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Uniform Crime Charging Manual

PROMIS
PROSECUTOR'S MANAGEMENT
INFORMATION SYSTEM
An Exemplary Project of LEAA

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PROMIS (Prosecutor's Management Information System) is a management information system (computerized or manual) for public prosecution agencies and the courts. Developed under a grant from the United States Department of Justice, Law Enforcement Assistance Administration (LEAA), PROMIS has been in operation in Washington, D.C., since January 1971 and is in various implementation stages in more than 30 other jurisdictions.

LEAA has designated PROMIS an Exemplary Project. Such designation is reserved for criminal justice programs judged outstanding, worthy of national attention, and suitable for adoption by other communities.

The Institute for Law and Social Research (INSLAW) has prepared a series of 21 briefing papers to explain to nontechnical audiences of prosecutors, court administrators, criminal justice planners, and members of the bar the underlying concepts of management and organization inherent in PROMIS. It is expected that these briefings will assist other jurisdictions to evaluate and when appropriate, implement PROMIS in part or in its entirety. The implementation can range from adoption of the concepts of management and organization, to the use of PROMIS forms and paperwork procedures, to the application of the manual or semiautomated version of PROMIS, and, finally, to the installation of the computer software.

Other PROMIS documentation produced by INSLAW under grants from LEAA includes a handbook on *PROMIS For The Nonautomated or Semiautomated Office*, research designs for using PROMIS data bases in statistical studies of criminal justice policies, a six-volume set of computer software documentation, and a 20-minute color documentary of PROMIS (16mm film or video cassette) for nontechnical audiences. The 21 briefings are as follows:

1. Management Overview of PROMIS
2. Case Screening
3. Uniform Case Evaluation and Rating
4. Special Litigation (Major Violators) Unit
5. Witness Notification Unit
6. Paralegals
7. Comprehensive Training
8. Reasons for Discretionary and Other Actions
9. Counting by Crime, Case and Defendant
10. Research Uses of PROMIS Data
11. Uniform Crime Charging Manual
12. Police Prosecution Report
13. Crime Analysis Worksheet
14. Processing and Trial Preparation Worksheet
15. Police Intake Worksheet
16. Standardized Case Jacket
17. Interface with Other CJIS
18. Privacy and Security
19. Analysis of Costs and Benefits
20. Transferability
21. Optional On-Line Inquiry and Data Input Capability

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PROMIS
BRIEFING SERIES***ACQUISITIONS****11. Uniform Crime
Charging Manual**

As noted earlier in this Briefing Series,¹ the chief prosecutor is faced with the problem of assuring that the discretionary authority exercised during case screening reflects the implementation of his discretion, not that of screening assistants, who, if left on their own, might well reach markedly different decisions when evaluating similar cases.

Indicative of the critical importance attached to the task of managing or structuring prosecutory discretion during screening is this statement by distinguished legal scholar Kenneth Culp Davis:

". . . the American legal system seems to be shot through with many excessive and uncontrolled discretionary powers but the one that stands out above all others is the power to prosecute or not to prosecute. The affirmative power to prosecute is enormous, but the negative power to withhold prosecution may be even greater, because it is less protected against abuse. . . . Perhaps nine-tenths of the abuses of the prosecuting power involve failure to prosecute, and courts normally have no occasion to review such cases."²

A major study has reported the effects on office operations of insufficient control over discretion exercised by screening assistants. For example, in one branch office of a district attorney, 50 percent of felony robberies were rejected at intake and screening; in another branch office, 81 percent were rejected.³ Similar disparities existed for other crimes. These differences were attributed primarily to prosecution factors. "The result is undesirable inconsistency in the outcome of individual cases. Defendants arrested for a particular offense in one particular jurisdiction are likely to suffer more severe or more lenient treatment solely because of the location of their arrest or of their adjudication."⁴

*One of a series of 21 Briefing Papers for PROMIS (Prosecutor's Management Information System), this publication was prepared by the Institute for Law and Social Research (INSLAW), Washington, D.C., under a grant from the Law Enforcement Assistance Administration (LEAA), which has designated PROMIS as an Exemplary Project. Such a designation is reserved for criminal justice programs judged outstanding, worthy of national attention, and suitable for adoption by other communities. Presenting a bird's-eye view of PROMIS capabilities, the Briefing Papers are one facet of INSLAW's LEAA-funded program designed to assist local prosecutors evaluate and, when appropriate, implement PROMIS. In January 1971, the computerized information system was initiated in Washington, D.C., where prosecutors continue to rely upon PROMIS to help them manage more effectively an annual work load involving allegations of 8,500 serious misdemeanors and 7,500 felonies. (A manual version of PROMIS is also available and parallels the capabilities of the computerized system.)



The study concluded that the large differences in the exercise of prosecutory discretion "should be cause for concern . . . because it means that criminal justice lacks evenhandedness in the county." 5

A NATIONWIDE PROBLEM

The conditions unearthed by the foregoing study are by no means restricted to a single jurisdiction only. Rather, the problem posed by unguided prosecutive discretion has elicited the attention of both the American Bar Association (ABA) and the National Advisory Commission on Criminal Justice Standards and Goals.

According to an ABA criminal justice standard, "Each prosecutor's office should develop a statement of (i) general policies to guide the exercise of prosecutorial discretion and (ii) procedures of the office. . . . In the interest of continuity and clarity such a statement of policies and procedures should be maintained in a handbook of internal policies of the office." 6

The commentary to a similar National Advisory Commission standard explains that "the standard requires prosecutors to formalize their screening policies in written form. Such a statement might set out different policies for those charged with various offenses and for various categories of situations within the definition of a single crime." 7

Expanding on this, another Commission standard states, "Each prosecutor's office should develop a detailed statement of office practices and policies for distribution to every assistant prosecutor. These policies should be reviewed every six months. The statement should include guidelines governing screening, diversion, and plea negotiations, as well as other internal office practices." 8 Because it is considered a perceptive observation on the use of prosecutory discretion, part of the commentary to the foregoing standard is cited below:

"The prosecutor's office exercises a vast range of discretion in making a multitude of decisions concerning screening and diversion of offenders, initiation of charges, plea negotiations, and sentencing recommendations. Decisions that affect the lives of individuals as drastically as these should not be made in a purely random, ad hoc, and informal manner. Such decisions should be made in accordance with policies that have been carefully developed and frequently reviewed. Although different criminal cases present different factual settings and involve defendants with varying



backgrounds, efforts should be made, particularly in large offices, to see that differences in policy reflect such different circumstances and not merely different policies being followed by different staff attorneys. The development of such policy guidelines should lead the prosecutor's office to evaluate the present approaches being taken to various critical aspects of the processing of cases. The periodic review of these guidelines provides an opportunity for frequent reevaluation, as well as an occasion for ascertaining whether previously enunciated policies are in fact being followed by assistant prosecutors."⁹ (Emphasis added.)

PREPARING A SCREENING GUIDELINES MANUAL

Consistent with the above standards, a manual delineating and promoting uniform crime-charging policies was prepared by the prosecutor's office in Washington, D.C.¹⁰ The impetus for the development of the manual was generated as a by-product of PROMIS, whose implementation required prosecutors to take a hard look at existing procedures and policies. As a result, stated a Washington prosecutor:

"[We] were able to see problems and weak spots that needed solutions. We were able to develop other innovations which could help us to do our job more effectively. . . . We were able to see that in the area of prosecutory discretion, which PROMIS helps us to measure,¹¹ we needed to articulate our guidelines and policies. So we developed an intake and screening manual, further guaranteeing evenhanded justice by insuring consistent and uniform charging policies."

Not only a training device for new prosecutors but also a reference guide for screening assistants (who generally possess the least experience), the manual seeks to structure procedures and decisions of assistants in a manner conforming to the policy and priorities established by the chief prosecutor. Screening procedures and forms¹² are described in detail, along with the legal aspects of charging, the organization of the office, witness procedures and requirements, PROMIS orientation, and various details about case processing after the screening stage.

Emphasis is placed on the value of complete, accurate, and legible entries on forms and case jackets so that other assistants handling a given case at arraignment, preliminary hearing, presentment, and trial can quickly refer to and evaluate the many facts recorded during screening, the first step in case development.



The core of the manual is its sections that provide uniform guidance to screening assistants in determining whether a sufficient case is made for prosecution, deciding what charges should be brought, adhering to pretrial procedural matters (setting trial dates, scheduling lineups, obtaining warrants, securing physical and scientific evidence), enrolling defendants in diversionary programs, and avoiding common pitfalls.

The crime-charging sections of the manual enhance evenhandedness and equal application of the law by providing clear guidelines to screening assistants in such areas as these:

- Determining whether arson was the probable cause of a fire.

- Assuring that certain special procedures are followed in cases of assault on a police officer.

- Securing the necessary evidence to substantiate a charge of assault with a dangerous weapon.

- Documenting the identity of owners of buildings or dwellings involved in burglary cases.

- Delineating the dividing line between a felony and misdemeanor regarding destruction of real or personal property, narcotics offenses, and larceny.

- Defining (1) the amount of cannabis that must be recovered before a charge can be brought, (2) types of dangerous drugs, and (3) "implements of crime" in narcotics cases.

- Determining when to bring the charge of receiving stolen property and what types of photographs, if any, are required.

- Deciding when handwriting exemplars are required.

- Following specified procedures when the arrestee is an informant, alien, or member of the armed forces.

- Applying criteria to determine if the defendant should be diverted into a program of rehabilitation or employment training as an alternative to criminal prosecution.

- Pursuing special procedures when arrestee and complainant are members of the same immediate family.



- Ascertaining the type of witnesses (arresting officer, victim, defendant's spouse, car passengers, etc.) that should appear at screening for each of various charges.¹³

Thus, the discretion exercised during the crime-charging process is structured and channeled according to the policies of the chief prosecutor, in contrast to being conducted according to the disparate judgments of individual screening assistants. Also, the manual raises the visibility of crime-charging by spelling out bench marks which can serve as the basis for subsequent monitoring of screening decisions to determine their conformance to office policy.

The manual also helps conserve the time of supervisory attorneys since they are not flooded with questions from screening assistants, who can find answers to scores of queries in the printed guidelines. Of course, the screening manual does not cover every conceivable situation that could develop. Generally, however, those problems or questions on which the manual is silent are precisely the types of issues about which supervisory attorneys should and want to be consulted. In essence, the guidelines permit effective delegation within the prosecutor's office by enabling problems to be resolved at the lowest organizational level consistent with sound decision making.

Not to be overlooked are the advantages of presenting the screening guidelines in the format of a manual. In many jurisdictions, office policy is promulgated through a series of memoranda, which often do not constitute a systematic treatment of the various areas which they address. Memos also tend to be misfiled, lost, generally difficult to locate when needed for reference, and issued in response to specific crises. In contrast, a manual consolidates all guidelines, is easily filed and retrieved, treats various problem areas in a systematic way, and can be developed in a noncrisis atmosphere and designed so that future additions or other changes can be incorporated with ease.

IN CONCLUSION . . .

The crime-charging manual as used by Washington's prosecutors conforms to the general approach advocated by the National Advisory Commission: structure discretion insofar as possible without reducing the flexibility that makes discretionary administrative processing so valuable a part of the criminal justice process.¹⁴



The assistant prosecutor can consult this manual at the intake and screening stage--where the first exercise of prosecutory discretion occurs--to determine the chief prosecutor's established policies for each type of offense, for enrollment of defendants in diversionary programs, and for the administrative procedures necessary to effect various decisions. In this way, a critical objective can be achieved: the application of discretion as evenhandedly as possible in fairness to arrestees, victims and witnesses, and various components of the criminal justice system.



FOOTNOTES

¹ Briefing No. 2, Case Screening.

² Kenneth Culp Davis, Discretionary Justice: A Preliminary Inquiry (Chicago: University of Illinois Press, 1973), pp. 188, 191.

³ Peter W. Greenwood, et al., Prosecution of Adult Felony Defendants in Los Angeles County: A Policy Perspective (Santa Monica, California: The Rand Corporation, 1973), p. 87. This study was funded by the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, Department of Justice. (Currently, PROMIS is being implemented in Los Angeles County.)

⁴ Ibid., p. 117.

⁵ Ibid., p. 115.

⁶ American Bar Association Project on Standards for Criminal Justice, The Prosecution Function and the Defense Function (Chicago: American Bar Association, 1971), pp. 64, 65.

⁷ National Advisory Commission on Criminal Justice Standards and Goals, Courts (Washington: Government Printing Office, 1973), p. 25.

⁸ Ibid., p. 243.

⁹ Ibid.

¹⁰ In the District of Columbia, the U.S. Attorney serves as the local prosecutor. About 75 lawyers are assigned to the D.C. Superior Court (equivalent to a state court of general jurisdiction), where prosecution of local "street crime" cases is conducted. About 16,000 allegations of such crimes are considered for prosecution annually.

¹¹ How PROMIS accomplishes this is explained in Briefing No. 8, Reasons for Discretionary and Other Actions.

¹² About 80 percent of the data entered in PROMIS is captured on screening-related forms.

¹³ Appendices in the manual summarize felony and misdemeanor charges and list lesser included offenses, as well as supply abbreviations, code citations, and penalties pertinent to each charge or offense.

¹⁴ National Advisory Commission, op. cit., p. 243.



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