLE 8: CRIMINAL STATUS OF MVP DEFENDANTS  
AT TIME OF ARREST

Status	Defendants N=	%	Cum %
None	48	(27.1)	(27.1)
Pretrial Release	27	(15.3)	(42.4)
Probation	26	(14.7)	(57.1)
Escape	19	(10.7)	(67.8)
Parole	42	(23.7)	(91.5)
Suspended Sentence	10	( 5.6)	(97.1)
Work Release	1	( 0.6)	(97.7)
Furlough	1	( 0.6)	(98.3)
Not Ascertained	3	( 1.7)	(100.0)
Total	177	100.0	

Locus of the Crime

Violent street crime is a major concern of the general public, particularly in the core city. Media attention has further convinced a large number of core city residents that they may not be safe even in their homes. Data show that MVP defendants are primarily charged with crimes of violence. An objective of the MVP and District Attorney Byrne is to restore public confidence by prosecuting rapidly those who place the public in fear on the streets or in their homes. The largest percentage of the crimes prosecuted by the MVP - 83.1% - involve offenses committed in locations frequented by the general public or in residences (Table 9).

TABLE 9; LOCUS OF OFFENSE  
(Principal Incident)

Locus	Incidents N=	%	Cum %
Street	43	(24.3)	(24.3)
Dwelling	45	(25.4)	(49.7)
Office Building	4	( 2.3)	(52.0)
Store/Bank	54	(30.5)	(82.5)
Other Building	16	( 9.0)	(91.5)
Park/Playground	3	( 1.7)	(93.2)
Public Transportation	2	( 1.2)	(94.3)
Parking Lot	1	( 0.6)	(94.9)
Other	9	( 5.1)	(100.0)
Total	177	100.0	

4.2.2 Adherence to Stated Procedures and Personnel Utilization

The procedures for screening and selecting cases are set forth in the Project grant application and descriptive documents. Interviews and observations were conducted to determine whether declared procedures were being followed and to assess the utilization of personnel.

Procedures

The original grant application states that "it will be the function of this (screening) unit to select from all felony arrests those cases which meet the criteria of a 'career criminal' ". The selection criteria are also set forth in the original grant application with the statement that they will "initially be followed" by all Project personnel and the criteria will be reviewed on a bi-monthly basis.

The criteria set forth in the original (first) grant application were revised in November 1975, two months after the Screening Unit began operations, and the Case Evaluation Form, Figure 6, Page 33, was adopted for use at that time. These changes were incorporated into the grant application for second-year funding awarded in August 1976. A Special Condition upon the second grant award requires that "any changes in criteria for defining the 'Career Criminal' must be submitted to and approved by LEAA. The General Counsel's Office should be consulted if the changes result in either the selection of individuals without prior criminal records or involve a non-objective selection process."

Basically, the grant application documents suggest that all felony cases in Suffolk County will receive the same degree of screening, that the selection criteria will be applied to all felony cases, and that all cases which meet the criteria shall be prosecuted by the MVP. That, however, was not the practice.

During the period covered by this evaluation, the Screening Unit was reviewing arrest lists from the Suffolk County police departments, selecting for further inquiry primarily certain key felonies (i.e., armed robbery, assault and battery with a deadly weapon, possession of a dangerous weapon, rape, unarmed robbery, breaking and entering of a dwelling, etc.) and obtaining police department identification records for the offenders in those cases. While in the process of obtaining records from the Boston Police Department, the assigned investigator also went through the records of other arrestees and noted those whose records were of sufficient length to create an interest. Preliminary investigations were undertaken, if the case appeared to be one which involved a major violator. Screening criteria were not applied and scoring was not done during the screening process. Cases tentatively accepted were sent to the MVP Director for review, acceptance and assignment to a trial attorney for Grand Jury preparation and presentation. Final acceptance was considered to have taken place at the time the trial assistant successfully presented the case to the Grand Jury and completed the Case Evaluation Form. The scoring of the case after the Grand Jury presentation was the first record made of the fact that an offender fell within the MVP criteria for Project prosecution.

Case Evaluation Forms were not completed by either the Screening Unit or the trial assistants for rejected cases, except in the rare instance when either the Project Director or a trial assistant concluded that a case forwarded by the Screening Unit did not meet the selection criteria. Only four or five such rejections have been made during the life of the Project.

In a sense, the use of Case Evaluation Forms "ex post facto" detracted, in our judgment, from the declared intent to have a group (the Screening Unit) objectively screen and select a certain class of offenders for special attention. As originally used, Case Evaluation Forms merely validated a judgmental selection of offenders by the Screening Unit. In an interim evaluation report, this finding was noted. As a result, the screening process was revised by the MVP.

Currently, the Screening Unit completes a Case Evaluation Form for every case it tentatively accepts. The final acceptance/rejection decision still rests with the Director, as it properly should. However, he now has the Screening Unit's scoring of the case based upon the nature of the defendant, the victim(s), the crime and the evidence. The

Director and/or a trial assistant may still assign discretionary points for each case. The Senior Screening Unit Counsel is permitted to reflect discretionary points on the Form, if he chooses to do so.

Case Evaluation Forms are not used for rejected cases. Instead, a Rejected Case Form is completed and maintained by the Screening Unit. Although this form does not score each rejected case, it does reflect the specific reason(s) for rejection.

#### Personnel Utilization

Screening Unit attorneys perform a range of tasks - legal and non-legal. They provide bail recommendations and appear in District Court to attend Probable Cause Hearings in exceptional MVP cases. These include matters arising during a week when the Suffolk County Grand Jury is not sitting, when a defendant identification was based upon photographs, or when there may be some doubt of the legitimacy of the charge of rape.

During the period covered by this evaluation (September 1, 1975, to August 31, 1976) Screening Unit and trial attorneys handled approximately 20 such Probable Cause Hearings. As part of an ancillary professional development effort, Screening Unit attorneys attended and participated in unrelated District Court Probable Cause Hearings and actually tried some cases in District Courts. Although attorney time records were not available, if maintained, the Senior Screening Counsel advised that any involvement in matters unrelated to MVP cases by Screening Unit attorneys was handled on their "own time". Additional tasks for Unit attorneys include:

- o Contacting municipal police departments in the County to inquire about felony arrests of the preceding day and otherwise review felony arrest lists;
- o Interviewing arresting/investigating police officers to develop a fact squib on crimes of interest;
- o Contacting victims and witnesses for purposes of taking formal statements;
- o Documentation of crime scenes;
- o Assignment to Boston Municipal Court to conduct interviews with police and victims regarding criminal incidents of the night before;

- o "Sitting in" on Superior Court trials conducted by MVP trial attorneys whether or not that Screening Unit attorney assisted in the preparation of that case; and
- o Providing legal advice to requesting police officers on issues of search and seizure, line-up identifications, etc.

The efficacy of having relatively inexperienced young attorneys advising police officers on often complex legal issues is questionable.

Two of the three investigators employed in the Screening Unit are retired Boston Police officers; the third is a retired Federal security official. None has received specialized training for the position of paralegal, as is available from the Institute for Paralegal Training in Philadelphia, or similar programs.

#### 4.2.3 Analysis of Rejected Cases

It is important for any specialized prosecution unit to ensure that all cases which meet its selection criteria are identified. A selection process which objectively scores and ranks all relevant cases (for example, all qualifying serious felonies) can be monitored to determine if any cases rejected met the selection criteria and should have been accepted. Such analysis could not be performed for cases rejected in the sample year. During that year, (1) not all cases screened were scored, only accepted cases were; and (2) as many as six points, 60% of the total required could have been assigned based upon subjective criteria (strength of evidence - 4 points, and trial assistant discretion - 2 points). As noted in 4.2.2, this procedure has been modified.

The use of subjective criteria and the heavy weights assigned to them make exact replication of the screening process impossible. It was possible, however, to compare aggregate data for selected cases to similar data for a sample of rejected cases and to score the sample of rejected cases on objective criteria only. The comparison categories were: the nature of the defendant (prior criminal record); the nature of the victim; and the nature of the crimes.

#### Aggregated Data Comparisons

The two most important elements of the defendant scoring system are prior criminal history and status at time of arrest. In other words, did the defendant have a significant prior criminal history and was he in some criminal status (such as pre-trial release, probation, escape, parole, suspended sentence, etc.)?

A comparison of the criminal histories of accepted defendants with rejected defendants revealed that the rejected defendants averaged 8.1 prior convictions (felony and misdemeanor/juvenile and adult) as compared with 11.3 prior convictions in the accepted sample. Fully 26% of the rejected defendants had no prior convictions, as opposed to approximately 8% of the accepted defendants. Further, the percentage of accepted defendants with more than one conviction in various offense categories was higher than for rejected defendants. This information is presented in Table 10.

TABLE 10: PERCENT OF DEFENDANTS WITH ONE OR MORE PRIOR CONVICTIONS BY TYPE

Type of Conviction	Accepted Sample	Rejected Sample
Juvenile: Crimes Against Property	47%	36%
Juvenile: Crimes Against Persons	28	20
Adult: Crimes Against Property	80	64
Adult: Crimes Against Persons	70	53

Of the accepted defendants, 70% had previously been incarcerated, averaging 2.9 years of imprisonment per defendant. In the rejected sample, 53% had been previously incarcerated. The average period of imprisonment was 1.1 years.

Accepted defendants also scored significantly higher on two other measures: prior bail default and status at arrest. Two-thirds of the accepted defendants had a history of prior bail default; only one-half of the rejected defendant sample had such a prior history. Of the accepted defendants, 72% were either in pre- or post-trial release status when arrested. Only 50% of the rejected defendants were in such status.

The selection process also focuses on the charges filed against a defendant. The Case Evaluation Form rank-orders felonies by perceived severity. Two-thirds of all charges against defendants in the accepted cases sample involved armed robbery, unarmed robbery, assault with intent to murder, assault and battery with a deadly weapon, and possession of a deadly weapon. These defendants averaged 50% more charges per offender than those in the rejected cases sample. Nearly all accepted defendants

had at least one of the first four charges above imposed. Only 45% of the charges against rejected defendants involved the foregoing five offenses, and only half of those defendants had least one such charge imposed against them.

Accepted defendants were also more prone to the use of firearms in the commission of crimes; 48% did so, in comparison with only 19% of rejected defendants.

The final objective criterion relates to the number of victims, the type or extent of injury suffered, and the age of the victims. The aggregated data comparison reflects some difference between accepted and rejected cases. One unexpected result was the character of victimization in rejected cases.

Approximately 80% of the cases in each sample involved at least one victim, not a surprising figure since the felonies screened were primarily crimes against persons. Accepted cases averaged twice as many victims per incident as rejected cases.

A higher percentage of victims in rejected cases sustained injuries than did victims in accepted cases. The percentages for death or permanent physical injury were consistent. Victims in four rejected cases died or received permanent injuries, while victims in three accepted cases suffered similar consequences. Forty-five percent of rejected case victims sustained a temporary injury; only 31% of the accepted cases involved temporary injury to the victim. Finally, 21% of rejected case victims were hospitalized, while 17% of the accepted cases victims required hospitalization, a difference not statistically significant.

We would have expected the accepted sample to reflect a greater degree of victim injury than the rejected case sample. Although the result is contrary to that anticipated, there are explanations for the results.

The screening process begins with a review of defendant criminal histories. A fact squib on the offense is then developed. Both of these elements are combined for the purpose of an initial, tentative acceptance decision. Victim data are not central to this screening and are not considered until later in the process when the acceptance decision is virtually final. In practice, the Screening Unit acceptance decision rests only in small part, if at all, upon victim data. Therefore, it is not surprising to find that rejected case victims suffer injury to a similar or greater degree than accepted case victims. Further, the MVP does not generally accept cases involving "barroom brawls", family crises, or other such incidents in which temporary injuries frequently occur.



Rejected Case Scores

Our baseline data file of randomly selected, less serious cases prosecuted concurrently with MVP cases included 50 cases screened and rejected by the MVP. Since the baseline data file contained defendant, crime and victim information, we had the capability to score each of the rejected cases in the sample.

In fairness to the MVP, it must be made clear that this scoring process did not and could not replicate exactly that of the Screening Unit for the following reasons:

1. The Screening Unit utilizes Boston Police Department Identification records which contain only City of Boston arrest data; our baseline criminal history information was extracted from the more complete Department of Probation records which report conviction data State-wide.
2. The intuitive judgment of the Screening Unit attorneys involved in assessing the probative value of the evidence was exercised, in many cases, after personal interviews with investigators, witnesses, and victims; we were using fact summaries and skeletal police reports.
3. The Screening and Trial Unit attorneys have authority to apply additional criteria subjectively based upon information which was not available in the case folders we used to build our baseline data files. For example, if a well-known procurer assaulted one of the prostitutes in his "stable", the MVP might reject the case on the basis of the victim's credibility or the stated refusal by the victim to testify against her "man". That background would not have been in our baseline data file. Since we could not replicate exactly the selection process, we could not accurately determine the number of cases which were missed.

What follows is our scoring of rejected cases. For the reasons noted above, although this analysis cannot show how many cases slipped through the selection process, it does indicate that some were missed.

We scored each rejected case on the nature of the defendant, nature of the victim, and nature of the crime. Of the 50 cases in the sample, 13 (26%) received 8 or more points (Table 11).

If the evidence in those 15 cases was only average, all would have been scored at least 10 points without the addition of any discretionary points. However, if the evidence was "weak", only 5 (10%) would have obtained the needed points.

TABLE 11: SCORES OF REJECTED CASES  
IN CATEGORIES 1, 2 & 3  
AS SCORED BY EVALUATORS

Measure	Cases N=	%
Scoring 10 or above	5	(10.0)
9	4	( 8.0)
8	4	( 8.0)
7	2	( 4.0)
Scoring 6 or below	37	(70.0)
Total	50	100.0

This scoring assumed that no circumstances existed for rejection other than failure to obtain at least the 10 points needed for acceptance. Therefore, the rejection forms for each of the 50 rejected cases were reviewed to determine the Screening Unit's reasons for rejection. The most common reasons were "no serious record", uncooperative victim/witness" and "victim/witness relationship". Where the declared reason was not contradicted by our file data, we accepted the explanation for rejection. We also rejected those cases where the crime was a homicide or there was a relationship between the victim and the defendant. The remaining cases were re-scored without considering the strength of the evidence. None of the cases scored 10 points, however, 14% scored 8 or 9 points. If the evidence was only average in those cases, they would have scored 10 or above and should have been accepted if no other subjective reasons for rejection existed. Table 12 presents the results.



TABLE 12: REVISED SCORING OF REJECTED CASES IN CATEGORIES 1, 2 & 3

Measure	Cases N=	%
Scoring 10 or above	0	( 0.0)
9	3	( 6.0)
8	4	( 8.0)
7	1	( 2.0)
Scoring 6 or below homocides, victim/defendant relationship, or meeting automatic rejection criteria	42	(84.0)
Totals	50	100.0

Since the original screening process could not be replicated in our treatment of the sample, it was impossible to accurately determine cases which met the criteria. The rejected case sample constituted approximately 2% of the total number of cases rejected. The standard error for a sample of 50 cases is a maximum of 12%. Thus, the confidence level for the population is plus or minus 12%. Using the existing selection criteria, the MVP could have accepted approximately 14% of the rejected cases (Table 12), provided no other valid rejection reasons existed. Given the standard sampling error, that rate would translate to between 2% and 26% of the rejected case population (approximately 2700). That standard error, it should be noted, is in our sampling methodology, not in the MVP screening process.

On the basis of the rejected case analysis, we concluded that some qualifying cases have slipped through the screening process. Such slippage can be attributed in part to the use of incomplete criminal history data and/or the failure to use Case Evaluation Forms during the screening process. That slippage, however, in no way detracted from the effectiveness of the MVP and the new Senior Screening Counsel has already instituted procedures to tighten the process. Some cases may continue to be missed as long as Boston Police Identification Section records are used to determine an offender's criminal history. Given the existing difficulties in obtaining Probation Department records on a timely basis, it

would appear that the small amount of slippage which might result would be offset by the advantages gained in speeding the selection and preparation of cases.

Those cases which have been missed because the existing criteria are not totally objective and thus predictive of MVP selection policies can be reduced in number by changing both the criteria and the weights assigned to a specific criterion. That is discussed in the section which follows.

#### 4.2.4 Appropriateness of the Selection Criteria

We based our assessment of the appropriateness of the selection criteria upon two factors. First, whether they reflect the goals of the MVP and second, whether those criteria appear frequently in successful MVP prosecutions with success defined by the Project. If the selection criteria are reflective of MVP screening goals, we would consider them appropriate. Furthermore, where they are found to occur with greater frequency in successful MVP prosecutions, appropriateness is further confirmed.

Selection criteria exist for two essential purposes. First, to identify those persons who are appropriate targets of the special prosecution effort - the MVP. Second, the criteria should identify the convictability of individual defendants within that class of persons.

Merely because a particular criterion appears with greater frequency in unsuccessful prosecutions does not mean that that criterion is necessarily inappropriate. While, for example, it may be inappropriate for assessing the convictability of a particular defendant, it may nevertheless be relevant for purposes of identifying the persons in the class of defendants to which MVP efforts are appropriately directed.

In this respect, a balancing must occur. Although a specific criterion may appear with greater frequency in less successful MVP prosecutions, we do not suggest that that criterion be abandoned. Rather, we suggest modification of the weight assigned to that criterion.

The Case Evaluation Form contains specific criteria directed at achieving screening objectives. Those directed toward categorizing an offender as within the target class of major violators appear appropriate. They include the defendant's status at the time of his arrest, prior criminal background, including pending cases and information regarding repetitive criminal activities, the record for violence in past criminal conduct, and the possible atrocity of his conduct both past and present. These criteria also focus on the nature of the present offense and any resulting victimization in terms of physical injury and/or death. We

conclude that the specific criteria seeking to identify defendants as major violators are appropriate for the purpose. However, as discussed elsewhere in this report, the combinations of criteria, as they appear on the existing Case Evaluation Form, do not appear justifiable.

Those criteria directed at assessing the likelihood of successful processing of a defendant are not clearly articulated. More successful processing includes conviction, disposition within the target period of approximately 100 days, and the imposition of a prison sentence which is not totally suspended. These criteria are presently implicit in the selection category labeled "Nature of Evidence". It is in this category that the Trial Unit has had discretionary authority to add points toward selection. In our analysis of more successful and less successful MVP cases, we were able to identify variables which occurred more frequently in the more successful cases. They included three specific types of evidence:

- o Eyewitness testimony concerning the crime;
- o A victim/witness identification of the offender; and
- o Physical evidence.

The greater the frequency of one or more of these evidentiary elements, the greater the likelihood of conviction of the defendant. Our data establishes that successful processing is more likely to occur where such evidentiary elements are present, as opposed to any other identified variable. In that connection, it is important to recognize the necessity for assessing the probative value of the available evidence. For that purpose, the discretionary exercise of prosecutorial judgment was both necessary and appropriate.

The problem that the existing Case Evaluation Form presents is its failure to reflect or articulate the evidentiary elements critical for conviction. Thus, the quality of the discretionary judgments which have been made cannot be assessed, since it is impossible to determine to what evidentiary element(s) those judgments were directed. The exercise of discretion to determine the probative value of evidence is both necessary and appropriate. It must, however, be rationalized by the articulation of essential or specific evidentiary criteria. In terms of manpower and financial resources, it is undesirable to expend efforts on "losing cases". Consequently, the selection of target offenders should be based in part, upon a review and assessment of the evidence available for prosecution.

However, the selection criterion entitled "Nature of Evidence" is inappropriate for that purpose as written. It should be modified to specify the types of the evidence upon which discretion is to be exercised. The revised Case Evaluation Form (see Section 9) reflects a suggested modification.

As indicated above, the selection process has two purposes: (1) identifying persons who are major violators, and (2) assessing the likelihood of successful prosecution. In terms of the first objective, we find the individual criteria effective and appropriate. With respect to the second objective, the criterion critical to conviction, nature of evidence, is inappropriate because it fails to make explicit the essential evidentiary elements.

#### Criteria Related to Success

A successful MVP case is one where the defendant was convicted of the offense charged or a lesser included felony, received a sentence of imprisonment not all of which was suspended, and the case was disposed of in the median time experienced for all MVP sample cases. Variables incorporated in criteria were cross-tabulated between two samples of MVP cases (more successful and less successful). If we found such a variable occurring with greater frequency in more successful MVP prosecutions, the appropriateness of the selection criteria reflected would be confirmed.

We found confirmation with respect to the three evidentiary variables discussed above. Although we were not able to isolate which of the three measures of success (speed of processing, certainty of conviction, and severity of sentence) were most affected by those variables, it was our judgment that the three variables impacted certainty of conviction and speed of processing more than severity of sentence.

Our analysis also identified five other variables which were present with greater frequency in more successful prosecutions than in less successful MVP prosecutions. The measure(s) of success which, in our judgment, were most impacted by the presence of each variable are shown in italics after each variable. Those five are:

- o The defendant had one or more prior adult convictions (*severity of sentence*);
- o The defendant had served one or more years in prison (*severity of sentence*);

- o The defendant possessed a rifle, shotgun, or other weapon (excluding a handgun) at the time of the offense (*severity of sentence*);
- o Force was threatened (intimidation) but not used (*severity of sentence*); or
- o At the time of the offense, the defendant was in some criminal status such as pre-trial release, probation, suspended sentence, etc. (*severity of sentence*).

These variables also reflect those selection criteria which are used to categorize defendants as major violators. Since these five variables occur with greater frequency in more successful prosecutions, our conclusion of appropriateness is confirmed as to those selection criteria. Further, that finding confirms the hypothesis from which the screening criteria were apparently generated.

Two other variables, however, occurred with greater frequency in less successful MVP prosecutions:

- o A weapon or force was used at the time of the offense with contact to the victim (*speed of processing, and severity of sentence*); and
- o The victim sustained a personal injury or died as a result of that contact (*speed of processing and severity of sentence*).

Violent conduct is the type the MVP seeks to prevent by identifying and prosecuting major violators. The fact that such victimization occurs more frequently in less successful cases does not mandate abandoning the selection criteria reflected by the above variables because they are nevertheless important in identifying defendants as major violators. An appropriate modification in the use of such criteria, however, would be to adjust the weight assigned in selection decision-making.

The selection criteria in general were appropriate, as reflective of MVP screening goals. We do not, however, intend to suggest that the weights assigned to individual criteria are appropriate.

#### 4.2.5 Appropriateness of Selection Criteria Weights

The criteria used in the screening process should reflect the implicit MVP policies and goals. Those that do not should be modified or eliminated. The operable criteria should also be assigned weights which accurately correspond to Project screening goals. For example, the present Case Evalua-

tion Form assigns five points if a victim sustains a permanent injury. Although the identification of major violators engaging in such conduct is a Project screening goal, this criterion was found more frequently in less successful cases than in more successful matters. Thus, the assignment to victim data of as much as 50% of the minimum points necessary for selection appears inappropriate.

However, consideration of such data is appropriate, since it reflects the screening goal of identifying major violators. Our belief that the current weight assigned to victim data is inappropriate is reaffirmed by our previous finding that accepted cases do not differ significantly from rejected cases with respect to victim data viewed in the aggregate.

Further, where 60% of the minimum points necessary for selection can be awarded on the basis of evidence strength (4 points), and unrestricted discretion (2 points), an acceptance judgment is possible without consideration of the nature of the offense. Thus, under current procedures, only one of two pertinent selection factors (the criminal and the crime) can form the foundation for a decision to accept when, in fact, a marriage of the two would be consistent with the intention to prosecute major violators.

Illustrative of the problem of criterion weight is the hypothetical case of a sentenced offender who commits an offense while in work-release or furlough status. He would be awarded five points in the "Nature of Defendant" category. If the defendant committed the crime of forgery (1 point) and the evidence was overwhelming (4 points), he would qualify as a major violator even though he had no prior history of violence and his new offense did not intimidate or physically injure anyone. That is an extreme illustration and, arguably, the Project Director would use his discretion to reject the case. Yet, it does serve to illustrate the failure of criteria weights to provide predictive value in the selection process and indicates that those weights are not consistent with MVP prosecutorial goals.

During the developmental stages of the MVP, certain selection criteria combinations were developed and weights assigned to the resulting combinations. To date, only minimal revisions have been made in either those combinations or the assigned weights. There has never been an objective determination of the appropriateness of the weights. While we found the specific criteria generally appropriate, the same cannot be said for either the weights or the combinations of criteria.

#### 4.2.6 Achievement of Secondary Objectives

Often, the importance of the secondary objectives of the Screening Unit are lost in the maze of screening and selection criteria. And yet, it may be that the accomplishments of the Screening Unit in the performance of tasks related to those secondary objectives have had even greater impact on the success of the MVP than its application of selection criteria.

Screening Unit attorneys and investigators are frequently the first point of contact between the District Attorney's Office and uniformed police officers, detectives, victims, witnesses, District Court officials, and bail commissioners. This early and frequent contact has had its impact, both on the attitudes and perceptions of those with whom the Unit has been in contact and the successful prosecution of MVP cases.

To date, the Unit has screened approximately 5300 felony cases. In the course of its work, the Unit has had regular contact with all Suffolk County Police Departments. As a consequence, the police departments are very much aware of the District Attorney's policy to prosecute speedily a certain class of offenders - those who have been a major irritation to the police. The Unit has had some contact with approximately 400 to 500 police officers who now have a sense that the District Attorney has committed significant resources to assist them "on the street". A Screening Unit attorney is on call 24 hours a day. When the police need advice on a serious case, have made a felony arrest which appears to fall within the criteria for Project prosecution, or have a witness/victim ready to give a statement, they can telephone the Unit and receive an immediate response. The District Attorney now becomes a participant in the criminal justice process at a stage where, previously, the police stood alone. The Screening Unit has been an effective liaison agent for the Suffolk County District Attorney.

In our opinion, early case preparation work by the Screening Unit has been effective in reducing the number of cases lost due to witness unavailability or other evidentiary defects. Of 562 charges brought by the MVP, none were dismissed by the prosecutor for witness problems, and only two were dismissed by the Court. Only six charges were dismissed by the prosecutor for evidence problems and none was dismissed for constitutional reasons.

#### 4.3 Findings

The present Case Evaluation Form is not an effective screening tool. The present selection system requires modification to bring it in line with MVP goals and policies. Modification should reduce such scoring as is overly subjective and increase the speed and consistency with which cases are screened. Modifications should include changing weights assigned to specific criteria and merging the present Rejection Form into a revised Case Evaluation Form.

The present criteria and weights were adapted from the selection criteria of the Bronx County District Attorney's Major Offense Bureau (MOB). The screening goals of the MVP and the MOB are virtually identical. However, MOB selection criteria have undergone extensive revision as a result of a study performed by the National Center for Prosecution Management (NCPM). That study developed a system for referring cases to MOB, a system akin to the threshold (key felony) screening now performed by the MVP Screening Unit, and a second system which scores a combination of the crime, victim's injury, and defendant's previous record. Unlike the MVP Case Evaluation Form, the revised MOB systems preclude selection using only one of those factors.

We examined the present MOB system and compared the data items identified by the NCPM with the criteria in the MVP Case Evaluation Form. From the results, we modified the Case Evaluation Form, assigning new weights to each criterion retained or revised. These criteria and weights appear to be a more appropriate predictor of cases which adhere to the MVP screening policies than those presently utilized. The modified Case Evaluation Form appears in Section 9.

The grant application stated that MVP would screen every felony arrest in Suffolk County and select for prosecution those offenders who scored a minimum number of points. We found that the screening process used in the MVP was not exactly as described in the grant applications. Given the existing resources of the Screening Unit and the varied ancillary functions the Unit performs, full screening of all felony arrests is neither practical nor necessary. That the Screening Unit did not complete a Case Evaluation Form for every felony arrest screened is a recognition of that fact. However, the failure to complete the Form for all offenders committing serious ("key") felonies has contributed to the percentage of offenders who met the criteria, but slipped through the screening process. The MVP must formalize its "key" felony screening procedure, that is, define which felonies and offenders will be subjected to additional, intensive screening. Once so defined, key felonies could be used as the threshold criterion and Case Evaluation Forms would be completed for offenders committing those felonies before tentative acceptance/rejection decisions are made. All cases meeting the minimum score requirements or bordering on acceptance could then be forwarded to

the Project Director for final acceptance. The Director presently makes that decision but presently reviews only cases selected by the Screening Unit. Under the recommended procedure, he could review all Case Evaluation Forms and, in that manner, provide quality control for the screening process.

We found that all but one of the offenders prosecuted by the MVP scored 10 points or more on the Case Evaluation Form. However, our primary interest was determining whether others had slipped through the process. After analyzing and scoring a sample of rejected cases, we concluded that some cases which met the existing criteria had been missed. Since the selection process in operation during the period evaluated could not be replicated exactly, it was not possible to determine precisely how many cases were missed. What slippage there was, however, did not detract from the overall effectiveness and success of the MVP. Our analysis also showed that the MVP was not abusing the significant discretion permitted by the subjective criteria. A more consistent system, utilizing objective criteria, is preferable.

In our recommendations, we present a suggested procedure for screening and selection. We believe that implementation of that procedure will overcome some of the deficiencies of the present process. Additional refinement after testing may be necessary.

We found the Screening Unit to be an effective tool for analyzing and prioritizing cases for prosecution. It permits the District Attorney to identify serious cases and repeat offenders early in the justice process, something previously impossible under Main Office procedures.

Screening Unit assistants provide valuable services during the crucial investigatory stage of cases, working with street officers and detectives for a common purpose. The Screening Unit is a response to the often-heard complaint of police - the serious offender they arrest today steps into the revolving door of the criminal justice system and is back on the street tomorrow.

Serious cases are frequently lost because of weaknesses in the investigatory stage. This is the stage where physical evidence is more likely to be available and recollections most vivid. Screening Unit attorneys and investigators have worked with police to collect and preserve evidence at this crucial stage. The value of early case preparation is evidenced by conviction, dismissal and continuance rates. With additional resources and computer support, these concepts could be used to prioritize all Suffolk County felony cases and rank order the case load.

## SECTION 5 THE MVP TRIAL PROCESS

This Section deals with the processing of accepted cases and discusses the evaluation of the overall effectiveness of the MVP.

Unlike the screening process which was assessed primarily in terms of its conformity with Project plans and the appropriateness of plan elements, the trial process was evaluated for the achievement of Project objectives and goals.

### 5.1 Trial Process Effectiveness

The trial process was evaluated in terms of MVP prosecutorial goals which are:

- o To decrease the time required to process a case involving a major violator defendant, and to dispose of such cases within 90 days;
- o To increase the probability of conviction in such cases; and
- o To obtain sentences which are commensurate with the crime.

To perform this evaluation, a sample of cases was drawn from all indicted felony cases prosecuted and disposed of by the Suffolk County District Attorney's Office in a 12-month period prior to the implementation of the MVP. This comparison group was selected by screening all indicted felony cases settled during that year and matching characteristics of those cases to MVP cases in terms of nature of offense, victim, and defendant.

5.1.1 Speed in Processing

A major problem facing the Suffolk County criminal justice system is and has been extensive delay in processing felony cases from arrest to disposition. According to the MVP grant applications, this delay has been responsible for court congestion, liberal bail policies, non-availability of witnesses, recollection problems with victims and witnesses, and forced plea bargaining with reduced or suspended sentences resulting.

The Project has instituted several procedures designed to reduce the time required to process felony cases. These procedures include:

- o Omission of Probable Cause Hearings in District Courts by presenting witnesses and evidence directly to the Grand Jury;
- o An "open-file, full-disclosure" policy which eliminates the need for a pre-trial conference;
- o Priority ranking for MVP cases at the Assignments Session;
- o "One Assistant District Attorney - One Case" policy which places full responsibility for the preparation and processing of a Project case on the trial assistant assigned to that case;
- o Limited plea bargaining policies which reduce the time permitted for plea negotiations and effectively eliminate negotiations for reduction in the seriousness or number of charges; and
- o Stricter standard bail policies intended to insure that defendants will appear for trial.

Data suggest that these innovations have been extremely effective in speeding the case processing system overall, and at each stage in the process. The mean time from arrest to disposition is 112 days<sup>7</sup> or approximately four months. This compares favorably with the comparison group mean of 341 days, or approximately 11 months.

Table 13 reflects the number of days from arrest to disposition in both MVP cases and in comparison cases. It is a dramatic presentation of the success of the Project in speeding up disposition of serious felony

<sup>7</sup> If the time any MVP defendants were in default status is deducted, the MVP mean disposition time is 105 days.

TABLE 13: DAYS FROM ARREST TO DISPOSITION

Number of Days	MVP Universe			Comparison Sample		
	Defendants N=	%	Cum %	Defendants N=	%	Cum %
1 - 20	1	( 0.6)	( 0.6)	0	( 0.0)	( 0.0)
21 - 40	2	( 1.2)	( 1.8)	0	( 0.0)	( 0.0)
41 - 60	19	(11.7)	(13.5)	0	( 0.0)	( 0.0)
61 - 80	33	(20.4)	(33.9)	1	( 0.7)	( 0.7)
81 - 100	35	(21.6)	(55.5)	2	( 1.4)	( 2.1)
101 - 120	24	(14.8)	(70.3)	5	( 3.4)	( 5.5)
121 - 140	13	( 8.0)	(78.3)	2	( 1.4)	( 6.9)
141 - 160	8	( 4.9)	(83.2)	7	( 4.7)	(11.6)
161 - 180	6	( 3.7)	(86.9)	16	(10.8)	(22.4)
181 - 200	8	( 4.9)	(91.8)	5	( 3.4)	(25.8)
201 - 220	4	( 2.5)	(94.3)	12	( 8.1)	(33.9)
221 - 240	3	( 1.9)	(96.2)	5	( 3.4)	(37.3)
241 - 260	0	( 0.0)	(96.2)	8	( 5.4)	(42.7)
261 - 280	4	( 2.5)	(98.7)	6	( 4.1)	(46.8)
281 - 300	1	( 0.6)	(99.3)	5	( 3.4)	(50.2)
301 and Over	1	( 0.6)	(99.9)	68	(45.9)	(96.1)
Not Ascertained	-	-	-	6	( 4.1)	(100.2)
Total	152	99.9		148	100.2	
Mean	112 days			341 days		
Median	94 days			291 days		
Mode	72 and 86 days			201 days		





TABLE 15: NUMBER OF DAYS FROM ARREST TO SUPERIOR COURT ARRAIGNMENT

Number of Days	MVP Universe			Comparison Sample		
	Cases N=	%	Cum %	Cases N=	%	Cum %
1 - 10	26	(15.1)	(15.1)	2	( 1.3)	( 1.3)
11 - 20	52	(30.2)	(45.3)	9	( 6.0)	( 7.3)
21 - 30	44	(25.6)	(70.9)	3	( 2.0)	( 9.3)
31 - 40	15	( 8.7)	(79.6)	4	( 2.7)	(12.0)
41 - 50	10	( 5.8)	(85.4)	8	( 5.4)	(17.4)
51 - 60	9	( 5.2)	(90.6)	21	(14.1)	(31.5)
61 - 70	5	( 2.9)	(93.5)	4	( 2.7)	(34.2)
71 - 80	3	( 1.7)	(95.2)	8	( 5.4)	(39.6)
81 - 90	0	( 0.0)	(95.2)	8	( 5.4)	(45.0)
91 - 100	1	( 0.6)	(95.8)	12	( 8.1)	(53.1)
101 and over	4	( 2.3)	(98.1)	65	(43.6)	(96.7)
Not Ascertained	3	( 1.7)	(99.8)	5	( 3.4)	(100.1)
Total	172	99.8		149	100.1	
Mean	28 days			103 days		
Median	22 days			93 days		
Mode	17 days			11, 51, 53, 59, & 107 days		

the two groups of cases reflects the impact that such conferences can have on the non-MVP cases. Table 16 shows that pre-trial conferences were required in only 37.9% of the MVP cases, whereas pre-trial conferences were held in 89.3% of the comparison cases.

TABLE 16: NUMBER OF CASES WITH PRE-TRIAL CONFERENCES

Measure	MVP Universe			Comparison Sample		
	Cases N=	%	Cum %	Cases N=	%	Cum %
No conference	84	(47.5)	(47.5)	8	( 5.4)	( 5.4)
Conference held	67	(37.9)	(85.4)	133	(89.3)	(94.7)
Not Ascertained	26	(14.7)	(100.1)	8	( 5.4)	(100.1)
Total	177	100.1		149	100.1	

The speed with which the MVP moves cases from arrest to trial is also clearly superior to prior performance in the Main Office. Of the 96 MVP cases reaching trial, 46 or 48.0% did so within 80 days. This compares with the 51 comparable cases of which none reached trial within the same time period. Only four MVP cases, 4.2%, required 200 or more days to move from arrest to trial, compared with 30 comparison-group cases (58.8%). Table 17, which sets forth the age of MVP and comparison group cases from arrest to trial, reflects equally significant differences between the two groups at all intervals. The Project median of 81 days and the mean of 93 days is obviously shorter than the comparison group's mean of 321 days and median of 292 days.

It should be noted that there is a built-in bias which favors the Project when comparisons are made with non-MVP cases. In the comparison group, 92.4% of the cases proceeded after arrest to Probable Cause Hearings in the District Court. Almost all MVP cases went directly from arrest to the Grand Jury. Non-MVP cases were further delayed pending transmittal of District Court bind-over complaints to the Superior Court Clerk.



TABLE 17: NUMBER OF DAYS FROM ARREST TO TRIAL

Number of Days	MVP Universe			Comparison Sample		
	Cases N=	%	Cum %	Cases N=	%	Cum %
1 - 20	0	( 0.0)	( 0.0)	0	( 0.0)	( 0.0)
21 - 40	4	( 4.2)	( 4.2)	0	( 0.0)	( 0.0)
41 - 60	18	(18.8)	(23.0)	0	( 0.0)	( 0.0)
61 - 80	24	(25.0)	(48.0)	0	( 0.0)	( 0.0)
81 - 100	18	(18.8)	(66.8)	1	( 2.0)	( 2.0)
101 - 120	9	( 9.4)	(76.2)	2	( 3.9)	( 5.9)
121 - 140	12	(12.5)	(88.7)	0	( 0.0)	( 5.9)
141 - 160	3	( 3.1)	(91.8)	3	( 5.9)	(11.8)
161 - 180	2	( 2.1)	(93.9)	2	( 3.9)	(15.7)
181 - 200	2	( 2.1)	(96.0)	8	(15.7)	(31.4)
201 and over	4	( 4.2)	(100.2)	30	(58.8)	(90.2)
Not Ascertained	0	( 0.0)	(100.2)	5	( 9.8)	(100.0)
Total	96	100.1		51	100.0	
Mean	93 days			321 days		
Median	81 days			292 days		
Mode	77 days			191 days		

To compensate for that bias, the two classes were further compared on processing time from Grand Jury indictment to each subsequent step in case disposition. The MVP still remained the faster system, taking cases from Grand Jury indictment to final disposition in about 40% of the time required for non-MVP cases. The median from Grand Jury indictment to disposition is 80 days for MVP cases; in non-MVP cases, it was 193 days (Table 18).

TABLE 18: NUMBER OF DAYS FROM GRAND JURY INDICTMENT TO DISPOSITION

Number of Days	MVP Universe			Comparison Sample		
	Cases N=	%	Cum %	Cases N=	%	Cum %
1 - 20	2	( 1.2)	( 1.2)	1	( 0.7)	( 0.7)
21 - 40	10	( 6.0)	( 7.2)	1	( 0.7)	( 1.4)
41 - 60	31	(18.7)	(25.9)	4	( 2.7)	( 4.1)
61 - 80	37	(22.3)	(48.2)	11	( 7.4)	(11.5)
81 - 100	23	(13.9)	(62.1)	7	( 4.7)	(16.2)
101 - 120	15	( 9.0)	(71.1)	10	( 6.8)	(23.0)
121 - 140	9	( 5.4)	(76.5)	12	( 8.1)	(31.1)
141 - 160	6	( 3.6)	(80.1)	3	( 2.0)	(33.1)
161 - 180	9	( 5.4)	(85.5)	6	( 4.1)	(37.2)
181 - 200	5	( 3.0)	(88.5)	11	( 7.4)	(44.6)
201 - 220	1	( 0.6)	(89.1)	7	( 4.7)	(49.3)
221 - 241	2	( 1.2)	(90.3)	9	( 6.1)	(55.4)
241 - 260	4	( 2.4)	(92.7)	5	( 3.4)	(58.8)
261 - 280	4	( 2.4)	(95.1)	8	( 5.4)	(64.2)
281 - 300	0	( 0.0)	(95.1)	7	( 4.7)	(68.9)
301 and over	3	( 1.3)	(96.9)	39	(26.4)	(95.3)
Not Ascertained	5	( 3.0)	(99.9)	7	( 4.7)	(100.0)
Total	166	99.9		148	100.0	
Mean	77 days			260 days		
Median	80 days			193 days		
Mode	76 days			138, 193 days		

The speed of the MVP process over the normal process for serious Suffolk County felony cases was also evident in the comparisons between the two groups on speed from Grand Jury indictment to later points. The Project median from Grand Jury indictment to arraignment is six days; the non-MVP median is 22 days. Approximately 80% of the MVP defendants were arraigned on Grand Jury indictments within 20 days; only 41% of the comparison group were. Table 19 presents those comparisons of all cases in the two samples.

TABLE 19: NUMBER OF DAYS FROM GRAND JURY INDICTMENT TO SUPERIOR COURT ARRAIGNMENT

Number of Days	MVP Universe			Comparison Sample		
	Cases N=	%	Cum %	Cases N=	%	Cum %
1 - 10	109	(63.4)	(63.4)	49	(32.9)	(32.9)
11 - 20	30	(17.4)	(80.8)	12	( 8.1)	(41.0)
21 - 30	12	( 7.0)	(87.8)	35	(23.5)	(64.5)
31 - 40	5	( 2.9)	(90.7)	20	(13.4)	(77.9)
41 - 50	5	( 2.9)	(93.6)	11	( 7.4)	(85.3)
51 - 60	0	( 0.0)	(93.6)	6	( 4.0)	(89.3)
61 - 70	0	( 0.0)	(93.6)	3	( 2.0)	(91.3)
71 - 80	2	( 1.2)	(94.8)	2	( 1.3)	(92.6)
81 - 90	0	( 0.0)	(94.8)	0	( 0.0)	(92.6)
91 - 100	2	( 1.2)	(96.0)	0	( 0.0)	(92.6)
101 and over	1	( 0.6)	(96.6)	3	( 2.0)	(94.6)
Not Ascertained	6	( 3.5)	(100.1)	8	( 5.4)	(100.0)
Total	172	100.1		149	100.0	
Mean	13 days			27 days		
Median	6 days			22 days		
Mode	6,7 days			7 days		

The MVP cases also move much more rapidly from indictment to trial, perhaps a reflection of the plea bargaining policies of the MVP. The Project will rarely delay a trial for plea bargaining. Defendants must be prepared to negotiate in good faith, prior to trial date. Otherwise, cases proceed to trial as scheduled. Of MVP cases which reach trial, approximately 40% do so within 60 days after indictment. Only 2% of the non-MVP cases did so. The MVP brought 97.8% of its cases to trial in 200 days or less; only 41.2% of the non-MV cases achieved the same result. Table 20 sets forth the time periods from Grand Jury indictment to trial for all cases in the two samples.

TABLE 20: NUMBER OF DAYS FROM GRAND JURY INDICTMENT TO TRIAL

Number of Days	MVP Universe			Comparison Sample		
	Cases N=	%	Cum %	Cases N=	%	Cum %
1 - 20	1	( 1.0)	( 1.0)	0	( 0.0)	( 0.0)
21 - 40	10	(10.4)	(11.4)	0	( 0.0)	( 0.0)
41 - 60	27	(28.1)	(39.5)	1	( 2.0)	( 2.0)
61 - 80	22	(22.9)	(62.4)	3	( 5.9)	( 7.9)
81 - 100	13	(13.5)	(75.9)	2	( 3.9)	(11.8)
101 - 120	10	(10.4)	(86.3)	3	( 5.9)	(17.7)
121 - 140	4	( 4.2)	(90.5)	0	( 0.0)	(17.7)
141 - 160	2	( 2.1)	(92.6)	2	( 3.9)	(21.6)
161 - 180	4	( 4.2)	(96.8)	3	( 5.9)	(27.5)
181 - 200	1	( 1.0)	(97.8)	7	(13.7)	(41.2)
201 and over	2	( 2.1)	(99.9)	24	(47.1)	(88.3)
Not Ascertained	0	( 0.0)	(99.9)	6	(11.8)	(100.1)
Total	96	99.9		51	100.1	
Mean	77 days			230 days		
Median	63 days			229 days		
Mode	9 days			183-186 days		

From the data and comparisons presented above, there is little doubt that the MVP is better than the normal case processing system when judged by speed. A stated MVP goal is to dispose of cases within 90 days from arrest. Although our sample cases show that that goal has not yet been achieved, that should not detract from the success of the Project. Serious felony cases are presently disposed of in approximately one-third of the time normally required. The Project has had cases delayed by pre-trial motions directed to constitutional questions about equal protection and invidious discrimination. As these issues are resolved, the number of trial-delaying motions should diminish, permitting even faster disposition than is presently possible.

While a 90-day disposition goal is an enviable one, it appears to have been unrealistic for the first year of the Project when systemic problems related to acceptance of innovation are considered.

#### 5.1.2 Certainty of Conviction

While speed is important as an MVP goal, so too is certainty of conviction. This section describes the accomplishment of the MVP in relation to conviction rates. As in the evaluation of the speed of prosecution, MVP cases were compared with a sample of comparable settled non-MVP felony cases prosecuted prior to the existence of the MVP.

Overall, the MVP has a conviction rate of 96.4%. Of 177 cases in the Project universe, nine involved defendant defaults, one was not settled, and one defendant committed suicide. Of the remaining 166 cases, two resulted in acquittal and four were dismissed. The comparison group experienced a conviction rate of 87.2%.<sup>8</sup> Of 148 cases, three resulted in acquittals and 16 were dismissed. Figures 7 and 8 are disposition trees for the MVP universe and the comparison group, respectively.

The Project had a lower percentage of dismissals than did the comparison group (2.2% vs. 10.7%), which suggests more effective preparation in MVP cases. In the comparison group, eight times as many cases were dismissed by the courts and slightly more than twice as many were dismissed by the prosecutor.

<sup>8</sup> The comparison was drawn from a sample of settled cases. We do not doubt that many of the unsettled cases would be summarily dismissed if prosecutor action were taken to review the status of these cases. Over time, witnesses and victims have moved or memories have become clouded, necessitating such action. Thus, if unsettled cases were included in the comparison sample, we would expect that the conviction rate for that sample would be lower. Consequently, the difference between the MVP conviction rate and that found in the comparison sample would be that much greater.

FIGURE 7. DISPOSITION OF DEFENDANTS: MVP CASES

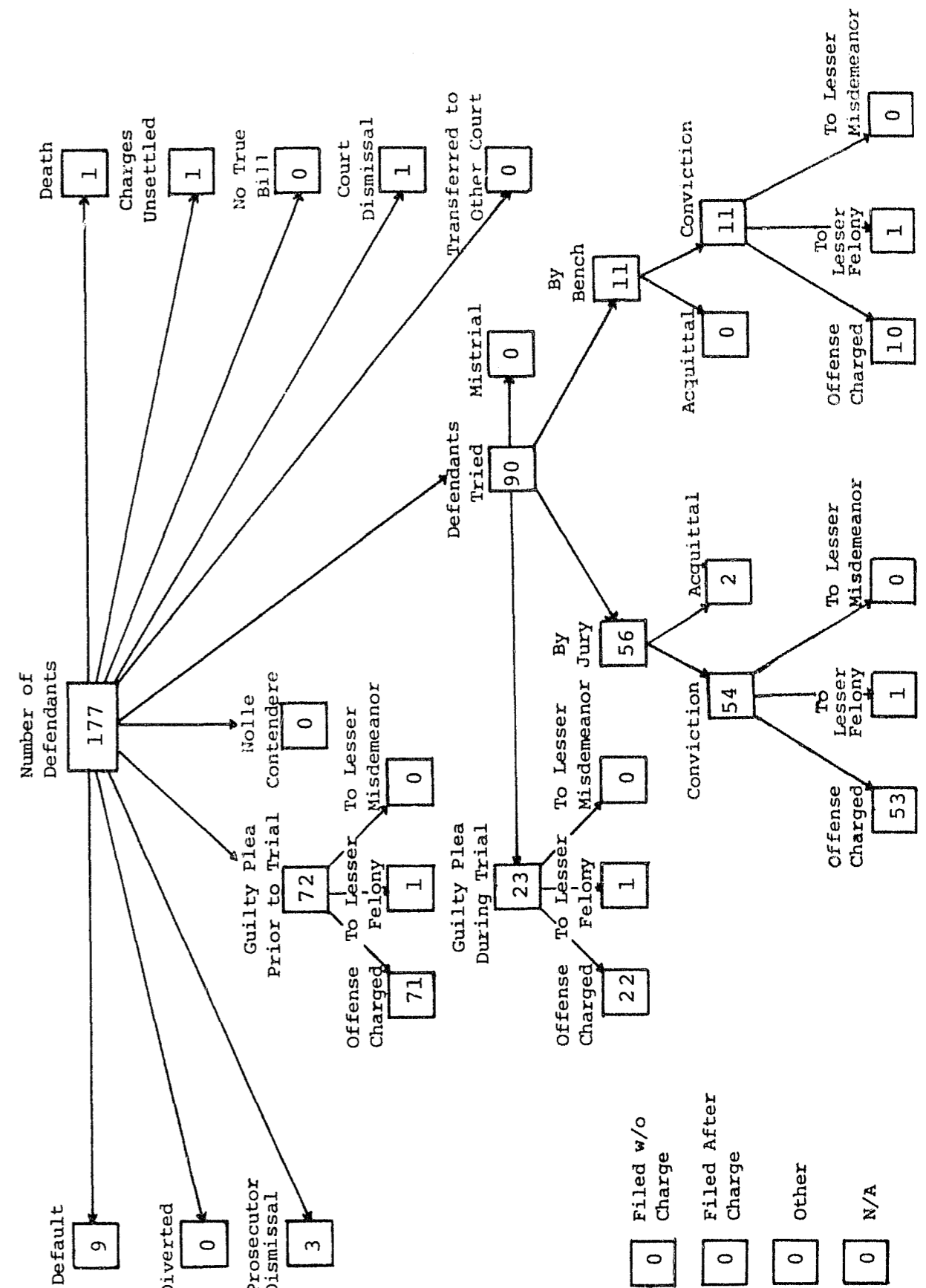
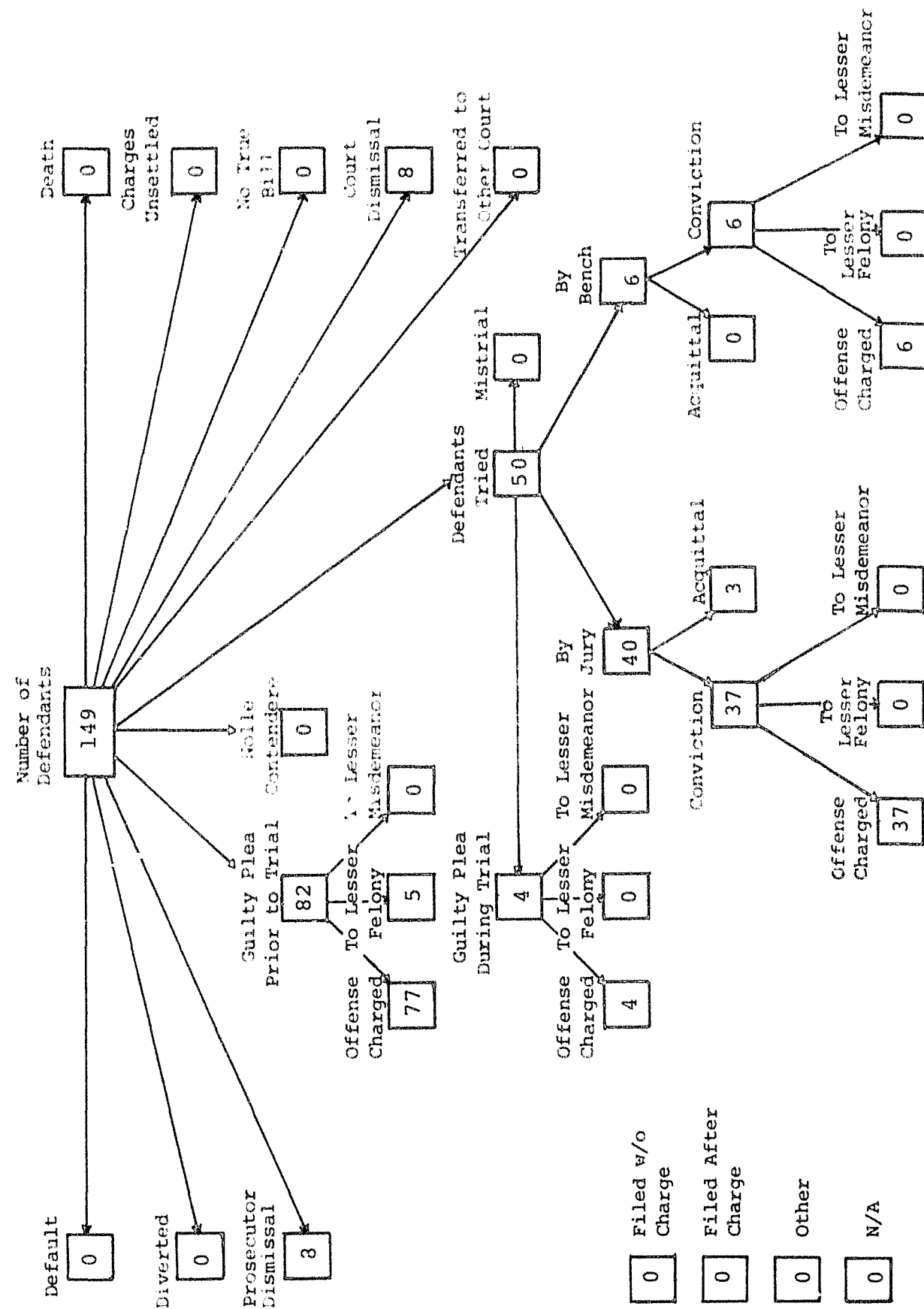


FIGURE 8. DISPOSITION OF DEFENDANTS: COMPARISON GROUP



In the MVP universe, 90 defendants or 50.8%, chose to go to trial. Of that number, 56 were tried by jury, 11 were tried by the Bench, and the remainder pled guilty during the trial. Overall, of 90 defendants proceeding to trial, 88 or 97.7%, were convicted.

In the comparison sample, 50 defendants (33.4%) went to trial. Forty defendants were tried by jury, six by the Bench, and four pled guilty during their trials. The conviction rate for the comparison group cases going to trial was 94%.

Although overall conviction rates provide a reasonably reliable indicator of the success or failure of a prosecutive effort, an even more reliable measure is the outcome on offenses charged, since the goal of the prosecutor is usually to achieve conviction on all offenses charged. By analyzing the outcomes of "offenses charged", weaknesses in the charging process or a tendency to permit pleas to lesser offenses can be more readily identified.

MVP cases involved 562 charges. We factored out the charges which were: unsettled (4 at the time data collection terminated); against those defendants defaulting (68); terminated by defendant's death (4); and dispositions not ascertained (7). Charges remaining numbered 479 and they were prosecuted. Defendants pled guilty to 276, or 57.6%, of the charges. Then 165 charges went to either a Bench or Jury trial and defendants were convicted of 141. Thus, the charge-conviction rate at trial was 85.5%. Overall, the guilty rate on all charges in the MVP was 94.6%.

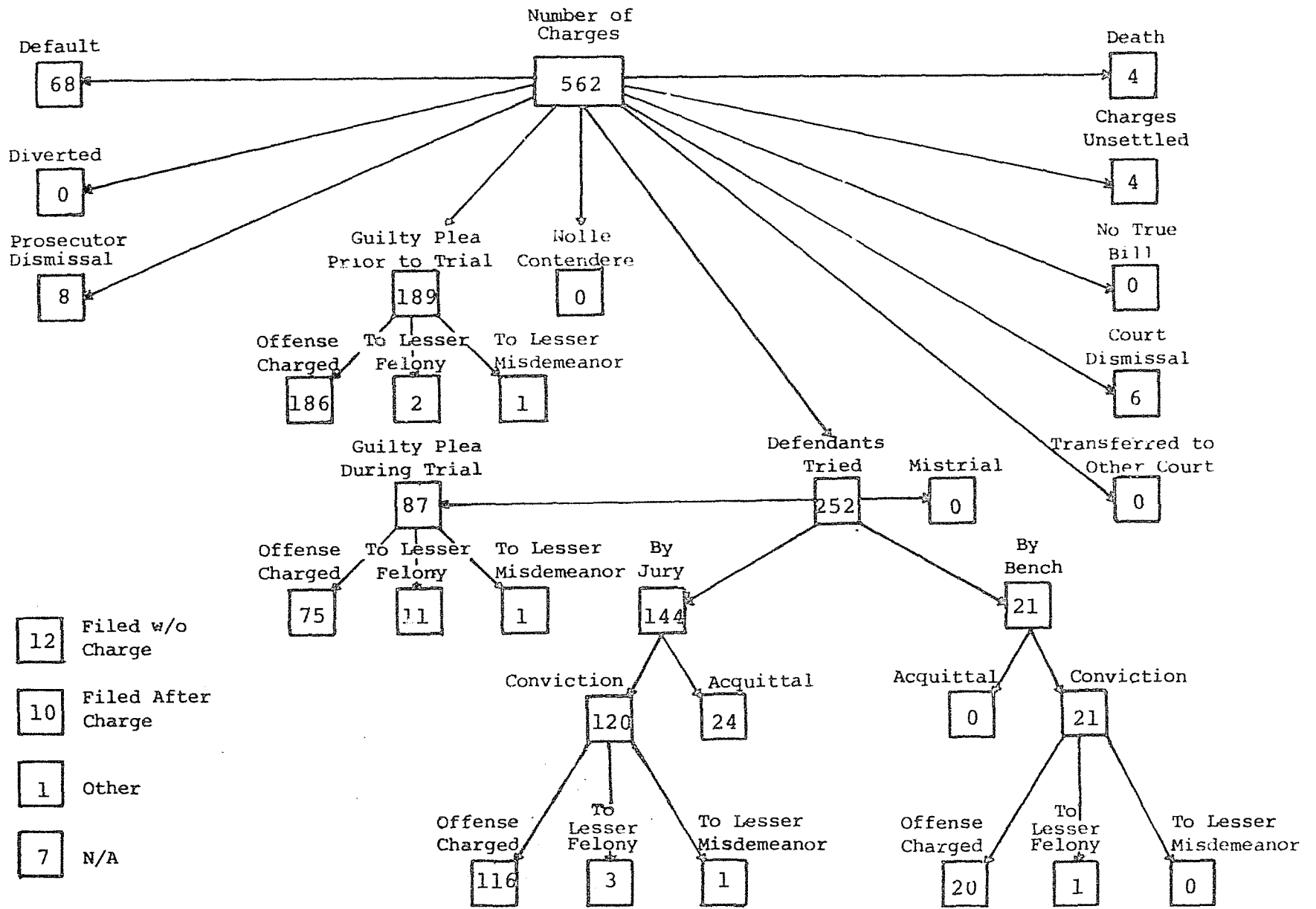
The non-MVP case sample involved 388 charges. Defendants pled guilty to 180, or 47.4%; 112 were tried by either a jury or the Bench. The non-MVP sample conviction rate at trial was 86.6% (which does not differ significantly from the MVP universe); overall the guilty rate on all charges brought was 82.5%.

The overall MVP conviction rate on charges brought (94.6%) as compared with the non-MVP sample overall charge-conviction rate (82.5%) is evidence of the Project's success in obtaining such convictions. There is little doubt that certainty of conviction has improved significantly. Figures 9 and 10 are the disposition trees for charges brought for the MVP universe and the comparison group, respectively.

**CONTINUED**

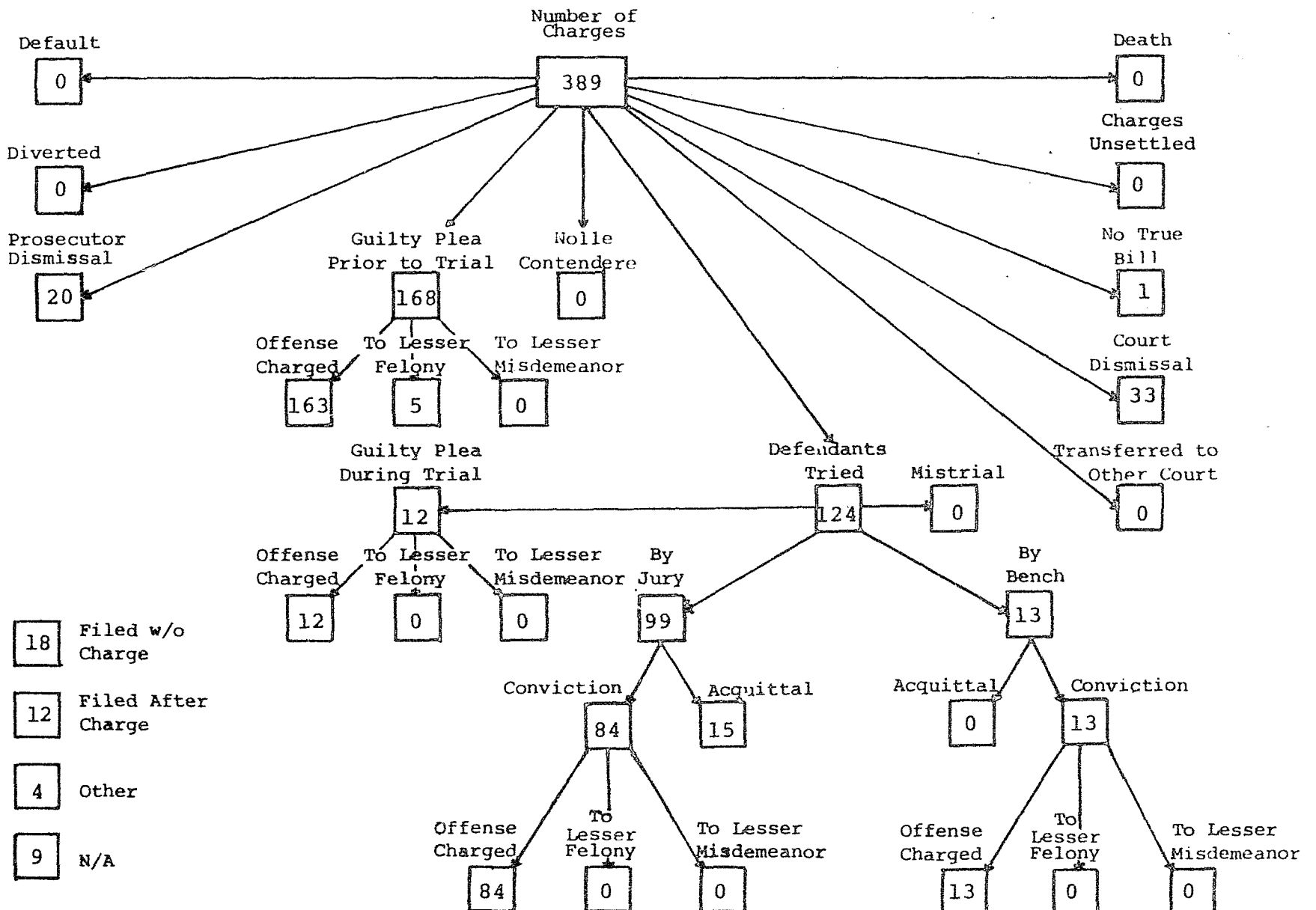
**1 OF 3**

FIGURE 9. DISPOSITION OF CHARGES: MVP CASES



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FIGURE 10. DISPOSITION OF CHARGES: COMPARISON GROUP



75

### 5.1.3 Sentences Obtained

Once a conviction has been obtained, the MVP insures that the court is aware of the prior criminal history of the defendant and the nature of previous crimes committed. Often in the Main Office, trial attorneys do not have the time, or in some cases, the inclination, to research police reports, Grand Jury minutes, and Board of Probation records to ascertain and document a defendant's history of violence and to present such data for sentencing purposes.

The success of extra effort in connection with sentencing is evident in the terms obtained by the MVP. In comparison with non-MVP cases, the Project had a smaller percentage of defendants who received no confinement time and a smaller percentage of defendants who received partially suspended sentences. The average minimum sentence and the average maximum sentence were also higher in the MVP universe. On all comparisons, the MVP achieved its goal of securing more severe sentences than those previously imposed on major violators.

Of the 160 MVP defendants convicted, 97.5% were sentenced to imprisonment and that imprisonment was not fully suspended. Of 129 comparison group defendants convicted, 84.5% were sentenced to imprisonment which was not totally suspended.

Not only did a greater percentage of MVP defendants have to serve time in confinement, but also their sentences were longer than those of comparison group defendants. The Project obtained an average minimum sentence of 8 years, 5 months, in contrast to the average minimum sentence of 6 years, 11 months, given the comparison group defendants. The average maximum sentence obtained by the MVP was also significantly higher than in the comparison group - 12 years, 2 months vs. 9 years, 8 months. In each group, four defendants were sentenced to life imprisonment.

The fact that the MVP obtained more severe sentences than the comparison cases can be explained in part by its plea bargaining policies. The MVP negotiates only for a sentence it considers commensurate with the seriousness of the crime. The effect of that policy is evident in the sentences obtained in cases where the defendant pled guilty before trial. In MVP cases, the average minimum sentence for defendants pleading guilty before trial was 10 years, 2 months; the average maximum was 12 years, 2 months. In the comparison group, the average minimum was 6 years, 9 months, and the average maximum, 9 years. The average minimum for MVP defendants, in these circumstances, was greater than the average maximum for the comparison group.

### 5.2 Correlational Analysis: Input Variables With Measures of Success

Cases prosecuted by the Major Violators Project tended to be more successful than a sample of similar cases prosecuted by the Main Office prior to the Project's implementation.<sup>9</sup>

The most dramatic difference was that the MVP cases proceeded to disposition approximately three times faster, on the average, than the earlier cases. In addition, the conviction rate was higher, and the average sentence was more severe.

One hypothesis as to why this might be true is that the MVP did a better job than the Main Office was doing prior to the inception of the Project. Another possibility, however, is that the cases accepted by the MVP were somehow more likely to result in successful outcomes than the earlier sample of cases. If the selection criteria worked to screen out cases likely to require a long period for disposition or which were not likely to result in conviction or a long jail term, this could explain the apparent success of the MVP.

We found that MVP performance was not due to the intrinsic nature of the cases accepted and, hence, was a result of the way the cases were handled by the Major Violators Project.

#### 5.2.1 Success Measure No. 1 - Speed of Processing

As was pointed out earlier, MVP cases usually bypassed Probable Cause Hearings in District Courts. To control for this bias, the analyses on speed of processing utilized length of time elapsed from date of Grand Jury Hearing to final disposition. As Table 18 shows, MVP cases were processed more quickly than pre-MVP cases. The average number of days between the Grand Jury hearing and disposition for MVP cases was 77 the pre-MVP cases took 260 days. We then asked whether this large difference could be explained by whether there was something different about the cases accepted by the MVP.

To determine which variables affected the speed of prosecution, a number of factors about defendants and their cases were correlated with elapsed time for pre-MVP cases. It was found that only two aspects of the case contributed significantly to the speed of prosecution: cases proceeded faster if the defendant did not make bail,<sup>10</sup> or if the defendant had ever defaulted on bail before.<sup>11</sup> Since these were probably

<sup>9</sup> Success is measured by the speed of processing, conviction record on all charges, and the severity of the sentence imposed.

<sup>10</sup>  $r = -0.18$ , significant at 0.05 level

<sup>11</sup>  $r = 0.20$ , significant at 0.05 level.

related factors (bail amount is determined in part by prior defaults), only the first variable was used in the analysis.

The pre-MVP cases were used as a comparison population. The next step was to determine if MVP cases had a lesser percentage of defendants who made bail; this could account for their faster average. Only 15% of the MVP defendants met bail, as opposed to 46% of the pre-MVP cases. Therefore, part of the reason major violator cases go faster is that fewer defendants meet bail.

However, holding the bail variable constant (see Table 21), two things are evident: first, it took longer to prosecute cases if the defendant was out on bail for both groups of cases; and, second, that the length of time it took to dispose of MVP defendants out on bail (the slower case) was still about half that for the pre-MVP cases. In other words, whether the defendant was in jail or not prior to trial, the MVP cases were still faster than pre-MVP cases.

TABLE 21: AVERAGE NUMBER OF DAYS FROM GRAND JURY HEARING TO CASE DISPOSITION BY WHETHER DEFENDANT MET BAIL

Did Defendant Meet Bail?	Elapsed Time - Grand Jury to Disposition	
	MVP	Pre-MVP
Yes	117 days	294 days
N=	20	67
No	99 days	227 days
N=	128	66
Overall*	101 days	260 days
N=	148	133

\* Differs from average for all defendants in cells because of missing data for 7% of cases.

The correlational analysis indicates that the speed of prosecution in general was relatively independent of who the defendant was or what the offense was. Therefore, although some of the speed of MVP cases is

due to having more defendants not make bail, the major reason for the difference appears to be the different way the cases were handled by the Major Violators Project.

5.2.2 Success Measure No. 2 - Conviction Rate

The overall conviction rate for the pre-MVP cases was fairly high - about 87%. That this is so much higher than the national averages for felony crimes (reported in the 1973 FBI Uniform Crime Reports) may be due in part to the different statistical bases used in this evaluation.<sup>12</sup> Nevertheless, the 96% conviction rate of the MVP is a significant improvement in convictions compared to pre-MVP cases. We sought to determine whether the higher conviction rate was in some way related to the type of case chosen.

Table 22 shows the relative conviction rates of the two groups holding six variables constant. It was found that aspects of cases did not significantly affect the rate of conviction for the Major Violators Project. The MVP does about as well on all kinds of cases, regardless of the nature of the offense or defendant.

Despite the skewed distribution of convictions, correlational analysis on the pre-MVP cases indicated that there were several factors which affected the likelihood that a defendant would be convicted. These constituted three kinds of variables:

- o Characteristics of the defendant, such as whether he or she had received a prior suspended or jail sentence;
- o Characteristics of the offense, such as whether it occurred in a dwelling, whether force was used, and whether the defendant was injured; and
- o The nature of the evidence introduced, particularly ballistics.

Further, for pre-MVP cases, the Main Office was less successful in prosecuting cases where a weapon or force was used, where the victim was injured, where the cause of the injury was physical force (as opposed to a weapon), or where the defendant was on suspended sentence at the time of the alleged offense. If the defendant had previously served time in jail, or if ballistics evidence was introduced at the trial, the conviction rate was significantly higher.

<sup>12</sup> Unsettled cases were not included in the sample of pre-MVP cases.



TABLE 22: CONVICTION RATES BY PREDICTORS

Measure		Percent Convicted	
		MVP	Pre-MVP
Weapon/force used -	Yes	93%	76%
	No	97	93
Victim injured -	Yes	91	72
	No	97	95
Physical force caused injury -	Yes	89	74
	No	98	90
Defendant was serving suspended sentence at time of arrest -	Yes	95	67
	No	100	88
Defendant served prior jail sentence -	Yes	97	88
	No	92	78
Ballistics in evidence -	Yes	98	95
	No	94	81
Overall		96	87

It is outside the scope of this inquiry to determine why the Main Office should have been less successful in prosecuting these seemingly more serious cases. We can only note that in every type of case, the MVP did better than the Main Office in obtaining convictions, particularly so where an aspect of the case made it more serious. This is an additional confirmation of the positive effect of the MVP, and one which was unexpected at the time the evaluation was proposed.

To summarize: the MVP cases resulted in a higher percentage of convictions independent of any aspects of the case which would have led to a higher rate of conviction. While conviction rates in the Main Office were high, the MVP has succeeded in implementing policies and procedures which improved on that record, particularly with respect to more serious cases.

5.2.3 Success Measure No. 3 - Severity of Sentence

For this analysis, we utilized the minimum end of the sentencing range as our outcome variable, after subtracting the amount suspended; thus, a five-to-ten year sentence with three-to-five suspended would be counted as two years. Life sentences (3% of each cell) were excluded. Again, correlation coefficients were computed for the pre-MVP sample. Three factors emerged as predictors of mean minimum non-suspended sentence: whether a handgun was in the offender's possession at the time of the offense ( $r = 0.22$ ), whether any property or money was stolen ( $r = 0.21$ ), and whether or not the defendant met bail ( $r = 0.28$ ). (All three correlations were significant at the 0.01 level.) All three can be seen to be related to the nature of the charges, either directly - where there was a theft - or indirectly - where the defendant could not make bail - presumably because of the severity of the offense alleged.

The average minimum sentence was then computed after controlling for the predictor variables; the results are shown in Table 23. Overall, the average sentences for the major violators were higher than for the pre-MVP cases.

TABLE 23: YEARS, MEAN MINIMUM NON-SUSPENDED SENTENCE

Predictors		Average Minimum Sentence			
		MVP	N=	Pre-MVP	N=
Weapon used -	None	8.6	39	6.5	22
	Handgun	12.9	70	13.3	51
	Other	12.7	49	9.4	53
Did Defendant Meet Bail?	Yes	7.0	16	6.6	57
	No	12.8	129	14.7	59
Property or Money Stolen?	Yes	11.6	118	7.9	76
	No	12.8	38	12.2	46

Where no weapon was used, or where the weapon was other than a handgun, the MVP did better; that is, defendants convicted of these types of offenses received longer sentences than they would have prior to the inception of the Project. For handgun-related offenses, both groups received about the same minimum sentence. It should be noted, in passing, that the one-year minimum mandatory sentence for possession of a handgun represented a small percentage of the total sentences in the MVP cases, and does not seem to have increased the overall sentence imposed. Another interesting fact which emerges from this table is that the MVP cases were much less dependent on the type of weapon involved than the earlier sample.

In both groups, sentences were much lower for those offenses where the defendant was able to make bail. For these cases, the two groups did about equally well. For cases where the defendant did not make bail, minimum sentences were significantly higher for pre-MVP offenders. This suggests that there is some trade-off involved in the MVP policy of keeping defendants in jail until the trial; far fewer defendants were released, but those who were not got somewhat lower sentences.<sup>13</sup> The important fact, however, is that for cases in general, the sentences were longer for the MVP cases.

Finally, the MVP cases received longer sentences whether or not a theft was involved. This fact fits in with a pattern which emerges from a consideration of all three outcome measures - the MVP case prosecutions seem to be less affected by the circumstances of the case than were pre-MVP cases. Regardless of the nature of the offense, or what the defendant's prior record might be (within the limits of the selection criteria) the defendants prosecuted by the MVP were almost always disposed of faster, were more often convicted, and got somewhat longer sentences than defendants prosecuted by the Main Office.

In conclusion, there are two major results of our analyses which should be of interest. First, MVP case handling procedures are much faster than were the procedures used in the Main Office prior to the inception of the Project. Secondly, these procedures work in a uniform fashion across all types of cases accepted, to ensure a high rate of success independent of the aspects of the cases themselves.

<sup>13</sup>Perhaps as a result of the court's cognizance of pre-trial incarceration time.

### 5.3 Analysis of Fast/Slow Major Violators Project Cases

Within the MVP universe there is a significant difference in the speed with which cases are processed from arrest to disposition. Speed in processing is a major goal of the MVP. An analysis of variables present in fastest MVP cases would provide an insight into the factors which speed the processing of a case. Conversely, the same analysis of the slowest cases would identify the variables which delay case processing.

Speed, however, is not the only MVP goal; conviction of offenders and imposition of sentences commensurate with the seriousness of the crime are equally important. Therefore, the analysis also measured speed against success, i.e., certainty of conviction and severity of sentence. If the fastest MVP cases are not as successful as the slowest cases, then it follows that the Project should institute quality control procedures to insure that trial attorneys do not sacrifice total success for speed alone.

For this analysis, MVP cases were divided into two categories: the 25 fastest and the 25 slowest. The time frame used was date of arrest to date of disposition (conviction, acquittal, dismissal, or discharge of the defendant). The following table shows the median and mean times for each sample.

TABLE 24: DISPOSITION TIMES FOR 25 FASTEST AND 25 SLOWEST MVP CASES

Time Measure \ Sample	Fastest Cases	Slowest Cases
Median	47 days	252 days
Mean	52 days	239 days

#### Factors Influencing Speed

To isolate what appears to influence the speed with which cases are processed, there are two types of variables (or factors): case input variables and process variables.

Case input variables cannot ordinarily be controlled by the MVP except through the use of selection criteria which relate significantly

to those input variables and which are found in greater frequency in fast cases. Process variables, such as acceptance of a defendant's plea, continuances, pre-trial conferences, etc., can, in some cases, be controlled by the MVP. Figure 11 shows these hypothesized relationships.

The variables shown in Table 25 were found to occur with greater frequency in either the fast and/or slow cases in the sample.

TABLE 25: FREQUENCY OF VARIABLES IN 25 FASTEST AND 25 SLOWEST MVP CASES

Variable	Relationship to	
	Fastest Cases	Slowest Cases
Eyewitness testimony available	X	
Witness/Victim Identification of the Defendant	X	
Ballistics and/or Fingerprint Evidence Available		X
Two or More Victims		X
Victim Hospitalized		X
One or No Victims	X	
Force Used During Offense	X	
Defendant possessed weapon at Time of Offense	X	
Defendant had no Criminal Status at Time of Arrest		X
Number of Charges Brought Against Defendant	X	X
Number of Continuances	X	X
Guilty Plea Before Trial		X

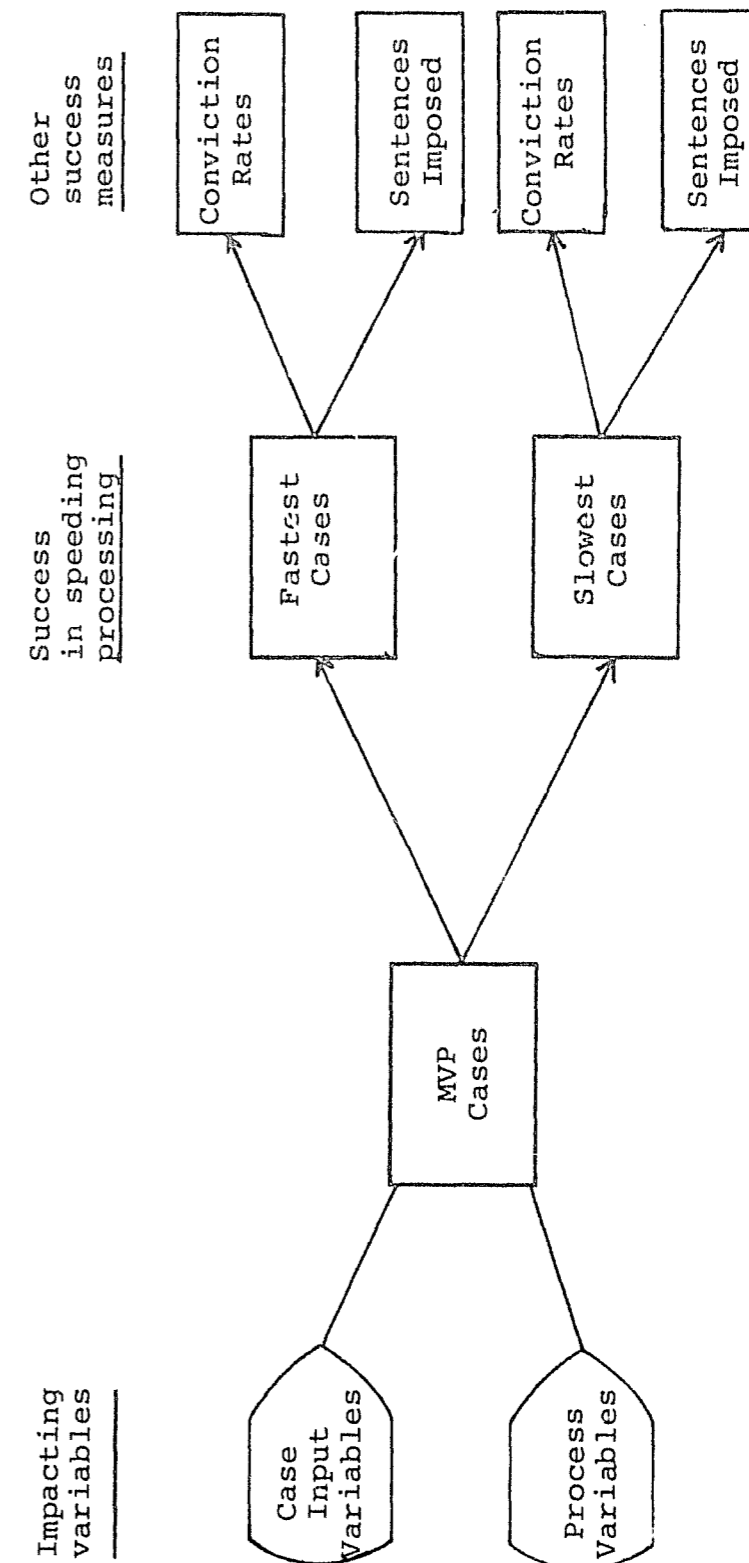


Figure 11. Hypothesized Relationships

Other variables examined, such as the number of co-defendants, defendant's bail status, and nature of victim's injury, did not appear with any significant frequency in either fast or slow cases.

The two variables which appeared with significant frequency in both fast and slow cases - number of continuances and number of charges brought - deserve further discussion.

Table 26 shows that only one fast case experienced three or more continuances which delayed prosecution and that 96% of all fast cases had two or fewer continuances. In comparison, only 50% of the slowest cases involved two or less continuances; the remainder had between three and six, with 48% of the slowest cases having four or more.

TABLE 26: NUMBER OF CONTINUANCES IN 25 FASTEST AND 25 SLOWEST MVP CASES

Number of Continuances	Fastest Cases		Slowest Cases	
	Cases N=	%	Cases N=	%
0	6	24.0	3	12.0
1	11	48.0	3	12.0
2	6	24.0	4	16.0
3	1	4.0	3	12.0
4 - 6	0	0.0	12	48.0

As would be expected, the number of continuances in a case significantly impacts the speed with which the case is processed. Reduction or elimination of continuances, where possible, would significantly speed MVP prosecutions. But, in the fastest cell, only one case was delayed by a prosecutor's request for a continuance, and that request affected only one charge. In the slowest cases, only two were delayed by continuances requested by the prosecutor impacting only two charges. Only 5.1% of all continuances in major violator cases were requested by MVP attorneys, whereas, 80% of all such continuances were requested by defense counsel or the Bench. These data indicate that the Project probably can do little to further reduce or eliminate continuances.

The data indicate that in most instances, circumstances resulting in the granting of continuances are also beyond the control of the MVP. Such circumstances include the fact that a judge was unable to reach a case, the defendant's conduct caused the continuance (sickness, default), the defense was unprepared for trial, a jury trial was requested, or psychiatric or polygraph examinations were ordered. As Table 27 indicates, most continuances arise from pre-trial motions/hearings and interlocutory appeals combined.

TABLE 27: REASONS FOR CONTINUANCES IN 25 FASTEST AND 25 SLOWEST MVP CASES

Reasons	Fastest Cases Affected	Slowest Cases Affected
Pre-Trial Motion/Hearing	6	14
Judge Unable to Reach Case	7	10
Defendant Conduct	0	7
Defense Unprepared	4	3
Jury Trial Requested	1	4
Interlocutory Appeal Taken	0	4
Psychiatric Exam Ordered	0	3
Polygraph Exam Ordered	2	1
Plea Negotiation in Progress	2	1

Also, the fastest cases averaged fewer charges per offender than the slowest cases (2.68 charges vs. 3.68 charges). Yet, the difference of one charge did not appear to impact in any significant manner, the speed with which a case was processed. Analysis of specific charges failed to establish a relationship between the type of charge and the time from arrest to disposition.

TABLE 28: NUMBER OF CHARGES PER OFFENDER  
IN 25 FASTEST AND 25 SLOWEST  
MVP CASES

Number of Charges	Fastest Cases		Slowest Cases	
	Defendants N=	%	Defendants N=	%
1	6	(24)	4	(16)
2	8	(32)	4	(16)
3	3	(12)	5	(20)
4	6	(24)	7	(28)
5	0	( 0)	0	( 0)
6	2	( 8)	1	( 4)
7	0	( 0)	1	( 4)
8	0	( 0)	3	(12)
Total	25	100	25	100

Success of Fast/Slow Cases

Although speed in processing is a major goal of the MVP, it is not the only one. The degree of success of MVP cases must also be measured in terms of certainty of conviction and severity of punishment. In the MVP view, it is not a desirable outcome for a case to be processed quickly if the defendant receives a suspended sentence or is acquitted.

Our earlier analysis, which compared MVP case outcomes to pre-MVP serious case results, demonstrated that the record of the Project was clearly superior in speed of processing, certainty of conviction, and severity of sentences. With that in mind, we sought to determine whether, within the MVP universe, the fastest MVP cases were more successful than the slowest cases. We found that they were not. The small size of each group (25 cases) in the fastest/slowest sample does reduce the reliability of that finding, however.

We placed all cases in one group and categorized as more successful, i.e.:

- o The defendant was convicted of the offense charged or a lesser felony;
- o The defendant was sentenced to imprisonment; and
- o All or part of the imprisonment sentence was served (not suspended);

or less successful, i.e., the above three elements were not present. Under the above criteria, 96% of the slow cases and 76% of the fast cases were rated more successful.

Charges in relation to disposition of slow-case performance was also measurably better than that of the fast cases. Defendants were convicted of the offense charged in 89.1% of the total charges in the slow group of cases; in fast cases, the same result was obtained for 76.1% of the total charges. While slow cases ended in no conviction on 10.9% of the charges brought, fast cases had 20.9% with no conviction. Table 29 shows that data.

TABLE 29: TYPE OF CONVICTION BY CHARGE IN  
25 FASTEST AND 25 SLOWEST MVP CASES

Type of Conviction	Fastest Cases		Slowest Cases	
	Charges N=	%	Charges N=	%
Convicted of Offense Charged	51	(76.1)	82	(89.1)
Convicted of Lesser Felony	1	( 1.5)*	0	( 0.0)
Convicted of Lesser Misdemeanor	1	( 1.5)*	0	( 0.0)
No Conviction	14	(20.9)	10	(10.9)
Total	67	100.0	92	100.0

\* Comparisons not statistically significant.

Table 30 shows the sentencing patterns for defendants in each of the two groups of MVP cases. There were fewer slow cases where the defendant received one year or less (1% vs. 6%), and the median for slow cases was higher than in fast cases (9 to 10 years vs. 5 to 7 years). There was no confinement or all confinement was suspended in 21% of the fast cases; the same result appeared in only 4% of the slow cases.

TABLE 30: SENTENCING PATTERNS IN 25 FASTEST AND 25 SLOWEST MVP CASES

Sentence	Sample	Fastest Cases N=24	Slowest Cases N=24
No confinement or all confinement suspended		21%	4%
One year or less		6%	1%
Median (excluding suspended) sentence		5-7 years	9-10 years
Maximum sentence		25-40 years	18-25 years
Life imprisonment		0%	0%

#### 5.4 Findings

The Project goal of disposing of cases within 90 days was not achieved during its first year of operations. In our judgment, that goal was not critical. Further, achieving it should not have been expected in view of the systemic and operational problems faced by this Project during its start-up phase.

Although the 90-day disposition goal was not achieved, the MVP still processed serious felony cases in approximately one-third the time which would ordinarily have been required. This extraordinary record applies throughout the entire case processing cycle. The MVP has reduced the processing time from arrest to Grand Jury indictment from an average of 79 days to 16 days. The average time of 321 days required to process a serious felony case from arrest to trial was reduced to 93 days by the MVP. The MVP system is so clearly superior to the prior system in terms of speed that the failure to achieve its pre-implementation goal has in no way detracted from its effectiveness in speeding prosecution.

When the MVP prosecutes a case, not only is the speed with which the case is processed increased, but so is the certainty of conviction. The Project has an overall conviction rate of 96.4%. The Project's conviction rate at trial is even higher - 97.7%. These figures contrast with those in comparison cases where the overall conviction rate was 87.2% and the conviction rate at trial, 94%.

Sentences obtained by the MVP following both pleas of guilty before trial and convictions at trial are definitely more severe. After pleas before trial, the average minimum sentence was actually greater than the average maximum sentence in the comparison cases.

When measured against its goals of speeding prosecution, increasing the certainty of conviction and obtaining severe sentences for serious crimes, the Project has been extremely effective.

There is little more that the Project can do to further increase the speed of processing its cases. In this analysis, slower cases seemed to be the more complex than faster matters. Complexity is indicated by the availability of fingerprint, ballistics and physical evidence, the number of charges brought, the number of victims, and the lack of eyewitness testimony or identification of the defendant. Some cases were further delayed by court-ordered psychiatric examinations. More complicated cases will naturally take more time to process unless the defendant pleads guilty at an early stage in the process which is not controllable by the MVP.

By changing its selection criteria, the MVP could use the screening process to control acceptance of those cases which can be expected to move less swiftly. However, that would detract from the overall project. MVP assistants are all experienced trial attorneys and well qualified to handle complex cases. Since even the slowest of the MVP cases are processed faster than most non-MVP cases, little would be gained by rejecting such cases. Further, the success of the MVP in obtaining convictions and having severe sentences imposed in the slowest of its cases justifies the additional processing time required.

SECTION 6 ASSESSMENT OF MVP IMPACTS

For the purposes of this evaluation, an impact was defined as the capacity of the program to cause changes in those who are exposed to it. In the case of components in the criminal justice system, the changes, if any, would be systemic in nature. In the case of individuals in the system, the changes would occur in the attitudes, perceptions and behavior of those exposed to the program. Historical experience reveals that unplanned impacts, frequently delayed, often equal or outweigh the importance of the intended consequences of an innovative program. The basic objective of this impact study was to provide another documented basis to judge the viability of the Major Violators Project.

By performing the impact assessment, we hoped to identify favorable and unfavorable impacts of the Major Violators Project on both the criminal justice system and on individuals in the system. We also hoped to predict some future impacts which might occur if the program is fully institutionalized. For example, will a perception in the criminal community that the commission of serious crimes may result in classification as a major violator deter potential offenders from the commission of such crimes? Or, will the Project merely cause major violators to shift their activities outside the jurisdiction of the Major Violators Project? Will the reduction of time between arrest and trial in Major Violator Project cases result in the reduction of current court congestion? Or, will the priority given to such cases cause additional congestion, because non-Major Violator Project cases are additionally delayed because of their lower priority? Will judges continue to give the same sentences to non-Major Violator offenders as they do now? Or, will those sentences be reduced because the offender does not qualify as a major violator? Will defense resources be adequate to handle the potential burden of Major Violator cases? Or, will the defense bar react to the possible burden by seeking even more continuances, in both Major and non-Major Violator cases? Will the reduction in the number of forced pleas result in more



rapid disposition of cases through a more orderly and well defined plea bargaining process? Or, will major violators choose to go to trial rather than to plea bargain, resulting in further court congestion?

Certain of these questions can be answered after 18 months of experience with the Project. Others, however, cannot be answered until more time has elapsed and data about the behavior of convicted offenders - after release from prison - become available. Indeed, answers to questions about crime displacement must await the development of far more sophisticated crime analysis capability, state-wide.

The materials which follow are not presented as the products of a scientifically designed sampling effort. No structured interview protocols were created or used. The evaluators did not employ written questionnaires to sample attitudes and perceptions of the MVP. Rather, the evaluators exercised their professional judgment about the types and numbers of persons working within and outside the Suffolk County criminal justice system whom they believed could provide accurate information and informed judgments about the Project, and conducted interviews with representative people. With very limited exceptions, interviews were conducted in person. The only pre-condition routinely attached was that the identity of an interviewee would remain confidential. Interviews were conducted with Judges, court clerical personnel, court attendants, police officers, Boston Police Department civilian employees, prosecutors assigned to both the MVP and the Main Office, defense attorneys (both public and private), corrections system employees, administrative and support personnel employed by the District Attorney of Suffolk County, journalists, and employees of the Massachusetts Committee on Criminal Justice. The views of a range of private citizens - professional and non-professional - were also solicited in an attempt to assess the public awareness of the MVP. Finally, crime victims and sentenced major violators were interviewed to determine their perceptions of the Project.

Unless otherwise indicated, conclusions appearing in the following pages are those of the evaluators and represent their professional judgment of conditions, events and issues. It should be noted that the evaluators are Massachusetts citizens and residents who work full-time in the criminal justice consulting field.

#### 6.1 Impacts on Police<sup>14</sup>

As crime has escalated in recent years - especially those offenses about which citizens are increasingly fearful, such as robbery, rape, homicide, breaking and entering of dwellings at night, etc. - police officers and citizens have grown increasingly skeptical about the ability

<sup>14</sup>Interviews were conducted with approximately 20 to 25 Boston police officers varying in rank from patrolman to superintendent.

of government to provide personal security. The reality of repeated offenses by persons previously convicted of violent crimes has caused many citizens to question seriously the capacity of the traditional system of criminal justice to deal swiftly and effectively with violent offenders. Institutionally, the police have felt put upon and even martyred, by the perceived unwillingness of prosecutors and judges to improve their companion responses to police action against violent criminals.

Since the police apprehend only a small portion of the perpetrators of violent offenses and, according to Federally supported victimization surveys, there is substantially more such crime than is reported to the police, what happens to apprehended offenders is of serious moment to police officers. Many urban police officers - and more specifically those in Suffolk County - have observed offenders charged with crimes of personal violence released on low bail to remain at liberty for periods up to one year or more before coming to trial. Many such defendants, the police accurately believe, commit additional offenses of the same character while awaiting trial.

The limitations upon how much more the American police *per se* can actually do about most crime, so long as they are to function within the constraints imposed by a democratic society, are given only limited acknowledgment by the police and even less by the average citizen. As a consequence, the police labor under both self-imposed and externally applied pressures to perform a crime control function which they cannot effectively discharge. It is, thus, hardly surprising to find police officers damning the Judiciary and, to a lesser extent, the prosecutors of Suffolk County for failing to deal more expeditiously and vigorously with offenders charged with violent crimes.

It is in the area of police attitudes toward companion elements of the criminal justice system or process of Suffolk County that an initial, positive impact from the MVP can be discerned. While the Major Violators Project has processed only 244 major violators to the point of trial and verdict as of May 17, 1977, it has had contact, in greater or lesser degrees of intensity, with approximately 400 to 500 police officers from Boston, Revere, Winthrop and Chelsea. Although many of these officers have dealt only with the Screening Unit which may have declined to accept one or more of their cases, these officers are nevertheless aware that a specialized unit exists to accelerate the disposition of the "bad guys" with whom the police are seriously concerned. Those police officers whose arrests have been actually forwarded for trial by MVP attorneys have had direct experience with the specialized and accelerated disposition mechanism. For the first time, for most of such policemen, there is hard evidence that other participants in the criminal justice process



are working with the police to put serious offenders in prison. The cynicism, or at least the extreme skepticism, of some police officers about the District Attorney's Office and the Superior Court is being eroded. Further, since many of the officers have heretofore been able to do little to allay the fears of victims, or effectively reduce their anxieties about pending trials, the more rapid dispositions of certain serious criminal cases affords them the opportunity to appear in a positive, helping role. Since the police have more continuing contact with crime victims than do prosecutors and judges and, as such, have had to bear the brunt of citizen criticisms about delays and perceived inequities in the criminal justice system, this is an important, albeit intangible, boost for police morale.

Although street officers and detectives do not have any systematically collected or analyzed data available to confirm their feelings, many "sense" or "feel" that offenders they have long suspected of multiple involvements in serious criminal offenses have been removed from their geographic areas of concern. This leads many to suggest that "finally" the District Attorney and the judges are working with them to achieve their primary purpose - the control of serious crime.

One interesting impact or by-product of the MVP - only grudgingly acknowledged by rank and file officers in the Boston Police Department - is the loss of overtime pay opportunities occasioned by speed, the very essence of the MVP effort. By-passing District Court Probable Cause Hearings and accelerating the time between arrests and trials, with the concomitant reduction in the number of possible continuances in trial dates, deprives many officers of off-duty court appearances. When such appearances are occasioned, Boston police officers are entitled by contract to a mandatory minimum appearance fee for three hours work at overtime rates. For many officers, conditioned to working in a system where time was hardly considered to be of the essence - at least as far as pressure from the District Attorney's Office was involved - the diminution in the number of overtime court appearances is perceived as an important financial loss. While the taxpayers may rejoice, many officers feel they have been deprived of an important source of legitimate, additional income.

The Boston Police Department leadership, however, takes a different view of the same circumstances. In Boston's currently - and for the foreseeable future - strained financial condition, overtime funds are in short supply. Anything which reduces such expenditures is welcomed. Further, the MVP reduces demands upon officers scheduled for duty. That is, officers heretofore were called, while on duty, to appear in court for cases which were frequently continued. Under the accelerated disposition scheme for MVP cases, the continuance rate has been reduced. And, since MVP cases receive priority assignments for trial, or are at

least scheduled with greater certainty than Main Office cases, officers appear, testify and return to street assignments more rapidly than in the past. With little likelihood of manpower increases, and doubts in some quarters as to their potential efficacy if made, increasing the availability of current manpower for service delivery is an important program impact in the minds of Boston Police Department leaders.

In the first year of the MVP, some officers took offense to the fact that certain of their cases were rejected for MVP status following initial screening. After nearly 18 months experience with the Project, however, there is much broader understanding of the criteria upon which matters are accepted, and now few officers take umbrage at case rejection. Indeed, individual officers are motivated to concentrate enforcement efforts on the apprehension of the more serious offenders.

With relatively limited exception, police in Suffolk County traditionally received little guidance from the District Attorney's Office in the conduct of their investigations and the development of their cases. Some complex fraud matters, organized crime cases and certain homicides, such as the killing of a police officer, have been exceptions. But, the prevailing practice has been for the police to pursue their investigations alone and then deliver arrested defendants for prosecutorial attention. In addition to a traditional police antipathy toward lawyers "messing around" in their area of responsibility, prosecution traditions in Massachusetts have worked against collaborative relationships.

District Attorneys and their assistants have traditionally been part-time servants. Until quite recently, when District Attorney Garrett Byrne ordered a change, Suffolk County generally operated in that mode. Prior to creation of the Project, only Mr. Byrne and attorneys in the Organized Crime Unit (SCIPP), which is Federally funded, were full-time lawyers. With the enactment of recent State legislation which mandates a conversion of all District Attorneys and assistants throughout the Commonwealth to full-time status by January 1, 1979, Byrne is now able to offer salaries adequate to support full-time assistants.

Prior to the statute, the MVP, funded under a Federal grant, provided a vehicle for assignment of full-time attorneys. As a consequence, for the first time, there was a substantial complement of attorneys available for consultation with police officers dealing with serious offenses other than homicides and organized crime matters. While as a general rule, MVP lawyers still have their first contact with a case only after a defendant has been arrested, the Screening Unit represents a new capability for better development of police cases. Unit attorneys advise on securing search warrants where appropriate, and are directly involved in "taking witnesses' statements. Trial attorneys in the Project are also

in a position to pursue with police investigators other aspects of particular cases in order to strengthen them for prosecution.

Almost inevitably, since lawyers assigned to the Screening Unit tend to be young and inexperienced, certain police officers feel some resentment at receiving investigative direction from them. This resentment is leavened somewhat, however, once matters are transmitted to the Trial Unit. There, the attorneys, especially the Project Director Thomas Mundy, are regarded as "heavy hitters". Police officers are more prone to take direction from such lawyers. As trial approaches more swiftly than in prior years, police are more cooperative in pursuing the common goal - jailing "bad guys".

Unlike officers in some other large, urban police forces, Boston Police investigators file the barest minimum of investigative reports. Thus, any prosecutor seriously interested in preparing a case for trial cannot afford to rely upon the content of the police reports. Personal interviews with police officers and civilian witnesses are almost always essential. Police-report deficiencies are neutralized to some degree as a consequence of the extensive Grand Jury presentation to which the MVP subscribes. Yet, since witness testimony at the Grand Jury is generally presented through leading questions, the failure to have police documentation of witness weaknesses during the early stages of investigations can be a problem at trial.

The tradition of skeletal paper reports within the Boston Police Department is apparently of great vintage. There was unanimous agreement among officers interviewed that it flows from the absence of adequate supervision and positive pressure from supervisors in the Department. If consideration was given to whether it was likely that such an operating style would change under the influence of the MVP, that probability could not have been rated as high. In fact, there has been no change at all.

Several of the MVP trial attorneys stated that they sensed an improvement in the quality of some investigators' work following contact with Project lawyers. They noted, however, that this was impressionistic and there were no hard data available to support their conclusion.

While the feeling is not yet widespread in the Boston Police Department, nevertheless there is a growing sense among many officers that a collaborative effort has been undertaken between police and prosecutors. It should be noted, of course, that an agreement that violent and repeat offenders are appropriate, priority targets for concerted action is easier to achieve than for other classes of potential defendants. Nevertheless, a viable police-prosecutor partnership to deal with such offenders is an important first step in improving systemic relationships in a jurisdiction where criminal justice activities have been unsystematic and where innovation and reform have been very slow to emerge.

## 6.2 Impacts on Prosecutors<sup>15</sup>

The District Attorney of Suffolk County, Garrett Byrne, is the Dean of American's urban prosecutors. In a state with a tradition of part-time prosecutors, he has, since first elected to the position, devoted full time to his job. Unlike his colleagues throughout the Commonwealth, he has not maintained a private law practice. Byrne is well known in the national prosecutor community and is a past President of the National District Attorney's Association. He was the only District Attorney to serve as a member of the President's Commission on Law Enforcement and the Administration of Justice - the group which articulated the concept of criminal justice as a system.

Not surprising, perhaps, in a prosecutor representing an old, Eastern, urban area, Byrne is conservative and cautious. However, he is not impervious to innovative ideas. He has strongly supported creative assistants who have proposed new approaches to old problems. Unlike his former colleague, the late Frank Hogan, former District Attorney in Manhattan, New York, Byrne has no reluctance about utilizing Federal grant funds. The best evidence of his interest - and of his remarkable political skills - is the fact that in addition to the Major Violators Project, his Office also has a Federally funded Organized Crime Unit and is currently developing a highly sophisticated, computer-based management information system.

Despite the foregoing innovations, what was immediately apparent to us was the inadequacy of the administrative resources available to the Main Office which inevitably affects its overall effectiveness.

The District Attorney is a County official in Massachusetts. Suffolk County is comprised of the cities of Boston, Winthrop, Chelsea and Revere. Financing for the Office's operations, however, comes from two sources. Of the total complement of 43 Assistant District Attorneys practicing in the Superior Court, 33 are paid from Commonwealth funds. These lawyers are called Regular ADAs. Special Assistant District Attorneys (ten in number) are paid by funds appropriated by the City of Boston or with funds provided through Federal or other grants. All funds for support staff, secretarial, clerks, etc., are provided by the City of Boston. The only exception is administrative or support monies made available through grant budgets. Put simply, the City of Boston supports the costs of the Suffolk County District Attorney's Office, other than those costs offset by the Commonwealth or paid through grants. Chelsea, Revere and Winthrop do not share the County portion of the costs.

<sup>15</sup> Interviews, both formal and informal, were conducted with over 25 Suffolk Assistant District Attorneys.

Massachusetts has a glorious tradition of underpaying even its deserving public servants, let alone the unproductive people on public payrolls. Thus, in a city which has one of the nation's highest costs of living, the prosecutor's employees are paid salaries substantially below those paid in companion offices elsewhere in the country.

Administrative fund inadequacies may be a function of City Council reluctance or other priorities for the District Attorney. Whatever the actual explanation, it is clear that the Major Violators Project does not suffer under the same disabilities. The Project has an appropriate support capability, effectively directed by a very capable woman administrator.

One of the factors contributing to the effective functioning of the MVP attorneys is the fact of adequate administrative support. In both the Screening and Trial Units of the Project the capacity of the attorneys employed is extended and enhanced substantially by the availability of sufficient back-up personnel. That fact has not been lost upon a number of Main Office attorneys, several of whom told us that they intended to press the District Attorney to seek additional administrative resources to make the general trial assistants more productive.

The system employed by the MVP for classifying cases for priority disposition effort has favorably impressed a number of the senior and key assistants in the Main Office. Several suggested that a similar screening system could be applied to establish priorities for the trial of the thousands of cases pending. The operating model of a corps of attorneys assigned individual and collective responsibility for disposition of a group of cases, as in the MVP, will be implemented later this year. Teams of attorneys will be assigned to staff a particular criminal session on a continuing basis and will be assigned specific cases as early as possible.

It is anticipated that when the computerized information system under development is completed, the Main Office will have a high-speed capability to order existing and future cases for trials by these teams.

Trial lawyers generally come equipped with substantial egos which tend to expand as their experience grows. Assistant District Attorneys in Suffolk County are no exception. In addition, many of these attorneys are aggressive prosecutors who enjoy courtroom combat. With the creation of the MVP, a number of these egos were bruised and some men felt frustrated.

As noted earlier, Garrett Byrne is a cautious and conservative professional. As a consequence, when he authorizes a new activity in his Office, the signal among his subordinates is that he considers the project

important. When Byrne considers something important, it has high status and, as such, becomes a thing in which to be involved because the "Boss" will be watching it.

Not all the trial assistants, of course, were anxious to be a part of the Project. Since it was to be supported by Federal grant funds, attorneys assigned would be required to work full time. For many ADAs this would have meant a substantial financial sacrifice, since they had well developed private law practices. Another factor, however, also generated some resentment among certain lawyers when the Project was first staffed. That is, MVP attorneys were assigned to the Project, rather than being recruited through some open competition for the jobs. Clearly, Byrne's interest was to place in the Project attorneys whom the Director could supervise and work comfortably with, who would do a skillful job as prosecutors, and who would be willing to give the full-time effort required to make the program effective. Without doubt, these were eminently reasonable requirements. However, there were a number of existing ADAs who believed they were as good or better prosecutors than some of the men chosen to staff the new Project. For a number of men, to be asked if they wanted the full-time assignment, even though they might decline to take it, could have had a positive morale effect. Since it was not done, some harbored resentment for the MVP group.

Certain other ADAs who are aggressive prosecutors with a strong commitment to dispose of their assigned cases, resented the fact that they were displaced in trial order by the MVP matters. It is significant, however, that in the life of the MVP to date, most of that early resentment has dissipated. Originally, Project cases were assigned for trial to any open session. Through the cooperation of the Superior Court's Chief Justice, MVP cases were thereafter centralized in one session. This largely eliminated the displacement effect and sharply reduced the concerns of non-MVP trial assistants.

Throughout the Main Office, there has emerged a sense that what the MVP is doing - in terms of taking serious offenders off the streets - justifies the substantial resource commitment it entails. Further, the program has made a number of assistants aware for the first time of the importance support resources bear on attorney productivity. Finally, many feel a professional pride in being part of an office which they perceive is actively pursuing the objective of swift and certain punishment for offenders.

Certain of the very positive aspects of the Project's internal operations have not yet impacted the Main Office. In the interest of expediting its cases, the MVP has developed a streamlined system for processing discovery requests. In brief, MVP attorneys anticipate the legitimate requests of defense counsel and routinely forward to them certain materials,

as early in the pre-trial process as possible. MVP ADAs tend to indulge less in the "games playing" which frequently characterizes the prosecutor-defense relationship in the criminal field, especially in the discovery area. Obviously, a partial explanation lies in their interest in moving cases to trial. Another element is the luxury they enjoy of adequate support staff to service the necessary paper flow. Yet, little of the apparent interest of MVP attorneys in handling such matters in a very professional way seems to have rubbed off on some of the lawyers in the Main Office. Defense attorneys have strongly contrasted the systematic approach of the MVP prosecutors in handling discovery requests with the less efficient actions of a number of the Main Office staff. In fairness, however, it should again be noted that there is an enormous imbalance between the two groups of lawyers in terms of the support personnel available to each.

The MVP has apparently spurred interested in creating a somewhat similar effort in one other prosecutor's office. The Middlesex County District Attorney is creating a Priority Prosecution Unit which will attempt to identify and give priority attention to serious cases. The Middlesex project, however, will not be on all fours with the Suffolk County program, since there are substantial differences between the two jurisdictions. Middlesex is considerably larger geographically and has far more police agencies than the four departments encompassed within Suffolk County. In addition, serious crime in Suffolk County is substantially concentrated in Boston, but more widely distributed in Middlesex. Nevertheless, the Suffolk County MVP results have apparently impressed Middlesex officials.

William Delahunt, the District Attorney of Norfolk County, initiated a distinctive program to address a target class of offenders and offenses as early as February 1976, independently of the Suffolk experience. That program is substantially different from the Suffolk model, in the main because of the radically different geographic and demographic characteristics of Norfolk County. There is no apparent evidence that other prosecutors in Massachusetts currently contemplate initiating similar programs. Whether that reflects the absence of grant funds to support new programs, a lack of creativity, or a significant difference in the nature of the crime problem prevailing in other counties is unknown.

### 6.3 Impacts on the Defense Bar <sup>16</sup>

A substantial number of persons classified as major violators are indigent and thus unable to retain private counsel. As a consequence, much of the responsibility for representation in such cases falls to the Massachusetts Defenders Committee. Illustratively, out of 177 Project defendants' file examined, it was possible to ascertain the identity of defense counsel in 151 of the matters. Of these, 49% were Massachusetts Defender attorneys. The remaining 51% were represented by court-appointed or privately retained lawyers.

In response to the creation of the Suffolk County Major Violators Project, the Massachusetts Defenders Committee anticipated the need for a counterpart group. It applied for and received a Federal grant in the amount of \$69,696 and assigned three attorneys and support personnel to the group.<sup>17</sup> Defender attorneys, like their opposite numbers in the MVP, are full-time, and they impressed the evaluators as being very capable. As is more specifically documented elsewhere in this report, the rate of conviction in MVP cases is very high. For defense attorneys generally, the Project has a somewhat debilitating effect. Assistant District Attorneys are always ready, willing and able to go to trial in MVP matters and almost always win. For Defenders Committee attorneys assigned to the counterpart MVP defense unit, the problem is exacerbated. They try MVP matters exclusively and, as one senior Defender Committee official put it, "The work is demoralizing; most cases are sure winners for the DA, and sentence recommendations, and actual sentences, are extremely high." In recognition of the negative impact which constant trial work of this type has on its personnel, Defenders Committee policy is to permit assistants to remain in the MVP trial unit for only a year or less and then transfer them to other assignments.

Defense attorneys agree that Project cases are nearly always strong cases for the prosecution. They further agree that the absence of the Probable Cause Hearings in such matters compounds their problems in preparing defenses. While all acknowledge that the MVP attorneys respond rapidly to standard discovery requests, there is still one major problem. That is, unlike the inquiry which cross examination at Probable Cause Hearings permits the defense counsel to make, witness statements do not provide enough detail to meet defense needs. Inquiring prosecutors do

<sup>16</sup>Interviews were conducted with six members of the public defense bar and with seven members of the private defense bar.

<sup>17</sup>The Committee has prepared and filed an application to renew Federal funding for the counterpart unit, but it has not yet had a decision on the application.

not seek to explore the same possible weaknesses which defense attorneys attempt to pursue at hearings, either in taking a witness' statement or in testimony before the Grand Jury. It is in the area of potentially exculpatory evidence that the strongest complaints about the absence of Probable Cause Hearings were made.

Various defense attorneys suggested that the denial to them of the opportunity to pursue questions of witnesses, which might disclose exculpatory evidence, was a major, negative constraint inherent in the MVP case handling procedure. All stated that they felt that the more open MVP discovery policy did not really meet their needs.

The Project, at least with respect to the MVP cases, has sharply impacted the traditional defense tactic of "judge shopping", that is, the practice of employing requests for continuances to delay a trial before a Judge whom a defense attorney believes is likely to be unsympathetic to his client's position, or at least more likely to impose a more severe sentence after conviction than another judge. Initially MVP matters were assigned from the First Session to any open judge and had priority in any courtroom to which the case was assigned. Subsequently, such matters were specially assigned to a single judge for trial. Recently, it has been necessary to utilize several other judges to preclude a backlog of MVP cases. Nevertheless, the actual MVP cases assignment process and Judicial awareness of the priority the prosecution attaches to MVP matters has constrained a previously rather flexible continuance policy by the Judiciary.

#### 6.4 Impacts on the Courts <sup>18</sup>

One of the salient findings in our review of Project impacts was the response of the Superior Court. The former Chief Justice, Walter McLaughlin, apparently shared the view of District Attorney Byrne that swift disposition of the cases of serious offenders was an important priority for the Suffolk County community. Initially, MVP cases were assigned from the First Session to trial sessions on a priority basis as openings appeared. Thereafter, the Chief Justice decided to designate one session to handle the flow of Project work. Under the recall provisions of legislation mandating the retirement of Superior Court Judges at the age of 70, a Senior Judge, Paul Tamburello, was assigned to preside at the trials of MVP matters.

As noted earlier, this arrangement reduced the perceived interference with the disposition of other criminal cases and permitted one Judge to assume responsibility for pre-trial and trial disposition of MVP matters.

<sup>18</sup> Interviews were conducted with four Judges of the Suffolk County Superior and District Courts.

The importance of this adjustment lay in reducing interference with the flow of other criminal business and permitting MVP assistants to gauge more accurately a schedule for their trials. As the Project has evolved, however, it has become increasingly apparent that one judge alone cannot handle the total volume of the MVP work. The Project has an internal calendaring capability, usually assigning one of the assistants to keep track of the movement of the Project's cases. With the cooperation of the First Session Judge, the MVP Calendar Assistant can move cases into open trial sessions with other judges.

The cooperation of the First Session Judge has been crucial to the MVP's success in avoiding the development of a major backlog in its cases. Clearly, a collaborative judiciary at the Superior Court level has been a major factor in the success of the MVP in meeting its scheduled objectives. MVP cases are not devoid of complicated legal questions and, in view of the potential for heavy sentences upon conviction, defense attorneys, public and private, appropriately exercise their legal ingenuity and skills on behalf of their clients.

Under the prevailing custom in Massachusetts, Superior Court Justices do not have individual law clerks. Rather, they must draw upon a limited number of law clerks assigned to a Boston-based, central pool, if and when one is available. These young lawyers handle a substantial workload and are not always available to service the immediate research needs of a sitting Judge. It would be of significant assistance to Superior Court judges generally, and more specifically to those trying MVP cases, if each trial judge had a law clerk constantly available. According to at least one Superior Court Judge, the absence of a full-time law clerk has, on a number of occasions, limited his ability to rule as speedily as he would have wished on serious legal questions arising in MVP matters.

Defense attorneys and prosecutors agree that the assignment of experienced trial judges is essential for effective disposition of the MVP cases. Insofar as the practice of limiting cases assigned to the "MVP Judge" to matters processed by the MVP is maintained, the timely disposition of such matters remains highly probable. However, if cases from outside this pool are interjected into the MVP trial stream, the time-schedule objectives of the program are likely to be extended. To date, a Court-Prosecutor consensus upon certain priorities seems to have been achieved. This initial joint effort augurs well for increased, future cooperation.



6.5 Impacts on Corrections <sup>19</sup>

The Suffolk County Major Violators Project was initiated following the announcement by LEAA of its interest in projects directed toward career criminals - defined to include violent, repetitive, "street-wise" offenders. As Project design work proceeded in the Suffolk County District Attorney's Office, preliminary to a formal application for Federal funds, the Massachusetts Department of Corrections recognized the implications of such a program. The Department foresaw the value of new funds for both research and programming with MVP defendants who would be moving into its institutions. It applied for and received a grant to measure the impacts such offenders would have on the Commonwealth's prison system, and to plan and implement new programs to service these inmates. The Department received a grant entitled "Correctional Approach to Career Criminal Program" in the amount of \$343,569.

Detailed discussion of the research designs developed and, in part, already implemented under that grant, are beyond the scope of this report. What is to be noted, however, is that the Department is interested in examining the characteristics of MVP offenders as, or if, distinguishable from other long-term prisoners, identifying any peculiar or unique problems which they present for the custodial system, ascertaining the special program requirements they produce, and exploring a variety of other possible impacts they may have upon the correctional system. It is much too early for judgments on any of these questions, although the first in a series of research reports<sup>20</sup> has been issued by the Department.

The Department of Corrections has a sophisticated planning capability, as well as skilled researchers. Its response to the LEAA Career Criminal program announcement reflects its proactive posture. Yet, the reality for corrections in Massachusetts is a basic problem of over-crowded institutions. Until the stark problem of inadequate physical facilities is effectively addressed, creative new programming for MVP inmates is unlikely. Of more relevance to corrections over the long term will be the nature and character of the unique problems, if any, which MVP convicts present to the corrections system. Time will be required before the research contemplated by the Department will produce any answers.

<sup>19</sup> Interviews were conducted with five employees of the Massachusetts Corrections system.

<sup>20</sup>Ellen Chayet, *Characteristics of Major Violators in Massachusetts: An Interim Report*, Massachusetts Department of Corrections, October 1976.

The recent trend in Massachusetts is toward more sentences to imprisonment for longer terms. It is, thus, presently not possible to ascribe the overcrowding at Walpole or other penal institutions to the operation of the Project. It is clear, however, that the length of sentences for MVP offenders - assuming permanence of the same or an enlarged Project - will, if coupled with longer sentences state-wide, mean high density prisons for a long time in the future, absent new-prison construction or the renovation of other secure facilities.

As discussed elsewhere in this report, since the sentences for convicted MVP defendants are quite substantial, there is no way to assess the likely impact of the MVP upon the parole process in the Commonwealth. The entire concept of parole, as well as its implementation - in Massachusetts and nationally - is undergoing serious examination. The implications of possible modification or major revisions in that process in the State of Massachusetts are at present too obscure to admit of informed speculation. It may well be that for some or all of the convicted MVP defendants, parole will no longer exist at the time they would be first eligible under the present system.

Other than its record-keeping function, the Probation Department has no relationship to the Project. However, as the official repository of criminal offender history information, it is of importance to the MVP activities. Theoretically, when a possible candidate for MVP processing is identified at the Screening Unit, the defendant's probation record is secured to determine any prior criminal history. Unfortunately, the Office of the Commissioner of Probation does not have the capability to respond to such requests either at high speed or with particular accuracy. As a consequence, the Screening Unit tends to rely upon the records maintained by the Boston Police Department. Since approximately 85% of the cases which the Project handles arise in Boston, its Police Department records are usually adequate to permit informed judgments on the classification element of prior criminal history.

6.6 Impacts on Victims

The crime victim is all too frequently ignored or at least neglected in the criminal justice process. In an effort to determine whether deliberately or even inadvertently the Project had had some impact on this problem, efforts were made to interview victims. A random sample of armed robbery cases was drawn from both Main Office files (DA cases) and from the MVP. Thirty victims were identified from DA cases and 27 from MVP matters. Of the 30 DA case victims, 20 could be contacted and seven agreed to interviews. Of the 27 MVP case victims, 18 were contacted and 11 agreed to interviews. Victims from both classes of cases were quite mobile, often changing residences without leaving forwarding addresses and either disconnecting telephones or arranging for the numbers to be unpublished.

In both samples, a number of the persons who declined to be interviewed were quite vehement in their refusals. Among persons in both sample groups who agreed to interviews, there was near unanimity about general satisfaction with the DA's Office. Thus, conclusions about MVP impacts upon victims must be qualified in that persons responding to questions were those who, arguably, were reasonably well disposed toward the officials with whom they dealt. Were it otherwise, they would likely have refused to be interviewed.

Readers are cautioned that the victim impact assessments discussed here are not the product of an extensive victim survey. Further, it is not suggested that the sample from which respondents were drawn is necessarily scientifically valid. For example, only victims from armed robbery cases were queried and no attempt was made to distinguish between single victim and multi-victim cases. Obviously, the effect of the presence of a co-victim is unknown. As suggested above, persons with negative reactions to either the regular ADAs or the MVP attorneys probably selected themselves out of the respondent groups to a sufficient degree to skew the level of favorable responses about victim-attorney contacts.

Despite such methodological weaknesses and others which could be detailed, certain findings are interesting. Both groups of victims rated their police contacts quite favorably. Victims in MVP cases had substantially greater contact with the Assistant District Attorney who handled his/her case. Not surprisingly, MVP case victims rated the attorney with whom they had had contact substantially more favorably than did DA case victims. Only one person in each group said that he or she had been consulted by the prosecutor on the matter of sentence. None of the respondents in either group reported being advised by the ADA of the final disposition (sentence) in the case. While this is explicable as to ADAs in regular cases on the basis of workloads and inadequate clerical support, it is surprising in MVP cases.

Although there is no formal policy directing that witness/victims be notified of the result of a case in which they may have been involved, a number of the MVP trial attorneys have individually attempted to do so in the matters they handle. Certainly, all MVP attorneys or Project secretaries could mail a form notice to victims advising of sentence, if not able to make a follow-up telephone call. Follow-up notification to victims could be accomplished throughout the entire office by employing a pre-printed post card with appropriate blanks which an ADA could fill in and mail to the victim. Since the victim's current address could be secured easily at any stage before trial or at the trial itself, the District Attorney's Office could secure a positive public relations benefit and increase the potential for victim satisfaction with his/her contact with the criminal justice system.

Neither group expressed significantly different impressions of the court's treatment of their incident, although MVP case victims appeared slightly more favorably impressed.

Victims in both categories commented unfavorably about what was perceived to be the "waste of time". Few, if any, had sufficient knowledge or prior experience to contrast the MVP case processing with the movement of cases in the larger office. A principal complaint was that victims often had to wait for several hours in the courtroom before being called to the stand. Undoubtedly, with imagination, will, and some additional financial resources, certain court delays could be eliminated or reduced. It is unlikely, however, that Suffolk County or Massachusetts' courts will ever be run with the legendary time concerns of the French railroads.

Victim responses indicate that the personalized attention of the MVP screening attorneys and trial assistants engenders a very positive response. The luxury of limited caseloads obviously permits greater interaction in MVP matters than in the Main Office cases. However, what also emerged during the interviews with MVP victims was their sense that the MVP lawyers cared about them and their concerns. We do not suggest that Main Office lawyers are either hard-hearted or insensitive people. It may be no more than a question of workloads and the fact that until recently, Main Office ADAs were essentially part-time prosecutors. On the other hand, it may be behavioral. If so, remedial action is easily undertaken, if Mr. Byrne chooses to do so.

MVP case victims reflected a feeling that the criminal justice system was somehow responsive to them; they felt they were "involved". DA case victims, however, apparently perceived the justice process as impersonal and mechanical.

In recent years, nationally, there has been increased interest in crime victims. Victimology, for example, is an expanding research field. Research and training in the application of crisis intervention techniques to crime victims is growing. Projects to assist crime victims to secure new or expanded social services are being implemented in various jurisdictions under court, police and prosecutor sponsorship, as well as in the private social services world. The Massachusetts Committee on Criminal Justice recognized the need for such programs and included them in its guidelines for the current fiscal year. The Committee has funded two such action programs in the current year. The strong, positive reaction of MVP victims to their treatment within the larger criminal justice system - and the concomitant reduction in citizen disenchantment with at least part of government's services - suggests the desirability of extending the MVP approach. The restoration of a citizen's sense that an otherwise unresponsive government is, in fact, concerned about his interests should be a priority concern. Put simply, it is important that

a citizen feel his government "gives a damn" about him. For too long, it has been convenient for many in governments generally, and criminal justice specifically, to neglect the crime victim and to rationalize inattention to his or her needs with the excuse of lack of funds.

A sympathetic demeanor by a prosecutor toward a victim costs nothing; training in crisis intervention techniques is widely available at low cost. Most important, however, is that an institutional ethos be established that victims are as much entitled to concern and interest as are defendants. This, initially at least, is a function of institutional leadership. With that established, subordinates will follow the line.

That citizen confidence can be recaptured has been established by the Project. What is necessary now is that Massachusetts' prosecutors adopt and expand upon its demonstrated positive impacts.

#### 6.7 Impacts on Defendants

Ten inmates at Walpole Prison, Massachusetts' maximum security institution, agreed to interviews with the evaluators. All were men who had been processed by the MVP, but 80% claimed innocence of the charges upon which they had been convicted and sentenced. Five claimed to have been drug addicted at the time they committed their offenses, and a sixth said he had been a heavy cocaine user. These six said their drug use was the major motivational factor in their commission of crimes. Consistent with MVP case selection criteria, all had been convicted previously on a wide range of offenses. Nearly all had lengthy juvenile records and had been in and out of various juvenile programs and institutions.

The criminological literature is replete with reports of studies of inmates and the factors which shape their perceptions and posture toward outsiders. It would be superfluous to attempt any summary here. However, readers - especially those with only limited experience in this field - should be aware that our interview subjects were "street-wise" and thoroughly experienced at the "con". This caution is offered in terms of the inmates' self-declared ignorance of at least some of the Project purposes and elements.

Nearly all the inmates professed confusion about what a major violator was, although all stated they should not have been classified as such. All knew there were criteria for such classification but said they did not know what these were. Further, they insisted that whatever the criteria were, the Project did not really apply to them, other than to cases which were certain "winners". Several of the black inmates claimed the program was racist, defined in two different ways. One definition, based upon race or color, was suggested to result in inequitable treatment of blacks for purposes of sentence. The second, more sophisticated definition had an economic-sociological base. A macho life style is much

admired in the ghetto and the majority of crimes there are crimes of violence. Inevitably, therefore, the argument runs that MVP cases will proportionately involve a higher percentage of blacks. Blacks and other poor people have less resources, financial and educational, available to defend themselves against criminal charges. They must, in the main, rely upon private or public court-appointed counsel. Such defendants, with their educational deficiencies, are less well equipped to cooperate with counsel in the preparation of their defenses. Since the Project moves its cases much more rapidly than the rest of the DA's office, this disability, i.e., in defense preparation, more seriously disadvantaged poor, black, MVP defendants. It was further suggested that, while Suffolk's Project was composed of some of the best prosecutors in the County, they had to rely upon what they perceived - highly inaccurately - were some of the worst defense attorneys, the Massachusetts Defenders. For the foregoing reasons, a number of the minority inmates perceived the MVP as racist.

The inmates confirmed many of the explicit and implicit assumptions of the MVP design. They believed the MVP assistants were very well prepared and much "tougher" than the regular ADAs with whom they had had substantial experience. They believed MVP trial attorneys were not particularly interested in plea bargaining and were quite willing, even anxious to go to trial. In this connection, they felt that when they were offered an opportunity to plead guilty - "Cop a plea" - the sentences offered were usually longer than what they would probably have received after trial with a regular ADA.

Inmate consensus existed on the question of the deterrent values of the MVP. On the issue of third-party deterrence, they agreed that there was little effect.

They insisted that persons inclined to criminal conduct were not likely to be dissuaded by the experience of other major violators. They insisted that, despite their own lengthy sentences, they were not convinced that they were likely to be apprehended if they committed future crimes. In essence, they said that only when police apprehension rates rise substantially and the risks of imprisonment are thereby increased significantly would there be a deterrent impact from the program. Interestingly, however, this confirms another thesis of the Project. That is, that this class of offenders is responsible for large numbers of offenses and only by incarceration will their criminal activity be interdicted. Inadvertently, perhaps, but certainly persuasively, the prisoner products of the MVP confirmed that reducing the criminal's opportunity to act - through physical restraints on his liberty - is the only means certain to reduce some crime.



#### 6.8 Secondary and Tertiary Impacts

As suggested at the opening of this Section, we were interested in identifying MVP impacts upon the criminal justice system and persons having contact with that system. We sought to ascertain primary or first-level impacts - both favorable and unfavorable, if any - and to predict secondary and tertiary impacts where logical and rational predictions could be made. Readers are cautioned that two principal factors operate to constrain predictions of secondary and tertiary impact. First, criminal justice system data are limited in Massachusetts and second, change(s) in complex human systems, or subsystems, such as criminal justice, is an extremely complicated process.

Massachusetts is hardly unique among the states in its criminal justice system data limitations. Similar problems exist in many jurisdictions. However, it is unfortunate that a State with such rich intellectual and technological resources should have lagged so badly in developing the data essential for intelligent system management. Illustratively, design efforts for a computer-based offender history information system have been underway for more than 10 years. Yet, it has not been possible to achieve agreement between the Judicial and Executive branches of the State Government as to the allocation of authority and responsibility for operation of a single system.

Little of the management theory and business practices taught to aspiring executives at the Harvard Business School or the Sloan School of Management at MIT has been incorporated into the operations of Government at any level in Massachusetts. Consequently, attempts to secure basic data for cost analyses or resource allocation studies almost invariably founder. Incredibly complicated and frequently irrational financing arrangements for the provision of criminal justice services compound the data collection problem, since few of the agencies involved maintain adequate records or seek to document their decision processes.

It is only on rare occasions that Massachusetts is nationally regarded as being a pioneer in criminal justice system advances. The de-institutionalization of most juvenile offenders was one such change. Yet, by and large, positive change comes extremely slowly in the State. Court reform, for example, is only now coming to prominence as a public issue, although the needs have been apparent for many years. Police, prosecutor and correctional training remain a badly neglected area. In essence, the capacity for positive system changes will be realized only when and if persons occupying leadership positions recognize that there is a need to change and have the skills to cause it to happen.

Thus, in the pages which follow, we have attempted to outline only those primary impacts which emerged clearly from our data and impact

interviews and to suggest those secondary and tertiary impacts which should follow, if people and institutions respond in logical, rational and informed ways.

<u>1st Level Impacts</u>	<u>Potential 2nd Level Impacts</u>	<u>Potential 3rd Level Impacts</u>
Increased confidence in companion elements of criminal justice system: Prosecution and Courts	Enhanced citizen regard for Courts and Prosecution through positive police commentary about them.	Enhanced citizen confidence in government institutions
Improved investigation	Increased conviction rates for serious offenders.	
Improved police morale as consequence of increased imprisonment of habitual offenders	Improved quality of police crime and non-crime services	Higher level of citizen satisfaction with police services
Cost savings	Increased flexibility in use of available fiscal resources	
Increase manpower availability	Potential for focus upon serious crimes and habitual offenders	
	Increased willingness of citizen witnesses to cooperate with police	

FIGURE 12. POLICE: FORECASTED IMPACTS

<u>1st Level Impacts</u>	<u>Potential 2nd Level Impacts</u>	<u>Potential 3rd Level Impacts</u>
Proposed system to implement prosecution teams assigned to individual sessions	Personnel evaluation and performance measurement systems for attorneys to support assignment and promotion	Increased attorney professionalism and productivity
Exposure of inadequacies in administrative resources	Accelerating disposition of all criminal cases	Greater cost-efficiency
More favorable public perception of prosecutor	Increased conviction rates in all cases	Speedier dispositions. Reduced police, witness and victim time in court
More open discovery policy	Increased administrative budget	Crime reduction through conviction and incarceration of habitual serious offenders
Impaired morale among certain Main Office Assistant DAs	Increased willingness of witnesses and victims to cooperate	Reduced case backlogs
	Reduced case delays in pre-trial stages	Initiate victim-witness assistance programming

FIGURE 13. DISTRICT ATTORNEY'S OFFICE: FORECASTED IMPACTS

<u>1st Level Impacts</u>	<u>Potential 2nd Level Impacts</u>	<u>Potential 3rd Level Impacts</u>
Demonstrated concern for institutional collaboration in criminal justice	Increased likelihood of courts-prosecutor collaboration in other sectors	Increased responsiveness by judiciary to community concerns
More efficient use of judicial manpower and court support personnel	Increased cost efficiency	
Reduced court backlog	Reduced citizen hostility toward judiciary	
More positive image of the judiciary by the citizenry	Increased willingness of court to experiment with new procedures to expedite business	Re-opening of juvenile prison facilities for serious offenders
Increased use of imprisonment as sanction following conviction	Diminished use of non-custodial treatment and rehabilitative programs	Increased expenditures for Department of Corrections
Restricted use of sanctions alternative to incarceration		
Increased Appellate Court workload through appeal on sentences		

FIGURE 14. COURTS: FORECASTED IMPACTS

<u>1st Level Impacts</u>	<u>Potential 2nd Level Impacts</u>
Increased pre-trial detention and higher bails	Decreased criminal activity
Reduction in Probable Cause Hearings	Reduced opportunities for defense exploration of facts and evidence
Speedier trials	
Longer sentences of imprisonment	
Reduced confidence in public defenders	
Increased belief that criminal justice system is racially discriminatory	

FIGURE 15. DEFENDANTS: FORECASTED IMPACTS

<u>1st Level Impacts</u>	<u>Potential 2nd Level Impacts</u>	<u>Potential 3rd Level Impacts</u>
Increased prison population with longer minimum sentences	Overcrowded prisons	Need for additional secure facilities
Stimulated a broad-based research program to examine serious offenders	More volatile conditions in prisons, especially in Walpole	Increased appropriations for institutional personnel and plant
Increased the concentration of convicted violent and dangerous offenders in a single institution - Walpole		Initiation of studies on long-term effects of incarceration for extended periods of increased number of serious and/or dangerous criminals
Increased overcrowding at Charles Street Jail		New designs for prisons
		Development of community re-entry programs for long-term offenders

FIGURE 16. CORRECTIONS SYSTEM: FORECASTED IMPACTS<sup>21</sup>

<sup>21</sup> At the present time, the possible impacts of the Major Violators Project on parole, work release, and furlough programming cannot be determined or projected.

Future Issues<sup>22</sup>

Criminal justice system focus on particular offenders

Implementation of a program of preventive detention without statutory authorization, through the setting of very high bails

Elimination of Probable Cause Hearings through direct indictment in an increasing number of cases

Speedier trials

FIGURE 17. LEGAL ISSUES: FORECASTED IMPACTS

<sup>22</sup> The data available do not permit preliminary judgments on questions of invidious discrimination against persons classified as major violators or to support or refute arguments that such defendants are being denied equal protection of the law or due process.

## SECTION 7 COMPARATIVE PERFORMANCE EVALUATION

The Major Violators Project has, as we have described, significantly intervened in the tradition-bound Suffolk County criminal justice system. The form of that intervention has been broad ranging, from prioritizing offenders upon arrest, to implementing an "open-file full-discovery" policy to eliminate the necessity for automatic scheduling of pre-trial conferences. The Suffolk County prosecutive system has depended on part-time prosecutors; the MVP introduced full-time assistants to this system. Early prosecutive attention and thorough pre-trial investigations - a major focus of the MVP - are not ordinarily a part of Suffolk County felony prosecutions, except for homicides and serious rape cases. All of these changes were made to improve the capability of Suffolk County to prosecute career criminals.

In Section 5, data were examined to measure changes in the system in terms of speed of processing, conviction rates, and lengths of sentences, to determine if the MVP had achieved its goals. The analysis showed that not only had the MVP substantially met its goals, but it had also had a positive effect upon the total system's performance capability.

Beyond the three changes noted, however, it has been predicted that the MVP would have a number of other demonstrable impacts on the prosecutive system. In this section, performance predicted to be affected by the MVP is examined to assess whether anticipated changes have occurred, and whether those changes can be reasonably attributed to the MVP.

### 7.1 Comparison of Systemic Changes

In order to assess the systemic impact of the MVP, two things were necessary: determining expected levels of system performance in the absence of the MVP and, second, identifying those system outputs likely to change as a consequence of the MVP's intervention.

For the first, we had a sample of indicted, serious felony cases prosecuted by the Suffolk County District Attorney in the year prior to implementation of the MVP. By calculating results in those cases, we had available a baseline from which to measure the extent of the changes in prosecutive system performance since the implementation of the Project.

Eight measures of performance for the case processing system and the impact assessment were developed during interviews. Predicted changes in system outputs were also explored.

The eight performance measures were applicable to the following areas:

- o Plea rates;
- o Dismissal rates;
- o Trial rates;
- o Conviction rates;
- o Continuance rates;
- o Case processing rates;
- o Sentencing rates; and
- o Bail rates.

Positive changes in three system outputs were presented in Section 5: case processing speed, certainty of conviction, and severity of sentence. What follows is a comparison of the results in MVP cases, in terms of the five remaining measures, with the results in cases predating the creation of the MVP.

Our specific reasons for labeling changes in performance outcomes as preferable or most preferred are discussed in greater detail in the text of this section. But, it must be stressed that the offered inference derived from the data constitutes only one of a number of possible explanations for the change. Other explanations for the results undoubtedly exist. It may well be that the conclusion that a particular result is favorable is erroneous and, in fact, the opposite may be true.

It is hypothesized that it is preferable that the number of defendants pleading guilty prior to trial decrease because that may indicate an improvement in case preparation by prosecutors operating under reduced pressure to negotiate pleas. If this is true, then to find that the percentage of defendants offering such pleas has decreased in the concurrent sample permits a conclusion that, in this respect, concurrent

prosecutors were more effective. Yet, cases in the MVP universe may have been handled in a less effective manner and evidence collection/preservation has been less effective also. If so, it would be reasonable that defendants not bargain in the pre-trial stage in the belief that an acquittal might occur after presentation of the case. In that instance, we could expect to find the number of pleas before trial declining. However, it would not be attributable to positive actions by the prosecutors but rather to some shortcomings.

The same difficulty inheres in utilizing each performance measure. There is often more than one explanation for the measured result. Some results may reflect positive actions by prosecutors while others may be reflective of poor performance.

At best, all we can offer are the objective data which indicate in what respects outcomes have changed between the MVP universe and the comparison sample. The data do not suggest which changes are preferable; that is a subjective conclusion which we offer on the basis of our professional assessment. In other words, the data do not clearly establish whether the identified changes represent positive or negative prosecutorial performance. To the extent that subjective data permit some clarification of these points, readers are referred to the discussion in Section 6.

#### 7.1.1 Plea Rates

One measure used to determine a change in prosecution capabilities in Suffolk County is the number of defendants pleading guilty rather than going to trial. For this measure, there were two expected results:

- o The MVP would reduce the number of defendants negotiating pleas of guilty prior to trial because there would be less pressure on the Project to negotiate with defendants; and
- o The MVP cases would be better prepared, and therefore defendants choosing trial would be more likely to plead guilty during the trial once they became aware of the strength of the Commonwealth's case.

Table 31 shows that there has been a change in performance since the implementation of the Project. It indicates that the expected improvements have occurred. The number of defendants pleading guilty before trial was reduced by 12% but pleas during trials increased by 11.2%.

TABLE 31: DEFENDANTS PLEADING GUILTY

Measure	% Before (N=148)	% MVP (N=166)	% Change	Preferred Change
Guilty Plea Before Trial	55.4	43.4	-12.0	-
Guilty Plea During Trial	2.7	13.9	+11.2	+

If a defendant does negotiate a plea of guilty in return for leniency, it is preferable that the plea be to the offense charged. If the MVP has less pressure to accept pleas to lesser offenses, there should be an increase in the percentage of defendants pleading guilty before trial to the offense charged. There was, in fact, an increase of 4.7%, as shown in Table 32.

TABLE 32: TYPE OF DEFENDANT PLEAS ENTERED BEFORE TRIAL

Measure	% Before (N=82)	% MVP (N=72)	% Change	Preferred Change
Plea to Offense Charged	93.9	98.6	+4.7	+
Plea to Lesser Felony	6.1	1.4	-4.7	-
Plea to Misdemeanor	0.0	0.0	0.0	-

#### 7.1.2 Dismissal Rates

The Project has the resources to prepare its cases in depth, and experiences no time pressures resulting in the dismissal of cases or charges for lack of evidence or witnesses. It follows that there should be an improvement in dismissal rates. The measures used to determine whether, in fact, such improvements have occurred were:

- Has the percentage of cases dismissed by prosecutors been reduced?
- Has the percentage of cases dismissed by the court been reduced?

- Has the percentage of charges dismissed by prosecutors been reduced? and
- Has the percentage of charges dismissed by the court been reduced?

Tables 33 and 34 show the results on those measures. The Project reduced the prosecutor case-dismissal rate by 3.6%, and the court case-dismissal rate by 4.8%. Dismissal rates for charges brought were also reduced.

TABLE 33: PERCENT OF CASES DISMISSED BY PROSECUTOR OR COURT

Measure	% Before (N=148)	% MVP (N=166)	% Change	Preferred Change
Cases Dismissed by Prosecutor	5.4	1.8	-3.6	-
Cases Dismissed by Court	5.4	0.6	-4.8	-

TABLE 34: PERCENT OF CHARGES DISMISSED BY PROSECUTOR OR COURT

Measure	% Before (N=388)	% MVP (N=486)	% Change	Preferred Change
Charges Dismissed by Prosecutor	5.2	1.6	-3.6	-
Charges Dismissed by Court	8.5	1.2	-7.3	-

Prosecutors in Massachusetts can recommend to the Court that it place charges on file. This can take place either with or without a change of plea by a defendant. Placing charges on file is, in practical terms, a dismissal, although it is not recorded as an official dismissal. The charges filed remain with the Court and can be heard at a later date,



if the Court wishes to do so, or if the prosecutor asks that they be tried and the Court agrees. Filing usually takes place when a defendant is prepared to plead guilty to some charges. In return, the prosecutor agrees to place the remaining charges on file. The MVP, with no pressure to negotiate for pleas, should have reduced the percentage of charges placed on file. As shown in Table 35, that improvement did take place, although just significantly. In both groups, there was no defendant who had all of his charges placed on file.

TABLE 35: PERCENT OF CHARGES FILED

Measure	% Before (N=388)	% MVP (N=466)	% Change	Preferred Change
Charges Filed without Change of Plea	4.6	2.5	-2.1	-
Charges Filed After Change of Plea	3.1	2.1	-1.0*	-

\* Not statistically significant

Case preparation quality in MVP cases, including early interviews with victims and witnesses and speedier movement of cases from arrest to trial, are factors which should have reduced the number of charges dismissed for evidentiary problems. As shown in Table 36, there has been an improvement in that measure.

TABLE 36: PERCENT OF CHARGES DISMISSED FOR WITNESS/EVIDENCE PROBLEMS

Measure	% Before (N=388)	% MVP (N=486)	% Change	Preferred Change
Prosecutor Dismissed	3.9	1.2	-2.7	-
Court Dismissed	3.1	0.4	-1.7	-

### 7.1.3 Trial Rates

The MVP is primarily trial oriented. The experience of the trial attorneys, early case preparation and investigation by the Screening Unit, the overall quality of case preparation by trial attorneys, and the substantial support resources provided for the Project are all geared toward trial. An increase in the percentage of defendants going to trial should have been anticipated and that has happened. The percentage of defendants going to trial increased from 33.9% to 54.2%.

Since the Project is better prepared for trial, the decisions of defendants at trial will reflect defendant perceptions of the strength of MVP cases and the quality of MVP case preparation. For example, a defendant who chooses a trial by the Bench may expect to be convicted but may want to preserve his right of appeal which would be lost if he pled guilty. An increase in the percentage of defendants choosing trial by the Bench could indicate a perception that the case against him is strong.

A further indicator of a change in defendant perception related to the strength of cases would be an increase in the percentage of defendants who choose trial but then plead guilty. That improvement can be measured by calculating the rates for guilty pleas at trial. An indication of case strength as perceived by defendants would be an increase in the percentage of defendants pleading guilty during trial, with a concomitant decrease in the percentage of defendants permitting trials to go forward to verdicts. In applying those performance measures, we found that there had been an increase of 17.6% in the defendants pleading guilty at trial (Table 37).

TABLE 37: TYPE OF TRIAL FOR DEFENDANTS SEEKING TRIAL

Measure	% Before (N=50)	% MVP (N=90)	% Change	Preferred Change
Defendants Pleading Guilty at Trial	8.0	25.6	+17.6	+
Defendants Tried by Jury	80.0	62.2	-17.8	-
Defendants Tried by Bench	12.0	12.2	+ 0.2*	+

\* Comparison not statistically significant

#### 7.1.4 Bail Rates

One additional performance measure relates to bail practices. It has been suggested that judges have been extremely liberal in setting bail for serious offenders. The reason given was that judges were reluctant to set high bail for a defendant knowing that, if the defendant cannot make bail, he may have to spend up to 11 months in jail pending trial. Theoretically, a significant increase in the speed with which cases are prosecuted will reduce the reluctance of judges to set high bail. Consequently, higher bails will mean fewer serious offenders making bail and returning to the street where, experience suggests, they will commit new crimes.

For MVP defendants, the average bail was \$49,300 and for the comparison defendants it was \$14,000. Defendants released on personal recognizance decreased by 27.7% over the time span of the two groups of cases. Table 38 reflects this result as well as the changes in other types of bail imposed.

TABLE 38: TYPE OF BAIL IMPOSED UPON DEFENDANTS

Measure	% Before (N=149)	% MVP (N=177)	% Change	Preferred Change
Cash Bail or Bond	11.4	10.2	-1.2*	-
Personal Recognizance	32.2	4.5	-27.7	-
Jail (No Bail Set)	4.7	9.6	+ 4.9	+
Surety Bond	45.6	68.4	+22.8	+

\* Comparison not statistically significant

It appears that judges are now more likely to impose high bail for major violators. And higher bail has resulted in fewer defendants being released on bail while awaiting trial. Table 39 shows that there was a decrease of 30.2% in the percentage of defendants making bail.

TABLE 39: PERCENT OF DEFENDANTS MAKING BAIL

Measure	% Before (N=149)	% MVP (N=177)	% Change	Preferred Change
Did Not Make Bail	47.7	76.3	+28.6	+
Did Make Bail	47.7	17.5	-30.2	-
Not Ascertained/ Inappropriate	4.7	6.2	---	---

#### 7.2 Findings

The intervention of the MVP in the Suffolk County prosecutive system has resulted in an upgrading of the quality of prosecutions of career criminals and has enhanced the capabilities of the County to prosecute repeat offenders who commit serious and often violent crimes.

In Section 6, we reported on perceptions of the criminal justice system with regard to both favorable and unfavorable impacts. In most cases, the perceptions of system personnel were that MVP innovations had improved prosecutive capabilities. Our analysis in this section substantiated those perceptions and further highlights the degree of success achieved by the MVP.

The MVP has reduced the time required to process the case of a major violator by approximately 60%. The swiftness of justice in MVP cases is enhanced by the fact that nearly all (96.4%) MVP defendants were convicted and the average sentence imposed is significantly more severe than the average sentence imposed on serious violators prior to MVP implementation.

Relieved of time and backlog pressures, the MVP has transferred the burden of negotiating for guilty pleas to defendants. Trials are no longer delayed by insincere defense offers to negotiate in the interest of delay. Either defendants complete negotiations swiftly or they go forward to trial on schedule. This policy has reduced the time from arrest to disposition by plea before trial, as well as reducing the number of pleas before trial.

The MVP is handling the most serious felony cases - those in which it is preferable that convicted defendants be incarcerated to achieve

reduced levels of serious crime. Success is not achieved if those defendants are permitted to remain free for extended periods of time while trials are delayed for plea negotiations, especially where pleas result in little or no incarceration time for defendants. A preferable result has been achieved by the MVP; defendants must now plead in the more restricted time before or at trial.

With early prosecutive attention to serious cases, proper utilization of investigative and preparation resources, and increased victim/witness availability, the MVP was expected to reduce case dismissal rates. It has done so. Reductions were achieved in the percentage of cases dismissed by the court as well as by the prosecutor. Fewer prosecutor resources are now wasted on cases which will be dismissed by the Court. The MVP has also reduced the percentages of charges placed on file without a change in plea - in effect, a dismissal.

While the percentage of cases actually going to trial has increased, apparently in response to the strict MVP plea negotiation policies, the MVP has demonstrated that it is well prepared for trials. It achieved a 98% conviction rate after trials, an increase of 4% over the comparison sample. Fewer MVP defendants have been released on bail while awaiting trial. Earlier in this section, we reported personnel in the system commenting that judges are reluctant to set high bail for defendants because of the long wait defendants would endure before cases could be disposed of. If the bail is high, many defendants will await trial in jail. The average bail for major violators increased substantially. That result, coupled with the reduction in the number of defendants released on personal recognizance, meant that 76.3% of the MVP defendants did not make bail. Previously only 47.7% did not make bail.

Virtually all of the changes in system performance which have taken place since the MVP intervention have been positive, indicating a favorable impact on the prosecution of major violators in Suffolk County by the Project.

In this comparative assessment, the only controlling variable was the presence of the MVP. While it might be argued that there were other intervening variables, such as a more favorable climate for obtaining jury convictions, we could not isolate and control for environmental variables. We cannot attribute these results solely to the MVP, however, in our judgment it is reasonable to suggest that they are related.

## SECTION 8 IMPACTS ON NON-MVP CASES

This analysis addresses the direct and indirect impacts which the MVP may have had or continues to have on the processing of non-MVP cases during the period the MVP has been operational. To perform this analysis, two random samples were drawn: one was a sample of settled, non-MVP cases prosecuted during the period September 1, 1975, to August 31, 1976 (hereinafter called concurrent); the other was a sample of settled less serious (did not meet MVP selection criteria) felony cases prosecuted during a 12-month period prior to the implementation of the MVP (hereinafter called pre-MVP or less serious).

The two samples were compared to identify favorable or unfavorable changes in performance since implementation of the MVP. Where change was identified, further analysis was performed in an attempt to determine if that change was attributable to the MVP.

### 8.1 Comparative Evaluation: Prosecutorial Goals

#### 8.1.1 Speed of Processing

Data presented in Table 40 indicate that there was no significant change in results between the two samples with respect to the speed of processing from time of arrest to the time of either Grand Jury hearing or Superior Court arraignment. Between the time of arraignment and final disposition, however, there has been a major change in the speed with which the more recent cases were processed. We found that:

- Trials commenced two months sooner in concurrent cases than in pre-MVP cases; and
- Concurrent cases were disposed of two months faster than pre-MVP cases.

TABLE 40: SPEED OF PROCESSING COMPARISON:  
CONCURRENT, NON-MVP CASES V.  
PRE-MVP, LESS SERIOUS CASES

Measure \ Sample	Concurrent, Non-MVP Cases	Pre-Major Violator, Less Serious Cases
Arrest to Grand Jury Hearing:		
Mean (days)	72	73
Median (days)	57	55
Arrest to Superior Ct. Arraign:		
Mean (days)	122	107
Median (days)	111	88
Arrest to Trial:		
Mean (days)	269	330
Median (days)	257	284
Arrest to Disposition:		
Mean (days)	252	310
Median (days)	234	266

Where speed of processing is measured from date of arrest to final disposition, 11.2% of the concurrent cases were not disposed of within 400 days. Almost three times as many of the pre-MVP cases (28.3%) required 400 or more days for final disposition.

Although neither sample approached the speed of prosecution of MVP cases, concurrent cases were processed more rapidly than pre-MVP cases. The acceleration in disposition time appeared only after the conclusion of Superior Court arraignment. Prior to that point, there is no significant difference between the samples.

#### 8.1.2 Certainty of Conviction

Whatever success results from swifter prosecution is diminished, unless accompanied by increased certainty of conviction. The comparison disclosed that 79.7% of the concurrent defendants<sup>23</sup> were convicted as compared with 69.7% of the pre-MVP defendants. Differences in acquittal

<sup>23</sup> In this section, the concurrent sample had 177 defendants. Thirteen other defendants who were "no billed" were omitted from the sample because, in the year prior (encompassing the comparison sample), "no bills" were sometimes not recorded on case files. Where all charges against defendants were ignored by the Grand Jury, often case files were not maintained.

rates of 6.3% and 6.9%, respectively, were not statistically significant. Further, all the charges brought against 10.7% of the concurrent defendants were dismissed by the Court or the prosecutor, as opposed to 19.4% for pre-MVP defendants. We found that the concurrent sample:

- o Revealed a higher conviction rate than the pre-MVP sample; and
- o A lower rate of dismissals of all charges against defendants by either Court or prosecutor.

Although the conviction rate for the concurrent sample was higher, there was no significant statistical difference between the two samples in the type of convictions returned. Of the concurrent defendants, 92.2% were convicted of the offense charged and the rate for pre-MVP defendants was 92.6%.

However, concurrent cases were more successful when judged by conviction rates on all charges. In that sample, convictions were obtained on 70.1% of all charges brought; in the pre-MVP sample, convictions resulted in only 59.6% of all charges. Figures 18 through 21 present the disposition patterns of cases and charges for each sample.

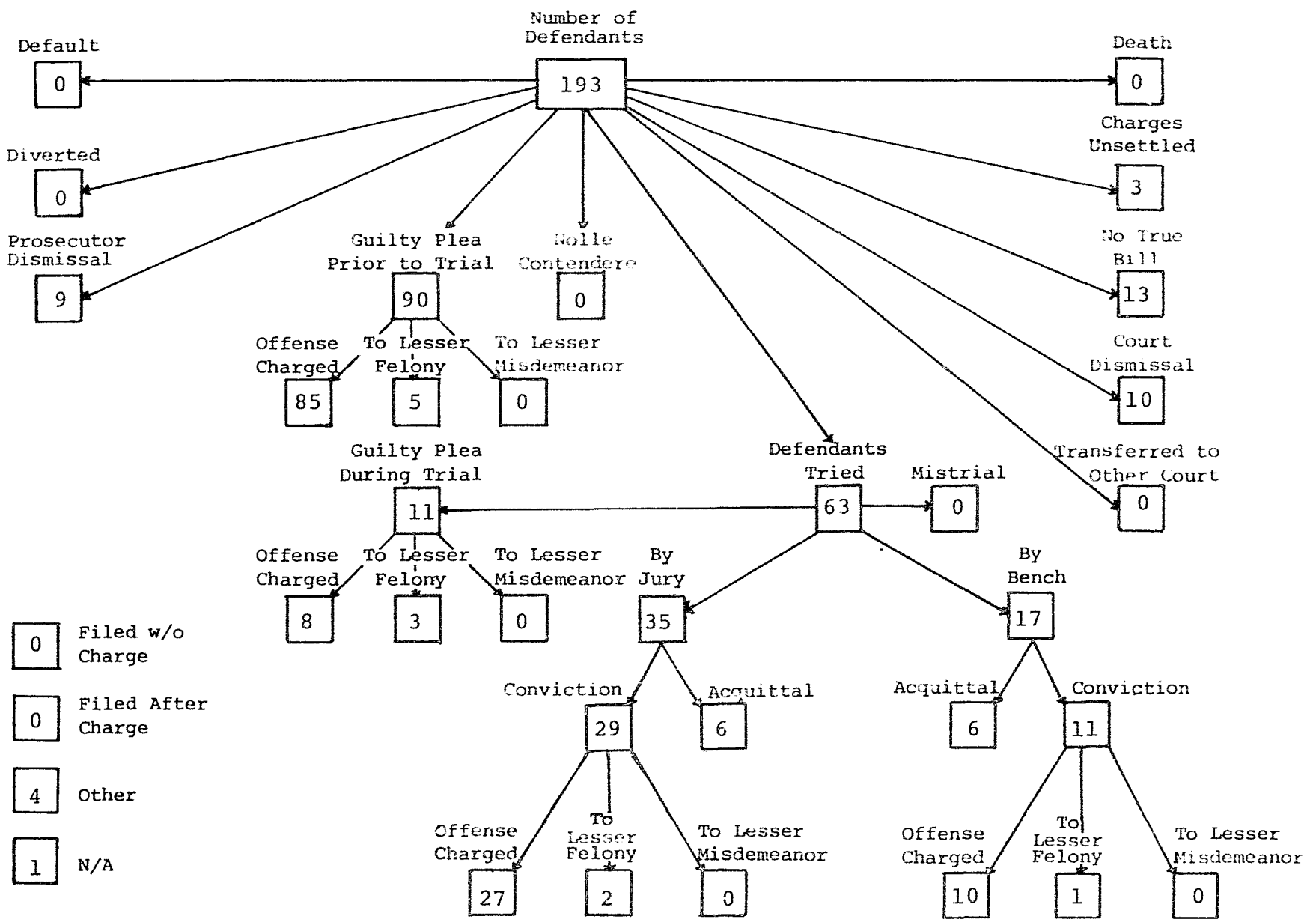
#### 8.1.3 Severity of Sentence

The two samples were also analyzed in terms of the severity of the sentence imposed. No significant difference was found. Concurrent defendants averaged imprisonment of 2 years, 7 months, to 3 years, 4 months, as compared to the average term of imprisonment amongst the pre-MVP defendants of 2 years, 5 months, to 2 years, 11 months. The four-month differential in the average maximum sentence is insignificant, in light of the availability of parole and other procedures designed for early release.

However, it is now more likely that a convicted defendant will serve some time in prison. Analysis indicates that 61.5% of the pre-MVP defendants and 64.1% of concurrent defendants received some term of imprisonment - a change of 2.6% which is not statistically significant. That difference becomes significant when the percentage of defendants in each sample, part or all of whose sentence was suspended, are considered. Of the pre-MVP defendants, 37.4% had all or a portion of such time suspended. In the concurrent sample, the rate was 30.5%.

FIGURE 18. DISPOSITION OF DEFENDANTS: CONCURRENT SAMPLE

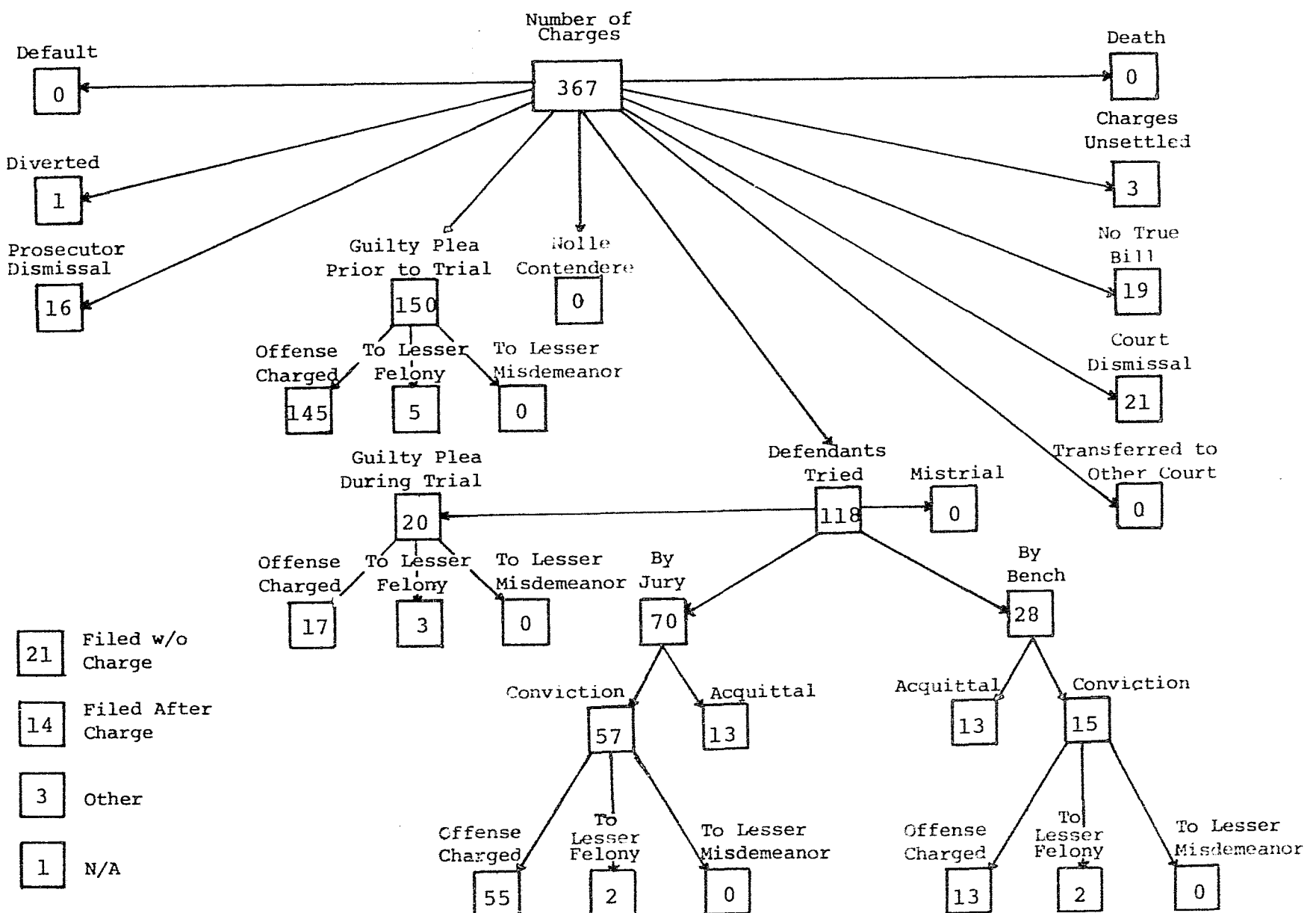
134



- 0 Filed w/o Charge
- 0 Filed After Charge
- 4 Other
- 1 N/A

FIGURE 19. DISPOSITION OF CHARGES: CONCURRENT SAMPLE

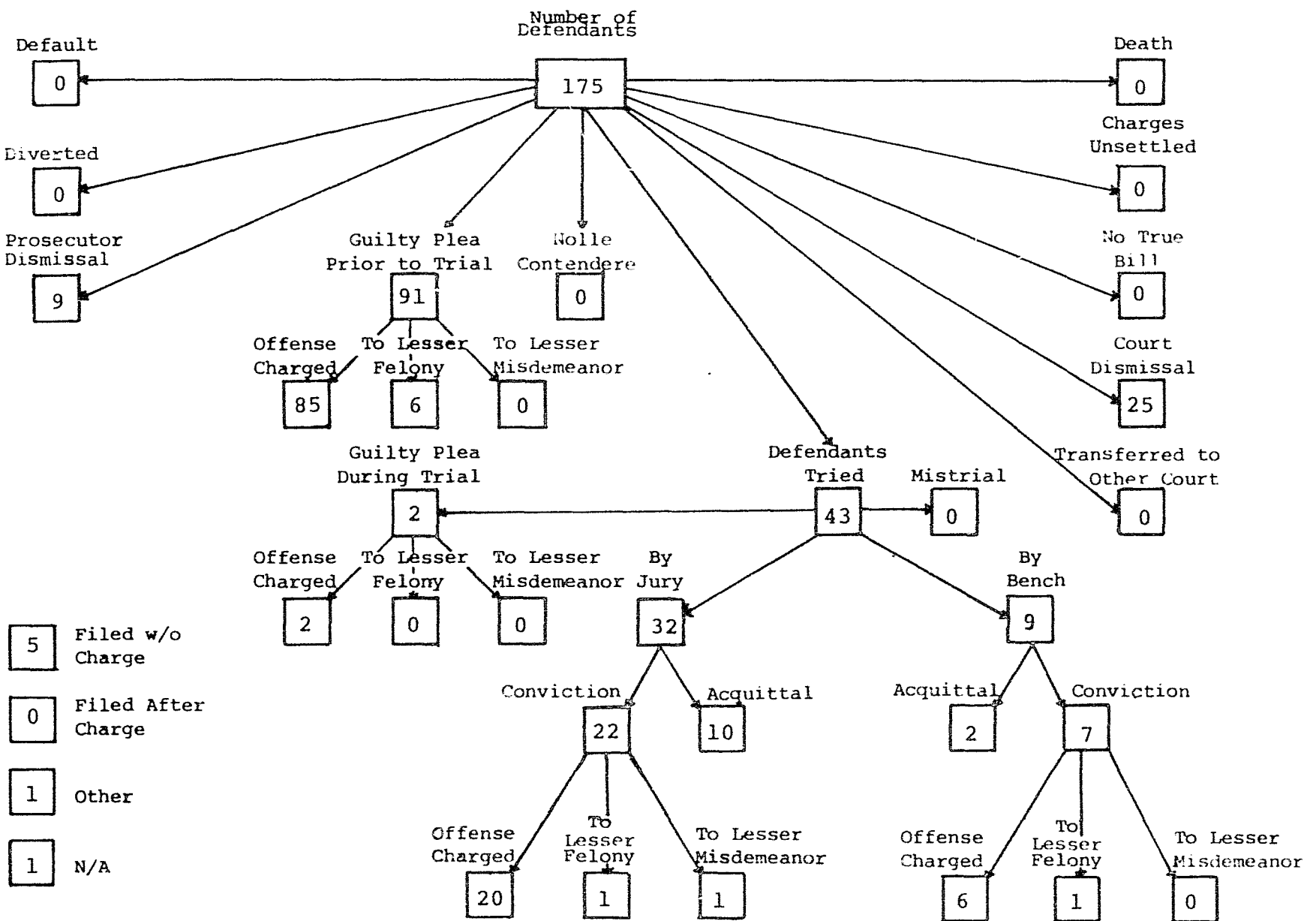
135



- 21 Filed w/o Charge
- 14 Filed After Charge
- 3 Other
- 1 N/A

FIGURE 20. DISPOSITION OF DEFENDANTS: PRE-MVP LESS-SERIOUS SAMPLE

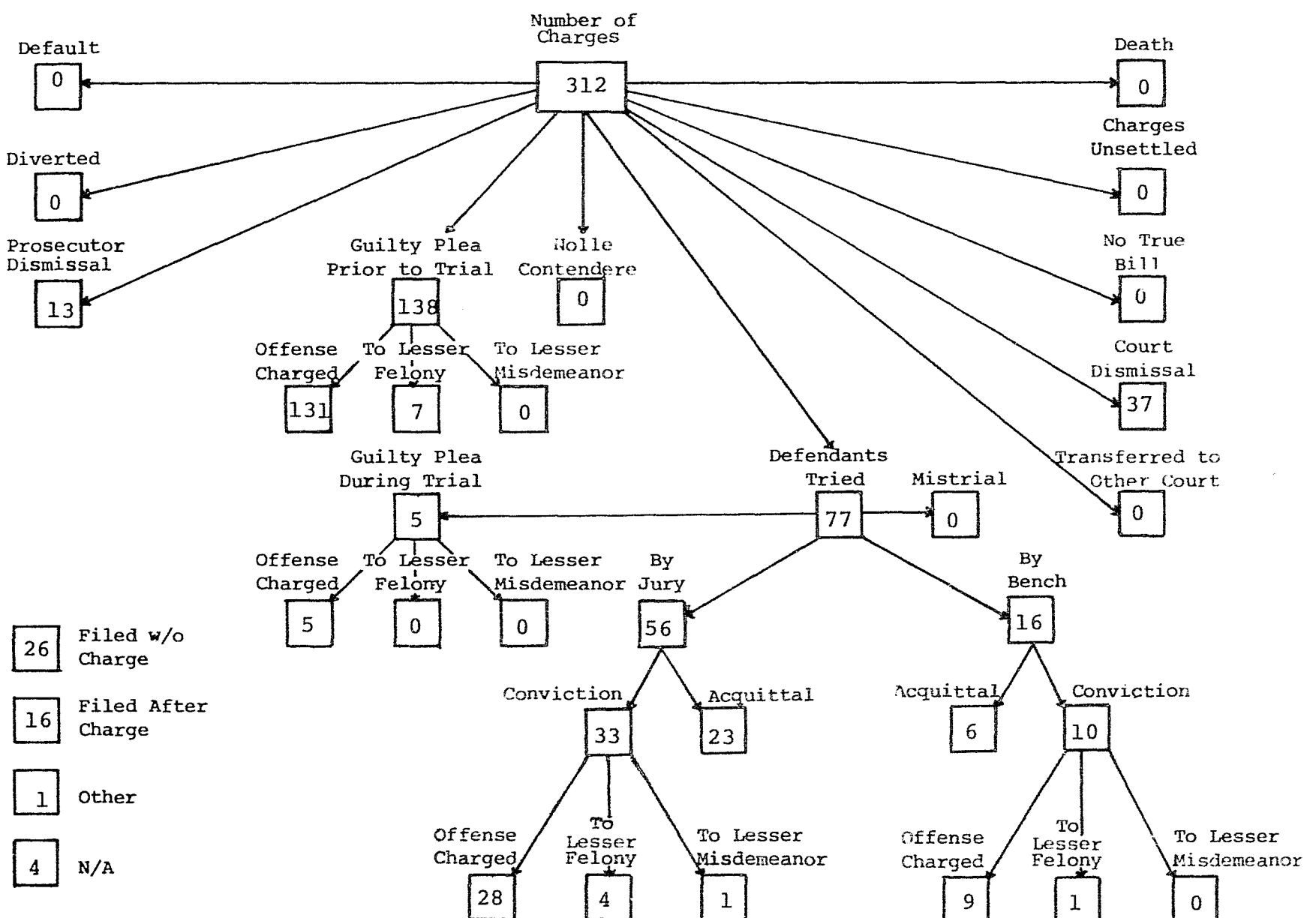
136



- 5 Filed w/o Charge
- 0 Filed After Charge
- 1 Other
- 1 N/A

FIGURE 20. DISPOSITION OF CHARGES: PRE-MVP LESS-SERIOUS SAMPLE

137



- 26 Filed w/o Charge
- 16 Filed After Charge
- 1 Other
- 4 N/A

## 9.2 Conclusions: Prosecutorial Goals

For each prosecutorial goal, the concurrent sample reflected some progress toward that goal. The question is whether such progress is the result or a by-product of the operations of the Major Violators Project or of other factors.

### 8.2.1 Speed of Processing

Concurrent cases were processed two months faster than the comparison pre-MVP sample. There were at least four administrative changes within the Main Office which appear to explain this result.

1. The District Attorney's Office instituted a central filing system for all of its cases.
2. Case folders or file jackets were redesigned to permit recording of more required information on those case files.
3. Within the concurrent sample period, administrative staff were assigned to the First Session (Assignment Session) of the Superior Court. These people were and are charged with responsibility for insuring a rapid and accurate flow of information from that session to the Administrative Division of the Main Office, permitting a more effective and efficient system for scheduling business.
4. Finally, they were and are responsible for completing case assignment sheets which also aid in the scheduling process.

These administrative procedural changes were, in part, responsible for speeding prosecutions in the concurrent cases.

Speed of processing was also enhanced through implementation of Summer Trial Sessions during 1976. Prior to that time, there had been no regular Superior Court criminal sessions in Suffolk County during the summer months. Former Superior Court Chief Justice McLaughlin, who implemented the summer sessions, also increased the number of criminal sessions in the County and staffed them with an increased number of experienced criminal/trial judges. This also contributed to speed in the prosecutorial process.

Finally, the District Attorney had, for the first time, created a position of Administrative Assistant District Attorney. The incumbent is a trained administrator and is responsible for the implementation of a number of other procedures designed to accelerate the criminal justice process in Suffolk County.

There are various factors which have contributed to swifter prosecution in the concurrent sample. There are, however, no data which suggest that such result is a consequence of the operation of the Major Violators Project. This should not be viewed as a negative finding. During the development stages of the Project, it was feared that its unique procedures and the priority scheduling its cases would receive might have the effect of slowing the prosecution of non-MVP cases. Although the Project has had no apparent impact on speeding the processing concurrent cases, it has not slowed that process as was once feared.

### 8.2.2 Severity of Sentence

Measured by the terms of imprisonment fixed by trial judges, as well as by the portion of sentences suspended, the concurrent sample reflects a modest increase in the severity of sentences imposed. Such an increase was noted by personnel interviewed at the Department of Corrections. Their statistics indicate that sentencing had become generally more severe with less use of probation and less suspension of incarceration. This trend pre-dates the Major Violators Project. Even if it did not, it is not possible to show that the trend is attributable in whole or in part to the Project. The data, both subjective and objective, do not support such a conclusion.

Stricter sentencing appears to be a response to increased public awareness and concern about "liberal" sentencing practices. In fact, severe or stricter sentencing appears to be more a product of a growing fear about crime and increasingly repressive public attitudes than a product of the MVP.

### 8.2.3 Certainty of Conviction

Concurrent cases reflected a higher conviction rate and a lower dismissal rate than the pre-MVP sample (the acquittal rates remained approximately the same). Thus, "concurrent" prosecutors lost fewer cases through dismissals by the Court and, overall, are winning more. It has not been possible to link this improvement to a particular factor or factors unique to the prosecution of this class of felonies. Today's prosecutors may be more skilled, judges and juries may be increasingly sympathetic to the Commonwealth's evidence, the police may be performing their investigative tasks with greater skill and diligence, or the defense bar may be less able than in past years. All of these and other factors might explain the improved conviction rates. It may well be that Suffolk County juries are more conviction-prone.



The issue, however, is whether the Major Violators Project, by its mere existence and operations, has had a direct influence upon these prosecutions. It is true that a number of the cases in the concurrent sample were screened and rejected by the MVP. Some were subjected to preliminary investigation, and evidence collection begun prior to rejection. The evidence collected was made available to Main Office prosecutors assigned to the rejected cases. It is conceivable that, through this process of screening and preliminary evidence collection, the cases' conviction potential was increased. Yet, to attribute the higher conviction rate to any one factor or to assign relative weights to them, pursuant to the contribution to that improvement, is not possible. The data will not permit such an undertaking.

It can only be concluded that the increased conviction rate reflected in the concurrent sample, as opposed to the pre-MVP sample, is the product of many influences. One of those may be the by-product of the screening process of the MVP. Yet, the significance of this factor cannot be gauged, other than to recognize that it has a potential for positively affecting the conviction rate as reflected in the concurrent sample analysis.

### 8.3 Performance Measures

In the preceding sub-sections, less serious felonies prosecuted by the Main Office were analyzed in terms of prosecutive goals. In this section, the two samples are compared to determine what changes in system results or outcomes have occurred since the implementation of the MVP.

#### 8.3.1 Plea Rates

Table 41 shows how pleas offered by defendants changed in the sample periods. Table 42 identifies the types of pleas entered by those defendants who pled guilty prior to the commencement of trial, and the pleas most likely to result from plea negotiations.

TABLE 41: PERCENT OF DEFENDANTS PLEADING GUILTY

Measure	% Pre-MV (N=175)	% Concurrent (N=177)	% Change	Preferred Change
Guilty Plea Before Trial	52.0	50.8	-1.2*	-
Guilty Plea During Trial	1.1	6.2	+5.1	+

\* Comparison not statistically significant

TABLE 42: DEFENDANT PLEAS PRIOR TO TRIAL: TYPE OF PLEA OFFERED

Measure	% Pre-MVP (N=91)	% Concurrent (N=90)	% Change	Preferred Change
Plea to Offense Charged	93.4	94.4	+1.0*	+
Plea to Lesser Felony	6.6	5.6	-1.0*	-
Plea to Misdemeanor	0.0	0.0	0.0*	-

\* Comparisons not statistically significant.

#### 8.3.2 Dismissal Rates

Tables 43 and 44 indicate that the concurrent cases, with respect to the performance outcome, have changed over the span of the two samples, although not necessarily significantly. Statistical significance was found with respect to court dismissals where concurrent cases reflect a substantial decrease in the numbers of cases so dismissed.

TABLE 43: PERCENT OF CASES DISMISSED BY PROSECUTOR OR COURT

Measure	% Pre-MVP (N=175)	% Concurrent (N=177)	% Change	Preferred Change
Cases Dismissed by Prosecutor	5.1	5.1	0.0	-
Cases Dismissed by Court	14.3	5.6	-8.7	-

TABLE 44: PERCENT OF CHARGES DISMISSED BY PROSECUTOR OR COURT

Measure	% Pre-MVP (N=312)	% Concurrent (N=345)	% Change	Preferred Change
Charges Dismissed by Prosecutor	4.2	4.6	+0.4 *	-
Charges Dismissed by Court	11.6	6.1	-5.5	-

\* Comparisons not statistically significant.

Filing a criminal charge is, in a sense, a form of dismissal because disposition of the defendant's case will be accomplished without reference to such filed charge(s). Table 45 reflects a modest change in the concurrent cases, but a change which is not statistically significant.

TABLE 45: PERCENT OF CHARGES FILED

Measure	% Pre-MVP (N=312)	% Concurrent (N=345)	% Change	Preferred Change
Charges Filed Without Change of Plea	8.3	6.1	-2.2 *	-
Charges Filed After Change of Plea	5.1	4.1	-1.0 *	-

\* Comparisons not statistically significant.

Finally, although the court dismissal rate for witness and/or evidentiary problems decreased in concurrent cases, the rate of such dismissals by prosecutors increased in the concurrent sample as opposed to pre-MVP cases, although not statistically significant. Table 46 presents our data in this respect.

TABLE 46: PERCENT OF CHARGES DISMISSED FOR WITNESS/EVIDENCE PROBLEMS

Measure	% Pre-MVP (N=312)	% Concurrent (N=345)	% Change	Preferred Change
Charges Dismissed by Prosecutor	1.6	4.3	+2.7 *	-
Charges Dismissed by Court	6.1	1.7	-4.4	-

\* Comparison not statistically significant.

### 8.3.3 Trial Rates

Concurrent cases reflected a statistically significant increase in the percentage of defendants proceeding to trial. The sample prosecuted concurrently to the MVP universe had 35.6% of its defendants proceed to trial whereas the comparison sample only had 24.6% proceed - 9% increase.

The types of trial sought by defendants has also changed over the time between the two samples, as reflected in Table 47.

TABLE 47: TYPE OF TRIAL FOR DEFENDANTS PROCEEDING TO TRIAL

Measure	% Pre-MVP (N=43)	% Concurrent (N=63)	% Change	Preferred Change
Defendants Pleading Guilty at Trial	4.7	17.5	+12.8	+
Defendants Tried by Jury	74.4	55.6	-18.8	-
Defendants Tried by Bench	20.9	27.0	+ 6.1	+

The conviction rates at Bench or jury trials have also changed statistically significant. Of the concurrent defendants, 82.9% were convicted at jury trial as compared with only 68.6% of the pre-MVP comparison sample, an increase (and improvement) of 14.1%. On the other hand, 64.7% of the

concurrent sample defendants tried before the Bench were convicted. This represents a 13.1% decrease in conviction rate at Bench trials from the comparison sample, but the small number of cases proceeding to Bench trial in either sample makes this finding statistically insignificant.

Not only do concurrent cases evidence a higher conviction rate for defendants at jury trials, but the type of disposition, by charge, changed markedly, as seen in Table 48.

TABLE 48: TYPE OF DISPOSITION OF CHARGES BY JURY

Measure	% Pre-MVP (N=56)	% Concurrent (N=70)	% Change	Preferred Change
Convicted of Offense Charged	50.0	78.6	+28.6	+
Convicted of Lesser Felony	7.1	2.9	- 4.9	-
Convicted of Misdemeanor	1.8	0.0	- 1.8*	-
Acquitted	41.1	18.6	-22.5	-

\* Comparison not statistically significant.

The types of conviction achieved on charges heard by the Bench in concurrent cases have changed in a negative direction (Table 49).

TABLE 49: TYPE OF DISPOSITION OF CHARGES BY BENCH

Measure	% Pre-MVP (N=16)	% Concurrent (N=28)	% Change	Preferred Change
Convicted of Offense Charged	56.3	46.4	- 9.9	+
Convicted of Lesser Felony	6.3	7.1	+ 0.8*	-
Convicted of Misdemeanor	0.0	0.0	0.0*	-
Acquitted	37.5	46.4	+ 8.9	-

\* Comparisons not statistically significant.

#### 8.3.4 Continuance Rates

Our analysis indicated that speed of prosecution will depend, in large part, upon the number of continuances granted during the processing of a case. Prosecutors can control their own requests for continuances and, in a more limited manner, manipulate those factors upon which the defense makes such requests, or upon which Courts order continuances.

Consequently, success will rest, in part, upon the ability of prosecutors to control defense requests for continuances. By doing so, they can influence the speed of case processing. Concurrent cases experienced fewer continuances per case (2.12) than pre-MVP cases (2.98), which may explain why such cases were processed more quickly.

#### 8.3.5 Bail Rates

The amount of bail recommended by a prosecutor and ultimately fixed by a Court will govern the pre-trial release of a defendant. If released, that defendant is free to commit further crimes. The amount of bail will depend upon many factors, including the likelihood of his appearing for trial or other court appearances when called and the defendant's ties to the community, including family and employment. Thus, the average amount of bail becomes an important performance measure because of the potential for future violent criminal activity and the possibility of default and resultant failure to determine guilt or innocence.

Concurrent cases involved a higher proportion of individuals released before trial without bail (22.2%) than the pre-MVP sample (17.7%). However, concurrent sample defendants, as an aggregate, had higher average bails imposed (\$18,600) than pre-MVP sample defendants (\$4,700). Finally, concurrent sample defendants were less able to secure pre-trial release than the pre-MVP sample, even though the concurrent sample had more defendants upon whom no bail was fixed or for whom personal recognizance was permitted. Of the pre-MVP sample defendants, 58.8% were unable to make bail, as opposed to 52.8% in the concurrent sample.

#### 8.4 Conclusions: Performance Measures

Included in each table is a column where changes in performance were assessed as preferred or not preferred. In assigning positive or negative weight, we inevitably had to assume a single factor as explanatory of the preferred changes. That factor is improved prosecutorial performance.

Our specific reasons for labeling of changes in performance outcomes as preferable or most preferred have been discussed in greater detail in

Section 7. There are, of course, various explanations for the changes, some of which may lead to an interpretation that the identified objective changes are preferable or not.

We could only offer the objective data which indicate changes in performance outcomes. These data do not suggest which changes are preferred. The determination of preference is subjective and is based upon our professional assessments.

In many respects, the changes between the performance outcomes of the compared samples were not statistically significant. Yet, even where such significance was found, attributing that change in an objective manner was impossible and, subjectively, was nearly so.

Even if we could adopt the inference that the results identified by the data are objectively attributable to improved prosecutorial performance, the data do not permit us to conclude that such improvement is attributable to the existence of the Major Violators Project.

The causal relationship between the existence of the MVP and positive changes in prosecutorial outcomes in concurrent cases cannot be established from the objective data. What impacts exist are measurable only in subjective terms and these are set forth in Section 6.

## SECTION 9 FINDINGS AND RECOMMENDATIONS

Our evaluation of the Major Violators Project persuades us that the concept of a special prosecutive unit, provided adequate resources and full responsibility for selecting and prosecuting a defined class of offenders, will process those defendants in a manner which is clearly superior to the normal prosecutive process. With the data which have been collected and presented in this report, even detractors of the Major Violators Project would have to admit that a unit which processes defendants in approximately one-third the usual time, has a conviction rate of over 96%, and obtains sentences more severe than those normally given, is successful in every sense of the word as defined in its design documents.

The Major Violators Project is, to be sure, extremely well funded when compared to the Main Office. It has administrative resources available that are not available in the Main Office. However, even given that type of administrative support, the Major Violators Project has demonstrated that specialization and proper support can achieve desired results. It is a model which should be implemented within the larger office.

By every measure we were able to apply, the Major Violators Project achieved successes which exceeded those of any other relative element in the Suffolk County District Attorney's Office.

We present below the salient findings of this evaluation, together with certain summary recommendations for modification and refinement of the MVP which could increase its effectiveness.

APPLICATION OF THE MVP PROCESSES REDUCES THE  
TIME FROM ARREST TO VERDICT BY TWO-THIRDS.

Prior to full operation of the MVP, major violator cases required an average of 341 days from the time of the defendant's arrest to the time of verdict. In comparable cases processed by the MVP, that time was reduced to 112 days, a 67.2% reduction. There were two principal factors in the overall reduction in time. The MVP reduced the time consumed between arrest and Grand Jury indictment by 79% and the time from Grand Jury indictment to verdict by 70.4%. Clearly, obviating the necessity to afford the defendant a Probable Cause Hearing by proceeding directly to the Grand Jury resulted in significant savings of time. When the two competing processes were compared from Grand Jury to verdict, the MVP process was 70.4% faster.

IF CASE-PROCESSING TIME IS TO BE FURTHER REDUCED,  
WITH LIMITED EXCEPTION, NECESSARY SYSTEM MODIFI-  
CATIONS WILL BE EXTERNAL TO THE MVP.

One internal modification, relevant to Grand Jury action in major violator cases, would streamline the preparation of presentments and drafting of indictments. The MVP could prepare both simultaneously, eliminating the need for the two-step process which now exists. External modifications which would further increase the speed of processing major violator cases, such as increasing the number of trial sessions, are beyond the control of the MVP.

THE ANALYSIS AND COMPARISON OF THE 25 FASTEST  
AND 25 SLOWEST MVP CASES SUGGESTS THAT THERE  
EXISTS A MINIMUM TIME BELOW WHICH INCREASING  
SPEED OF DISPOSITION MAY BE COUNTERPRODUCTIVE.

Slower MVP cases appear to be more complex than faster cases. They involve more complex evidence (indicating the case may not be "strong" in the first instance), more charges against the defendant, and more victims.

By modifying the selection criteria, the Project could avoid the cases which could be expected to proceed slowly. However, to do so may require implementation of criteria which are not truly reflective of MVP goals. Further, MVP trial attorneys are well qualified to handle complex cases.

Even if speed of processing could be reduced further, the evidence suggests that such may be counterproductive. Data show that the slower cases were more successful when measured with respect to conviction rate and severity of sentence imposed.

THE BROAD DISCOVERY POLICY OF THE MVP REDUCES  
THE NUMBER OF PRE-TRIAL CONFERENCES AND THERE-  
BY SPEEDS CASE PROCESSING.

By anticipating legitimate defense discovery requests and supplying responsive material, the MVP has virtually eliminated one major cause of trial delay. This innovative procedure could well be extended throughout the Main Office.

THE MVP HAS REDUCED PLEA BARGAINING. WHEN  
BARGAINING TAKES PLACE, SUCH NEGOTIATIONS  
DO NOT ORDINARILY DELAY TRIALS.

Major Violator trial assistants anticipate and proceed upon the assumption that each of their cases will be tried. Because cases are adequately prepared and receive priority assignment for trial, there is little or no pressure to plea bargain. Further, plea bargaining policies are clear to both parties and there is very little room for negotiations. These conclusions are evident from the fact that a greater percentage of MVP cases are actually tried than in the comparison group, and sentences after guilty pleas in MVP cases are substantially more severe. The opportunity to accelerate trials provides the leverage to support the strict plea bargaining posture of the MVP, as well as the requirement that all bargains be approved by the MVP Director.

THE CONVICTION RATE IN MAJOR VIOLATOR CASES PROSECUTED BY THE MVP INCREASED BY 9.2% OVER THE RATE IN A SAMPLE OF COMPARABLE CASES DISPOSED OF IN THE YEAR PRECEDING THE IMPLEMENTATION OF THE PROJECT.

In terms of the Project objective of increasing certainty of conviction, the MVP must be rated as successful. During the evaluation, an overall conviction rate of 96.4% was achieved. Of 90 MVP defendants who stood trial, 88 were convicted and two were acquitted. It should be noted also that the number of MVP defendants electing trial rather than pleading guilty increased by 20% over the number of defendants electing trial in the comparison sample.

THE MVP OPERATES TO IDENTIFY AND SELECT CASES WITH A HIGH POTENTIAL FOR CONVICTION. THIS IS AN APPROPRIATE AND IMPORTANT FUNCTION OF ITS PROCESSES.

The District Attorney, like all other government officials is limited in the scope of his activity by available resources which are finite. This inevitably means that resource allocation decisions must be made and choices determined amongst a range of alternative courses of action. It is clear that District Attorney Byrne is deeply concerned with the fear manifested by Boston citizens about present or potential victimization by violent criminals. In that regard, he developed the Major Violators Project to identify and prosecute swiftly - and hopefully effectively - those major violators whose actions generate such fear. Just as his resources are limited, so are the resources available to the courts and the ancillary governmental elements which support public prosecution. In essence, only a limited number of all of the possible criminal cases and criminals can be prosecuted within any given time period. Thus, having determined who the target persons for accelerated prosecution should be, or at least having developed a mechanism to identify such persons, the District Attorney must decide how best to apply the limited resources he has available for prosecution.

It is obviously appropriate to select from among the possible cases those in which desired results are most likely to be achieved. This

means those cases where the likelihood of conviction is higher rather than lower. Clearly, it makes greater sense, in terms of achieving a desired result, to try those people whom you are likely to convict rather than trying those defendants whom it is less likely you will convict. In essence, the Project design reflects an enlightened management decision by the District Attorney with regard to the allocation of the additional resources available to him under the Federal grant which supports the Project. It is in the failure of those who are critical of the Project - or at least some of such persons - to recognize the inherent validity of the District Attorney's decision that criticism arises.

MAJOR VIOLATORS PROSECUTED BY THE MVP RECEIVE SUBSTANTIALLY MORE SEVERE SENTENCES THAN COMPARABLE DEFENDANTS PROSECUTED DURING THE YEAR PRECEDING THE IMPLEMENTATION OF THE PROJECT.

Average minimum and maximum terms of imprisonment for major violators increased from 6 years, 11 months, to 8 years, 5 months; and from 9 years, 8 months, to 12 years, 2 months, respectively. Substantial increases for major violators pleading guilty before trial have also resulted; the average minimum sentence for MVP defendants is now greater than the average maximum for comparable defendants prosecuted in the year previous to MVP implementation; e.g., 10 years, 2 months vs. 9 years. Probation for major violators is now rarely utilized and few sentences are suspended in whole or in part.

THE MVP HAS A CRIME PREVENTIVE EFFECT, EVEN THOUGH IT APPEARS TO HAVE NO DETERRENT IMPACT ON MAJOR VIOLATORS.

Imprisoned major violators interviewed unanimously agreed that knowledge of the existence of the MVP, per se, did not and would not deter their criminal conduct. Since they did not believe that their apprehension after commission of a crime was likely, they could not be deterred by any program which was triggered by arrest. Since major violators would be undeterred if they were at liberty, their imprisonment as a consequence of the MVP eliminated their opportunities for new offenses. The longer a major violator is imprisoned, the greater the crime-reducing effect.

THE MVP HAS REDUCED THE NUMBER OF MAJOR VIOLATORS AT LIBERTY WHILE AWAITING TRIAL

The average bail for major violators has increased from \$14,000 to \$49,300. The percentage of major violators released on personal recognition has declined from 32.2% to 4.5%. Taken together, these factors have resulted in 30% fewer major violators being at liberty pending trial. A principal influence in the bail process is the immediate and virtually automatic involvement of MVP attorneys. Incarceration of the major violator in the pre-trial stage has a crime-reductive effect.

THE RESULTS OF THE MVP ARE MORE LIKELY, OVER TIME, TO ENHANCE THE SUFFOLK COUNTY CITIZENS' SENCE OF SECURITY THAN THOSE OF ANY OTHER CURRENT FUNCTION OF THE DISTRICT ATTORNEY'S OFFICE

In the aggregate, the acts of major violators prosecuted by the MVP are more threatening to people than the actions of non-qualifying criminals. The acts of major violators contribute to fear of death or serious injury during crime victimization because of the greater frequency with which force or the threat to use force accompanies their crimes.

THE MVP PROCESS REDUCES VICTIM/WITNESS DISENCHANTMENT WITH CRIMINAL JUSTICE IN SUFFOLK COUNTY.

The sampling of witnesses in both the MVP and non-MVP major violators cases established the benefits of the personal contact of the police and District Attorney personnel in MVP cases. Early, more frequent, and continuous contact between arrest and disposition by such personnel was the key factor in raising the level of satisfaction of victims/witnesses. Fewer non-productive court appearances also contributed to that result. Victim/witness satisfaction would be further enhanced if such persons were advised of case results. This could be accomplished through the use of a simple form letter or postcard completed and mailed by the MVP trial assistant.

IN COUNTIES WHERE MAJOR VIOLATORS PRESENT A SERIOUS PROBLEM, THE MVP PRESENTS AN INTERESTING MODEL FOR DISTRICT ATTORNEYS TO CONSIDER.

The problems of trial delay, unsatisfactory conviction rates, and sentences perceived as inadequate exist throughout the Commonwealth of Massachusetts. Aspects of the MVP processes which bear upon, or are relevant to these problems could be adapted for use in other Offices.

THE MVP HAS DEVELOPED AND SUCCESSFULLY TESTED A PILOT MODEL FOR DETERMINING PRIORITIES AND ALLOCATING RESOURCES FOR THE PROSECUTION OF ALL PERSONS CHARGED WITH CRIMES.

If modified to increase its objectivity, as recommended in this report, and expanded, the MVP case evaluation process can be applied to all cases coming to the Suffolk County District Attorney's attention. An objective case evaluation system could rank cases in priority order consistent with prevailing prosecutor policies and allocate resources consistent with those priorities.

MVP CASES INVOLVED DEFENDANTS WHOSE CRIMES WERE MORE SERIOUS, WHO HAD MORE EXTENSIVE ARREST AND CONVICTION RECORDS, AND WHO WERE MORE OFTEN IN EITHER PRE- OR POST-TRIAL RELEASE STATUS THAN DEFENDANTS IN THE CASES SCREENED AND REJECTED BY THE MVP.

With the qualifications noted in Section 4, the characteristics of the defendants accepted for prosecution met the criteria for special prosecution originally articulated by District Attorney Byrne in his application for Career Criminal Program funds.



IT IS PRESENTLY IMPOSSIBLE TO MAKE A COST-BENEFIT ANALYSIS OF THE MVP BECAUSE OF THE INADEQUACY OF INFORMATION AVAILABLE IN THE SUFFOLK COUNTY CRIMINAL JUSTICE SYSTEM.

The Project maintains excellent cost records. Unfortunately, essential cost data for the Main Office, Boston Police Department and Judicial branch functions in Suffolk County are unavailable. Certain data do not exist; some are so poorly organized as to be useless, and others are inaccessible without major and very expensive collection efforts. The use of program budgeting, modern accounting and records keeping procedures and interest in expenditure controls are in their infancy in the Suffolk County Criminal Justice system. Until substantial administrative improvements are achieved throughout the justice process, even simple cost comparisons of functional unit activities are not possible.

THE MAJOR VIOLATORS UNIT SHOULD EMPLOY  
TRAINED PARALEGALS TO PERFORM VARIOUS TASKS  
PRESENTLY HANDLED BY SCREENING UNIT ATTORNEYS.

As noted in Section 4.2.2, many of the tasks performed by Screening Unit attorneys during the evaluation period were non-legal. Exceptions were court appearances and the recommendation of bail in certain instances. If the proposed, modified Case Evaluation Form is adopted, preliminary screening would not require the exercise of legal judgment. The many non-legal tasks performed by the Unit's attorneys could be assumed by trained paralegals with no loss in effectiveness in Project terms.<sup>25</sup>

Victim/witness interviews do not require the involvement of attorneys. Illustratively, most Federal investigators are non-lawyers including, contrary to popular belief, FBI agents. These Federal agents are and have been involved in complex criminal investigation in a judicial system with far more stringent evidentiary and procedural requirements than are found in Massachusetts. Few question the capabilities of such non-lawyer investigators to secure statements meeting the requirements of pre-trial discovery and trial processes. Federal agent expertise in this regard is a matter of specialized training - not law-school graduation.

<sup>25</sup> Effectiveness is speed in prosecution coupled with a high rate of conviction and character of sentence.

In this connection, civilian personnel who are provided specialized training as is currently available in a number of the paralegal training programs throughout the country<sup>26</sup>, would provide a cost-effective alternative to attorneys. Further, such persons are more appropriately utilized for the performance of the substantial number of non-legal tasks currently performed by Screening Unit attorneys.

Attorneys employed for Screening Unit functions expect to transfer within the District Attorney's Office to litigation positions or elsewhere within the legal community. On the other hand, paralegals could make careers in the MVP and the Main Office and, over time, would be less expensive than attorneys doing the same work.

In the absence of task and workload analyses for Screening Unit personnel, it has not been possible to determine the optimum allocation of resources between attorneys and paralegals. Thus, while recognizing that there will continue to be a need for some attorney personnel in the Screening Unit, we cannot suggest an appropriate balance between paralegals and attorneys.

THE SCREENING UNIT COULD UNDERTAKE ADDITIONAL  
PRELIMINARY INVESTIGATIVE WORK ON CASES WHICH  
WILL BE REJECTED FOR MVP STATUS WITHOUT  
ADVERSELY AFFECTING ITS PRIMARY OBJECTIVES.

The evidence collection capability of the Screening Unit is superior to that available at the Main Office. Increasing the prosecutive quality of cases handled by Main Office Assistant District Attorneys would improve prosecution at the Main Office. Screening Unit personnel should, therefore, seek to secure and provide victim, witness and police interview reports, as well as other information in serious but non-MVP-qualifying matters.

<sup>26</sup> A full list of these institutions can be obtained from the American Bar Association headquarters in Chicago.

THE SELECTION CRITERIA PRESENTLY USED AND THE WEIGHTS ASSIGNED TO EACH CRITERION SHOULD BE MODIFIED TO MAKE THEM CORRESPOND IN A MORE ACCURATE WAY TO THE SPECIAL PROSECUTION GOALS OF THE DISTRICT ATTORNEY AND TO PERMIT TOTALLY OBJECTIVE SCREENING.

In Section 4, we described our assessment of the appropriateness of the selection criteria presently in use and the weights assigned to each criterion. Basically, we found that the present criteria do not, in all categories, reflect the implicit goals and screening objectives of the MVP. Those which fail in this respect must be modified. Further, a significant number of points towards selection are assigned on a subjective basis. Some of the weights assigned specific criterion failed to provide predictive value in the selection process.

When the application for the MVP grant was submitted, the MVP recognized the need to re-assess its criteria after a period of time. To assist the MVP in that re-assessment process, we have redesigned the Case Evaluation Form to reflect the criteria and weights we feel are more appropriate to the MVP goals and policies. The recommended Case Evaluation Form is shown in Figure 22.

THE MVP SELECTION PROCESS CAN BE MODIFIED TO PERMIT GREATER QUALITY CONTROL AND ALLOW THE MVP TO SELECT AND PROSECUTE SERIOUS CASES IN A MORE CONSISTENT MANNER. THAT MODIFICATION WOULD ALSO REFLECT AVAILABILITY OF PROSECUTIVE RESOURCES.

Informally, the MVP has used the screening process to control acceptance based upon availability of resources. That is commendable, since it makes little sense to take every case if the resources to prosecute are not available. That would defeat the primary goals of the MVP.

In Figure 23, we have recommended a modified screening process which would permit the prioritizing of cases objectively with the Case Evaluation Form. Since only the most serious cases will be prioritized, the Case Evaluation Form can be used to manage the case flow in an objective

manner consistent with the availability of prosecutive resources. The recommended process extends the screening process to include notification to the Main Office that certain cases cannot be prosecuted by the MVP, but nevertheless deserve priority attention.

Figure 22. RECOMMENDED CASE EVALUATION FORM

**MAJOR VIOLATORS PROJECT**

**CASE EVALUATION FORM**

COMMONWEALTH V. \_\_\_\_\_ MV Case No. \_\_\_\_\_

Charges \_\_\_\_\_

Date \_\_\_\_\_

Automatically rejected for the following reason(s):

D.C. Matter       Narcotics Offense       1st Felony Offense

Non-qualifying Homicide       Non-qualifying Juvenile

<p><b>A. NATURE OF CASE</b></p> <p><u>VICTIM</u></p> <p>one or more      <input type="checkbox"/> 2.0</p> <p><u>VICTIM INJURY</u></p> <p>received minor      <input type="checkbox"/> 2.5</p> <p>treated &amp; released      <input type="checkbox"/> 3.0</p> <p>hospitalized      <input type="checkbox"/> 4.0</p> <p><u>INTIMIDATION</u></p> <p>one or more persons      <input type="checkbox"/> 1.5</p> <p><u>WEAPON</u></p> <p>def.poss.dang.weapon      <input type="checkbox"/> 7.5</p> <p>def. used dang. weapon with or without victim contact      <input type="checkbox"/> 15.0</p> <p><u>PRIOR RELATIONSHIP</u></p> <p>same family - cohabiting      <input type="checkbox"/> -5.0</p> <p><u>ARREST</u></p> <p>at scene      <input type="checkbox"/> 2.5</p> <p>within 24 hours      <input type="checkbox"/> 1.0</p> <p><u>EVIDENCE</u></p> <p>admission/statement      <input type="checkbox"/> 1.5</p> <p>additional witnesses (other than victim)      <input type="checkbox"/> 2.0</p> <p><u>IDENTIFICATION</u></p> <p>victim/eyewitness      <input type="checkbox"/> 3.5</p>	<p><b>B. NATURE OF DEFENDANT</b></p> <p><u>FELONY CONVICTIONS - NON-VIOLENT</u></p> <p>one      <input type="checkbox"/> 2.0</p> <p>two      <input type="checkbox"/> 5.0</p> <p>more than two      <input type="checkbox"/> 8.0</p> <p><u>FELONY CONVICTIONS - VIOLENT</u></p> <p>one      <input type="checkbox"/> 7.0</p> <p>more than one      <input type="checkbox"/> 15.0</p> <p><u>STATUS WHEN ARRESTED</u></p> <p>parole, probation, sus. sentence, work release, furlough      <input type="checkbox"/> 7.0</p> <p>wanted (escape, bail default or in pre-trial release)      <input type="checkbox"/> 4.0</p> <p><b>C. MVP EVALUATION</b></p> <p>TOTAL SCORE _____</p> <p><u>SENIOR SCREENING COUNSEL RECOMMENDATION</u></p> <p>Accept <input type="checkbox"/> Reject <input type="checkbox"/></p> <p>Reasons _____</p> <p><u>MVP DIRECTOR DECISION</u></p> <p>Accept: Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Reasons _____</p>
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FIGURE 23. RECOMMENDED SCREENING PROCESS

THE SCREENING UNIT

1. The Screening Unit should continue to review the felony arrest lists from the Boston, Chelsea, Revere, and Winthrop Police Departments.
2. The above Departments should be provided copies of the new threshold selection criteria and Case Evaluation Form. District Court prosecutors should also be given those materials.
3. The threshold criteria for selection of MVP cases should be as follows:
  - a. The arrest is for a serious crime defined as:
    - Armed Robbery
    - Assault and Battery with a Deadly Weapon
    - Assault with Intent to Murder
    - Armed Assault with Intent to Rob
    - Possession of a Dangerous Weapon
    - Rape
    - Attempted Rape
    - Breaking and Entering of a Dwelling; or
  - b. Offender is known to be terrorizing the community; or
  - c. Offender has been convicted of a serious crime within the past five years or has completed a sentence for such a crime within the past five years.
4. Police departments and District Court prosecutors should be instructed to refer automatically to the Screening Unit any case which meets a threshold selection criterion. The Unit itself should also isolate any such case from the felony lists.
5. Any case which meets a threshold criterion but which is a narcotics offense, organized crime matter, or involves the offender's first felony arrest, should automatically be rejected by the Unit and that fact noted on the Case Evaluation Form.
6. In all other cases meeting the threshold criterion, the Screening Unit should complete a Case Evaluation Form. A recommended Case Evaluation Form is presented in Figure 22. The form should be completed to the extent possible with the data available to the Screening Unit. Some data, such as the defendant's criminal history at the Department of Probation, may not be available to the Screening Unit at the time the Form is filled out. In such cases, the Unit may use the Boston Police Department Identification records. However, that fact should be noted on the Case Evaluation Form.
7. The Unit should tentatively accept cases scoring 20 points or more and forward all completed Forms to the MVP Director. Case preparation should begin on those cases which have been tentatively accepted by the Senior Screening Counsel.

FIGURE 23 (Continued)

THE MAJOR VIOLATORS PROJECT DIRECTOR

1. The MVP Director should review and prioritize all cases which score 20 points or more. Those scoring less than 20 points should be reviewed for completeness and to insure quality control in the screening process. Some Case Evaluation Forms may be set aside to await receipt of Department of Probation Records.
2. The MVP Director should accept for prosecution those cases which scored 20 or more points and which he determines most closely correspond to the established MVP goals for successful prosecution (convictability within a set time period resulting in imprisonment). As noted in Section 4, prioritizing a case by its likelihood of success requires a determination of the probative value of articulated evidentiary elements.
3. Because MVP resources are limited, cases scoring 20 or more points must be assigned to available prosecutors pursuant to the Project Director's prediction of successful prosecution, that is, according to his determination of the strength of the evidence. If a case does not score 20 points, or scores 20 points but has a low likelihood of success, or there are not adequate MVP resources available, the case file and Case Evaluation Form should be forwarded to the Main Office. A recommendation concerning the attention the case deserves in view of the seriousness of the offense and the weakness of the evidence should be endorsed on the case file.

A P P E N D I X    A

HYPOTHESIS TEST: "PUNISHMENT FITS THE CRIME"

HYPOTHESIS TEST: "PUNISHMENT FITS THE CRIME"

The record data appeared to provide an excellent opportunity to carry out other analyses of the functioning of the District Attorney's Office over time. One was determining whether defendants convicted of more serious offenses received more severe penalties. A problem arose, however, due to time restraints. Although an individual may have committed and been charged with many crimes, our coding only took cognizance of the total or "aggregate" sentence. To do otherwise would have complicated other more crucial evaluation components as well as required an inordinate amount of time. Consequently, we could not conduct a "charge-for charge" analysis.

One obvious solution would have been to compare defendants convicted of only one serious charge to defendants who were convicted only of one clearly less serious offense. However, there were two problems with this approach. First, the sample of defendants did not provide a sufficient number of persons convicted of only one charge for reliable statistical analysis. Second, we were concerned not with whether murderers receive more severe sentences than persons who pass bad checks, but with whether persons committing more serious crimes received heavier penalties for those crimes.

A solution to the problem was available, nevertheless. Defendants in the four analysis cells had been precoded according to the seriousness of their offenses. The Major Violators (Cell 1) and the defendants charged with major violator type crimes prior to the formation of the Project (Cell 3) could be considered a population of "serious" offenders. The two comparison groups, Cells 2 and 4, respectively, could be considered as relatively less serious for purposes of analysis.

Table A-1 shows sentence distribution by cell for all defendants convicted of at least one of the offenses charged against them. Clearly, defendants in Cells 1 and 3 received more severe sentences. There were fewer suspended sentences (5% and 7% vs. 47% and 37%), fewer defendants received minimum sentences, and the median sentences in Cells 1 and 3 were significantly higher than in Cells 2 and 4. On the basis of this analysis, one could conclude that, indeed, justice was being served, since more serious offenders receive longer sentences. While the pre-MVP serious cases were also treated more severely, there may have been changes in the DA's Office which could have caused the difference in penalties.

TABLE A-1: SENTENCING PATTERNS BY CELL

Sentence	Major Violators (N=166)	Pre-MV "Serious" (N=148)	Concurrent Non-MV (N=177)	Pre-MV "Non-Serious" (N=175)
Suspended	5%	7%	37%	47%
Receiving one year or less	1%	1%	9%	4%
Median	9-12 yrs	7-15 yrs	1 yr or less	1 yr or less
Median (excluding suspended sentence)	10 yrs	8 yrs	5 yrs	5 yrs
Maximum (excluding life)	45-60 yrs	25-50 yrs	18 yrs	18 yrs
Life imprisonment	3%	3%	3%	1%

We therefore decided to do a second analysis on the defendants in all four cells to eliminate the possible effects of selection or time. A group of defendants convicted of more serious crimes, regardless of cell, was isolated and compared with a group committing relatively less serious offenses. On the basis of this analysis, described below, it was also determined that defendants who commit more serious crimes receive more serious penalties.

The FBI has classified seven types of crimes as "Crime Index Offenses"; these Part I offenses include murder, assault, robbery, rape, burglary, larceny and auto theft. As noted in the UCR 1975 report, "These are all serious crimes, either by their very nature or due to the volume in which they occur." Based on this list, a typology was constructed which included all of the offense categories noted in Table A-2. Note that these are only the more serious forms of the index offenses; for example, only armed robbery was included, as were burglaries of dwellings but not other buildings. Thus, offenders convicted of one of these offenses can be reliably considered "serious" offenders.

TABLE A-2: THE SEVEN CRIMES INDEX OFFENSES

Offense	Code
Murder	265-01
Assault with a deadly weapon	265-15
Armed robbery	265-17
Rape	265-22
Burglary	266-14, 15, 18
Larceny	266-25, 30
Auto Theft	090-24

TABLE A-3: DISTRIBUTION OF CRIME INDEX OFFENSES BY SAMPLE

Sentence	Major Violators	Pre-MV "Serious"	Concurrent Non-MV	Pre-MV "Non-Serious"	Total All Cells
Defendants convicted of Crime Index Offense	113 74%	89 71%	68 51%	61 52%	270 58%
Defendants convicted of Other Types of Offense	39 26%	37 29%	65 49%	56 48%	197 42%
Total	100%	100%	100%	100%	100%

Table A-3 is included for reference only. It shows the distribution of offenses by type for each of the four cells. Two important facts should be noted. First, Cells 1 and 3 contain a higher proportion of Index violators; that is, persons convicted of at least one Part I offense. The distribution in these cells, in which approximately three out of four offenders are "serious", in one sense validates the coding of Cell-1 and Cell-3 defendants. Second, there are some serious and non-serious offenders in each cell, so that an analysis by Part I vs. Part II crimes is relatively independent of effects of time or judicial knowledge that the defendant is a targeted major violator.

Table A-4 shows sentencing patterns by type of offense. Part I offenders received fewer suspended sentences, fewer minimum sentences, and higher maximum sentences. Further, the median sentence was lower, if we include suspended sentences. There was no effect on the percentage receiving life imprisonment, or on the median sentence with suspended sentences excluded. This may be a reflection of the fact that the Type II crimes do include a few serious crimes, such as kidnapping or arson, which might result in some defendants receiving relatively lengthy sentences.

TABLE A-4: SENTENCING PATTERNS BY TYPE OF OFFENSE

Sentence	Crime Index (N=270)	Part II Only (N=197)
Suspended	17%	34%
Receiving one year or less	2%	6%
Median	7 yrs	3 yrs
Median (excluding suspended sentences)	10 yrs	10 yrs
Maximum (excluding life)	45-60 yrs	25-50 yrs
Life imprisonment	3%	3%

Nevertheless, whatever the mode of analysis used, there appears to be a relationship between seriousness of offense and punishment received and that judges in Suffolk County imposed more severe sentences upon persons convicted of more serious crimes.



A P P E N D I X    B

DIRECT AND INDIRECT MVP COSTS



#### DIRECT AND INDIRECT MVP COSTS

Adequate data is the basic requisite for cost-benefit analysis. Data limitations have been referred to earlier in this report and the resulting constraints described. However, in no other area have the limitations been so extreme as those we found in attempting the cost analysis. Consequently, it has not been possible to conduct the cost-benefit analysis suggested in the evaluation design. Our data requests were often met with polite but disinterested remarks to the effect that "We don't keep those figures", or "We don't have any need for such information". Less often, our inquiries were answered more sympathetically but no more productively with statements that the "system" doesn't call for such information or that decision makers have never asked that records be kept to generate such information.

Despite such discouraging responses, nevertheless, we believed it might be possible - and useful, if successful - to make cost comparisons between the MVP and the Main Office. Unfortunately, our expectations for even this limited effort were unrealistic. Although Project costs are available and documentation of the expenditures of Federal funds is maintained across cost categories, the same is not true of the Main Office. Illustratively, telephone costs for the Main Office could not be secured without a massive effort to delineate the DA's share of all costs for telephone usage in the Courthouse building. Floor space (rent) costs for Main Office Assistant District Attorneys handling matters analogous to those of the MVP Trial Unit could not be obtained. Comparative equipment depreciation schedules were unavailable. It was impossible to allocate administrative support costs at the Main Office between cases analogous and dissimilar to those in the MVP. In short, the potential comparison was not between apples and oranges; it was more like trying to compare apples with sneakers.

A cost-benefit analysis contemplates the comparison of at least two alternative means of achieving an objective. In this study, we determined that data limitations made that impossible. What we further determined was that even simple cost comparisons to permit judgments about cost efficiency between the MVP and analogous Main Office operations were not possible. Therefore, we are able only to comment about the cost effectiveness of the total expenditures for the MVP. Before doing so, however, it should be noted that data from companion agencies of the prosecutor are no more valuable for cost-analysis purposes. Judicial branch records - including those of the Superior Court Clerk's Office - are of little use in determining the costs of processing serious

criminal matters. Equally useless are the records of the Boston Police Department which cannot identify the costs for police time spent on all serious criminal cases in the Superior Court of Suffolk County or MVP cases specifically. In fact, the Boston Police Department does not divide its overtime costs between Court matters and other functions.

Whatever the data limitations may be, certain results attributable to the existence of the Project are clear. Between September 1, 1975, and August 31, 1976, for a total cost of \$445,000, the MVP reduced the time between arrest and disposition of its serious criminal offenders by nearly two-thirds over the Main Office. The Project increased the likelihood of conviction of such offenders and was responsible for increased periods of incarceration for those convicted. These results were obtained while at the same time the actual number of trials increased. Police and civilian witnesses spent less time in court on each of the cases which the Project processed. The Project achieved a higher percentage of convictions upon original charges than did the Main Office and had fewer cases dismissed.

The cost of the Screening Unit, apart from the balance of the MVP, is \$148,000, or one-third of the total Project's total budget. We cannot assess the Screening Unit's cost-effectiveness, since there are no comparative data. However, the cost efficiency of the Unit can be gauged. It screens approximately 2500 cases per year at an average cost of \$60.00 per case. Because much of the screening is superficial, in the majority of rejected cases the effort expended in screening and rejecting serves no further purpose. Therefore, the cost efficiency of the Unit can better be measured in terms of cost per accepted case. It is these cases which are subject not only to screening, but also to intensive evidence collection efforts. Unlike the situation where cases have been rejected, the Unit is continuously involved with the processing of accepted cases. The cost per accepted case is \$836.00. This figure raises a substantial question as to the cost efficiency of the Unit.

The importance of the Screening Unit cannot be overstressed. Much of the success of the Trial Unit and of the total Project is attributable to its work. Through early case preparation, conviction potential is enhanced. Positive witness attitudes are engendered by early attention from Screening Unit personnel. Police morale has increased as a consequence of early prosecutive attention.

If the important functions performed by the Screening Unit were extended to encompass rejected cases, the cost efficiency of the Unit could be increased without reducing its effectiveness. We have posited recommendations toward this end in Section 9.

**CONTINUED**

**2 OF 3**

Table B-1 presents the operational expenditures for the Major Violators Project for the period from September 1, 1975, through August 1, 1976.

Because of the aforementioned difficulties in collecting budgetary information for the District Attorney's Office and companion agencies, neither a cost-benefit analysis nor simple cost comparisons could be generated.

TABLE B-1: EXPENDITURES FOR MAJOR VIOLATORS PROJECT  
Sept. 1, 1975 to Aug. 31, 1976

Item	Expenditures	% of Section	% of Total Budget
I Total Cost	\$445,031.04		
II Screening Unit Total	148,300.41		(33.3)
Salaries	136,479.81	92.0	30.7
Office Supplies	6,930.00	4.7	1.6
Equipment	3,330.00	2.2	0.7
Training	642.00	0.4	0.1
Xerox	942.60	0.6	0.2
III MV Office Total Cost	273,102.87		(61.4)
Salaries	239,093.13	87.5	53.7
Office Supplies	14,070.00	5.1	3.2
Equipment	10,564.60	3.9	2.4
Xerox	2,457.73	0.9	0.5
Travel	3,553.41	1.3	0.8
Training	3,324.00	1.2	0.7
IV Witness Support	1,559.56	-	(0.4)
V Rent	1,344.00	-	(4.9)
Security	718.20		
Other Costs	20,000.00		

APPENDIX C

ADDITIONAL DATA

TABLE C-1: DEFENDANT SEX

Sex	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
Male	172	(97.2)	144	(96.6)
Female	4	( 2.3)	3	( 2.0)
Not Ascertained	1	( 0.5)	2	( 1.3)
Total	177	100.0	149	99.9

TABLE C-2: DEFENDANT AGE

Age	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
Less than 17	9	( 5.1)	13	( 8.7)
18 - 21	48	(27.1)	41	(27.5)
22 - 24	40	(22.6)	26	(17.4)
25 - 29	44	(24.9)	43	(28.9)
30 - 34	23	(13.0)	11	( 7.4)
35 - 39	4	( 2.3)	7	( 4.7)
40 - 44	3	( 1.7)	0	( 0.0)
45 and over	6	( 3.3)	5	( 3.4)
Not Ascertained	1	( 0.0)	3	( 2.0)
Total	177	100.0	149	100.0

TABLE C-3: DEFENDANT RACE

Race	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
White/Anglo	75	(42.4)	65	(43.6)
Black	99	(55.9)	76	(51.0)
Spanish	0	( 0.0)	4	( 2.7)
Other	3	( 1.7)	6	( 2.7)
Total	177	100.0	149	100.0

TABLE C-4: DEFENDANTS RESIDENCE

Residence	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
Boston	148	(83.6)	128	(85.9)
Revere	3	( 1.7)	3	( 2.0)
Winthrop	0	( 0.0)	1	( 0.7)
Chelsea	2	( 1.1)	2	( 1.3)
Instate, other than Suffolk County	17	( 9.6)	12	( 8.1)
Outstate	1	( 0.6)	2	( 1.3)
Not Ascertained	6	( 3.4)	1	( 0.7)
Total	177	100.0	149	100.0

C-5: PLACE OF ARREST

Place of Arrest	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
Boston	149	(84.2)	128	(85.9)
Revere	3	( 1.7)	3	( 2.0)
Winthrop	0	( 0.0)	1	( 0.7)
Chelsea	0	( 0.0)	2	( 1.3)
Instate, other than Suffolk County	11	( 6.2)	12	( 8.1)
Outstate	2	( 1.1)	2	( 1.3)
Not Ascertained	12	( 6.8)	1	( 0.7)
Total	177	100.0	149	100.0

C-6: PLACE OF OFFENSE

Place of Offense	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
Boston	168	(94.4)	141	(94.6)
Revere	7	( 4.0)	4	( 2.7)
Winthrop	0	( 0.0)	2	( 1.3)
Chelsea	0	( 0.0)	1	( 0.7)
Instate	2	( 1.1)	1	( 0.7)
Total	177	99.5	149	100.0

TABLE C-7: NUMBER OF VICTIMS PER CRIMINAL INCIDENT

Number of Victims	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
None	35	(19.8)	6	( 4.0)
1	92	(52.0)	99	(66.4)
2	23	(13.0)	30	(20.1)
3	13	( 7.3)	7	( 4.7)
4	5	( 2.8)	4	( 0.7)
5 or more	9	( 5.1)	6	( 4.0)
Total	177	100.0	149	100.0

TABLE C-8: SEX OF VICTIM

Sex	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
Male	84	(59.2)	100	(70.4)
Female	48	(33.8)	41	(28.9)
Not Ascertained	10	( 7.0)	1	( 0.7)
Total	142	100.0	142	100.0

TABLE C-9: CAUSE OF INJURY TO VICTIM

Cause of Injury	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
Firearm	6	(10.0)	8	(11.9)
Knife	5	( 8.3)	14	(20.9)
Blunt Instrument	16	(26.7)	16	(23.9)
Physical Force	27	(45.0)	28	(41.8)
Other Instrumentality	5	( 9.3)	0	( 0.0)
Not Ascertained	1	( 1.7)	1	( 1.5)
Total	60	100.0	67	100.0

TABLE C-10: HOSPITALIZATION OF VICTIM REQUIRED

Hospitalization Required	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
Yes	23	(16.2)	32	(22.5)
No	119	(83.8)	109	(76.8)
Not Ascertained	0	( 0.0)	1	( 0.7)
Total	142	100.0	142	100.0

TABLE C-11: RELATIONSHIP OF VICTIM TO OFFENDER

Relationship Found	MVP Universe		Comparison Sample	
	Defendants N=	%	Defendants N=	%
No	142	(100.0)	139	(97.2)
Yes	0	( 0.0)	4	( 2.8)
Total	142	100.0	143	100.0

**END**