

LAW ENFORCEMENT PLANNING COMMISSION

EVALUATION REPORT

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ACQUISITIONS



Project Title: Major Crime and Repeat
Offender Prosecution Unit

Grant No.: RII-76-27

Agency: Ada County Prosecuting Attorney

Grant Period: 7/1/76-6/30/77

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EVALUATION ABSTRACT

MAJOR CRIME AND REPEAT OFFENDER PROSECUTION UNIT

The Major Crime and Repeat Offender Prosecution Unit was implemented in the Ada County Prosecutor's Office on July 1, 1976, to insure that the more serious crimes and repeat-offender cases would receive adequate prosecutorial emphasis. The number of adult criminal cases bound over from Magistrate Court to District Court increased from 257 in the year 1971 to 560 in 1977, an increase of 118% in the six-year period.

A staff of three comprised the Major Crime Unit: a prosecutor, an investigator, and a para-legal assistant.

Significant Facts and Findings

1. There was no plea bargaining on MCU cases.
2. There was early, intensive case preparation. Cases were "trial ready" at the Preliminary Hearing.
3. Conviction was more likely than previously. A conviction rate of 86% on burglaries and robberies was obtained during the project year compared to the prior-year rate of 72% which included plea-bargained reduced charges. Comparing convictions as originally charged, the rate was 86% project year to 27% prior year.
4. Dismissals were less likely. The project-year dismissal rate was 13% compared to the prior-year rate of 19%.
5. The elapsed time from arraignment to case disposition was decreased 30% on the cases compared.
6. Sentencing recommendations on MCU cases are provided to the courts by a special panel comprised of the Unit Prosecutor, other prosecutors outside of the Unit, the investigating law enforcement officer and, in some cases, the victim.
7. Cases prosecuted by the MCU received stiffer sentences than the same type of case in the prior year. Offenders stood twice the chance of going to prison than if they had been prosecuted in the previous year. Seventy-two percent of the project-year sentences involved prison incarceration compared with 36% in the prior year.

MAJOR CRIME AND REPEAT OFFENDER PROSECUTION UNIT

Background and Introduction

The Ada County Prosecutor's Office has experienced dramatic increases in felony case activity in the last few years. The number of adult criminal cases bound over from Magistrate to District Court in Ada County have increased from 257 in the year 1971 to 560 in 1977, a total of 303 cases and an increase of 118% for the six-year period.

Attendant with the increasing workload of the office was a concern that cases involving major crimes and career criminals receive adequate prosecutorial emphasis. Serious felony cases have been exhibiting patterns of increasing complexity which require more intensive investigation and careful case preparation in order to have successful prosecution. With available resources straining to meet the increasing workload and with an absence of some resources such as investigative personnel, the need was apparent for personnel to concentrate their activities on the more serious crimes and repeat offenders.

On July 1, 1976, the Major Crime and Repeat Offender Prosecution Unit began operation with its primary purpose "to gain convictions in crimes against persons involving property cases, especially those attributed to career criminals by a targeted and coordinated approach." Law Enforcement Planning Commission grant funds in the amount of \$42,001 were matched with Ada County funds of \$14,832 for a project total of \$56,833. Total personnel costs of \$45,418 provided for a staff of three: a prosecutor, an investigator, and a para-legal assistant.

The crimes of robbery, burglary, grand larceny, receiving stolen property, and embezzlement were identified by the prosecutor as requiring additional emphasis, and since most career criminals within Ada County operated within these categories, these crimes were focused upon for the Unit's activity. However, the prosecution of a career or habitual criminal was not limited to the above crimes.

Case Selection

To implement the project, the Major Crime Unit personnel selected twenty-eight pending cases that appeared to fit the profile of the type of case the Unit would handle. New assignments were subsequently made by the Chief Criminal Deputy who reviews all felony filings.

The guidelines followed in MCU case assignment are contained in the Unit policy manual:

"Criminal cases are assigned to the unit on the general criteria of crimes against persons involving property which primarily fall into three crime categories:

- "1. Robbery
2. Residential or commercial burglary
3. Other felony crimes involving persons believed to be career criminals.

"Career or habitual criminals are defined as those persons that have committed a felony crime, excluding drunk driving, and:

- (1) have two or more felony convictions, or five or more felony arrests; or
- (2) the offender is currently on probation or parole for a unit target offense and has committed another unit target offense; or
- (3) if compelling reasons exist for unit prosecution including law enforcement intelligence information and/or the complexity of issues presented by a criminal act or series of criminal acts."

Upon receiving a case assignment, Unit personnel review the case and make the decision whether to accept the case for Unit prosecution, refer the case within the office for further action, or to decline prosecution.

Only cases involving individuals being tried as adults are handled by the MCU. Juveniles normally are referred to a special juvenile prosecutor.

Staffing

A senior deputy prosecuting attorney, an investigator, and a para-legal assistant are employed full-time on MCU activities. Stringent job descriptions have resulted in a level of expertise capable of successfully executing the stated project activities. The Unit Prosecutor was formerly the Chief Criminal Deputy for the Prosecutor's Office and has extensive experience in criminal prosecution. The investigator has over seven years of law enforcement experience in the local area spending most of that time in felony investigation. The para-legal holds an Associate degree as a legal secretary and had three years of responsible work experience in a legal firm prior to joining the Unit.

Method of Operation

Careful, comprehensive case preparation completed at an early date characterizes the operation of the Major Crime Unit. Recognizing the damaging effects to criminal case prosecution from the passage of excessive time, intensive effort is devoted to a case immediately upon acceptance so that the case is "trial-ready" at the time of the preliminary hearing in Magistrate Court. In many instances, the time available for this preparation is approximately one week, thus a high degree of cooperation and coordination within the Unit and with other interested parties is required.

Plea bargaining is practically eliminated in the MCU operation. Where plea negotiations are used, it is early in the development of a case, and the purpose is to assure that the appropriate charges are made against the offender. The Unit Prosecutor expressed the policy regarding plea bargaining in a communication to the Public Defender's Office in this manner:

"The goal of the Unit is to have each case prepared for trial at the time of the preliminary hearing so that each case can be properly charged and investigated to the maximum extent possible. There are no plea negotiations entered into in any form after the preliminary hearing has been held. Traditionally, plea bargaining involves either charge bargaining or sentence bargaining. Sentence bargaining will not be entered into in any form either before or after a preliminary hearing. Charge bargaining will only be entered into before a preliminary hearing occurs in a case involving multiple felony counts. In this type of case, the only acceptable charge bargain will be a plea of guilty to a minimum of two felonies of my choice."

The investigative function plays a more prominent part in the activities of this project than in some major offense units elsewhere. There is a distinct advantage in having an investigator as an immediate member of the team rather than to rely entirely on outside investigation. Attention can be given immediately to high-priority issues as case flow may require and the close coordination with the Unit Prosecutor results in a more efficient and effective use of time than would otherwise occur. Case development is constantly being reviewed and discussed within the Unit with efforts being directed toward increasing the quality of case preparation.

While the follow-up investigation, the gathering of additional evidence in some cases, and the general strengthening of Unit cases constitute the major part of the investigator's activities, an increasing amount of time is also being spent on offensive investigations directed against career criminals and those unknown persons involved in serious and repetitive crimes.

Although the investigative function is, by design, prominent in project operation, it is not intended to replace or diminish any other agency's investigative role. Rather, it serves to augment existing services and to insure the completeness of evidentiary material and compatibility with the Unit's prosecution methods.

The cooperation of established law enforcement agencies is an essential ingredient in achieving maximum project effectiveness. The early involvement in case development by the Unit investigator, in many instances before an arrest is made, calls for a high degree of trust and understanding between the participants. The MCU maintains a low profile and the cooperating agencies do not feel threatened by the assistance provided.

Major Crime Unit cases do not receive any priority in the court calendar and assume their place in the case flow with the normal case load. Project

personnel stated that this was probably the best arrangement at this time as no major difficulties had been encountered in calendaring the majority of cases. There were a few instances in which it was necessary to delay complex cases that would require a greater than average amount of time until sufficient court time was available. The positive efforts on the part of the courts to reduce case delay has kept this type of problem to a manageable level.

One external difference distinguishes Unit case file folders from regular cases. All MCU folders are goldenrod in color and contrast with the usual buff color of regular cases. The outside of the front cover contains a complete record of actions taken; inside the front cover, information regarding witnesses, evidence, and trial preparation is recorded.

During the project's first year of operation, a method of providing judges with sentencing recommendations was instituted and has become an integral part of the procedures. A description of the activity is quoted from the fourth quarter Progress Report submitted by the subgrantee:

"The Unit's deputy prosecutor has, during this quarter, established a new policy with respect to sentencing recommendations on Major Crime Unit cases. On each case, a sentencing recommendation panel is convened, generally comprised of the Unit prosecutor and investigator, two deputy prosecutors from outside the Unit, the investigating law enforcement officer and, in selected cases, the victim of the crime. The panel reviews the circumstances of the crime, the defendant's occupational and personal background, the defendant's criminal history, and the presentence investigation report. A written sentence recommendation, bearing the signature of all of the panel members, is then submitted to the sentencing judge with fully supported rationales for the punishment recommended. Since this system was adopted, the Unit has been able to secure much more appropriate sentences. This concept has elicited several laudatory comments from the ranks of the District Court judges and will be a continuing practice of the Major Crime Unit during the next project year."

Project Results

Unit Caseload. During the project year, 184 cases involving 125 defendants were assigned to the Major Crime Unit. Thirty-four robbery caseloads and 69 burglary cases made up 57% of the total. Twenty-six larceny cases (14%); 22 of receiving (12%); and 33 classified as other (18%) comprised the remainder. Fifty-eight (46%) of the defendants were charged with the crime of burglary; thirty (24%) with robbery; fourteen (11%) with receiving stolen property; and the remaining 23 (18%) with other felony crimes.

In comparing project year to prior year results, burglary and robbery cases only were used. Since individuals charged with these crimes constituted 70% of the total during the project year, substantially all of the cases in these categories were included in the prior-year comparison group and the Unit's operational year, the comparison of these data should be a good indication of performance. Time and the difficulties in manually retrieving data were limiting

factors in the compilation of this report and dictated the use of readily available information.

Conviction and Dismissal Rates. Chart No. 1 compares conviction and dismissal rates on 102 prior year cases and 71 project year cases and shows combined overall conviction rates of 72% and 86% respectively. When comparing the years as to convictions of crime charged, the difference is more dramatic with a 27% rate for the prior year as against the 86% for the project year. The Conviction on Lesser Crimes column gives some indication of the extent of plea bargaining utilized in the comparison year. One-half of the prior-year cases examined involved plea bargaining.

A dismissal rate of 13% for the combined cases during the project year compares favorably with 19% for the prior year. No plea bargaining was involved in project year dismissals.

CHART 1

CONVICTION AND DISMISSAL RATES -- PRIOR AND PROJECT YEARS

	Prior Year			Project Year		
	Conviction on Crime Charged	Conviction on Lesser Crimes	Dismissal Rate	Conviction on Crime Charged	Conviction on Lesser Crimes	Dismissal Rate
Robbery	18%	41%	41%	75%	0	25%
Burglary I	31%	43%	12%	95%	0	5%
Burglary II	26%	50%	18%	80%	0	10%
Combined Burglary and Robbery	27%	45%	19%	86%	0	13%

CHART 2

COMPARISON OF ELAPSED TIME FROM ARRAIGNMENT TO DISPOSITION - PRIOR AND PROJECT YEAR

Crime	Prior Year			Project Year		
	No. of Cases	Average Elapsed Time	Median	No. of Cases	Average Elapsed Time	Median
Robbery	20	95 days	85 days	22	64 days	43 days
Burglary I	42	98 days	71 days	26	76 days	68 days
Burglary II	24	100 days	66 days	5	59 days	60 days
Combined	86	98 days	69 days	53	69 days	58 days

Elapsed Time to Dispositions. One objective of most major crime units is the reduction of case processing time. The eroding effects of time are well known to all prosecutors; witnesses move away, memories dim, and intervening events confuse the issue. While this project did not state the reduction of elapsed time as an objective, it is important to examine this factor periodically as a performance measure.

Chart 2 gives the available figures on elapsed time from arraignment to disposition. The comparability of the cases in the two years is subject to question, but the data is presented for its informational value and as a reference for later use. For the combined crimes of robbery and burglary, cases from the comparison group had an average elapsed time of 98 days and a median time of 69 days. Project year cases had an average of 69 days with a median elapsed time of 58 days. The elapsed times by crime category are also shown in the chart.

Caution should be used in the utilization of the figures shown. As stated earlier, half of the comparison group cases had some plea bargaining in their process. The effect on elapsed time due to the bargaining is not known but makes comparability questionable since none of the project year cases were plea-bargained. Another factor that could affect the reliability of the figures was the unavailability of elapsed time on a number of early project-year cases and the fact that some cases were not afforded the Unit's normal treatment since the project was implemented by selecting approximately 28 cases pending from the previous year. Also, information from court records indicates a reduction in processing time for felonies in general. No attempt was made to determine what influence this factor may have had on project results.

Repeat Offenders

Repeat offenders are receiving special attention by this project. Intelligence files being developed and maintained by Unit personnel give promise of increasing impact on the prosecution of this type of criminal. Approximately one hundred fifty offenders are now included in these files.

The persistent violator charge is used in every instance where it is applicable according to the Unit Prosecutor. Five individuals were prosecuted under this status during the project year. Two received the maximum sentence for their crimes and the others had additional time added to the maximum sentences for the crimes for which they were convicted. Offenders convicted under this status are sentenced to the penitentiary for not less than five years and the sentence may extend to life.

Sentencing

Sentences on MCU cases were more severe relative to incarceration in the penitentiary than the comparison-year cases. A definite shift away from probation and jail time to prison sentences was noted in the 52 project-year sentences, compared with 73 prior-year sentences. Forty-two percent of the prior-year sentences was for probation only (30 out of 73) and project-year sentences had 18% (9 out of 52) in this category. The average probation time

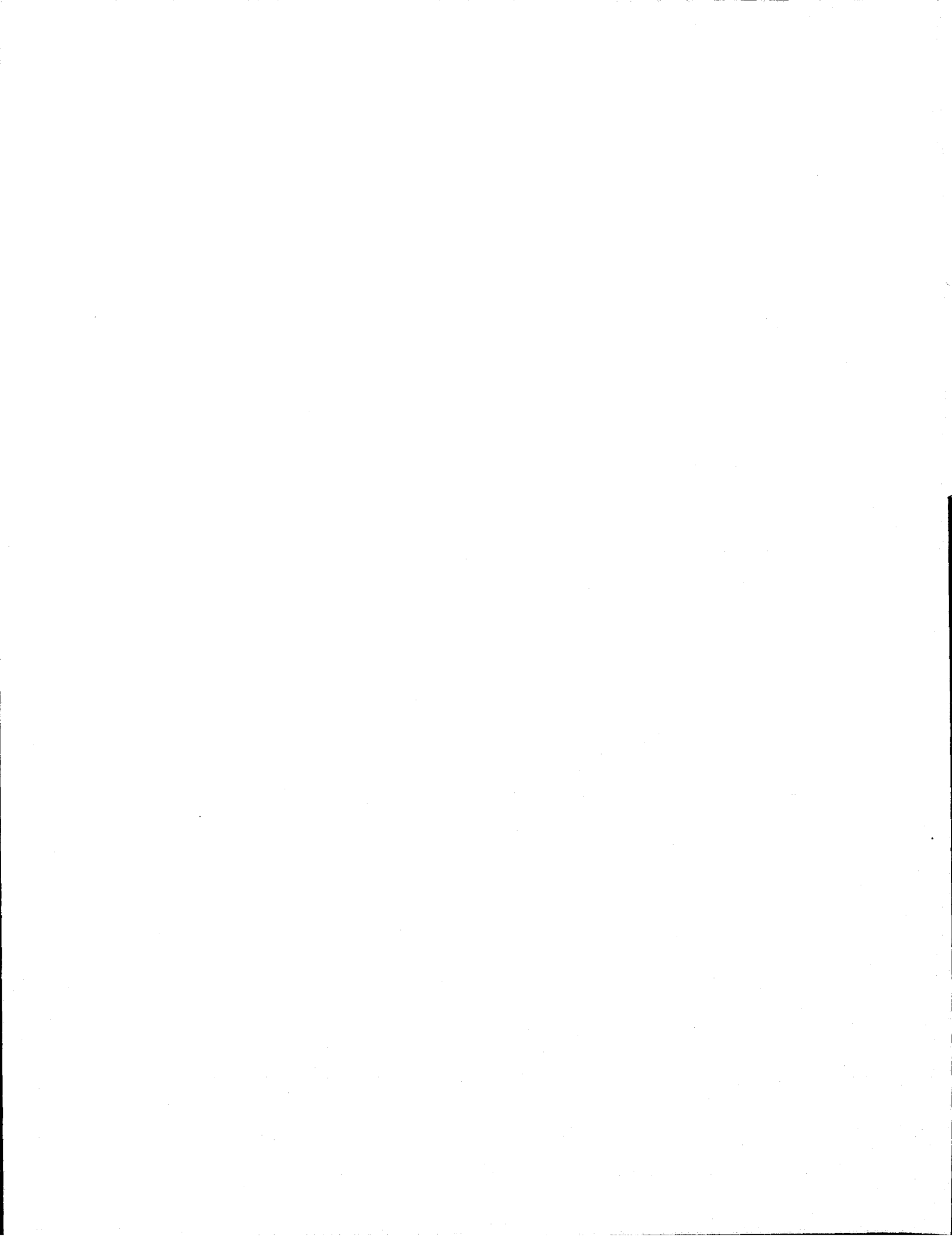
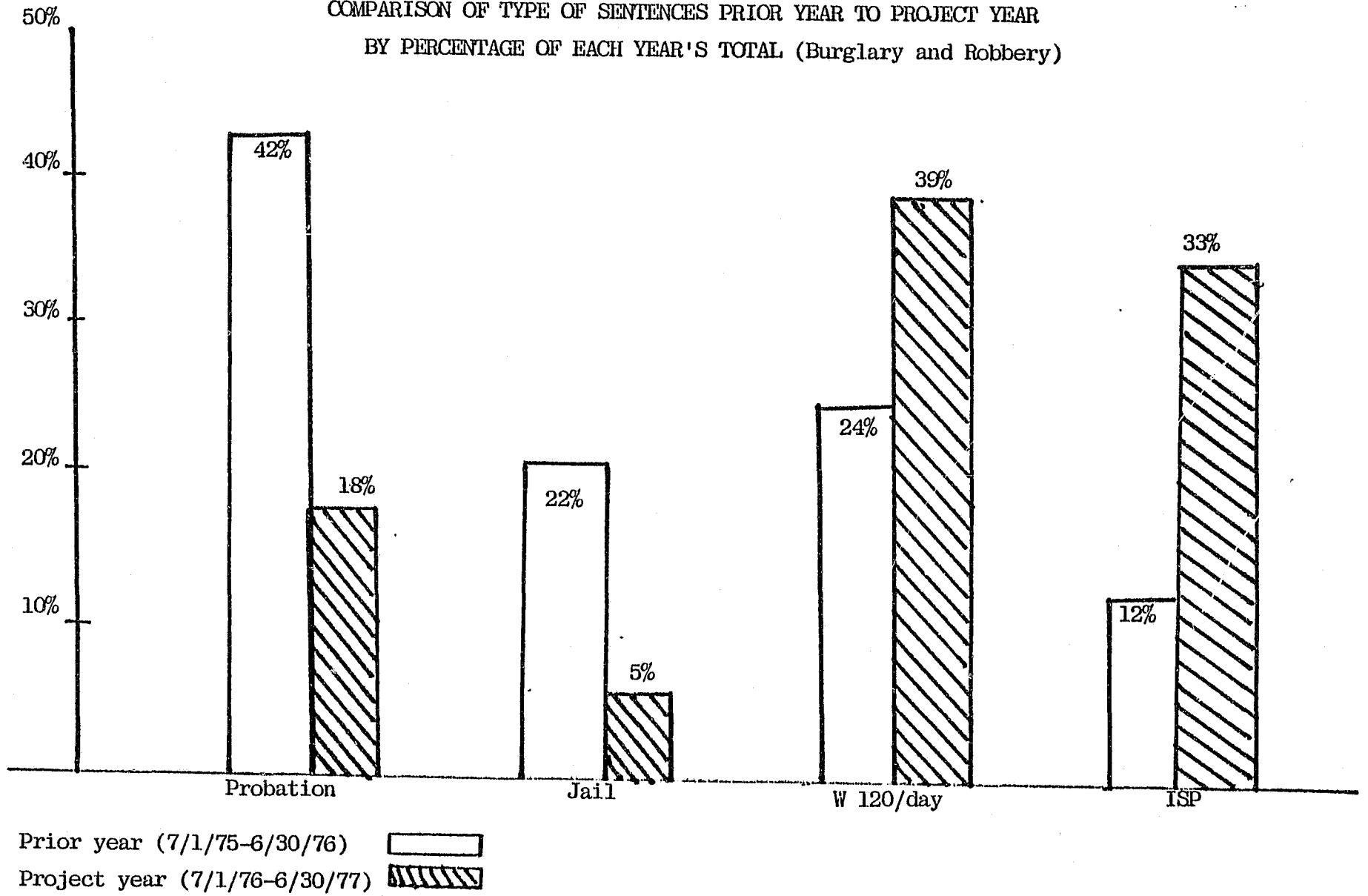


CHART 3

COMPARISON OF TYPE OF SENTENCES PRIOR YEAR TO PROJECT YEAR
BY PERCENTAGE OF EACH YEAR'S TOTAL (Burglary and Robbery)



imposed in the prior year was two years and nine months, increasing in the project year to five years and nine months. Likewise, the use of jail time decreased to five percent of the total sentences during the project year from 22% in the previous year. The use of the penitentiary sentences with the 120-day retained jurisdiction increased from 24% to 39%, and regular penitentiary sentences increased from 12% to 33%. The increase in the relative number of prison sentences without the 120-day rider is of significance for this type of project. Combining the two categories of prison sentences, 72% of the project year sentences involved prison incarcerations compared with 36% in the prior year.

Chart 3 illustrates the above comparison graphically and Appendix A provides more detail as to length of sentences.

Evaluation Limitations

As stated under Project Results, most of the statistics in this report used for comparison purposes are for burglary and robbery cases only. Since 70% of the offenders were charged with these crimes, it was the evaluator's opinion that the comparison of these data would be a good indication of performance.

Only the prior year was used for comparison. While data from several preceding years would have been desirable, time and available resources did not permit. The lack of additional data is not considered a serious deficiency considering the scope and intensity of this evaluation.

The project was implemented with cases pending from the prior period. While this method was according to plan, these cases did not receive the early intensive case preparation afforded cases later assigned on a current basis and consequently had a penalizing effect on Unit performance when included in the total cases processed. Sentences were notably lighter for this group as compared to later cases. Only two individuals out of thirteen sentenced received regular prison sentences, and these were for three years on two charges each to be served concurrently. Four offenders were committed to the Ada County Jail, and the rest received penitentiary sentences with 120-day riders. Data was missing on most of these cases relative to elapsed time from arraignment to disposition but, in four cases out of the five that contained this information, the elapsed time exceeded the average or median time for that type of case.

This report examines the first twelve months of the project operation. This is an early period to assess for an accurate picture of operation and performance of any demonstration project utilizing new and unique procedures or approaches. This is generally a period of development and "settling in" with maximum efficiency and effectiveness occurring after some months of operation.

General Comments

As indicated under Project Integrity, the operation of this project coincided to the highest degree with the declarations in the application.

In view of the first-year performance, it is accurate to state that two elements essential to a successful project were present in the development and operation of the project; namely, adequate planning and good project management.

Another essential element present is a knowledgeable and dedicated staff. Success with this program demands a coordinated, cooperative effort by all of the staff and the application of above average skills by each member. The Major Crime Unit staff meets all of these criteria, both as to qualifications and operational performance.

Data gathering on the project operation for evaluation purposes was more laborious than should have been necessary. A register of cases during the earlier months was not complete, and data was supplied for the year on summary sheets taken from the individual files at the project-year end. While accurate statistics may be obtained in this manner, it requires a meticulous approach by one thoroughly familiar with the Unit's past operations. Project records should be readily available and easily interpreted by any interested person. In addition, management is deprived of some essential performance indicators when this information is not available at all times and in useable form. A case register has been maintained since midyear, but includes only those cases processed by the Unit, excluding those assigned and then transferred out for reassignment.

Some staff changes occurred about midway through the first year of operation. The prosecutor and the para-legal positions changed personnel at that time. The effect of these changes on project operation or performance was not assessed although there were indications that some of the Unit policies were firmed up and formalized at that time.

The Project Director described the character of the Major Crime Unit as being "high energy, low profile." That appears to be a good description.

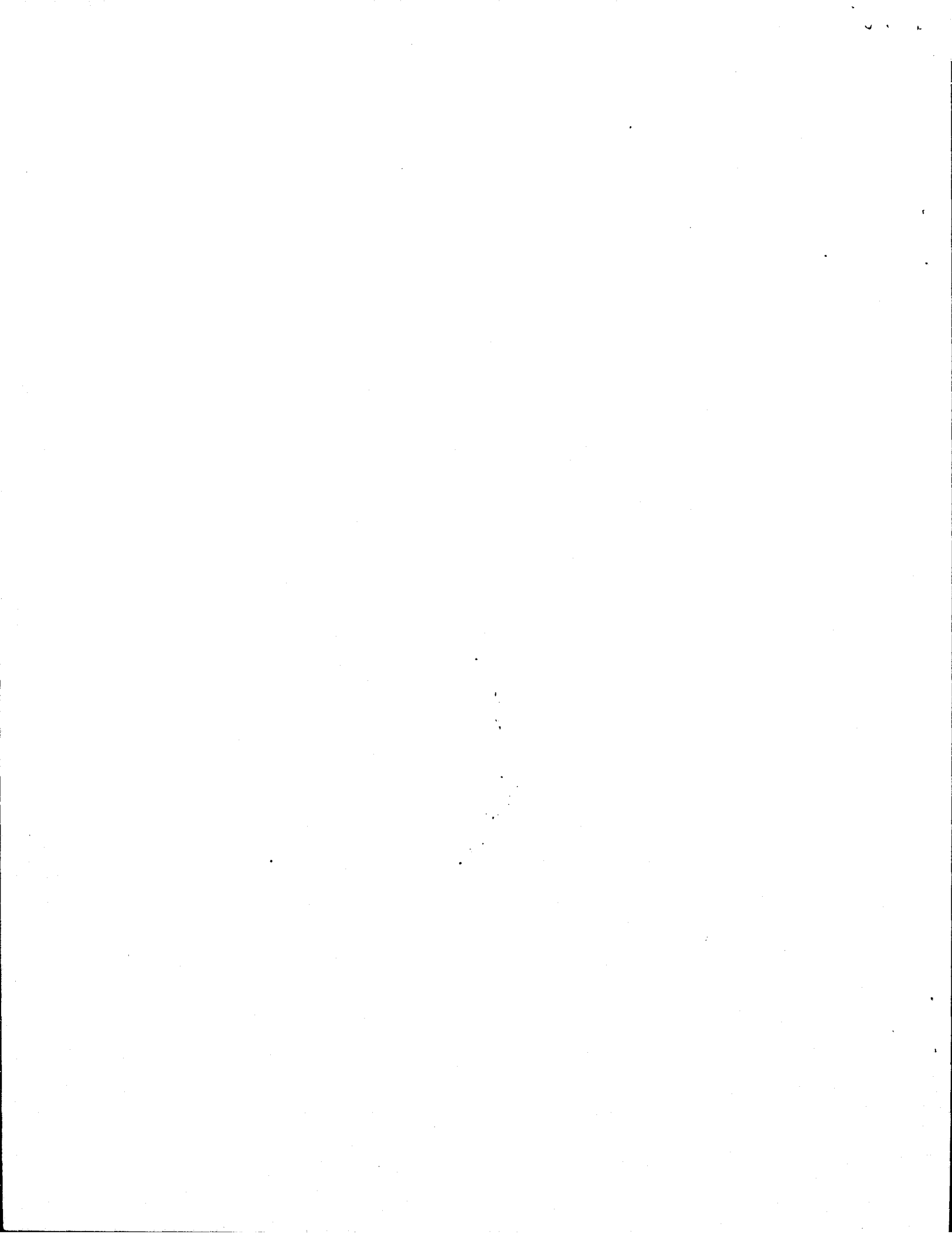
Recommendations

1. Screening criteria and practices should be reviewed for their adequacy and compatibility with the new screening project to be implemented in the prosecutor's office. Consideration should be given to a method of establishing case priorities either at the intake point or at the Unit level.

2. The record-keeping function should be re-examined. A case register which includes all cases assigned should be maintained. Detailed case information should include not only total elapsed time from arraignment to disposition but for pertinent intermediate steps as well.

3. More emphasis should be placed on repeat offenders. They should be identified as such in the case register and case files. A high-priority designation should be made for using a "persistent violator" charge whenever possible. The intelligence-gathering system that has been established should receive priority attention.

4. The utilization of the available computer facilities should be intensified and expanded.



TYPE AND LENGTH OF SENTENCES FROM BURGLARY AND
ROBBERY CONVICTIONS DURING THE PRIOR YEAR
(7/1/75-6/30/76)

Robbery

Probation	Jail	ISP W/120 day	ISP
2 yrs.	15 days	5/120	25 yrs.
3 mo.	5 days	5/120	14 yrs.
3 yrs.		2/120	15 yrs.
2 1/2 yrs			

Burglary I

9 mo.	8 mo.	5/120	5 yrs.
3 yrs.	6 mo.	5/120	14 yrs.
5 yrs.	10 days	5/120	5 yrs.
2 yrs.	10 days	6/120	5+9 yrs. CC
2 yrs.	2 weekends + rest.	5/120	
1 yr.	30 days + fine	5/120	
3 yrs.		5/120	
6 mo.		5/120	
5 yrs.		5/120	
1 yr.		5/120	
5 yrs.		2/120	
5 yrs.		5/120	
3 yrs. + restitution			
3 yrs. + rest.			
5 yrs. + rest.			
2 yrs. + rest.			
5 yrs. + rest.			
6 mo. + rest.			
1 yr. + costs			

Burglary II

2 yrs.	6 mo.	5/120	5 yrs.
5 yrs.	180 days	5/120	3 yrs.
1 yr.	2 days	5/120	
2 yrs.	30 days		
2 yrs.	1 day		
5 yrs.	4 days		
2 yrs.	10 days		
	1 day + \$50 fine		

TYPE AND LENGTH OF SENTENCES FROM BURGLARY AND
 ROBBERY CONVICTIONS DURING THE PROJECT YEAR
 (7/1/76-6/30/77)

Robbery

Probation	Jail	ISP W/120 day	ISP
7 yrs.	2 mo.	4/120	20 yrs.
		10/120	10 yrs.
		5/120	10 yrs.
		8/120	8 yrs.
		9/120	9 yrs.
		9/120	7 yrs.
		5/120	15 yrs.
		10/120	7 yrs.

Burglary I

5 yrs.	6 mo.	5/120	5 yrs.
10 yrs.	6 mo.	5/120	18 yrs.
5 yrs.		5/120	10 yrs.
5 yrs.		5/120	5/5/5 CC
5 yrs.		3/120	5 yrs.
5 yrs.		5/120	15 yrs.
5 yrs.		5/5/5 CC/120	10 yrs.
5 yrs.		5/5/5 CC/120	
		5/5/5 CC/120	

Burglary II

1 yr. (3 yrs. prob.)	5/120	3/3 CC
1 yr (3 yrs. prob.)	5/120	3/3 CC
6 mo. (2 yr. prob.)	5/120	



END