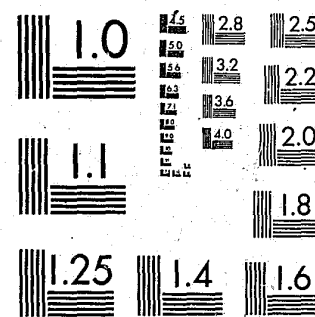


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# Career Criminal Program National Evaluation *Summary Report*

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*Acting Director*

## Career Criminal Program National Evaluation

### Summary Report

by  
E. Chelimsky  
J. Dahmann

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U.S. Department of Justice  
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#### ABSTRACT

This paper is a Summary Report of the Career Criminal Program National Evaluation. The Career Criminal program is an LEAA-funded effort which provides resources to local prosecutors' offices to identify and rigorously prosecute serious, repeat offenders. The national evaluation of the program, conducted by The MITRE Corporation, includes in-depth analyses of four of the programs: those in Orleans Parish, Louisiana; San Diego County, California; Franklin County, Ohio; and Kalamazoo County, Michigan. The four were selected from eleven candidate sites in the summer of 1976.

## PREFACE

This document is the summary report resulting from a three year study of the operation and effects of special Career Criminal Prosecution Programs in four jurisdictions, funded by the Law Enforcement Assistance Administration's National Career Criminal program which includes over forty participating programs in addition to those examined in this research. The study was supported by the National Institute of Justice, Department of Justice, under Grant Number 76-NI-99-0092. The report should be of interest to both researchers and policymakers concerned with special prosecution programs and program evaluation in the criminal justice context. The study was carried out at The MITRE Corporation.

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## I. The Career Criminal Program and the National Evaluation

The Career Criminal program is a federal initiative sponsored by the Law Enforcement Assistance Administration to improve the administration of criminal justice by focusing prosecutorial resources on the serious repeat offender. The program provides funds and technical assistance to local prosecutors to identify so-called "career criminal" defendants -- defendants who appear to have established a consistent, serious pattern of criminal behavior -- and to give their cases special, more intensive prosecutorial attention. This attention is expected to result in more severe judicial penalties for repeat offenders than would be the case were they prosecuted in the routine fashion. Improvements in the ability of the system to convict and incapacitate that group of offenders assumed to be responsible for a disproportionate amount of criminal activity is expected to ultimately affect crime rates.

The overall objectives of the program are thus three:

- implement a set of activities which are directed toward an identifiable sub-population of defendants defined as career criminals,
- improve the performance of the criminal justice system with respect to this target group of career criminals, and thereby
- reduce crime through increased incapacitation.

The program focuses on prosecution because of its central and critical role in determining who is charged in the criminal courts and the extent to which charges are pursued. Substantial involvement by local agencies both in developing program activities and specifying local target populations has been fostered by the program since it was first announced in 1974. The simplicity of the basic idea behind the program (focus prosecutor efforts in the area where they will do the most good) combined with the flexibility permitted in local implementation has made the program a popular one among prosecutors. By mid-1975, ten programs had been funded and were in operation. By 1979, forty-five individual projects and three state-wide programs had been funded by LEAA national, discretionary, and action funds, and an estimated 50 to 60 similar efforts were ongoing in local jurisdictions funded by local state and/or LEAA block funds, including two statewide projects. LEAA provided discretionary funds to selected sites on a two-year basis. Of the original ten programs, all are still ongoing with funding from other sources.

The purpose of MITRE's national evaluation of the Career Criminal program is to define and examine the effects of targeted prosecution of "career criminals" through an intensive analysis of program processes and program effects in four jurisdictions. A number of factors contributed to the shape of our evaluation plan. The first was the state of knowledge concerning anticipated program effects at the time the program was developed and the evaluation designed. Career Criminal program planning was influenced both by local initiatives in career criminal prosecution and by research findings which suggested a large potential payoff for such initiatives. The bulk of the available empirical research spoke to the existence of a pool of recidivist offenders with repeated exposure to the criminal justice system who are consequently assumed to be responsible for a disproportionately large share of crime. At the time, little was known concerning the actual impact of program activities. LEAA's selection of the Bronx Major Offense Bureau (MOB) as an Exemplary Project was based on analysis of available data concerning the performance of the Bronx District Attorney's Office with selected MOB cases. This analysis demonstrated that cases accorded special prosecutorial attention were treated more severely than were cases handled in a routine manner. However, career criminal cases and routine cases differ in a number of respects besides the way in which they are prosecuted. What was lacking in this analysis, and therefore, what we consequently attempted to provide in the national evaluation, was an adequate basis for comparison from which one could determine whether, and to what extent, prosecutor performance with career criminal cases represents an improvement over what would have happened with such cases in the absence of any special program. The key evaluation or knowledge need was that of a baseline for evaluation.

Secondly, certain program characteristics were central to the approach taken in the evaluation plan. Given the single, unifying concept of the program -- the focusing of prosecutor resources on the serious repeat offender -- the logic of program activities and expectations was considered quite natural at both the federal and local levels and by both practitioners and researchers, thereby making it not only possible but reasonable to posit goals for the program generally. However, the substantial differences which exist among localities in the routine processing of criminal cases and the high degree of local involvement in defining critical features of individual programs posed real difficulties for any attempt to aggregate data across sites. Individual jurisdictions have different target population definitions, different program activities (or "treatments") and different baseline performance levels. Given this jurisdictional variability, it appeared essential to examine and account for individual differences in conducting the national evaluation.

Finally, as is often the case, the program was already in place and operational in a number of jurisdictions at the time the evaluation was planned. Consequently, it was understood that the evaluation approach would have to be adapted to meet program constraints, rather than vice versa.

Consequently the national evaluation of the Career Criminal program was based on in-depth evaluations of four career criminal sites selected from the pool of jurisdictions which had implemented Career Criminal programs at the time the evaluation was initiated:<sup>1</sup>

- Orleans Parish (New Orleans), LA
- San Diego County, CA
- Kalamazoo County, MI
- Franklin County (Columbus), OH

The process and effects of the Career Criminal program in each of these four jurisdictions are evaluated in terms of the assessment of three distinct, but sequentially linked programmatic concerns (see Figure 1 below):

- (1) program activities;
- (2) criminal justice system and performance; and
- (3) crime levels.

As indicated in Figure 1, these three areas of focus are derived from the program and its anticipated effects.<sup>2</sup>

The first stage of the evaluation, the process analysis, has two specific purposes. First, it provides an extensive examination and description of the nature of criminal justice processing (from arrest to sentencing) in each jurisdiction including both routine handling of criminal cases and the specialized handling of career criminal cases. These analyses are designed to indicate the changes in criminal justice processing and operations involved in each

<sup>1</sup> J. Dahmann, E. Albright, L. Hardacre and L. Russell, Site Selection for the National-Level Evaluation of the Career Criminal Program, The MITRE Corporation, MTR-7346, September 1976.

<sup>2</sup> The analyses are presented in detail in E. Chelimsky, J. Dahmann, and J. Sasfy, The National-Level Evaluation of the Career Criminal Program: Concept and Plan, The MITRE Corporation, MTR-7355, May 1976.

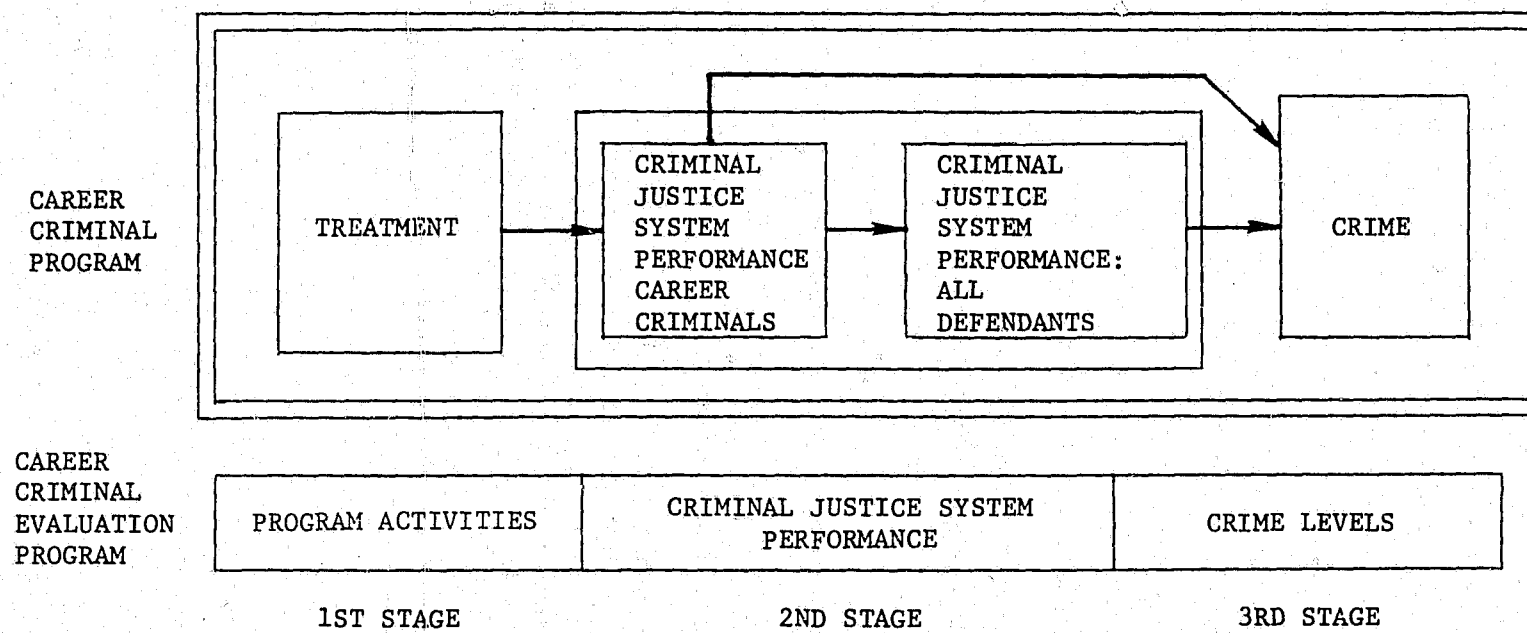


FIGURE 1  
THE CAREER CRIMINAL PROGRAM AND THE MITRE EVALUATION APPROACH

jurisdiction's Career Criminal program; in our evaluation they served to provide a description of the program as a "treatment".<sup>3</sup>

The second purpose of this assessment of program activities is to allow the specification of those criminal justice performance measures likely to be affected by these program activities. For instance, in a jurisdiction in which time delays in case processing are routinely a problem and activities of the Career Criminal program have been directed to improving the situation for career criminal cases (such as special court arrangements), 'time to disposition' would be a relevant measure of program impact. Thus the process analysis performed the important function in this evaluation of establishing the basis for logical linkages between program activities and system performance outcome measures.

The second stage of the evaluation entails the analysis of the specific measures of criminal justice system performance and the investigation of the hypothesized linkages between Career Criminal program activities and differences in those measures. While the program is designed to affect criminal justice performance for only one group of defendants -- the career criminals -- data are needed in this second stage on a set of measures for other groups as well, for comparison purposes. Data were therefore collected for four specific groups: (1) designated career criminals during the program treatment period (that is, cases and their defendants which were accorded special prosecutorial attention under the Career Criminal program); (2) non-career criminals during the treatment period (that is, other criminal cases prosecuted at the same time as the treatment career criminals but with routine case handling practices); (3) defendants from a baseline period who theoretically would have been designated career criminals (defendants who met local program eligibility criteria and would have been handled by the Career Criminal program had their cases been issued during the treatment period); and (4) baseline non-career criminals -- criminal defendants from a baseline period who would not have been designated career

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<sup>3</sup>For a full report of the findings of this stage of the evaluation see: J. Dahmann and J. Lacy, Criminal Prosecution in Four Jurisdictions: Departures from Routine Processing in the Career Criminal Program, The MITRE Corporation, MTR-7550, June 1977, Targeted Prosecution: The Career Criminal Program, Orleans Parish, Louisiana, MTR-7551, June 1977, Targeted Prosecution: The Career Criminal Program, San Diego County, California, MTR-7552, June 1977, Targeted Prosecution: The Career Criminal Program, Franklin County (Columbus), Ohio, MTR-7553, June, 1977, Targeted Prosecution: The Career Criminal Program, Kalamazoo County, Michigan, MTR-7554, June 1977.



criminals. Baseline groups were identified based on a review of materials maintained by the prosecutors' offices. Local prosecutor and court files served as the data sources for the development of a data base on defendant background characteristics and criminal histories, the processing of the case through the criminal justice system and case disposition and sentencing.

Analysis of the performance of the criminal justice system with these four groups thus allowed the evaluation to determine whether performance changed with respect to the career criminals prosecuted by the program.

The system performance analysis focuses on an examination of performance improvements in four areas: disposition (i.e., how a case is disposed, e.g., conviction, trial, etc.); strength of conviction (i.e., for all convictions, how close the final charges are to the charges filed at case issuance); sentencing; and processing time. While each program was expected to have a somewhat different effect on some of these measures (processing time, for instance), the results of the first-stage process analysis allowed a common set of measures to be applied to the four programs. Differences in outcomes have been specifically examined in light of jurisdictional variations in both the routine and in program characteristics.

The third and final stage of the evaluation addresses the question of crime levels. Based on the assumption that system performance effects on incapacitation would be observed, the evaluation plan included a crime analysis in each jurisdiction for a several-year period prior to program implementation and for the first twelve to eighteen months of program operations. The results of this analysis, taken in conjunction with that of system performance, were expected to provide some suggestion of reasonable expectations for visible short-term impact on crime.

## II. Routine Processing in the Four Jurisdictions: The Context for Career Criminal Program Implementation<sup>4</sup>

As mentioned in the first chapter, one major assumption of the program is that, given additional resources, prosecutors will be able to provide special attention to a select subgroup of their defendant population. As a basis for understanding what special attention is in fact provided to target defendants and how this differentiates their treatment from the treatment of others, it is important to know the nature of the routine process of criminal justice administration in the sites implementing programs.

Stripped to its basics, criminal justice administration is a combination of structure, process and personnel, each shaping the others in subtle and occasionally critical ways. Law plays an important but not a consuming role. Criminal justice in practice responds to administrative convenience and necessity, historical and parochial conventions, and the influences of daily practices and working understandings at least as much as it does to legislative ukases and case law prescriptions.

In its bare essentials, the criminal justice process -- its structural components, its procedures, its principal actors -- differs little from jurisdiction to jurisdiction, from state to state.

The structure consists of one or more: police agencies, prosecuting agencies, courts with criminal jurisdiction, and local and state corrections agencies. Woven among them are: probation agencies, pretrial release services and various arrangements for the provision of defense counsel for indigents.

<sup>4</sup> A full analysis of routine processing is presented in the following papers: J. S. Dahmann and J. L. Lacy, Targeted Prosecution: The Career Criminal, Orleans Parish, Louisiana, MTR 7551, The MITRE Corporation, June, 1977; J. S. Dahmann and J. L. Lacy, Targeted Prosecution: The Career Criminal, San Diego County, California, MTR 7552, The MITRE Corporation, June, 1977; J. S. Dahmann and J. L. Lacy, Targeted Prosecution: The Career Criminal, Franklin County (Columbus), Ohio, MTR 7553, The MITRE Corporation, June 1977; J. S. Dahmann, and J. L. Lacy, Targeted Prosecution: The Career Criminal, Kalamazoo County, Michigan, MTR 7554, The MITRE Corporation, June, 1977; and J. S. Dahmann and J. L. Lacy, Criminal Prosecution in Four Jurisdictions: Departures from Routine Processing in the Career Criminal Program, MTR-7550, The MITRE Corporation, June 1977.

The processing of a felony that is tried and convicted as a felony consists generally of ten basic steps:

- (1) arrest, booking, and referral of the case for prosecution;
- (2) the initial decision to formally charge (i.e., to invoke the criminal court process by the filing in court of criminal charges, usually in the form of an initial accusatory instrument);
- (3) an initial appearance of the accused before a magistrate, at which, among other things, bail and other conditions of pretrial release are set;
- (4) a preliminary hearing, the purpose of which is to determine whether there is probable cause to hold the defendant for felony trial;
- (5) the filing of an accusatory instrument (an indictment or information) with the court having jurisdiction to hear and determine felony cases;
- (6) arraignment of the accused on the charges in the accusatory instrument;
- (7) filing and determination of pretrial motions;
- (8) trial;
- (9) a presentence investigation -- prepared at the trial judge's discretion, or as required by statute or court rule -- detailing the offender's background and the severity of the current offense; and
- (10) the imposition of sentence.

Personnel arrangements in criminal justice administration are, in every jurisdiction, an assortment of elective, appointive, and civil service offices and a mix of educational, professional, and training requirements for carrying out specific functions. Felony prosecutors, judges, and sheriffs are most often elected; police chiefs, chief probation officers, and court administrators are most often appointed. Police officers in municipal agencies are most often selected, promoted, and secured by civil service; assistant prosecutors in most states serve wholly at the pleasure of the elected prosecutor. Police officers in municipal agencies are most often formally trained for their work; assistant prosecutors and defense attorneys generally need only to be lawyers admitted to

practice in the state; judges most often must merely have been members of the bar of the state for a minimum number of years.

Beyond these bare essentials, however, similarities among different jurisdictions in the practice of criminal justice are often elusive. The differences in organization and administration -- from one place to another -- can be dizzying and perplexing. Many of the differences -- in structure, procedure, personnel arrangements -- are superficial and merely idiosyncratic, with marginal influence on the conduct of the criminal justice process. Some, however, have more than a casual relationship with the ways in which a national effort such as the Career Criminal program may take shape in different locales.

The four jurisdictions -- Orleans Parish, San Diego County, Franklin County, and Kalamazoo County -- administer criminal justice in some ways essentially similarly, in some respects notably differently. Key functions (law enforcement, prosecution, defense, adjudication) are organized differently in each place. The criminal justice process in practice behaves differently in some places. The roles and responsibilities of personnel and agencies are also, in a number of respects, different in each.

Looking across the four jurisdictions the major points of comparison can be summarized as follows:

First, the structure of the criminal justice process is organized notably differently from place to place, with some different and, in some ways, predictable consequences for the conduct of criminal prosecution. The single agency/single function organization of criminal justice in Orleans Parish contrasts conspicuously with the different degrees of fractured, bifurcated agency structures of the other three.

A reasonable approximation of continuous, individual attorney prosecution of individual cases is possible in most cases in the structural compactness of New Orleans; it is virtually inconceivable in the majority of cases in the geographically dispersed, jurisdictionally-bifurcated, multi-agency and multi-division court system of San Diego County.

With a single agency prosecuting all felonies at all stages in their pre-appellate adjudication (as in three of the jurisdictions), it is possible for that agency to at least account for what happens to all felony cases, if not to influence their outcomes. In Franklin County, where felony prosecution is sequentially shared by two independent prosecuting agencies, the process is not only more difficult to examine, it is also far more difficult for a prosecutor's office to influence in its totality. For the Franklin County prosecutor

to target, for example, career criminal cases is to target a universe of felony cases that is approximately 28 percent less (because of inferior court prosecution beyond his ken) than the universe of felonies referred by police for felony prosecution.

Second, basic procedural components of criminal adjudication -- while similarly named in different jurisdictions -- are sometimes conducted quite differently with different consequences in different places. The preliminary hearing in Louisiana is quite distinct from the preliminary hearing in California and Michigan. In New Orleans, the hearing has no practical case-dispositive consequences. In San Diego, dismissals that result from it account for almost one-fourth of the final dispositions of felony prosecutions; in Kalamazoo County, for 16 percent.

The difference between an indictment and an information is much more than academic. In three of the four places the indictment can supersede all preliminary processing; it abrogates the defendant's otherwise right to the preliminary examination; it may accelerate the case's prosecution or (as in Franklin County) bring the case within the institutional cognizance of the felony prosecuting agency earlier than otherwise.

What judges can do at sentencing -- and inferentially, what prosecutors can recommend that they do in sentencing certain offenders -- is curtailed in different ways with different outcomes from place to place. In Louisiana, the prosecutor's use of statutory sentence enhancement provisions for repeat offenders greatly influences sentence determinations. Because of indeterminate sentencing in California, until July 1, 1977, the best the prosecution could do to influence sentence was to recommend the imposition of sentences to run consecutively.

Third, the ways in which the criminal justice system process, as a whole, is administered influence the ways prosecution is managed. The courts' management of their caseloads has an impact on the ability of the prosecutor to prosecute and the means by which he does so. In Orleans Parish, where cases are early assigned for all purposes to one of a small number of courtrooms to which deputy prosecutors are also assigned for all purposes, some individual single-prosecutor/single-case continuity in prosecution is possible. (The offsetting disadvantage of having each judge's courtroom in charge of cases assigned to it may be, of course, disparities in policy and practice among courtrooms and no central management to keep the court functioning as a whole.) San Diego County's master calendaring (i.e., assigning cases to available judges on the days of scheduled proceedings rather than in advance for all adjudicative purposes) may increase the court's case management efficiency, but -- with its attendant logistical demands -- it confounds the prosecution's ability to have individual deputies

stay with individual cases. To have criminal cases scheduled in fixed time blocks in rotation with noncriminal cases in the same courtrooms (as in Kalamazoo and Franklin Counties) may diminish everyone's responsibility for the movement of the criminal docket and may hamper the ability of the prosecution to expedite the prosecution of some cases over others.

The point in the court process where the initial charging decision by the prosecution is located can affect both the visibility and the conduct of the decision and the practical utility of various court proceedings. In San Diego and Kalamazoo Counties, the preliminary examination is an examination of charges the prosecution has reviewed and has formally filed. In Orleans Parish it is an examination of police charges only, with no practical consequences in terms of whether or not the defendant will be filed against by the prosecution and will be held to answer. In Franklin County the preliminary hearing can be easily superseded by an intervening indictment (an accelerated charging) or it can be terminative of the prosecution (i.e., by dismissal), simply because it ends the responsibility of one prosecuting agency without involving the cognizance of the second agency in the prosecuting sequence.

Fourth, "much of the criminal process is administrative rather than judicial,"<sup>5</sup> but the manners and points in the process in which cases are disposed of without full adjudication differ among the four places. A declination to charge by the prosecution avoids the court process entirely in San Diego and Kalamazoo Counties; in Orleans Parish it brings proceedings that are inconsequential in terms of disposition to a halt; in Franklin County, in the form of a grand jury no-bill, it terminates the adjudicative lives of cases that have already been examined in a forum in which they could earlier have been disposed (i.e., at the preliminary hearing).

The professed criteria at work in determining whether to charge differ among the four. The factors to be considered in agreeing to a guilty plea or to a reduced charge differ. The management controls placed on both determinations differ.

At work at different points in prosecutorial decision-making in the different jurisdictions are distinguishable philosophies of criminal prosecution. In Kalamazoo County, for example, charges are to be filed if a prima facie case exists and can be testified to;

<sup>5</sup> The President's Commission On Law Enforcement and Administration of Justice, The Challenge of Crime In a Free Society, pp. 11, 147 (1967).

the guiding question is: can the case be brought to trial (distinguished from the question: can it be won at trial)? In San Diego County, on the other hand, a prima facie case is, of itself, not enough to prompt the filing of charges. Considerations of equity and office policy are also to be factored in: the guiding question is: should the case be brought to trial?

Fifth, the required timeliness of adjudicative events differs among the four places. In California, once an accusatory instrument is filed in the superior court, the defendant must be brought to trial (or his case must be otherwise disposed) within sixty days. In Louisiana, there is no time-specific requirement for when trial must occur. In Michigan, statutory requirements for speedy trial are weak, and given the many acceptable causes of delay, are marginal in practical significance.

Sixth, the prosecutor's offices in the four jurisdictions differ in range of duties, proportions of personnel dedicated to criminal prosecutions, age and experience levels of deputies, methods for case assignments, organization of functions, and controls on discretion.

In all four jurisdictions, it is apparent that there are some considerable obstacles to effecting an intensive prosecution of most criminal cases.

Relatively few cases can be assigned to individual deputy prosecutors to handle from their initial charging through to their disposition. This individual-deputy/individual-case continuity is closer to being achieved in some jurisdictions than in others, but it is not a completely realized objective in any of the four.

Caseload sizes are considerably disproportionate to the prosecutorial resources available to deal with them. Comparisons of cases with available deputy resources across the four jurisdictions are not possible because in some (e.g., Franklin County) the deputies handle only felonies; in some (e.g., the other three) some or all of the same deputies who handle felonies also prosecute misdemeanors. As rough, imprecise and noncomparable measures, however:

- (1) each of San Diego County's 77 deputies who are allocated to criminal prosecutions (both felony and misdemeanor) disposes of an average of 91 felonies each year;
- (2) each of Kalamazoo County's 10 deputies who are assigned to criminal matters (both felony and misdemeanor) disposes of an annual average of 71 felonies;

- (3) each of the Franklin County Prosecuting Attorney's Office deputies dedicated to criminal prosecution (of felonies only) disposes of 157 felony cases each year; and
- (4) each of New Orleans' 46 deputies assigned to felony and misdemeanor prosecutions brings an average of 115 per year to disposition.

Experience levels of deputy prosecutors (measured by tenure in office) are, with the exception of San Diego County, not substantial: averaging less than two years in Orleans, less than three years in Franklin County, slightly more than three years in Kalamazoo.

While the criminal process can be reduced to ten basic proceeding steps for initial analysis, in practice it is maze-like, with myriad case processing routes, disposition types and disposition opportunities, a "system" only in the loosest sense of the term,<sup>6</sup> which at least one observer has characterized as literally having become perhaps "too complex for its practitioners."<sup>7</sup>

<sup>6</sup>However, Norval Morris and Gordon Hawkins have translated the term "criminal justice system" to mean nothing more than "...if you press something here, something else is likely to pop out quite unexpectedly over there." N. Morris and G. Hawkins, The Honest Politician's Guide to Crime Control (1969), University of Chicago Press, p. 90.

<sup>7</sup>M. Ash, On Witnesses: A Radical Critique of Criminal Court Procedures, 48 Notre Dame Lawyer, pp. 423-424 (1972).



### III. Who are the "Career Criminals?" Defining The Career Criminal Target Population

One major underlying assumption of the Career Criminal program is that there exists a subpopulation of criminal offenders who commit a disproportionate amount of criminal activity. The program further assumes that these career criminals come into contact with the criminal justice system and that it is possible to systematically identify them and give their cases special attention.

The programs examined here have all defined some subgroup within their total criminal caseload as career criminals. Using information available to the prosecution presumably at some point early in the life of a case, criteria have been established which signal the appearance in the courts of a career criminal. While all of the sites define their target population as serious recidivist offenders, beyond this general agreement there is considerable variation among the four in the specific selection criteria applied by each program. Using these definitions, cases issued by the prosecution or the court are systematically screened and those involving career criminals are accorded special prosecutorial attention. Hence, it appears to be quite feasible to act on the assumptions of the program.

The target populations are selected in each of the four jurisdictions by the following criteria (see Table I below).

In San Diego County, the defendant must be charged in the instant case with a robbery or robbery-related homicide. He is a career criminal if: (1) he has at least one previous conviction for robbery or robbery-related homicide; (2) he has at least one conviction for grand theft from a person and has one other conviction; (3) in the instant case he is charged with the commission of three or more distinct robberies; and (4) on a weighted rating scheme based on official and unofficial information on criminal activity he otherwise qualifies.

In Orleans Parish, the defendant charged with a felony or a misdemeanor is a career criminal if he has two previous felony convictions or five prior felony arrests.

In Franklin County, the career criminal is a defendant who is charged with a felony and who has two previous convictions of any felony or one prior conviction of one of a list of specific felonies (see page 65 above).

In Kalamazoo County, a person is a career criminal if he is charged in the instant case with a felony and: (1) has two previous felony convictions; (2) was on probation, parole, bond or was a

TABLE I

CAREER CRIMINAL PROGRAM ELIGIBILITY CRITERIA: FOUR JURISDICTIONS

FRANKLIN COUNTY (COLUMBUS)	CURRENT FELONY CHARGE, AND TWO PRIOR FELONY CONVICTIONS OR ONE PRIOR CONVICTION FOR ONE OF FIFTEEN SELECTED SERIOUS FELONY OFFENSES
KALAMAZOO	FOR CONSIDERATION: CURRENT FELONY CHARGE AND EITHER PRIOR CRIMINAL ACTIVITY (TWO CONVICTIONS, FIVE ARRESTS); BAIL STATUS; OR USE OF A FIREARM IN COMMISSION OF AN ARMED ROBBERY OR COMMISSION OF FIRST DEGREE SEXUAL ASSAULT OR DELIVERY OF NARCOTIC  FOR SELECTION: WEIGHTED RATING SCHEME WHICH CONSIDERS TYPE OF VICTIM, VICTIM INJURY, WEAPON AT CRIME, WEAPON AT ARREST, ECONOMIC VALUE, MULTIPLE OFFENSES, CURRENT CHARGE, FELONY CONVICTIONS, MISDEMEANOR CONVICTIONS, FELONY ARRESTS, STATUS, PENDING CASES
ORLEANS PARISH	CURRENT CRIMINAL CHARGE (MISDEMEANOR OR FELONY) AND EITHER TWO PRIOR FELONY CONVICTIONS OR FIVE PRIOR FELONY ARRESTS
SAN DIEGO COUNTY	CURRENT ROBBERY OR ROBBERY-RELATED HOMICIDE CHARGE AND EITHER PRIOR CONVICTION FOR ROBBERY, ROBBERY-RELATED HOMICIDE OR GRAND THEFT FROM A PERSON (WITH ONE OTHER CONVICTION) OR CURRENT CHARGES INCLUDE THREE OR MORE SEPARATE AND DISTINCT ROBBERIES; OR  CURRENT ROBBERY OR ROBBERY-RELATED HOMICIDE CHARGE AND WEIGHTED RATING SCHEME WHICH CONSIDERS A MIX OF SUBJECTIVE ASSESSMENTS AND OFFICIAL AND UNOFFICIAL INFORMATION ON PAST CRIMINAL ACTIVITY



fugitive at the time of the offense; (3) is charged with one of three specific offenses in the instant case, and scores 110 on a numerically weighted scheme that factors the gravamen of the current offense and the seriousness of the defendant's criminal background. He is also a career criminal if he is charged in the current case with a Part I offense and has five previous arrests and scores 110 on the case ranking scheme.

Beyond specific differences, the selection criteria of the four programs have three noteworthy features. First, San Diego's targeting is crime-specific (career criminals must be charged with robbery in the instant case); Orleans Parish targets offenders without regard to current charge. Second, the considerations taken into account in the selection process differ among the four. In Orleans Parish and Franklin County, selection is based exclusively on frequency of prior contact with the criminal process; in Kalamazoo and San Diego counties, characteristics of the current offense also play a role in career criminal selection. Third, in both Kalamazoo and San Diego counties it is possible for a case to be accepted for targeted prosecution on the basis of the current offense alone, with the defendant having no prior record of criminal activity.

The intent of these four target population definitions involve a somewhat different subgroup of offenders in each jurisdiction. These career criminal target groups differ both among one another and in their relationship to the general criminal defendant population in their respective locations. While the research basis for the identification of career criminals is expanding, the current state of the art is such that it is not possible to say with any certainty how closely the group of individuals prosecuted by these programs represent the ideal career criminal group. They do however represent that subgroup of cases which in the view of the local prosecutor constitute his priority cases.

Available research, in focusing on the career criminal concept, has suggested:

- an empirical basis for believing that a specific group of offenders is responsible for a disproportionate amount of crime;<sup>8</sup>

<sup>8</sup>See, for example, Marvin E. Wolfgang, Robert M. Figlio and Thorsten Sellin, Delinquency in a Birth Cohort, University of Chicago Press, 1972; Kristen Williams, The Scope and Prediction of Recidivism, PROMIS Research Publications No. 10 (Washington, D.C.: INSLAW, 1979); J. Petersilia et al., Criminal Careers of Habitual Felons, R-214420J, The Rand Corporation, August 1977; Harriet B. Stambul, Doing Crime: A Survey of California Prison Inmates, WN-9933-00, The Rand Corporation, July 1977.

- the importance of targeting those serious offenders likely to be repeaters;<sup>9</sup> and
- some indications of which offenders (by crime-type or in terms of the intensive/intermittent dichotomy) have the greatest probability of recidivating.<sup>10</sup>

More recent research has introduced age as another important criterion for identifying future recidivists,<sup>11</sup> pointing out that (1) offenders tend to reduce their criminal activity with advancing years and that (2) using the criminal history as the essential tool for selection automatically results in targeting those older offenders who are least likely to recidivate, rather than those in mid-career (a fifteen- or sixteen-year-old delinquent, for example).

However, an examination of the selection criteria and definition process used in the four evaluation sites of the Career Criminal program (and generalizable, to considerable degree, it would appear, across the program), suggests that, insofar as practice is concerned:

- there is currently no accepted practitioner or prosecutorial view of what a "career criminal" is (he may, for example, be a misdemeanor in New Orleans or a robber in San Diego, may have never been convicted of a previous crime, in Kalamazoo, or must have had at least one recorded conviction in Franklin County);
- objectivity in determining and applying selection criteria appears somewhat less common than the use of prosecutorial discretion,<sup>12</sup> and finally,

<sup>9</sup>Williams, supra.

<sup>10</sup>Stambul, supra.

<sup>11</sup>See, for example, Barbara Boland and James Q. Wilson, "Age, Crime and Punishment," in The Public Interest, Spring 1978.

<sup>12</sup>See Chapter 3 in the full Final Report for a discussion of the results of the site selection process.

- the ability of a practitioner to discriminate usefully between career and non-career criminals,-- in terms either of future recidivism or of future crime-seriousness--awaits the development of information not currently available within the criminal justice system.<sup>13</sup>

In sum, the gap between research and practice in the Career Criminal Program remains substantial.

<sup>13</sup> Stambul, supra.

#### IV. Targeted Prosecution

One area of the program which can be separated out and considered independently, to some degree, from concerns specifically related to the career criminal target group is the set of actions and policies initiated by the prosecutor to enhance the prosecution of targeted cases, actions and policies which are directed at priority cases however their selection is defined. In this chapter, the specific activities implemented by the four jurisdictions are reviewed with particular attention focused on the process of identification of target cases and on the major components of specialized prosecution. As noted earlier, the four sites are united in the general goals and form of their programs, but there are major differences among the four in terms of their compositions and actions, which are important considerations in making any general program assessment.

The Career Criminal programs in the four jurisdictions were initiated at different times in 1975 (see Table II below). The LEAA funding support for each of the four is different, as are the numbers of deputy prosecutors dedicated to career criminal prosecution and the numbers of career criminal cases actually prosecuted.

Kalamazoo County has the smallest of the four programs with an initial LEAA grant of less than \$75,000 supporting two attorneys who handle approximately one hundred cases a year. The Franklin County and San Diego County programs are substantially larger, each initially funded at about one-quarter of a million dollars. These two programs, staffed by five and six attorneys, respectively, handle yearly target caseloads ranging approximately from 200 to 250 cases. The New Orleans program is the largest of the four; the program attorney staff of 13 handles over 500 cases a year with over \$400,000 in initial federal support. The New Orleans program is also the largest of the four in terms of the percentage of total office attorney personnel and percent of total caseload handled in the program. The Orleans program staff makes up twenty percent of the total office attorney staff and handles eleven percent of the office caseload (misdemeanor and felony combined). Kalamazoo's two career criminal attorneys constitute thirteen percent of that office's total attorney personnel and handle eleven percent of the total felony caseload (four percent of the total combined felony and misdemeanor caseload). The Franklin County program handles seven percent of the office's caseload with eleven percent of its attorneys. The San Diego program is the smallest of the four as a proportion of overall office staffing and caseload; it prosecutes three percent of the total office caseload with five percent of the office attorney staff.

TABLE II

## CAREER CRIMINAL PROGRAM CHARACTERISTICS IN FOUR JURISDICTIONS

JURISDICTION	1ST YEAR LEAA FUNDING AMOUNT	DATE OF PROGRAM INITIATION	ATTORNEY PERSONNEL NUMBER, PERCENT OF OFFICE PERSONNEL	PROGRAM CASELOAD TOTAL, PERCENT OF OFFICE CASELOAD
SAN DIEGO COUNTY, CALIFORNIA MAJOR VIOLATOR UNIT	\$247,118	JULY 1975	6 (5%)	<ul style="list-style-type: none"> <li>• 153 CASES ACCEPTED IN FIRST NINE MONTHS</li> <li>• 206/YEAR (ESTIMATED)</li> <li>• <u>3% OF OFFICE FELONY CASELOAD</u></li> </ul>
ORLEANS PARISH, LOUISIANA CAREER CRIMINAL BUREAU	\$421,484	MAY 1975	13 (20%)	<ul style="list-style-type: none"> <li>• 284 CASES ACCEPTED IN FIRST 6 MONTHS</li> <li>• 586/YEAR (ESTIMATED)</li> <li>• <u>11% OF OFFICE CASELOAD (MISDEMEANOR AND FELONY)</u></li> </ul>
KALAMAZOO COUNTY, MICHIGAN MAJOR VIOLATORS BUREAU	\$ 74,548	OCTOBER 1975	2 (13%)	<ul style="list-style-type: none"> <li>• 86 CASES ACCEPTED IN FIRST TEN MONTHS</li> <li>• 103/YEAR (ESTIMATED)</li> <li>• <u>11% OF OFFICE FELONY CASELOAD (ESTIMATED)</u></li> <li>• 4% OF OFFICE MISDEMEANOR AND FELONY CASELOAD</li> </ul>
FRANKLIN COUNTY, OHIO CAREER CRIMINAL UNIT	\$239,416	JULY 1975	5 (11%)	<ul style="list-style-type: none"> <li>• 377 CASES ACCEPTED IN FIRST 18 MONTHS</li> <li>• 251/YEAR (ESTIMATED)</li> <li>• <u>7% OF OFFICE FELONY CASELOAD (ESTIMATED)</u></li> </ul>

#### Career Criminal Case Identification

In each of the four programs, a special unit has been created to prosecute defendants who are identified as career criminals. When and how, in the criminal process, the target cases are identified for referral to the special units differs among the four.

In critical measure, the ways in which target cases are identified are determined by the dynamics and flow of the routine criminal process in each jurisdiction. In offices which systematically review cases as they are initially referred for prosecution, it has been possible to build career criminal case identification into the routine process. Where systematic routine review does not occur, alternative procedures have been developed.

Case identification is perhaps the most critical step in targeted prosecution. The ability of the prosecution to identify target cases early dictates in large measure how much can be done differently with them.

There is substantial variation in the points at which a case may be identified as a career criminal case and special prosecutorial attention may be initiated.

In Orleans Parish, there are two potential career criminal case identification points. The first, early in the process, is the identification of an eligible case at the time that the suspect is booked by the New Orleans Police Department. In New Orleans, the police department's on-line booking system is programmed to indicate when a suspect has the requisite criminal record to qualify for the program. This signals the police to notify the program deputy (on 24-hour call) that a potential career criminal has been identified.

The case is immediately assigned to the special prosecution unit, and bypasses entirely the routine initial charging process. (During the first six months of the Orleans program, approximately thirteen percent of the cases handled by the program were identified in this way.)

The remainder of the program's target caseload is identified at the time that the initial charging decision is routinely made. Deputies assigned to routine charging identify a case as a potential target and refer it to the special unit. The Career Criminal Unit does the initial charging (using general office criteria) and all subsequent prosecution.

In Kalamazoo, case identification and selection are also conducted at the time of the initial charging decision. Cases are referred

immediately after charging to the deputies assigned to career criminal prosecutions.

In San Diego County, there are a number of potential career criminal case identification points. As in Kalamazoo, the intake (case issuance) attorneys in both the San Diego central and the branch offices identify and refer to the Career Criminal Unit cases which appear to qualify for prosecution by the unit.

In San Diego, police agencies have also been requested to identify target cases during the post-arrest investigation, and to refer them to the special prosecution unit rather than through the routine charging process. Unlike New Orleans (where a single law enforcement agency makes almost all arrests), however, there are thirteen law enforcement agencies in San Diego County. In some police agencies (notably the San Diego Police Department), identification of target cases by robbery detectives has been reasonably consistent. In others it has not. Cases which are not identified by the police prior to initial charging are to be "flagged" by the deputies doing initial charging, by the deputies handling preliminary hearings, and finally, if a case has eluded previous identification, by Superior Court Division deputies.

In Franklin County, career criminal cases are identified in one of three ways. First, as in San Diego and New Orleans, reliance has been placed on the arresting police agency to make the identification. All (31) police agencies have been informed of the program and of its case eligibility criteria. They have been asked to check local criminal histories in all felony arrests and to bring career criminal cases to the attention of the County Prosecuting Attorney's Office immediately after arrest. The significance of early police identification is particularly acute. It is the only practicable means by which the county office can take prompt jurisdiction of a career criminal case (through superseding indictment) and bypass the uncertainties of inferior court prosecution, of which it is not a part. The superseding indictment is the single means by which the office's special prosecution unit can gain early handling of the target case. The office estimates that about half of its targeted cases are identified and handled in this manner.

Second, in all felony arrests, the Franklin County Prosecuting Attorney's Office receives a copy of the defendant's criminal history from the FBI. Turnaround time from transmission by the arresting police agency to return from the FBI ranges from two to ten weeks. FBI returns are reviewed daily by the director of the office's Career Criminal Unit. If the defendant, on the basis of his FBI record, meets program criteria, his case is sought out for assignment to the unit. Depending upon the time of this identification, the case may be still in the inferior court, or may already be indicted, arraigned and awaiting trial, or may already have been tried.

The third identification means is fortuitous. Someone (officer in arresting agency, criminal trial division attorney) at some point in the case's processing discovers that the case meets program criteria and communicates this to the unit.

Career criminal case identification thus varies among the four jurisdictions in a number of ways related to (1) the point(s) in the criminal justice process at which a target case may be identified; (2) the agency or individual critical to case identification at various points; (3) the relationship of career criminal case identification to the routine sequence of prosecutorial decisions; and (4) the certainty that an eligible case will be referred to the program at any potential identification point.

There are no comparable figures for the four sites upon which to base estimates of the probabilities that a career criminal case will be identified at any one of the potential points of case identification. Kalamazoo is the only jurisdiction which relies on a single point in case processing for target identification (initial charging). If potential targets are "missed" at initial charging, they may be later "captured" for referral to the Career Criminal prosecution unit by informal means, but there is no other formal screening and identification in the process.

In the other three offices, there is no single point at which career criminal cases are identified or "lost." In all three, the arresting police agency is relied upon with varying degrees of confidence to "flag" career criminals among the arrested population.

#### Special Prosecutorial Treatment of Career Criminal Cases

In each of the four jurisdictions a number of related actions have been undertaken by the felony prosecutor's office to provide special, improved attention to the prosecution of target cases. In general, these actions attempt to side-step certain case handling obstacles (such as dispersion of responsibility for the prosecution of a single case among numbers of different deputies) made necessary in routine prosecutions by mass case volume and limited personnel resources. The added resources of the LEAA-funded programs have been dedicated to approximating "vertical" prosecution of career criminal cases: one deputy handling one case for all purposes. Conscious efforts have also been made to assign these presumably serious cases to the most experienced deputy prosecutor personnel, and to keep their individual caseloads relatively small. In each jurisdiction, a special unit for career criminal prosecution -- a Major Violators Unit or its equivalent -- has been formed. Deputies assigned to the unit handle career criminal cases from the time of their identification through to case disposition, performing the



full range of prosecution actions (bail/bond recommendations, plea negotiation, trial, etc.). Because career criminal cases (as variously defined) are assumed to be more serious than others, the four programs stress as a matter of policy the incapacitation of career criminal defendants: both pretrial, through high bail recommendations, and post-conviction, through the recommendation of maximum sentences, or through the filing of habitual offender enhancement petitions.

While the four programs are similar in intent and have established many parallel mechanisms, there are some noteworthy differences among them in the ways they prosecute targeted cases. The actions taken in each office have been designed to improve the prosecution of career criminal cases over that of routine cases by doing things that are not feasible in the majority of prosecutions. Since there are substantial differences among the four jurisdictions both in their criminal justice environments and in their routine management of criminal prosecutions, these differences are reflected in the types, extent, and significance of career criminal prosecutorial treatment in the four.

The special treatment accorded career criminal cases in these four jurisdictions can be categorized in the following ways:

- changes in case handling;
- changes in resource allocation;
- changes in policies governing case disposition;
- attempts to influence timing;
- attempts to influence incapacitation.

The rationale behind each of these initiatives and the specific changes in each area which have been undertaken by the four jurisdictions are described and compared below.

#### Career Criminal Case Handling

In all four jurisdictions, a special unit has been established to prosecute career criminal cases. These units vary in size and caseload from thirteen attorneys handling more than an estimated 500 cases a year in Orleans Parish to two attorneys and 103 cases in Kalamazoo. In all four places, career criminal cases which would have routinely been handled by the regular office trial attorneys are, under the program, assigned to this special unit at the time they are identified as eligible for the program. From the point of referral on, the special unit assumes full responsibility for career criminal case prosecution. The responsibilities and activities of the units vary with the point of identification of target cases.

In Orleans Parish, attorneys assigned to the Career Criminal Bureau are responsible for all stages in career criminal prosecution, including initial charging. In cases identified by the New Orleans

Police Department, a career criminal attorney represents the case in Magistrate's Section proceedings; in the others, identified at the point of the routine decision to charge, the unit takes cognizance of the case from the charging decision onward. In Kalamazoo County, screening responsibility for career criminal cases rests with the unit which regularly screens, arrests and initially charges. Once the decision to charge is reached, the case is referred to the Major Violators Bureau for all further prosecutorial action. Likewise, in some cases in San Diego, the regular screening (case issuance) attorneys make the initial charging decision and, if the case appears to meet program criteria, forward the case to the Major Violators Unit. Other cases, those which are identified by the police, are referred directly to the program, in which case program personnel make the initial charging decision. Once a case becomes the responsibility of the Major Violators Unit, the unit handles all subsequent prosecution with the exception of pretrial motions (which continue to be handled by the Office's Appellate Division).

In Franklin County, the range of Career Criminal Unit responsibilities is broader than in the other jurisdictions, reflecting the range in possible points of case identification. On the one hand, in cases referred to the program by the police, the unit is responsible for seeking immediate, superseding indictments and for all subsequent prosecution. On the other hand, in cases referred to the program by the police, the unit is responsible for seeking immediate, superseding indictments and for all subsequent prosecution. On the other hand, cases identified later in their processing (e.g., after bind-over to the superior court, after indictment, after superior court arraignment) necessarily receive lesser intensities of attention.

In all four jurisdictions vertical prosecution plays a key role in program activities; that is once a case is referred to the special career criminal unit, it is assigned to an attorney (or small team of attorneys) who retains responsibility for the case from the point of assignment through to case disposition. This continuous case representation, both by unit and by attorney, is expected to realize an improvement over routine prosecution for two reasons. First, it is assumed that the attorney handling the case will become more informed about the case and its nuances if he handles it in various proceedings over a period of time than would be possible if he were responsible for only a single function, activity, or stage in its prosecution.

Second, it is expected that the accountability implicit in continuous individual-attorney-case representation will act as an incentive for more intensive and complete case preparation than is the likely situation when responsibility is diffused and

different deputies handle bits and pieces of case adjudication at different stages of their prosecution. These anticipated improvements in processing are ultimately expected to lead to increased convictions and incarceration of targeted defendants.

It is possible, although often unrecognized, that the assumed benefits may be offset by certain potential counteracting effects. Deputies who specialize in one phase of case prosecution (pretrial motions, for instance) may be more current in the prevailing case law governing that phase than the deputy who must handle all stages of the prosecution. Cases which change hands at certain phases of their prosecution may benefit from the different perspectives of the several deputies handling the case in turn, and may avoid a narrow or limited view of the case that may accompany single attorney case representation. Finally, the improved morale of deputies who are assigned target cases may be offset by morale problems among their counterparts, who, because of the heavy caseload and limited resources of the office generally, must continue to operate on an assembly-line basis.

In all four jurisdictions, the single-attorney, vertical, continuous-case handling initiated in the Career Criminal prosecution program is a departure from routine procedures; in some jurisdictions, however, it is a more significant change than in others.

In San Diego the change is a substantial one. The office handles its caseload in an assembly-line fashion: the routine case, during the life of its adjudication, is processed by six office units and at least five different deputies. In the Career Criminal program, depending upon when in its processing it is identified as a target, a case may be handled by one unit, the Major Violators Unit, and by one attorney, assigned to that unit, throughout its adjudication.

In Kalamazoo and Franklin Counties, routine felony case handling by the felony prosecutor is less fragmented than is the norm in San Diego. In both places, the two office units which routinely handle felony cases (the case screening and trial units in Kalamazoo, the grand jury and criminal trial units in Franklin County) continue to handle certain case prosecution activities in the majority of career criminal cases. In both jurisdictions, however, disjuncture in routine case handling occurs once a case is assigned to the trial unit with the assignment and reassignment of cases to attorneys for various stages and events in the case prosecution. Under the Career Criminal program in both places, target cases are assigned to a program attorney for the full prosecution of the case through disposition.

In Franklin County, single attorney continuous case representation has an added significance for those cases identified by the police

and directly indicted in the Supreme Court. These cases could have been subject to the greatest degree of fragmented processing found among the four jurisdictions: arrested by a small township police force, booked and detained by the Columbus Police Department, prosecuted by the City Attorney's Office (by one attorney at the initial appearance and another at the preliminary hearing), and then bound-over to the Superior Court and prosecuted by the County Prosecuting Attorney's Office (by one attorney in the grand jury unit and by numerous criminal trial attorneys). Under the program, the prosecution of a similar case would be handled from arrest to disposition by one attorney in the career criminal unit of the felony prosecutor's office.

In the New Orleans District Attorney's Office, case prosecution is neither as fragmented at the organizational level as in San Diego nor as disjointed at the attorney assignment level as in Kalamazoo or Franklin County. In routine case prosecution, for all intents and purposes, continuous case representation is the rule rather than the exception. As such, the most significant feature of single attorney case representation in New Orleans is the merging of the functions of the decision-to-charge and the responsibility for subsequent case prosecution in the same attorney. In routine cases, the screening assistant reviews the case and decides whether and what to charge the defendant, and the trial attorney prepares, negotiates, and tries the case. In career criminal cases, the career criminal attorney who will try the case is also responsible for making the charging decision.

#### Changes in Resource Allocation

Each of the four jurisdictions, using the LEAA grants, places proportionately more resources on the prosecution of career criminal cases than on the routine caseload. In each jurisdiction, new deputies were hired and some of the office's more experienced attorneys were assigned to the special career criminal prosecution unit. The special unit has also been given a greater amount of support (interns, investigations) for the prosecution of a smaller caseload per attorney than is the routine.

In three places, Franklin, Kalamazoo, and San Diego Counties, the attorneys selected to handle the targeted cases are on the average older than their counterparts (see Table III below). With the exception of Kalamazoo, career criminal attorneys have been working with the prosecutor's office for a longer period of time. However, there are substantial variations in how different the program attorneys are from the norm in each place, as well as important differences among the offices themselves.

TABLE III

ATTORNEY CHARACTERISTICS:  
CAREER CRIMINAL ATTORNEYS VERSUS TOTAL DEPUTY PROSECUTORS\*

	TOTAL DEPUTY PROSECUTORS			CAREER CRIMINAL		
	NUMBER	AGE (YEARS)	TENURE (MONTHS)	NUMBER	AGE (YEARS)	TENURE (MONTHS)
FRANKLIN COUNTY (COLUMBUS)	39	31.7	31.8	5	42.2	54.6
KALAMAZOO	14	31.1	37.3	2	36.0	33.0
ORLEANS PARISH	62**	29	23.8	13	29	26.6
SAN DIEGO	74***	35	79.2	6	42	104.4

\* PROSECUTOR AND CHIEF DEPUTY EXCLUDED.

\*\* INFORMATION UNAVAILABLE FOR THREE DIVISION CHIEFS AND ONE DEPUTY.

\*\*\* DATA ARE BASED ON 74 RESPONSES TO A PERSONNEL SURVEY OF THE OFFICE ATTORNEY STAFF OF 116.

Orleans Parish on the one hand, has the youngest and shortest tenured attorney staff of the four, closely followed by Franklin County and Kalamazoo County. In all three, on the average, their attorneys are about thirty years old and have been working with the office for between two and three years. San Diego attorneys are older (35 years of age) on the average and much more experienced, having been with the office an average of six and a half years, reflecting the career orientation of the civil service assistant prosecutor in California.

The differences between the office averages and career criminal attorney staff are also the smallest in Orleans Parish, with no difference in average age and less than six months' difference in tenure between program and regular trial division staff. In Kalamazoo, the two career criminal attorneys are somewhat older than the other assistant prosecutors; however, they have had slightly less experience with the office. In Franklin County, career criminal attorneys are substantially older (10.5 years) than the regular attorney staff and they have an almost two year advantage in office experience over the average assistant prosecutor in the office. In San Diego, the office with the most experience among its regular attorney staff, career criminal attorneys are on the average seven years older and two and a half years more experienced than their non-career criminal counterparts. The average age of a San Diego career criminal attorney is 42, with an average tenure of over eight and a half years. This is approximately the same age as a Franklin County attorney but with almost double the office experience.

Caseload differences within and among offices are equally varied (Table IV, page 83). Two offices, Orleans Parish and Kalamazoo, handle both misdemeanors and felonies. Of the two, Kalamazoo has the higher felony/misdemeanor caseload-to-attorney ratio with a monthly overall office filing rate of over 44 cases per attorney and a monthly disposition rate of 33 cases per attorney. In Orleans Parish, 23 misdemeanor and felony cases per attorney are accepted each month and 21 are disposed.

While Kalamazoo total caseload (felony/misdemeanor combined) figures are the highest of the four, the Franklin County Prosecuting Attorney's Office, which handles only felonies, has a higher per attorney felony caseload than does Kalamazoo. In Franklin County, approximately 21 felony cases per trial attorney are accepted and disposed each month compared to 15.9 felony acceptances and 9.6 felony dispositions per Kalamazoo trial attorney.

The largest differences in attorney caseload between regular and career criminal attorneys are found in Franklin County and San Diego

TABLE IV  
CAREER CRIMINAL AND NON-CAREER CRIMINAL AVERAGE  
MONTHLY PER ATTORNEY FELONY CASELOADS ACCEPTED AND DISPOSED

	NON-CAREER CRIMINAL*	CAREER CRIMINAL
FRANKLIN COUNTY		
ACCEPTANCES	20	4.2
DISPOSITIONS	20.5	3.6
NUMBER OF ATTORNEYS	12	5
PERIOD**	CY 1976	JULY 1975-DECEMBER 1976
KALAMAZOO COUNTY***		
ACCEPTANCES	15.9	4.3
DISPOSITIONS	9.6	3.0
NUMBER OF ATTORNEYS	5	2
PERIOD	JUNE-OCTOBER 1976	JANUARY-OCTOBER 1976
ORLEANS PARISH***		
ACCEPTANCES	23	6
DISPOSITIONS	21.1	6.4
NUMBER OF ATTORNEYS	23	9
PERIOD	JULY-DECEMBER 1976	JULY-DECEMBER 1976
SAN DIEGO COUNTY		
ACCEPTANCES	13.6	2.8
DISPOSITIONS	11.6	2.3
NUMBER OF ATTORNEYS	26	6
PERIOD	ACCEPTANCES: FY 75/76 DISPOSITIONS: CY 1976	SEPTEMBER 1975-JUNE 1976

\* INCLUDED HERE IS ONLY THAT PORTION OF THE ATTORNEY PERSONNEL DIRECTLY IN THE HANDLING OF THE FELONY CRIMINAL CASELOAD.

\*\* BECAUSE THESE FIGURES ARE DRAWN FROM AVAILABLE DOCUMENTATION, THE TIME PERIODS VARY FOR DIFFERENT ESTIMATES.

\*\*\* FIGURES INCLUDE ONLY FELONIES, HOWEVER, THE TRIAL ATTORNEYS IN KALAMAZOO HANDLE BOTH MISDEMEANORS AND FELONIES.

where program attorneys carry a caseload which is about one-fifth that of their regular trial counterparts. While more than 20 felony cases per regular trial attorney are disposed each month in Franklin County, less than four career criminal cases per program attorney are disposed monthly. Monthly attorney disposition rates in San Diego are 11.6 for the Superior Court and 2.3 for the Career Criminal program, the lowest career criminal attorney disposition caseload of the four programs.

Caseload differences are somewhat smaller (with career criminal attorney caseloads around 30 percent of the regular trial attorney caseloads) but are still substantial in the other two jurisdictions. In Orleans Parish just over 21 cases per trial attorney are disposed each month compared to 6.4 monthly career criminal case dispositions per attorney. Finally, in Kalamazoo, the three target cases disposed per career criminal attorney each month are approximately one-third of the 9.6 per attorney monthly case disposition rate for the regular trial attorney staff.

#### Changes in Policies Governing Case Disposition

Three of the four jurisdictions have explicitly established policies concerning the disposition of career criminal cases.

In Kalamazoo, while disposition by guilty plea is intended to be controlled in routine felony adjudications by bottom-line plea-setting in the complaint unit at the time that the initial decision to charge is made, this is intended to be even more tightly controlled in career criminal prosecutions. The Major Violators Bureau is not expected to agree to a guilty plea to less than the original charge(s) in a case that it accepts.

In Orleans Parish, for career criminal cases, as with all criminal cases, the original charge(s) and the bottom-line plea are considered one and the same and the attorney responsible for disposing the case also establishes the initial charge(s). Here, as in other jurisdictions, emphasis is placed on disposition by trial.

In San Diego, the Major Violator Unit's policy in plea negotiations is more restrictive than that in routine felony prosecutions. Only pleas to top-count felony charges are to be agreed to, except in unusual cases. In multiple-count cases, only pleas to more than one count which include the top count are acceptable.

In Franklin County, while no formal control over career criminal case disposition has been established, a policy emphasizing a "tougher" prosecution stance on dispositions in lieu of trial has been a part of the program.



### Attempts to Influence Timing

All four of the jurisdictions intend to dispose of their target cases in as expeditious a manner as possible. Certain of the program devices are expected to improve the processing time of career criminal cases. Activities of this sort include early case identification, early and more comprehensive case preparation, and single attorney continuous case representation. In two places, actions have been taken which explicitly attempt improvements in case processing time.

Neither San Diego nor Franklin County have program components specifically addressing the timing of case processing. One feature of the Franklin County program, however, may have an effect on the timing of disposition. This is a direct indictment of career criminal defendants identified by the police prior to lower court proceedings. In these cases not only is the possibility of a lower court dismissal of the case or a reduction and disposition of the charges at the misdemeanor level greatly reduced, but timing of case adjudication may also be impacted.

In Orleans Parish, career criminal cases are given priority in docketing in the District Court. This has been possible because of the continuity of attorney representation in each courtroom and because the New Orleans District Attorney is in effect an "insider" in the management of court activities responsible for setting the docket of the courts.

In Kalamazoo, as part of the Career Criminal program, in mid-September 1976, an additional "Fifth Circuit" Court was established as a "priority criminal court." It is funded almost wholly by the second-year LEAA career criminal prosecution grant awarded to the county. This is the only funded component of any of the four programs examined here which specifically targets improved case processing time. The grant pays for one judge, one court reporter, one bailiff-law clerk and one deputy clerk, plus contractual costs for the defense of indigents who are prosecuted in the court. The work of this court is limited entirely to criminal trials. In effect, it takes overflow cases from the other four Circuit Courts after pretrial motions and before the trial stage. It is selective about the caseload that it acquires, with priority given to career criminal prosecutions followed by cases in which the defendant is in custody, serious offenses (e.g., armed robbery), and "old" cases (i.e., cases that are still not disposed of after unduly long periods of time).

### Attempts to Influence Incarceration

One objective of the Career Criminal program is to increase the likelihood of conviction and incarceration for career criminal defendants. The range of activities discussed above is expected to contribute to this end. Three of the jurisdictions, however, have initiated a number of activities which are explicitly directed toward influencing the incarceration of the defendant both pre-trial and post-conviction.

In the three jurisdictions (Kalamazoo, New Orleans, San Diego) for those cases which have been identified as involving a career criminal by the time of the initial appearance in the inferior court, the prosecution appears and argues for the imposition of restrictive bail conditions. This occurs most regularly for Kalamazoo center criminal cases since most target cases are identified prior to this point. It is least regular in New Orleans where, in most cases, program intervention does not occur until the filing of the information.

In San Diego, career criminal attorneys are also encouraged to seek longer firm imprisonment time for convicted career criminal defendants through recommendations for consecutive sentences. They communicate views on the offender and his case to both the probation officer conducting the presentence investigation and the Adult Parole Authority. In New Orleans, the District Attorney's office has designated an attorney to represent the office at parole board hearings involving career criminal defendants<sup>14</sup> to provide the board with information on the serious nature of the criminal history of the defendant and the priority accorded his case by the office.

### Summary Observations

In summary, the process analysis performed in the four jurisdictions of the national evaluation established four major points among others) with respect to the targeted prosecution of career criminals. These are:

- (1) There existed a Career Criminal program in each jurisdiction with specific features differentiating it from regular or routine prosecution in that jurisdiction.
- (2) Among the features characterizing the four programs in common were:

<sup>14</sup> This practice currently includes all defendants prosecuted by the office.

- similar goals and assumptions;
- increased resources focused on the career criminal caseload (including more experienced prosecutors and fewer cases per attorney);
- specific policies instituted with respect to the program (such as refusal to plea-bargain, emphasis on disposition by trial, and efforts to influence the incarceration of career criminals);
- dedicated mechanisms for program delivery such as special prosecutorial units and continuous case handling.

(3) The four programs nonetheless exhibited important differences in scope, focus and activity resulting from:

- the crime environment in each locality;
- the operational and organizational characteristics of the criminal justice system in each locality; and
- consequently the different target populations, selection criteria and methods of identification of career criminal cases in each locality.

(4) Career Criminal program activities and funding offered considerable potential for improvement of various kinds in all four jurisdictions either through:

- the provision of resources (allowing more intensive prosecution, or the opportunity for a greater number of trials, for example); or through
- the introduction of activities specifically relevant to local problems (such as fragmented case handling or long processing delays).

#### General Applicability of Targeted Prosecution Activities

There is nothing inherent in the strategies for improved prosecution examined above which limits their application to "career criminals". In fact, it should be clear from the earlier discussion concerning the definition of the career criminal that, even considering only the four evaluation sites, these strategies have been applied to a number of distinctly different target groups under the auspices of the Career Criminal program.

The extent to which the activities described here are feasible for the targeted prosecution of other priority types of cases or defendants (assuming that they can be effectively identified) is probably more dependent upon operational and organizational

characteristics of a particular locality than on characteristics of the cases or defendants themselves. The extent to which the various strategies will be effective with different populations, however, remains to be empirically determined. The results of the system performance analysis present evidence concerning the impact of those actions taken by each of the four offices on the way to which the criminal justice process responds to those cases and defendants selected for priority treatment in each place.

## V. Impact on Criminal Justice Processing in the Four Jurisdictions

The Career Criminal program activities as implemented in each local jurisdiction represent, for local personnel, improvements in the method and management of case prosecution over routine processing procedures in place in the local site. Because of jurisdictional differences in both routine and targeted prosecution practices, the impact of these improvements on the performance of the criminal justice system is expected to vary somewhat from site to site. Nonetheless there is a set of generally hypothesized outcomes in terms of criminal justice performance which can be posited and which have been examined for each of the jurisdictions.

Testing of these hypothesized effects in each of the four jurisdictions has been done based on a quantitative analysis of case processing in each jurisdiction. Changes in system performance in each jurisdiction are measured against a locally-defined baseline, representing an approximation of the performance of the system with target cases in the absence of the program in that jurisdiction. This means that a career criminal conviction rate of eighty-five percent, for example, may indicate program success in one site and not in another, depending on the baseline performance of the particular criminal justice system. Consequently, certain jurisdictions may have "greater opportunity for success" depending on the prior performance of the local system with the particular population of cases targeted by the local program. Further (and for the same reasons) quantitative system performance cannot be directly compared across the four sites, i.e., the focus of the analysis is not whether site A has achieved a higher conviction rate for career criminals than site B. Rather, comparative analyses focus on assessing the results obtained from the four case studies to ascertain how consistently expected results are observed (i.e., is the hypothesis that conviction rates are affected by career criminal prosecution supported by data from each of the four case studies?).

Hypothesized effects of the Career Criminal program have been examined in four general areas:

- (1) Type and mode of disposition: It is generally hypothesized that devoting additional prosecutorial attention to a subpopulation of the prosecution's caseload will have an effect on the way the cases of those targeted defendants are disposed. Namely, more convictions and fewer dismissals are expected as a result of the increased time and attention devoted to case preparation. More trials and fewer guilty pleas are hypothesized as a result of more stringent plea bargaining policies for targeted cases.

- (2) Strength of Convictions: It is expected that devoting increased attention to the prosecution of selected defendants will lead to stronger convictions. Because more resources are available for evidence gathering and because continuity in prosecution will limit the likelihood that evidence or witnesses will be lost along the case prosecution process, in conjunction with more stringent plea bargaining policies, it is hypothesized that fewer charge reductions will occur, and that targeted defendants will be convicted on more serious charges.
- (3) Sentencing: It is also generally hypothesized that the program will lead to longer sentences for targeted defendants both by improving the quality of evidence and case preparation (leading to a stronger conviction) and by providing a more comprehensive picture of the seriousness of the defendant.
- (4) Timing: Finally, it is anticipated that by providing attorneys with a reduced caseload and continuous responsibility for a specific case, the overall time required for processing that case can be reduced.

The research design employed in the evaluation of the effects of the career criminal program in each jurisdiction is based upon a comparative analysis of the characteristics and outcomes of four cohorts of cases. Each cohort is defined in terms of two variables, criminal status and time period of case issuance. The general configuration of cases and time periods included in the analysis is shown in Figure 2 below.

Criminal status is determined according to the specific case selection criteria established for special prosecution by the career criminal program in each jurisdiction. Cases which meet the local criteria are career criminal cases (CC); those which do not are non-career criminal cases (NCC).

Reference time periods include a treatment period (T) defined as all or some portion of the first year of Career Criminal program operations and a baseline period (B), a comparable time span during the year preceding the treatment period.

TIME PERIOD OF CASE ISSUANCE		CRIMINAL STATUS	
		NON-CAREER CRIMINAL (NCC)	CAREER CRIMINAL (CC)
	BASELINE (B)	BNCC	BCC
	TREATMENT (T)	TNCC	TCC

**FIGURE 2**  
**FOUR COHORTS OF THE EVALUATION**

The treatment period career criminal group (TCC) represents the cases issued during the treatment period and defendants named in those cases which received special attention under the program. Baseline career criminals (BCC), as a group, were "constructed" from cases issued during the baseline period and defendants named in those cases which would have been handled by the Career Criminal program had it been in operation during the baseline period. The two non-career criminal cohort groups (TNCC and BNCC) have been included for control purposes. Cross comparisons of the performance of the criminal justice system with these four cohorts form the basis for the analysis.

In applying this general research design to the program analysis in each site, certain factors differed from place to place due to differences among the programs; however, the same general procedures were followed in the methodologies of each of the four analyses.<sup>15</sup> The baseline and treatment periods varied from site to site (see Table V below). In all sites, however, the treatment period represented all or some portion of the first year of local Career Criminal program operations with the baseline period representing a comparable period during the preceding year. Defendants named in cases issued during the treatment and baseline periods were included in the analysis. The universe of career criminal defendants was included in the data set; non-career criminals were sampled in three

<sup>15</sup> See Criminal Justice System Performance Analysis of the Career Criminal Program National Evaluation MTR-80W00036 for a full description of case selection procedures and analyses in the four evaluation sites.

TABLE V  
BASIC FEATURES OF THE EVALUATION DATA BASE COLLECTION

JURISDICTION	REFERENCE TIME PERIODS	INCLUDED PRIMARY CASE CRIME TYPES*									PRIMARY DEFENDANT-CASES				
		KID	SEX	ROB	DRU	BUR	ASL	LAR	FOR	WPN	BNCC	BCC	TNCC	TCC	TOTAL
Franklin County	Jan-Jun 1975(B)/1976(T)	X		X		X		X		X	233	111	276	80	700
Kalamazoo County	Jan-Oct 1975(B)/1976(T)		X	X	X	X	X				221	54	274	89	638
Orleans Parish	Jan-Apr 1975(B)/1976(T)			X	X	X		X	X		358	222	368	187	1135
San Diego County	Jul-June 1974(B)/1975(T)			X		X					454	96	466	118	1134

\*  
KID - Kidnapping  
SEX - Sex Offense  
ROB - Robbery  
DRU - Drug Offense  
BUR - Burglary  
ASL - Assault  
LAR - Larceny/Receiving Stolen Property  
FOR - Forgery/Fraud  
WPN - Weapons Offense



sites (New Orleans: 50 percent; Franklin County: 33 percent; San Diego: 50 percent). Inclusion was designed to insure to the extent possible that a similar mix of offense types was included across the four cohorts. The selection of specific crime types was determined for each site based on an analysis of charges issued in career criminal and non-career criminal cases in the treatment period. The analysis focuses on defendants as the unit of analysis because, in the view of the program personnel, the ultimate aim of the program is to convict and incapacitate the individual, using any or all cases pending against him in the courts. Data on defendants are also shown in Table V.

The data base for the analysis was developed from prosecutor (and in one site, court) records. The analysis was limited to data regularly and reliably maintained in official records and for some variables, such as prior criminal involvement, official rap sheets -- despite their recognized shortcomings -- had to be relied upon as the primary data source.

Two types of analysis have been conducted for each site. The first is a descriptive analysis of the characteristics and handling of the four groups of cases and defendants included in the evaluation as defined by the two experimental variables, career criminal status and time period of case issuance (i.e. 1) treatment period career criminal, 2) treatment period non-career criminal, 3) baseline period career criminal and 4) baseline period non-career criminal). The second is a multivariate analysis of selected outcome variables to test the series of hypotheses concerning anticipated effects of special prosecution by the Career Criminal program.

The results of the descriptive analysis of the performance of the criminal justice system with the defendants included in the data set are presented for each site. Tabular information is provided concerning the performance of the four groups of defendants with respect to measures of four types of outcomes: mode of disposition, strength of conviction, sentencing, and timing. (See Table VI, below.

This descriptive information serves several purposes in the analysis. First, for the reader interested in program operations, this material provides tangible information concerning the activities and outcomes of routine and special operations of the local prosecutor's office with various types of cases and defendants. Second, at this level, the analysis also provides a basis for comparison across the four case study sites and as such may assist in explaining why different program sites may experience different program effects. Finally, these descriptive figures present a first-cut indication of program effects. While they are not, in and of themselves,

TABLE VI  
MAJOR IMPACT MEASURES

ANALYSIS AREA	OUTCOME MEASURE	OUTCOME MEASURE DEFINITION
Type and Mode of Disposition	Conviction	Defendants convicted by trial or by guilty plea to at least one charge
	Trial Disposition	Defendants tried on at least one charge
	Guilty Plea	Defendants pleading guilty on at least one charge as their worst disposition (i.e., no trial convictions)
	Dismissal	Defendants with at least one charge dismissed as their worst disposition (i.e., no trial convictions or guilty pleas)
	Nolle Prosequi	Defendants with all charges disposed by nolle prosequi
Strength of Conviction	Conviction to Most Serious Charge	Defendants convicted (by trial or guilty plea) to the most serious charge issued against them*
	Plea to Most Serious Charge	Defendants pleading guilty to most serious charge issued against them*
Sentencing	Incarceration	Defendants sentenced to confinement
	State Prison Commitment	Defendants sentenced to serve time in the State Prison
	Sentence Length	Minimum sentence imposed by court
Processing Time	Process Time	Time from arrest to final disposition

\* Defined by legislated minimum penalty in San Diego County and the legislated maximum penalty in the other three jurisdictions

sufficient for making a determination of program impact, they are suggestive of areas which warrant further examination.

Multivariate analyses of this series of selected variables have also been conducted for each site to examine the hypothesized effects of the Career Criminal program on the performance of the criminal justice system in the context of other, possibly biasing factors. This multivariate analysis was included in an effort to ascertain whether there are alternative explanations for differences in outcomes--as they relate to differences between groups on variables other than those related to the program. Non-program differences may arise for a number of reasons. First, in the evaluation, the baseline career criminal group was identified through a matching procedure, a practice which is practical but which is also fallible. Second, inclusion in the career criminal group is based on crossing a threshold on some locally defined continuous scale, which in some localities involves multiple considerations. This allows for the possibility that defendants within each group -- as defined by the scale cut-off point -- may exhibit considerable variation on individual variables. If these individual variables are independently related to the outcomes and if the baseline and treatment career criminal cohorts exhibit different levels of these variables, biases may be introduced into the analysis results. This multivariate analysis has been conducted using Goodman's framework for loglinear analysis.<sup>16</sup> Loglinear analysis methods have been fruitfully employed by researchers in the analysis of data pertaining to criminal justice issues.<sup>17</sup> Specifically, loglinear analysis provides a method for analyzing qualitative (categorical) variables. As such, the method is well suited to the examination of the hypothesized effects of the Career Criminal program in which the dependent variables (i.e., case disposition) are categorical in nature. In analyses of data of this type, methods generally employed by evaluators -- regression analysis and other forms of the general linear model -- cannot be readily

<sup>16</sup> Goodman, Leo, "A Modified Multiple Regression Approach To the Analysis of Dichotomous Variables," American Sociological Review, 1972, Vol. 37 (February), pp. 28-46.

<sup>17</sup> For some examples see Lawrence E. Cohen and James R. Kleugel, "Determinants of Juvenile Court Dispositions: Ascriptive and Achieved Factors in Two Metropolitan Courts," American Sociological Review, 1978, Vol. 43 (April): pp. 162-176, and Peter J. Burke and Austin T. Turk, "Factors Affecting Post Arrest Disposition: A Model for Analysis." Social Problems, 22: pp. 313-21.

applied. Loglinear analysis serves the same function as the typically used methods and the strategy employed here in applying these methods is similar to that used in general methods of hypothesis testing.<sup>18</sup>

In the loglinear analyses, models were tested to examine the significance of career criminal treatment group status in predicting expected outcomes. Separate models were tested for each site for each outcome measure. Models incorporated several factors as predictors of outcomes including the experimental variables -- criminal status (career criminal/non-career criminal) and time period (baseline/treatment) and control variables. A significant interaction between career criminal status, time period and the outcome measure in the context of the control variable was interpreted as an indicator of a significant program effect.

In the analyses of dispositions and strength of conviction, included control variables were defendant's age, race and prior record, processing time, whether multiple cases were pending against defendant and the charge severity of the most serious charges filed against the defendant. Control variables in the analyses of sentencing were defendant age, race, and prior involvement, presence of multiple cases and charge severity. Finally, in the timing analyses, control variables included charge severity, presence of multiple pending cases, type of disposition, and factors related to processing (ordering of a transcript, convening of a preliminary hearing). These control variables were selected because it has been suggested on theoretical or empirical grounds that they may be related to the outcome variables being examined and hence any differences between groups on these factors may introduce a bias into the analysis results. The results of the multivariate analysis generally showed that most differences between groups apparent in the descriptive analysis could not be accounted for by other differences among the groups and therefore appear to be attributable to the Career Criminal program. Those cases where apparent program effects do appear to be accounted for by other factors, which occurred only with respect to sentencing measures in New Orleans and Franklin County, will be discussed in the site by

<sup>18</sup> For a discussion of problems surrounding the use of linear regression techniques with categorical variables, see Eric A. Hanushek and John E. Jackson, "Models With Discrete Dependent Variables," in Statistical Methods for Social Scientists. New York: Academic Press, 1977. Briefly, regression analysis with dichotomous or polytomous dependent variables violates the assumption that the variances are homoskedastic which renders Ordinary Least Squares estimation biased, and suggests that the relationships will be non-linear, at least at the boundaries, because the dependent variable is bounded rather than unbounded continuous.

descriptions which follow. A full description of the analysis procedures and results is available in a separate technical report.<sup>19</sup>

Analysis Results

The results of the analyses for the four evaluation sites are presented in Tables VII to X. Displayed are measures of criminal justice system performance for the four cohorts of defendants (base-line non-career criminals: BNCC: baseline career criminals: BCC: treatment non-career criminals: TNCC; and treatment career criminals: TCC) for the four areas examined in the analysis (mode of disposition, strength of conviction, sentencing and processing time). The measures for the treatment career criminal cohort (TCC) represent estimates of the performance of the criminal justice system with respect to defendants whose cases were prosecuted by the Career Criminal program. Measures for the baseline career criminal cohort (BCC) represent an approximation of the way the system would have been expected to perform with career criminal defendants without any program intervention. Measures for the two non-career criminal cohorts (BNCC and TNCC) indicate the levels of routine performance of the system during the two time periods. (For three sites, the non-career criminal estimates shown reflect the error introduced by the sampling procedures used.) Differences between measures for the treatment career criminals and the baseline career criminals which are not reflected in the non-career criminal measures (i.e., which are not part of general system change from the baseline to treatment period) are considered indicative of program effects. In the discussion that follows, statements indicating that the system is performing differently for career criminals with the program "than would be expected" without the program refers to these cross comparisons -- with "expectations" defined in terms of the performance of the system with the other three cohorts of defendants.

San Diego County

The results of the San Diego analyses (shown in Table VII, page 44) are as follows:

- Type and mode of disposition: In San Diego, no significant differences for career criminal defendants were observed for any of the measures of dispositions. Career criminals handled

<sup>19</sup> J. S. Dahmann and E. A. Neham, Criminal Justice System Performance Analysis of the Career Criminal Program National Evaluation, The MITRE Corporation, MTR-80W00036, October 1970.

TABLE VII  
SAN DIEGO COUNTY: SYSTEM PERFORMANCE RESULTS SUMMARY

ANALYSIS AREA	OUTCOME MEASURE	COHORTS:			
		BNCC*	BCC	TNCC*	TCC
Type and Mode of Disposition	Conviction Rate Among Prosecutions (N=)	78.0 ± 2.6% (241)	89.5% (95)	75.7 ± 2.7% (247)	91.5% (117)
	Trial Rate Among Prosecutions (N=)	12.0 ± 1.9% (241)	23.2% (95)	14.2 ± 2.2% (247)	27.4% (117)
	Plea Rate Among Prosecutions (N=)	63.9 ± 3.0% (241)	66.3% (95)	57.9 ± 3.1% (247)	65.8% (117)
	Dismissal Rate Among Prosecutions (N=)	11.2 ± 1.9% (241)	1.1% (95)	16.6 ± 2.3% (247)	1.7% (117)
Strength of Conviction	Rate of Conviction to Most Serious Charge Among Convictions (N=)	28.7 ± 3.9% (188)	4.1% (85)	32.0 ± 4.2% (187)	75.7% (107)
	Rate of Plea to Most Serious Charge Among Pleas (N=)	16.9 ± 3.4% (154)	25.4% (63)	23.2 ± 3.6% (142)	68.8% (77)
Sentencing	Incarceration Rate Among Prosecutions (N=)	71.0 ± 3.5% (188)	87.4% (85)	65.6 ± 3.5% (247)	91.5% (117)
	Incarceration Rate Among Convictions (N=)	91.0 ± 2.4% (188)	95.3% (85)	86.6 ± 2.9% (187)	100% (107)
	State Prison Commitments Among Incarcerations (N=)	46.8 ± 4.5% (171)	77.1% (83)	44.4 ± 4.6% (162)	92.5% (107)
	Sentence Length (Life set to 30 yrs yrs.) (N=)	1.9 yrs. (171)	4.6 yrs. (81)	2.2 yrs. (162)	9.6 yrs. (107)
Processing Time	Mean Time to Disposition (N=)	95 days (246)	95 days (95)	83 days (251)	101 days (118)

\*Includes sampling error bounds for 90 percent confidence limits.

by the San Diego Career Criminal program are just as likely to be convicted, to be tried, to plead guilty, or to have charges against them dismissed as were similar defendants prosecuted before the program. However, as shown in Table VII, conviction rates for career criminals before the program were quite high (approximately ninety percent), suggesting that the likelihood of the program initiating significant improvements in these measures may have been slight. Similarly, low baseline career criminal dismissal rates (approximately one percent) may not be subject to significant reduction. These high levels of system performance reflect the fact that the San Diego program (and consequently, the evaluation data set) includes only defendants charged with at least one robbery-related offense.

- Strength of convictions: Improvements in the strength of convictions obtained for career criminals are demonstrated by increases in the rate of both convictions to the most serious charge (including both trial and plea convictions) and guilty plea to the most serious charge (among plea dispositions). Here as in the other four sites, average penalty at intake, the base point for these measures, is stable across the baseline and treatment periods. Increases in these rates were observed for both career criminals and non-career criminals from the baseline to the treatment period. The increases for career criminals, however, were considerably larger than those for the non-career criminals and the differences between the groups were not accounted for by other variables in the multivariate analyses.
- Sentencing: The analysis results show that the likelihood of incarceration for career criminals prosecuted by the program is not significantly greater than that expected, based on the incarceration rates of the other defendants prosecuted. Once convicted, however, treatment career criminal sentencing is harsher than would have been expected. Treatment career criminals are sentenced to significantly longer incarceration times and are significantly more likely to be sentenced to state prison to serve those sentences. These results logically follow from the increases observed in the strength of treatment career criminal convictions. In California, under the indeterminate sentencing law which was in effect at the time for which this analysis was conducted, minimum sentences, the measure of sentence length used here, were linked directly to the charge of conviction. Hence, higher conviction charges will be accompanied by longer sentences. The results also show that criminal defendants (here, largely robbers) once convicted, have a higher likelihood of being sentenced to

incarceration with or without the program. Convicted treatment career criminals show a slightly greater likelihood of incarceration. This statistically significant result, can, however, be largely accounted for by sampling fluctuation among non-career criminal measures.

- Processing Time: No improvements in processing time were observed.

#### Kalamazoo County

The results of the Kalamazoo analysis (as found in Table VIII) indicate the following:

- Type and Mode of Disposition: In Kalamazoo, as in San Diego, treatment career criminals show no significant differences from expected performance levels on any of the dispositional measures analyzed. There appears to be an upward shift in the conviction rate from the baseline to the treatment period for both career and non-career criminals but no changes unique to the treatment career criminals are observed.
- Strength of Convictions: As was also seen in the San Diego analysis results, improvements were observed in the strength of the convictions obtained for treatment career criminal defendants. Rates of conviction (trial and plea) to the most serious charge among convicted defendants and rates of pleas to the most serious charge among defendants pleading guilty increased for career criminals from the baseline to the treatment in the context of slight declines in these measures for non-career criminals.
- Sentencing: Few treatment career criminal differences in the sentencing area were observed. General increases in the incarceration rate for both career and non-career criminals were observed; these were not specific to treatment career criminals, however. While sentence lengths show no increase, it does appear that treatment career criminals are somewhat more likely to be sentenced to state prison in the treatment period than in the baseline period. The multivariate analyses suggest however that these differences in state prison commitment may be accounted for by differences in the offenses charged among the four cohorts.
- Processing Time: Major changes in processing time were observed. While before the program, career criminal cases were taking about one-third longer to process than non-career



TABLE VIII  
KALAMAZOO COUNTY: SYSTEM PERFORMANCE RESULTS SUMMARY

ANALYSIS AREA	OUTCOME MEASURE	COHORT:			
		BNCC*	BCC	TNCC*	TCC
Type and Mode of Disposition	Conviction Rate Among Prosecutions (N=)	65.3% (199)	66.6% (39)	72.6% (238)	73.4% (49)
	Trial Rate Among Prosecutions (N=)	11.5% (199)	30.7% (39)	11.3% (238)	24.4% (49)
	Plea Rate Among Prosecutions (N=)	54.7% (199)	48.7% (39)	62.6% (238)	55.1% (49)
	Dismissal Rate Among Prosecutions (N=)	22.1% (199)	5.1% (39)	13.8% (238)	6.1% (49)
	Nolle Prosequi Rate Among Prosecutions (N=)	9.0% (199)	10.2% (39)	8.8% (238)	10.2% (49)
Strength of Conviction	Rate of Conviction to Most Serious Charge Among Convictions (N=)	65.5% (110)	83.3% (24)	64.9% (154)	100.0% (35)
	Rate of Plea to Most Serious Charge Among Pleas (N=)	69.9% (94)	77.8% (18)	60.9% (133)	100% (25)
Sentencing	Incarceration Rate Among Prosecutions (N=)	35.6% (199)	61.5% (39)	42.0% (238)	69.3% (49)
	Incarceration Rate Among Convictions (N=)	54.6% (130)	92.3% (26)	57.8% (173)	94.4% (36)
	State Prison Commitments Among Incarcerations (N=)	59.1% (71)	79.1% (24)	51.0% (100)	97.0% (34)
Sentencing	Sentence Length (Life set to 30 yrs) (N=)	2.2 yrs (89)	6.0 yrs (24)	2.3 yrs (100)	5.6 yrs (34)
Processing Time	Mean Time to Disposition	288 days	444 days	249 days	216 days

criminal cases, during the treatment period, career criminal processing time was shorter than that of non-career criminals. This is undoubtedly due in large part by the added court capacity provided by the program.

#### Orleans Parish

The analysis results for Orleans Parish (as shown in Table IX, indicate the following:

- Mode of Disposition: As in the other sites, no program effects on any of the disposition measures were observed. The conviction and dismissal rates for career criminals and non-career criminals remained stable over the two periods. The trial rate tended to decline and the plea rate to increase between the two periods; again, career and non-career criminal cases appear to be equally affected.
- Strength of Conviction: Due to data problems, no assessment of strength of convictions could be made in this site.
- Sentencing: During the time from the baseline to the treatment periods the prison situation in Louisiana was experiencing difficulties due to severe overcrowding. This is reflected in the changes observed in the rates of incarceration between the two time periods. The likelihood of incarceration declined from the baseline to the treatment period for all criminal offenders. These declines were significantly less pronounced for treatment career criminals, however, a likely effect of the Career Criminal program. Likewise, while proportionally fewer treatment non-career criminals were sentenced to serve time in the state facility, the rate of state prison commitments for career criminals remained stable. These differences, however, appear to be accounted for by other differences between the groups (including types of offenses charged, the presence of multiple pending cases, defendant prior record, intake penalty). Similarly, apparent differences in sentence length can be accounted for by other factors (again including offense type, defendant prior record, pending cases). It appears that with decreasing rates of incarceration the more serious offenders have continued to be sentenced to confinement, as reflected in the longer sentence lengths for treatment career criminals.
- Processing Time: The time to disposition measure showed decreases for all defendants from the baseline to the treatment period, with no particular effects observed for treatment career criminals.



TABLE IX  
ORLEANS PARISH: SYSTEM PERFORMANCE RESULTS SUMMARY

ANALYSIS AREA	OUTCOME MEASURE	COHORT:			
		BNCC*	BCC	TNCC*	TCC
Type and Mode of Disposition	Conviction Rate Among Prosecutions (N=)	75.2 ± 2.8% (318)	81.1% (187)	75.8 ± 2.8% (310)	83.7% (141)
	Trial Rate Among Prosecutions (N=)	24.2 ± 2.8% (318)	38.5% (187)	17.4 ± 2.5% (310)	24.1% (141)
	Plea Rate Among Prosecutions (N=)	57.9 ± 3.2% (318)	49.7% (187)	66.5 ± 3.1% (310)	63.4% (141)
Sentencing	Incarceration Rate Among Prosecutions (N=)	60.4 ± 3.2% (318)	75.4% (188)	33.9 ± 3.1% (310)	70.2% (141)
	Incarceration Rate Among Convictions (N=)	80.3 ± 3.0% (239)	92.2% (153)	44.7 ± 3.8% (235)	83.9% (118)
Processing Time	State Prison Commitments Among Incarcerations (N=)	50.9 ± 3.9% (222)	67.1% (143)	30.0 ± 3.6% (217)	(114)
	Sentence Length (Life set to 30 yrs.) (N=)	4.5 yrs (191)	8.0 yrs (140)	5.3 yrs (105)	9.8 yrs (99)
	Mean Time to Disposition (N=)	146 days (318)	166 days (187)	96 days (310)	115 days (141)

\*Includes sampling error bounds for 90 percent confidence limits.

## Franklin County

The Franklin County analysis results (Table X, below) suggest the following:

- **Mode of Disposition:** Again in Franklin County, as in the other sites, no program effects were observed. Despite some small shifts in the measures analyzed, no pattern of improvement for treatment career criminals was identified.
- **Strength of Convictions:** Changes in the strength of conviction were observed; however, these were not the changes expected from the program. While strength of conviction measures for the career criminals remained stable or increased slightly from the baseline to the treatment period, the measures for the non-career criminals declined. If it is assumed that the non-career criminal decreases would have been similarly observed for career criminals in the absence of the program, this may represent an effect of the program.
- **Sentence Time:** No significant program effects were observed in the sentencing area. Incarceration rates both among all defendants prosecuted and among convicted defendants remained constant from the baseline to the treatment period. State prison commitment rates declined slightly for both career and non-career criminals. Sentence lengths are slightly longer for treatment career criminals than would be expected. However, these differences are not observed when controlling for other factors (including offense type, multiple pending cases and intake practices).
- **Processing Time:** Improvements in processing time are generally observed from the baseline to the treatment period. However, these declines are not significantly greater for treatment career criminals.

## Summary

The results of these analyses across the four sites can be summarized as follows:

- **Mode of Disposition:** The Career Criminal programs in these four jurisdictions do not appear to be having an impact on any of the dispositional measures examined. This is to say that criminal defendants prosecuted by the Career Criminal programs in these four sites are no more likely to be convicted, to be tried, to plead guilty or to have the charges against them dismissed, than would be expected given the

TABLE X  
FRANKLIN COUNTY: SYSTEM PERFORMANCE RESULTS SUMMARY

ANALYSIS AREA	OUTCOME MEASURE	COHORT:			
		BNCC*	BCC	TNCC*	TCC
Type and Mode of Disposition	Conviction Rate Among Prosecutions (N=)	73.9 ± 3.7% (241)	73.9% (98)	73.0 ± 3.4% (289)	76.4% (87)
	Trial Rate Among Prosecutions (N=)	13.7 ± 2.9% (241)	17.3% (98)	9.7 ± 2.3% (289)	22.5% (89)
	Plea Rate Among Prosecutions (N=)	61.4 ± 4.1% (241)	57.1% (98)	65.1 ± 3.7% (289)	53.9% (89)
	Dismissal Rate Among Prosecutions (N=)	8.7 ± 2.4% (241)	5.1% (98)	12.8 ± 2.6% (289)	6.7% (89)
	Nolle Prosequi Rate Among Prosecutions (N=)	6.6 ± 2.2% (241)	12.2% (98)	9.0 ± 2.3% (289)	13.5% (89)
Strength of Conviction	Rate of Conviction to Most Serious Charge Among Convictions (N=)	72.8 ± 4.7% (158)	81.1% (74)	59.9 ± 5.2% (157)	83.6% (61)
	Rate of Plea to Most Serious Charge Among Pleas (N=)	71.5 ± 5.2% (130)	78.9% (63)	58.7 ± 5.5% (138)	82.9% (48)
Sentencing	Incarceration Rate Among Prosecutions (N=)	69.7% ± 3.9% (241)	71.4% (98)	69.2 ± 3.6% (289)	73.0% (89)
	Incarceration Rate Among Convictions (N=)	94.4 ± 2.3% (178)	97.2% (72)	94.8 ± 2.0% (211)	95.6% (68)
	State Prison Commitments Among Incarcerations (N=)	84.5 ± 3.4% (168)	90.1% (70)	80.5 ± 3.7% (200)	86.1% (65)
	Sentence Length (Life set to 30 yrs) (N=)	1.3 yrs (170)	1.8 yrs (80)	1.2 yrs (200)	2.9 yrs (65)
Processing Time	Mean Time to Disposition	144 days	149 days	132 days	126 days

\*Includes sampling error bounds for 90 percent confidence limits.

performance of the local criminal justice systems with similar cases during a baseline period and with other non-career criminal cases.

- **Strength of Conviction:** In two jurisdictions, the strength of the convictions obtained by the local programs appear to have been affected by the program. Controlling for differences in intake penalty (there were none apparent), convicted treatment career criminals are more likely to be convicted to the most serious charge filed against them and treatment career criminals who plead guilty are more likely to plead to the most serious charge. In a third site, measures of the strength of career criminal convictions remained stable in the context of a decline in measures of the strength of convictions for non-career criminals. Due to data problems, no assessment of this area could be made in the fourth site.
- **Sentencing:** In none of the four sites was any program impact observed on the rate of incarceration among defendants prosecuted -- a measure of the program incapacitation effect. In one site, however, program effects on several other sentencing measures were observed. In San Diego, once convicted, career criminal defendants were more likely to be incarcerated, were given longer sentences and were more likely to be sentenced to state prison. These effects appear to be logical results of the improvement in strength of career criminal convictions also observed here. In California under the indeterminate sentencing law which was in effect at the time these data were generated, minimum sentences were tied to the charges of conviction. Hence, accompanying the increases in the charges of conviction were improvements on the sentencing measures examined. In the other sites, while some small differences were observed, these differences appear to be attributable to factors other than the program.
- **Processing Time:** Processing time in one site, Kalamazoo, which had been experiencing time delay problems prior to the program, appears to have been affected by the program. In the other three sites, either time to disposition remained stable from the baseline to the treatment period, or general improvements, equally affecting career and non-career criminals, were observed.

## VI. The Question of Crime Impact

The ultimate or long-term goal of the Career Criminal program is to reduce crime by incapacitating that subpopulation of criminal offenders responsible for a large portion of crime. The ability of the program to achieve such a goal and a feasibility for the evaluation to measure such achievement, are influenced by a number of factors.

In the first place, the offender group which is singled out and treated by the program must, in fact, represent those offenders most responsible for crime and most likely to recidivate. As discussed above the state of the art is such that while it may be possible to identify more active criminals from less active ones, it is not yet clear how to identify the idealized career criminal offender envisioned by the program. It may be that the target populations identified by the programs in the evaluation sites were somewhat more active than the non-career criminals (or were so at least in the past). But whether the differences were large enough and the propensity to recidivate great enough to be capable of producing visible changes in crime is unclear.

Another factor is that crime level changes to be achieved through incapacitation are dependent on increases in conviction and incarceration rates. As discussed in the preceding section, however, while the program is having significant effects in a number of other areas, no increases in the incarceration of career criminal defendants prosecuted were found. The changes observed in one site in the length of incarceration sentences may have some incapacitation effect, if different length sentences are actually served; the effect will not be observed, however, during the time period covered by this evaluation. Hence, any observed crime decreases attributable to the program would necessarily be due to deterrence rather than to incapacitation effects.

The original MITRE design for analyzing the crime level effects of the program involved the determination of three independent crime level estimates:

- the actual crime level;
- the predicted crime level, without the Career Criminal program; and
- the expected crimes to be "saved" through incapacitation via the Career Criminal program.

However, from the outset of the evaluation plan development, it was clear that the chain of assumptions leading from the program to the measurement of crime reduction was quite long, and, like all

such chains, vulnerable to many possibilities of breakdown along the way. There were, in fact, many ways in which improvements in system performance could occur without necessarily also affecting crime. First there is the usual question of weak thrusts and weak impacts. If the system identified and processed only a small number of offenders -- offenders who would have been handled by routine procedures without the program -- the repercutted effect on crime rates was not likely to be very large. Second, the offenders processed would need to be in mid-career, and not at the end of their criminal activities. Evidently, if career criminals were going to stop committing crimes anyway, one could not then count their uncommitted crimes as "saved" by the program. (As discussed earlier in Chapter 5, some research has found that juveniles are the offenders most likely to be involved in a continuing crime pattern; these, however, were not targeted by the Career Criminal programs which have tended to process -- by virtue of their prior arrest and/or conviction selection criteria -- individuals in their middle-to-late twenties.) Third, it was difficult to be certain that while career criminals might be undergoing focused and well-managed prosecution, Parole Boards might not be returning other career criminals to the specific jurisdictions whose crime rates were being measured. (MITRE tried but was unable to obtain data about the number and offense-types of criminals being returned by Parole Boards to the four sites of the Career Criminal evaluation.) Fourth, since the source of the supply of career criminals is outside the locus of the criminal justice system, it was not clear that the dynamics of the underworld economy would not move a steady supply of new offenders into the lucrative "jobs" vacated by convicted career criminals.

The issue here is the relatively small amount of control which prosecutors -- acting either alone or in concert with the police and courts -- can exercise on crime reduction. The evaluation found for example (see Chapter 8 of the full final report) that corrections authorities in the involved states did not recognize the career criminal distinction (that is, they did not differentiate between career criminals and other prisoners). Their view was that to do so would involve intrinsic unfairness, since the program did not exist statewide, but only in one or two localities, and thus they would be treating convicted offenders from these localities according to standards not in existence for prisoners from other jurisdictions. A second issue, then (derived from that of prosecutorial control) is the relationship among the components of the criminal justice system. For the Career Criminal program to improve its chances of success in impacting crime rates, given improved police, prosecutorial and court system performance, it needs to be coordinated closely with corrections authorities and probably must be instituted statewide in order to have a major impact. (California, based upon the experience of San Diego, has in fact moved to such institutionalization.)

As discussed in Section V, the national evaluation found no evidence of increased conviction or incarceration rates in any of the four sites examined, so the question of crime impact cannot be posed for this evaluation. Had it been posed, however, at least two further factors of major importance would have been involved: the current ability to predict crime rates (the national evaluation expected to do this through the use of an interrupted time series design as found in Deutsch's empirical stochastic model<sup>20</sup>); and the current ability to measure crimes "saved" by the program (the model intended for use here,<sup>21</sup> which is based on the effects of incapacitation, includes variables related to prosecutorial performance, such as the probability of conviction having committed a crime, and the probability of incarceration having been convicted). While the utility of both of these types of models is not yet fully demonstrated, the measurement of the forecasting efficiency of the Deutsch model did suggest, however, that its predictive validity was greater than that associated with regression models which typically have only been able to describe average levels and general trends with any accuracy. The use of the Shinnar model, on the other hand, involves a number of problems based on the assumptions of the model (one notably dubious assumption, for example, is that the number of criminals and the lengths of criminal careers are unaffected by criminal justice system performance), and it suffers also from the fact that entirely different projections of benefits -- or crimes "saved" -- can be made for the same situation depending upon the estimates for  $\lambda$ , the average crime rate per offender.<sup>22</sup>

A final factor is the problem of time, with regard to the measurement of crime impact. Although it is true that incapacitation effects of a program cannot be considered outside the presence of evidence attesting to increased rates of conviction/incarceration

<sup>20</sup>Deutsch, Stuart J., "Stochastic Modeling and Analysis of Crime," quarterly report prepared for The National Institute of Law Enforcement and Criminal Justice, Grant #75-NI-99-0091.

<sup>21</sup>Shlomo Shinnar and Reuel Shinnar, "The Effects of the Criminal Justice System on the Control of Crime: A Quantitative Approach," Law and Society Review, Vol. 19, No. 4, Summer of 1978; and Avi-Itzhak, Benjamin and Reuel Shinnar, "Qualitative Models in Crime Control," Journal of Criminal Justice, Vol. I, pp. 185-217, (1973).

<sup>22</sup>Jacqueline Cohen, "The Incapacitative Effect of Imprisonment: A Critical Review of the Literature," pp. 187-243 in Blumstein, Cohen and Nagin (eds.) Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates. (National Academy of Science, 1978 ).

and longer confinements, there does exist the possibility of a deterrence effect, based on the existence of the program, the perception of the program held by criminals, and the hardening of attitudes about plea bargaining with habitual offenders, for which evidence has been supplied by this evaluation. Deterrence, however, must be measured over time and the timing of the current evaluation precluded such measurement. A follow-up assessment would be needed to ascertain whether or not there is evidence for a deterrence effect attributable to the program.



## VII. Evaluation Findings and Implications

The findings of the evaluation and their implications can be conveniently summarized by returning to the series of assumptions which, as discussed in the introductory chapter of this paper, underlie the career criminal program.

The first set of assumptions concerns the career criminal target population itself: that such a subgroup exists, comes into contact with the criminal justice system and can be isolated for special handling. While this evaluation did not directly address the major questions relevant to the issue of who career criminals are and how they may be identified, the results of the evaluation nonetheless shed some light on what happens when these assumptions are accepted and local agencies are given the opportunity to define and identify for themselves their local career criminal populations.

First, the prosecutors in the four jurisdictions all enthusiastically endorsed the concept of isolating the most serious subpopulation of their criminal defendants for specialized attention. Second, however, beyond general support for targeting career criminals, there was considerable diversity among the four offices in how they defined their career criminal population. (This is, of course, quite unsurprising, given that defining the career criminal was, from the start, considered a local prerogative.) Offices typically used a common-sense approach to developing their definitions. None of the four was specifically concerned with any quantitative prediction of the likely future criminality of the population they had identified, a key element in translating targeted prosecution into crime effects. Rather, the offices either directed their attention solely toward past repeaters (New Orleans, Franklin County) or toward the most "serious" portion of their criminal defendant population (Kalamazoo, San Diego) as defined by a complex of factors identified by the prosecutorial staff, based on their experience with case prosecutions. None of the offices utilized information derived from research in other jurisdictions; indeed, at the time these programs were beginning, little research in this area was available. Even had it been available, however, it is not clear that it would have been used: most jurisdictions appeared to appreciate the opportunity to define for themselves, on a local basis, the characteristics of those defendants to receive special attention. It has in fact been suggested by local personnel that it was this flexibility in target population definition (as well as in program activity development) that made the Career Criminal program of interest to them in the first place. Allowing for local autonomy in defining the target population contributed to program acceptance, diffusion and institutionalization.

It should be emphasized that at the time the program was taking form, very little research had been completed on empirically defined characteristics of the target population. Since the initiation of the program, however, research into the nature and characteristics of the career criminal target population has been undertaken and is now ongoing. Given the importance of autonomy to local jurisdictions, as this research base grows, specific efforts may be required to induce practitioners to incorporate research results into their local target population selection practices. While selection criteria based on prosecutor experience, or on straightforward measures of past criminal activity, are intuitively appealing and politically defensible, they may produce target populations which are far from ideal in terms of the consideration of future criminality -- a population, for instance, in its late twenties, well past the peak period of criminal activity. Whether local prosecutors will be willing to shift their orientation and focus their attention on a population defined by more indirect and perhaps less intuitive (albeit more empirically predictive) measures of future criminality remains to be seen.

A second major assumption underlying the program involved the ability of the prosecutor to provide specialized prosecutorial attention to a selected target population of defendants. Unlike some other programs in law enforcement and criminal justice, the four Career Criminal programs studied in the national evaluation were admirably implemented. In all four jurisdictions, special career criminal units were created and career criminal cases were issued and prosecuted by these units well within the timetables anticipated within their grant applications. To some extent these four may represent a selected subgroup of the programs since they were in fact selected for inclusion in the national evaluation based on the fact that they were fully operational. Nonetheless, general observation of the program as a whole suggests that in this regard they are more typical than not, and that implementation quality in the program has been very good.

There are a number of factors which may have contributed to this implementation success. First, the majority of the program activities are within the jurisdiction of a single agency -- the prosecution -- and can be administered through changes in internal office operations.<sup>23</sup>

<sup>23</sup>The Chief of the New Orleans Career Criminal Bureau, for example, explains the program's success in implementation and acceptance in these terms:

It is one of the few programs that has been entrusted to a publicly elected official who has complete control



The importance of this factor appears in its true perspective only when one considers the minimal progress made in improving coordination between the police and the prosecutor (except in those situations in which police investigators were administratively attached to the prosecutor's office, see Chapter 7 of the full final report).

Again the autonomy given to the local prosecutors in designing the program's activities is an important consideration. To a large degree, individual prosecutors were given a free hand to develop a program of activities which would promote the identification and special handling of their targeted caseload. Each office was encouraged to examine its routine operations and identify those areas where it was felt that special attention could benefit case prosecution. In effect, prosecutors were given additional support to prosecute a high priority subgroup of cases in a manner that they felt appropriate, a manner which -- were it not for high caseloads, limited resources, and other system constraints (e.g., court organization) -- they might choose for their total caseload. Hence the program in effect provided prosecutors with the opportunity to improve their operations in a way they defined for themselves, an understandably appealing prospect.

In this context, each prosecutor's office implemented a set of activities which more or less differentiated the prosecutorial handling of target, career criminal cases, as a group, from the office's routine caseload. The activities implemented in the four programs -- typically: continuous case handling by a single attorney or team of attorneys, reduced caseloads, increased investigative support, more stringent plea bargaining policies, efforts to increase incarceration and to reduce processing time -- all focus on improving case prosecution once an arrest has been obtained and a decision to pursue the case has been reached. This set of activities reflects the range of alternative strategies readily available to prosecutors in the four jurisdictions and it is important to reiterate here that these career criminal program activities are not different in kind from what the prosecutors were already doing with their

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of the program because it fell within the realm of a function -- in this case, prosecution -- for which he has sole and exclusive responsibility. This is not a governor who has to appoint a committee, or a number of publicly elected school board members. (See the remarks of Timothy Cerniglia, Proceedings of a Symposium on the Institutionalization of Federal Programs at the Local Level, M-78-80, p. 101.)

routine prosecutions. To a large extent, all represent an intensification of effort or organization, rather than any radical departure from the kinds of activities normally undertaken for routine prosecutions. This factor may help to explain the limited changes observed in selected measures of criminal justice system performance as a result of the program.

Inherent in the program design (and crucial to its logic) is the assumption that making changes in the method and management of the prosecution of a subgroup of criminal cases will result in changes in the performance of the criminal justice system with respect to these cases. In this evaluation, four areas of potential program effects on criminal justice system performance -- mode and type of disposition, strength of conviction, sentencing, and processing time -- were examined for the four evaluation sites.

The analysis results showed that few changes in disposition mode and type (conviction rates, plea rates, trial rates, dismissal rates) of career criminal defendants were associated with the Career Criminal program analyzed. Improvement in the strength of career criminal convictions was observed in two jurisdictions, an improvement which was accompanied by the imposition of longer sentences for career criminals in one site. No increases in incapacitation rates were observed in any of the four sites; three of the four places were incapacitating career criminals at a high (ninety percent) rate before the program. Processing time showed an improvement in one jurisdiction with notable, preexisting time delay problems.

The specific findings suggest that, based on the experience in these four sites, increasing prosecutorial attention on a high-priority subset of the criminal caseload will not necessarily increase the conviction and incapacitation rates for those high priority cases. On the other hand, there is some evidence that the program can increase the strength of the convictions obtained, and that it can result in longer sentences being imposed, where particular constraints on the judiciary (tying sentence to charge) obtain.

Expectations for system performance effects in the Career Criminal program were based on a number of assumptions concerning the current status and potential of prosecutorial efforts. First of all, the program concept presumes that, due to resource constraints, the prosecutor is not doing all that can be done to pursue career criminal cases and that there is room for improvement in the way the criminal justice system responds to these career criminal prosecutions.

The analysis results suggest, however, that in terms of system outcomes, this is not the case in several specific instances in the

four evaluation sites. Most notable is the case of incarceration rates. A review of baseline incarceration rates for career criminals indicates that, with ninety percent or higher rates of incarceration for convicted career criminals in three of the four sites, these criminal justice systems may already be acting in as vigorous a manner as possible to respond to the seriousness of the defendants convicted in career criminal cases. In places such as these, little program impact is likely and some pre-program analysis may be called for to suggest either more appropriate target populations (that is, offenders with a low probability of conviction and/or incarceration without the program treatment) or reduced expectations for effects in this area. Several other instances of high baseline performance (for example, high conviction rates for career criminals in San Diego) were also observed. For other jurisdictions, while the baseline levels of performance may not be notably high on an absolute scale, it is possible that these levels represent close to the maximum level of performance with career criminal cases which can reasonably be expected from the criminal justice system in that place and that prosecutor initiative may be having little effect on these levels due to the context and constraints which bound his actions.

What this may be more generally indicating is that, contrary to expectations, more serious or career criminal cases are not being neglected by the criminal justice system in these places. That these systems are already largely attuned to this type of case is further reflected in measures of system performance observed for career criminals as compared to their non-career criminal counterparts. These measures indicate that career criminals are not "falling through the cracks," at least no more than other defendants. In part, this may reflect the fact that the program in some places may be a formalization of prior informal policies in these offices.

These results may further indicate a certain logical inconsistency in the program concept. The type of target defendant was selected on a basis quite independent from the treatment to be provided by the program, without any assessment of whether or not the treatment was needed. In those circumstances where program effects are most notable (e.g., strength of convictions in San Diego, processing time in Kalamazoo) suggesting the program treatment addressed an existing local problem or need.

This raises questions regarding the second major assumption underlying the expected program impact on criminal justice system performance: that the prosecutor is in a position to effect the kinds of changes envisioned for the program. As the process analysis component of the evaluation demonstrated in all four sites (and as is the case generally), the prosecutor is embedded in a system bound by legislative and administrative regulation, a system to which he must

react to the extent of his ability. In this sense, the Career Criminal program has provided prosecutors with resources to improve their ability to react to the demands of the system in terms of selected priority cases. What is in question is whether improving his ability to manage his target caseload can necessarily be expected to influence certain criminal justice system outcomes for this particular caseload.

Given the highly structured environment in which the prosecutor operates, it is understandable that the majority of the Career Criminal program activities have involved changes in the internal operations of the prosecutor's office, operations over which the prosecutor can exercise control, rather than involving the prosecutor's relationship with other agencies of the criminal justice system. The jurisdiction of the prosecutor, along with his current policies and management practices, defined the arena for program initiatives. In the four evaluation sites, program treatment was applied only to cases which would have been prosecuted by the local office whether or not the program had been undertaken. Further, in most circumstances in these four sites, program attention began at the point at which the prosecutor would have routinely taken cognizance of the criminal matter. Within this framework the programs attempted, by providing more time and support to the prosecutorial staff and by allowing for more continuity in staff involvement within individual cases, to improve the quality of career criminal case preparation and in some cases to exercise control over dispositional practices through policies limiting plea bargaining. In this context the evaluation examined the impact of these changes on criminal justice system performance.

Looking across the four sites, it appears that the greatest prosecutor leverage may be in affecting the strength of convictions. By providing the prosecutorial staff with time, resources and the ability to follow a case from intake to disposition, it becomes possible for the prosecution to realistically uphold a policy of "no plea bargaining." This suggests that an area which is open to policy attention is charging and plea bargaining. If the program evaluation results are any indication, more can be done here than has been done to date.

In terms of other areas of potential impact which depend on cooperation from other components or agencies of the criminal justice system -- in particular, activities directed towards higher incarceration rates or more severe sentences, system outcomes on which increased incapacitation and consequent crime reduction depend -- it is unlikely that a prosecutorial locus for the program will be adequate. Without major specific and determined efforts to overcome the problems discussed above, therefore, it is probably unreasonable to expect crime reductions as a direct impact of this prosecutor's program.

Other impact measures, such as conviction rates, may be determined by factors outside the control of the prosecutor (availability of witnesses, strength of evidence); therefore, to enhance the prosecutor's ability to prepare and prosecute cases coming to his attention through routine channels may not be appropriate for effecting changes in this measure. This of course assumes that the office is currently operating at a level which allows it to take maximum advantage of the information and resources it has at hand.

Program effects on sentencing, among the four site results, appeared most clearly in that jurisdiction in which the strength of convictions was increased and in which sentence lengths are tied by law to the charges of conviction. In this place (San Diego, under the indeterminant sentencing system), increases in the strength of conviction were accompanied by longer sentence lengths, as would be intuitively expected. But in the other sites, where an independent judicial determination of minimum sentences is made, program effects were not clearly obtained, even in that site where increases in strength of conviction were observed. In some cases, slightly longer sentence lengths for career criminals appeared to be largely due to factors other than the program. The absence of a clear program effect on sentence lengths may be due to a number of factors including the possibility, suggested by other research,<sup>24</sup> that judges impose sentences based less upon the conviction charge than upon information pertaining to defendant characteristics and to the criminal act itself: information which is largely unaffected by prosecutorial efforts.

It is unclear to what extent these specific programs and the limited system performance results associated with them represent a realistic approximation of the kind of impact other prosecutorial efforts might have on alternative target populations in these sites. Whether more effort, a different configuration of project activities, or a different target population would lead to different results cannot be determined from this research. It is clear, however, that simply providing the prosecution with added resources with the expectation of direct effects on criminal justice performance measures does not fully consider the complexities of that system and the limited role that the prosecution plays in its operations. More experimentation is needed on the part of prosecutors to examine innovative methods of prosecution for caseloads of different types. While prosecutors may express satisfaction with the current program, their views may reflect a fear that dissatisfaction may lead to less support rather than a view that their problems are solved. This evaluation experience suggests that prosecutors are receptive to certain types of participation and that more innovation in this area is possible.

<sup>24</sup>Wilkins, Leslie T., Jack M. Kress, Don M. Gottfredson, Joseph C. Calpin, and Arthur M. Gelman. Sentencing Guidelines: Structuring Judicial Discretion. Washington, D.C.: February 1978.

Finally, the last assumption underlying the Career Criminal program links anticipated changes in criminal justice system performance to crime level effects through the increased incapacitation of serious repeat offenders. As the above discussion has shown, no increases in the incapacitation of career criminals were observed in the four sites analyzed. In the absence of the critical linking element of criminal justice system performance changes, crime level effects due to incapacitation cannot be demonstrated in these four jurisdictions. The significantly longer imposed sentence lengths observed in one jurisdiction may, if sentenced offenders do in fact serve longer sentences, translate into crime level effects. Such effects would not be observed until the release time of these offenders, however, a time removed from the period covered by this evaluation.

As discussed above, the expectation of measurable crime level effects of a program such as the Career Criminal program, which is internal to the criminal justice system, may not be reasonable given the scope and context of program activities. Even if improvements in system performance (i.e., increased incapacitation) had been observed linking such changes to crime levels would have been difficult given the marginality of program treatment (program attention was provided to a relatively small group of criminal defendants who would have been subject to routine criminal prosecution without the program), the potential countervailing actions of the corrections subsystem, and the possible recruitment of new career criminals as the older serious offenders are removed from circulation. These problems of assessing the crime impact of a program with a limited thrust implemented in a complex environment are further compounded by analytical problems in measurement of crimes "saved."

It appears from this evaluation that for a program lodged in the prosecutor's office to impact crime rates, there are problems to be overcome which lie outside the control of the prosecutor. First, in the Career Criminal program, federal funding allowed the program to process only a limited number of offenders. Second, to achieve crime reduction outcomes, cooperation by the police, the judiciary and corrections are required for identification, sentencing and handling of the selected career criminal population. However, such cooperation seemed more often to be conspicuous by its absence than by its presence in our evaluation. Third, research suggests that juvenile populations commit the most crime and are most likely to recidivate, but juvenile crime is often outside the prosecutor's jurisdiction. Further, even in those cases where juvenile crime lies within the locus of prosecutorial control, there exist no certain methods for identifying an offender's recidivism potential. Fourth, independent judicial determination of sentences leaves the prosecutor with limited ability to influence that sentencing, as shown in all but one site of our

evaluation, in which improvements in strength of conviction carried automatic increases in length of sentence. Finally, autonomous Parole Boards can (and may be obliged to) release career criminal types of offenders as fast or faster than prosecutors can process them.

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